

BILL ANALYSIS

Senate Research Center
76R9957 MI-D

H.B. 1172
By: Chisum (Brown)
Natural Resources
5/14/1999
Committee Report (Amended)

DIGEST

Currently, references to radioactive waste in state law do not conform to references to radioactive waste in federal law. H.B. 1172 would set forth provisions related to the definition of low-level radioactive waste.

PURPOSE

As proposed, H.B. 1172 sets forth provisions related to the definition of low-level radioactive waste.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 401.003(8), (16), and (19), Health and Safety Code, to redefine “disposal,” “processing,” and “radioactive substance.”

SECTION 2. Amends Chapter 401A, Health and Safety Code, by adding Sections 401.004 and 401.005, as follows:

Sec. 401.004. **LOW-LEVEL RADIOACTIVE WASTE DEFINED.** Defines “low-level radioactive waste.” Sets forth what is excluded from the definition of “low-level radioactive waste.”

Sec. 401.005. **CODE OF FEDERAL REGULATIONS REFERENCES.** Provides that a reference in this chapter to the “C.F.R.” or the “Code of Federal Regulations” means the Code of Federal Regulations as it existed on September 1, 1999.

SECTION 3. Amends Sections 401.052(b), (d), and (e), Health and Safety Code, to set forth what rules adopted under this section for low-level radioactive waste must include. Makes conforming changes.

SECTION 4. Amends Sections 401.053 and 401.061, Health and Safety Code, as follows:

Sec. 401.053. New heading: **CLASSIFICATION SYSTEM FOR LOW-LEVEL RADIOACTIVE WASTE.** Makes conforming changes.

Sec. 401.061. New heading: **LOW-LEVEL RADIOACTIVE WASTE STUDIES.** Makes conforming changes.

SECTION 5. Amends Section 401.111(a), Health and Safety Code, to make a conforming change.

SECTION 6. Amends Section 401.112, Health and Safety Code, as follows:

Sec. 401.112. New heading: **LOW-LEVEL RADIOACTIVE WASTE PROCESSING OR DISPOSAL LICENSE APPLICATION AND CONSIDERATIONS.** Requires the Texas Department of Health (department) or the Texas Natural Resource Conservation Commission (TNRCC), in making a licensing decision on a specific license application to process or dispose of low-level radioactive waste from other persons, to make certain considerations, including socioeconomic effects on surrounding communities of operation of the licensed activity and of

associated transportation of low-level radioactive waste, rather than radioactive material. Makes conforming changes.

SECTION 7. Amends Section 401.113(c), Health and Safety Code, to make a conforming change.

SECTION 8. Amends Section 401.114(a), Health and Safety Code, to make a conforming change.

SECTION 9. Amends Section 401.115, Health and Safety Code, to make a conforming change.

SECTION 10. Amends Section 401.116(a), Health and Safety Code, to make a conforming change.

SECTION 11. Amends Section 401.117, Health and Safety Code, to make a conforming change.

SECTION 12. Amends Chapter 401E, Health and Safety Code, as follows:

New heading: SUBCHAPTER E. MANAGEMENT OF LOW-LEVEL RADIOACTIVE WASTE

SECTION 13. Amends Section 401.151, Health and Safety Code, to make a conforming change.

SECTION 14. Amends Section 401.152(a), Health and Safety Code, to make conforming changes.

SECTION 15. Amends Section 401.153(a), Health and Safety Code, to make a conforming change.

SECTION 16. Amends Chapter 401F, Health and Safety Code, as follows:

New heading: SUBCHAPTER F. SPECIAL PROVISIONS CONCERNING

LOW-LEVEL RADIOACTIVE WASTE DISPOSAL

SECTION 17. Amends Sections 401.201-401.205, Health and Safety Code, as follows:

Sec. 401.201. REGULATION OF LOW-LEVEL RADIOACTIVE WASTE DISPOSAL. Makes a conforming change.

Sec. 401.202. LICENSING AUTHORITY. Makes a conforming change.

Sec. 401.203. LICENSE REQUIRED TO PUBLIC ENTITY. Makes conforming changes.

Sec. 401.204. ACQUISITION OF PROPERTY. Makes a conforming change.

Sec. 401.205. RESPONSIBILITIES OF PERSONS LICENSED TO DISPOSE OF LOW-LEVEL RADIOACTIVE WASTE. Makes conforming changes.

SECTION 18. Amends Section 401.206(a), Health and Safety Code, to make a conforming change.

SECTION 19. Amends Sections 401.207 and 401.209-401.213, Health and Safety Code, as follows:

Sec. 401.207. OUT-OF-STATE WASTE. Makes conforming changes.

Sec. 401.209. New heading: ACQUISITION AND OPERATION OF LOW-LEVEL RADIOACTIVE WASTE DISPOSAL SITES. Makes conforming changes.

Sec. 401.210. TRANSFER COSTS OF PROPERTY. Makes a conforming change.

Sec. 401.211. LIABILITY. Makes conforming changes.

Sec. 401.212. MONITORING, MAINTENANCE, AND EMERGENCY MEASURES. Makes a conforming change.

Sec. 401.213. INTERSTATE COMPACTS. Makes a conforming change.

SECTION 20. Amends Section 401.301(b), Health and Safety Code, to require the board to set the fee in an amount that may not exceed the actual expenses annually incurred to accomplish certain business tasks, including collecting payments for the low-level radioactive waste fund and general revenue as provided by Subsection 402.2721.

SECTION 21. Amends Section 401.306, Health and Safety Code, as follows:

Sec. 401.306. **LOW-LEVEL RADIOACTIVE WASTE FUND.** Makes a conforming change.

SECTION 22. Amends Sections 402.003(5), (6), and (8), Health and Safety Code, to redefine “disposal site,” “low-level radioactive waste,” and “operation.”

SECTION 23. Amends Sections 402.014, 402.052, 402.053, 402.081, 402.082, and 402.154, Health and Safety Code, as follows:

Sec. 402.014. **SPECIAL LIMITATIONS ON PUBLIC MEMBERS.** Makes a conforming change.

Sec. 402.052. **DEVELOPMENT AND OPERATION OF DISPOSAL SITE.** Makes a conforming change.

Sec. 402.053. **GENERAL POWERS.** Makes a conforming change.

Sec. 402.081. **DISPOSAL SITE SELECTION STUDIES.** Makes a conforming change.

Sec. 402.082. **STUDY CRITERIA.** Makes conforming changes.

Sec. 402.154. **TECHNIQUES FOR MANAGING LOW-LEVEL RADIOACTIVE WASTE.** Makes conforming changes.

SECTION 24. Amends Section 402.181(a), Health and Safety Code, to make a conforming change.

SECTION 25. Amends Section 402.182, Health and Safety Code, to make a conforming change.

SECTION 26. Amends Section 402.216(a), Health and Safety Code, to make a conforming change.

SECTION 27. Amends Sections 402.217, 402.218, 402.219, 402.222, 402.223, and 402.225, Health and Safety Code, as follows:

Sec. 402.217. **DISPOSAL SITE ACTIVITIES.** Makes a conforming change.

Sec. 402.218. New heading: **ACCEPTANCE OF LOW-LEVEL RADIOACTIVE WASTE.** Makes a conforming change.

Sec. 402.219. New heading: **LIMITATIONS ON LOW-LEVEL RADIOACTIVE WASTE.** Makes conforming changes.

Sec. 402.222. New heading: **SHIPMENT OF LOW-LEVEL RADIOACTIVE WASTE.** Makes conforming changes.

Sec. 402.223. **IMPROPERLY PROCESSED OR PACKAGED LOW-LEVEL RADIOACTIVE WASTE.** Makes conforming changes.

Sec. 402.225. **BELOWGROUND DISPOSAL RESTRICTED.** Makes conforming changes.

SECTION 28. Amends Section 402.226(b), Health and Safety Code, to make conforming changes.

SECTION 29. Amends Section 402.227, Health and Safety Code, to make a conforming change.

SECTION 30. Amends Sections 402.252(a) and (c), Health and Safety Code, to make conforming changes.

SECTION 31. Amends Sections 402.271, and 402.272, Health and Safety Code, as follows:

Sec. 402.271. **AUTHORITY'S EXPENSES.** Deletes text requiring the Texas Low-Level Radioactive Waste Disposal Authority (authority) to pay expenses from surcharge rebates made by the United States Department of Energy pursuant to Pub. L. No. 99-240. Makes conforming changes.

Sec. 402.272. **WASTE DISPOSAL FEES.** Makes conforming changes.

SECTION 32. Amends Sections 402.2721, Health and Safety Code, by amending Subsections (d) - (g) and adding Subsection (i), to require fees established to take into account the projected annual volume and the relative hazard presented by each type of low-level radioactive waste generated; and be deposited in the state treasury to the credit of the low-level radioactive waste fund. Prohibits fees established from being assessed before the fiscal year following the fiscal year in which the balance in the low-level waste fund falls below \$4 millions being assessed in an amount that would result in a total amount of fees assessed that exceeds \$3 million in any fiscal biennium, or being collected at any time the low-level waste fund balance is \$9 million or more. Requires the board of directors of the authority to assess a surcharge of 10 percent of the fee established for each biennium, rather than the 1996 - 1997 biennium and subsequent bienniums. Requires surcharges assessed under Subsection (f), rather than Subsection (e), to be used to fund local public projects under Subchapter I. Sets forth procedures regarding the termination of the imposition of fees under Subsection (d)(5). Deletes text requiring annual fees established under this section to include certain fees in certain amounts to pay for certain costs and requiring certain annual fees to include a minimum amount to reimburse the general revenue fund for certain appropriations; and requiring annual fees to be deposited in the state treasury to the credit of the low-level waste fund, except that certain assessed and collected amounts for a certain time period shall be deposited into the state treasury to the credit of the general revenue fund. Deletes a provision regarding the 1994 - 1995 biennium. Makes conforming changes.

SECTION 33. Amends Sections 402.274 and 402.275, Health and Safety Code, as follows:

Sec. 402.274. **PROCESSING AND PACKAGING FEES.** Makes conforming changes.

Sec. 402.275. New heading: **LOW-LEVEL RADIOACTIVE WASTE FUND.** Deletes text requiring payments to the State of Texas under Public Law 99-240 to be deposited to the credit of the low-level waste fund. Deletes text authorizing payments to this state under Public Law 99-240 to be used only for the purposes stated in the federal law. Makes conforming changes.

SECTION 34. Amends Section 402.291(b), Health and Safety Code, to make a conforming change.

SECTION 35. Amends Section 401.383, Health and Safety Code, as follows:

Sec. 401.383. New heading: **CRIMINAL PENALTY FOR CERTAIN ACTS RELATED TO LOW-LEVEL RADIOACTIVE WASTE.** Makes a conforming change.

SECTION 36. Amends Section 7.184, Water Code, as follows:

Sec. 7.184. New heading. **VIOLATIONS RELATING TO LOW-LEVEL RADIOACTIVE WASTE.** Makes a conforming change.

SECTION 37. Repealers:

(1) Section 401.003(20), Health and Safety Code (Definition of "radioactive waste").

(2) Section 402.127, Health and Safety Code (Finding by Board of Regents Before Sale or Lease).

SECTION 38. Effective date: September 1, 1999.

SECTION 39. Emergency clause.