

By: Seliger, Hinojosa

S.B. No. 1504

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the disposal of nonparty compact low-level radioactive  
3 waste at the Texas Low-Level Radioactive Waste Disposal Compact  
4 waste disposal facility.

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

6 SECTION 1. Subchapter F, Chapter 401, Health and Safety  
7 Code, is amended by adding Section 401.208 to read as follows:

8 Sec. 401.208. LIMITATIONS ON NONPARTY COMPACT WASTE.

9 (a) In this section:

10 (1) "Compact" means the compact under Section 403.006.

11 (2) "Nonparty compact waste" means low-level  
12 radioactive waste accepted from a state other than a party state as  
13 authorized by Section 3.05(6) of the compact.

14 (b) The compact waste disposal facility license holder may  
15 not accept for disposal at the compact waste disposal facility  
16 nonparty compact waste that:

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

19 (2) does not meet the waste characteristics and waste  
20 forms for disposal applicable to other compact waste as set forth by  
21 the commission in the compact waste disposal facility license.

22 (c) The compact waste disposal facility license holder may  
23 not accept:

24 (1) more than 20,000 total cubic feet of nonparty

1 compact waste annually, of which not more than 9,000 cubic feet may  
2 be Class B and C low-level radioactive waste, as defined by Section  
3 401.218; or

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

8 (d) The volume of waste under Subsection (c) does not affect  
9 the volume of waste to be accepted by the facility from nonhost  
10 party states.

11 (e) The commission shall assess a surcharge for the disposal  
12 of nonparty compact waste at the compact waste disposal facility.  
13 The surcharge is:

14 (1) \$1,000 per cubic foot; and

15 (2) \$500 per curie.

16 (f) A surcharge collected under Subsection (e) shall be  
17 deposited to the credit of the low-level radioactive waste fund as  
18 established under Section 401.249.

19 SECTION 2. Section 401.245, Health and Safety Code, is  
20 amended by amending Subsections (a) and (b) and adding Subsection  
21 (g) to read as follows:

22 (a) A compact waste disposal facility license holder who  
23 receives low-level radioactive waste for disposal pursuant to the  
24 Texas Low-Level Radioactive Waste Disposal Compact established  
25 under Chapter 403 shall have collected a waste disposal fee, in an  
26 amount established by commission rule, to be paid by each person who  
27 delivers low-level radioactive waste to the compact waste disposal

1 facility for disposal.

2 (b) The commission by rule shall adopt and periodically  
3 revise compact waste disposal fees according to a schedule that is  
4 based on the projected annual volume of low-level radioactive waste  
5 received, the relative hazard presented by each type of low-level  
6 radioactive waste that is generated by the users of radioactive  
7 materials, and the costs identified in Section 401.246. The  
8 commission shall adopt fees for all compact waste, including  
9 nonparty compact waste as defined by Section 401.208.

10 (g) The commission may not establish and may not permit the  
11 compact waste disposal facility license holder to establish a  
12 compact waste disposal fee before the commission by rule  
13 establishes the fees required by Subsection (a), and no waste may be  
14 accepted by the compact waste disposal facility until the  
15 commission has established the fees required by Subsection (a).

16 SECTION 3. Subsection (b), Section 401.248, Health and  
17 Safety Code, is amended to read as follows:

18 (b) The state may enter into compacts with another state or  
19 several states for the disposal in this state of low-level  
20 radioactive waste only if the compact:

21 (1) limits the total volume of all low-level  
22 radioactive waste to be disposed of in this state from the other  
23 party state or party states to 20 percent of the annual average of  
24 low-level radioactive waste that the governor projects will be  
25 produced in this state from the years 1995 through 2045;

26 (2) gives this state full administrative control over  
27 management and operation of the compact waste disposal facility;

1           (3) requires the other state or states to join this  
2 state in any legal action necessary to prevent states that are not  
3 members of the compact from disposing of low-level radioactive  
4 waste at the compact waste disposal facility;

5           (4) allows this state to charge a fee for the disposal  
6 of low-level radioactive waste at the compact waste disposal  
7 facility;

8           (5) requires the other state or states to join in any  
9 legal action involving liability from the compact waste disposal  
10 facility;

11           (6) requires the other state or states to share the  
12 full cost of constructing the compact waste disposal facility;

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

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

20           (9) is agreed to by the Texas Legislature, the  
21 legislature of the other state or states, and the United States  
22 Congress; and

23           (10) complies with all applicable federal law.

24           SECTION 4. Section 401.250, Health and Safety Code, is  
25 amended to read as follows:

26           Sec. 401.250. PAYMENTS                           BY                           PARTY  
27 STATES. (a) Notwithstanding any other provision of law, Act of

1 the legislature or the executive branch, or any other agreement,  
2 the initial payment of \$12.5 million due from each nonhost party  
3 state under Section 5.01 of the compact established under Section  
4 403.006 is due not later than November 1, 2003. In accordance with  
5 Section 7.01 of the compact, the host state establishes the  
6 following terms and conditions for a state to become a party state  
7 to the compact after January 1, 2011:

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

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

16 (b) Each state that becomes a party state:

17 (1) after January 1, 2011, and before September 1,  
18 2015, shall contribute a total of \$40 million to the host state,  
19 including the initial payment under Subsection (a)(1); and

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

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

1        (d) A payment made under this section may not be refunded,  
2 even if a party state withdraws from the compact.

3        (e) This section prevails over any other law or agreement in  
4 conflict or inconsistent with this section.

5        SECTION 5. In accordance with Section 4.04(5) of the Texas  
6 Low-Level Radioactive Waste Disposal Contract, the Texas  
7 Commission on Environmental Quality shall conduct, not later than  
8 September 1, 2012, a study regarding low-level radioactive waste  
9 generated by both party and nonparty states to the compact that  
10 includes a projection of the volume and radioactivity of the waste.  
11 The Texas Low-Level Radioactive Waste Disposal Compact Commission  
12 shall use this study to anticipate future capacity of the site. The  
13 Texas Commission on Environmental Quality shall submit the results  
14 of the study to the appropriate committees of the legislature not  
15 later than January 1, 2013.

16        SECTION 6. This Act takes effect immediately if it receives  
17 a vote of two-thirds of all the members elected to each house, as  
18 provided by Section 39, Article III, Texas Constitution. If this  
19 Act does not receive the vote necessary for immediate effect, this  
20 Act takes effect September 1, 2011.