

By: West, Chisum, Smith of Harris

H.B. No. 1567

Substitute the following for H.B. No. 1567:

By: West

C.S.H.B. No. 1567

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the disposal of low-level radioactive waste;
3 authorizing the exercise of the power of eminent domain.

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

5 SECTION 1. Sections 401.052(c), (d), and (f), Health and
6 Safety Code, are amended to read as follows:

7 (c) In adopting [~~promulgating~~] rules under this section,
8 the board shall consult with the advisory board [~~and the~~
9 ~~commission~~].

10 (d)(1) Fees assessed under the rules adopted under
11 Subsection (b)(5) [~~this section shall~~]:

12 (A) may not exceed \$10 per cubic foot of shipped
13 low-level radioactive waste;

14 (B) shall be collected by the compact waste
15 disposal facility license holder under Subchapter F [~~authority~~] and
16 remitted to the department for deposit [~~deposited~~] to the credit of
17 the radiation and perpetual care fund; and

18 (C) may be used only [~~exclusively~~] by the
19 department for emergency planning for and response to
20 transportation accidents involving low-level radioactive waste.

21 (2) Fee assessments under the rules adopted under
22 Subsection (b)(5) [~~this section~~] shall be suspended when the amount
23 of fees collected reaches \$500,000, except that if the balance of
24 fees collected is reduced to \$350,000 or less, the assessments

1 shall be reinstituted to bring the balance of fees collected to
2 \$500,000.

3 (f) In this section, "shipper" [~~+~~
4 [~~(1) "Shipper"~~] means a person who generates
5 low-level radioactive waste and ships or arranges with others to
6 ship the waste to a disposal site.

7 [~~(2) "Authority" means the Texas Low-Level
8 Radioactive Waste Disposal Authority.~~]

9 SECTION 2. Subchapter C, Chapter 401, Health and Safety
10 Code, is amended by adding Section 401.071 to read as follows:

11 Sec. 401.071. GENERAL POWERS OF COMMISSION IN RELATION TO
12 LOW-LEVEL RADIOACTIVE WASTE. (a) The commission may:

13 (1) conduct, request, and participate in studies,
14 investigations, and research relating to selection, preparation,
15 construction, operation, maintenance, decommissioning, closing,
16 and financing of disposal sites for and disposal of low-level
17 radioactive waste; and

18 (2) advise, consult, and cooperate with the federal
19 government, the state, interstate agencies, local governmental
20 entities in this state, and private entities on matters involving
21 the disposal of low-level radioactive waste.

22 (b) In carrying out its duties under this section the
23 commission may:

24 (1) apply for, receive, accept, and administer gifts,
25 grants, and other funds available from any source; and

26 (2) contract with the federal government, the state,
27 interstate agencies, local governmental agencies, and private

1 entities.

2 SECTION 3. Section 401.104(b), Health and Safety Code, is
3 amended to read as follows:

4 (b) Except as provided by Subsection (e), the commission by
5 rule shall provide for licensing for the disposal of radioactive
6 material except for the disposal of by-product material defined by
7 Section 401.003(3)(B) and the disposal of low-level radioactive
8 waste under Subchapter F. The department by rule shall provide for
9 licensing the disposal of by-product material defined by Section
10 401.003(3)(B).

11 SECTION 4. Subchapter F, Chapter 401, Health and Safety
12 Code, is amended to read as follows:

13 SUBCHAPTER F. SPECIAL PROVISIONS CONCERNING LOW-LEVEL

14 RADIOACTIVE WASTE DISPOSAL

15 Sec. 401.2005. DEFINITIONS. In this subchapter:

16 (1) "Compact waste" means low-level radioactive waste
17 that:

18 (A) is generated in a host state or a party state;

19 or

20 (B) is not generated in a host state or a party
21 state but has been approved for importation to this state by the
22 compact commission under Section 3.05 of the compact established
23 under Section 403.006.

24 (2) "Compact waste disposal facility" means the
25 low-level radioactive waste disposal facility licensed by the
26 department under this subchapter for the disposal of compact waste.

27 (3) "Disposal facility site" means the tract of land

1 on which is located the compact waste disposal facility and the
2 federal facility waste disposal facility, if applicable. The term
3 includes the immediate area surrounding the facility or facilities.

4 (4) "Federal facility waste" means low-level
5 radioactive waste that is the responsibility of the federal
6 government under the Low-Level Radioactive Waste Policy Act, as
7 amended by the Low-Level Radioactive Waste Policy Amendments Act of
8 1985 (42 U.S.C. Sections 2021b-2021j).

9 (5) "Federal facility waste disposal facility" means a
10 facility for the disposal of federal facility waste authorized by
11 Section 401.216.

12 (6) "Host state" has the meaning assigned by Section
13 2.01 of the compact established under Section 403.006.

14 (7) "Party state" has the meaning assigned by Section
15 2.01 of the compact established under Section 403.006.

16 Sec. 401.201. REGULATION OF LOW-LEVEL RADIOACTIVE WASTE
17 DISPOSAL. The department [~~commission~~] shall directly regulate the
18 disposal of low-level radioactive waste in accordance with this
19 subchapter. The person making the disposal shall comply with this
20 subchapter and department [~~commission~~] rules.

21 Sec. 401.202. LICENSING AUTHORITY. (a) The [~~commission~~
22 ~~or~~] department may [~~within its respective jurisdiction, shall~~]
23 grant, deny, renew, revoke, suspend, or withdraw licenses for the
24 disposal of low-level radioactive waste from other persons and for
25 the processing of that waste.

26 (b) The department shall receive applications for and may
27 issue not more than one license for a single compact waste disposal

1 facility. The department may issue the license only for a facility
2 that meets:

3 (1) requirements for licensing provided by this
4 subchapter and by department rules; and

5 (2) requirements for disposal adopted by the
6 department that meet federal requirements for disposal.

7 (c) Except as provided by Section 401.216, the department
8 shall provide that the compact waste disposal facility license
9 authorizes only the disposal of compact waste.

10 ~~[Sec. 401.203. LICENSE RESTRICTED TO PUBLIC ENTITY. A~~
11 ~~low-level radioactive waste disposal license may be issued only to~~
12 ~~a public entity specifically authorized by law for low-level~~
13 ~~radioactive waste disposal.]~~

14 Sec. 401.204. ACQUISITION OF PROPERTY. (a) An application
15 for a compact waste disposal facility license [~~to dispose of~~
16 ~~low-level radioactive waste from other persons~~] may not be
17 considered unless the applicant has acquired the title to and any
18 interest in land and buildings as required by department
19 ~~[commission]~~ rule.

20 (b) If an applicant for a compact waste disposal license is
21 unsuccessful in acquiring a mineral right that the rules adopted
22 under Subsection (a) require the applicant to acquire, the
23 department may allow the applicant, to the extent permissible under
24 federal law, to enter into a surface use agreement that restricts
25 mineral access to the extent necessary to prevent intrusion into
26 the disposal facility site.

27 (c) If an applicant cannot reach a surface use agreement

1 described by Subsection (b) with a private landowner, the attorney
2 general shall, on request of the department, institute condemnation
3 proceedings as provided under Chapter 21, Property Code, to acquire
4 the mineral right.

5 Sec. 401.205. RESPONSIBILITIES OF PERSONS LICENSED TO
6 DISPOSE OF LOW-LEVEL RADIOACTIVE WASTE. (a) The compact waste
7 disposal facility license holder [~~A person who is licensed to~~
8 ~~dispose of low-level radioactive waste from other persons~~] shall:

9 (1) arrange for and pay the costs of management,
10 control, stabilization, and disposal of low-level radioactive
11 waste and the decommissioning of the licensed activity;

12 (2) convey to the state when the license is issued all
13 required right, title, and interest in land and buildings acquired
14 under department [~~commission~~] rules adopted under Section 401.204,
15 together with requisite rights of access to that property; and

16 (3) formally acknowledge before termination of the
17 license the conveyance to the state of the right, title, and
18 interest in low-level radioactive waste located on the property
19 conveyed.

20 (b) The compact waste disposal facility license holder, if
21 authorized under Section 401.216 to dispose of federal facility
22 waste, shall:

23 (1) arrange for and pay the costs of management,
24 control, stabilization, and disposal of federal facility waste and
25 the decommissioning of the authorized federal facility waste
26 disposal activity;

27 (2) on decommissioning of the authorized federal

1 facility waste disposal activity, convey to the federal government,
2 as provided by the federal Nuclear Waste Policy Act of 1982,
3 Subtitle D (42 U.S.C. Section 10171 et seq.), as amended, all
4 required right, title, and interest in land and buildings acquired
5 under department rules under Section 401.204, together with
6 requisite rights of access to that property; and

7 (3) formally acknowledge before termination of the
8 authorization the conveyance to the federal government of the
9 right, title, and interest in radioactive waste located on the
10 property conveyed.

11 Sec. 401.2051. CONVEYANCE OF WASTE. (a) The compact waste
12 disposal facility license holder shall convey to the state at no
13 cost to the state title to the compact waste delivered to the
14 disposal facility for disposal at the time the waste is accepted at
15 the site. Acceptance occurs when the waste manifest is signed.
16 This section does not apply to federal facility waste accepted at a
17 federal facility waste disposal facility.

18 (b) The title and all related rights and interest in compact
19 waste conveyed under this section are the property of the
20 department on the state's behalf. The department may administer
21 the waste as property in the name of the state.

22 Sec. 401.206. RESIDENT INSPECTOR. (a) The compact waste
23 disposal facility license holder [~~of a license to dispose of~~
24 ~~low-level radioactive waste from other persons~~] shall reimburse the
25 department [~~commission~~] for the salary and other expenses of two or
26 more [~~a~~] resident inspectors [~~inspector~~] employed by the department
27 [~~commission~~].

1 (b) The department [~~commission~~] may require that the
2 compact waste disposal facility license holder provide facilities
3 at the [~~a~~] disposal site for the resident inspectors [~~inspector~~].

4 Sec. 401.207. OUT-OF-STATE WASTE. The compact waste
5 disposal facility [A] license holder may not accept low-level
6 radioactive waste generated in another state for [~~processing or~~]
7 disposal under a license issued by the department [~~commission~~]
8 unless the waste [~~is~~]:

9 (1) is accepted under a compact to which the state is a
10 contracting party; or

11 (2) is [~~from a state having an operating low-level~~
12 ~~radioactive waste disposal site at which that state is willing to~~
13 ~~accept low-level radioactive waste generated in this state; or~~

14 [~~(3)~~] generated from manufactured sources or devices
15 originating in this state.

16 Sec. 401.209. ACQUISITION AND OPERATION OF LOW-LEVEL
17 RADIOACTIVE WASTE DISPOSAL SITES. (a) The department [~~commission~~]
18 may acquire the fee simple title in land, affected mineral rights,
19 and buildings at which low-level radioactive waste can be or is
20 being disposed of in a manner consistent with public health and
21 safety and the environment.

22 (b) Property acquired under this section may be used only
23 for disposing of low-level radioactive waste until the department
24 [~~commission~~] determines that another use would not endanger the
25 health, safety, or general welfare of the public or the
26 environment.

27 (c) The department [~~commission~~] may lease property acquired

1 under this section for operating a disposal site [~~sites~~] for
2 low-level radioactive waste.

3 (d) The right, title, and interest in low-level radioactive
4 waste accepted for disposal at property and facilities acquired
5 under this section and any other interest acquired under this
6 chapter are the property of the department [~~commission~~], acting on
7 behalf of the state, and shall be administered and controlled by the
8 department [~~commission~~] in the name of the state.

9 (e) A right, title, or interest acquired under this chapter
10 does not vest in any fund created by the Texas Constitution.

11 Sec. 401.210. TRANSFER COSTS OF PROPERTY. Low-level
12 radioactive waste and land and buildings transferred to the state
13 or to the federal government under this chapter shall be
14 transferred to the state or to the federal government without cost,
15 other than administrative and legal costs incurred in making the
16 transfer.

17 Sec. 401.211. LIABILITY. (a) The transfer [~~to the state~~]
18 of the title to low-level radioactive waste and land and buildings
19 to the state or to the federal government does not relieve a license
20 holder of liability for any act or omission [~~fraudulent or~~
21 ~~negligent acts~~] performed before the transfer or while the
22 low-level radioactive waste or land and buildings are in the
23 possession and control of the license holder.

24 (b) The acceptance, storage, or disposal of federal
25 facility waste by the compact waste disposal facility license
26 holder at a federal facility waste disposal facility does not
27 create any liability under state law on the part of the state, or on

1 the part of any officer or agency of the state, for damages,
2 removal, or remedial action with respect to the land, the facility,
3 or the waste accepted, stored, or disposed of.

4 (c) The compact waste disposal facility license must
5 require the license holder to indemnify the state for any liability
6 imposed on the state under state or federal law, as required by the
7 department for the disposal of federal facility waste.

8 Sec. 401.212. MONITORING, MAINTENANCE, AND EMERGENCY
9 MEASURES. The department [~~commission~~] may undertake monitoring,
10 maintenance, and emergency measures that are necessary to protect
11 the public health and safety and the environment in connection with
12 low-level radioactive waste and property for which it has assumed
13 custody.

14 Sec. 401.213. INTERSTATE COMPACTS. The department
15 [~~commission~~] shall cooperate with and encourage the use of
16 interstate compacts, including the Southern States Energy Board, to
17 develop regional sites that divide among the states the disposal
18 burden of low-level radioactive waste generated in the region.

19 Sec. 401.214. REGIONAL DISPOSAL FACILITY UNDER COMPACT.
20 The compact waste disposal facility licensed under this subchapter
21 is the regional disposal facility established and operated under
22 the compact established under Chapter 403 for purposes of the
23 federal Low-Level Radioactive Waste Policy Act, as amended by the
24 Low-Level Radioactive Waste Policy Amendments Act of 1985 (42
25 U.S.C. Sections 2021b-2021j).

26 Sec. 401.215. ACCEPTANCE OF LOW-LEVEL RADIOACTIVE WASTE.
27 Subject to limitations provided by Sections 401.207 and 401.248,

1 the compact waste disposal facility shall accept for disposal all
2 compact waste that is presented to it and that is properly processed
3 and packaged.

4 Sec. 401.216. FEDERAL FACILITY WASTE DISPOSAL. (a) The
5 department may authorize the compact waste disposal facility
6 license holder to dispose of federal facility waste. The
7 department may authorize federal facility waste disposal only at a
8 separate and distinct facility that is operated exclusively for the
9 disposal of federal facility waste and that is adjacent to the
10 compact waste disposal facility.

11 (b) The department may restrict the amount and type of
12 federal facility waste the compact waste disposal facility license
13 holder may accept at the separate adjacent facility. The
14 restrictions must be based on the performance objective established
15 by 10 C.F.R. Section 61.41.

16 (c) The department may not allow commingling of compact
17 waste and federal facility waste.

18 (d) The compact waste disposal facility license holder may
19 not accept federal facility waste at a federal facility waste
20 disposal facility until the license holder begins accepting compact
21 waste at the compact waste disposal facility.

22 Sec. 401.217. LOCATION OF DISPOSAL FACILITY SITE. The
23 department may not issue a license for a compact waste disposal
24 facility or authorize the operation of a federal facility waste
25 disposal facility if the disposal facility site is located:

26 (1) in a county any part of which is located 62 miles
27 or less from an international boundary;

1 (2) in a county in which the average annual rainfall is
2 greater than 20 inches;

3 (3) in a county that adjoins river segment 2309, 2310,
4 or 2311 as identified by the commission in the Texas Surface Water
5 Quality Standards, 30 T.A.C. Section 307.10(3);

6 (4) in a 100-year flood plain; or

7 (5) less than 20 miles upstream of or up-drainage from
8 the maximum elevation of the surface of a reservoir project that:

9 (A) has been constructed or is under construction
10 by the United States Bureau of Reclamation or the United States Army
11 Corps of Engineers; or

12 (B) has been approved for construction by the
13 Texas Water Development Board as part of the state water plan under
14 Subchapter C, Chapter 16, Water Code.

15 Sec. 401.218. DISPOSAL OF CERTAIN WASTE. (a) In this
16 section, "Class A low-level radioactive waste," "Class B low-level
17 radioactive waste," and "Class C low-level radioactive waste" have
18 the meanings assigned by department rule.

19 (b) The compact waste disposal facility license holder
20 shall dispose of Class B low-level radioactive waste and Class C
21 low-level radioactive waste:

22 (1) within a reinforced concrete container and within
23 a reinforced concrete barrier or within containment structures made
24 of materials technologically equivalent or superior to reinforced
25 concrete; and

26 (2) in such a manner that the waste can be monitored
27 and retrieved.

1 (c) The department by rule may require a compact waste
2 disposal facility license holder to dispose of certain Class A
3 low-level radioactive wastes that present a hazard because of their
4 high radiation levels in the manner required for Class B low-level
5 radioactive waste and Class C low-level radioactive waste under
6 Subsection (b). To the extent practicable, rules adopted under
7 this subsection shall be consistent with federal rules regarding
8 classification of low-level radioactive waste under 10 C.F.R. Part
9 61.

10 Sec. 401.219. TECHNIQUES FOR MANAGING LOW-LEVEL
11 RADIOACTIVE WASTE. (a) As a condition for obtaining a compact
12 waste disposal facility license, an applicant must submit to the
13 department or its designee evidence relating to the reasonableness
14 of any technique for managing low-level radioactive waste to be
15 practiced at the proposed disposal facility or facilities.

16 (b) Before determining the techniques to be used for
17 managing low-level radioactive waste, an applicant shall study
18 alternative techniques, including:

19 (1) waste processing and reduction at the site of
20 waste generation and at the disposal facility; and

21 (2) the use of aboveground isolation facilities.

22 Sec. 401.220. DESIGN OF FACILITY. The design of a disposal
23 facility should incorporate, to the extent practicable, safeguards
24 against hazards resulting from local meteorological conditions,
25 including phenomena such as hurricanes, tornados, earthquakes,
26 earth tremors, violent storms, and susceptibility to flooding.

27 Sec. 401.221. MIXED WASTE. (a) In this section, "mixed

1 waste" means a combination of hazardous waste as defined by Chapter
2 361 and low-level radioactive waste and includes federal mixed
3 waste.

4 (b) The compact waste disposal facility license holder in
5 accepting mixed waste at the compact waste disposal facility or a
6 federal facility waste disposal facility shall comply with Chapter
7 361, the Resource Conservation and Recovery Act of 1976 (42 U.S.C.
8 Section 6901 et seq.), as amended, and this chapter.

9 Sec. 401.222. TERM OF LICENSE. The compact waste disposal
10 facility license issued under this subchapter expires on the 15th
11 anniversary of its date of issuance and may be renewed for one or
12 more terms of 10 years.

13 Sec. 401.223. HEALTH SURVEILLANCE SURVEY. The department
14 and local public health officials shall develop a health
15 surveillance survey for the population located in the vicinity of
16 the disposal facility site.

17 Sec. 401.224. PACKAGING OF RADIOACTIVE WASTE. The
18 department shall adopt rules relating to the packaging of
19 radioactive waste.

20 Sec. 401.225. SHIPMENT OF LOW-LEVEL RADIOACTIVE WASTE. (a)
21 On arrival of a shipment of low-level radioactive waste at the
22 compact waste disposal facility or a federal facility waste
23 disposal facility, the compact waste disposal facility license
24 holder must determine that the waste complies with all laws, rules,
25 and standards relating to processing and packaging of low-level
26 radioactive waste before the waste is accepted for disposal at the
27 facility.

1 (b) A person making a shipment of low-level radioactive
2 waste that is in excess of 75 cubic feet shall give the compact
3 waste disposal facility license holder written notice of the
4 shipment at least 72 hours before shipment to the compact waste
5 disposal facility or a federal facility waste disposal facility
6 begins. The written notice must contain information required by
7 the department.

8 Sec. 401.226. IMPROPERLY PROCESSED OR PACKAGED LOW-LEVEL
9 RADIOACTIVE WASTE. (a) If low-level radioactive waste that is not
10 properly processed or packaged arrives at the compact waste
11 disposal facility or a federal facility waste disposal facility,
12 the compact waste disposal facility license holder shall properly
13 process and package the waste for disposal and charge the person
14 making the shipment a fee to have the low-level radioactive waste
15 properly processed and packaged.

16 (b) The compact waste disposal facility license holder
17 shall report to the federal and state agencies that establish rules
18 and standards for processing, packaging, and transporting
19 low-level radioactive waste any person who delivers to the compact
20 waste disposal facility or a federal facility waste disposal
21 facility low-level radioactive waste that is not properly processed
22 or packaged.

23 Sec. 401.227. SELECTION OF APPLICATION FOR COMPACT WASTE
24 DISPOSAL FACILITY LICENSE. (a) In selecting an application for the
25 compact waste disposal facility license, the department shall:

26 (1) issue notice of the opportunity to submit an
27 application to dispose of low-level radioactive waste in accordance

1 with Section 401.228;

2 (2) review all applications received under
3 Subdivision (1) for administrative completeness;

4 (3) evaluate all administratively complete
5 applications in accordance with the evaluation criteria
6 established by Sections 401.233-401.236 and shall select the
7 application that has the highest comparative merit in accordance
8 with Section 401.232; and

9 (4) review the selected application under Subdivision
10 (3) for technical completeness and issue a draft license in
11 accordance with Sections 401.237 and 401.238.

12 (b) If the selected application is rejected or denied by the
13 department, the department may select the next highest comparative
14 merit application and proceed in accordance with Subsection (a)(4).

15 Sec. 401.228. NOTICE TO RECEIVE APPLICATIONS. Not later
16 than January 1, 2004, the department shall give to the secretary of
17 state for publication in the Texas Register notice that:

18 (1) the department will accept applications for a
19 30-day period, beginning 180 days after the date of the Texas
20 Register notice, for the siting, construction, and operation of a
21 facility or facilities for disposal of low-level radioactive waste;

22 (2) applications must comply with Chapter 401, Health
23 and Safety Code, the rules of the department, and any other
24 applicable requirements in the department's discretion;

25 (3) applications must include a nonrefundable
26 \$500,000 application processing fee;

27 (4) applications received within the 30-day

1 application receipt period will be evaluated by the department for
2 administrative completeness;

3 (5) applications deemed administratively complete
4 will be evaluated by the department in accordance with the
5 statutory evaluation criteria under Sections 401.233-401.236; and

6 (6) based on the department's evaluation, one
7 application will be selected to be processed by the department.

8 Sec. 401.229. APPLICATION PROCESSING FEE. An application
9 for a compact waste disposal facility license must include payment
10 to the department of an application processing fee of \$500,000. The
11 department may not review an application for administrative
12 completeness until the department receives the application
13 processing fee. The application processing fee is nonrefundable.

14 Sec. 401.230. RECEIPT OF APPLICATIONS. (a) For a 30-day
15 period beginning 180 days after the date notice is published under
16 Section 401.228, the department shall accept applications for a
17 compact waste disposal facility license.

18 (b) Not later than the 45th day after the date an
19 application is received, the department shall issue an
20 administrative notice of deficiency to each applicant whose
21 application is timely submitted but is determined by the department
22 to be administratively incomplete.

23 (c) The department shall provide an applicant for whom an
24 administrative notice of deficiency is issued not more than three
25 30-day opportunities to cure the noted deficiencies in the
26 application.

27 (d) The department shall reject any application that, after

1 the period for correcting deficiencies has expired, is not
2 administratively complete.

3 Sec. 401.231. ADMINISTRATIVELY COMPLETE APPLICATION. The
4 department shall consider as administratively complete an
5 application for which the department has received the portions of
6 the application necessary to allow the department to review the
7 technical merits of the application, including:

8 (1) the identity and qualifications of the applicant;

9 (2) a description of the proposed disposal facility or
10 facilities and disposal facility site;

11 (3) a description of the character of the proposed
12 activities and the types and quantities of waste to be managed at
13 the disposal facility or facilities;

14 (4) a description of the proposed schedules for
15 construction, receipt of waste, and closure;

16 (5) a description of the financial assurance mechanism
17 to be used;

18 (6) a description of the design features of the
19 facility or facilities, along with a description of the methods of
20 construction and operation of the facility or facilities;

21 (7) a characterization of the area and disposal
22 facility site characteristics, including ecology, geology, soils,
23 hydrology, natural radiation background, climatology, meteorology,
24 demography, and current land uses;

25 (8) a description of the safety programs to be used at
26 the proposed facility or facilities;

27 (9) a copy of the warranty deed or other conveyance

1 showing required right, title, and interest in the land and
2 buildings on which the facility or facilities are proposed to be
3 located is owned in fee by the applicant as required by Section
4 401.204;

5 (10) an application processing fee in the amount
6 prescribed by Section 401.229 and proof of additional funds
7 sufficient to cover any further costs of processing the application
8 as estimated by the department; and

9 (11) a copy of a resolution of support of the proposed
10 facility or facilities from the commissioners court of the county
11 in which the facility or facilities are proposed to be located.

12 Sec. 401.232. EVALUATION OF APPLICATIONS; DEPARTMENT
13 SELECTION. (a) The department shall have prepared by department
14 personnel or an independent contractor a written evaluation of each
15 administratively complete application in terms of the criteria
16 established under Sections 401.233-401.236.

17 (b) The department shall conduct at least one public meeting
18 in the county or counties where a compact waste disposal facility or
19 federal facility waste disposal facility is to be located to
20 receive public comments on the administratively complete
21 applications. The department shall set the time and place of the
22 meetings as soon as practicable after the close of the period for
23 administrative review of the applications.

24 (c) The department may issue a request for further
25 information to each applicant whose application is determined by
26 the department to be insufficient for the purposes of the
27 department's evaluation.

1 (d) The department shall provide an applicant for whom a
2 request for further information is issued two 30-day opportunities
3 to adequately respond in the discretion of the department.

4 (e) The department shall use the written evaluations and
5 application materials to evaluate each application according to the
6 statutory criteria established by Sections 401.233-401.236. The
7 department shall evaluate each application for each statutory
8 criterion for purposes of comparing the relative merit of the
9 applications, giving:

10 (1) equal weight to each criterion within a tier of
11 criteria; and

12 (2) the greatest weight to tier 1 criteria, greater
13 weight to tier 2 criteria than to tier 3 criteria, and the least
14 weight to tier 4 criteria.

15 (f) Before publication of the notice of the department's
16 intention to accept applications under Section 401.228, the
17 department by rule may adopt criteria in addition to the criteria
18 under Sections 401.233-401.236 by which the department may evaluate
19 applications. The criteria must be consistent with those sections.

20 (g) Not later than the 180th day after it receives the last
21 timely filed application, the department, based on the written
22 evaluations and application materials, shall select the
23 application that has the highest comparative merit.

24 Sec. 401.233. TIER 1 CRITERIA. (a) The department shall
25 consider as tier 1 criteria:

26 (1) the natural characteristics of the disposal
27 facility site for a proposed disposal facility or facilities;

1 (2) the adequacy of the proposed facility or
2 facilities and activities to safely isolate, shield, and contain
3 low-level radioactive waste from mankind and mankind's
4 environment; and

5 (3) the adequacy of financial assurance related to the
6 proposed activities.

7 (b) Natural characteristics of the disposal facility site
8 include:

9 (1) the suitability of the site for the proposed
10 activities, including the site's:

11 (A) geological characteristics;

12 (B) topography, including features relating to
13 erosion;

14 (C) surface and underground hydrology;

15 (D) meteorological factors; and

16 (E) natural hazards;

17 (2) the compatibility of disposal activities with any
18 uses of land near the site that could affect the natural performance
19 of the site or that could affect monitoring of the disposal facility
20 or facilities and disposal facility site;

21 (3) the adequacy of plans for the collection of
22 prelicense monitoring data and background monitoring plans for the
23 disposal facility site, including analysis of the ambient
24 conditions of the site and established trends of the site's natural
25 parameters, including:

26 (A) natural background radioactivity levels;

27 (B) radon gas levels;

- 1 (C) air particulate levels;
2 (D) soil characteristics, including chemical
3 characteristics;
4 (E) surface water and groundwater
5 characteristics; and
6 (F) flora and fauna at the site;
7 (4) the possible effects of disposal activities on
8 flora and fauna at or near the site; and
9 (5) the ease of access to the site.
10 (c) Adequacy of the proposed disposal facility or
11 facilities and activities includes:
12 (1) the capability of the proposed facility or
13 facilities and activities to isolate, shield, and contain low-level
14 radioactive waste in conformity with federal standards;
15 (2) acceptable operational safety; and
16 (3) acceptable long-term safety as demonstrated by
17 analysis or study.
18 (d) Financial assurance criteria include:
19 (1) adequacy of the applicant's financial
20 qualifications to:
21 (A) conduct the licensed activities as proposed,
22 including:
23 (i) any required decontamination,
24 decommissioning, reclamation, or disposal; and
25 (ii) control and maintenance of the
26 disposal facility site and facility or facilities after the
27 cessation of active operations; and

1 (B) address any unanticipated extraordinary
2 events that would pose a risk to public health and safety and the
3 environment and that may occur at the disposal facility site after
4 decommissioning and closure of the disposal facility or facilities;

5 (2) the adequacy of the applicant's financial
6 assurance in an amount and type acceptable to the department and
7 adequate to cover potential injury to any property or person;

8 (3) the adequacy of the applicant's financial
9 security, as required by department rules; and

10 (4) the degree of certainty that the applicant will be
11 able to maintain adequate financial security.

12 Sec. 401.234. TIER 2 CRITERIA. The department shall
13 consider as tier 2 criteria:

14 (1) the suitability of facilities at the site that are
15 associated with proposed activities and the adequacy of their
16 engineering and design; and

17 (2) the suitability of the proposed disposal facility
18 or facilities for the chemical, radiological, and biological
19 characteristics of the low-level radioactive waste as classified
20 under the system established under Section 401.053.

21 Sec. 401.235. TIER 3 CRITERIA. The department shall
22 consider as tier 3 criteria the applicant's:

23 (1) technical qualifications to receive, store,
24 process, and dispose of low-level radioactive waste;

25 (2) experience in management and disposal of low-level
26 radioactive waste and other radioactive materials;

27 (3) previous operating practices in this state and

1 elsewhere, including the practices of a parent, subsidiary, or
2 affiliated entity of the applicant, related to radioactive
3 materials;

4 (4) record of compliance with environmental statutes,
5 rules, and licenses in this state and in any other jurisdiction,
6 including the records of a parent or subsidiary of the applicant,
7 subject to Section 401.243;

8 (5) training programs proposed for its employees whose
9 duties relate to the proposed disposal facility site and
10 activities;

11 (6) monitoring, recordkeeping, and reporting plans;

12 (7) low-level radioactive waste spill detection and
13 cleanup plans for the proposed disposal facility site and
14 activities;

15 (8) decommissioning and postclosure plans;

16 (9) security plans;

17 (10) monitoring and protection plans for workers;

18 (11) emergency plans;

19 (12) plans for background monitoring during the
20 license period, including analysis of the ambient conditions of the
21 disposal facility site and analysis of established trends of the
22 disposal facility site's natural parameters, including:

23 (A) natural background radioactivity levels;

24 (B) radon gas levels;

25 (C) air particulate levels;

26 (D) soil characteristics, including chemical
27 characteristics;

1 (E) surface water and groundwater
2 characteristics; and

3 (F) flora and fauna at the site; and

4 (13) ability to adequately manage the proposed
5 disposal facility or facilities and activities for the term of the
6 license.

7 Sec. 401.236. TIER 4 CRITERIA. The department shall
8 consider as tier 4 criteria:

9 (1) the compatibility of uses of land near the
10 proposed disposal facility site that could be affected by the
11 construction and operation of the disposal facility or facilities;
12 and

13 (2) possible socioeconomic effects on communities in
14 the host county of:

15 (A) the proposed disposal facility or
16 facilities;

17 (B) the operation of the proposed disposal
18 facility or facilities; and

19 (C) related transportation of low-level
20 radioactive waste to the disposal facility or facilities.

21 Sec. 401.237. TECHNICAL REVIEW. (a) Immediately on the
22 department's selection of the application that has the highest
23 comparative merit in accordance with Section 401.232, the
24 department shall begin a technical review of the selected
25 application.

26 (b) The department shall complete the technical review and
27 prepare a draft license not later than the 15th month after the

1 month in which the technical review begins.

2 (c) The department shall give priority to the review of the
3 selected application over all other radioactive materials and waste
4 licensing and registration matters pending before the department,
5 except those the commissioner determines necessary to avert or
6 address a health and safety emergency.

7 Sec. 401.238. NOTICE OF DRAFT LICENSE AND OPPORTUNITY FOR
8 HEARING. On completion of the technical review of the selected
9 application and preparation of the draft license, the department
10 shall publish, at the applicant's expense, notice of the draft
11 license and specify the requirements for requesting a contested
12 case hearing by a person affected. The notice shall include a
13 statement that the draft license is available for review on the
14 department's website and that the draft license and the application
15 materials are available for review at the offices of the department
16 and in the county or counties in which the proposed disposal
17 facility site is located. Notice shall be published in the Texas
18 Register and in a newspaper of general circulation in each county in
19 which the proposed disposal facility site is located. The
20 applicant shall mail the notice by certified mail to each person who
21 owns land adjacent to the proposed disposal facility site.

22 Sec. 401.239. CONTESTED CASE; FINAL ACTION ON APPLICATION.

23 (a) An administrative law judge of the State Office of
24 Administrative Hearings shall conduct a contested case hearing on
25 the application and draft license if the applicant or a person
26 affected requests a hearing.

27 (b) The administrative law judge may not admit as a party to

1 the contested case hearing a person other than the applicant, the
2 commissioner, or a person affected.

3 (c) The administrative law judge shall issue a proposal for
4 decision not later than the first anniversary of the publication
5 date of the notice of draft license published under Section
6 401.238.

7 (d) The department shall take final action on the proposal
8 for decision of the administrative law judge not later than the 90th
9 day after the date the proposal is issued.

10 Sec. 401.240. JUDICIAL REVIEW. (a) Notwithstanding any
11 other law, a person affected by an action of the commissioner or the
12 department under this subchapter may file a petition for judicial
13 review of the action only after the department takes final action on
14 a license application under Section 401.239(d). A petition must be
15 filed not later than the 30th day after the date of the final
16 action.

17 (b) In its review of an action under this subchapter, a
18 court may not substitute its judgment for the judgment of the
19 commissioner or the department on the weight of the evidence the
20 commissioner or department considered, but:

21 (1) may affirm the action in whole or in part; and

22 (2) shall reverse or remand the case for further
23 proceedings if substantial rights of the petitioner have been
24 prejudiced because the administrative findings, inferences,
25 conclusions, or decisions:

26 (A) are in violation of a constitutional or
27 statutory provision;

1 (B) are in excess of the department's statutory
2 authority;

3 (C) are made through unlawful procedure;

4 (D) are affected by other error of law;

5 (E) are not reasonably supported by substantial
6 evidence considering the reliable and probative evidence in the
7 record as a whole; or

8 (F) are arbitrary or capricious or characterized
9 by abuse of discretion or clearly unwarranted exercise of
10 discretion.

11 Sec. 401.241. SECURITY. (a) In determining the amount of
12 security required of a compact waste disposal facility license
13 holder under Section 401.109, the department shall also consider
14 the need for financial security to address and prevent unplanned
15 events that pose a risk to public health and safety and that may
16 occur after the decommissioning and closure of the compact waste
17 disposal facility or a federal facility waste disposal facility
18 authorized under Section 401.216.

19 (b) The amount of security required of a license holder
20 under this section may not be less than \$20 million. The department
21 shall use interest earned on the security to offset any other
22 financial obligations incurred by the license holder to the
23 department.

24 (c) In addition to the forms of security listed under
25 Section 401.109(c), the department may require a license holder
26 under this subchapter to provide security in the form of liability
27 insurance.

1 Sec. 401.242. ACCEPTANCE OF WASTE. The department shall
2 require the compact waste disposal facility license holder to
3 follow, as closely as is possible, the schedule submitted to the
4 department under Section 401.231. If the compact waste disposal
5 facility license holder holds a permit to process, store, or
6 dispose of hazardous waste under Chapter 361, the license holder
7 may accept hazardous waste according to the schedule under Section
8 401.231 before the compact waste disposal facility begins
9 operation.

10 Sec. 401.243. COMPLIANCE HISTORY. After an opportunity for
11 a hearing, the department shall deny an application for a license
12 under this subchapter or an amendment or renewal for a license under
13 this subchapter if the applicant's compliance history reveals a
14 recurring pattern of conduct that demonstrates a consistent
15 disregard for the regulatory process through a history of
16 violations of this chapter or the department's rules under this
17 chapter.

18 SECTION 5. Section 402.252, Health and Safety Code, is
19 transferred to Subchapter F, Chapter 401, Health and Safety Code,
20 renumbered as Section 401.244, and amended to read as follows:

21 Sec. 401.244 [~~402.252~~]. HOST COUNTY [~~LOCAL~~] PUBLIC
22 PROJECTS. (a) The compact waste disposal facility license holder
23 each quarter [~~board~~] shall [~~quarterly~~] transfer [~~money in the~~
24 ~~low-level radioactive waste fund generated by planning and~~
25 ~~implementation fee surcharges under Sections 402.2721(e) and (f),~~
26 ~~and that portion of waste disposal fees identifiable as adopted for~~
27 ~~the purposes of Sections 402.273(a)(3) and (b)] to the~~

1 commissioners court of the host county 7.5 percent of the gross
2 receipts from:

3 (1) compact waste received at the compact waste
4 disposal facility; and

5 (2) any federal facility waste received at a federal
6 facility waste disposal facility authorized under Section 401.216.

7 (b) The commissioners court of the host county may:

8 (1) spend the money for [~~local~~] public projects in the
9 host county; or

10 (2) disburse the money to other local entities or to
11 public nonprofit corporations to be spent for local public
12 projects.

13 (c) Money received from the compact waste disposal facility
14 license holder [~~low-level radioactive waste fund~~] under this
15 section may be spent only for [~~local~~] public projects in the host
16 county that are for the use and benefit of the public at large. [~~The~~
17 ~~board shall adopt guidelines for the expenditure of money received~~
18 ~~under this section, and the commissioners court shall spend or~~
19 ~~disburse the money for use according to those guidelines.~~]

20 (d) Money received by the commissioners court of the host
21 county under this section is not a loan or grant-in-aid subject to
22 review by a regional planning commission under Chapter 391, Local
23 Government Code. [~~Annually the commissioners court shall provide~~
24 ~~to the board a detailed accounting of the money held, expended, or~~
25 ~~disbursed by the county.~~]

26 SECTION 6. Section 402.219, Health and Safety Code, is
27 transferred to Subchapter F, Chapter 401, Health and Safety Code,

1 renumbered as Section 401.248, and amended to read as follows:

2 Sec. 401.248 [~~402.219~~]. LIMITATIONS ON LOW-LEVEL
3 RADIOACTIVE WASTE DISPOSAL. (a) ~~[Except as provided by an~~
4 ~~interstate compact, a disposal site may accept only low-level~~
5 ~~radioactive waste that is generated in this state.~~

6 ~~[(b)]~~ The board by rule shall exclude from a disposal
7 facility [~~site~~] certain types of low-level radioactive waste that
8 are incompatible with disposal operations.

9 (b) [~~(c)~~] The state may enter into compacts with another
10 state or several states for the disposal in this state of low-level
11 radioactive waste only if the compact:

12 (1) limits the total volume of all low-level
13 radioactive waste to be disposed of in this state from the other
14 state or states to 20 percent of the annual average of low-level
15 radioactive waste that the governor projects will be produced in
16 this state from the years 1995 through 2045;

17 (2) gives this state full administrative control over
18 management and operation of the compact waste disposal facility
19 [~~site~~];

20 (3) requires the other state or states to join this
21 state in any legal action necessary to prevent states that are not
22 members of the compact from disposing of low-level radioactive
23 waste at the compact waste disposal facility [~~site~~];

24 (4) allows this state to charge a fee for the disposal
25 of low-level radioactive waste at the compact waste disposal
26 facility [~~site~~];

27 (5) requires the other state or states to join in any

1 legal action involving liability from the compact waste disposal
2 facility [~~site~~];

3 (6) requires the other state or states to share the
4 full cost of constructing the compact waste disposal facility
5 [~~site~~];

6 (7) allows this state to regulate, in accordance with
7 federal law, the means and routes of transportation of the
8 low-level radioactive waste in this state;

9 (8) requires the other state or states to pay for
10 community assistance projects selected by the host county in an
11 amount not less than \$1 million or 10 percent of the amount
12 contributed by the other state or states;

13 (9) is agreed to by the Texas Legislature, the
14 legislature of the other state or states, and the United States
15 Congress; and

16 (10) complies with all applicable federal law.

17 (c) [~~(d)~~] This section does not affect the ability of this
18 state to transfer low-level radioactive waste to another state.

19 (d) [~~(e)~~] If this state enters into a compact with another
20 state and the terms of the compact conflict with this section, the
21 terms of the compact control.

22 SECTION 7. Sections 402.272, 402.273, and 402.276, Health
23 and Safety Code, are transferred to Subchapter F, Chapter 401,
24 Health and Safety Code, renumbered as Sections 401.245, 401.246,
25 and 401.247, and amended to read as follows:

26 Sec. 401.245 [~~402.272~~]. COMPACT WASTE DISPOSAL FEES. (a)
27 A compact waste disposal facility license holder who receives

1 low-level radioactive waste for disposal pursuant to the Texas
2 Low-Level Radioactive Waste Disposal Compact established under
3 Chapter 403 [~~The board~~] shall have collected a waste disposal fee
4 to be paid by each person who delivers low-level radioactive waste
5 to the compact waste disposal facility [~~authority~~] for disposal.

6 (b) The board by rule shall adopt and periodically revise
7 compact waste disposal fees according to a schedule that is based on
8 the projected annual volume of low-level radioactive waste
9 received, the relative hazard presented by each type of low-level
10 radioactive waste that is generated by the users of radioactive
11 materials, and the costs identified in Section 401.246 [~~402.273~~].

12 (c) In determining relative hazard, the board shall
13 consider the radioactive, physical, and chemical properties of each
14 type of low-level radioactive waste.

15 (d) Rules adopted under this section may include provisions
16 establishing:

17 (1) classification of customers and services; and

18 (2) applicability of fees.

19 (e) Fees adopted under this section must be consistent with
20 the criteria listed under Section 401.246.

21 (f) A rule or order adopted by the department under this
22 section may not conflict with a ruling of a federal regulatory body.

23 Sec. 401.246 [~~402.273~~]. WASTE DISPOSAL FEE CRITERIA. (a)
24 Compact waste [~~Waste~~] disposal fees adopted by the board must be
25 sufficient to:

26 (1) allow the compact waste facility license holder
27 [~~authority~~] to recover operating and maintenance costs plus a

1 reasonable profit;

2 (2) provide an amount necessary to meet future costs
3 of decommissioning, closing, and postclosure maintenance and
4 surveillance of the compact waste disposal facility and the
5 disposal facility site;

6 (3) provide an amount to fund local public projects
7 under Section 401.244 [Subchapter I];

8 (4) provide a reasonable rate of return on capital
9 investment in the facilities used for management or disposal of
10 compact waste at the compact waste disposal facility; and [an
11 amount sufficient to fund, in whole or in part, a rangeland and
12 wildlife management plan,]

13 (5) provide an amount necessary to pay licensing fees,
14 to pay fees set by rule or statute, and to provide security required
15 by the department [commission] under law and department
16 [commission] rules[, and

17 ~~[(6) provide an amount necessary to fund debt service~~
18 ~~and necessary fees and charges, including insurance premiums and~~
19 ~~similar costs, associated with the issuance and payment of bonds~~
20 ~~under Subchapter K].~~

21 (b) To the extent practicable, the department shall use the
22 methods used by the Public Utility Commission of Texas under
23 Sections 36.051, 36.052, and 36.053, Utilities Code, when
24 establishing overall revenues, reasonable return, and invested
25 capital for the purpose of setting fees under Subsection (a). ~~[This~~
26 ~~subsection applies only if the authority does not issue bonds under~~
27 ~~Subchapter K. The waste disposal fees must also include an amount~~

1 ~~sufficient to allow the authority to recover expenses incurred~~
2 ~~before beginning operation of the disposal site amortized over a~~
3 ~~period of not more than 20 years beginning on the first day of~~
4 ~~operation of the disposal site. The fees must be sufficient to~~
5 ~~recover the depository interest that the general revenue fund would~~
6 ~~have earned had the fund not been used to pay expenses incurred~~
7 ~~before the disposal site begins operation. Depository interest~~
8 ~~recovered under this subsection shall be deposited to the credit of~~
9 ~~the general revenue fund. Principal recovered under this~~
10 ~~subsection shall be deposited to the credit of the general revenue~~
11 ~~fund until the amount deposited has fully reimbursed the fund for~~
12 ~~expenses paid from the fund before the disposal site begins~~
13 ~~operation. The remainder of the principal shall be deposited as~~
14 ~~provided by Section 402.272(a).~~

15 ~~[(c) The amount required by Subsection (a)(3) may not be~~
16 ~~less than 10 percent of the annual gross receipts from waste~~
17 ~~received at the disposal site.]~~

18 Sec. 401.247 [~~402.276~~]. REASONABLE AND NECESSARY EXPENSES.
19 Fees paid under this subchapter are reasonable and necessary
20 expenses for ratemaking purposes.

21 SECTION 8. Section 402.275, Health and Safety Code, is
22 transferred to Subchapter F, Chapter 401, Health and Safety Code,
23 renumbered as Section 401.249, and amended to read as follows:

24 Sec. 401.249 [~~402.275~~]. LOW-LEVEL RADIOACTIVE WASTE FUND.
25 (a) The low-level radioactive waste fund is in the state treasury.

26 (b) The low-level radioactive waste fund is an
27 interest-bearing fund. Interest earned on money in the fund shall

1 be deposited to the credit of the fund.

2 (c) Payments [~~Money received by the authority, including~~
3 ~~waste disposal fees, planning and implementation fees, surcharges~~
4 ~~on planning and implementation fees, processing and packaging fees,~~
5 ~~civil penalties, payments~~] made by a party state to a low-level
6 radioactive waste compact entered into under Section 401.248(b)
7 [~~402.219(c)~~], and other receipts collected by the department
8 [~~authority~~] under this chapter shall be deposited to the credit of
9 the low-level radioactive waste fund.

10 (d) Section 403.095, Government Code, does not apply to the
11 low-level radioactive waste fund [~~Except as provided by Subsection~~
12 ~~(f), money in the low-level radioactive waste fund may be used to~~
13 ~~pay:~~

14 [~~(1) operating and maintenance costs of the authority,~~

15 [~~(2) future costs of decommissioning, closing, and~~
16 ~~postclosure maintenance and surveillance of the disposal site,~~

17 [~~(3) licensing fees and to provide security required~~
18 ~~by the commission,~~

19 [~~(4) money judgments rendered against the authority~~
20 ~~that are directed by a court of this state to be paid from this fund,~~

21 [~~(5) expenses associated with implementation of the~~
22 ~~rangeland and wildlife management plan,~~

23 [~~(6) funds for local public projects under Subchapter~~
24 ~~I,~~

25 [~~(7) debt service and necessary fees and charges,~~
26 ~~including insurance premiums and similar costs, associated with the~~
27 ~~issuance and payment of bonds under Subchapter K, and~~

1 ~~[(8) expenses for any other purpose under this~~
2 ~~chapter].~~

3 (e) Of each payment made by a party state under Section 5.01
4 of the compact established under Section 403.006 that is credited
5 to the low-level radioactive waste fund:

6 (1) one-half may be used only for the construction of
7 the compact waste disposal facility; and

8 (2) the remainder shall be credited to the radiation
9 and perpetual care fund. ~~[A payment for debt service and related~~
10 ~~costs under Subsection (d)(7) has priority for payment from the~~
11 ~~low-level radioactive waste fund over a payment for another expense~~
12 ~~authorized by Subsection (d).]~~

13 (f) The department ~~[authority]~~ may transfer money from the
14 low-level radioactive waste fund to the radiation and perpetual
15 care fund to make payments required by the department ~~[commission]~~
16 under Section 401.303.

17 SECTION 9. Section 401.301(b), Health and Safety Code, is
18 amended to read as follows:

19 (b) The board by rule shall set the fee in an amount that may
20 not exceed the actual expenses annually incurred to:

21 (1) process applications for licenses or
22 registrations;

23 (2) amend or renew licenses or registrations;

24 (3) make inspections of license holders and
25 registrants; and

26 (4) enforce this chapter and rules, orders, licenses,
27 and registrations under this chapter ~~[, and~~

1 ~~[(5) collect payments to the low-level radioactive~~
2 ~~waste fund and general revenue as provided by Section 402.2721].~~

3 SECTION 10. Section 403.001(a), Health and Safety Code, is
4 amended to read as follows:

5 (a) The governor shall appoint six members to represent this
6 state on the commission established by Article III of the Texas
7 Low-Level Radioactive Waste Disposal Compact. One of the voting
8 members of the compact commission shall be a legal resident of the
9 host county [~~Hudspeth County, Texas~~].

10 SECTION 11. Section 5.013(a), Water Code, is amended to
11 read as follows:

12 (a) The commission has general jurisdiction over:

13 (1) water and water rights including the issuance of
14 water rights permits, water rights adjudication, cancellation of
15 water rights, and enforcement of water rights;

16 (2) continuing supervision over districts created
17 under Article III, Sections 52(b)(1) and (2), and Article XVI,
18 Section 59, of the Texas Constitution;

19 (3) the state's water quality program including
20 issuance of permits, enforcement of water quality rules, standards,
21 orders, and permits, and water quality planning;

22 (4) the determination of the feasibility of certain
23 federal projects;

24 (5) the adoption and enforcement of rules and
25 performance of other acts relating to the safe construction,
26 maintenance, and removal of dams;

27 (6) conduct of the state's hazardous spill prevention

1 and control program;

2 (7) the administration of the state's program relating
3 to inactive hazardous substance, pollutant, and contaminant
4 disposal facilities;

5 (8) the administration of a portion of the state's
6 injection well program;

7 (9) the administration of the state's programs
8 involving underground water and water wells and drilled and mined
9 shafts;

10 (10) the state's responsibilities relating to regional
11 waste disposal;

12 (11) the responsibilities assigned to the commission
13 by Chapters 361, 363, 382, and 401, [~~and 402~~] Health and Safety
14 Code;

15 (12) the administration of the national flood
16 insurance program;

17 (13) administration of the state's water rate program
18 under Chapter 13 of this code; and

19 (14) any other areas assigned to the commission by
20 this code and other laws of this state.

21 SECTION 12. Sections 401.153 and 401.306, Health and Safety
22 Code, Chapter 402, Health and Safety Code, and Section 51.0511,
23 Natural Resources Code, are repealed.

24 SECTION 13. This Act takes effect September 1, 2003.