

AN ACT

relating to the creation, management, and use of the radiation and perpetual care account in the general revenue fund.

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

SECTION 1. Section 401.003(11), Health and Safety Code, is amended to read as follows:

(11) "Perpetual care account" [~~"Fund"~~] means the radiation and perpetual care account [~~fund~~].

SECTION 2. Sections 401.052(d) and (e), Health and Safety Code, are amended to read as follows:

(d) [~~(1)~~] Fees assessed under this section [~~shall~~]:

(1) may [~~(A)~~] not exceed \$10 per cubic foot of shipped low-level radioactive waste;

(2) shall [~~(B)~~] be collected by the department [~~authority~~] and deposited to the credit of the [~~radiation and~~] perpetual care account [~~fund~~]; [~~and~~]

(3) shall [~~(C)~~] be used exclusively by the department for emergency planning for and response to transportation accidents involving low-level radioactive waste; and [~~and~~]

(4) [~~(2) Fee assessments under this section~~] shall be suspended when the amount of fees collected reaches \$500,000, except that if the balance of fees collected is reduced to \$350,000 or less, the assessments shall be reinstated to bring the balance

1 of fees collected to \$500,000.

2 (e) Money expended from the [~~radiation and~~] perpetual care  
3 account [~~fund~~] to respond to accidents involving low-level  
4 radioactive waste must be reimbursed to the [~~radiation and~~]  
5 perpetual care account [~~fund~~] by the responsible shipper or  
6 transporter according to rules adopted by the board.

7 SECTION 3. Section 401.109(a), Health and Safety Code, is  
8 amended to read as follows:

9 (a) The department or commission may require a holder of a  
10 license issued by the agency to provide security acceptable to the  
11 agency to assure performance of the license holder's obligations  
12 under this chapter. The department or commission shall deposit  
13 security provided under this section to the credit of the perpetual  
14 care account.

15 SECTION 4. Section 401.152(b), Health and Safety Code, is  
16 amended to read as follows:

17 (b) The agency shall use the security provided by the  
18 license holder to pay the costs of actions that are taken or that  
19 are to be taken under this section. The agency shall send to the  
20 comptroller a copy of its order together with necessary written  
21 requests authorizing the comptroller to:

- 22 (1) enforce security supplied by the license holder;
- 23 (2) convert an amount of security into cash, as  
24 necessary; and
- 25 (3) disburse from the security in the perpetual care  
26 account [~~fund~~] the amount necessary to pay the costs.

27 SECTION 5. Section 401.270(e), Health and Safety Code, is

1 amended to read as follows:

2 (e) The department shall use the security provided by the  
3 license holder to pay the costs of actions that are taken or that  
4 are to be taken under this section. The department shall send to  
5 the comptroller a copy of its order together with necessary written  
6 requests authorizing the comptroller to:

7 (1) enforce security supplied by the licensee;

8 (2) convert an amount of security into cash, as  
9 necessary; and

10 (3) disburse from the security in the perpetual care  
11 account [~~fund~~] the amount necessary to pay the costs.

12 SECTION 6. Section 401.301(d), Health and Safety Code, is  
13 amended to read as follows:

14 (d) The department may require that each person who holds a  
15 specific license issued by the department annually pay to the  
16 department an additional five percent of the appropriate annual fee  
17 set under Subsection (b). Fees collected under this subsection  
18 shall be deposited to the credit of the [~~radiation and~~] perpetual  
19 care account [~~fund~~]. The fees are not refundable.

20 SECTION 7. Section 401.303(g), Health and Safety Code, is  
21 amended to read as follows:

22 (g) If a license holder satisfies the obligations under this  
23 chapter, the issuing agency shall have the comptroller promptly  
24 refund to the license holder from the perpetual care account [~~fund~~]  
25 the excess of the amount of all payments made by the license holder  
26 to the issuing agency and the investment earnings of those payments  
27 over the amount determined to be required for the continuing

1 maintenance and surveillance of land, buildings, and radioactive  
2 material conveyed to the state.

3 SECTION 8. Section 401.305, Health and Safety Code, is  
4 amended to read as follows:

5 Sec. 401.305. RADIATION AND PERPETUAL CARE ACCOUNT [~~FUND~~].

6 (a) The radiation and perpetual care account is an account in the  
7 general revenue fund [~~is in the state treasury~~].

8 (b) The department and commission each shall deposit to the  
9 credit of the perpetual care account [~~fund~~] money and security they  
10 receive under this chapter, including an administrative penalty  
11 collected by the department under Sections 401.384-401.390 but  
12 excluding fees collected under Sections 401.301(a)-(c) and  
13 401.302. Interest earned on money in the perpetual care account  
14 [~~fund~~] shall be credited to the perpetual care account [~~fund~~].

15 (c) Money and security in the perpetual care account [~~fund~~]  
16 may be administered by the department or commission only for the  
17 decontamination, decommissioning, stabilization, reclamation,  
18 maintenance, surveillance, control, storage, and disposal of  
19 radioactive material for the protection of the public health and  
20 safety and the environment under this chapter and for refunds under  
21 Section 401.303.

22 (d) Money and security in the perpetual care account [~~fund~~]  
23 may not be used for normal operating expenses of the department or  
24 commission.

25 (e) The department may use money in the perpetual care  
26 account [~~fund~~] to pay for measures:

27 (1) to prevent or mitigate the adverse effects of

1 abandonment of radioactive materials, default on a lawful  
2 obligation, insolvency, or other inability by the holder of a  
3 license issued by the department to meet the requirements of this  
4 chapter or department rules; and

5 (2) to assure the protection of the public health and  
6 safety and the environment from the adverse effects of ionizing  
7 radiation.

8 (f) The department may provide, by the terms of a contract  
9 or lease entered into between the department and any person or by  
10 the terms of a license issued by the department to any person, for  
11 the decontamination, closure, decommissioning, reclamation,  
12 surveillance, or other care of a site or facility subject to  
13 department jurisdiction under this chapter as needed to carry out  
14 the purpose of this chapter.

15 (g) The existence of the [~~radiation and~~] perpetual care  
16 account [~~fund~~] does not make the department liable for the costs of  
17 decontamination, transfer, transportation, reclamation,  
18 surveillance, or disposal of radioactive material arising from a  
19 license holder's abandonment of radioactive material, default on a  
20 lawful obligation, insolvency, or inability to meet the  
21 requirements of this chapter or department rules.

22 SECTION 9. Section 401.342(b), Health and Safety Code, is  
23 amended to read as follows:

24 (b) The attorney general may petition the court for:

25 (1) an order enjoining the act or practice or an order  
26 directing compliance and reimbursement of the perpetual care  
27 account [~~fund~~], if applicable;

- 1           (2) civil penalties as provided by Section 401.381; or  
2           (3) a permanent or temporary injunction, restraining  
3 order, or other appropriate order if the department shows that the  
4 person engaged in or is about to engage in any of the acts or  
5 practices.

6           SECTION 10. Section 401.343(a), Health and Safety Code, is  
7 amended to read as follows:

8           (a) The department shall seek reimbursement, either by an  
9 order of the department or a suit filed by the attorney general at  
10 the department's request, of security from the perpetual care  
11 account [~~fund~~] used by the department to pay for actions, including  
12 corrective measures, to remedy spills or contamination by  
13 radioactive material resulting from a violation of this chapter  
14 relating to an activity under the department's jurisdiction or a  
15 rule, license, registration, or order adopted or issued by the  
16 department under this chapter.

17           SECTION 11. Section 402.275(f), Health and Safety Code, is  
18 amended to read as follows:

19           (f) The authority may transfer money from the low-level  
20 radioactive waste fund to the radiation and perpetual care account  
21 [~~fund~~] to make payments required by the commission under Section  
22 401.303.

23           SECTION 12. Section 7.033, Water Code, is amended to read as  
24 follows:

25           Sec. 7.033. RECOVERY OF SECURITY FOR CHAPTER 401, HEALTH  
26 AND SAFETY CODE, VIOLATION. The commission shall seek  
27 reimbursement, either by a commission order or by a suit filed under

1 Subchapter D by the attorney general at the commission's request,  
2 of security from the radiation and perpetual care account [~~fund~~]  
3 used by the commission to pay for actions, including corrective  
4 measures, to remedy spills or contamination by radioactive material  
5 resulting from a violation of Chapter 401, Health and Safety Code,  
6 relating to an activity under the commission's jurisdiction or a  
7 rule adopted or a license, registration, or order issued by the  
8 commission under that chapter.

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

H.B. No. 1678

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President of the Senate

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Speaker of the House

I certify that H.B. No. 1678 was passed by the House on April 25, 2003, by a non-record vote.

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Chief Clerk of the House

I certify that H.B. No. 1678 was passed by the Senate on May 28, 2003, by the following vote: Yeas 31, Nays 0.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor