

BILL ANALYSIS

Senate Research Center

C.S.S.B. 1857
By: Brown
Natural Resources
4-24-97
Committee Report (Substituted)

DIGEST

Currently, the radioactive by-product materials program is administered by the Texas Natural Resource Conservation Commission (TNRCC). When the program was moved, in 1991, from the Texas Department of Health (department) to TNRCC, many other programs dealing with radioactivity remained at the department. As a result, the department retained most of the staff who work with radioactive issues on a regular basis, and therefore the bulk of the expertise on radioactive matters. This bill seeks to reverse the transfer of the by-product materials program primarily to take advantage of the expertise in radioactive matters than continues to exist at the department.

PURPOSE

As proposed, C.S.S.B. 1857 transfers certain responsibilities of the Texas Natural Resource Conservation Commission related to certain radioactive materials to the Texas Department of Health.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the Texas Department of Health in SECTION 3 (Section 401.104(b), Health and Safety Code) and to the Texas Board of Health in SECTION 6 (Section 401.263(f), Health and Safety Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 401.003(3), Health and Safety Code, to delete tailings which have certain radiological characteristics from the definition of "by-product material."

SECTION 2. Amends Sections 401.011(a) and (b), Health and Safety Code, to delete a provision that the Texas Department of Health has jurisdiction over activities and substances regulated under this chapter except as provided by Subchapter G. Provides that the Texas Natural Resource Conservation Commission (TNRCC) has jurisdiction to regulate and license the disposal of radioactive substances except by-product material defined by Section 401.003(3)(B). Deletes a provision that TNRCC has jurisdiction to regulate and license the recovery and processing of source material.

SECTION 3. Amends Section 401.104(b), Health and Safety Code, to require TNRCC, by rule, to provide for licensing for the disposal of radioactive material except by-product material defined by Section 401.003(3)(B). Requires the Texas Department of Health (department), by rule, to provide for licensing for the disposal of by-product material defined by Section 401.003(3)(B).

SECTION 4. Amends Section 401.262, Health and Safety Code, to provide that the department, rather than TNRCC, has sole exclusive authority to assure that processing and disposal sites are closed and that by-product material is managed and disposed of in compliance with closure criteria the United States Nuclear Regulatory Commission (federal commission) and the U.S. Environmental Protection Agency have determined are protective of human health and safety and the environment.

SECTION 5. Amends Section 401.2625, Health and Safety Code, to provide that the commissioner of public health has sole and exclusive authority over certain licensing matters.

SECTION 6. Amends Sections 401.263(a) and (c)-(f), Health and Safety Code, to require the

department to prepare or have prepared a written environmental analysis, if the department, rather than TNRCC, is considering the issuance, renewal, or amendment of certain licenses. Makes conforming changes.

SECTION 7. Amends Sections 401.264(a), (c), and (d), Health and Safety Code, to make conforming changes.

SECTION 8. Amends Section 401.265, Health and Safety Code, to require the board to prescribe conditions in certain licenses that the license holder will comply with certain standards that are prescribed by the board and that are compatible with, rather than more stringent than, the federal commission's standards.

SECTION 9. Amends Section 401.266(a), Health and Safety Code, to authorize the department, by order, to require that before a license covering land used for the disposal of by-product material is terminated, the land, including any affected interests in the land, must be transferred to the federal government or to the state unless certain criteria are met. Makes a conforming change.

SECTION 10. Amends Section 401.267, Health and Safety Code, to make a conforming change.

SECTION 11. Amends Section 401.269, Health and Safety Code, to make conforming changes.

SECTION 12. Amends Sections 401.270(a), (b), (e), and (f), Health and Safety Code, to make conforming and nonsubstantive changes.

SECTION 13. Amends Sections 401.412(a) and (b), Health and Safety Code, to define "radioactive substance." Makes conforming and nonsubstantive changes.

SECTION 14. Amends Section 401.413, Health and Safety Code, to provide that this section does not apply to a person required to obtain a license for recovery or processing of source material or for recovery, processing, or disposal of by product material as defined by Section 401.003(3)(B).

SECTION 15. Sets forth regulations relating to the transfer of rights, powers, duties, obligations, functions, activities, property, and programs from TNRCC to the department.

SECTION 16. Sets forth items which the transfers made by this Act do not affect.

SECTION 17. Requires the department, in performing, exercising, or conducting a right, power, duty, obligation, function, activity, or program transferred by this Act, to apply standards of the federal commission, to the extent feasible, until the department adopts relevant standards.

SECTION 18. Sets forth regulations regarding fees assessed under the radioactive by-product materials program.

SECTION 19. Emergency clause.
Effective date: upon passage.

SUMMARY OF COMMITTEE CHANGES

SECTION 1.

Amends Section 401.003(3), Health and Safety Code, to redefine "by-product material."

SECTION 2.

Amends Sections 401.011(a) and (b), Health and Safety Code, to delete a reference to Subchapter G, Health and Safety Code, and make conforming changes.

SECTION 4.

Amends Section 401.262, Health and Safety Code, to make nonsubstantive changes.

SECTION 5.

Amends Section 401.2625, Health and Safety Code, to strike "commission" and replace with "commissioner."

SECTION 6.

Amends Sections 401.263(a) and (c)-(f), to make conforming and nonsubstantive changes.

SECTION 7.

Amends Section 401.264(a), (c), and (d), Health and Safety Code, to make a conforming change.

SECTION 8.

Amends Section 401.265, Health and Safety Code, to make conforming and nonsubstantive changes.

SECTION 9.

Amends Section 401.266(a), Health and Safety Code, to authorize the department, by order, to require certain conditions be met prior to terminating certain licenses.

SECTION 12.

Amends Sections 401.270(a), (b), and (f), Health and Safety Code, to make conforming changes.

SECTION 13.

Amends Section 401.412(b), Health and Safety Code, to make a conforming change.

SECTION 14.

Amends Section 401.413, Health and Safety Code, to make nonsubstantive changes.

SECTION 15.

Adds text regarding appropriations and the enforceability of rights, powers, duties, obligations, functions, activities, or programs transferred to the department. Makes nonsubstantive changes.

SECTION 16.

Provides that transfers made by this Act do not affect TNRCC's jurisdiction over the Low-Level Radioactive Waste Disposal Authority provided by Chapter 401, Health and Safety Code.

SECTION 18.

Makes nonsubstantive changes.