

ARTICLE 1. LEGISLATIVE FINDINGS

SECTION 1.01. DEFINITIONS. In this article:

(1) "Combined facility" means the Texas compact waste disposal facility, the federal waste disposal facility, and the Resource Conservation and Recovery Act waste disposal facility in Andrews County, Texas.

(2) "Compact" means the Texas Low-Level Radioactive Waste Disposal Compact.

SECTION 1.02. FINDINGS. (a) Texas has entered into an interstate compact with Vermont for the disposal of low-level radioactive waste. The Texas Legislature passed the compact in 1993 (Chapter 460 (S.B. 1206), Acts of the 73rd Legislature, Regular Session, 1993). The United States Congress ratified the compact by passing the Texas Low-Level Radioactive Waste Disposal Compact Consent Act, Pub. L. No. 105-236, in 1998. The compact remains federal law today.

(b) The compact mandates that Texas, as the host state, develop and operate a facility for the disposal of low-level radioactive waste generated

The LEGISLATIVE FINDINGS (Article 1, Sections 1.01, 1.02) have been removed. No other changes except for the reformatting and numbering of sections.

within the party states. In exchange, party states (not including the host state) contributed \$25 million to the host state.

(c) Under the compact, the compact waste disposal facility license holder (on behalf of Texas) has constructed a state-of-the-art facility for the safe and secure disposal of low-level radioactive waste. The compact waste disposal facility site in Andrews County, Texas, was selected due to its location on top of a ridge of 600-foot thick red bed clay in a semiarid and sparsely inhabited area of West Texas, with annual rainfall of less than 16 inches. The combined facility features the most environmentally protective designs in the industry, with below-grade disposal in lined cells that are constructed inside a natural 600-foot formation of almost impermeable Dockum red bed clay. No significant erosion has taken place at the site for the past 60,000 years and there is no reason to expect significant erosion at the site during the next 60,000 years.

(d) The combined facility is used to dispose of low-level radioactive

waste that is generated by essential components of the Texas economy and way of life, including:

(1) Texas' world-renowned research institutions, including its institutions of higher education, which generate radioactive items such as lab equipment, cleaning materials, personal protective equipment, and sample residuals;

(2) the oil and gas industry, which generates radioactive items such as downhole logging sources and naturally occurring radioactive material from tank bottoms, filters, and pipe scale;

(3) the health care industry, in both rural and urban settings, which generates radioactive items such as lab equipment, cleaning materials, personal protective equipment, and sample residuals;

(4) the nuclear power plants located in Glen Rose and Bay City, Texas, which generate radioactive items used for cleanup of reactor water such as ion exchange resins and filters, personal protective equipment, and various equipment that becomes

radioactive and that must be replaced or repaired;

(5) the United States Department of Energy, including its Pantex facility in Amarillo, which generates radioactive materials from current operations such as protective equipment and which generated radioactive items from past operations such as building debris and contaminated soils; and

(6) the State of Texas, including the Department of State Health Services and the Texas Commission on Environmental Quality.

(e) The compact waste disposal facility license holder and this state have benefited, and anticipate continuing to benefit, from operation of the existing compact waste disposal facility in Texas.

(f) The market for radioactive waste disposal has changed significantly since the original legislation for low-level radioactive waste disposal in Texas was enacted, including improved waste minimization strategies and increased competition for radioactive waste disposal from

other facilities including Resource Conservation and Recovery Act disposal sites and municipal landfills.

(g) For the Texas compact waste disposal facility to remain economically viable, updates to the economic and competitive aspects of Texas legislation are required.

ARTICLE 2. RADIOACTIVE WASTE

SECTION 2.01. Section 401.205, Health and Safety Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) In this subsection, "high-level radioactive waste" has the meaning assigned by 42 U.S.C. Section 10101(12) and "spent nuclear fuel" has the meaning assigned by 42 U.S.C. Section 10101(23). With the exception of on-site storage by operating nuclear power reactors and operating nuclear test reactors located on university campuses, a person, including the compact waste disposal facility license holder, may not dispose of or store high-level radioactive waste or spent nuclear fuel in this state.

SECTION 1. Section 401.205, Health and Safety Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) In this subsection, "high-level radioactive waste" has the meaning assigned by 42 U.S.C. Section 10101(12) and "spent nuclear fuel" has the meaning assigned by 42 U.S.C. Section 10101(23). With the exception of storage at the site of currently or formerly operating nuclear power reactors and currently or formerly operating nuclear research and test reactors located on university campuses, a person, including the compact waste disposal facility license holder, may not dispose of or store high-level radioactive waste or spent nuclear fuel in this state.

Change made at the request of Advocates for Responsible Disposal in Texas (ARDT) to clarify that the proposed exception for nuclear power reactors and research and test reactors located on university campuses would apply not only during current operations but also decommissioning.

"on-site storage by" has been replaced with "storage at the site of currently or formerly"

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Summary of Changes

SECTION 2.02. 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

SECTION 2. Subchapter F, Chapter 401, Health and Safety Code, is amended by adding Sections 401.2065 and 401.2066 to read as follows:

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(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

No changes except for the reformatting and numbering of sections.

for compact waste generated in nonhost party states.

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

SECTION 2.03. Sections 401.207(e-2) and (g), Health and Safety Code, are amended to read as follows:

(e-2) The commission's executive director, on completion of the study under Section 401.208, may prohibit the license holder from accepting any additional nonparty compact waste if the commission determines from the study that the capacity of the facility will be limited, regardless of whether the capacity required [~~limit~~] under Section 401.2065 is available [~~Subsection (f) has been reached~~].

(g) The commission shall assess a surcharge for the disposal of nonparty compact waste at the compact waste disposal facility. The surcharge is five [~~20~~] percent of the total

for compact waste generated in nonhost party states.

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

SECTION 3. Sections 401.207(e-2) and (g), Health and Safety Code, are amended to read as follows:

(e-2) The commission's executive director, on completion of the study under Section 401.208, may prohibit the license holder from accepting any additional nonparty compact waste if the commission determines from the study that the capacity of the facility will be limited, regardless of whether the capacity required [~~limit~~] under Section 401.2065 is available [~~Subsection (f) has been reached~~].

(g) The commission shall assess a surcharge for the disposal of nonparty compact waste at the compact waste disposal facility. The surcharge is five [~~20~~] percent of the total

No changes except for the reformatting and numbering of sections.

contracted rate under Section 401.2456 and must be assessed in addition to the total contracted rate under that section.

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SECTION 2.04. Subchapter F, Chapter 401, Health and Safety Code, is amended by adding Section 401.2075 to read as follows:

SECTION 4. Subchapter F, Chapter 401, Health and Safety Code, is amended by adding Section 401.2075 to read as follows:

No changes except for the reformatting and numbering of sections.

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

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

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(2) the facility has not less than three years' worth of constructed capacity based on the average amount of party state compact waste disposed in the compact waste disposal facility in the preceding five years.

(2) the facility has not less than three years' worth of constructed capacity based on the average amount of party state compact waste disposed in the compact waste disposal facility in the preceding five years.

(b) If the compact waste disposal facility does not have sufficient constructed capacity as described by Subsection (a), in order to be permitted to accept nonparty compact waste, the compact waste disposal

(b) If the compact waste disposal facility does not have sufficient constructed capacity as described by Subsection (a), in order to be permitted to accept nonparty compact waste, the compact waste disposal

facility license holder must:

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

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

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

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

facility license holder must:

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

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

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

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

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Summary of Changes

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

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

SECTION 2.05. Section 401.215, Health and Safety Code, is amended to read as follows:

Sec. 401.215. ACCEPTANCE OF LOW-LEVEL RADIOACTIVE WASTE. Except as otherwise provided by this subchapter [~~Subject to limitations provided by Sections 401.207 and 401.248~~], the compact waste disposal facility shall accept for disposal all compact waste that is presented to it and that is properly processed and packaged.

SECTION 5. Section 401.215, Health and Safety Code, is amended to read as follows:

Sec. 401.215. ACCEPTANCE OF LOW-LEVEL RADIOACTIVE WASTE. Except as otherwise provided by this subchapter [~~Subject to limitations provided by Sections 401.207 and 401.248~~], the compact waste disposal facility shall accept for disposal all compact waste that is presented to it and that is properly processed and packaged.

No changes except for the reformatting and numbering of sections.

SECTION 2.06. Section 401.2445, Health and Safety Code, is amended to read as follows:

Sec. 401.2445. STATE FEE. The compact waste disposal facility license holder each quarter shall transfer to the state general revenue fund five percent of the gross receipts from[+ [~~(1) compact waste received at the compact waste disposal facility;~~ and

SECTION 6. Section 401.2445, Health and Safety Code, is amended to read as follows:

Sec. 401.2445. STATE FEE. The compact waste disposal facility license holder each quarter shall transfer to the state general revenue fund five percent of the gross receipts from[+ [~~(1) compact waste received at the compact waste disposal facility;~~ and

No changes except for the reformatting and numbering of sections.

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Summary of Changes

[~~2~~] any federal facility waste received at a federal facility waste disposal facility licensed under Section 401.216.

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SECTION 2.07. Section 401.2456(b), Health and Safety Code, is amended to read as follows:

(b) Rates and contract terms negotiated under this section are subject to periodic review [and approval] by the commission's executive director to ensure that the compact waste facility license holder's contracted rates and terms do not have a long-term, adverse effect on the cumulative surcharges paid to the host state and the host county [they meet all of the requirements of this section].

SECTION 7. Section 401.2456(b), Health and Safety Code, is amended to read as follows:

(b) Rates and contract terms negotiated under this section are subject to periodic review [and approval] by the commission's executive director to ensure that the compact waste facility license holder's contracted rates and terms do not have a long-term, adverse effect on the cumulative surcharges paid to the host state and the host county [they meet all of the requirements of this section].

No changes except for the reformatting and numbering of sections.

SECTION 2.08. Subchapter F, Chapter 401, Health and Safety Code, is amended by adding Section 401.2465 to read as follows:

Sec. 401.2465. WASTE DISPOSAL FEE COMPARISON. (a) The compact waste disposal facility license holder shall conduct an annual comparison of party

SECTION 8. Subchapter F, Chapter 401, Health and Safety Code, is amended by adding Section 401.2465 to read as follows:

Sec. 401.2465. WASTE DISPOSAL FEE COMPARISON. (a) The compact waste disposal facility license holder shall conduct an annual comparison of party

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state and nonparty state compact waste disposal fees. The comparison must include:

(1) an average party state disposal fee calculated by dividing the total invoiced party state compact waste disposal fees by the total volume of party state compact waste disposed; and

(2) an average nonparty state disposal fee calculated by dividing the total invoiced nonparty state compact waste disposal fees by the total volume of nonparty state compact waste disposed.

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

(c) The compact waste disposal facility license holder shall allocate the rebate issued under Subsection (b)

state and nonparty state compact waste disposal fees. The comparison must include:

(1) an average party state disposal fee calculated by dividing the total invoiced party state compact waste disposal fees by the total volume of party state compact waste disposed; and

(2) an average nonparty state disposal fee calculated by dividing the total invoiced nonparty state compact waste disposal fees by the total volume of nonparty state compact waste disposed.

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

(c) The compact waste disposal facility license holder shall allocate the rebate issued under Subsection (b)

according to the fractional amount of the total compact waste disposal fees paid by each generator based on the compact waste disposal facility license holder's records for the preceding year.

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

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

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

according to the fractional amount of the total compact waste disposal fees paid by each generator based on the compact waste disposal facility license holder's records for the preceding year.

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

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

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

matters.

SECTION 2.09. The following provisions of the Health and Safety Code are repealed:

- (1) Sections 401.207(d-1), (d-2), (d-3), (e), (e-1), (f), and (h-1); and
- (2) Sections 401.2456(c), (d), and (e).

ARTICLE 3. EFFECTIVE DATE

SECTION 3.01. This Act takes effect September 1, 2021.

matters.

SECTION 9. The following provisions of the Health and Safety Code are repealed:

- (1) Sections 401.207(d-1), (d-2), (d-3), (e), (e-1), (f), and (h-1); and
- (2) Sections 401.2456(c), (d), and (e).

SECTION 10. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2021.

No changes except for the reformatting and numbering of sections.

Revised effective date so that the bill can go into effect immediately with 2/3 approval. This change was made so that the bill could go into effect before the NRC approves the application to store high level, potentially as early as this summer.