

By: Burnam

H.B. No. 2568

A BILL TO BE ENTITLED

AN ACT

relating to the disposal or assured isolation of low-level radioactive waste.

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

SECTION 1. The heading to Chapter 402, Health and Safety Code, is amended to read as follows:

CHAPTER 402. LOW-LEVEL RADIOACTIVE WASTE DISPOSAL AND ASSURED ISOLATION [~~AUTHORITY~~]

SECTION 2. Section 402.001, Health and Safety Code, is amended to read as follows:

Sec. 402.001. SHORT TITLE. This chapter may be cited as the Texas Low-Level Radioactive Waste Management [~~Disposal Authority~~] Act.

SECTION 3. Section 402.002, Health and Safety Code, is amended to read as follows:

Sec. 402.002. FINDINGS; PURPOSE. (a) Low-level radioactive waste is generated as a by-product of medical, research, and industrial activities and through the operation of nuclear power plants. Loss of capability to manage [~~dispose of~~] low-level radioactive waste would threaten the health and welfare of the citizens of this state and would ultimately lead to the loss of the benefits of those activities that are dependent on reliable facilities for low-level radioactive waste management [~~disposal~~].

(b) This state is currently dependent on low-level

1 radioactive waste disposal sites in other states. Events have
2 demonstrated that the availability of those sites for the
3 management of low-level radioactive waste [~~disposal~~] is
4 increasingly uncertain and as a consequence, medical institutions,
5 research facilities, and industries in this state could be
6 adversely affected. It is important to have a single, secure
7 location at which low-level radioactive waste is managed. Such a
8 location would enable the citizens of this state to have greater
9 security and decrease the possibility that low-level radioactive
10 waste would be stolen, lost, or used for illegal activities.

11 (c) The purpose of this chapter is to provide the Texas
12 Commission on Environmental Quality, the Texas Department of
13 Health, and the Texas Low-Level Radioactive Waste Disposal Compact
14 Commission with the powers to ensure that the state possesses
15 [~~establish the Texas Low-Level Radioactive Waste Disposal~~
16 ~~Authority with responsibility for assuring~~] necessary disposal or
17 assured isolation capability for specific categories of low-level
18 radioactive waste.

19 SECTION 4. Section 402.003, Health and Safety Code, is
20 amended by amending Subdivisions (1), (2), (3), (5), (7), (8),
21 (11), (12), (13), and (14) and adding Subdivisions (15), (16), and
22 (17) to read as follows:

23 (1) "Assured isolation" means the operation of an
24 integrated management system for isolating low-level radioactive
25 waste, with the intent of long-term management and disposal of the
26 low-level radioactive waste, through robust, accessible
27 facilities, planned preventive maintenance, and sureties adequate

1 to address contingencies or implement future management
2 alternatives. [~~"Authority" means the Texas Low-Level Radioactive~~
3 ~~Waste Disposal Authority.~~]

4 (2) "Assured isolation site" means the property and
5 facilities at which an assured isolation system is operated.
6 [~~"Board" means the board of directors of the authority.~~]

7 (3) "Contract operator" means a political subdivision
8 or agency of the state or a private entity with which the commission
9 [~~authority~~] has entered into a contract under Section 402.212.

10 (5) "Disposal site" means the property and facilities
11 acquired, constructed, and owned by the commission [~~authority~~] at
12 which low-level radioactive waste can be processed and disposed of
13 permanently.

14 (7) "Management" means establishing, adopting, and
15 entering into and assuring compliance with the general policies,
16 rules, and contracts that govern the operation of a disposal or
17 assured isolation site.

18 (8) "Operation" means:

19 (A) the control, supervision, and implementation
20 of the actual physical activities involved in the receipt,
21 processing, packaging, storage, disposal, and monitoring of
22 low-level radioactive waste at a disposal site;

23 (B) the control, supervision, and implementation
24 of the actual physical activities involved in the receipt,
25 processing, packaging, storage, assured isolation, and monitoring
26 of low-level radioactive waste at an assured isolation site;

27 (C) [~~7~~] the maintenance of a disposal or assured

1 isolation site; [~~r~~] and

2 (D) any other responsibilities designated by the
3 commission [~~board~~] as part of the operation of a disposal or assured
4 isolation site.

5 (11) "Rangeland and wildlife management plan" means a
6 plan that applies rangeland and wildlife habitat management
7 techniques to land located in the vicinity of a disposal or assured
8 isolation site so that the natural productivity and economic value
9 of the land are enhanced.

10 (12) "Bond" means any type of obligation issued by the
11 commission [~~authority~~] under this chapter, including a certificate
12 of obligation, bond, note, draft, bill, warrant, debenture, interim
13 certificate, revenue or bond anticipation note, or other evidence
14 of indebtedness.

15 (13) "Host county" means the county in which the
16 disposal or assured isolation site is or will be located.

17 (14) "Commission" means the Texas [~~Natural Resource~~
18 ~~Conservation~~] Commission on Environmental Quality.

19 (15) "Compact" means the Texas Low-Level Radioactive
20 Waste Disposal Compact under Section 403.006.

21 (16) "Compact commission" means the Texas Low-Level
22 Radioactive Waste Disposal Compact Commission.

23 (17) "Party state" has the meaning assigned by Section
24 2.01 of the compact.

25 SECTION 5. Section 402.020, Health and Safety Code, is
26 amended to read as follows:

27 Sec. 402.020. COMMISSION [~~AUTHORITY~~] OFFICES. The

1 commission [~~board~~] shall maintain[+]

2 [~~(1) a central office in the city of Austin for~~
3 ~~conducting the authority's business, and~~

4 [~~(2)~~] an [~~authority~~] office at the [~~each~~] disposal or
5 assured isolation site under construction or operated under this
6 chapter.

7 SECTION 6. Section 402.021, Health and Safety Code, is
8 amended to read as follows:

9 Sec. 402.021. COMMISSION [~~BOARD~~] MEETINGS IN HOST COUNTY.

10 [~~(a) The board shall hold regular quarterly meetings on dates~~
11 ~~established by board rule and shall hold special meetings at the~~
12 ~~call of the chairman or on the written request of one board member~~
13 ~~to the chairman.~~

14 [~~(b)~~] In accordance with Chapter 551, Government Code, the
15 commission [~~board~~] shall hold an annual meeting in the host county
16 with officials and representatives of political subdivisions of the
17 host county to discuss concerns relating to the [~~that~~] disposal or
18 assured isolation site.

19 SECTION 7. Section 402.028, Health and Safety Code, is
20 amended to read as follows:

21 Sec. 402.028. CONTRACTS OVER \$15,000. (a) Except as
22 provided by Subsections (b) and (c), if [~~if~~] the estimated amount of
23 a proposed contract for the purchase of materials, machinery,
24 equipment, or supplies is more than \$15,000, the commission [~~board~~]
25 shall ask for competitive bids as provided by Subchapter B, Chapter
26 271, Local Government Code.

27 (b) The commission may use the design-build method for the

1 construction of a disposal or assured isolation site facility. In
2 using that method and entering into a contract for the services of a
3 design-build firm, the commission shall follow the procedures
4 authorized by Section 51.780, Education Code, for institutions of
5 higher learning.

6 (c) The commission may use a design-build-operate method
7 for the construction and operation of a disposal or assured
8 isolation site facility. If the commission chooses this option, the
9 commission shall follow the procedures authorized by Subsection (b)
10 and, in addition, by rule shall adopt and require for the facility
11 operator professional and performance qualifications that are
12 substantially similar, for the services being contracted for, to
13 the professional and performance requirements for architects and
14 engineers under Section 51.780, Education Code.

15 (d) This section does not apply to purchases of property
16 from public agencies or to contracts for personal [~~or professional~~]
17 services.

18 SECTION 8. Section 402.031, Health and Safety Code, is
19 amended to read as follows:

20 Sec. 402.031. CITIZENS ADVISORY COMMITTEE. (a) The
21 commission [~~board~~] shall create a citizens advisory committee to
22 perform oversight functions over a disposal or assured isolation
23 site.

24 (b) The committee shall begin to perform its functions not
25 earlier than the 30th day after the date on which construction of
26 the disposal or assured isolation site begins.

27 (c) Members of the committee shall be appointed for

1 three-year terms by the commission [~~board~~] after consultation with
2 officials of political subdivisions in the host county.

3 (d) The committee shall:

4 (1) conduct independent monitoring of disposal or
5 assured isolation site activities as authorized by guidelines
6 adopted by the commission [~~board~~];

7 (2) make recommendations to the commission [~~board~~]
8 concerning operations at the [~~disposal~~] site; and

9 (3) execute any other review and monitoring functions
10 as recommended by the committee and approved by the commission
11 [~~board~~].

12 (e) Reasonable notice as required by the commission [~~board~~]
13 must be given to the manager of a disposal or assured isolation
14 site before a committee member enters the [~~a disposal~~] site to
15 exercise any function authorized by this section. The commission
16 [~~board~~] shall provide for quarterly unannounced inspections of
17 [~~disposal~~] site activities.

18 SECTION 9. Section 402.032, Health and Safety Code, is
19 amended to read as follows:

20 Sec. 402.032. PURCHASING [~~AUTHORITY PURCHASE~~]. Except as
21 provided under Section 402.212, a [A] purchase by the commission
22 [~~authority~~] of supplies, materials, services, or equipment
23 necessary to prepare, construct, or operate a disposal or assured
24 isolation site is exempt from the purchasing requirements of
25 Subtitle D, Title 10, Government Code.

26 SECTION 10. The heading to Subchapter C, Chapter 402,
27 Health and Safety Code, is amended to read as follows:

1 SUBCHAPTER C. POWERS AND DUTIES OF COMMISSION AND DEPARTMENT

2 SECTION 11. Section 402.051, Health and Safety Code, is
3 amended to read as follows:

4 Sec. 402.051. JURISDICTION OVER ~~[DISPOSAL]~~ SITE AND WASTE.

5 (a) The commission [~~authority~~] has jurisdiction over [~~site~~]
6 selection of a location for, and the [~~r~~] preparation, construction,
7 operation, maintenance, decommissioning, closing, and financing
8 of, a disposal or assured isolation site [~~sites~~].

9 (b) The commission may take any action regarding low-level
10 radioactive waste that is necessary to protect the public health
11 and safety and the environment, including monitoring or maintenance
12 of the disposal or assured isolation site and activities on the site
13 to prevent or alleviate an emergency involving low-level
14 radioactive waste.

15 (c) A license for a disposal or assured isolation site shall
16 be issued in the name of the commission and may not be transferred
17 to a private entity.

18 SECTION 12. Section 402.052, Health and Safety Code, is
19 amended to read as follows:

20 Sec. 402.052. DEVELOPMENT AND OPERATION OF DISPOSAL OR
21 ASSURED ISOLATION SITE. (a) The commission [~~authority~~] shall
22 develop and operate a single [~~one disposal~~] site for [~~the~~]
23 disposal, assured isolation, or both disposal and assured isolation
24 of low-level radioactive waste in this state.

25 (b) The commission may not develop or operate an assured
26 isolation site unless assured isolation conducted at the site
27 includes:

1 (1) above-grade concrete vaults with internal access
2 designed to isolate the low-level radioactive waste from the
3 environment, from which the waste is easily retrievable;

4 (2) individual monitoring of each low-level
5 radioactive waste structure or building;

6 (3) monitoring of the ground beneath the assured
7 isolation facility and the perimeter of the facility for leakage;
8 and

9 (4) active inspection and preventive maintenance.

10 SECTION 13. Section 402.053, Health and Safety Code, is
11 amended to read as follows:

12 Sec. 402.053. GENERAL POWERS. To carry out this chapter,
13 the commission [~~authority~~] may:

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

16 (2) contract with the federal government, the state,
17 interstate agencies, local governmental entities, and private
18 entities to carry out this chapter and rules, standards, and orders
19 adopted under this chapter;

20 (3) conduct, request, and participate in studies,
21 investigations, and research relating to selection, preparation,
22 construction, operation, maintenance, decommissioning, closing,
23 and financing of a disposal or assured isolation site [~~sites and~~
24 ~~disposal of low-level radioactive waste~~]; and

25 (4) advise, consult, and cooperate with the federal
26 government, the state, interstate agencies, local governmental
27 entities in this state, and private entities.

1 SECTION 14. Section 402.054, Health and Safety Code, is
2 amended to read as follows:

3 Sec. 402.054. RULES, STANDARDS, AND ORDERS. The commission
4 [~~board~~] may adopt rules, standards, and orders necessary to
5 properly carry out this chapter and to protect the public health and
6 safety and the environment from the commission's [~~authority's~~]
7 activities.

8 SECTION 15. Sections 402.055(a) and (c), Health and Safety
9 Code, are amended to read as follows:

10 (a) The commission [~~board~~] may set reasonable civil
11 penalties for the violation of a rule, standard, or order.

12 (c) A penalty adopted by the commission [~~board~~] under this
13 section is in addition to any other penalty provided by state law
14 and may be enforced by complaint filed by the attorney general in a
15 court of appropriate jurisdiction in Travis County.

16 SECTION 16. Section 402.057, Health and Safety Code, is
17 amended to read as follows:

18 Sec. 402.057. REPORTS TO LEGISLATURE. Not later than the
19 60th day before the date each regular legislative session convenes,
20 the commission [~~authority~~] shall submit to the appropriate
21 legislative committees a biennial report that serves as a basis for
22 periodic oversight hearings on the commission's [~~authority's~~]
23 operations under this chapter and on the status of interstate
24 compacts and agreements. The report shall also discuss the status
25 of funds held, expended, or disbursed by the host county under
26 Section 402.252.

27 SECTION 17. Section 402.058, Health and Safety Code, is

1 amended to read as follows:

2 Sec. 402.058. HEALTH SURVEILLANCE SURVEY. The commission
3 [~~board~~], in cooperation with the department [~~commission, the Texas~~
4 ~~Department of Health,~~] and local public health officials, shall
5 develop a health surveillance survey for the population located in
6 the vicinity of a disposal or assured isolation site.

7 SECTION 18. Sections 402.059(a), (b), and (c), Health and
8 Safety Code, are amended to read as follows:

9 (a) The commission and the department and their [~~authority,~~
10 ~~its~~] employees, contractors, and agents may enter public or private
11 property to assess the suitability of land for [~~a~~] disposal or
12 assured isolation of low-level radioactive waste [~~site in Hudspeth~~
13 ~~County, Texas~~].

14 (b) Before [~~Prior to~~] entering the property, the commission
15 [~~authority~~] shall give written notice to the landowner of the
16 purpose, extent, types of assessment activities to be conducted,
17 and probable duration of the entry, and shall cooperate with the
18 landowner to minimize, insofar as possible, any inconvenience to
19 the landowner.

20 (c) The commission is [~~authority shall be~~] liable to the
21 landowner for reasonable damages to the land that may result from
22 the commission's [~~authority's~~] activities under this section.

23 SECTION 19. The heading to Subchapter D, Chapter 402,
24 Health and Safety Code, is amended to read as follows:

25 SUBCHAPTER D. [~~DISPOSAL~~] SITE LOCATION SELECTION AND ACQUISITION

26 SECTION 20. Section 402.081, Health and Safety Code, is
27 amended to read as follows:

1 Sec. 402.081. [~~DISPOSAL~~] SITE LOCATION SELECTION STUDIES.
2 The commission [~~authority~~] shall make studies or contract for
3 studies to be made of the future requirements for the management
4 [~~disposal~~] of low-level radioactive waste in this state and to
5 determine the areas of the state that are relatively more suitable
6 than others for low-level radioactive waste management [~~disposal~~]
7 activities.

8 SECTION 21. Subchapter D, Chapter 402, Health and Safety
9 Code, is amended by adding Section 402.0815 to read as follows:

10 Sec. 402.0815. SITE LOCATION IN COUNTY BORDERING
11 INTERNATIONAL BOUNDARY PROHIBITED. A low-level radioactive waste
12 disposal or assured isolation site may not be located in a county
13 that is adjacent to an international boundary.

14 SECTION 22. Section 402.082, Health and Safety Code, is
15 amended to read as follows:

16 Sec. 402.082. SITE LOCATION SELECTION STUDY CRITERIA. (a)
17 Studies conducted [~~required~~] under Section 402.081 for the
18 selection of a disposal site must consider:

19 (1) the volume of low-level radioactive waste
20 generated by type and source categories for the expected life of the
21 disposal site, including waste that may be generated from the
22 decommissioning of nuclear power plants located in this state;

23 (2) geology;

24 (3) topography;

25 (4) transportation and access;

26 (5) meteorology;

27 (6) population density;

- 1 (7) surface and subsurface hydrology;
- 2 (8) flora and fauna;
- 3 (9) current land use;
- 4 (10) criteria established by the commission for
- 5 disposal site selection;
- 6 (11) the proximity of the disposal site to sources of
- 7 low-level radioactive waste, including related transportation
- 8 costs, to the extent that the proximity and transportation costs do
- 9 not interfere with selection of a suitable disposal site for
- 10 protecting public health and the environment;
- 11 (12) other disposal site characteristics that may need
- 12 study on a preliminary basis and for which detailed study would be
- 13 required to prepare an application or license required for a
- 14 disposal site [~~operation~~]; and
- 15 (13) alternative management techniques, including
- 16 [~~aboveground isolation facilities,~~] waste processing and reduction
- 17 at the site of waste generation and at a commission [~~an authority~~]
- 18 management site, and waste recycling.

19 (b) Studies conducted under Section 402.081 for the

20 selection of an assured isolation site must consider:

21 (1) the volume of low-level radioactive waste

22 generated by type and source categories for the expected life of the

23 assured isolation site, including waste that may be generated from

24 lost and stolen sources and the decommissioning of nuclear power

25 plants located in this state or another state that is a party state

26 under the compact;

27 (2) geology;

- 1 (3) hydrology;
- 2 (4) transportation and access;
- 3 (5) population density;
- 4 (6) meteorology;
- 5 (7) current land use;
- 6 (8) related transportation costs; and
- 7 (9) other criteria established by the department for
- 8 assured isolation site selection.

9 SECTION 23. Section 402.083, Health and Safety Code, is
10 amended to read as follows:

11 Sec. 402.083. CHOOSING SITE LOCATION [~~SITES~~] FOR FURTHER
12 ANALYSIS. (a) On completion of the studies required by Section
13 402.081, the commission [board] shall choose a location for a [at
14 least two] potential disposal or assured isolation site [sites] for
15 further analysis under Section 402.084.

16 (b) In choosing a location under this section, the
17 commission shall give preference to locations in a county in which
18 the commissioners court has passed a resolution that favors the
19 establishment of a low-level radioactive waste management facility
20 in the county.

21 SECTION 24. Section 402.084, Health and Safety Code, is
22 amended to read as follows:

23 Sec. 402.084. EVALUATION OF POTENTIAL SITE LOCATIONS
24 [~~SITES~~]. (a) For the [each] potential disposal or assured
25 isolation site location chosen under Section 402.083, the
26 commission [authority] shall evaluate or contract for the
27 evaluation of:

- 1 (1) preoperating costs;
2 (2) operating costs;
3 (3) maintenance costs;
4 (4) costs of decommissioning and extended care; and
5 (5) socioeconomic, environmental, and public health
6 impacts associated with the location [~~site~~].

7 (b) The socioeconomic impacts to be evaluated include fire,
8 police, education, utility, public works, public access, planning,
9 and other governmental services necessary for the proposed [~~and~~
10 ~~assumed and perceived risks of the~~] disposal or assured isolation
11 site [~~sites and disposal~~] activities.

12 (c) Public officials and members of local boards or
13 governing bodies of local political subdivisions of the county
14 [~~state~~] in which a potential disposal or assured isolation site is
15 located shall be invited to participate in [~~appropriate~~] evaluation
16 activities as the commission considers appropriate.

17 SECTION 25. Section 402.085, Health and Safety Code, is
18 amended to read as follows:

19 Sec. 402.085. SITE LOCATION PROPOSAL. On receiving the
20 results of the studies and evaluations required by Sections
21 402.081, 402.084, and 402.087, the commission [~~board~~] shall propose
22 that the disposal or assured isolation site be located at the chosen
23 location if the location [~~a site that~~] appears to be [~~the most~~]
24 suitable for a disposal or assured isolation site. After the
25 commission has selected a location for the proposed disposal or
26 assured isolation site, the department [~~and~~] shall hold a [~~public~~]
27 hearing to consider whether that location [~~site~~] should be selected

1 as the location for the state's disposal or assured isolation site.
2 A hearing under this section shall be completed not later than the
3 end of the 15th month after the date the commission chooses a
4 location under Section 402.083.

5 SECTION 26. Section 402.086, Health and Safety Code, is
6 amended to read as follows:

7 Sec. 402.086. REPORT AND INFORMATIONAL SEMINARS. (a) Before
8 the department [~~board~~] gives notice of the hearing on a [~~the~~]
9 proposed disposal or assured isolation site, the commission
10 [~~authority~~] shall prepare a report that includes:

11 (1) detailed information regarding all aspects of the
12 [~~disposal~~] site selection process;

13 (2) criteria for [~~disposal~~] site selection as
14 established by the department [~~appropriate licensing authority~~];
15 and

16 (3) summaries of the studies required under Section
17 402.081 and the evaluations required under Section 402.084.

18 (b) The commission [~~authority~~] shall make the report
19 available to the public.

20 (c) The commission [~~authority~~] may contract for the
21 distribution of the report and may hold or contract with other
22 persons to hold informational seminars for the public.

23 SECTION 27. Section 402.087, Health and Safety Code, is
24 amended to read as follows:

25 Sec. 402.087. MEDIATION. (a) The department [~~authority~~]
26 may appoint a mediator to consider the views of parties interested
27 in the selection of a location for a disposal or assured isolation

1 site.

2 (b) The mediator may conduct a series of meetings with
3 delegates from groups of interested parties. The delegates are
4 selected according to criteria established by the commission
5 [~~board~~].

6 (c) Mediation meetings may be held in a county [~~the~~
7 ~~counties~~] in which the potential disposal or assured isolation site
8 is [~~sites are~~] located and shall be held before the public hearing
9 required by Section 402.085. The commission may not delay a hearing
10 under Section 403.085 because of mediation.

11 (d) The mediator shall prepare a report and submit it to the
12 commission [~~board~~] before the commission [~~board~~] gives notice of
13 the public hearing.

14 SECTION 28. Sections 402.088(a) and (b), Health and Safety
15 Code, are amended to read as follows:

16 (a) A hearing under Section 402.085 shall be held in Austin
17 [~~at the county courthouse of the host county~~].

18 (b) The department [~~board~~] shall give notice of the hearing
19 on the proposed disposal or assured isolation site by publishing
20 notice in English and Spanish in a newspaper published in Travis
21 County [~~the host county~~]. The notice must be published at least once
22 each week for four consecutive weeks beginning not later than the
23 31st day before the date set for the hearing.

24 SECTION 29. Section 402.089, Health and Safety Code, is
25 amended to read as follows:

26 Sec. 402.089. DEPARTMENT [~~BOARD~~] DETERMINATION;
27 RESTRICTIONS ON SELECTION NEAR RESERVOIR. (a) The department

1 ~~[board]~~ shall determine if the proposed location for the disposal
2 or assured isolation site should be selected after a thorough
3 consideration of:

4 (1) the studies and evaluations relating to site
5 selection;

6 (2) the criteria required to be used in those studies;
7 and

8 (3) testimony and evidence presented at the hearing.

9 (b) The department ~~[board]~~ may not select a location
10 ~~[disposal site]~~ under this subchapter that is within 20 miles
11 upstream or up-drainage from the maximum elevation of the surface
12 of a reservoir project that:

13 (1) has been constructed or is under construction by
14 the United States Bureau of Reclamation or the United States Corps
15 of Engineers; or

16 (2) has been approved for construction by the Texas
17 Water Development Board as part of the state water plan under
18 Subchapter C, Chapter 16, Water Code.

19 SECTION 30. Section 402.090, Health and Safety Code, is
20 amended to read as follows:

21 Sec. 402.090. ORDER DESIGNATING SITE LOCATION. If the
22 department ~~[board]~~ selects a proposed location for ~~[disposal site~~
23 ~~as]~~ the disposal or assured isolation site, the department ~~[board]~~
24 by order shall designate the location ~~[site]~~ as the disposal or
25 assured isolation site location not later than the 90th day after
26 the date the hearing under Section 402.085 is completed and shall
27 issue a final report.

1 SECTION 31. Section 402.091, Health and Safety Code, is
2 amended to read as follows:

3 Sec. 402.091. REJECTION OF PROPOSED SITE LOCATION. (a) If
4 the department [~~board~~] determines that a proposed location for the
5 disposal or assured isolation site should not be selected, the
6 department [~~board~~] shall issue an order rejecting the site and
7 shall call another hearing to consider another proposed [~~disposal~~]
8 site location that appears suitable from the studies and
9 evaluations.

10 (b) The commission and the department [~~board~~] shall
11 continue to follow the procedures of [~~disposal~~] site location
12 selection under this subchapter until a suitable location for the
13 disposal or assured isolation site is selected.

14 SECTION 32. Section 402.092, Health and Safety Code, is
15 amended to read as follows:

16 Sec. 402.092. FINAL REPORT. The department [~~authority~~]
17 shall submit to the governor and to the legislature for
18 informational purposes a copy of the final report and order
19 selecting a disposal or assured isolation site.

20 SECTION 33. Section 402.0922, Health and Safety Code, is
21 amended to read as follows:

22 Sec. 402.0922. EMINENT DOMAIN. The commission [~~authority~~]
23 may acquire land for a disposal or assured isolation site [~~within~~
24 ~~the geographical area described in Section 402.0921~~] by
25 condemnation and in accordance with Chapter 21 of the Property
26 Code.

27 SECTION 34. Section 402.094, Health and Safety Code, is

1 amended to read as follows:

2 Sec. 402.094. ACQUISITION OF PROPERTY; LEASE OF PROPERTY
3 ACQUIRED. (a) The commission [~~authority~~] may acquire by gift,
4 grant, or purchase any land, easements, rights-of-way, and other
5 property interests necessary to construct and operate a disposal or
6 assured isolation site.

7 (b) The commission [~~authority~~] must acquire the fee simple
8 title to all land and property that is a part of the licensed
9 disposal or assured isolation site.

10 (c) The commission [~~authority~~] may lease property on terms
11 and conditions the commission [~~board~~] determines advantageous [~~to~~
12 ~~the authority~~], but land that is part of a licensed disposal or
13 assured isolation site may be leased only through [~~from~~] the Texas
14 Public Finance Authority as provided by Chapter 1232, Government
15 Code.

16 (d) The commission [~~authority~~] may lease land owned by the
17 commission and acquired under this chapter [~~authority~~] that is not
18 part of a licensed disposal or assured isolation site. Land leased
19 by the commission [~~authority~~] under this section may be used only
20 for agricultural, ranching, or grazing purposes.

21 SECTION 35. Section 402.122, Health and Safety Code, is
22 amended to read as follows:

23 Sec. 402.122. ENTRY ON AND INVESTIGATION OF SCHOOL OR
24 UNIVERSITY LAND. The commission [~~authority~~] may enter and
25 investigate land dedicated to the permanent school fund or the
26 permanent university fund to determine the suitability of the land
27 for a disposal or assured isolation site.

1 SECTION 36. Section 402.123, Health and Safety Code, is
2 amended to read as follows:

3 Sec. 402.123. PROCEDURE FOR SELECTION AND SALE OF SCHOOL OR
4 UNIVERSITY LAND. (a) If the commission [~~board~~] determines that a
5 suitable disposal or assured isolation site can be located on land
6 dedicated to the permanent school fund or permanent university fund
7 and issues an order selecting that site as a proposed disposal or
8 assured isolation site, the School Land Board or the board of
9 regents of The University of Texas System, as appropriate, shall
10 authorize the commission [~~authority~~] to enter on the land to
11 conduct studies [~~a detailed technical characterization~~] of the
12 proposed [~~disposal~~] site as required by commission or department
13 rule.

14 (b) Notwithstanding any other law, if the commission
15 [~~board~~] determines at [~~the completion of the characterization~~
16 ~~period and~~] the completion of the studies conducted under
17 Subsection (a) and of the studies required by Subchapter D that the
18 land should be purchased for the proposed disposal or assured
19 isolation site, the School Land Board or the board of regents of The
20 University of Texas System, as appropriate, shall have the land and
21 any minerals in the land appraised and shall sell the land to the
22 commission [~~authority~~] at the appraised value.

23 SECTION 37. Section 402.124, Health and Safety Code, is
24 amended to read as follows:

25 Sec. 402.124. PURCHASE OF SCHOOL OR UNIVERSITY LAND. (a)
26 The commission [~~authority~~] may enter into an agreement to purchase
27 a fee interest in land dedicated to the permanent school fund or the

1 permanent university fund by paying fair consideration in kind or
2 money to the appropriate fund.

3 (b) The commission [~~authority~~] may enter into an agreement
4 to purchase one or more parcels of land dedicated to the permanent
5 school fund or the permanent university fund of a size the
6 commission [~~board~~] considers appropriate for purposes of a disposal
7 or assured isolation site.

8 SECTION 38. Section 402.125, Health and Safety Code, is
9 amended to read as follows:

10 Sec. 402.125. TITLE TO SCHOOL OR UNIVERSITY LAND. (a) The
11 School Land Board or the board of regents of The University of Texas
12 System, as appropriate, shall convey to the commission [~~authority~~]
13 all title and interest to the surface and minerals in land sold
14 under Section 402.123.

15 (b) This section and Section 402.123 apply only to land
16 actually required for a licensed disposal or assured
17 isolation site.

18 SECTION 39. Section 402.126, Health and Safety Code, is
19 amended to read as follows:

20 Sec. 402.126. RANGELAND AND WILDLIFE MANAGEMENT PLAN. (a)
21 To implement a rangeland and wildlife management plan, the
22 commission [~~authority~~] may lease from the School Land Board or the
23 board of regents of The University of Texas System property that is
24 dedicated to the permanent school fund or the permanent university
25 fund and that is proximate to a disposal or assured isolation site.
26 Land leased for a rangeland and wildlife management plan may not
27 exceed 65,000 acres.

1 (b) The commission [~~authority~~] shall lease from the School
2 Land Board on the School Land Board's terms and conditions the land
3 determined by the School Land Board as necessary to serve as a
4 buffer for the disposal or assured isolation site. Land leased
5 under this subsection shall be used by the commission [~~authority~~]
6 to implement a rangeland and wildlife management plan.

7 SECTION 40. Section 402.128, Health and Safety Code, is
8 amended to read as follows:

9 Sec. 402.128. APPLICABLE STANDARDS. The commission or the
10 department [~~authority~~] may not lessen any standards for the siting,
11 construction, or operation of a [the] disposal or assured isolation
12 site because the site is located on state-owned land dedicated to
13 the permanent school fund or the permanent university fund.

14 SECTION 41. Section 402.151, Health and Safety Code, is
15 amended to read as follows:

16 Sec. 402.151. PREPARATIONS FOR OBTAINING LICENSES AND
17 AUTHORIZATIONS. After selection of the disposal or assured
18 isolation site location, the commission [~~board~~] shall [~~direct the~~
19 ~~general manager to~~] prepare necessary applications, disposal or
20 assured isolation plans, and other material for obtaining licenses
21 and other authorizations for the [~~disposal~~] site.

22 SECTION 42. Section 402.1511, Health and Safety Code, is
23 amended to read as follows:

24 Sec. 402.1511. DEPARTMENT TO ISSUE [~~COMMISSION~~] LICENSE.

25 (a) Notwithstanding any other provision of this chapter, the
26 department [~~commission~~] has sole authority to issue a license to
27 operate a disposal or assured isolation site under this chapter.

1 (b) The commission [~~authority~~] or any other entity
2 authorized by contract to operate a disposal or assured isolation
3 site under this chapter may not operate the [~~disposal~~] site unless
4 the commission [~~authority or entity~~] has first obtained an
5 operating license from the department [~~commission~~] under this
6 section.

7 (c) In connection with the necessary permits and licenses
8 for planning, construction, and operation of the proposed [~~The~~
9 ~~authority or any other entity required by this chapter to obtain a~~
10 ~~license to operate a~~] disposal or assured isolation site, [~~under~~
11 ~~this chapter is required to obtain the license from~~] the commission
12 may grant permits and licenses to itself or to any division of the
13 commission in accordance with commission rules adopted for that
14 purpose [~~and not from the department~~].

15 (d) The commission and the department each may adopt any
16 rules reasonably necessary to exercise its authority under this
17 section.

18 SECTION 43. Section 402.152, Health and Safety Code, is
19 amended to read as follows:

20 Sec. 402.152. APPLICATIONS FOR LICENSES AND
21 AUTHORIZATIONS. (a) The commission [~~authority~~] shall submit to
22 each federal and state agency from which it must obtain licenses and
23 other types of authorization to construct and operate a disposal or
24 assured isolation site the necessary applications and information
25 to obtain those licenses and authorizations.

26 (b) [~~Notwithstanding any other law or other provision of~~
27 ~~this chapter, the authority shall submit to the appropriate state~~

1 ~~and federal agencies an application to construct and operate a~~
2 ~~disposal site located within the geographical area described in~~
3 ~~Section 402.0921.~~

4 ~~[(c)]~~ The commission ~~[authority]~~ shall maintain such field
5 offices and conduct such studies and activities as necessary to
6 provide information required to support the license application for
7 a disposal or assured isolation site ~~[located within the~~
8 ~~geographical area described in Section 402.0921]~~.

9 (c) ~~[(d)]~~ The department ~~[commission]~~ shall complete its
10 review of the completeness and administrative sufficiency of an
11 ~~[the]~~ application within 60 ~~[30]~~ days of receipt of the application
12 from the commission ~~[authority]~~. The commission ~~[authority]~~ shall
13 promptly respond to the department's ~~[commission's]~~ requests for
14 additional documentation or other information in order for the
15 department ~~[commission]~~ to complete its sufficiency review of the
16 application. If the department ~~[commission]~~ does not inform the
17 commission ~~[authority]~~ within 60 ~~[45]~~ days of receipt of the
18 application that the application is administratively sufficient,
19 the application is presumed to be administratively sufficient.

20 (d) ~~[(e)]~~ The department ~~[commission]~~ shall:

21 (1) expeditiously complete all activities associated
22 with the review and processing of an application, including the
23 publication of an environmental assessment, if required, so that
24 all actions are completed by the dates specified by Sections
25 402.085 and 402.090 ~~[but excluding public hearings, and either~~
26 ~~propose to issue or deny a license for the operation of the site no~~
27 ~~later than 15 months after the date that the application is declared~~

1 ~~or presumed to be administratively sufficient~~]; and

2 (2) give priority to the review of the application
3 over all other radioactive materials and waste licensing and
4 registration matters pending before the department [~~commission~~].

5 SECTION 44. Section 402.153, Health and Safety Code, is
6 amended to read as follows:

7 Sec. 402.153. COOPERATION WITH OTHER AGENCIES. The
8 commission [~~authority~~] shall cooperate with appropriate federal
9 and state agencies in the licensing and authorization process and
10 shall supply any additional information and material requested by
11 those agencies.

12 SECTION 45. Section 402.154, Health and Safety Code, is
13 amended to read as follows:

14 Sec. 402.154. TECHNIQUES FOR MANAGING LOW-LEVEL
15 RADIOACTIVE WASTE. (a) As a condition for obtaining a license, the
16 commission [~~authority~~] must submit to the department [~~commission or~~
17 ~~its designee~~] evidence relating to the reasonableness of any
18 technique to be practiced at the proposed disposal or assured
19 isolation site for managing low-level radioactive waste.

20 (b) Before determining the techniques to be used for
21 managing low-level radioactive waste, the commission [~~authority~~]
22 shall study alternative techniques, including:

23 (1) waste processing and reduction at the site of
24 waste generation and at the disposal or assured isolation site; and

25 (2) the use of assured [~~aboveground~~] isolation
26 facilities.

27 SECTION 46. Section 402.155, Health and Safety Code, is

1 amended to read as follows:

2 Sec. 402.155. DENIAL OF LICENSE APPLICATION. If the
3 commission's [~~authority's~~] application for a license for the
4 proposed disposal or assured isolation site is denied, the
5 commission [~~board~~] shall select an alternative location for the
6 disposal or assured isolation site in the manner provided by
7 Subchapter D for the selection of the original proposed [~~disposal~~]
8 site.

9 SECTION 47. Section 402.156, Health and Safety Code, is
10 amended to read as follows:

11 Sec. 402.156. FINANCIAL SECURITY. (a) The commission
12 [~~authority~~] shall provide financial security in the form and manner
13 required by federal and state agencies under federal and state law
14 and rules.

15 (b) The commission [~~authority~~] shall provide supplemental
16 financial security as required by any federal or state agency.

17 SECTION 48. The heading to Subchapter G, Chapter 402,
18 Health and Safety Code, is amended to read as follows:

19 SUBCHAPTER G. [~~DISPOSAL~~] SITE CONSTRUCTION

20 SECTION 49. Section 402.181, Health and Safety Code, is
21 amended to read as follows:

22 Sec. 402.181. [~~DISPOSAL~~] SITE CONSTRUCTION. (a) The
23 commission [~~authority~~] shall construct or contract for the
24 construction of all works and facilities for [~~on~~] the disposal or
25 assured isolation site and shall make improvements necessary to
26 prepare the site for the management [~~for disposal and to~~
27 ~~permanently dispose~~] of low-level radioactive waste.

1 (b) Preparation and construction of works and facilities
2 for ~~[at]~~ the disposal or assured isolation site must be done in a
3 manner that complies with rules and standards adopted by federal
4 and state agencies for disposal or assured isolation sites, as
5 appropriate, and with the commission's site management ~~[authority's~~
6 ~~disposal]~~ plans.

7 (c) The commission may not begin construction of any part of
8 or any works associated with a low-level radioactive waste disposal
9 facility or assured isolation facility before the state has
10 acquired ownership of the land on which the facility is to be
11 located. This subsection does not prohibit the commission from
12 performing site characterizations on land not yet acquired by the
13 state.

14 SECTION 50. Section 402.182, Health and Safety Code, is
15 amended to read as follows:

16 Sec. 402.182. DESIGN OF FACILITIES. The commission ~~[board]~~
17 shall ensure that the design of facilities for low-level
18 radioactive waste disposal or assured isolation incorporates, to
19 the extent ~~[as far as]~~ possible, safeguards against hazards
20 resulting from earthquakes, local meteorological conditions,
21 including phenomena such as hurricanes, tornados, and
22 ~~[earthquakes, earth tremors,~~ violent storms, and susceptibility
23 to flooding.

24 SECTION 51. Section 402.183, Health and Safety Code, is
25 amended to read as follows:

26 Sec. 402.183. CONSTRUCTION CONTRACTS. (a) The commission
27 ~~[authority]~~ may contract with any person to construct any part of

1 the works, facilities, and improvements for [~~at~~] the disposal or
2 assured isolation site.

3 (b) The contract must specifically provide for termination
4 by the commission [~~authority~~] if the contractor fails to comply
5 with federal and state standards and rules or with the commission's
6 [~~authority's~~] disposal or assured isolation plans.

7 (c) If practicable, a person who contracts with the
8 commission [~~authority~~] shall obtain necessary supplies, equipment,
9 and material for use under that contract from sources located in the
10 host county and shall employ required personnel from that county.

11 SECTION 52. Section 402.184, Health and Safety Code, is
12 amended to read as follows:

13 Sec. 402.184. CONSTRUCTION CONTRACT BIDS. The commission
14 [~~authority~~] may enter into a construction contract requiring an
15 expenditure of more than \$15,000 only after competitive bidding as
16 provided by Subchapter B, Chapter 271, Local Government Code.

17 SECTION 53. Section 402.185(a), Health and Safety Code, is
18 amended to read as follows:

19 (a) After a construction contract is awarded, if the
20 commission [~~authority~~] determines that additional work is needed or
21 if the character or type of work, facilities, or improvements
22 should be changed, the commission [~~board~~] may authorize change
23 orders to the contract on terms the commission [~~board~~] approves.

24 SECTION 54. Section 402.186, Health and Safety Code, is
25 amended to read as follows:

26 Sec. 402.186. CONSTRUCTION CONTRACT ATTACHMENTS. A
27 construction contract must contain or have attached to it the

1 specifications, plans, and details for work included in the
2 contract. The work must be done according to those specifications
3 and plans under the supervision of the commission [~~authority~~].

4 SECTION 55. Section 402.187, Health and Safety Code, is
5 amended to read as follows:

6 Sec. 402.187. EXECUTION AND AVAILABILITY OF CONSTRUCTION
7 CONTRACTS. (a) A construction contract must be in writing and
8 signed by a representative of the commission [~~authority~~] and the
9 contractor.

10 (b) The commission [~~authority~~] shall keep the contract in
11 its records and shall make the contract available for public
12 inspection.

13 SECTION 56. Section 402.188, Health and Safety Code, is
14 amended to read as follows:

15 Sec. 402.188. CONTRACTOR'S BOND. (a) A contractor must
16 execute a bond:

17 (1) in an amount determined by the commission [~~board~~]
18 but not to exceed the contract price;

19 (2) payable to the commission [~~authority~~] and approved
20 by the commission [~~board~~]; and

21 (3) conditioned on the faithful performance of the
22 obligations, agreements, and covenants of the contract.

23 (b) The bond must provide that if the contractor defaults on
24 the contract, the contractor will pay to the commission [~~authority~~]
25 all damages sustained as a result of the default.

26 (c) The commission [~~authority~~] shall deposit the bond in its
27 depository and keep a copy of the bond in the commission's

1 ~~[authority's]~~ central office.

2 SECTION 57. Section 402.189, Health and Safety Code, is
3 amended to read as follows:

4 Sec. 402.189. MONITORING CONSTRUCTION WORK. (a) The
5 commission ~~[board]~~ has control of construction being done for the
6 commission ~~[authority]~~ under contract and shall determine if the
7 contract is being fulfilled.

8 (b) The commission ~~[board]~~ shall have the construction work
9 inspected by engineers, inspectors, and other personnel of the
10 commission ~~[authority]~~.

11 (c) During the progress of the construction work, the
12 engineers, inspectors, and other personnel performing the
13 inspections shall submit to the commission ~~[board]~~ written reports
14 that show whether the contractor is complying with the contract.

15 (d) The engineers, inspectors, and other personnel shall
16 submit to the commission ~~[board]~~, on completion of construction
17 work, a final detailed written report including information
18 necessary to show whether the contractor has fully complied with
19 the contract.

20 SECTION 58. Sections 402.190(a), (b), (c), and (e), Health
21 and Safety Code, are amended to read as follows:

22 (a) The commission ~~[authority]~~ shall make progress payments
23 under construction contracts monthly as the work proceeds or at
24 more frequent intervals as determined by the commission ~~[board]~~.

25 (b) If requested by the commission ~~[board]~~, the contractor
26 shall furnish an analysis of the total contract price showing the
27 amount included for each principal category of the work in such

1 detail as requested to provide a basis for determining progress
2 payments.

3 (c) The commission [~~authority~~] shall retain 10 percent of
4 the estimated amount until final completion and acceptance of the
5 contract work. However, if the commission [~~board~~], at any time
6 after 50 percent of the work has been completed, finds that
7 satisfactory progress is being made, the commission [~~board~~] may
8 authorize any of the remaining progress payments to be made in full.
9 If the work is substantially complete, the commission [~~board~~], if
10 it finds the amount retained to be in excess of the amount adequate
11 for the protection of the commission [~~authority~~], may release to
12 the contractor all or a portion of the excess amount.

13 (e) When construction work is completed according to the
14 terms of the contract, the commission [~~board~~] shall draw a warrant
15 on the depository to pay any balance due on the contract.

16 SECTION 59. Section 402.211, Health and Safety Code, is
17 amended to read as follows:

18 Sec. 402.211. MANAGEMENT AND OPERATION OF DISPOSAL OR
19 ASSURED ISOLATION SITE. The commission [~~board~~] shall manage and,
20 if necessary, operate the disposal or assured isolation site
21 [~~sites~~] under this chapter. The management and operation must be in
22 compliance with laws, rules, and standards of federal and state
23 agencies that have jurisdiction over disposal or assured isolation
24 sites. The commission [~~board~~] shall take any action necessary
25 under this chapter to manage and operate the disposal or assured
26 isolation site [~~sites~~] in a manner that will protect the public
27 health and safety and the environment.

1 SECTION 60. Section 402.212, Health and Safety Code, is
2 amended to read as follows:

3 Sec. 402.212. CONTRACT FOR OPERATION OF DISPOSAL SITE. (a)
4 The commission, after bidding conducted in accordance with Section
5 402.028, [board] may contract with a political subdivision or
6 agency of the state or a private entity to perform the overall
7 operation of a disposal or assured isolation site.

8 (b) The commission [board] by rule shall establish criteria
9 for determining the competence of a political subdivision or agency
10 of the state or a private entity to perform the overall operation of
11 a disposal or assured isolation site.

12 (c) A contract under this section may not relieve the
13 commission [authority] of its management responsibility under this
14 chapter.

15 SECTION 61. Section 402.213, Health and Safety Code, is
16 amended to read as follows:

17 Sec. 402.213. CONTRACT AUTHORITY [~~OF BOARD~~]. In
18 contracting with a contract operator, the commission [board] may:

19 (1) select the contract operator before it obtains the
20 license for the disposal or assured isolation site so that the
21 commission [board] may allow the contract operator to advise and
22 consult with the commission, executive director [board, general
23 manager], and staff of the commission [authority] on the site's
24 design and the disposal or assured isolation plans for the site;

25 (2) require the contract operator to make all tests,
26 keep all records, and prepare all reports required by licenses
27 issued for disposal or assured isolation site operations;

1 (3) require standards of performance;

2 (4) require posting of a bond or other financial
3 security by the contract operator to ensure safe operation and
4 decommissioning of the disposal or assured isolation site; and

5 (5) establish other requirements, including operator
6 liability requirements, necessary to assure that the disposal or
7 assured isolation site is properly operated and that the public
8 health and safety and the environment are protected.

9 SECTION 62. Section 402.214, Health and Safety Code, is
10 amended to read as follows:

11 Sec. 402.214. PROVISIONS OF OPERATION CONTRACT. A contract
12 to operate a disposal or assured isolation site must specify that:

13 (1) the commission [~~board~~] retains management
14 authority over the [~~disposal~~] site and may monitor and inspect any
15 part of the site and operations on the site at any time;

16 (2) the contract operator must operate the [~~disposal~~]
17 site in a manner that complies with the law and licenses regulating
18 operations at the site that are issued by the commission or
19 department, as appropriate, and the federal government;

20 (3) the contract operator must comply with rules
21 adopted by the commission [~~board~~] that govern operation of the
22 [~~disposal~~] site; and

23 (4) the contract is subject to termination after
24 notice and hearing if the contract operator fails to comply with a
25 license issued for the [~~disposal~~] site by the commission or
26 department, as appropriate, or by the federal government, fails to
27 comply with the rules of the commission or department [~~authority~~],

1 or fails to comply with the contract.

2 SECTION 63. Section 402.215, Health and Safety Code, is
3 amended to read as follows:

4 Sec. 402.215. ON-SITE OPERATOR. (a) An on-site operator
5 who is responsible for all operations at the disposal or assured
6 isolation site shall supervise the [~~each disposal~~] site.

7 (b) The executive director [~~general manager~~] shall employ
8 the on-site operator at a disposal or assured isolation site
9 operated by the commission [~~authority~~].

10 (c) If the commission [~~authority~~] contracts for the overall
11 operation of a disposal or assured isolation site, the on-site
12 operator must be a representative of the contract operator.

13 SECTION 64. Section 402.216, Health and Safety Code, is
14 amended to read as follows:

15 Sec. 402.216. RULES RELATING TO DISPOSAL OR ASSURED
16 ISOLATION SITE. (a) The commission [~~board~~] shall adopt rules
17 governing:

18 (1) the operation of the disposal or assured isolation
19 site [~~sites~~];

20 (2) acceptance of low-level radioactive waste;

21 (3) maintenance and monitoring of the disposal or
22 assured isolation site [~~sites~~]; and

23 (4) activities relating to the management and
24 operation of the disposal or assured isolation site [~~sites~~].

25 (b) Rules adopted under this section may not be less
26 stringent than those adopted by the department [~~commission~~].

27 SECTION 65. Section 402.217, Health and Safety Code, is

1 amended to read as follows:

2 Sec. 402.217. [~~DISPOSAL~~] SITE ACTIVITIES. (a) The
3 commission [~~authority~~] may adopt any methods and techniques for
4 low-level radioactive waste management [~~permanent disposal~~] that
5 comply with federal and state standards for low-level radioactive
6 waste management [~~disposal~~] and that protect the public health and
7 safety and the environment.

8 (b) The commission [~~authority~~] may provide facilities at
9 disposal or assured isolation sites for processing and packaging
10 low-level radioactive waste [~~for disposal~~].

11 SECTION 66. Section 402.218, Health and Safety Code, is
12 amended to read as follows:

13 Sec. 402.218. ACCEPTANCE OF LOW-LEVEL RADIOACTIVE WASTE.

14 (a) Subject to limitations provided by Section 402.219, the [~~each~~]
15 disposal or assured isolation site shall accept for management
16 [~~disposal~~] all low-level radioactive waste that is presented to it
17 and that is properly processed and packaged.

18 (b) On acceptance by the disposal or assured isolation site,
19 title and liability for the low-level radioactive waste transfers
20 to the commission.

21 SECTION 67. The heading to Section 402.219, Health and
22 Safety Code, is amended to read as follows:

23 Sec. 402.219. LIMITATIONS ON ACCEPTANCE OF LOW-LEVEL
24 RADIOACTIVE WASTE [~~DISPOSAL~~].

25 SECTION 68. Section 402.219, Health and Safety Code, is
26 amended by amending Subsections (a), (b), and (c) and adding
27 Subsections (f) and (g) to read as follows:

1 (a) Except as provided by an interstate compact, a licensed
2 disposal or assured isolation site may accept only low-level
3 radioactive waste that is generated in this state.

4 (b) The commission [~~board~~] by rule shall exclude from a
5 licensed disposal or assured isolation site certain types of
6 low-level radioactive waste that are incompatible with site
7 [~~disposal~~] operations.

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

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

17 (2) gives this state full administrative control over
18 management and operation of the disposal or assured isolation site;

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

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

26 (5) requires the other state or states to join in any
27 legal action involving liability from the [~~disposal~~] site;

1 (6) requires the other state or states to share the
2 full cost of constructing the [~~disposal~~] site;

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

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

10 (9) is agreed to by the Texas Legislature, the
11 legislature of the other state or states, and the United States
12 Congress; and

13 (10) complies with all applicable federal law.

14 (f) Notwithstanding any other law, neither the commission
15 nor the contract operator may accept from a state other than this
16 state, Maine, or Vermont any low-level radioactive waste for
17 disposal or assured isolation at a compact facility unless:

18 (1) disposal or assured isolation of low-level
19 radioactive waste from that state at that compact facility has been
20 approved by the compact commission as provided in the compact;

21 (2) the total volume of low-level radioactive waste to
22 be accepted from all states other than this state, Maine, and
23 Vermont will not exceed 10 percent of the volume expected to be
24 placed in the compact facility by the host state generators during
25 the operating life of the compact facility;

26 (3) the commission properly contracts with the
27 generator of the low-level radioactive waste; and

1 (4) the acceptance of the low-level radioactive waste
2 complies with all rules and license limitations for the compact
3 facility established by the commission and the department.

4 (g) The total volume of low-level radioactive waste
5 authorized to be accepted from states other than this state, Maine,
6 and Vermont by Subsection (f)(2) is in addition to the amount
7 authorized by and established under Section 3.04(11) of the
8 compact.

9 SECTION 69. Section 402.220, Health and Safety Code, is
10 amended to read as follows:

11 Sec. 402.220. EMERGENCY RESPONSE. (a) To protect the
12 public health and safety and the environment, the commission
13 [~~board~~], after notice and hearing, shall adopt an emergency
14 response plan for the [~~each~~] disposal or assured isolation site to
15 be implemented if the [~~disposal~~] site becomes a threat to the public
16 health or safety or to the environment.

17 (b) The commission [~~authority~~] shall cooperate with and
18 seek the cooperation of federal and state agencies responsible for
19 regulating disposal or assured isolation sites and of federal,
20 state, and local agencies engaged in disaster relief activities.

21 (c) The commission [~~authority~~] may construct or contract
22 for the construction of facilities and procure equipment required
23 to provide fire, police, and emergency medical services needed to
24 support the disposal or assured isolation site.

25 (d) The facilities shall be:

26 (1) constructed proximate to the disposal or assured
27 isolation site or in the nearest community, as determined by the

1 commission [~~board~~]; and

2 (2) in operation before the first day of operation of
3 the [~~disposal~~] site.

4 (e) The commission [~~board~~] may contract with local
5 governments, political subdivisions, or nonprofit corporations to
6 operate these facilities.

7 SECTION 70. Section 402.221(b), Health and Safety Code, is
8 amended to read as follows:

9 (b) An inspector employed by the department or under
10 contract with the department shall inspect all packaged radioactive
11 waste before it is transported to a [~~permanent~~] disposal or assured
12 isolation site in this state.

13 SECTION 71. Section 402.222, Health and Safety Code, is
14 amended to read as follows:

15 Sec. 402.222. SHIPMENT OF LOW-LEVEL RADIOACTIVE WASTE. (a)
16 On arrival of a shipment of low-level radioactive waste at the [~~a~~]
17 disposal or assured isolation site, the on-site operator or the
18 operator's agent must determine that the waste complies with all
19 laws, rules, and standards relating to processing and packaging of
20 low-level radioactive waste before the waste is accepted for
21 disposal or assured isolation at the [~~disposal~~] site.

22 (b) A person making a shipment of low-level radioactive
23 waste that is in excess of 75 cubic feet shall give the on-site
24 operator of the disposal or assured isolation site written notice
25 of the shipment at least 72 hours before shipment to the [~~disposal~~]
26 site begins. The written notice must contain information required
27 by the commission [~~board~~].

1 SECTION 72. Section 402.223, Health and Safety Code, is
2 amended to read as follows:

3 Sec. 402.223. IMPROPERLY PROCESSED OR PACKAGED LOW-LEVEL
4 RADIOACTIVE WASTE. (a) If low-level radioactive waste that is not
5 properly processed or packaged arrives at the [a] disposal or
6 assured isolation site, the on-site operator or the operator's
7 agent shall properly process and package the waste for disposal or
8 assured isolation, as appropriate, and charge the person making the
9 shipment the fee required by Section 402.274.

10 (b) The on-site operator or the operator's agent shall
11 report to the federal and state agencies that establish rules and
12 standards for processing, packaging, and transporting low-level
13 radioactive waste any person who delivers to the [a] disposal or
14 assured isolation site low-level radioactive waste that is not
15 properly processed or packaged.

16 SECTION 73. Section 402.224(a), Health and Safety Code, is
17 amended to read as follows:

18 (a) An on-site operator who accepts mixed waste at the [a]
19 disposal or assured isolation site shall comply with Chapter 361
20 (Solid Waste Disposal Act), the Resource Conservation and Recovery
21 Act of 1976 (42 U.S.C. 6901 et seq.), and this chapter.

22 SECTION 74. Section 402.225, Health and Safety Code, is
23 amended to read as follows:

24 Sec. 402.225. BELOWGROUND DISPOSAL RESTRICTED. Low-level
25 radioactive waste may not be disposed of in a landfill below the
26 natural level of a disposal site unless:

27 (1) ~~[federal or state regulatory programs for~~

1 ~~low-level radioactive waste preclude or recommend against~~
2 ~~aboveground disposal, or the authority has by rule determined that~~
3 ~~belowground disposal provides greater protection than aboveground~~
4 ~~disposal for public health and the environment for the period for~~
5 ~~which the low-level waste will continue to pose a hazard to public~~
6 ~~health and the environment,~~

7 ~~(2)~~ the low-level radioactive waste is contained
8 within a reinforced concrete barrier or within containment
9 structures made of materials technologically equivalent or
10 superior to reinforced concrete; and

11 (2) ~~(3)~~ the low-level radioactive waste is
12 contained in such a manner that it can be monitored and retrieved.

13 SECTION 75. Section 402.226(a), Health and Safety Code, is
14 amended to read as follows:

15 (a) The commission ~~[authority]~~ may not use shallow land
16 burial or improved shallow land burial as a ~~[the]~~ disposal
17 technique at the licensed disposal or assured isolation site.

18 SECTION 76. Section 402.228, Health and Safety Code, is
19 amended to read as follows:

20 Sec. 402.228. DECOMMISSIONING AND CLOSING ~~[DISPOSAL]~~ SITE.

21 (a) On a finding by the commission ~~[board]~~, after notice and
22 hearing, that a disposal or assured isolation site should be
23 closed, the commission ~~[authority]~~ and the contract operator, if
24 any, shall decommission the ~~[disposal]~~ site in compliance with
25 federal and state law, rules, and standards and with rules and plans
26 of the commission ~~[authority]~~.

27 (b) On completion of decommissioning activities and receipt

1 of necessary approval from federal and state agencies, the
2 commission [~~board~~] shall, if required by law, transfer to the state
3 or the department, as appropriate [~~commission~~] fee simple title to
4 the disposal or assured isolation site.

5 SECTION 77. Sections 402.252(a), (c), and (d), Health and
6 Safety Code, are amended to read as follows:

7 (a) The commission each quarter [~~board~~] shall [~~quarterly~~]
8 transfer money in the low-level radioactive waste fund generated by
9 [~~planning and implementation fee surcharges under Sections~~
10 ~~402.2721(e) and (f), and~~] that portion of waste acceptance
11 [~~disposal~~] fees identifiable as adopted for the purposes of
12 Sections 402.273(a)(3) and (b) to the commissioners court of the
13 host county.

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

21 (d) Annually the commissioners court shall provide to the
22 commission [~~board~~] a detailed accounting of the money held,
23 expended, or disbursed by the county.

24 SECTION 78. Section 402.271, Health and Safety Code, is
25 amended to read as follows:

26 Sec. 402.271. COMMISSION'S [~~AUTHORITY'S~~] EXPENSES. The
27 commission's [~~authority's~~] expenses shall be paid from:

- 1 (1) waste acceptance [~~disposal~~] fees;
- 2 (2) surcharge rebates made by the United States
3 Department of Energy pursuant to Pub. L. No. 99-240 [~~planning and~~
4 ~~implementation fees~~];
- 5 (3) proceeds from the sale of bonds under Subchapter
6 K;
- 7 (4) contributions from members of a low-level
8 radioactive waste compact entered into under Section 402.219(c);
- 9 (5) appropriations made by the legislature; and
- 10 (6) other receipts, fees, and interest earned in funds
11 authorized by or collected under this subchapter and deposited in
12 the low-level radioactive waste fund.

13 SECTION 79. Section 402.272, Health and Safety Code, is
14 amended to read as follows:

15 Sec. 402.272. WASTE ACCEPTANCE [~~DISPOSAL~~] FEES. (a) The
16 commission [~~board~~] shall have collected a waste acceptance
17 [~~disposal~~] fee to be paid by each person who delivers low-level
18 radioactive waste to the disposal or assured isolation site
19 [~~authority~~] for disposal or assured isolation.

20 (b) The commission [~~board~~] by rule shall adopt and
21 periodically revise waste acceptance [~~disposal~~] fees according to a
22 schedule that is based on the projected annual volume of low-level
23 radioactive waste received, the relative hazard presented by each
24 type of low-level radioactive waste that is generated by the users
25 of radioactive materials, and the costs identified in Section
26 402.273.

27 (c) In determining relative hazard, the commission [~~board~~]

1 shall consider the radioactive, physical, and chemical properties
2 of each type of low-level radioactive waste.

3 SECTION 80. Section 402.273, Health and Safety Code, is
4 amended to read as follows:

5 Sec. 402.273. WASTE ACCEPTANCE [~~DISPOSAL~~] FEE CRITERIA.

6 (a) Waste acceptance [~~disposal~~] fees adopted by the commission
7 [~~board~~] must be sufficient to:

8 (1) allow the commission [~~authority~~] to recover
9 operating and maintenance costs;

10 (2) provide an amount necessary to meet future costs
11 of decommissioning, closing, and postclosure maintenance and
12 surveillance of the disposal or assured isolation site;

13 (3) provide an amount to fund local public projects
14 under Subchapter I;

15 (4) provide an amount sufficient to fund, in whole or
16 in part, a rangeland and wildlife management plan;

17 (5) provide an amount necessary to pay licensing fees
18 and to provide security required by the commission or department
19 [~~under law and commission~~] rules; and

20 (6) provide an amount necessary to fund debt service
21 and necessary fees and charges, including insurance premiums and
22 similar costs, associated with the issuance and payment of bonds
23 under Subchapter K.

24 (b) This subsection applies only if the commission
25 [~~authority~~] does not issue bonds under Subchapter K. The waste
26 acceptance [~~disposal~~] fees must also include an amount sufficient
27 to allow the commission [~~authority~~] to recover expenses incurred

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

14 (c) The amount required by Subsection (a)(3) may not be less
15 than 10 percent of the annual gross receipts from waste received at
16 the disposal or assured isolation site.

17 SECTION 81. Section 402.274, Health and Safety Code, is
18 amended to read as follows:

19 Sec. 402.274. PROCESSING AND PACKAGING FEES. The
20 commission [~~board~~] by rule shall adopt and periodically revise
21 processing and packaging fees according to a schedule that is based
22 on the volume of improperly processed or packaged low-level
23 radioactive waste delivered to the site for disposal or assured
24 isolation and on the cost to the commission [~~authority~~] for
25 properly processing and packaging the low-level radioactive waste
26 in compliance with federal and state standards.

27 SECTION 82. Section 402.275, Health and Safety Code, is

1 amended by amending Subsections (c), (d), and (f) and adding
2 Subsections (g) and (h) to read as follows:

3 (c) Money received by the commission [~~authority~~], including
4 waste acceptance [~~disposal~~] fees, [~~planning and implementation~~
5 ~~fees, surcharges on planning and implementation fees,~~] processing
6 and packaging fees, civil penalties, payments to this state under
7 Pub. L. No. 99-240, payments made by a party state [~~to a low-level~~
8 ~~radioactive waste compact entered into~~] under Section 5.01 of the
9 compact [~~402.219(c)~~], and other receipts collected by the
10 commission [~~authority~~] under this chapter, shall be deposited to
11 the credit of the low-level radioactive waste fund.

12 (d) Except as provided by Subsection (f), money in the
13 low-level radioactive waste fund may be used to pay:

14 (1) operating and maintenance costs of the commission
15 [~~authority~~];

16 (2) future costs of decommissioning, closing, and
17 postclosure maintenance and surveillance of the disposal or assured
18 isolation site;

19 (3) licensing fees and to provide security required by
20 the commission or department, as appropriate;

21 (4) money judgments rendered against the commission or
22 the department [~~authority~~] that are directed by a court of this
23 state to be paid from this fund;

24 (5) expenses associated with implementation of the
25 rangeland and wildlife management plan;

26 (6) funds for local public projects under Subchapter
27 I;

1 (7) debt service and necessary fees and charges,
2 including insurance premiums and similar costs, associated with the
3 issuance and payment of bonds under Subchapter K; and

4 (8) expenses for any other purpose under this chapter.

5 (f) The comptroller, on receipt of a payment made by a party
6 state under Section 5.01 of the compact, shall deposit the money to
7 the credit of [authority may transfer money from] the low-level
8 radioactive waste [fund to the radiation and] perpetual care
9 account [fund to make payments required by the commission under
10 Section 401.303].

11 (g) Payments to this state under Pub. L. No. 99-240 may be
12 used only for the purposes stated in the federal law. Payments made
13 by a party state under Section 5.01 of the compact may be used only
14 as provided by Subsection (h) or Section 402.277.

15 (h) Notwithstanding Subsections (c) and (f), the
16 comptroller shall deposit to the credit of the low-level
17 radioactive waste fund the first \$25 million received from payments
18 by party states under Section 5.01 of the compact. Notwithstanding
19 Subsection (c), money deposited under this subsection may be
20 appropriated only for the construction by the commission of a
21 disposal or assured isolation site.

22 SECTION 83. Subchapter J, Chapter 402, Health and Safety
23 Code, is amended by adding Section 402.277 to read as follows:

24 Sec. 402.277. LOW-LEVEL RADIOACTIVE WASTE PERPETUAL CARE
25 ACCOUNT. (a) The low-level radioactive waste perpetual care
26 account is a special account in the treasury outside the general
27 revenue fund.

1 (b) The account consists of:

2 (1) payments made by party states under Section 5.01
3 of the compact and deposited to the credit of the account as
4 required by Section 402.275(f); and

5 (2) deposits to the account from waste acceptance fees
6 imposed under Section 402.273 in amounts determined by the
7 commission to meet commission or department requirements, as
8 appropriate.

9 (c) Interest earned on money in the account shall be
10 credited to the account.

11 (d) Subject to Subsection (e), money in the account may be
12 appropriated only for the long-term care and maintenance of a
13 state-owned facility for the disposal or assured isolation of
14 low-level radioactive waste, including use by the commission or the
15 department for decontamination, decommissioning, maintenance,
16 surveillance, control, storage, and disposal activities related to
17 the facility.

18 (e) Interest on money in the account may be used for normal
19 operating expenses of the commission as appropriated by the
20 legislature. The principal in the account may not be used for normal
21 operating expenses of the commission or the department.

22 SECTION 84. Section 402.291, Health and Safety Code, is
23 amended to read as follows:

24 Sec. 402.291. AUTHORITY TO ISSUE BONDS. (a) The commission
25 [~~authority~~] may issue, sell, and provide for the retirement of
26 bonds to:

27 (1) reimburse the general revenue fund for the

1 expenses incurred and paid by the commission [~~authority~~] in
2 selecting, seeking approval for, and constructing a disposal or
3 assured isolation site;

4 (2) pay the expenses of selecting, seeking approval
5 of, and constructing a disposal or assured isolation site that were
6 not paid from the general revenue fund; and

7 (3) provide required reserve funds and capitalized
8 interest, and to pay issuing expenses and other expenses associated
9 with the issuance and sale of bonds.

10 (b) The bonds may not be a debt or pledge of the faith and
11 credit of the state, the commission [~~authority~~], or a public
12 entity, but shall be payable from receipts collected by the
13 commission [~~authority~~] and credited to the low-level radioactive
14 waste fund and pledged to the payment of the bonds authorized under
15 this subchapter.

16 (c) The bonds must contain on their face a statement that:

17 (1) the state, the commission [~~authority~~], or a public
18 entity is not obligated to pay the principal of or interest on the
19 bonds; and

20 (2) the faith and credit and the taxing power of the
21 state or of a public entity is not pledged to the payment of the
22 principal of or interest on the bonds.

23 (d) The Texas Public Finance Authority, acting on behalf of
24 the commission [~~Texas Low-Level Radioactive Waste Disposal~~
25 ~~Authority~~], shall issue all bonds authorized under this subchapter.

26 In connection with the issuance of those bonds, the Texas Public
27 Finance Authority is subject to all rights, duties, and conditions

1 provided by this subchapter with respect to the issuance of bonds by
2 the commission [~~Texas Low-Level Radioactive Waste Disposal~~
3 ~~Authority~~].

4 SECTION 85. Section 402.292, Health and Safety Code, is
5 amended to read as follows:

6 Sec. 402.292. BOND [~~BOARD~~] AUTHORIZATION. (a) The
7 commission [~~board~~] may issue bonds by resolution or order.

8 (b) In the resolution or order authorizing the bonds, the
9 commission [~~board~~] may provide for the bonds to:

10 (1) be executed and delivered at any time as a single
11 issue or from time to time as several issues;

12 (2) be in any denomination and form, including
13 registered uncertified obligations not represented by written
14 instruments and commonly known as book-entry obligations, the
15 registration of ownership and transfer of which the commission
16 [~~authority~~] shall provide for under a system of books and records
17 maintained by a bank serving as trustee, paying agent, or bond
18 registrar;

19 (3) be in coupon or registered form;

20 (4) be payable in installments and have a maturity
21 date not to exceed 30 years from date of issuance;

22 (5) be subject to terms of redemption prior to
23 maturity;

24 (6) be payable at a place or places;

25 (7) bear no interest or bear interest at any rate or
26 rates, fixed, variable, floating, or otherwise determined by the
27 commission [~~board~~], not to exceed the maximum net effective

1 interest rate allowed by Chapter 1204, Government Code; and

2 (8) contain other provisions not inconsistent with
3 this subchapter.

4 (c) The commission's [~~authority's~~] bonds shall be:

5 (1) signed by the chairman of the commission [~~board~~
6 ~~chairman or vice-chairman~~];

7 (2) attested to by the commission's executive director
8 [~~board's secretary~~]; and

9 (3) bear the commission's seal [~~of the authority~~].

10 SECTION 86. Section 402.293, Health and Safety Code, is
11 amended to read as follows:

12 Sec. 402.293. APPROVAL OF BONDS. Bonds issued under this
13 subchapter [~~Authority bonds~~] are subject to approval by the
14 attorney general and the Bond Review Board and registration by the
15 comptroller as provided by Chapters 1202 and 1231, Government Code.

16 SECTION 87. Section 402.294, Health and Safety Code, is
17 amended to read as follows:

18 Sec. 402.294. SALE OF BONDS; PROCEEDS OF SALE. (a) After
19 approval and registration, the commission [~~authority~~] may sell the
20 bonds at a public or private sale and in a manner provided in the
21 commission's [~~board's~~] resolution or order authorizing the sale.

22 (b) The commission [~~authority~~] shall establish and maintain
23 funds in the state treasury into which the proceeds from the sale of
24 the bonds are deposited, including an interest and sinking fund, a
25 reserve fund, and other funds established by the commission
26 [~~board~~].

27 (c) The commission [~~authority~~] may make an expenditure from

1 a fund established under Subsection (b) only for the purposes
2 prescribed by Section 402.291.

3 (d) The commission [~~board~~] may authorize the comptroller to
4 invest the money in a fund established under Subsection (b) in
5 investments allowed by law for state funds. Money earned on those
6 investments shall be deposited to the credit of that fund.

7 SECTION 88. Section 402.295, Health and Safety Code, is
8 amended to read as follows:

9 Sec. 402.295. REFUNDING BONDS. The commission [~~authority~~]
10 may issue bonds to refund all or part of its outstanding bonds,
11 including unpaid interest, in the same manner provided by law,
12 including Chapter 1207, Government Code.

13 SECTION 89. Section 402.296, Health and Safety Code, is
14 amended to read as follows:

15 Sec. 402.296. BONDS AS INVESTMENTS AND AS SECURITY FOR
16 DEPOSITS. (a) Bonds issued under this subchapter [~~Authority~~
17 ~~bonds~~] are legal and authorized investments for:

- 18 (1) banks;
- 19 (2) investment companies;
- 20 (3) trust companies;
- 21 (4) savings and loan associations;
- 22 (5) insurance companies;
- 23 (6) fiduciaries;
- 24 (7) trustees; and
- 25 (8) sinking funds or special funds of the state and of
26 municipalities, counties, school districts, and political
27 subdivisions and public agencies of the state.

1 (b) The ~~[Authority]~~ bonds are eligible to secure deposits of
2 public funds of the state and of municipalities, counties, school
3 districts, and other political corporations or subdivisions of the
4 state. The bonds are lawful and sufficient security for deposits to
5 the extent of their value if accompanied by all unmatured coupons.

6 SECTION 90. Section 402.298, Health and Safety Code, is
7 amended to read as follows:

8 Sec. 402.298. BONDHOLDER REMEDIES. (a) If the commission
9 ~~[authority]~~ defaults in the payment of the principal of or interest
10 on ~~[the]~~ bonds issued under this subchapter when due, or fails to
11 observe or perform any other condition, covenant, or obligation
12 contained in the resolution or order authorizing the ~~[authority]~~
13 bonds, the owner of a bond may enforce the condition, covenant, or
14 obligation through a mandamus proceeding or other legal procedure
15 provided by law.

16 (b) A default by the commission ~~[authority]~~ of a condition,
17 covenant, or obligation contained in the resolution or order
18 authorizing the bonds does not impose any pecuniary liability on
19 the state or on the commission ~~[authority]~~ or impose a charge on the
20 general credit of the state or of the commission ~~[authority]~~ or
21 against the taxing power of the state.

22 SECTION 91. Sections 401.011(a) and (b), Health and Safety
23 Code, are amended to read as follows:

24 (a) The department is the Texas Radiation Control Agency.
25 The department has jurisdiction over activities and substances
26 regulated under this chapter except as provided by Subsection (b)
27 and Subchapter ~~[Subchapters F and]~~ K.

1 (b) The commission has jurisdiction to:

2 (1) operate the low-level radioactive waste disposal
3 or assured isolation site under Chapter 402; and

4 (2) regulate and license the disposal of:

5 (A) by-product material [~~radioactive substances~~]
6 except by-product material defined by Section 401.003(3)(B);

7 (B) naturally occurring radioactive material
8 waste except oil and gas NORM waste;

9 (C) source material; and

10 (D) special nuclear material.

11 SECTION 92. Section 401.015(c), Health and Safety Code, is
12 amended to read as follows:

13 (c) A person is not eligible to be appointed as a
14 representative of the public on the advisory board if that person or
15 that person's spouse is:

16 (1) engaged in an occupation in the health care field;

17 or

18 (2) employed by, participates in the management of, or
19 has a financial interest, other than as a consumer, in part of the
20 nuclear utility industry or in a business entity or other
21 organization that is licensed under [~~Subchapter F or~~] Subchapter G
22 or Chapter 402.

23 SECTION 93. Section 401.052(d)(1), Health and Safety Code,
24 is amended to read as follows:

25 (1) Fees assessed under this section shall:

26 (A) not exceed \$10 per cubic foot of shipped
27 low-level radioactive waste;

1 (B) be collected by the commission [~~authority~~]
2 and deposited to the credit of the radiation and perpetual care
3 fund; and

4 (C) be used exclusively by the department for
5 emergency planning for and response to transportation accidents
6 involving low-level radioactive waste.

7 SECTION 94. Section 401.052(f), Health and Safety Code, is
8 amended to read as follows:

9 (f) In this section, "shipper" [~~+~~

10 [~~(1) "Shipper"~~] means a person who generates low-level
11 radioactive waste and ships or arranges with others to ship the
12 waste to a disposal site or permanent management facility.

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

15 SECTION 95. Section 401.061, Health and Safety Code, is
16 amended to read as follows:

17 Sec. 401.061. LOW-LEVEL RADIOACTIVE WASTE STUDIES. The
18 department and commission each within its jurisdiction shall
19 conduct studies of the need for low-level radioactive waste
20 processing [~~and disposal~~] facilities and technologies as the agency
21 considers necessary for minimizing the risks to the public and the
22 environment from low-level radioactive waste management.

23 SECTION 96. Section 401.063(a), Health and Safety Code, is
24 amended to read as follows:

25 (a) The department or commission or the agency's
26 representative may enter public or private property at reasonable
27 times to determine whether, in a matter under the agency's

1 jurisdiction, there is compliance with this chapter or Chapter 402
2 and the agency's rules, licenses, registrations, and orders under
3 this chapter or Chapter 402.

4 SECTION 97. Section 401.067, Health and Safety Code, is
5 transferred to Subchapter H, Chapter 402, Health and Safety Code,
6 as amended by this Act, redesignated as Section 402.229, Health and
7 Safety Code, and amended to read as follows:

8 Sec. 402.229 [~~401.067~~]. LOCAL GOVERNMENT INSPECTIONS. (a)
9 An agent or employee of a local government may examine and copy
10 during regular business hours records relating to activities
11 licensed under this chapter [~~Subchapter F~~]. Examinations and
12 copying of records must be done at the local government's expense
13 and are subject to limitations in Chapter 552, Government Code.

14 (b) Records copied under this section are public records
15 unless the record's owner shows to the satisfaction of the
16 commission that the records if made public will divulge trade
17 secrets. On such a showing, the commission shall consider the
18 copied records confidential.

19 (c) A local government agent or employee may not enter
20 private property that has management in residence unless the agent
21 or employee notifies the management, or person in charge, of the
22 agent's or employee's presence and exhibits proper credentials.
23 The agent or employee shall observe the rules of the establishment
24 being inspected relating to safety, internal security, and fire
25 protection.

26 SECTION 98. Section 401.101, Health and Safety Code, is
27 amended to read as follows:

1 Sec. 401.101. LICENSE AND REGISTRATION REQUIREMENT. (a)
2 Except as provided by Subsection (b), a [A] person may not use,
3 manufacture, produce, transport, transfer, receive, acquire, own,
4 possess, process, or dispose of a source of radiation unless that
5 person has a license, registration, or exemption from the
6 department or commission as provided by this chapter.

7 (b) A person may not receive low-level radioactive waste
8 from other persons for permanent management unless that person has
9 a license issued under Chapter 402 that authorizes the activity.

10 SECTION 99. Section 401.108(c), Health and Safety Code, is
11 amended to read as follows:

12 (c) The department [~~or commission~~] shall reevaluate every
13 five years the qualifications and security provided by a license
14 holder under [~~Subchapter F or~~] Subchapter G. The reevaluation may
15 coincide with license renewal procedures if renewal and
16 reevaluation occur in the same year.

17 SECTION 100. Section 401.111, Health and Safety Code, is
18 amended to read as follows:

19 Sec. 401.111. CRITERIA FOR CERTAIN UNSUITABLE NEW SITES FOR
20 PROCESSING LOW-LEVEL RADIOACTIVE WASTE. (a) The board [~~and~~
21 ~~commission each~~], in adopting rules for the issuance of licenses
22 [~~under their respective jurisdictions~~] for new sites for processing
23 [~~or disposal of~~] low-level radioactive waste from other persons,
24 shall adopt criteria for the designation of unsuitable sites,
25 including:

- 26 (1) flood hazard areas;
- 27 (2) areas with characteristics of discharge from or

1 recharge of a groundwater aquifer system; or

2 (3) areas in which soil conditions make spill cleanup
3 impracticable.

4 (b) The board [~~and commission each~~] shall consult with the
5 State Soil and Water Conservation Board, the Bureau of Economic
6 Geology, and other appropriate state agencies in developing
7 proposed rules. The board [~~and commission each~~] by rule shall:

8 (1) require selection of sites in areas in which
9 natural conditions minimize potential contamination of surface
10 water and groundwater; and

11 (2) prohibit issuance of licenses for unsuitable sites
12 as defined by the rules.

13 SECTION 101. Section 401.112, Health and Safety Code, is
14 amended to read as follows:

15 Sec. 401.112. LOW-LEVEL RADIOACTIVE WASTE PROCESSING [~~OR~~
16 ~~DISPOSAL~~] LICENSE APPLICATION AND CONSIDERATIONS. (a) The
17 department [~~or commission~~], within its jurisdiction, in making a
18 licensing decision on a specific license application to process [~~or~~
19 ~~dispose of~~] low-level radioactive waste from other persons, shall
20 consider:

21 (1) site suitability, geological, hydrological, and
22 meteorological factors, and natural hazards;

23 (2) compatibility with present uses of land near the
24 site;

25 (3) socioeconomic effects on surrounding communities
26 of operation of the licensed activity and of associated
27 transportation of low-level radioactive waste;

1 (4) the need for and alternatives to the proposed
2 activity, including an alternative siting analysis prepared by the
3 applicant;

4 (5) the applicant's qualifications, including
5 financial and technical qualifications and compliance history
6 under the method for evaluation of compliance history developed by
7 the commission under Section 5.754, Water Code;

8 (6) background monitoring plans for the proposed site;

9 (7) suitability of facilities associated with the
10 proposed activities;

11 (8) chemical, radiological, and biological
12 characteristics of the low-level radioactive waste and waste
13 classification under Section 401.053;

14 (9) adequate insurance of the applicant to cover
15 potential injury to any property or person, including potential
16 injury from risks relating to transportation;

17 (10) training programs for the applicant's employees;

18 (11) a monitoring, record-keeping, and reporting
19 program;

20 (12) spill detection and cleanup plans for the
21 licensed site and related to associated transportation of low-level
22 radioactive waste;

23 (13) decommissioning and postclosure care plans;

24 (14) security plans;

25 (15) worker monitoring and protection plans;

26 (16) emergency plans; and

27 (17) a monitoring program for applicants that includes

1 prelicense and postlicense monitoring of background radioactive
2 and chemical characteristics of the soils, groundwater, and
3 vegetation.

4 (b) An applicant for the specific license must submit with
5 the application information necessary for the department [~~issuing~~
6 ~~agency~~] to consider the factors under Subsection (a).

7 (c) The board [~~and commission each~~] within its jurisdiction
8 by rule shall provide specific criteria for the different types of
9 licensed low-level radioactive waste activities for the listed
10 factors and may include additional factors and criteria that the
11 board [~~or commission, as appropriate,~~] determines necessary for
12 full consideration of a license.

13 SECTION 102. Sections 401.113(a) and (b), Health and Safety
14 Code, are amended to read as follows:

15 (a) Before a hearing under Section 401.114 begins, the
16 department [~~agency holding the hearing~~] shall prepare or have
17 prepared a written analysis of the effect on the environment of a
18 proposed licensed activity that the department [~~agency~~] determines
19 has a significant effect on the human environment.

20 (b) The department [~~agency~~] shall make the analysis
21 available to the public not later than the 31st day before the date
22 of a hearing under Section 401.114.

23 SECTION 103. Section 401.114, Health and Safety Code, is
24 amended to read as follows:

25 Sec. 401.114. NOTICE AND HEARING. (a) Before the
26 department [~~or commission~~], within its jurisdiction, grants or
27 renews a license to process [~~or dispose of~~] low-level radioactive

1 waste from other persons, the agency shall give notice and shall
2 provide an opportunity for a public hearing in the manner provided
3 by the agency's formal hearing procedure and Chapter 2001,
4 Government Code.

5 (b) In addition to other notice, the department [~~agency~~]
6 shall publish notice of the hearing in the manner provided by
7 Chapter 313, Government Code, in the county in which the proposed
8 facility is to be located. The notice shall state the subject and
9 the time, place, and date of the hearing.

10 (c) The department [~~agency~~] shall mail, by certified mail in
11 the manner provided by the agency's rules, written notice to each
12 person who owns property adjacent to the proposed processing site.
13 The notice must be mailed not later than the 31st day before the
14 date of the hearing and must include the same information that is in
15 the published notice. If true, the department [~~agency~~] or the
16 applicant must certify that the notice was mailed as required by
17 this subsection, and at the hearing the certificate is conclusive
18 evidence of the mailing.

19 SECTION 104. Section 401.115, Health and Safety Code, is
20 amended to read as follows:

21 Sec. 401.115. LICENSES FROM OTHER AGENCIES. A holder of a
22 license to operate a facility to process [~~or dispose of~~] low-level
23 radioactive waste may not operate the facility until the holder has
24 obtained all other required licenses or permits from other
25 agencies.

26 SECTION 105. Sections 401.116(a), (b), and (d), Health and
27 Safety Code, are amended to read as follows:

1 (a) An amendment to a license to process ~~[or dispose of]~~
2 low-level radioactive waste from other persons may take effect
3 immediately.

4 (b) The department ~~[or commission, as appropriate,]~~ shall
5 publish notice of the license amendment once in the Texas Register
6 and in a newspaper of general circulation in the county in which the
7 licensed activity is located and shall give notice to any person who
8 has notified the agency, in advance, of the desire to receive notice
9 of proposed amendment of the license.

10 (d) The department ~~[agency]~~ shall give notice and hold a
11 hearing to consider the license amendment if a person affected
12 files a written complaint with the agency before the 31st day after
13 the date on which notice is published under Subsection (b). The
14 agency shall give notice of the hearing as provided by Section
15 401.114.

16 SECTION 106. Section 401.117, Health and Safety Code, is
17 amended to read as follows:

18 Sec. 401.117. CONSTRUCTION LIMITATION. The department ~~[or~~
19 ~~commission]~~ shall prohibit major construction relating to
20 activities to be permitted under a license issued by the agency to
21 process ~~[or dispose of]~~ low-level radioactive waste from other
22 persons until the requirements in Sections 401.113 and 401.114 are
23 completed.

24 SECTION 107. Section 401.151, Health and Safety Code, is
25 amended to read as follows:

26 Sec. 401.151. COMPATIBILITY WITH FEDERAL STANDARDS. The
27 department ~~[and commission each]~~ shall assure that the management

1 of low-level radioactive waste under its jurisdiction [~~their~~
2 ~~respective jurisdictions~~] is compatible with applicable federal
3 commission standards.

4 SECTION 108. Section 401.152, Health and Safety Code, is
5 amended to read as follows:

6 Sec. 401.152. CORRECTIVE ACTION AND MEASURES. (a) If the
7 department [~~or commission~~], under procedures provided by Section
8 401.056, finds that low-level radioactive waste under its
9 jurisdiction threatens the public health and safety and the
10 environment and that the license holder managing the low-level
11 radioactive waste is unable to remove the threat, the agency by
12 order may require any action, including a corrective measure, that
13 is necessary to remove the threat.

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

- 19 (1) enforce security supplied by the license holder;
- 20 (2) convert an amount of security into cash, as
21 necessary; and
- 22 (3) disburse from the security in the fund the amount
23 necessary to pay the costs.

24 SECTION 109. Section 401.153(b), Health and Safety Code, is
25 amended to read as follows:

26 (b) A rule adopted under this section may not take effect
27 before the 24th month preceding the opening date of a low-level

1 radioactive waste disposal or assured isolation site authorized
2 under Chapter 402[~~7~~] and expires on the date that the [~~disposal~~]
3 site opens.

4 SECTION 110. Section 401.303(a), Health and Safety Code, is
5 amended to read as follows:

6 (a) The department or commission may require the holder of a
7 license issued by the agency under this chapter to pay annually to
8 the issuing agency an amount determined by the issuing agency if
9 continuing or perpetual maintenance, surveillance, or other care is
10 required after termination of a licensed activity.

11 SECTION 111. Section 401.301(b), Health and Safety Code, is
12 amended to read as follows:

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

15 (1) process applications for licenses or
16 registrations;

17 (2) amend or renew licenses or registrations;

18 (3) make inspections of license holders and
19 registrants; and

20 (4) enforce this chapter and rules, orders, licenses,
21 and registrations under this chapter[~~, and~~

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

24 SECTION 112. Section 401.412(a), Health and Safety Code, is
25 amended to read as follows:

26 (a) Notwithstanding any other provision of this chapter and
27 subject to Sections 401.102 and 401.415, the commission has sole

1 and exclusive authority to directly regulate and to grant, deny,
2 renew, revoke, suspend, amend, or withdraw licenses for the
3 disposal of:

4 (1) by-product material except by-product material
5 defined by Section 401.003(3)(B);

6 (2) naturally occurring radioactive material waste
7 except oil and gas NORM waste;

8 (3) source material; and

9 (4) special nuclear material [~~radioactive substances.~~

10 ~~In this subsection, "radioactive substance" does not include~~
11 ~~by-product material as defined by Section 401.003(3)(B)].~~

12 SECTION 113. Section 403.001(a), Health and Safety Code, is
13 amended to read as follows:

14 (a) The governor shall appoint six members to represent this
15 state on the commission established by Article III of the Texas
16 Low-Level Radioactive Waste Disposal Compact. One of the voting
17 members of the compact commission shall be a legal resident of the
18 host county, as defined by Section 403.006 [~~Hudspeth County,~~
19 ~~Texas~~].

20 SECTION 114. The following provisions of the Health and
21 Safety Code are repealed:

22 (1) Sections 401.306, 401.316, 402.011, 402.013,
23 402.014, 402.015, 402.016, 402.017, 402.018, 402.019, 402.022,
24 402.023, 402.024, 402.025, 402.026, 402.027, 402.029, 402.030,
25 402.059(d), 402.088(c), 402.0921, 402.121, 402.129, and 402.2721;
26 and

27 (2) Subchapter F, Chapter 401.

1 SECTION 115. Not later than June 30, 2005, the Texas
2 Commission on Environmental Quality shall choose a location for a
3 potential low-level radioactive waste disposal or assured
4 isolation site as required by Section 402.083, Health and Safety
5 Code, as amended by this Act.

6 SECTION 116. This Act takes effect September 1, 2003.