86R14189 SLB-F

By:  Blanco H.B. No. 4089

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of radioactive waste.

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

SECTION 1.  Sections 401.052(b), (d), (e), and (f), Health and Safety Code, are amended to read as follows:

(b)  Rules adopted under this section for [~~low-level~~] radioactive waste must:

(1)  to the extent practicable, be compatible with United States Department of Transportation and federal commission regulations relating to the transportation of [~~low-level~~] radioactive waste;

(2)  require each shipper and carrier of [~~low-level~~] radioactive waste to:

(A)  adopt an emergency plan approved by the department for responding to transportation accidents; and

(B)  provide notice of shipping to:

(i)  the department; and

(ii)  the local emergency planning committee for each county through which the waste will travel;

(3)  require the notification and reporting of accidents to the department and to local emergency planning committees in the county where the accident occurs;

(4)  require each shipper to adopt a quality control program approved by the department to verify that shipping containers are suitable for shipment to a licensed disposal facility;

(5)  assess a fee on shippers for shipments to a Texas [~~low-level~~] radioactive waste disposal or storage facility [~~of low-level radioactive waste originating in Texas or out-of-state~~]; and

(6)  require a carrier to carry liability insurance in an amount the executive commissioner determines is sufficient to cover damages likely to be caused by a shipping accident in accordance with regulations imposed by the United States Department of Transportation and the federal commission.

(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 be assessed in an amount determined by the commission as adequate to remediate a potential radiation release and related damages [~~not exceed $10 per cubic foot of shipped low-level radioactive waste~~];

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

(4)  shall be used 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) may not be collected on waste disposed of at a federal waste disposal facility~~].

(e)  Money expended from the perpetual care account to respond to accidents involving [~~low-level~~] radioactive waste must be reimbursed to the perpetual care account by the responsible shipper or carrier according to rules adopted by the executive commissioner.

(f)  In this section, "shipper" means a person who generates [~~low-level~~] radioactive waste and ships or arranges with others to ship the waste to a disposal site.

SECTION 2.  Subchapter C, Chapter 401, Health and Safety Code, is amended by adding Section 401.0565 to read as follows:

Sec. 401.0565.  CONTINGENCY PLANS. After opportunity for public hearing and comment, the commission shall develop and adopt by rule a set of conditions that would trigger the enactment of a contingency plan. The contingency plan must include rules and procedures for addressing:

(1)  the financial impairment or failure of the holder of a license issued under this chapter;

(2)  the abandonment of a site or operation governed by this chapter;

(3)  failure to maintain the security or radiation-free status of a site licensed under this chapter;

(4)  an uncontrolled or inadequately controlled radiation release; and

(5)  threats to public health and safety arising from activity governed by this chapter.

SECTION 3.  The heading to Section 401.071, Health and Safety Code, is amended to read as follows:

Sec. 401.071.  GENERAL POWERS OF COMMISSION IN RELATION TO [~~LOW-LEVEL~~] RADIOACTIVE WASTE.

SECTION 4.  Section 401.071, Health and Safety Code, is amended by adding Subsection (c) to read as follows:

(c)  The commission shall develop standards for and ensure the implementation of biannual, independent inspections of a radioactive waste site. The commission shall contract for the inspections, the cost of which shall be paid by the license holder of the inspected facility. The commission shall choose a new third-party inspector at least every six years. The inspection shall:

(1)  verify waste volumes and curies in the facility;

(2)  monitor safety;

(3)  check for radiation releases on and off site; and

(4)  conduct financial audits to determine the adequacy of financial assurance held by the facility.

SECTION 5.  Section 401.108(a), Health and Safety Code, is amended to read as follows:

(a)  Before a license is issued or renewed by the commission, the applicant shall demonstrate to the commission that the applicant is financially qualified to conduct the licensed activity, including any required decontamination, decommissioning, reclamation, and disposal, by posting security acceptable to the commission. The commission shall adjust the amount of financial security to account for information received from the state auditor.

SECTION 6.  (a) The state auditor shall review:

(1)  the federal license application for consolidated interim storage of high-level radioactive waste in this state; and

(2)  proposals to expand the amount, volume, curies, or types of radioactive waste to be stored or disposed of in this state.

(b)  The state auditor shall analyze:

(1)  the potential cost, both with and without the inclusion of federal money, of remediating the worst-case scenario accident related to:

(A)  the transportation of radioactive waste; and

(B)  radiation releases at or near the waste site;

(2)  the potential economic and health effects of a radiation release to businesses and residents in communities near a site licensed under Chapter 401, Health and Safety Code, and along transportation routes for radioactive waste; and

(3)  any other matter the state auditor determines is relevant to a matter related to the review under Subsection (a) of this section.

(c)  The analysis under Subsection (b)(1) of this section must be based on:

(1)  studies of transportation accident costs prepared for the State of Nevada in regard to Yucca Mountain; and

(2)  costs incurred for the remediation of radiation at existing private and federal radioactive waste facilities.

(d)  Not later than December 1, 2020, the state auditor shall make available a report containing the results of the review and analysis required by this section.

SECTION 7.  The Texas Commission on Environmental Quality may not approve a change to a license issued under Chapter 401, Health and Safety Code, that relates to the amount, volume, curies, or type of radioactive waste accepted by a facility in this state until the 30th day after the later of:

(1)  the date the report required by Section 6 of this Act is made available by the state auditor; or

(2)  the date by which the Texas Commission on Environmental Quality has:

(A)  completed the contingency plan required by Section 401.0565, Health and Safety Code, as added by this Act; and

(B)  adjusted financial assurance requirements according to Section 401.108, Health and Safety Code, as amended by this Act.

SECTION 8.  This Act takes effect September 1, 2019.