

AN ACT

relating to funding for the operations of the Texas Low-Level Radioactive Waste Disposal Compact Commission and to the disposal of certain low-level radioactive waste.

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

SECTION 1. Subsection (d), Section 401.052, Health and Safety Code, as amended by Chapters 580 (H.B. 1678) and 1067 (H.B. 1567), Acts of the 78th Legislature, Regular Session, 2003, is reenacted and amended to read as follows:

(d) Fees assessed under this section:

(1) may provide additional revenue to support the activities of the Texas Low-Level Radioactive Waste Disposal Compact Commission;

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

(3) [~~2~~] shall be collected by the department and deposited to the credit of the perpetual care account;

(4) [~~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

(5) [~~4~~] may not be collected on waste disposed of

1 at a federal waste disposal facility [~~shall be suspended when the~~  
2 ~~amount of fees collected reaches \$500,000, except that if the~~  
3 ~~balance of fees collected is reduced to \$350,000 or less, the~~  
4 ~~assessments shall be reinstated to bring the balance of fees~~  
5 ~~collected to \$500,000~~].

6 SECTION 2. Subsection (a), Section 401.109, Health and  
7 Safety Code, is amended to read as follows:

8 (a) The department or commission may require a holder of a  
9 license issued by the agency to provide security acceptable to the  
10 agency to assure performance of the license holder's obligations  
11 under this chapter. The department [~~or commission~~] shall deposit  
12 security provided to the department under this section to the  
13 credit of the perpetual care account. The department [~~or~~  
14 ~~commission~~] by rule shall provide that any evidence of security  
15 must be made payable to the credit of the perpetual care account.  
16 The commission shall deposit security provided to the commission  
17 under this section to the credit of the environmental radiation and  
18 perpetual care account. The commission shall provide that security  
19 must be made payable to the credit of the environmental radiation  
20 and perpetual care account.

21 SECTION 3. Section 401.152, Health and Safety Code, is  
22 amended by amending Subsection (b) and adding Subsection (c) to  
23 read as follows:

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

1 necessary written requests authorizing the comptroller to:

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

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

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

20 SECTION 4. Section 401.207, Health and Safety Code, is  
21 amended by adding Subsections (d-1), (d-2), (d-3), and (e-2) and  
22 amending Subsections (e), (e-1), and (h) to read as follows:

23 (d-1) Beginning September 1, 2015, the compact waste  
24 disposal facility license holder may accept nonparty compact waste  
25 for disposal at the facility only if:

- 26 (1) the waste has been volume-reduced, if eligible, by
- 27 at least a factor of three in a manner consistent with this

1 subchapter as provided by commission rule; and

2 (2) the compact waste disposal facility license holder  
3 collects a surcharge under Subsection (g).

4 (d-2) If volume reduction of a low-level radioactive waste  
5 stream would result in a change of waste classification to a class  
6 higher than Class C, the payment of the fee and compliance with  
7 other requirements of Subsection (d-1) do not apply.

8 (d-3) The commission may assess an additional fee on a  
9 nonparty compact waste generator for failing to comply with the  
10 volume reduction requirements established under this section. The  
11 fee shall be deposited to the credit of the low-level radioactive  
12 waste fund under Section 401.249. Fees deposited under this  
13 subsection may be transferred and used only to support the  
14 operations of the Texas Low-Level Radioactive Waste Disposal  
15 Compact Commission under Section 401.251.

16 (e) The compact waste disposal facility license holder may  
17 not collect a fee under this section or enter into a contract for  
18 the disposal of nonparty low-level radioactive waste that has been  
19 designated as Class A low-level radioactive waste under 10 C.F.R.  
20 Section 61.55 and commission rule unless the waste is  
21 containerized. The compact waste disposal facility license holder  
22 may collect a fee and dispose of:

23 (1) not more than the greater of:

24 (A) 1.167 million curies of nonparty compact  
25 waste; or

26 (B) an amount of nonparty compact waste equal to  
27 30 percent of the initial licensed capacity of the facility; and

1           (2) not more than 275,000 curies of nonparty compact  
2 waste in any fiscal year [~~accept more than 50,000 total cubic feet~~  
3 ~~of nonparty compact waste annually. The compact waste disposal~~  
4 ~~facility license holder may not accept more than 120,000 curies of~~  
5 ~~nonparty compact waste annually, except that in the first year the~~  
6 ~~license holder may accept 220,000 curies]~~.

7           (e-1) The legislature by general law may establish revised  
8 limits under Subsection (e) after considering the results of the  
9 study under Section 401.208.

10           (e-2) [~~(e-1)~~] The commission's executive director, on  
11 completion of the study under Section 401.208, may prohibit the  
12 license holder from accepting any additional nonparty compact waste  
13 if the commission determines from the study that the capacity of the  
14 facility will be limited, regardless of whether the limit under  
15 Subsection (f) has been reached.

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

19           SECTION 5. Subsection (c), Section 401.208, Health and  
20 Safety Code, is amended to read as follows:

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

25           SECTION 6. Section 401.218, Health and Safety Code, is  
26 amended by adding Subsection (d) to read as follows:

27           (d) In addition to the fees charged to support the

1 operations of the Texas Low-Level Radioactive Waste Disposal  
2 Compact Commission, the commission's executive director may charge  
3 a license holder a fee to cover the administrative costs of the  
4 executive director's action to adjust, correct, or otherwise modify  
5 a license.

6 SECTION 7. Section 401.249, Health and Safety Code, is  
7 amended by amending Subsection (e) and adding Subsection (f) to  
8 read as follows:

9 (e) The commission may transfer money from the low-level  
10 radioactive waste fund to the environmental radiation and perpetual  
11 care account to make payments required by the commission under  
12 Section 401.303. The commission shall notify the Texas Low-Level  
13 Radioactive Waste Disposal Compact Commission of an action the  
14 commission takes under this subsection.

15 (f) The commission shall deposit in the account the portion  
16 of the fee collected under Section 401.245 that is calculated to  
17 support the activities of the Texas Low-Level Radioactive Waste  
18 Disposal Compact Commission as required by Section 4.04(4), Texas  
19 Low-Level Radioactive Waste Disposal Compact (Section 403.006 of  
20 this code). The fee shall be assessed for party state compact waste  
21 and nonparty compact waste.

22 SECTION 8. Subsections (b) and (c), Section 401.251, Health  
23 and Safety Code, are amended to read as follows:

24 (b) On the first day of each state fiscal year, the  
25 comptroller shall transfer from the low-level radioactive waste  
26 fund to the low-level radioactive waste disposal compact commission  
27 account an amount equal to the amount appropriated for that state

1 fiscal year. On September 30 of each fiscal year, the comptroller  
2 shall transfer the unexpended and unencumbered money from the  
3 previous fiscal year in the low-level radioactive waste disposal  
4 compact commission account to the low-level radioactive waste fund  
5 ~~[The commission shall deposit in the account the portion of the fee~~  
6 ~~collected under Section 401.245 that is calculated to support the~~  
7 ~~activities of the Texas Low-Level Radioactive Waste Disposal~~  
8 ~~Compact Commission as required by Section 4.04(4), Texas Low-Level~~  
9 ~~Radioactive Waste Disposal Compact (Section 403.006 of this code)].~~

10 (c) Money in the low-level radioactive waste disposal  
11 compact commission account may be used ~~[appropriated]~~ only to  
12 support the operations of the Texas Low-Level Radioactive Waste  
13 Disposal Compact Commission.

14 SECTION 9. Subsection (d), Section 401.301, Health and  
15 Safety Code is amended to read as follows:

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

1 SECTION 10. Subsection (g), Section 401.303, Health and  
2 Safety Code, is amended to read as follows:

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

12 SECTION 11. Subsections (b), (c), (d), (e), (f), and (g),  
13 Section 401.305, Health and Safety Code, are amended to read as  
14 follows:

15 (b) The department [~~and commission each~~] shall deposit to  
16 the credit of the perpetual care account money and security it  
17 receives [~~they receive~~] under this chapter, including an  
18 administrative penalty collected by the department under Sections  
19 401.384-401.390 but excluding fees collected under Sections  
20 401.301(a)-(c) and 401.302. Interest earned on money in the  
21 perpetual care account shall be credited to the perpetual care  
22 account.

23 (c) Money and security in the perpetual care account may be  
24 administered by the department [~~or commission~~] only for storage,  
25 maintenance, and distribution of mammography medical records or the  
26 decontamination, decommissioning, stabilization, reclamation,  
27 maintenance, surveillance, control, storage, and disposal of



1 radioactive substances for the protection of the public health and  
2 safety and the environment under this chapter and for refunds under  
3 Section 401.303.

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

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

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

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

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

21 (f) The department [~~or commission~~] may provide, by the terms  
22 of a contract or lease entered into between the department [~~or~~  
23 ~~commission~~] and any person, by the terms of a mammography  
24 certification issued by the department [~~or commission~~] to any  
25 person, or by the terms of a license issued to any person, for the  
26 storage, maintenance, and distribution of mammography medical  
27 records. The department [~~or commission~~] may provide, by the terms

1 of a contract or lease entered into between the department [~~or~~  
2 ~~commission~~] and any person or by the terms of a license issued by  
3 the department [~~or commission~~] to any person, for the  
4 decontamination, closure, decommissioning, reclamation,  
5 surveillance, or other care of a site or facility subject to  
6 department [~~or commission~~] jurisdiction under this chapter as  
7 needed to carry out the purpose of this chapter.

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

19 SECTION 12. Subchapter H, Chapter 401, Health and Safety Code,  
20 is amended by adding Sections 401.306 and 401.307 to read as follows:

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

26 (b) The commission shall deposit to the credit of the  
27 environmental radiation and perpetual care account money and

1 security it receives under this chapter, including fees collected  
2 under Section 401.301(d). Interest earned on money in the  
3 environmental radiation and perpetual care account shall be  
4 credited to the environmental radiation and perpetual care account.

5 (c) Money and security in the environmental radiation and  
6 perpetual care account may be administered by the commission only  
7 for the decontamination, decommissioning, stabilization,  
8 reclamation, maintenance, surveillance, control, storage, and  
9 disposal of radioactive substances for the protection of the public  
10 health and safety and the environment under this chapter and for  
11 refunds under Section 401.303.

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

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

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

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

24 (f) The commission may provide, by the terms of a contract  
25 or lease entered into between the commission and any person, or by  
26 the terms of a license issued to any person, for the  
27 decontamination, closure, decommissioning, reclamation,

1 surveillance, or other care of a site or facility subject to  
2 commission jurisdiction under this chapter as needed to carry out  
3 the purposes of this chapter.

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

11 Sec. 401.307. PERPETUAL CARE ACCOUNT AND ENVIRONMENTAL  
12 RADIATION AND PERPETUAL CARE ACCOUNT CAPS. (a) The fees imposed  
13 under Sections 401.052(d) and 401.301(d) are suspended when the sum  
14 of the balances of the perpetual care account and the environmental  
15 radiation and perpetual care account reaches \$100 million. The  
16 fees are reinstated when the sum of the balances of the perpetual  
17 care account and the environmental radiation and perpetual care  
18 account falls to \$50 million or less.

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

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

1 attributable to those fees is reduced to \$1.5 million or less, the  
2 fee is reinstated until the amount reaches \$2 million.

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

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

12 SECTION 13. The following sections of the Health and Safety  
13 Code are repealed:

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

18 SECTION 14. (a) As soon as practicable after the effective  
19 date of this Act, the Texas Commission on Environmental Quality  
20 shall adopt rules to implement Subsection (d-1), Section 401.207,  
21 and Subsection (d), Section 401.218, Health and Safety Code, as  
22 added by this Act.

23 (b) As soon as practicable after the effective date of this  
24 Act but not later than January 1, 2014, the Texas Commission on  
25 Environmental Quality and the Department of State Health Services  
26 shall update the portion of the memorandum of understanding between  
27 the two agencies under Section 401.069, Health and Safety Code,

1 that governs each agency's role regarding the regulation and  
2 oversight of radioactive materials and sources of radiation.

3 SECTION 15. The changes in law made by this Act apply only  
4 to a contract for the disposal of compact waste or nonparty compact  
5 waste that is signed on or after the effective date of this Act. A  
6 contract signed before the effective date of this Act is governed by  
7 the law in effect on the date the contract was signed, and the  
8 former law is continued in effect for that purpose.

9 SECTION 16. This Act takes effect September 1, 2013.

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House

I hereby certify that S.B. No. 347 passed the Senate on March 21, 2013, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendments on May 24, 2013, by the following vote: Yeas 26, Nays 5.

\_\_\_\_\_  
Secretary of the Senate

I hereby certify that S.B. No. 347 passed the House, with amendments, on May 22, 2013, by the following vote: Yeas 130, Nays 15, one present not voting.

\_\_\_\_\_  
Chief Clerk of the House

Approved:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor