

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

1 containers are suitable for shipment to a licensed disposal
2 facility;

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

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

12 (d) Fees assessed under this section:

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

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

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

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

27 [~~(5) may not be collected on waste disposed of at~~

1 ~~a federal waste disposal facility~~].

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

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

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

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

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

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

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

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

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

27 SECTION 3. The heading to Section 401.071, Health and

1 Safety Code, is amended to read as follows:

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

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

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

- 13 (1) verify waste volumes and curies in the facility;
14 (2) monitor safety;
15 (3) check for radiation releases on and off site; and
16 (4) conduct financial audits to determine the adequacy
17 of financial assurance held by the facility.

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

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

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

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

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

7 (b) The state auditor shall analyze:

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

11 (A) the transportation of radioactive waste; and

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

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

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

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

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

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

26 (d) Not later than December 1, 2020, the state auditor shall
27 make available a report containing the results of the review and

1 analysis required by this section.

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

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

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

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

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

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