

By: Zaffirini

S.B. No. 987

A BILL TO BE ENTITLED

AN ACT

relating to limitations on the location of solid waste facilities.

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

SECTION 1. Section 361.101, Health and Safety Code, is amended to read as follows:

Sec. 361.101. RESTRICTION [~~PROHIBITION~~] ON PERMIT FOR FACILITY ON RECHARGE ZONE OF CERTAIN AQUIFERS [~~SOLE SOURCE AQUIFER~~]. (a) The commission by rule shall prohibit the issuance of a permit for a new hazardous waste landfill, municipal solid waste facility, land treatment facility, surface impoundment, or waste pile, or areal expansion of such a facility, if the facility is to be located on the recharge zone of:

(1) a sole source aquifer; or

(2) subject to Subsection (b), an aquifer that is designated by the Texas Water Development Board as a major aquifer.

(b) The commission may issue a permit for a facility to be located on the recharge zone of a major aquifer that is not a sole source aquifer only if:

(1) the aquifer is separated from the base of the containment structure by a minimum of 10 feet of material with a hydraulic conductivity toward the aquifer not greater than  $10^{-7}$  centimeters per second or a thicker interval of more permeable material that provides equivalent or greater retardation to pollutant migration;

1           (2) the facility will use double synthetic liners with  
2 a leak detection system between the liners;

3           (3) in addition to other financial assurance  
4 requirements, the commission conditions the issuance of the permit  
5 on the applicant's execution of a bond in an amount sufficient to  
6 ensure the operational, closure, and post-closure responsibilities  
7 of the facility, but not less than \$1 million;

8           (4) the permit application demonstrates:

9                   (A) the need for the facility; and

10                   (B) that no nearby alternative location outside  
11 the recharge zone is available; and

12           (5) for a facility located in a groundwater  
13 conservation district, the permit application contains:

14                   (A) if available, information regarding the uses  
15 of groundwater in the district and any historical data on record  
16 with the district, including subsurface geological data; and

17                   (B) proof of notice to the district that the  
18 applicant intends to file the application.

19           (c) For a facility located in a groundwater conservation  
20 district, the determination of whether the facility is located on  
21 the recharge zone of a major aquifer is governed by the district's  
22 delineation of the recharge zone.

23           SECTION 2. The changes in law made by this Act apply only to  
24 an application for the issuance of a permit pending before the Texas  
25 Commission on Environmental Quality on or after the effective date  
26 of this Act. A permit issued before the effective date of this Act  
27 is governed by the law in effect when the permit was issued, and the

1 former law is continued in effect for that purpose.

2           SECTION 3. This Act takes effect immediately if it receives  
3 a vote of two-thirds of all the members elected to each house, as  
4 provided by Section 39, Article III, Texas Constitution. If this  
5 Act does not receive the vote necessary for immediate effect, this  
6 Act takes effect September 1, 2019.