

1-1 By: Chisum (Senate Sponsor - Harris) H.B. No. 1678  
1-2 (In the Senate - Received from the House April 28, 2003;  
1-3 May 1, 2003, read first time and referred to Committee on Health  
1-4 and Human Services; May 22, 2003, reported favorably by the  
1-5 following vote: Yeas 9, Nays 0; May 22, 2003, sent to printer.)

1-6 A BILL TO BE ENTITLED  
1-7 AN ACT

1-8 relating to the creation, management, and use of the radiation and  
1-9 perpetual care account in the general revenue fund.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Section 401.003(11), Health and Safety Code, is  
1-12 amended to read as follows:

1-13 (11) "Perpetual care account" [~~"Fund"~~] means the  
1-14 radiation and perpetual care account [~~fund~~].

1-15 SECTION 2. Sections 401.052(d) and (e), Health and Safety  
1-16 Code, are amended to read as follows:

1-17 (d) [~~(1)~~] Fees assessed under this section [~~shall~~]:

1-18 (1) may [~~(A)~~] not exceed \$10 per cubic foot of  
1-19 shipped low-level radioactive waste;

1-20 (2) shall [~~(B)~~] be collected by the department  
1-21 [~~authority~~] and deposited to the credit of the [~~radiation and~~  
1-22 perpetual care account [~~fund~~]; [~~and~~

1-23 (3) shall [~~(C)~~] be used exclusively by the  
1-24 department for emergency planning for and response to  
1-25 transportation accidents involving low-level radioactive waste;  
1-26 and [~~-~~]

1-27 (4) [~~(2) Fee assessments under this section~~] shall be  
1-28 suspended when the amount of fees collected reaches \$500,000,  
1-29 except that if the balance of fees collected is reduced to \$350,000  
1-30 or less, the assessments shall be reinstated to bring the balance  
1-31 of fees collected to \$500,000.

1-32 (e) Money expended from the [~~radiation and~~] perpetual care  
1-33 account [~~fund~~] to respond to accidents involving low-level  
1-34 radioactive waste must be reimbursed to the [~~radiation and~~  
1-35 perpetual care account [~~fund~~] by the responsible shipper or  
1-36 transporter according to rules adopted by the board.

1-37 SECTION 3. Section 401.109(a), Health and Safety Code, is  
1-38 amended to read as follows:

1-39 (a) The department or commission may require a holder of a  
1-40 license issued by the agency to provide security acceptable to the  
1-41 agency to assure performance of the license holder's obligations  
1-42 under this chapter. The department or commission shall deposit  
1-43 security provided under this section to the credit of the perpetual  
1-44 care account.

1-45 SECTION 4. Section 401.152(b), Health and Safety Code, is  
1-46 amended to read as follows:

1-47 (b) The agency shall use the security provided by the  
1-48 license holder to pay the costs of actions that are taken or that  
1-49 are to be taken under this section. The agency shall send to the  
1-50 comptroller a copy of its order together with necessary written  
1-51 requests authorizing the comptroller to:

1-52 (1) enforce security supplied by the license holder;

1-53 (2) convert an amount of security into cash, as  
1-54 necessary; and

1-55 (3) disburse from the security in the perpetual care  
1-56 account [~~fund~~] the amount necessary to pay the costs.

1-57 SECTION 5. Section 401.270(e), Health and Safety Code, is  
1-58 amended to read as follows:

1-59 (e) The department shall use the security provided by the  
1-60 license holder to pay the costs of actions that are taken or that  
1-61 are to be taken under this section. The department shall send to  
1-62 the comptroller a copy of its order together with necessary written  
1-63 requests authorizing the comptroller to:

1-64 (1) enforce security supplied by the licensee;

2-1 (2) convert an amount of security into cash, as  
 2-2 necessary; and

2-3 (3) disburse from the security in the perpetual care  
 2-4 account [~~fund~~] the amount necessary to pay the costs.

2-5 SECTION 6. Section 401.301(d), Health and Safety Code, is  
 2-6 amended to read as follows:

2-7 (d) The department may require that each person who holds a  
 2-8 specific license issued by the department annually pay to the  
 2-9 department an additional five percent of the appropriate annual fee  
 2-10 set under Subsection (b). Fees collected under this subsection  
 2-11 shall be deposited to the credit of the [~~radiation and~~] perpetual  
 2-12 care account [~~fund~~]. The fees are not refundable.

2-13 SECTION 7. Section 401.303(g), Health and Safety Code, is  
 2-14 amended to read as follows:

2-15 (g) If a license holder satisfies the obligations under this  
 2-16 chapter, the issuing agency shall have the comptroller promptly  
 2-17 refund to the license holder from the perpetual care account [~~fund~~]  
 2-18 the excess of the amount of all payments made by the license holder  
 2-19 to the issuing agency and the investment earnings of those payments  
 2-20 over the amount determined to be required for the continuing  
 2-21 maintenance and surveillance of land, buildings, and radioactive  
 2-22 material conveyed to the state.

2-23 SECTION 8. Section 401.305, Health and Safety Code, is  
 2-24 amended to read as follows:

2-25 Sec. 401.305. RADIATION AND PERPETUAL CARE ACCOUNT [~~FUND~~].

2-26 (a) The radiation and perpetual care account is an account in the  
 2-27 general revenue fund [~~is in the state treasury~~].

2-28 (b) The department and commission each shall deposit to the  
 2-29 credit of the perpetual care account [~~fund~~] money and security they  
 2-30 receive under this chapter, including an administrative penalty  
 2-31 collected by the department under Sections 401.384-401.390 but  
 2-32 excluding fees collected under Sections 401.301(a)-(c) and  
 2-33 401.302. Interest earned on money in the perpetual care account  
 2-34 [~~fund~~] shall be credited to the perpetual care account [~~fund~~].

2-35 (c) Money and security in the perpetual care account [~~fund~~]  
 2-36 may be administered by the department or commission only for the  
 2-37 decontamination, decommissioning, stabilization, reclamation,  
 2-38 maintenance, surveillance, control, storage, and disposal of  
 2-39 radioactive material for the protection of the public health and  
 2-40 safety and the environment under this chapter and for refunds under  
 2-41 Section 401.303.

2-42 (d) Money and security in the perpetual care account [~~fund~~]  
 2-43 may not be used for normal operating expenses of the department or  
 2-44 commission.

2-45 (e) The department may use money in the perpetual care  
 2-46 account [~~fund~~] to pay for measures:

2-47 (1) to prevent or mitigate the adverse effects of  
 2-48 abandonment of radioactive materials, default on a lawful  
 2-49 obligation, insolvency, or other inability by the holder of a  
 2-50 license issued by the department to meet the requirements of this  
 2-51 chapter or department rules; and

2-52 (2) to assure the protection of the public health and  
 2-53 safety and the environment from the adverse effects of ionizing  
 2-54 radiation.

2-55 (f) The department may provide, by the terms of a contract  
 2-56 or lease entered into between the department and any person or by  
 2-57 the terms of a license issued by the department to any person, for  
 2-58 the decontamination, closure, decommissioning, reclamation,  
 2-59 surveillance, or other care of a site or facility subject to  
 2-60 department jurisdiction under this chapter as needed to carry out  
 2-61 the purpose of this chapter.

2-62 (g) The existence of the [~~radiation and~~] perpetual care  
 2-63 account [~~fund~~] does not make the department liable for the costs of  
 2-64 decontamination, transfer, transportation, reclamation,  
 2-65 surveillance, or disposal of radioactive material arising from a  
 2-66 license holder's abandonment of radioactive material, default on a  
 2-67 lawful obligation, insolvency, or inability to meet the  
 2-68 requirements of this chapter or department rules.

2-69 SECTION 9. Section 401.342(b), Health and Safety Code, is

3-1 amended to read as follows:

3-2 (b) The attorney general may petition the court for:

3-3 (1) an order enjoining the act or practice or an order  
3-4 directing compliance and reimbursement of the perpetual care  
3-5 account [~~fund~~], if applicable;

3-6 (2) civil penalties as provided by Section 401.381; or

3-7 (3) a permanent or temporary injunction, restraining  
3-8 order, or other appropriate order if the department shows that the  
3-9 person engaged in or is about to engage in any of the acts or  
3-10 practices.

3-11 SECTION 10. Section 401.343(a), Health and Safety Code, is  
3-12 amended to read as follows:

3-13 (a) The department shall seek reimbursement, either by an  
3-14 order of the department or a suit filed by the attorney general at  
3-15 the department's request, of security from the perpetual care  
3-16 account [~~fund~~] used by the department to pay for actions, including  
3-17 corrective measures, to remedy spills or contamination by  
3-18 radioactive material resulting from a violation of this chapter  
3-19 relating to an activity under the department's jurisdiction or a  
3-20 rule, license, registration, or order adopted or issued by the  
3-21 department under this chapter.

3-22 SECTION 11. Section 402.275(f), Health and Safety Code, is  
3-23 amended to read as follows:

3-24 (f) The authority may transfer money from the low-level  
3-25 radioactive waste fund to the radiation and perpetual care account  
3-26 [~~fund~~] to make payments required by the commission under Section  
3-27 401.303.

3-28 SECTION 12. Section 7.033, Water Code, is amended to read as  
3-29 follows:

3-30 Sec. 7.033. RECOVERY OF SECURITY FOR CHAPTER 401, HEALTH  
3-31 AND SAFETY CODE, VIOLATION. The commission shall seek  
3-32 reimbursement, either by a commission order or by a suit filed under  
3-33 Subchapter D by the attorney general at the commission's request,  
3-34 of security from the radiation and perpetual care account [~~fund~~]  
3-35 used by the commission to pay for actions, including corrective  
3-36 measures, to remedy spills or contamination by radioactive material  
3-37 resulting from a violation of Chapter 401, Health and Safety Code,  
3-38 relating to an activity under the commission's jurisdiction or a  
3-39 rule adopted or a license, registration, or order issued by the  
3-40 commission under that chapter.

3-41 SECTION 13. This Act takes effect September 1, 2003.

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