

Amend SB 347 (house committee report) as follows:

Insert the following new sections in the bill and renumber remaining sections accordingly:

SECTION \_\_\_\_\_. Subsection (d), Section 401.052, Health and Safety Code, as amended by Chapters 580 (HB 1678) and 1067 (HB 1567), Acts of the 78th Legislature, Regular Session, 2003, is reenacted and amended to read as follows:

(d) Fees assessed under this section to provide additional revenue to support the activities of the Texas Low-Level Radioactive Waste Disposal Compact Commission:

(1) may not exceed \$10 per cubic foot of shipped low-level radioactive waste;

(2) shall be collected by the department and deposited to the credit of the perpetual care account;

(3) shall be used ~~[exclusively]~~ by the department for emergency planning for and response to transportation accidents involving low-level radioactive waste, including first responder training in counties through which transportation routes are designated in accordance with Subsection (a); and

(4) may not be collected on waste disposed of at a federal facility waste disposal facility ~~[shall be suspended when the amount of fees collected reaches \$500,000, except that if the balance of fees collected is reduced to \$350,000 or less, the assessments shall be reinstituted to bring the balance of fees collected to \$500,000].~~

SECTION \_\_\_\_\_. Subsection (a), Section 401.109, Health and Safety Code, is amended to read as follows:

(a) The department or commission may require a holder of a license issued by the agency to provide security acceptable to the agency to assure performance of the license holder's obligations under this chapter. The department ~~[or commission]~~ shall deposit security provided to the department under this section to the credit of the perpetual care account. The department ~~[or commission]~~ by rule shall provide that any evidence of security must be made payable to the credit of the perpetual care account. The commission shall deposit security provided to the commission under this section to the credit of the environmental radiation and

perpetual care account. The commission shall provide that security must be made payable to the credit of the environmental radiation and perpetual care account.

SECTION \_\_\_\_\_. Section 401.152, Health and Safety Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) The department [~~agency~~] shall use the security provided by the license holder to pay the costs of actions that are taken or that are to be taken under this section. The department [~~agency~~] shall send to the comptroller a copy of its order together with necessary written requests authorizing the comptroller to:

- (1) enforce security supplied by the license holder;
- (2) convert an amount of security into cash, as necessary; and
- (3) disburse from the security in the radiation and perpetual care account the amount necessary to pay the costs.

(c) The commission shall use the security provided by the license holder to pay the costs of actions taken or to be taken under this section, including costs associated with the Texas Low-Level Radioactive Waste Disposal Compact Commission. The commission shall send to the comptroller a copy of its order together with necessary written requests authorizing the comptroller to:

- (1) enforce security supplied by the license holder;
- (2) convert an amount of security to cash, as necessary; and
- (3) disburse from the security in the environmental radiation and perpetual care account the amount necessary to pay the costs.

SECTION \_\_\_\_\_. Section 401.207(h), Health and Safety Code, is amended to read as follows:

(h) A surcharge collected under Subsection (g) shall be deposited to the credit of the environmental radiation and perpetual care account [~~low-level radioactive waste fund~~].

SECTION \_\_\_\_\_. Section 401.208, Health and Safety Code, is amended by amending Subsection (c) and adding Subsection (f) to read as follows:

(c) Not later than December 1, 2016 [~~2012~~], the commission shall submit a final report of the results of the study to the standing committees of the senate and the house of representatives with jurisdiction over the disposal of low-level radioactive waste.

SECTION \_\_\_\_\_. Subsection (e), Section 401.249, Health and Safety Code, is amended to read as follows:

(e) The commission may transfer money from the low-level radioactive waste fund to the environmental radiation and perpetual care account to make payments required by the commission under Section 401.303.

SECTION \_\_\_\_\_. Subsection (d), Section 401.301, Health and Safety Code, is amended to read as follows:

(d) The commission and department shall [~~may~~] require that each person who holds a specific license issued by the agency pay to the agency an additional five percent of the appropriate fee set under Subsection (b). Fees collected by the department under this subsection shall be deposited to the credit of the perpetual care account. Fees collected by the commission under this subsection shall be deposited to the environmental radiation and perpetual care account. The fees are not refundable. The holder of a specific license authorizing the extraction, processing, or concentration of uranium or thorium from ore is not required to pay the additional fee described by this subsection before the beginning of operations under the license.

SECTION \_\_\_\_\_. Subsection (g), Section 401.303, Health and Safety Code, is amended to read as follows:

(g) If a license holder satisfies the obligations under this chapter, the issuing agency shall have the comptroller promptly refund to the license holder from the perpetual care account or the environmental radiation and perpetual care account, as applicable, the excess of the amount of all payments made by the license holder to the issuing agency and the investment earnings of those payments over the amount determined to be required for the continuing maintenance and surveillance of land, buildings, and radioactive material conveyed to the state.

SECTION \_\_\_\_\_. Subsections (b), (c), (d), (e), (f), and (g), Section 401.305, Health and Safety Code, are amended to read as

follows:

(b) The department [~~and commission each~~] shall deposit to the credit of the perpetual care account money and security it receives [~~they receive~~] under this chapter, including an administrative penalty collected by the department under Sections 401.384-401.390 but excluding fees collected under Sections 401.301(a)-(c) and 401.302. Interest earned on money in the perpetual care account shall be credited to the perpetual care account.

(c) Money and security in the perpetual care account may be administered by the department [~~or commission~~] only for storage, maintenance, and distribution of mammography medical records or the decontamination, decommissioning, stabilization, reclamation, maintenance, surveillance, control, storage, and disposal of radioactive substances for the protection of the public health and safety and the environment under this chapter and for refunds under Section 401.303.

(d) Money and security in the perpetual care account may not be used for normal operating expenses of the department [~~or commission~~].

(e) The department [~~or commission~~] may use money in the perpetual care account to pay for measures:

(1) to prevent or mitigate the adverse effects of abandonment of radioactive substances, default on a lawful obligation, insolvency, or other inability by the holder of a license issued by the department [~~or commission~~] to meet the requirements of this chapter or of department [~~or commission~~] rules;

(2) to assure the protection of the public health and safety and the environment from the adverse effects of ionizing radiation; and

(3) to protect the health and safety of mammography patients by assuring mammography medical records are made available to affected patients.

(f) The department [~~or commission~~] may provide, by the terms of a contract or lease entered into between the department [~~or commission~~] and any person, by the terms of a mammography

certification issued by the department [~~or commission~~] to any person, or by the terms of a license issued to any person, for the storage, maintenance, and distribution of mammography medical records. The department [~~or commission~~] may provide, by the terms of a contract or lease entered into between the department [~~or commission~~] and any person or by the terms of a license issued by the department [~~or commission~~] to any person, for the decontamination, closure, decommissioning, reclamation, surveillance, or other care of a site or facility subject to department [~~or commission~~] jurisdiction under this chapter as needed to carry out the purpose of this chapter.

(g) The existence of the perpetual care account does not make the department [~~or commission~~] liable for the costs of storage, maintenance, and distribution of mammography medical records arising from a mammography certification holder's failure to store, maintain, and make available mammography medical records or for the costs of decontamination, transfer, transportation, reclamation, surveillance, or disposal of radioactive substances arising from a license holder's abandonment of radioactive substances, default on a lawful obligation, insolvency, or inability to meet the requirements of this chapter or of department [~~or commission~~] rules.

SECTION \_\_\_\_\_. Subchapter H, Chapter 401, Health and Safety Code, is amended by adding Sections 401.306 and 401.307 to read as follows:

Sec. 401.306. ENVIRONMENTAL RADIATION AND PERPETUAL CARE ACCOUNT. (a) The environmental radiation and perpetual care account is an account in the general revenue fund to support the activities of the Texas Low-Level Radioactive Waste Disposal Compact Commission.

(b) The commission shall deposit to the credit of the environmental radiation and perpetual care account money and security it receives under this chapter, including fees collected under Section 401.301(d). Interest earned on money in the environmental radiation and perpetual care account shall be credited to the environmental radiation and perpetual care account.

(c) Money and security in the environmental radiation and

perpetual care account may be administered by the commission only for the decontamination, decommissioning, stabilization, reclamation, maintenance, surveillance, control, storage, and disposal of radioactive substances for the protection of the public health and safety and the environment under this chapter and for refunds under Section 401.303.

(d) Money and security in the environmental radiation and perpetual care account may not be used for normal operating expenses of the commission.

(e) The commission may use money in the environmental radiation and perpetual care account to pay for measures:

(1) to prevent or mitigate the adverse effects of abandonment of radioactive substances, default on a lawful obligation, insolvency, or other inability by the holder of a license issued by the commission to meet the requirements of this chapter or of commission rules; and

(2) to ensure the protection of the public health and safety and the environment.

(f) The commission may provide, by the terms of a contract or lease entered into between the commission and any person, or by the terms of a license issued to any person, for the decontamination, closure, decommissioning, reclamation, surveillance, or other care of a site or facility subject to commission jurisdiction under this chapter as needed to carry out the purposes of this chapter.

(g) The existence of the environmental radiation and perpetual care account does not make the commission liable for the costs of decontamination, transfer, transportation, reclamation, surveillance, or disposal of radioactive substances arising from a license holder's abandonment of radioactive substances, default on a lawful obligation, insolvency, or inability to meet the requirements of this chapter or of commission rules.

Sec. 401.307. PERPETUAL CARE ACCOUNT AND ENVIRONMENTAL RADIATION AND PERPETUAL CARE ACCOUNT CAPS. (a) The fees imposed under Sections 401.052(d) and 401.301(d) are suspended when the sum of the balances of the perpetual care account and the environmental radiation and perpetual care account reaches \$100 million. The

fees are reinstated when the sum of the balances of the perpetual care account and the environmental radiation and perpetual care account falls to \$50 million or less.

(b) The surcharge collected under Section 401.207(g) is collected without regard to the balances of the perpetual care account and the environmental radiation and perpetual care account.

(c) Notwithstanding Subsection (a), a fee imposed by the commission under Section 401.301(d) on the holder of a license authorizing the extraction, processing, or concentration of uranium or thorium from ore is suspended when the amount in the environmental radiation and perpetual care account attributable to those fees reaches \$2 million. If the amount in that account attributable to those fees is reduced to \$1.5 million or less, the fee is reinstated until the amount reaches \$2 million.

(d) Notwithstanding Subsection (a), a fee imposed under Section 401.052(d) is suspended from imposition against a party state compact waste generator when the amount in the perpetual care account attributable to those fees reaches \$500,000. If the amount in that account attributable to those fees is reduced to \$350,000 or less, the fee is reinstated until the amount reaches \$500,000.

(e) This section does not relieve a generator from liability for a transportation accident involving low-level radioactive waste.

SECTION \_\_\_\_\_. The following sections of the Health and Safety Code are repealed:

- (1) Subsection (h), Section 401.245;
- (2) Subsection (b), Section 401.2455;
- (3) Subsection (e), Section 401.301; and
- (4) Section 403.0052.

SECTION \_\_\_\_\_. (a) As soon as practicable after the effective date of this Act, the Texas Commission on Environmental Quality shall adopt rules to implement Subsection (d-1), Section 401.207, and Subsection (d), Section 401.218, Health and Safety Code, as added by this Act.

(b) As soon as practicable after the effective date of this Act but not later than the first anniversary of the effective date of this Act, the Texas Commission on Environmental Quality shall

adopt rules to implement Subsection (b), Section 401.2456, Health and Safety Code, as amended by this Act, and Subsection (f), Section 401.2456, Health and Safety Code, as added by this Act.

(c) As soon as practicable after the effective date of this Act but not later than January 1, 2014, the Texas Commission on Environmental Quality and the Department of State Health Services shall update the portion of the memorandum of understanding between the two agencies under Section 401.069, Health and Safety Code, that governs each agency's role regarding the regulation and oversight of radioactive materials and sources of radiation.