

BILL ANALYSIS

Senate Research Center

S.B. 1137
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Natural Resources & Economic Development
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 1137 seeks to address a number of issues in order to update and improve the current regulatory framework surrounding Texas Low-Level Radioactive Compact Waste Facility.

First, S.B. 1137 instructs the Texas Commission on Environmental Quality (TCEQ) to conform to the federal classification standards for low-level waste.

Second, S.B. 1137 repeals the current annual curie limit of nonparty waste of 275,000 and replaces it with a limit of 2.75 million curies over 10 years. The Texas Low-Level Radioactive Waste Compact Commission (compact commission) would also have the authority to increase that amount based on a showing of good cause. Additionally, S.B. 1137 explicitly states that the compact commission's authority to restrict or approve the importation of nonparty compact is not altered.

Third, S.B. 1137 requires TCEQ to conduct a capacity study at least every four years and to report the findings to the legislature.

Fourth, S.B. 1137 reforms the current method for allocating capacity to compact waste and noncompact waste in a manner that preserves capacity for compact waste by creating a capacity set-aside for compact waste and creating a triggering mechanism that requires the operator to expand the disposal facility when a certain capacity level is reached.

Lastly, S.B. 1137 cleans up expired, redundant, or unnecessary statutory provisions.

As proposed, S.B. 1137 amends current law relating to the Texas Low-Level Radioactive Waste Disposal Compact waste disposal facility.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 401.053, Health and Safety Code, to require, rather than authorize, the Department of State Health Services (DSHS) to use the classification system for low-level radioactive waste that is established by the United States Nuclear Regulatory Commission (USNRC), rather than based on radiological, chemical, and biological characteristics and on physical state, so that low-level radioactive waste can be managed safely and compatibly.

SECTION 2. Amends Section 401.207, Health and Safety Code, by amending Subsections (e) and (e-2) and adding Subsection (1), as follows:

(e) Authorizes the compact waste disposal facility license holder, before September 1, 2027, to collect a fee for and dispose of nonparty compact radioactive waste in an amount not to exceed 2.75 million curies or an amount greater than the amount under Subdivision (1) as specified by the license holder if the Texas Low-Level Radioactive Waste Disposal Compact Commission (TLLRWDC) determines that the license holder has shown good

cause for the greater amount considering certain factors. Deletes existing text authorizing a compact waste disposal facility license holder to collect a fee and dispose of not more than the greater of 1.167 million curies of nonparty compact waste or a certain amount of nonparty compact waste, and not more than 275,000 curies of nonparty compact waste in any fiscal year.

(e-2) Changes reference to Subsection (f) (relating to the total initial licensed capacity of the compact waste disposal facility requirements) to Subsection (e).

(l) Provides that this section does not restrict or alter the authority of TLLRWDC under this chapter (Radioactive Materials and Other Sources of Radiation) or Chapter 403 (Texas Low-Level Radioactive Waste Disposal Compact) to approve the importation of nonparty compact waste to this state.

SECTION 3. Amends Sections 401.208(a), (c), and (e), Health and Safety Code, as follows:

(a) Requires the Texas Commission on Environmental Quality (TCEQ), at least once every four years, to conduct a study on the available volume and curie capacity of the compact waste disposal facility for the disposal of party state compact waste and nonparty compact waste.

(c) Deletes existing text designating December 1, 2016, as a deadline for TCEQ to submit a final report to certain legislative entities.

(e) Deletes existing text designating December 1, 2012, as the commencement date for TCEQ to conduct a study.

SECTION 4. Amends Section 401.216(a), Health and Safety Code, by deleting existing text authorizing TCEQ to license the compact waste disposal facility license holder to dispose of federal facility waste.

SECTION 5. Amends Chapter 403, Health and Safety Code, by adding Section 403.0056, as follows:

Sec. 403.0056. COMPACT FACILITY CAPACITY. (a) Defines "compact facility," "generator," "operator," and "party state."

(b) Requires the operator to reserve disposal capacity in the amounts of four million cubic feet and three million curies for party state compact waste. Provides that the reserved capacity and curies are immediately set aside for party state compact waste. Requires TLLRWDC and TCEQ to ensure that the reservation is maintained until the completion of decommissioning of all of the nuclear electric generation facilities in the party states and 20 percent of the volume and curie capacity reserved for party states is allotted to compact waste generated in Vermont.

(c) Requires TCEQ, for the purposes of operator licensing decisions based on storage capacity, to consider the disposal capacity reserved for party state compact waste under Subsection (b) as disposed.

(d) Requires the operator, when the compact facility reaches 90 percent of its as-built disposal capacity as measured by volume or curie, to discontinue accepting waste from nonparty states until construction is completed on a new disposal cell that provides a least an additional one million cubic feet of airspace capacity, as certified and stamped by an individual licensed as an engineer under Chapter 1001 (Engineers), Occupations Code, or until the operator executes a performance bond or other instrument of financial assurance determined to be acceptable by TCEQ that is conditioned on the completion of a new disposal cell at the compact facility.

SECTION 6. Repealer: Section 401.005 (Code of Federal Regulations References), Health and Safety Code.

Repealers: Sections 401.207 (d-1) (relating to a compact waste disposal facility license holder's authorization to accept nonparty compact waste for disposal at the facility under certain conditions), (d-2) (relating to the provision that if volume reduction of a low-level radioactive waste stream would result in a change of waste classification to a class higher than Class C, the payment of the fee and compliance do not apply), (d-3) (relating to the authority of TCEQ to assess an additional fee on a nonparty compact waste generator for failing to comply with the volume reduction requirement), and (f) (relating to the total initial licensed capacity of the compact waste disposal facility requirements), Health and Safety Code.

Repealers: Sections 401.216(b) (relating to TCEQ limits to the overall capacity of the federal facility waste disposal facility to not more than three million cubic yards), (c) (relating to the requirement that TCEQ raise the overall capacity of the federal facility waste disposal facility to six million cubic yards unless TCEQ makes an affirmative finding of a significant risk), and (e) (relating to prohibiting a compact waste disposal facility license holder from accepting federal facility waste until the license holder begins accepting compact waste at the compact waste disposal facility), Health and Safety Code.

Repealer: Section 401.2455 (Interim Party State Compact Waste Disposal Fees), Health and Safety Code.

SECTION 7. Requires TCEQ to submit the first report required under Section 401.208, Health and Safety Code, as amended by this Act, not later than December 1, 2020.

SECTION 8. Effective date: upon passage or September 1, 2017.