

By: Uresti

S.B. No. 1520

A BILL TO BE ENTITLED

AN ACT

relating to the consideration of applications for permits for certain commercial solid waste processing or treatment facilities.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter C, Chapter 361, Health and Safety Code, is amended by adding Section 361.0865 to read as follows:

Sec. 361.0865. CONSIDERATION OF PROCESSING OR TREATMENT FACILITY PERMIT APPLICATIONS. (a) This section applies only to an application for the issuance, amendment, extension, or renewal of a permit for a commercial facility that accepts nonhazardous liquid waste from municipal or industrial sources for processing or treatment. This section does not apply to a facility owned or operated by or affiliated with:

(1) a local government; or

(2) a person who holds a permit to dispose of hazardous, municipal, or industrial solid waste.

(b) The commission may not issue, amend, extend, or renew a permit unless the commission determines that the applicant possesses adequate technical, managerial, and financial ability to operate the facility safely and in compliance with all applicable legal requirements. The commission shall consider, at a minimum:

(1) financial assurance information described by Section 361.085(a);

(2) evidence of the professional qualifications of the

1 management or principals of the applicant;

2 (3) evidence of training, licensure, certification,
3 or relevant experience of individuals employed by the applicant who
4 are or will be involved in the operation of the facility;

5 (4) whether the applicant has a compliance history
6 classification as a poor or average performer, as determined by
7 rules adopted under Section 5.754, Water Code, or does not have a
8 compliance history;

9 (5) information related to past compliance, in
10 addition to the information provided under Section 361.084, as
11 required by the commission, including information indicating:

12 (A) for the preceding five years, whether, in
13 connection with an unauthorized acceptance or discharge of waste:

14 (i) the applicant has been assessed a civil
15 or criminal penalty;

16 (ii) two or more administrative orders that
17 assess penalties against the applicant or order the applicant to
18 take corrective measures have been issued by the commission; or

19 (iii) four or more notices of violation
20 have been issued by the commission to the applicant; and

21 (B) for the preceding 10 years, whether the
22 facility, the applicant, the principal shareholders of the owner
23 of the facility, or the individuals employed by the facility who are
24 or will be responsible for the operation of the facility have been
25 convicted of a violation of any environmental law; and

26 (6) any other evidence required by the commission
27 relating to the applicant's intent to comply with all applicable

1 legal requirements.

2 (c) The commission by rule shall adopt standards for making
3 a determination under Subsection (b).

4 (d) The commission may impose conditions on the issuance,
5 amendment, extension, or renewal of a permit designed to increase
6 the likelihood of the applicant's operation of the facility safely
7 and in compliance with all applicable legal requirements.

8 SECTION 2. The changes in law made by Section 361.0865,
9 Health and Safety Code, as added by this Act, apply only to an
10 application for the issuance, amendment, extension, or renewal of a
11 permit that is received by the Texas Commission on Environmental
12 Quality on or after the effective date of this Act. An application
13 that is received before that date is governed by the law in effect
14 at the time the application is received, and the former law is
15 continued in effect for that purpose.

16 SECTION 3. This Act takes effect September 1, 2011.