

1-1 By: Uresti S.B. No. 1520  
1-2 (In the Senate - Filed March 10, 2011; March 22, 2011, read  
1-3 first time and referred to Committee on Natural Resources;  
1-4 May 4, 2011, reported favorably by the following vote: Yeas 9,  
1-5 Nays 0; May 4, 2011, sent to printer.)

1-6 A BILL TO BE ENTITLED  
1-7 AN ACT

1-8 relating to the consideration of applications for permits for  
1-9 certain commercial solid waste processing or treatment facilities.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Subchapter C, Chapter 361, Health and Safety  
1-12 Code, is amended by adding Section 361.0865 to read as follows:

1-13 Sec. 361.0865. CONSIDERATION OF PROCESSING OR TREATMENT  
1-14 FACILITY PERMIT APPLICATIONS. (a) This section applies only to an  
1-15 application for the issuance, amendment, extension, or renewal of a  
1-16 permit for a commercial facility that accepts nonhazardous liquid  
1-17 waste from municipal or industrial sources for processing or  
1-18 treatment. This section does not apply to a facility owned or  
1-19 operated by or affiliated with:

1-20 (1) a local government; or

1-21 (2) a person who holds a permit to dispose of  
1-22 hazardous, municipal, or industrial solid waste.

1-23 (b) The commission may not issue, amend, extend, or renew a  
1-24 permit unless the commission determines that the applicant  
1-25 possesses adequate technical, managerial, and financial ability to  
1-26 operate the facility safely and in compliance with all applicable  
1-27 legal requirements. The commission shall consider, at a minimum:

1-28 (1) financial assurance information described by  
1-29 Section 361.085(a);

1-30 (2) evidence of the professional qualifications of the  
1-31 management or principals of the applicant;

1-32 (3) evidence of training, licensure, certification,  
1-33 or relevant experience of individuals employed by the applicant who  
1-34 are or will be involved in the operation of the facility;

1-35 (4) whether the applicant has a compliance history  
1-36 classification as a poor or average performer, as determined by  
1-37 rules adopted under Section 5.754, Water Code, or does not have a  
1-38 compliance history;

1-39 (5) information related to past compliance, in  
1-40 addition to the information provided under Section 361.084, as  
1-41 required by the commission, including information indicating:

1-42 (A) for the preceding five years, whether, in  
1-43 connection with an unauthorized acceptance or discharge of waste:

1-44 (i) the applicant has been assessed a civil  
1-45 or criminal penalty;

1-46 (ii) two or more administrative orders that  
1-47 assess penalties against the applicant or order the applicant to  
1-48 take corrective measures have been issued by the commission; or

1-49 (iii) four or more notices of violation  
1-50 have been issued by the commission to the applicant; and

1-51 (B) for the preceding 10 years, whether the  
1-52 facility, the applicant, the principal shareholders of the owner of  
1-53 the facility, or the individuals employed by the facility who are or  
1-54 will be responsible for the operation of the facility have been  
1-55 convicted of a violation of any environmental law; and

1-56 (6) any other evidence required by the commission  
1-57 relating to the applicant's intent to comply with all applicable  
1-58 legal requirements.

1-59 (c) The commission by rule shall adopt standards for making  
1-60 a determination under Subsection (b).

1-61 (d) The commission may impose conditions on the issuance,  
1-62 amendment, extension, or renewal of a permit designed to increase  
1-63 the likelihood of the applicant's operation of the facility safely  
1-64 and in compliance with all applicable legal requirements.

2-1           SECTION 2. The changes in law made by Section 361.0865,  
2-2 Health and Safety Code, as added by this Act, apply only to an  
2-3 application for the issuance, amendment, extension, or renewal of a  
2-4 permit that is received by the Texas Commission on Environmental  
2-5 Quality on or after the effective date of this Act. An application  
2-6 that is received before that date is governed by the law in effect  
2-7 at the time the application is received, and the former law is  
2-8 continued in effect for that purpose.

2-9           SECTION 3. This Act takes effect September 1, 2011.

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