

Amend CSSB 1667 as follows:

(1) On page 1, line 15, strike "amended by amending Subdivisions (2), (4), (5), and (6)" and substitute the following:  
"amended by amending Subdivisions (2), (4), (5), (6), and (15)"

(2) On page 1, lines 26-30, strike Subdivision (12-1) and substitute the following:

"(12-1) "Gross receipts includes with respect to an entity or affiliated members, owners, shareholders, limited or general partners, all receipts from the entity's operations in Texas related to disposal including any bonus, commission, or similar payment received by the entity from a customer, contractor, subcontractor, or other person doing business with the entity or affiliated members, owners, shareholders, and limited or general partners. This term does not include receipts from the entity's operations in Texas or affiliated members, owners, shareholders, and limited or general partners, for extraordinary capital reimbursements, bona fide storage and processing, and federal or state taxes or fees on waste received uniquely required to meet the specifications of a license or contract. The commission may promulgate rules in establishing the criteria for determining gross receipts consistent with the parameters of this definition."

(3) On page 1, line 31, before SECTION 2, insert the following:

(15) "Person affected" means a person who demonstrates that the person has suffered or will suffer actual injury or economic damage and, if the person is not a local government:

(A) is a resident of a county, or a county adjacent to that county, in which a nuclear or radioactive material substance is or will be located; or

(B) is doing business or has a legal interest in land in the county or adjacent county.

(4) On page 1, line 42, between "persons" and ";" insert ", except oil and gas NORM".

(5) On page 1, line 43, between "material" and ";" insert "in accordance with Subchapter G".

(6) On page 1, line 51, insert new section as follows and renumber the subsequent sections accordingly:

Section 401.054, Health and Safety Code, is amended as follows:

SECTION \_\_\_\_\_. Sec. 401.054. NOTICE AND HEARING. (a) The department or commission shall provide notice and an opportunity for a hearing on a matter under its jurisdiction as provided by its formal hearing procedures and Chapter 2001, Government Code, unless otherwise required by this chapter, on written request of a person affected by any of the following procedures:

(1) the denial, suspension, or revocation by the department or commission of a license or registration;

(2) the determination by the department or commission of compliance with or the grant of exemptions from a department or commission rule or order; or

(3) the grant or amendment by the department or commission of a specific license.

(b) A contested case hearing shall be conducted according to Section 401.239 of this chapter. ~~This section does not apply to license or registration activities for which other notice and hearing procedures are required by this chapter.~~

(c) The commission may hold a contested case hearing on an application for the renewal of a license issued under this chapter provided that the change being requested would constitute a major change to the license.

(7) On page 1, line 52, strike "Subsection (b),"

(8) On page 1, line 59, insert "(f) A separate commercial storage and processing license may be issued at a site also licensed for disposal under this chapter."

(9) On page 4, line 30, strike "shall" and substitute "may".

(10) On page 4, line 34, strike "shall" and substitute "may".

(11) On page 6, line 13, between "," and "and" insert "licensed on site waste disposal associated with a licensed in situ leach uranium recovery facility,"

(12) On page 7, line 32, insert new section as follows and renumber the subsequent sections accordingly:

SECTION \_\_\_\_\_. Sec. 401.271 STATE FEE ON RADIOACTIVE SUBSTANCES. (a) A holder of a license issued by the commission

under this chapter that authorizes the disposal of a radioactive substance from other persons shall transfer to the state general revenue fund each quarter an amount equal to 10 percent of the license holder's gross receipts received from operations under the license for disposal occurring after the effective date of this Act.

(b) Subsection (a) does not apply to compact waste as defined by Section 401.2005(1) or federal facility waste as defined in Section 401.2005(4).

Sec. 401.453. AUDIT AUTHORITY. The commission may audit a license holder's financial records and waste manifest information to ensure that the fee imposed under this chapter is accurately paid. The license holder shall comply with the commission's audit related requests for information.

(13) On page 9, lines 29-32, strike subsection (1) and substitute with the following subsection:

(1) has sole authority to regulate and issue licenses, permits, and orders, and establish fees to pay for costs to regulate the processing, storage, and disposal of oil and gas NORM waste and the decontamination and maintenance of oil field equipment; and

(14) On page 9, line 50, strike "disposal of the waste and decontamination and maintenance of equipment." and substitute "disposal of the waste, decontamination and maintenance of oil field equipment, and fees established pursuant to subsection (a) of this section."

(15) On page 9, line 63, insert new subsection as follows:

(f) In adopting a fee structure, the railroad commission may consider any factors necessary to provide for the equitable allocation among NORM operators of the costs of administering the railroad commission's oil and gas NORM program under this section. The total amount of fees estimated to be collected under rules adopted by the railroad commission under this section may not exceed the estimated costs of administering the railroad commission's oil and gas NORM program under this section.

(16) On page 9, lines 63-69 and page 10, lines 1-48, strike SECTION 34 and renumber the subsequent sections accordingly.

(17) On page 10, line 65, strike "related" and substitute

"oil field".

(18) On page 11, strike lines 5-8 and substitute the following: "the permit holder to conduct minor in situ mining in the production area. The commission shall by rule define the difference between major and minor in situ mining. Notwithstanding any other provision in this act, authorization to mine or resume mining in a production area under an existing injection well permit that does not amend a previously approved restoration table, shall not be considered a major amendment."

(19) On page 11, lines 9-13, strike subsection (b) and substitute new subsection (b) as follows:

(b) A rule or provision of a permit or order of the commission that requires additional approval of the commission or an additional hearing for the permit holder to conduct minor in situ mining in the production area specified in an injection well permit, shall no longer be required after the effective date of this act. Notwithstanding any provision of this code or a commission rule or order, an application for minor in situ authorization is not subject to a contested case hearing, regardless of when the application is submitted.

(20) On page 11, line 24, after ".", insert "An administrative law judge presiding over a licensure proceeding under this section shall expedite the procedures necessary to complete the hearing in a timely manner."

(21) On page 12, lines 3-7, strike subsection (c).

(22) On page 13, line 11, after "possible." insert the following: "The commission shall utilize progress made on any technical review or environmental analysis conducted by the department prior to the effective date of this act."

(23) On page 13, strike lines 14-15 and substitute the following: "associated by-product material that is pending with the Department of State Health Services, and was received prior to January 1, 2005, on the earlier of the 31st day after the"

(24) On page 13, line 47, insert new subsections (n) and (o) as follows:

(n) Notwithstanding the changes to Chapter 401, Health and Safety Code, made by this Act, the department shall retain

jurisdiction over, and render a final decision on, an application for an amended license to store or process radioactive substances that was filed with the department on or before January 1, 2005 and that has been referred to the State Office of Administrative Hearings by the department before the effective date of this Act. A license application subject to this subsection shall be governed only by the laws of the state and the rules and regulations of the department effective at the time such application was filed. Once a final decision is rendered by the department, jurisdiction over any licensed issued shall be transferred to the commission.

(o) An application for a new license to dispose of by-product material that is filed with the department on or before January 1, 2005 and that has not been referred to the State Office of Administrative Hearings by the department before the effective date of this Act shall be processed by the commission following the effective date of this Act as follows:

(1) A license application subject to this subsection shall be governed only by the rules and regulations of the department effective at the time such application was filed;

(2) If this Act takes effect immediately, the commission shall complete any technical review of a license application subject to this subsection and issue a draft permit no later than March 1, 2006. If this Act takes effect on September 1, 2005, the commission shall complete any technical review of a license application subject to this subsection and issue a draft permit no later than June 1, 2006. The commission shall utilize progress made on any technical review or environmental analysis conducted by the department prior to the effective date of this Act. In order to meet the applicable deadline above, the commission may contract with the department or other entities for completion of any portion of the technical review that has not been completed upon the effective date of this Act. The commission may assess and collect additional fees from the applicant to recover the costs the commission incurs for technical review of a license application subject to this subsection;

(3) If this Act takes effect immediately, the commission shall render a final decision on a license application

subject to this subsection no later than March 1, 2007. If this Act takes effect on September 1, 2005, the commission shall render a final decision on a license application subject to this subsection no later than June 1, 2007; and

(4) A contested case hearing held on a license application subject to this subsection that was filed with the department on or before January 1, 2005, shall not exceed one year in duration, measured from the date of referral by the commission of the application to the State Office of Administrative Hearings until the commission makes a final decision on the application. Discovery in such a hearing shall be limited to not more than sixty days in order to meet this limitation. Notice of hearing shall be provided to the applicant, the office of public interest counsel, the executive director and the person who timely requested a contested case hearing by mail at least ten days in advance of the hearing.

(25) On page 14, lines 15-24, strike SECTION 40 and renumber the subsequent sections accordingly.

(26) On page 14, lines 25-47, Strike SECTION 41 and substitute with the new section as follows:

SECTION \_\_\_\_. (a) Notwithstanding other law or any rule on the subject of timeliness of an applicant proving information pertaining to an application for a license from the commission, the applicant for a license shall assist the commission in meeting any deadlines imposed by Chapter 401, Health and Safety Code, by submitting to the commission any information the commission requires regarding the application in a prompt and timely manner.