

By: Landgraf

H.B. No. 2692

Substitute the following for H.B. No. 2692:

By: Dominguez

C.S.H.B. No. 2692

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of radioactive waste; reducing a surcharge; reducing a fee.

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

SECTION 1. Section 401.205, Health and Safety Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) In this subsection, "high-level radioactive waste" has the meaning assigned by 42 U.S.C. Section 10101(12) and "spent nuclear fuel" has the meaning assigned by 42 U.S.C. Section 10101(23). With the exception of storage at the site of currently or formerly operating nuclear power reactors and currently or formerly operating nuclear research and test reactors located on university campuses, a person, including the compact waste disposal facility license holder, may not dispose of or store high-level radioactive waste or spent nuclear fuel in this state.

SECTION 2. Subchapter F, Chapter 401, Health and Safety Code, is amended by adding Sections 401.2065 and 401.2066 to read as follows:

Sec. 401.2065. RESERVED CAPACITY FOR PARTY STATE WASTE.

(a) The following are reserved for the exclusive use of party state compact waste disposal in the compact waste disposal facility:

(1) the greater of:

(A) three million total cubic feet; or

(B) the required volume identified by the

1 commission under Section 401.208; and

2 (2) the greater of:

3 (A) two million total curies; or

4 (B) the required curie capacity identified by the
5 commission under Section 401.208.

6 (b) Of the reserved volume and curie capacity described by
7 Subsection (a):

8 (1) 80 percent is reserved for compact waste generated
9 in the host state; and

10 (2) 20 percent is reserved for compact waste generated
11 in nonhost party states.

12 Sec. 401.2066. CORRECTION FOR DECAY IN DETERMINING
13 CAPACITY. The commission shall correct for radioactive decay in
14 determining licensed disposal curie capacity in a compact waste
15 disposal facility under this subchapter.

16 SECTION 3. Sections 401.207(e-2) and (g), Health and Safety
17 Code, are amended to read as follows:

18 (e-2) The commission's executive director, on completion of
19 the study under Section 401.208, may prohibit the license holder
20 from accepting any additional nonparty compact waste if the
21 commission determines from the study that the capacity of the
22 facility will be limited, regardless of whether the capacity
23 required [~~limit~~] under Section 401.2065 is available [~~Subsection~~
24 ~~(f) has been reached~~].

25 (g) The commission shall assess a surcharge for the disposal
26 of nonparty compact waste at the compact waste disposal facility.
27 The surcharge is five [~~20~~] percent of the total contracted rate

1 under Section 401.2456 and must be assessed in addition to the total
2 contracted rate under that section.

3 SECTION 4. Subchapter F, Chapter 401, Health and Safety
4 Code, is amended by adding Section 401.2075 to read as follows:

5 Sec. 401.2075. LIMITATION ON NONPARTY COMPACT WASTE. (a)
6 The compact waste disposal facility license holder may accept
7 nonparty compact waste at the facility only if:

8 (1) the waste is authorized by the compact commission;
9 and

10 (2) the facility has not less than three years' worth
11 of constructed capacity based on the average amount of party state
12 compact waste disposed in the compact waste disposal facility in
13 the preceding five years.

14 (b) If the compact waste disposal facility does not have
15 sufficient constructed capacity as described by Subsection (a), in
16 order to be permitted to accept nonparty compact waste, the compact
17 waste disposal facility license holder must:

18 (1) add constructed capacity sufficient to meet the
19 requirements of Subsection (a); or

20 (2) file and have approved by the commission a bond
21 acceptable to the commission conditioned on the construction of
22 additional constructed capacity sufficient to meet the
23 requirements of Subsection (a).

24 (c) If a utility operating a nuclear electric generation
25 facility in a party state has notified the federal commission that
26 the facility will be decommissioned, and the time-phased
27 decommissioning schedule and the Post-Shutdown Decommissioning

1 Activities Report indicate that low-level radioactive waste is to
2 be disposed of at the compact waste disposal facility, the compact
3 waste disposal facility license holder must have constructed
4 adequate disposal capacity at the time of the disposal of waste from
5 the decommissioning.

6 (d) The compact waste disposal facility license holder must
7 obtain an amendment to the facility operating license to increase
8 the allowable curie capacity by two million curies when the compact
9 waste disposal facility has reached 80 percent of the total curies
10 for which the facility is licensed.

11 SECTION 5. Section 401.215, Health and Safety Code, is
12 amended to read as follows:

13 Sec. 401.215. ACCEPTANCE OF LOW-LEVEL RADIOACTIVE WASTE.
14 Except as otherwise provided by this subchapter [~~Subject to~~
15 ~~limitations provided by Sections 401.207 and 401.248~~], the compact
16 waste disposal facility shall accept for disposal all compact waste
17 that is presented to it and that is properly processed and packaged.

18 SECTION 6. Section 401.2445, Health and Safety Code, is
19 amended to read as follows:

20 Sec. 401.2445. STATE FEE. The compact waste disposal
21 facility license holder each quarter shall transfer to the state
22 general revenue fund five percent of the gross receipts from[+]

23 [~~(1) compact waste received at the compact waste~~
24 ~~disposal facility, and~~

25 [~~(2)~~] any federal facility waste received at a federal
26 facility waste disposal facility licensed under Section 401.216.

27 SECTION 7. Section 401.2456(b), Health and Safety Code, is

1 amended to read as follows:

2 (b) Rates and contract terms negotiated under this section
3 are subject to periodic review [~~and approval~~] by the commission's
4 executive director to ensure that the compact waste facility
5 license holder's contracted rates and terms do not have a
6 long-term, adverse effect on the cumulative surcharges paid to the
7 host state and the host county [~~they meet all of the requirements of~~
8 ~~this section~~].

9 SECTION 8. Subchapter F, Chapter 401, Health and Safety
10 Code, is amended by adding Section 401.2465 to read as follows:

11 Sec. 401.2465. WASTE DISPOSAL FEE COMPARISON. (a) The
12 compact waste disposal facility license holder shall conduct an
13 annual comparison of party state and nonparty state compact waste
14 disposal fees. The comparison must include:

15 (1) an average party state disposal fee calculated by
16 dividing the total invoiced party state compact waste disposal fees
17 by the total volume of party state compact waste disposed; and

18 (2) an average nonparty state disposal fee calculated
19 by dividing the total invoiced nonparty state compact waste
20 disposal fees by the total volume of nonparty state compact waste
21 disposed.

22 (b) If the average party state disposal fee exceeds the
23 average nonparty state disposal fee, the compact waste disposal
24 facility license holder must issue a rebate for the preceding
25 year's fees to the party state generators in an amount sufficient to
26 reduce the average party state disposal fee after the rebate to \$1
27 less than the average nonparty state disposal fee.

1 (c) The compact waste disposal facility license holder
2 shall allocate the rebate issued under Subsection (b) according to
3 the fractional amount of the total compact waste disposal fees paid
4 by each generator based on the compact waste disposal facility
5 license holder's records for the preceding year.

6 (d) Not more often than once per year, on written request of
7 a utility operating a nuclear electric generation facility in a
8 party state, the compact waste disposal facility license holder
9 shall:

10 (1) retain an independent auditor, who must be
11 approved by the compact waste disposal facility license holder and
12 the utility making the request, to evaluate the computation of the
13 average compact waste disposal fee and rebate described by this
14 section; and

15 (2) not later than the 30th day after the date the
16 license holder receives the final audit report, make a copy of the
17 report available to the requesting utility, the governor, the
18 lieutenant governor, the speaker of the house of representatives,
19 and each standing committee of the legislature with jurisdiction
20 over environmental matters.

21 SECTION 9. The following provisions of the Health and
22 Safety Code are repealed:

23 (1) Sections 401.207(d-1), (d-2), (d-3), (e), (e-1),
24 (f), and (h-1); and

25 (2) Sections 401.2456(c), (d), and (e).

26 SECTION 10. This Act takes effect immediately if it
27 receives a vote of two-thirds of all the members elected to each

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1 house, as provided by Section 39, Article III, Texas Constitution.
2 If this Act does not receive the vote necessary for immediate
3 effect, this Act takes effect September 1, 2021.