

By: Lewis

H.B. No. 2184

A BILL TO BE ENTITLED

AN ACT

relating to the identification, modification, generation, and enhancement of new and existing state revenue streams from certain new and existing programs, processes, and procedures involving the state's policy in regard to the disposition of certain low-level radioactive waste and in protection of the general health, safety, and welfare of the state's citizens, including the prohibition on importation of waste of international origin and the establishment of certain fees and limits on waste disposal to maximize state revenue.

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

SECTION 1. The legislature finds that in the current climate that necessitates making difficult legislative decisions and choices involving a significant and broadly-based shortfall and deficit in state financial and budget matters that the identification, generation, and enhancement of new state revenue streams from both new and existing state programs and initiatives are urgent matters of major state policy. To this end, the legislature further finds that this urgent matter of major state policy is effectuated by the identification, modification, generation, and enhancement of new and existing state revenue streams from both new and existing programs, processes, and procedures involving the state's policy in regard to the disposition of certain low-level radioactive waste and in the

1 protection of the general health, safety, and welfare of the  
2 citizens of this state. The successful implementation of the goals  
3 of these legislative findings through this Act is found to be an  
4 urgent matter of major state policy.

5 SECTION 2. Section 401.2005, Health and Safety Code, is  
6 amended by adding Subdivisions (8) and (9) to read as follows:

7 (8) "Non-regional waste" means low-level radioactive  
8 waste that is not generated in a host state or a party state but has  
9 been approved for importation to this state by the compact  
10 commission under Section 3.05 of the compact established under  
11 Section 403.006. Except as otherwise provided by Section  
12 401.245(i), non-regional waste is considered to be compact waste as  
13 defined by Subdivision (1).

14 (9) "Waste of international origin" means low-level  
15 radioactive waste that originates outside the United States or a  
16 territory of the United States.

17 SECTION 3. Section 401.207, Health and Safety Code, is  
18 amended to read as follows:

19 Sec. 401.207. OUT-OF-STATE WASTE. (a) The compact waste  
20 disposal facility license holder may not accept low-level  
21 radioactive waste generated in another state for disposal under a  
22 license issued by the commission unless the waste is:

23 (1) accepted under a compact to which the state is a  
24 contracting party;

25 (2) federal facility waste that the license holder is  
26 licensed to dispose of under Section 401.216; or

27 (3) generated from manufactured sources or devices

1 originating in this state.

2 (b) The compact waste disposal facility license holder is  
3 entitled to accept for disposal at the compact waste disposal  
4 facility non-regional waste that is classified as Class A, Class B,  
5 or Class C low-level radioactive waste to the extent the acceptance  
6 does not diminish the disposal volume available to non-host party  
7 states.

8 (c) The acceptance for disposal of waste of international  
9 origin at the compact waste disposal facility is prohibited.

10 SECTION 4. Section 401.2445, Health and Safety Code, is  
11 amended to read as follows:

12 Sec. 401.2445. STATE FEE. (a) The compact waste disposal  
13 facility license holder each quarter shall transfer to the state  
14 general revenue fund five percent of the gross receipts from:

15 (1) compact waste received at the compact waste  
16 disposal facility; and

17 (2) any federal facility waste received at a federal  
18 facility waste disposal facility licensed under Section 401.216.

19 (b) In addition to the five percent fee payable for waste  
20 described by Subsection (a), the compact waste disposal facility  
21 license holder each quarter shall transfer to the state general  
22 revenue fund an additional five percent of the gross receipts from  
23 the disposal at the compact waste disposal facility of non-regional  
24 waste that is classified as Class A, Class B, or Class C low-level  
25 radioactive waste. As a result, the state will receive total  
26 general revenue funding in the amount of 10 percent on compact waste  
27 accepted for disposal by the compact commission from other states

1 and territories of the United States not currently parties to the  
2 compact commission.

3 (c) The fee payable under Subsection (b) does not apply to  
4 low-level radioactive waste that is generated in a host state or a  
5 party state. Instead of being subject to the additional fee  
6 described by Subsection (b), a non-party state may become a member  
7 of the Texas compact in accordance with the applicable provisions  
8 of the compact established under Section 403.006, including payment  
9 of the party state contribution of \$25 million required under  
10 Section 5.01 of the compact and payment of an additional fee of \$15  
11 million, resulting in the amount of \$40 million due to the state of  
12 Texas. One-half of the party state contribution and additional  
13 fee, a total of \$20 million that is nonrefundable, shall be paid on  
14 acceptance into the Texas compact by the Texas Legislature and on  
15 satisfaction of conditions prescribed by Section 7.02 of the  
16 compact established under Section 403.006. The balance of the  
17 party state contribution is payable on final approval by the party  
18 state's governing body and prior to any acceptance for disposal of  
19 Class A, Class B, or Class C low-level radioactive waste.

20 (d) Eligibility to become a party state under this section  
21 is also subject to the following additional terms and conditions:

22 (1) after September 1, 2015, a state that seeks to  
23 become a party state must pay a fee of \$60 million to the state  
24 general revenue fund; this subdivision expires September 1, 2020;  
25 and

26 (2) in addition to the applicable prescribed fees, a  
27 state that has previously withdrawn as a party state and that seeks

1 to become a party state at any time after September 1, 2011, must  
2 pay the previously committed and withdrawn fee of \$25 million to the  
3 state general revenue fund.

4 SECTION 5. Section 401.245, Health and Safety Code, is  
5 amended by amending Subsection (b) and adding Subsections (g), (h),  
6 and (i) to read as follows:

7 (b) The commission by rule shall adopt and periodically  
8 revise compact waste disposal fees according to a schedule that is  
9 based on the projected annual volume of low-level radioactive waste  
10 received, the relative hazard presented by each type of low-level  
11 radioactive waste that is generated by ~~[the]~~ users of radioactive  
12 materials, and is sufficient to reasonably support the commission's  
13 oversight of the compact waste disposal facility and the activities  
14 of the Texas Low-Level Radioactive Waste Disposal Compact  
15 Commission ~~[the costs identified in Section 401.246].~~

16 (g) The compact waste disposal fees are in addition to the  
17 maximum disposal rates established by the commission under Sections  
18 401.245-401.247 for the disposal of low-level radioactive waste  
19 generated in a host state or party state at the compact waste  
20 disposal facility. To maximize general revenue for the state, and  
21 notwithstanding any provision in this code to the contrary, the  
22 compact waste disposal facility license holder may contract with a  
23 willing generator for the disposal of low-level radioactive waste  
24 at the compact waste disposal facility at fees and rates that  
25 reflect the mutual agreement of the license holder and generator  
26 and may dispose of waste pursuant to the contract at any time prior  
27 to the adoption by the commission of compact waste disposal fees or

1 maximum disposal rates.

2 (h) Compact generators, located in the compact states of  
3 Texas and Vermont, are not required to enter into any contract with  
4 the compact waste disposal facility license holder prior to the  
5 adoption by the commission of compact waste disposal fees or  
6 maximum disposal rates. The commission's executive director is  
7 granted interim rate-making authority and is otherwise authorized  
8 to establish appropriate interim rate-making to facilitate the  
9 implementation of this subsection.

10 (i) Notwithstanding any provision in this code to the  
11 contrary, the disposal of non-regional waste at the compact waste  
12 disposal facility may not at any time be subject to maximum disposal  
13 rates established by the commission. Additionally, in establishing  
14 the maximum disposal rates for generators in the host state and  
15 party state, the commission shall assume that non-regional waste  
16 will be accepted for disposal at the compact waste disposal  
17 facility and may not consider the historical operating losses  
18 incurred by the compact waste disposal facility license holder  
19 prior to operations. Those losses shall be recovered by the compact  
20 waste facility license holder solely through revenues from the  
21 disposal of non-regional waste. The revenues above the maximum  
22 disposal rates established under Sections 401.245 - 401.247 may not  
23 be applied to generators in the host state and party state.

24 SECTION 6. This Act takes effect immediately if it receives  
25 a vote of two-thirds of all the members elected to each house, as  
26 provided by Section 39, Article III, Texas Constitution. If this  
27 Act does not receive the vote necessary for immediate effect, this

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1 Act takes effect September 1, 2011.