

BILL ANALYSIS

Senate Research Center

S.B. 1504
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Natural Resources
4/2/2011
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 1504 seeks to provide legislative guidance regarding the disposal of nonparty compact low-level radioactive waste, or "imported waste," at the Texas Low-Level Radioactive Waste Disposal Compact (compact) waste disposal facility in Andrews County. This bill prohibits the importation of foreign waste, but allows for domestic imported waste providing that it does not exceed the threshold as set by S.B. 1504. The bill sets the maximum volume of imported waste at 30 percent of the total volume and radioactivity of the facility, and the maximum threshold of volume for imported waste per year at 20,000 cubic feet, with no more than 9,000 cubic feet of class B/C waste. A surcharge for imported waste is set at \$1,000 per cubic foot and \$500 per curie. Monies generated will go to Fund 88.

Furthermore, this legislation allows states that want to join the compact to do so by paying \$40 million until September 1, 2015, and \$60 million until 2020.

This bill does not allow an interim rate to be set either by the operator or the Texas Commission on Environmental Quality (TCEQ) and clarifies that TCEQ's authority over imported waste is to certify or otherwise determine whether proposed imported waste is in accordance with all terms of the license. Lastly, S.B. 1504 directs TCEQ to study and project volume and radioactivity of low level radioactive waste, which should be completed by September 1, 2012.

As proposed, S.B. 1504 amends current law relating to the disposal of nonparty compact low-level radioactive waste at the Texas Low-Level Radioactive Waste Disposal Compact waste disposal facility.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Commission on Environmental Quality in SECTION 2 (Section 401.245, Health and Safety Code) of this bill.

Rulemaking authority previously granted to the Texas Commission on Environmental Quality is modified in SECTION 2 (Section 401.245, Health and Safety Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter F, Chapter 401, Health and Safety Code, by adding Section 401.208, as follows:

Sec. 401.208. LIMITATIONS ON NONPARTY COMPACT WASTE. (a) Defines, in this section, "compact" and "nonparty compact waste."

(b) Prohibits the compact waste disposal facility license holder from accepting for disposal at the compact waste disposal facility nonparty compact waste that:

(1) originated or was generated outside the United States; or

(2) does not meet the waste characteristics and waste forms for disposal applicable to other compact waste as set forth by the Texas Commission

on Environmental Quality (TCEQ) in the compact waste disposal facility license.

(c) Prohibits the compact waste disposal facility license holder from accepting:

(1) more than 20,000 total cubic feet of nonparty compact waste annually, of which not more than 9,000 cubic feet may be Class B and C low-level radioactive waste, as defined by Section 401.218 (Disposal of Certain Waste); or

(2) a volume of nonparty compact waste that would exceed 30 percent of the total volume and radioactivity of the host state's compact waste that is projected by TCEQ to be accepted by the facility.

(d) Provides that the volume of waste under Subsection (c) does not affect the volume of waste to be accepted by the facility from nonhost party states.

(e) Require TCEQ to assess a surcharge for the disposal of nonparty compact waste at the compact waste disposal facility. Provides that the surcharge is \$1,000 per cubic foot and \$500 per curie.

(f) Requires that a surcharge collected under Subsection (e) be deposited to the credit of the low-level radioactive waste fund as established under Section 401.249 (Low Level Radioactive Waste Fund).

SECTION 2. Amends Section 401.245, Health and Safety Code, by amending Subsections (a) and (b) and adding Subsection (g), as follows:

(a) Requires a compact waste disposal facility license holder who receives low-level radioactive waste for disposal pursuant to the Texas Low-Level Radioactive Waste Disposal Compact (compact) established under Chapter 403 (Texas Low-Level Radioactive Waste Disposal Compact) to have collected a waste disposal fee, in an amount established by TCEQ rule, to be paid by each person who delivers low-level radioactive waste to the compact waste disposal facility for disposal.

(b) Requires TCEQ by rule to adopt and periodically revise compact waste disposal fees according to a schedule that is based on the projected annual volume of low-level radioactive waste received, the relative hazard presented by each type of low-level radioactive waste that is generated by the users of radioactive materials, and the costs identified in Section 401.246 (Waste Disposal Fee Criteria). Requires TCEQ to adopt fees for all compact waste, including nonparty compact waste as defined by Section 401.208.

(g) Prohibits TCEQ from establishing and from permitting the compact waste disposal facility license holder to establish a compact waste disposal fee before TCEQ by rule establishes the fees required by Subsection (a), and prohibits any waste from being accepted by the compact waste disposal facility until TCEQ has established the fees required by Subsection (a).

SECTION 3. Amends Section 401.248(b), Health and Safety Code, to authorize the state to enter into compacts with another state or several states for the disposal in this state of low-level radioactive waste only if the compact meets certain criteria, including limiting the total volume of all low-level radioactive waste to be disposed of in this state from the other party state or party 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.

SECTION 4. Amends Section 401.250, Health and Safety Code, as follows:

Sec. 401.250. PAYMENTS BY PARTY STATES. (a) Provides that notwithstanding any other provision of law, Act of the legislature or the executive branch, or any other

agreement, the initial payment of \$12.5 million due from each nonhost party state under Section 5.01 of the compact established under Section 403.006 is due not later than November 1, 2003. Provides that in accordance with Section 7.01 of the compact, the host state establishes the following terms and conditions for a state to become a party state to the compact after January 1, 2011:

(1) the state must make an initial payment of one-half of the total amount due to the host state under Subsection (b) and Section 5.01(b) of the compact on the later of September 1, 2011, or the date the state becomes a party state; and

(2) the state must pay the remainder of the amount owed on the later of the date of the opening of the compact waste disposal facility or the date the facility first accepts waste from the state.

(b) Provides that each state that becomes a party state:

(1) after January 1, 2011, and before September 1, 2015, shall contribute a total of \$40 million to the host state, including the initial payment under Subsection (a)(1); and

(2) on or after September 1, 2015, and before September 1, 2020, shall contribute \$60 million to the host state, including the initial payment under Subsection (a)(1).

(c) Provides that the requirements of this section apply to a state that becomes a party state after January 1, 2011, regardless of whether the state had previously been a party to the compact. Requires a state that has withdrawn as a party state to pay the previously committed fee of \$25 million in addition to the fees set in Subsection (b).

(d) Prohibits a payment made under this section from being refunded, even if a party state withdraws from the compact.

(e) Creates this subsection from existing text. Provides that this section prevails over any other law or agreement in conflict or inconsistent with this section.

SECTION 5. Requires TCEQ, in accordance with Section 4.04(5) of the Texas Low-Level Radioactive Waste Disposal Contract, to conduct, not later than September 1, 2012, a study regarding low-level radioactive waste generated by both party and nonparty states to the compact that includes a projection of the volume and radioactivity of the waste. Requires the Texas Low-Level Radioactive Waste Disposal Compact Commission to use this study to anticipate future capacity of the site. Requires TCEQ to submit the results of the study to the appropriate committees of the legislature not later than January 1, 2013.

SECTION 6. Effective date: upon passage or September 1, 2011.