

BILL ANALYSIS

H.B. 2826
By: Murphy
Environmental Regulation
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Currently, in order for a property to obtain a municipal setting designation (MSD), an affected entity must affirmatively pass a resolution supporting the MSD. This arrangement can effectively grant each entity a pocket veto.

H.B. 2826 seeks to address this issue by setting out additional notice, documentation, and procedural requirements relating to an applicant for a certificate for a municipal setting.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

H.B. 2826 amends the Health and Safety Code, in provisions of the Solid Waste Disposal Act relating to notice of an application for a municipal setting designation, to require a notice to include a statement that an affected municipality or public utility has 120 days from the date of receipt of the notice to pass a resolution opposing the application for a municipal designation setting if the property for which the municipal setting designation is sought is located in a municipality that has a population of two million or more and the applicant intends to comply with the requirements for issuance of a municipal setting designation certificate.

H.B. 2826 establishes that if the property for which a municipal setting designation is sought is located in a municipality that has a population of two million or more and the applicant has complied with applicable requirements, the applicant is considered to have complied with the requirements for eligibility for a municipal setting designation certificate if the applicant provides specified documentation. The bill requires the applicant to provide documentation that no resolution opposing the application has been adopted within 120 days of receipt of the notice by the city council of any affected municipality or the governing body of any affected retail public utility. The bill also requires the applicant to provide documentation that the property for which designation is sought is currently or has previously been under the oversight of the Texas Commission on Environmental Quality or the United States Environmental Protection Agency and is subject to an ordinance that prohibits the use of designated groundwater from beneath the property as potable water and that appropriately restricts other uses of and contact with that groundwater or a restrictive covenant enforceable by the municipality in which the property for which the designation is sought is located that prohibits the use of designated groundwater from beneath the property as potable water and appropriately restricts other uses of and contact with that groundwater. The bill authorizes the documentation to be in the form of an affidavit of the applicant or the applicant's representative. The bill makes conforming changes.

EFFECTIVE DATE

September 1, 2011.