

By: Landgraf

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; and

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

(2) the greater of:

(A) two million total curies; and

(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(d) and (g), Health and Safety  
6 Code, are amended to read as follows:

7        (d) The compact waste disposal facility license holder may  
8 not accept for disposal at the compact waste disposal facility  
9 nonparty compact waste that does not meet the waste characteristics  
10 and waste forms for disposal applicable to compact waste as set  
11 forth by the commission in the compact waste disposal facility  
12 license. Before the license holder may accept nonparty compact  
13 waste for disposal, the commission must certify [~~through a written~~  
14 ~~evaluation~~] that the waste is authorized for disposal under the  
15 license. If the disposal is not authorized under the license, the  
16 commission must inform the license holder of the license amendments  
17 necessary to authorize the disposal.

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

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

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

1           (1) the waste is authorized by the compact commission;

2 and

3           (2) the facility has not less than three years' worth  
4 of constructed capacity based on the average amount of party state  
5 compact waste disposed in the preceding five years, not including:

6                   (A) low-level radioactive waste from  
7 decommissioned nuclear electric generation facilities;

8                   (B) oversized low-level radioactive waste  
9 components; or

10                   (C) low-level radioactive waste from  
11 nonrecurring events.

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

16                   (1) add constructed capacity sufficient to meet the  
17 requirements of Subsection (a);

18                   (2) file and have approved by the commission a  
19 performance bond acceptable to the commission conditioned on the  
20 construction of additional constructed capacity sufficient to meet  
21 the requirements of Subsection (a); or

22                   (3) take an alternative action approved by a majority  
23 of the nuclear electric generation utilities operating in the party  
24 states.

25           (c) If a party state has notified the federal commission  
26 that a nuclear electric generation facility located in the state  
27 will be decommissioned, and the time-phased decommissioning

1 schedule and the Post-Shutdown Decommissioning Activities Report  
2 indicate that low-level radioactive waste is to be disposed of at  
3 the compact waste disposal facility, the compact waste disposal  
4 facility license holder must have constructed adequate disposal  
5 capacity at the time of the disposal of waste from the  
6 decommissioning.

7 (d) The compact waste disposal facility license holder must  
8 obtain an amendment to the facility operating license to increase  
9 the allowable curie capacity by two million curies when the compact  
10 waste disposal facility has reached 80 percent of the total curies  
11 for which the facility is licensed.

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

14 Sec. 401.2465. WASTE DISPOSAL FEE COMPARISON. (a) The  
15 compact waste disposal facility license holder shall conduct an  
16 annual comparison of party state and nonparty state compact waste  
17 disposal fees. The comparison:

18 (1) must include:

19 (A) the total invoiced compact waste disposal  
20 fees;

21 (B) the total volume of compact waste disposed;  
22 and

23 (C) an average disposal fee calculated by  
24 dividing the total invoiced compact waste disposal fees by the  
25 total volume of compact waste disposed; and

26 (2) may not include information regarding disposal  
27 fees or disposal volume for:

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

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

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

7           (b) If the average compact waste disposal fee charged to  
8 party state generators exceeds the average compact waste disposal  
9 fee charged to nonparty state generators, the compact waste  
10 disposal facility license holder must issue a rebate for the  
11 preceding year's fees to the party state generators in an amount  
12 sufficient to reduce the average compact waste disposal fee charged  
13 to party state generators after the rebate to \$1 less than the  
14 average compact waste disposal fee charged to nonparty state  
15 generators.

16           (c) The compact waste disposal facility license holder  
17 shall allocate the rebate issued under Subsection (b) according to  
18 the fractional amount of the total compact waste disposal fees paid  
19 by each generator based on the compact waste disposal facility  
20 license holder's records for the preceding year.

21           (d) On written request of a nuclear electric generation  
22 utility operating in a party state, the compact waste disposal  
23 facility license holder shall:

24           (1) retain an independent auditor, who must be  
25 approved by the compact waste disposal facility license holder and  
26 the utility making the request, to evaluate the computation of the  
27 average compact waste disposal fee and rebate described by this

1 section; and

2 (2) not later than the 90th day after the date the  
3 license holder receives the final audit report, make a copy of the  
4 report available to the requesting utility.

5 SECTION 5. Sections 401.271(a) and (b), Health and Safety  
6 Code, are amended to read as follows:

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

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

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

18 (b) Subsection (a) does not apply to ~~[compact waste or~~  
19 ~~federal facility waste as defined by Section 401.2005 or]~~  
20 industrial solid waste as defined by Section 361.003.

21 SECTION 6. The following provisions of the Health and  
22 Safety Code are repealed:

23 (1) Section 401.202(c);

24 (2) Sections 401.207(d-1), (d-2), (d-3), (e), (e-1),  
25 (e-2), (f), and (h-1);

26 (3) Section 401.241(b);

27 (4) Section 401.2445; and

1           (5) Sections [401.2456](#)(b), (c), (d), and (e).

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