

By: Creighton

H.B. No. 178

A BILL TO BE ENTITLED

AN ACT

relating to limitations on the location of injection wells.

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

SECTION 1. Section 361.1011, Health and Safety Code, is amended to read as follows:

Sec. 361.1011. PROHIBITION ON PERMIT FOR FACILITY AFFECTED BY FAULT. If ~~[a fault exists within two and one-half miles from the proposed or existing wellbore of a Class I injection well or the area within the cone of influence, whichever is greater, or if]~~ a fault exists within 3,000 feet of a proposed hazardous waste management facility ~~[other than a Class I injection well]~~ or of a capacity expansion of an existing hazardous waste management facility, the burden is on the applicant, unless previously demonstrated to the commission or to the United States Environmental Protection Agency, to show that:

(1) ~~[in the case of Class I injection wells, that the fault is not sufficiently transmissive or vertically extensive to allow migration of hazardous constituents out of the injection zone, or~~

~~[(2) in the case of a proposed hazardous waste management facility other than a Class I injection well or for a capacity expansion of an existing hazardous waste management facility, that:~~

~~[(A)]~~ the fault has not had displacement within

1 Holocene time, or if faults have had displacement within Holocene
2 time, that no such faults pass within 200 feet of the portion of the
3 surface facility where treatment, storage, or disposal of hazardous
4 wastes will be conducted; and

5 (2) [~~(B)~~] the fault will not result in structural
6 instability of the surface facility or provide for groundwater
7 movement to the extent that there is endangerment to human health or
8 the environment.

9 SECTION 2. Subchapter D, Chapter 27, Water Code, is amended
10 by adding Sections 27.057, 27.058, 27.059, 27.060, 27.061, and
11 27.062 to read as follows:

12 Sec. 27.057. PROHIBITION ON PERMIT FOR INJECTION WELL IN
13 CERTAIN AREAS. The commission may not issue a permit for an
14 injection well if the well is to be located:

15 (1) on the recharge zone of an aquifer designated as a
16 sole source aquifer under Section 1424(e), Safe Drinking Water Act
17 of 1974 (42 U.S.C. Section 300h-3(e)); or

18 (2) in an oil field from which commercial production
19 of oil began before 1935.

20 Sec. 27.058. PROHIBITION ON PERMIT FOR INJECTION WELL
21 WITHIN CERTAIN DISTANCE OF RESIDENCE, CHURCH, SCHOOL, DAY-CARE
22 CENTER, PARK, OR PUBLIC DRINKING WATER SUPPLY. (a) The commission
23 by rule shall prohibit the issuance of a permit for an injection
24 well if the well is to be located within one-half mile (2,640 feet)
25 of an established:

26 (1) residence;

27 (2) church;

1 (3) school;

2 (4) day-care center;

3 (5) surface water body used for a public drinking
4 water supply; or

5 (6) dedicated public park.

6 (b) The commission by rule shall prohibit the issuance of a
7 permit for an injection well that is proposed to be located at a
8 distance greater than one-half mile (2,640 feet) from a location
9 described by Subsection (a) unless the applicant demonstrates that
10 the well will be operated so as to safeguard public health and
11 welfare and protect physical property and the environment, at any
12 distance beyond the well's property boundaries, consistent with the
13 purposes of this chapter.

14 (c) The measurement of distance required by Subsections (a)
15 and (b) shall be taken toward an established residence, church,
16 school, day-care center, surface water body used for a public
17 drinking water supply, or dedicated park that is in use when the
18 notice of intent to file a permit application is filed with the
19 commission or, if no notice of intent is filed, when the permit
20 application is filed with the commission. The restriction imposed
21 by Subsection (a) does not apply if the residence, church, school,
22 day-care center, surface water body used for a public drinking
23 water supply, or dedicated park is located on property that is owned
24 by the permit applicant and that is adjacent to the well for which
25 the application is filed.

26 Sec. 27.059. PROHIBITION ON PERMIT FOR INJECTION WELL
27 AFFECTED BY FAULT. The commission may not issue a permit for an

1 injection well if a fault exists within two and one-half miles from
2 the proposed or existing wellbore of an injection well or the area
3 within the cone of influence, whichever is greater, unless the
4 applicant can demonstrate that the fault is not sufficiently
5 transmissive or vertically extensive to allow migration of
6 hazardous constituents out of the injection zone.

7 Sec. 27.060. OTHER AREAS UNSUITABLE FOR INJECTION WELLS.

8 The commission by rule shall define the characteristics that make
9 other areas unsuitable for an injection well, including
10 consideration of characteristics related to:

11 (1) flood hazards;

12 (2) discharge from or recharge to a groundwater
13 aquifer;

14 (3) soil conditions;

15 (4) areas of direct drainage within one mile of a lake
16 used to supply public drinking water;

17 (5) active geological processes;

18 (6) coastal high hazard areas, such as areas subject
19 to hurricane storm surge and shoreline erosion; or

20 (7) critical habitat of endangered species.

21 Sec. 27.061. PROHIBITION ON PERMIT FOR INJECTION WELL IN
22 UNSUITABLE AREA. The commission by rule shall prohibit the
23 issuance of a permit for a new injection well if the well is to be
24 located in an area determined to be unsuitable under rules adopted
25 by the commission under Section 27.060 unless the design,
26 construction, and operational features of the well will prevent
27 adverse effects from unsuitable site characteristics.

1 Sec. 27.062. PETITION BY LOCAL GOVERNMENT FOR RULE ON
2 INJECTION WELL IN UNSUITABLE AREA. (a) The commission by rule
3 shall allow a local government to petition the commission for a rule
4 that restricts or prohibits the siting of a new injection well in an
5 area specified by the petition, including an area that has one or
6 more of the characteristics described by Section 27.060.

7 (b) A rule adopted under this section may not affect the
8 siting of a new injection well if an application or a notice of
9 intent to file an application concerning the well is filed with the
10 commission before the filing of a petition under this section.

11 SECTION 3. The changes in law made by this Act apply to
12 permit applications pending before the Texas Commission on
13 Environmental Quality on or after the effective date of this Act. A
14 permit issued before the effective date of this Act is governed by
15 the law in effect when the permit was issued, and the former law is
16 continued in effect for that purpose.

17 SECTION 4. This Act takes effect immediately if it receives
18 a vote of two-thirds of all the members elected to each house, as
19 provided by Section 39, Article III, Texas Constitution. If this
20 Act does not receive the vote necessary for immediate effect, this
21 Act takes effect September 1, 2009.