

## **BILL ANALYSIS**

Senate Research Center  
80R8637 JTS-D

S.B. 1864  
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As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Currently, a municipal solid waste (MSW) facility permit issued by the Texas Commission on Environmental Quality (TCEQ) contains no deadline by which the facility must be filled. Unless the facility applies for an expansion or other major changes, the public and TCEQ do not have a regular opportunity to review and upgrade permits for these facilities.

Landfills, transfer stations, and other MSW facilities can have dramatic impacts on nearby residents, businesses, and property owners, especially when operated improperly. Health studies have documented various health risks associated with landfills, such as higher incidences of birth defects, low birth weights, and certain types of cancer. In addition to the health hazards associated with vectors such as rats, buzzards, and other animals, nearby residents are forced to deal with windblown trash, noxious odors, water pollution, and flooding.

Since 2001, permits have been required to be reviewed every five years, but few actually have been reviewed and the reviews are extremely limited in scope when they do occur. Few reviews occur because TCEQ conducts reviews only when a facility receives a "poor" compliance history rating. The compliance history rating system possess its own challenges. Some of the most troubling facilities with numerous violations and complaints are not given a "poor" rating. The compliance history is a computerized rating with one formula for all the 100,000 or more facilities that the TCEQ regulates.

The review process consists of a paper review by the waste permits staff in Austin of the violations and enforcement orders. There is no public input, no consideration of public complaints, and no involvement from TCEQ enforcement staff.

As proposed, S.B. 1864 authorizes more frequent and robust reviews of permits. The bill requires the permit of a facility to be reviewed every five years if the facility is poorly ranked, or if such a review is requested by a state legislator representing the area, a local governmental entity, a council of governments with jurisdiction over the area of the facility, a homeowners' or property owners' association, or 10 or more local residents. In addition, TCEQ is required to add certain provisions to its review process, including a review of all the complaints regarding the facility. Consultation with TCEQ enforcement staff and notice of the review and the opportunity for public comment is required as part of the review process.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Texas Commission on Environmental Quality in SECTION 1 (Section 361.0881, Health and Safety Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subchapter C, Chapter 361, Health and Safety Code, by adding Section 361.0881, as follows:

Sec. 361.0881. PERMIT REVIEW. (a) Requires the Texas Commission on Environmental Quality (TCEQ) to review a permit issued under this chapter every five years if the facility has a compliance history that is the lowest classification under Sections 5.753 (Standard for Evaluating Compliance History) and 5.754 (Classification and Use of Compliance History), Water Code, and rules and procedures developed under those sections, or the review is requested by a state legislator representing the area, a

local governmental entity, a council of governments, a homeowners' or property owners' association, or 10 or more local residents, property owners, or businesses.

(b) Requires the TCEQ by rule to establish a review procedure. Sets forth the required components to be included in said review.

(c) Authorizes TCEQ to recommend changes to a permit reviewed under this section or impose a limit on the term of a facility's permit if a review under this section reveals that a facility may threaten the public health or safety or the environment.

SECTION 2. Repealer: Section 361.088(g) (requiring TCEQ to review a permit issued under this chapter every five years to assess the permit holder's compliance history), Health and Safety Code.

SECTION 3. Effective date: September 1, 2007.