

By: Burnam

H.B. No. 2589

A BILL TO BE ENTITLED

AN ACT

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

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

SECTION 1. 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 2. Section 402.002, Health and Safety Code, is amended to read as follows:

Sec. 402.002. FINDINGS; PURPOSE. (a) The purpose of this chapter is to establish the Texas Low-Level Radioactive Waste Management [~~Disposal~~] Authority with responsibility for assuring necessary [disposal] assured isolation capability for specific categories of low-level radioactive waste.

SECTION 3. Section 402.003, Health and Safety Code, is amended to read as follows:

Sec. 402.003. DEFINITIONS. In this chapter:

(1) "Assured isolation" means an integrated management system for isolating low-level radioactive waste, with the intent of long-term management of the low-level radioactive waste, through robust, accessible facilities, planned preventive maintenance, and sureties adequate to address contingencies or implement future management alternatives.

1           (2) "Assured isolation site" means the property and  
2 facilities acquired, constructed, and owned by the authority at  
3 which low-level radioactive waste can be placed in above-grade,  
4 concrete vaults designed to isolate low-level radioactive waste  
5 with the intent of long-term management of low-level radioactive  
6 waste and featuring accessibility, planned preventive maintenance,  
7 and sureties adequate to address contingencies or future management  
8 alternatives.

9           (3) [(1)] "Authority" means the Texas Low-Level  
10 Radioactive Waste Management [Disposal] Authority.

11           (4) [(2)] "Board" means the board of directors of the  
12 authority.

13           (5) "Compact" means the Texas Low-Level Radioactive  
14 Waste Disposal Compact under Section 403.006.

15           (6) [(3)] "Compact waste" means waste generated  
16 within states that are party states as of September 1, 2002.

17           (7) "Contract operator" means a political subdivision  
18 or agency of the state or a private entity with which the authority  
19 has entered into a contract under Section 402.212.

20           (8) [(4)] "Department" means the Texas Department of  
21 Health.

22           ~~[(5)] "Disposal site" means the property and facilities~~  
23 ~~acquired, constructed, and owned by the authority at which~~  
24 ~~low-level radioactive waste can be processed and disposed of~~  
25 ~~permanently.]~~

26           (9) [(6)] "Low-level waste" means radioactive  
27 material that has a half-life of 35 years or less or fewer than 10

1 nanocuries per gram of transuranics, and may include radioactive  
2 material not excluded by this subdivision with a half-life of more  
3 than 35 years if special criteria for ~~[disposal]~~ assured isolation  
4 of that waste are established by the commission. The term does not  
5 include irradiated reactor fuel and high-level radioactive waste as  
6 defined by Title 10, Code of Federal Regulations.

7           (10) ~~[(7)]~~ "Management" means establishing,  
8 adopting, and entering into and assuring compliance with the  
9 general policies, rules, and contracts that govern the operation of  
10 ~~[a disposal]~~ an assured isolation site.

11           (11) ~~[(8)]~~ "Operation" means the control,  
12 supervision, and implementation of the actual physical activities  
13 involved in the receipt, processing, packaging, storage,  
14 ~~[disposal]~~, and monitoring of low-level radioactive waste at ~~[a~~  
15 ~~disposal]~~ an assured isolation site, the maintenance of ~~[a~~  
16 ~~disposal]~~ an assured isolation site, and any other responsibilities  
17 designated by the board as part of the operation.

18           (12) "Party state" has the meaning assigned by Section  
19 2.01(13) of the compact.

20           (13) ~~[(9)]~~ "Person" includes a legal successor to or  
21 representative, agent, or agency of any person.

22           (14) ~~[(10)]~~ "Radioactive material" means solid,  
23 liquid, or gaseous material, whether occurring naturally or  
24 produced artificially, that emits radiation spontaneously.

25           (15) ~~[(11)]~~ "Rangeland and wildlife management plan"  
26 means a plan that applies rangeland and wildlife habitat management  
27 techniques to land located in the vicinity of ~~[a disposal]~~ an

1 assured isolation site so that the natural productivity and  
2 economic value of the land are enhanced.

3 (16) [~~(12)~~] "Bond" means any type of obligation  
4 issued by the authority under this chapter, including a certificate  
5 of obligation, bond, note, draft, bill, warrant, debenture, interim  
6 certificate, revenue or bond anticipation note, or other evidence  
7 of indebtedness.

8 (17) [~~(13)~~] "Host county" means the county in which  
9 the [~~disposal~~] assured isolation site is or will be located.

10 (18) [~~(14)~~] "Commission" means the Texas [~~Natural~~  
11 ~~Resource Conservation~~] Commission On Environmental Quality.

12 SECTION 4. Section 402.011, Health and Safety Code, is  
13 amended to read as follows:

14 Sec. 402.011. TEXAS LOW-LEVEL RADIOACTIVE WASTE MANAGEMENT  
15 [~~DISPOSAL~~] AUTHORITY. (a) The Texas Low-Level Radioactive Waste  
16 Management [~~Disposal~~] Authority is a state agency created under  
17 Article XVI, Section 59(a), of the Texas Constitution.

18 (b) The authority has statewide jurisdiction.

19 SECTION 5. Section 402.012, Health and Safety Code, is  
20 amended to read as follows:

21 Sec. 402.012. SUNSET PROVISION. The Texas Low-Level  
22 Radioactive Waste Management [~~Disposal~~] Authority is subject to  
23 Chapter 325, Government Code (Texas Sunset Act). Unless continued  
24 in existence as provided by that chapter, the authority is  
25 abolished and this chapter expires September 1, 2009 [~~2001~~].

26 SECTION 6. Section 402.013(c), Health and Safety Code, is  
27 amended to read as follows:

1 (c) After [~~a disposal~~] an assured isolation site is selected  
2 under Section 402.090, the governor shall appoint to the board, at  
3 the earliest opportunity, at least one representative of the public  
4 as a representative of local interests. A representative of the  
5 public appointed to represent local interests must be a resident of  
6 the host county. The representative may not be an elected county  
7 official or a county employee.

8 SECTION 7. Section 402.020, Health and Safety Code, is  
9 amended to read as follows:

10 Sec. 402.020. AUTHORITY OFFICES. The board shall maintain:

11 (1) a central office in the city of Austin for  
12 conducting the authority's business; and

13 (2) an authority office at [~~each disposal~~] an assured  
14 isolation site under construction or operated under this chapter.

15 SECTION 8. Section 402.021(b), Health and Safety Code, is  
16 amended to read as follows:

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

22 SECTION 9. Section 402.028, Health and Safety Code, is  
23 amended to read as follows:

24 Sec. 402.028. CONTRACTS OVER \$15,000. (a) Except as  
25 provided by this section, if [~~if~~] the estimated amount of a proposed  
26 contract for the purchase of materials, machinery, equipment, or  
27 supplies is more than \$15,000, the board shall ask for competitive

1 bids as provided by Subchapter B, Chapter 271, Local Government  
2 Code.

3 (b) The board may use the design-build method for the  
4 construction of an assured isolation site facility. In using that  
5 method and entering into a contract for the services of a  
6 design-build firm, the board shall follow the procedures authorized  
7 by Section 51.780, Education Code, for institutions of higher  
8 learning.

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

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

21 SECTION 10. Sections 402.029(a) and (c), Health and Safety  
22 Code, are amended to read as follows:

23 (a) The authority, through the board, may sue and be sued in  
24 the name of the authority in any court of this state, except as to  
25 matters pertaining to the site selection and licensing of [~~a~~  
26 ~~disposal~~] an assured isolation site [~~facility within the~~  
27 ~~geographical area of Hudspeth County, Texas, described in Section~~

1 ~~402.0921~~], which suits may only be brought in the courts of Travis  
2 County, Texas.

3 (c) Any judgment, injunction, declaration, or writ issued  
4 against the authority by a Texas court other than the supreme court  
5 of Texas that is related to the site selection or licensing of ~~a~~  
6 ~~disposal~~ an assured isolation site ~~[facility within the~~  
7 ~~geographical area of Hudspeth County, Texas, described in Section~~  
8 ~~402.0921]~~ shall be automatically suspended upon the filing by the  
9 authority of a notice of appeal or other submission to a higher  
10 court challenging the judgment, injunction, declaration, or writ.  
11 No Texas court other than the Texas supreme court shall have any  
12 power to decline or otherwise affect the automatic suspension  
13 pending appeal in such a case ~~[related to Hudspeth County, Texas]~~.

14 SECTION 11. Sections 402.031(a), (b), (d), and (e), Health  
15 and Safety Code, are amended to read as follows:

16 (a) The board shall create a citizens advisory committee to  
17 perform oversight functions over ~~a disposal~~ an assured isolation  
18 site.

19 (b) The committee shall begin to perform its functions not  
20 earlier than the 30th day after the date on which construction of  
21 the ~~[disposal]~~ assured isolation site begins.

22 (d) The committee shall:

23 (1) conduct independent monitoring of ~~[disposal]~~ site  
24 activities as authorized by guidelines adopted by the board;

25 (2) make recommendations to the board concerning  
26 operations at the ~~[disposal]~~ site; and

27 (3) execute any other review and monitoring functions

as recommended by the committee and approved by the board.

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

SECTION 12. Section 402.032, Health and Safety Code, is amended to read as follows:

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

SECTION 13. Section 402.051, Health and Safety Code, is amended to read as follows:

Sec. 402.051. JURISDICTION OVER ~~[DISPOSAL]~~ ASSURED ISOLATION SITE. (a) The authority has jurisdiction over site selection, preparation, construction, operation, maintenance, decommissioning, closing, and financing of ~~[disposal]~~ an assured isolation site ~~[sites]~~.

(b) A license for an assured isolation site shall be issued in the name of the authority and may not be transferred to a private entity.

SECTION 14. Section 402.052, Health and Safety Code, is amended to read as follows:

Sec. 402.052. DEVELOPMENT AND OPERATION OF ~~[DISPOSAL]~~ ASSURED ISOLATION SITE. (a) The authority shall develop and



1 operate one ~~[disposal]~~ assured isolation site for the ~~[disposal]~~  
2 assured isolation of low-level waste in this state.

3 (b) The authority may not develop or operate an assured  
4 isolation site unless assured isolation at the site includes:

5 (1) above-grade vaults with internal access designed  
6 to isolate the waste from the environment, from which the waste is  
7 easily retrievable;

8 (2) individual monitoring of each waste structure or  
9 building;

10 (3) monitoring of the ground beneath the assured  
11 isolation facility and the perimeter of the facility for leakage;  
12 and

13 (4) active inspection and preventive maintenance.

14 SECTION 15. Section 402.053, Health and Safety Code, is  
15 amended to read as follows:

16 Sec. 402.053. GENERAL POWERS. To carry out this chapter,  
17 the authority may:

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

20 (2) contract with the federal government, the state,  
21 interstate agencies, local governmental entities, and private  
22 entities to carry out this chapter and rules, standards, and orders  
23 adopted under this chapter;

24 (3) conduct, request, and participate in studies,  
25 investigations, and research relating to selection, preparation,  
26 construction, operation, maintenance, decommissioning, closing,  
27 and financing of ~~[disposal]~~ an assured isolation site ~~[sites and~~

1 ~~disposal of low-level waste~~]; and

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

5 SECTION 16. Section 402.058, Health and Safety Code, is  
6 amended to read as follows:

7 Sec. 402.058. HEALTH SURVEILLANCE SURVEY. The board, in  
8 cooperation with the commission, the Texas Department of Health,  
9 and local public health officials, shall develop a health  
10 surveillance survey for the population located in the vicinity of  
11 ~~[a disposal]~~ an assured isolation site.

12 SECTION 17. Section 402.059(a), Health and Safety Code, is  
13 amended to read as follows:

14 (a) The authority, its employees, contractors, and agents  
15 may enter public or private property to assess the suitability of  
16 land for ~~[a disposal]~~ assured isolation of low-level radioactive  
17 waste ~~[site in Hudspeth County, Texas]~~.

18 SECTION 18. Section 402.081, Health and Safety Code, is  
19 amended to read as follows:

20 Sec. 402.081. ~~[DISPOSAL]~~ SITE SELECTION STUDIES. The  
21 authority shall make studies or contract for studies to be made of  
22 the future requirements for the management ~~[disposal]~~ of low-level  
23 waste in this state and to determine the areas of the state that are  
24 relatively more suitable than others for low-level waste management  
25 ~~[disposal]~~ activities.

26 SECTION 19. Subchapter D, Chapter 402, Health and Safety  
27 Code, is amended by adding Section 402.0815 to read as follows:

1        Sec. 402.0815. LOCATION OF SITE IN COUNTY BORDERING  
2 INTERNATIONAL BOUNDARY PROHIBITED. A low-level radioactive waste  
3 assured isolation site may not be located in a county that is  
4 adjacent to an international boundary.

5        SECTION 20. Section 402.082, Health and Safety Code, is  
6 amended to read as follows:

7        Sec. 402.082. STUDY CRITERIA. (a) Studies required under  
8 Section 402.081 regarding assured isolation must consider:

9            (1) the volume of low-level waste generated by type  
10 and source categories for the expected life of the [~~disposal~~]  
11 assured isolation site, including waste that may be generated from  
12 the decommissioning of nuclear power plants located in this state;

13            (2) geology;

14            (3) topography;

15            (4) transportation and access;

16            (5) meteorology;

17            (6) population density;

18            (7) surface and subsurface hydrology;

19            (8) flora and fauna;

20            (9) current land use;

21            (10) criteria established by the commission for  
22 [~~disposal~~] assured isolation site selection;

23            (11) the proximity of the [~~disposal~~] assured isolation  
24 site to sources of low-level waste, including related  
25 transportation costs, to the extent that the proximity and  
26 transportation costs do not interfere with selection of a suitable  
27 [~~disposal~~] assured isolation site for protecting public health and

the environment;

(12) other ~~[disposal]~~ assured isolation site characteristics that may need study on a preliminary basis and for which detailed study would be required to prepare an application or license required for ~~[disposal]~~ assured isolation site operation; and

(13) alternative management techniques, including ~~[aboveground isolation facilities,]~~ waste processing and reduction at the site of waste generation and at an authority management site, and waste recycling.

(b) Before selecting an assured isolation site, the commission shall conduct a study of the feasibility of using one or both of the nuclear power plants located within the state as management sites.

SECTION 21. Section 402.083, Health and Safety Code, is amended to read as follows:

Sec. 402.083. CHOOSING SITES FOR FURTHER ANALYSIS. On completion of the studies required by Section 402.081, the board shall choose at least two potential ~~[disposal]~~ assured isolation sites for further analysis under Section 402.084.

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

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

(1) preoperating costs;

1           (2)   operating costs;  
2           (3)   maintenance costs;  
3           (4)   costs of decommissioning and extended care; and  
4           (5)   socioeconomic, environmental, and public health  
5 impacts associated with the site.

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

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

16          SECTION 23.   Section 402.085, Health and Safety Code, is  
17 amended to read as follows:

18          Sec. 402.085.   SITE PROPOSAL.   On receiving the results of  
19 the studies and evaluations required by Sections 402.081, 402.084,  
20 and 402.087, the board shall propose the ~~[a]~~ site if the site ~~[that]~~  
21 appears to be ~~[the most]~~ suitable for ~~[a disposal]~~ assured  
22 isolation ~~[site]~~ and shall hold a public hearing to consider  
23 whether that site should be selected as the ~~[disposal]~~ state's  
24 assured isolation site.

25          SECTION 24.   Section 402.086(a), Health and Safety Code, is  
26 amended to read as follows:

27          (a)   Before the board gives notice of the hearing on a ~~[the]~~

1 proposed ~~[disposal]~~ assured isolation site, the authority shall  
2 prepare a report that includes:

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

5 (2) criteria for ~~[disposal]~~ site selection as  
6 established by the appropriate licensing authority; and

7 (3) summaries of the studies required under Section  
8 402.081 and the evaluations required under Section 402.084.

9 SECTION 25. Sections 402.087(a) and (c), Health and Safety  
10 Code, are amended to read as follows:

11 (a) The authority may appoint a mediator to consider the  
12 views of parties interested in the selection of ~~[a disposal]~~ an  
13 assured isolation site.

14 (c) Mediation meetings may be held in the county ~~[counties]~~  
15 in which the potential ~~[disposal]~~ assured isolation site is ~~[sites~~  
16 ~~are]~~ located and shall be held before the public hearing required by  
17 Section 402.085.

18 SECTION 26. Section 402.088(b), Health and Safety Code, is  
19 amended to read as follows:

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

26 SECTION 27. Section 402.089, Health and Safety Code, is  
27 amended to read as follows:

1           Sec. 402.089. BOARD DETERMINATION; RESTRICTIONS ON  
2 SELECTION NEAR RESERVOIR. (a) The board shall determine if the  
3 proposed [~~disposal~~] assured isolation site should be selected after  
4 a thorough consideration of:

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

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

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

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

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

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

20           SECTION 28. Section 402.090, Health and Safety Code, is  
21 amended to read as follows:

22           Sec. 402.090. ORDER DESIGNATING SITE. If the board selects  
23 a proposed [~~disposal~~] site as the [~~disposal~~] assured isolation  
24 site, the board by order shall designate the site as the [~~disposal~~]  
25 assured isolation site and shall issue a final report.

26           SECTION 29. Section 402.091, Health and Safety Code, is  
27 amended to read as follows:

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

7           (b) The board shall continue to follow the procedures of  
8 [~~disposal~~] site selection under this subchapter until a suitable  
9 [~~disposal~~] assured isolation site is selected.

10          SECTION 30. Section 402.092, Health and Safety Code, is  
11 amended to read as follows:

12          Sec. 402.092. FINAL REPORT. The authority shall submit to  
13 the governor and to the legislature for informational purposes a  
14 copy of the final report and order selecting [~~a disposal~~] an assured  
15 isolation site.

16          SECTION 31. Section 402.0922, Health and Safety Code, is  
17 amended to read as follows:

18          Sec. 402.0922. EMINENT DOMAIN. The authority may acquire  
19 land for [~~a disposal~~] an assured isolation site [~~within the~~  
20 ~~geographical area described in Section 402.0921~~] by condemnation  
21 and in accordance with Chapter 21 of the Property Code.

22          SECTION 32. Section 402.094, Health and Safety Code, is  
23 amended to read as follows:

24          Sec. 402.094. ACQUISITION OF PROPERTY. (a) The authority  
25 may acquire by gift, grant, or purchase any land, easements,  
26 rights-of-way, and other property interests necessary to construct  
27 and operate [~~a disposal~~] an assured isolation site.



1 (b) The authority must acquire the fee simple title to all  
2 land and property that is a part of the licensed [~~disposal~~] assured  
3 isolation site.

4 (c) The authority may lease property on terms and conditions  
5 the board determines advantageous to the authority, but land that  
6 is part of a licensed [~~disposal~~] assured isolation site may be  
7 leased only through [~~from~~] the Texas Public Finance Authority as  
8 provided by the Texas Public Finance Authority Act (Article 601d,  
9 Vernon's Texas Civil Statutes).

10 (d) The authority may lease land owned by the authority that  
11 is not part of a licensed [~~disposal~~] assured isolation site. Land  
12 leased by the authority under this section may be used only for  
13 agricultural, ranching, or grazing purposes.

14 SECTION 33. Section 402.122, Health and Safety Code, is  
15 amended to read as follows:

16 Sec. 402.122. ENTRY ON AND INVESTIGATION OF SCHOOL OR  
17 UNIVERSITY LAND. The authority may enter and investigate land  
18 dedicated to the permanent school fund or the permanent university  
19 fund to determine the suitability of the land for [~~a disposal~~] an  
20 assured isolation site.

21 SECTION 34. Section 402.123, Health and Safety Code, is  
22 amended to read as follows:

23 Sec. 402.123. PROCEDURE FOR SELECTION AND SALE OF SCHOOL OR  
24 UNIVERSITY LAND. (a) If the board determines that a suitable  
25 [~~disposal~~] assured isolation site can be located on land dedicated  
26 to the permanent school fund or permanent university fund and  
27 issues an order selecting that site as a proposed [~~disposal~~]

1 assured isolation site, the School Land Board or the board of  
2 regents of The University of Texas System, as appropriate, shall  
3 authorize the authority to enter on the land to conduct any studies  
4 of the proposed site required by commission or department rule [~~a~~  
5 ~~detailed technical characterization of the proposed disposal~~  
6 ~~site~~].

7 (b) Notwithstanding any other law, if the board determines  
8 at the completion [~~of the characterization period and the~~  
9 ~~completion~~] of studies required by Subsection (a) and Subchapter D  
10 that the land should be purchased for the proposed [~~disposal~~]  
11 assured isolation site, the School Land Board or the board of  
12 regents of The University of Texas System, as appropriate, shall  
13 have the land and any minerals in the land appraised and shall sell  
14 the land to the authority at the appraised value.

15 SECTION 35. Section 402.124(b), Health and Safety Code, is  
16 amended to read as follows:

17 (b) The authority may enter into an agreement to purchase  
18 one or more parcels of land dedicated to the permanent school fund  
19 or the permanent university fund of a size the board considers  
20 appropriate for purposes of [~~a disposal~~] an assured isolation site.

21 SECTION 36. Section 402.125(b), Health and Safety Code, is  
22 amended to read as follows:

23 (b) This section and Section 402.123 apply only to land  
24 actually required for a [~~the~~] licensed [~~disposal~~] assured isolation  
25 site.

26 SECTION 37. Section 402.126, Health and Safety Code, is  
27 amended to read as follows:

1           Sec. 402.126. RANGELAND AND WILDLIFE MANAGEMENT PLAN. (a)  
2 To implement a rangeland and wildlife management plan, the  
3 authority may lease from the School Land Board or the board of  
4 regents of The University of Texas System property that is  
5 dedicated to the permanent school fund or the permanent university  
6 fund and that is proximate to [~~a disposal~~] the assured isolation  
7 site. Land leased for a rangeland and wildlife management plan may  
8 not exceed 65,000 acres.

9           (b) The authority may [~~shall~~] lease from the School Land  
10 Board on the School Land Board's terms and conditions the land  
11 determined by the School Land Board as necessary to serve as a  
12 rangeland and wildlife management area [~~buffer~~] for the [~~disposal~~]  
13 assured isolation site. Land leased under this subsection shall be  
14 used by the authority to implement a rangeland and wildlife  
15 management plan.

16           SECTION 38. Section 402.128, Health and Safety Code, is  
17 amended to read as follows:

18           Sec. 402.128. APPLICABLE STANDARDS. The commission, the  
19 department, or the authority may not lessen any standards for the  
20 siting, construction, or operation of [~~the disposal~~] an assured  
21 isolation site because the site is located on state-owned land  
22 dedicated to the permanent school fund or the permanent university  
23 fund.

24           SECTION 39. Section 402.151, Health and Safety Code, is  
25 amended to read as follows:

26           Sec. 402.151. PREPARATIONS FOR OBTAINING LICENSES AND  
27 AUTHORIZATIONS. After selection of the [~~disposal~~] assured

1 isolation site, the board shall direct the general manager to  
2 prepare necessary applications, ~~[disposal]~~ assured isolation  
3 plans, and other material for obtaining licenses and other  
4 authorizations for the ~~[disposal]~~ site.

5 SECTION 40. Section 402.1511, Health and Safety Code, is  
6 amended to read as follows:

7 Sec. 402.1511. COMMISSION LICENSE. (a) Notwithstanding  
8 any other provision of this chapter, the commission has sole  
9 authority to issue a license to operate ~~[a disposal]~~ an assured  
10 isolation site under this chapter.

11 (b) The authority or any other entity authorized by contract  
12 to operate ~~[a disposal]~~ an assured isolation site under this  
13 chapter may not operate the ~~[disposal]~~ site unless the authority  
14 ~~[or entity]~~ has first obtained an operating license from the  
15 commission under this section.

16 (c) ~~[The authority or any other entity required by this~~  
17 ~~chapter to obtain a license to operate a disposal site under this~~  
18 ~~chapter is required to obtain the license from the commission and~~  
19 ~~not from the department.~~

20 ~~[(d)]~~ The commission may adopt any rules reasonably  
21 necessary to exercise its authority under this section.

22 SECTION 41. Section 402.152, Health and Safety Code, is  
23 amended to read as follows:

24 Sec. 402.152. APPLICATIONS FOR LICENSES AND  
25 AUTHORIZATIONS. (a) The authority shall submit to each federal and  
26 state agency from which it must obtain licenses and other types of  
27 authorization to construct and operate ~~[a disposal]~~ an assured

1 isolation site the necessary applications and information to obtain  
2 those licenses and authorizations.

3 (b) ~~[Notwithstanding any other law or other provision of~~  
4 ~~this chapter, the authority shall submit to the appropriate state~~  
5 ~~and federal agencies an application to construct and operate a~~  
6 ~~disposal site located within the geographical area described in~~  
7 ~~Section 402.0921.~~

8 ~~[(c)]~~ The authority shall maintain such field offices and  
9 conduct such studies and activities as necessary to provide  
10 information required to support the license application for ~~[a~~  
11 ~~disposal]~~ an assured isolation site ~~[located within the~~  
12 ~~geographical area described in Section 402.0921].~~

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

23 (d) ~~[(e)]~~ The commission shall:

24 (1) complete all activities associated with the review  
25 and processing of an application, including the publication of an  
26 environmental assessment, if required, but excluding public  
27 hearings, and either propose to issue or deny a license for the

1 operation of the site no later than 15 months after the date that  
2 the application is declared or presumed to be administratively  
3 sufficient; and

4 (2) give priority to the review of the application  
5 over all other radioactive materials and waste licensing and  
6 registration matters pending before the commission.

7 SECTION 42. Section 402.154, Health and Safety Code, is  
8 repealed.

9 SECTION 43. Section 402.155, Health and Safety Code, is  
10 amended to read as follows:

11 Sec. 402.155. DENIAL OF LICENSE APPLICATION. If the  
12 authority's application for a license for a ~~the~~ proposed  
13 ~~[disposal]~~ assured isolation site is denied, the board shall select  
14 an alternative ~~[disposal]~~ assured isolation site in the manner  
15 provided by Subchapter D for the selection of the original proposed  
16 ~~[disposal]~~ site.

17 SECTION 44. Section 402.181, Health and Safety Code, is  
18 amended to read as follows:

19 Sec. 402.181. ~~[DISPOSAL]~~ ASSURED ISOLATION SITE  
20 CONSTRUCTION. (a) The authority shall construct or contract for  
21 construction as provided by this chapter all works and facilities  
22 on the ~~[disposal]~~ assured isolation site and shall make  
23 improvements necessary to prepare the site for the management ~~[for~~  
24 ~~disposal and to permanently dispose]~~ of low-level waste.

25 (b) Preparation and construction of works and facilities at  
26 the ~~[disposal]~~ assured isolation site must be done in a manner that  
27 complies with rules and standards adopted by federal and state

1 agencies for ~~[disposal]~~ assured isolation sites, as appropriate,  
2 and with the authority's site management ~~[disposal]~~ plans.

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

9 SECTION 45. Section 402.182, Health and Safety Code, is  
10 amended to read as follows:

11 Sec. 402.182. DESIGN OF FACILITIES. The board shall ensure  
12 that the design of facilities for low-level waste ~~[disposal]~~  
13 assured isolation incorporates, as far as possible, safeguards  
14 against hazards resulting from earthquakes, local meteorological  
15 conditions, including phenomena such as hurricanes, tornados,  
16 ~~[earthquakes, earth tremors,~~ violent storms, and susceptibility  
17 to flooding.

18 SECTION 46. Sections 402.183(a) and (b), Health and Safety  
19 Code, are amended to read as follows:

20 (a) The authority may contract with any person to construct  
21 any part of the works, facilities, and improvements at the  
22 ~~[disposal]~~ assured isolation site.

23 (b) The contract must specifically provide for termination  
24 by the authority if the contractor fails to comply with federal and  
25 state standards and rules or with the authority's ~~[disposal]~~  
26 assured isolation plans.

27 SECTION 47. Section 402.211, Health and Safety Code, is

amended to read as follows:

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

SECTION 48. Section 402.212, Health and Safety Code, is amended to read as follows:

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

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

(c) A contract under this section may not relieve the authority of its management responsibility under this chapter.

SECTION 49. Section 402.213, Health and Safety Code, is amended to read as follows:

Sec. 402.213. CONTRACT AUTHORITY OF BOARD. In contracting



1 with a contract operator, the board may:

2 (1) select the contract operator before the authority  
3 ~~[it]~~ obtains the license for the ~~[disposal]~~ assured isolation site  
4 so that the board may allow the contract operator to advise and  
5 consult with the board, general manager, and staff of the authority  
6 on the design and ~~[disposal]~~ assured isolation plans for the site;

7 (2) require the contract operator to make all tests,  
8 keep all records, and prepare all reports required by licenses  
9 issued for ~~[disposal]~~ assured isolation site operations;

10 (3) require standards of performance;

11 (4) require posting of a bond or other financial  
12 security by the contract operator to ensure safe operation and  
13 decommissioning of the ~~[disposal]~~ assured isolation site; and

14 (5) establish other requirements, including operator  
15 liability requirements, necessary to assure that the ~~[disposal]~~  
16 assured isolation site is properly operated and that the public  
17 health and safety and the environment are protected.

18 SECTION 50. Section 402.214, Health and Safety Code, is  
19 amended to read as follows:

20 Sec. 402.214. PROVISIONS OF OPERATION CONTRACT. A contract  
21 to operate a ~~[disposal]~~ assured isolation site must specify that:

22 (1) the board retains management authority over the  
23 ~~[disposal]~~ site and may monitor and inspect any part of the site and  
24 operations on the site at any time;

25 (2) the contract operator must operate the ~~[disposal]~~  
26 site in a manner that complies with the law and licenses regulating  
27 operations at the site that are issued by the commission and the

1 federal government;

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

5 (4) the contract is subject to termination after  
6 notice and hearing if the contract operator fails to comply with a  
7 license issued for the ~~[disposal]~~ site by the commission or ~~[by]~~ the  
8 federal government, fails to comply with the rules of the  
9 authority, or fails to comply with the contract.

10 SECTION 51. Section 402.215, Health and Safety Code, is  
11 amended to read as follows:

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

15 (b) The general manager shall employ the on-site operator at  
16 ~~[a disposal]~~ an assured isolation site operated by the authority.

17 (c) If the authority contracts for the overall operation of  
18 ~~[a disposal]~~ an assured isolation site, the on-site operator must  
19 be a representative of the contract operator.

20 SECTION 52. Section 402.216, Health and Safety Code, is  
21 amended to read as follows:

22 Sec. 402.216. RULES RELATING TO ~~[DISPOSAL]~~ ASSURED  
23 ISOLATION SITE. (a) The board shall adopt rules governing:

24 (1) the operation of ~~[disposal]~~ the assured isolation  
25 site ~~[sites]~~;

26 (2) acceptance of low-level waste;

27 (3) maintenance and monitoring of ~~[disposal]~~ the

1 assured isolation site [~~sites~~]; and

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

4 (b) Rules adopted under this section may not be less  
5 stringent than those adopted by the commission or department, as  
6 appropriate.

7 SECTION 53. Section 402.217, Health and Safety Code, is  
8 amended to read as follows:

9 Sec. 402.217. [~~DISPOSAL~~] SITE ACTIVITIES. (a) The  
10 authority may adopt any methods and techniques for low-level  
11 radioactive waste management [~~permanent disposal~~] that comply with  
12 federal and state standards for low-level radioactive waste  
13 management [~~disposal~~] and that protect the public health and safety  
14 and the environment.

15 (b) The authority may provide facilities at [~~disposal~~]  
16 assured isolation sites for processing and packaging low-level  
17 radioactive waste [~~for disposal~~].

18 SECTION 54. Section 402.218, Health and Safety Code, is  
19 amended to read as follows:

20 Sec. 402.218. ACCEPTANCE OF LOW-LEVEL WASTE. (a) Subject  
21 to limitations provided by Section 402.219, [~~each disposal~~] the  
22 assured isolation site shall accept for management [~~disposal~~] all  
23 low-level radioactive waste that is presented to it and that is  
24 properly processed and packaged.

25 (b) On acceptance by the assured isolation site, title and  
26 liability for the low-level radioactive waste transfers to the  
27 authority.

SECTION 55. Section 402.219, Health and Safety Code, is amended to read as follows:

Sec. 402.219. LIMITATIONS ON WASTE ACCEPTANCE ~~[DISPOSAL]~~.

(a) ~~[Except as provided by an interstate compact, a disposal]~~ A licensed assured isolation site may accept only low-level waste that is generated in this state or waste from an interstate compact as defined in Sec. 402.003, Health and Safety Code.

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

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

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

(2) gives this state full administrative control over management and operation of the ~~[disposal]~~ assured isolation site;

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

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

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

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

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

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

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

15           (10) complies with all applicable federal law.

16           (d) This section does not affect the ability of this state  
17 to transfer low-level radioactive waste to another state.

18           (e) If this state enters into a compact with another state  
19 and the terms of the compact conflict with this section, the terms  
20 of the compact control.

21           (f) The total volume of low-level radioactive waste  
22 authorized to be accepted from states other than Texas, Maine, and  
23 Vermont by Subsection (f)(2) is in addition to the amount  
24 authorized by and established under Section 3.04(11) of the  
25 compact.

26           SECTION 56. Sections 402.220(a), (c), and (d), Health and  
27 Safety Code, are amended to read as follows:

1 (a) To protect the public health and safety and the  
2 environment, the board, after notice and hearing, shall adopt an  
3 emergency response plan for ~~[each disposal]~~ the assured isolation  
4 site to be implemented if the ~~[disposal]~~ site becomes a threat to  
5 the public health or safety or to the environment.

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

10 (d) The facilities shall be:

11 (1) constructed proximate to the ~~[disposal]~~ assured  
12 isolation site or in the nearest community, as determined by the  
13 board; and

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

16 SECTION 57. Section 402.221(b), Health and Safety Code, is  
17 amended to read as follows:

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

22 SECTION 58. Section 402.222, Health and Safety Code, is  
23 amended to read as follows:

24 Sec. 402.222. SHIPMENT OF LOW-LEVEL WASTE. (a) On arrival  
25 of a shipment of low-level waste at ~~[a disposal]~~ the assured  
26 isolation site, the on-site operator or the operator's agent must  
27 determine that the waste complies with all laws, rules, and

standards relating to processing and packaging of low-level waste before the waste is accepted for ~~[disposal]~~ assured isolation at the ~~[disposal]~~ site.

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

SECTION 59. Section 402.223, Health and Safety Code, is amended to read as follows:

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

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

SECTION 60. Section 402.224(a), Health and Safety Code, is amended to read as follows:

(a) An on-site operator who accepts mixed waste at ~~[a disposal]~~ the assured isolation site shall comply with Chapter 361 (Solid Waste Disposal Act), the Resource Conservation and Recovery

Act of 1976 (42 U.S.C. 6901 et seq.), and this chapter.

SECTION 61. Section 402.225, Health and Safety Code, is amended to read as follows:

Sec. 402.225. BELOWGROUND DISPOSAL PROHIBITED  
[~~RESTRICTED~~]. Low-level waste may not be disposed of in a landfill below the natural level of a disposal site [~~unless~~,

~~[(1) federal or state regulatory programs for low-level waste preclude or recommend against aboveground disposal, or the authority has by rule determined that below ground disposal provides greater protection than aboveground disposal for public health and the environment for the period for which the low-level waste will continue to pose a hazard to public health and the environment,~~

~~[(2) the low-level waste is continued within a reinforced concrete barrier or within containment structures made of materials technologically equivalent or superior to reinforced concrete, and~~

~~[(3) the low-level waste is contained in such a manner that it can be monitored and retrieved].~~

SECTION 62. Section 402.226(a), Health and Safety Code, is amended to read as follows:

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

SECTION 63. Section 402.228, Health and Safety Code, is amended to read as follows:

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



1 ASSURED ISOLATION SITE. (a) On a finding by the board, after  
2 notice and hearing, that a [~~disposal~~] assured isolation site should  
3 be closed, the authority and the contract operator, if any, shall  
4 decommission the [~~disposal~~] site in compliance with federal and  
5 state law, rules, and standards and with rules and plans of the  
6 authority.

7 (b) On completion of decommissioning activities and receipt  
8 of necessary approval from federal and state agencies, the board  
9 shall, if required by law, transfer to the commission fee simple  
10 title to the [~~disposal~~] assured isolation site.

11 SECTION 64. Section 402.252(a), Health and Safety Code, is  
12 amended to read as follows:

13 (a) The board shall quarterly transfer money in the  
14 low-level waste fund generated by planning and implementation fee  
15 surcharges under Sections 402.2721(e) and (f), and that portion of  
16 waste acceptance [~~disposal~~] fees identifiable as adopted for the  
17 purposes of Sections 402.273(a)(3) and (b) to the commissioners  
18 court of the host county.

19 SECTION 65. Section 402.271, Health and Safety Code, is  
20 amended to read as follows:

21 Sec. 402.271. AUTHORITY'S EXPENSES. The authority's  
22 expenses shall be paid from:

- 23 (1) waste acceptance [~~disposal~~] fees;  
24 (2) [~~planning and implementation fees,~~]  
25 [~~(3)~~] proceeds from the sale of bonds under Subchapter  
26 K;  
27 (3) [~~(4)~~] contributions from members of a low-level

waste compact entered into under Section 402.219(c);

(4) ~~[(5)]~~ surcharge rebates made by the United States Department of Energy pursuant to Pub. L. No. 99-240;

(5) ~~[(6)]~~ appropriations made by the legislature; and

(6) ~~[(7)]~~ other receipts, fees, and interest earned in funds authorized by or collected under this subchapter and deposited in the low-level waste fund.

SECTION 66. Section 402.272, Health and Safety Code, is amended to read as follows:

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

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

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

SECTION 67. Section 402.2721, Health and Safety Code, is amended by amending Subsections (b)-(g) and adding Subsection (i) to read as follows:

(b) This fee shall be in an amount that is sufficient to allow the authority to recover present and future costs of

administering, implementing, and planning the activities authorized by this chapter before the operation of ~~[a disposal]~~ an assured isolation site and to reimburse the general revenue fund for expenses incurred and paid by the authority in selecting, characterizing, and licensing ~~[a disposal]~~ an assured isolation site.

(c) This fee does not apply to health care providers or institutions of higher education until a state ~~[disposal]~~ assured isolation site ~~[facility]~~ is available to receive the generated wastes.

(d) Fees established under this section shall:

(1) ~~[include minimum and maximum annual fees in an amount of at least \$5 million for the 1992-1993 biennium to pay for the estimated costs of administering, implementing, and planning the activities authorized by this chapter and shall include at least \$5 million to reimburse the general revenue fund for appropriations expended and incurred by the authority in selecting, characterizing, and licensing a disposal site,~~

~~[(2)]~~ take into account the projected annual volume and the relative hazard presented by each type of low-level waste generated;

(2) ~~[(3)]~~ be collected by the department as provided by Subchapter H, Chapter 401;

(3) ~~[(4)]~~ be deposited in the state treasury to the credit of the low-level waste fund~~[, except that at least \$10 million assessed and collected in the 1992-1993 biennium to reimburse the general revenue fund for expenses incurred prior to~~

1 ~~September 1, 1991, shall be deposited in the state treasury to the~~  
2 ~~credit of the general revenue fund];~~

3 (4) ~~[(5)]~~ be paid ~~[in four quarterly equal~~  
4 ~~installments beginning on January 1, 1992, and]~~ annually  
5 ~~[thereafter]; and~~

6 (5) ~~[(6)]~~ expire on the date the authority begins  
7 operation of ~~[a disposal]~~ an assured isolation facility.

8 (e) Fees established under this section may not:

9 (1) be assessed before the fiscal year following the  
10 fiscal year in which the balance in the low-level waste fund falls  
11 below \$4 million;

12 (2) be assessed in an amount that would result in a  
13 total amount of fees assessed that exceeds \$3 million in any fiscal  
14 biennium; or

15 (3) be collected at any time the low-level waste fund  
16 balance is \$9 million or more.

17 (f) For each ~~[the 1996-1997 biennium [and subsequent~~  
18 ~~bienniums],~~ the board shall assess a surcharge of 10 percent of the  
19 fee established for the biennium.

20 ~~[(f) For the 1994-1995 biennium only, the board shall assess~~  
21 ~~a surcharge of 10 percent of the fee established for the 1992-1993~~  
22 ~~biennium.]~~

23 (g) Surcharges assessed under Subsection ~~[Subsections (e)~~  
24 ~~and]~~ (f) shall be used to fund local public projects under  
25 Subchapter I.

26 (h) On termination of the imposition of fees under  
27 Subsection (d)(5), the balance of the low-level waste fund

1 attributable to planning and implementation fees shall be  
 2 transferred to a separate account in the fund and credited pro rata  
 3 to generators who have paid planning and implementation fees. A  
 4 generator who on the date the imposition of the fees is terminated  
 5 has paid all planning and implementation fees owed by the generator  
 6 under this section shall receive a credit equal to the amount of the  
 7 generator's pro rata share in the account established under this  
 8 section against waste acceptance fees the generator is required to  
 9 pay under Section 402.272 until the balance of the generator's pro  
 10 rata share in the account is exhausted. A generator who on the date  
 11 the imposition of the fees is terminated owes planning and  
 12 implementation fees under this section is not eligible for the  
 13 credit.

14 SECTION 68. Section 402.273, Health and Safety Code, is  
 15 amended to read as follows:

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

17 (a) Waste acceptance [~~disposal~~] fees adopted by the board must be  
 18 sufficient to:

19 (1) allow the authority to recover operating and  
 20 maintenance costs;

21 (2) provide an amount necessary to meet future costs  
 22 of decommissioning, closing, and postclosure maintenance and  
 23 surveillance of the [~~disposal~~] assured isolation site;

24 (3) provide an amount to fund local public projects  
 25 under Subchapter I;

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

1           (5) provide an amount necessary to pay licensing fees  
2 and to provide security required by the commission under law and  
3 commission rules; and

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

8           (b) This subsection applies only if the authority does not  
9 issue bonds under Subchapter K. The acceptance [~~waste disposal~~]  
10 fees must also include an amount sufficient to allow the authority  
11 to recover expenses incurred before beginning operation of the  
12 [~~disposal~~] assured isolation site amortized over a period of not  
13 more than 20 years beginning on the first day of operation of the  
14 [~~disposal~~] site. The fees must be sufficient to recover the  
15 depository interest that the general revenue fund would have earned  
16 had the fund not been used to pay expenses incurred before the  
17 [~~disposal~~] site begins operation. Depository interest recovered  
18 under this subsection shall be deposited to the credit of the  
19 general revenue fund. Principal recovered under this subsection  
20 shall be deposited to the credit of the general revenue fund until  
21 the amount deposited has fully reimbursed the fund for expenses  
22 paid from the fund before the [~~disposal~~] site begins operation. The  
23 remainder of the principal shall be deposited as provided by  
24 Section 402.272(a).

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

SECTION 69. Section 402.274, Health and Safety Code, is amended to read as follows:

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

SECTION 70. Section 402.275, Health and Safety Code, is amended by amending Subsections (c), (d), and (f) and adding Subsections (h) and (i) to read as follows:

(c) Money received by the authority, including waste acceptance ~~[disposal]~~ fees, planning and implementation fees, surcharges on planning and implementation fees, processing and packaging fees, civil penalties, payments to the State of Texas under Public Law 99-240, payments made by a party state under Section 5.01 of the compact, and other receipts collected by the authority under this chapter shall be deposited to the credit of the low-level waste fund.

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

(1) operating and maintenance costs of the authority;

(2) future costs of decommissioning, closing, and postclosure maintenance and surveillance of the ~~[disposal]~~ assured isolation site;

(3) licensing fees and to provide security required by

1 the commission or department, as appropriate;

2 (4) money judgments rendered against the authority  
3 that are directed by a court of this state to be paid from this fund;

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

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

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

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

12 (f) Payments to this state under Public Law 99-240 may be  
13 used only for the purposes stated in the federal law. Payments made  
14 by a party state under Section 5.01 of the compact may be used only  
15 as provided by Subsection (h) or Section 402.277.

16 (h) The comptroller on receipt of a payment made by a party  
17 state under Section 5.01 of the compact shall transfer the payment  
18 to the low-level radioactive waste perpetual care fund.

19 (i) Notwithstanding the transfer required by Subsection  
20 (h), the comptroller shall retain in the low-level waste fund the  
21 first \$25 million received from payments by party states under  
22 Section 5.01 of the compact. That money may be appropriated only  
23 for the construction by the authority of an assured isolation site.

24 SECTION 71. Subchapter J, Chapter 4102, Health and Safety  
25 Code, is amended by adding Section 402.277 to read as follows:

26 Sec. 402.277. LOW-LEVEL RADIOACTIVE WASTE PERPETUAL CARE  
27 FUND. (a) The low-level radioactive waste perpetual care fund is a



1 special account in the treasury outside the general revenue fund.

2 (b) The fund consists of:

3 (1) payments made by party states under Section 5.01  
4 of the compact and transferred to the fund as required by Section  
5 402.275(h); and

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

10 (c) Interest earned on money in the fund shall be credited  
11 to the fund.

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

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

24 SECTION 72. Sections 402.291(a) and (d), Health and Safety  
25 Code, are amended to read as follows:

26 (a) The authority may issue, sell, and provide for the  
27 retirement of bonds to:

1           (1) reimburse the general revenue fund for the  
2 expenses incurred and paid by the authority in selecting, seeking  
3 approval for, and constructing [~~a disposal~~] an assured isolation  
4 site;

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

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

11          (d) The Texas Public Finance Authority, acting on behalf of  
12 the Texas Low-Level Radioactive Waste Management [~~Disposal~~]  
13 Authority, shall issue all bonds authorized under this subchapter.  
14 In connection with the issuance of those bonds, the Texas Public  
15 Finance Authority is subject to all rights, duties, and conditions  
16 provided by this subchapter with respect to the issuance of bonds by  
17 the Texas Low-Level Radioactive Waste Management [~~Disposal~~]  
18 Authority.

19          SECTION 73. Section 403.001(a), Health and Safety Code, is  
20 amended to read as follows:

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

26          SECTION 74. Sections 402.059(d), 402.0921, 402.121,  
27 402.127, and 402.129, Health and Safety Code, are repealed.

1           SECTION 75. This Act takes effect September 1, 1999.

2           SECTION 76. The importance of this legislation and the  
3 crowded condition of the calendars in both houses create an  
4 emergency and an imperative public necessity that the  
5 constitutional rule requiring bills to be read on three several  
6 days in each house be suspended, and this rule is hereby suspended.