

By: Landgraf

H.B. No. 2269

Substitute the following for H.B. No. 2269:

By: Lozano

C.S.H.B. No. 2269

A BILL TO BE ENTITLED

AN ACT

relating to the operations of the Texas Low-Level Radioactive Waste Disposal Compact waste disposal facility.

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

SECTION 1. Subchapter F, Chapter 401, Health and Safety Code, is amended by adding Sections 401.2065 and 401.2066 to read as follows:

Sec. 401.2065. RESERVED CAPACITY FOR PARTY STATE WASTE.

(a) The following are reserved for the exclusive use of party state compact waste disposal in the compact waste disposal facility:

(1) the greater of:

(A) three million total cubic feet; or

(B) the required volume identified by the commission under Section 401.208; and

(2) the greater of:

(A) two million total curies; or

(B) the required curie capacity identified by the commission under Section 401.208.

(b) Of the reserved volume and curie capacity described by Subsection (a):

(1) 80 percent is reserved for compact waste generated in the host state; and

(2) 20 percent is reserved for compact waste generated in nonhost party states.

1 Sec. 401.2066. CORRECTION FOR DECAY IN DETERMINING
2 CAPACITY. The commission shall correct for radioactive decay in
3 determining licensed disposal curie capacity in a compact waste
4 disposal facility under this subchapter.

5 SECTION 2. Sections 401.207(e-2) and (g), Health and Safety
6 Code, are amended to read as follows:

7 (e-2) The commission's executive director, on completion of
8 the study under Section 401.208, may prohibit the license holder
9 from accepting any additional nonparty compact waste if the
10 commission determines from the study that the capacity of the
11 facility will be limited, regardless of whether the facility has
12 the constructed capacity required by Section 401.2075(a) [~~limit~~
13 ~~under Subsection (f) has been reached~~].

14 (g) The commission shall assess a surcharge for the disposal
15 of nonparty compact waste at the compact waste disposal facility.
16 The surcharge is five [~~20~~] percent of the total contracted rate
17 under Section 401.2456 and must be assessed in addition to the total
18 contracted rate under that section.

19 SECTION 3. Subchapter F, Chapter 401, Health and Safety
20 Code, is amended by adding Section 401.2075 to read as follows:

21 Sec. 401.2075. LIMITATION ON NONPARTY COMPACT WASTE. (a)
22 The compact waste disposal facility license holder may accept
23 nonparty compact waste at the facility only if:

24 (1) the waste is authorized by the compact commission;
25 and

26 (2) the facility has not less than three years' worth
27 of constructed capacity based on the average amount of party state

1 compact waste disposed in the preceding five years, not including:

2 (A) low-level radioactive waste from
3 decommissioned nuclear electric generation facilities;

4 (B) oversized low-level radioactive waste
5 components; or

6 (C) low-level radioactive waste from
7 nonrecurring events.

8 (b) If a compact waste disposal facility does not have
9 sufficient constructed capacity as described by Subsection (a), in
10 order to be permitted to accept nonparty compact waste, the compact
11 waste disposal facility license holder must:

12 (1) add constructed capacity sufficient to meet the
13 requirements of Subsection (a); or

14 (2) file and have approved by the commission a
15 performance bond acceptable to the commission conditioned on the
16 construction of additional constructed capacity sufficient to meet
17 the requirements of Subsection (a).

18 (c) If a nuclear electric generation facility in a party
19 state has notified the federal commission that the facility will be
20 decommissioned, and the time-phased decommissioning schedule and
21 the Post-Shutdown Decommissioning Activities Report indicate that
22 low-level radioactive waste is to be disposed of at the compact
23 waste disposal facility, the compact waste disposal facility
24 license holder must have constructed adequate disposal capacity at
25 the time of the disposal of waste from the decommissioning.

26 (d) The compact waste disposal facility license holder must
27 obtain an amendment to the facility operating license to increase

1 the allowable curie capacity by two million curies when the compact
2 waste disposal facility has reached 80 percent of the total curies
3 for which the facility is licensed.

4 SECTION 4. Subchapter F, Chapter 401, Health and Safety
5 Code, is amended by adding Section 401.2465 to read as follows:

6 Sec. 401.2465. WASTE DISPOSAL FEE COMPARISON. (a) The
7 compact waste disposal facility license holder shall conduct and
8 provide to the commission an annual comparison of party state and
9 nonparty state compact waste disposal fees. The comparison:

10 (1) must include:

11 (A) the total invoiced compact waste disposal
12 fees;

13 (B) the total volume of compact waste disposed;
14 and

15 (C) an average disposal fee calculated by
16 dividing the total invoiced compact waste disposal fees by the
17 total volume of compact waste disposed; and

18 (2) may not include information regarding disposal
19 fees or disposal volume for:

20 (A) low-level radioactive waste from
21 decommissioned nuclear electric generation facilities;

22 (B) oversized low-level radioactive waste
23 components; or

24 (C) low-level radioactive waste from
25 nonrecurring events.

26 (b) If the average compact waste disposal fee charged to
27 party state generators exceeds the average compact waste disposal

1 fee charged to nonparty state generators, the compact waste
2 disposal facility license holder must issue a rebate for the
3 preceding year's fees to the party state generators in an amount
4 sufficient to reduce the average compact waste disposal fee charged
5 to party state generators after the rebate to \$1 less than the
6 average compact waste disposal fee charged to nonparty state
7 generators.

8 (c) The compact waste disposal facility license holder
9 shall allocate the rebate issued under Subsection (b) according to
10 the fractional amount of the total compact waste disposal fees paid
11 by each generator based on the compact waste disposal facility
12 license holder's records for the preceding year.

13 (d) Not more often than once per year, on written request of
14 a nuclear electric generation utility operating in a party state,
15 the compact waste disposal facility license holder shall:

16 (1) retain an independent auditor, who must be
17 approved by the compact waste disposal facility license holder and
18 the utility making the request, to evaluate the computation of the
19 average compact waste disposal fee and rebate described by this
20 section; and

21 (2) not later than the 30th day after the date the
22 license holder receives the final audit report, make a copy of the
23 report available to the requesting utility, the governor, the
24 lieutenant governor, the speaker of the house of representatives,
25 and each standing committee of the legislature with jurisdiction
26 over environmental matters.

27 SECTION 5. Sections 401.271(a) and (b), Health and Safety

1 Code, are amended to read as follows:

2 (a) A holder of a license issued by the commission under
3 this chapter that authorizes the disposal of a radioactive
4 substance from other persons shall remit each quarter an amount
5 equal to five ~~[10]~~ percent of the license holder's gross receipts
6 received from disposal operations under the ~~[a]~~ license ~~[issued~~
7 ~~under this chapter that occur after the effective date of the Act~~
8 ~~enacting this section as follows:~~

9 ~~[(1) five percent shall be remitted to the comptroller~~
10 ~~for deposit to the credit of the general revenue fund; and~~

11 ~~[(2) five percent shall be remitted]~~ to the host
12 county in accordance with Sections [401.244](#)(b) and (d).

13 (b) Subsection (a) does not apply to ~~[compact waste or~~
14 ~~federal facility waste as defined by Section [401.2005](#) or]~~
15 industrial solid waste as defined by Section [361.003](#).

16 SECTION 6. The following provisions of the Health and
17 Safety Code are repealed:

18 (1) Sections [401.207](#)(d-1), (d-2), (d-3), (e), (e-1),
19 (f), and (h-1);

20 (2) Section [401.2445](#); and

21 (3) Sections [401.2456](#)(b), (c), (d), and (e).

22 SECTION 7. This Act takes effect September 1, 2019.