

SUBJECT: Transferring oversight of uranium facilities from TNRCC to TDH

COMMITTEE: Environmental Regulation — favorable, without amendment

VOTE: 7 ayes — Chisum, Allen, Dukes, Howard, Kuempel, Puente, Talton

0 nays

2 absent — Jackson, Hirschi

SENATE VOTE: On final passage, April 30 — 31-0

WITNESSES: (*On House companion, HB 3462*)

For — Mark Pelizza, URI, Incorporated; William Underdown

Against — Richard Lowerre

On — Ruth McBurney, Texas Department of Health; Alice Rogers and Barry Williams, Texas Natural Resource Conservation Commission; David Fredrick

BACKGROUND : Texas Natural Resource Conservation Commission (TNRCC) regulates radioactive waste disposal, normally occurring radioactive materials, uranium processing and recovery, and the disposal of uranium tailings resulting from uranium extraction. TNRCC has the sole authority to regulate and issue licenses for the disposal of radioactive substances.

The Texas Department of Health (TDH) regulates the use and handling of radioactive materials used mainly in medical and industrial applications and the storage and processing of radioactive waste.

In Texas there are four major uranium tailing impoundments and 20 smaller uranium mining sites. All are either decommissioned or in various stages of being decommissioned.

DIGEST: SB 1857 would transfer from TNRCC to TDH certain responsibilities for radioactive materials, including:

- licensing and regulation of radioactive source material recovery and processing (primarily uranium);
- disposal of radioactive by-product material (mostly uranium tailings); and
- responsibility for long-term monitoring and acquisition of decommissioned uranium mining sites and tailing impoundments.

TNRCC would retain oversight of radioactive waste disposal, except for the disposal of by-product material.

TDH would license the disposal of by-product material, including tailings or wastes resulting from the mining of uranium or thorium from ore processed primarily for its source materials content. This would include surface wastes resulting from uranium extraction processes.

The bill would narrow the current statutory language defining “by-product tailings” by removing language specifying that the definition also applies to other tailings having similar radiological characteristics. The bill would provide that a radioactive materials license holder would have to comply with applicable decontamination and disposal standards that were compatible with standards of the federal Nuclear Regulatory Commission, rather than equal or more stringent to these standards, as provided under current law.

All applicable powers, obligations, property, equipment and programs would be transferred from TNRCC to TDH 30 days after the effective date of the bill, but no later than September 1, 1997. Fees from pending applications also would be transferred to TDH, which would be prohibited from assessing a fee for applications pending before TNRCC at the time of the transfer. SB 1857 would transfer certain appropriations from TNRCC to TDH for the remainder of the biennium.

TDH would reevaluate the fees now assessed for the program to determine if they were sufficient to cover costs. If the department determined that the fees generated more revenue than was necessary to pay those costs, it would have to refund prorated shares of the previous year's excess to license holders.

SB 1857 would take immediate effect if finally approved by a two-thirds record vote of the membership in each house.

**SUPPORTERS
SAY:**

SB 1857 would move oversight of uranium processing and disposal of uranium mill tailings back to TDH, which has staff who work with radioactive issues on a regular basis and has broad expertise in the processing and handling of radioactive materials.

When the Legislature consolidated state environmental agencies in 1991 into TNRCC, TDH sections dealing with processing and disposal of certain by-product materials were transferred, but other TDH programs dealing with radioactive materials were left with the department. These include the regulation of the use and handling of radioactive materials used mainly in medical and industrial applications and the storage and processing of radioactive waste.

TNRCC does not have sufficient staff or expertise to efficiently regulate uranium by-products, with the result that companies trying to clean up their sites have encountered significant delays. Before a radioactive materials license can be terminated, for example, the Nuclear Regulatory Commission must receive state certification that the site has been properly decontaminated. In some cases, TNRCC has held up certification because there are simply not enough staff qualified to make decisions concerning these sites. Companies must continue to pay for radioactive materials licenses after they have cleaned up their sites and are no longer handling waste of this kind. Transferring the program to the TDH, which has more expertise in this area, would ameliorate this problem.

Narrowing the definition of by-product tailings, and providing that radioactive material license holders comply with applicable decontamination and disposal standards that would be compatible with standards of the federal Nuclear Regulatory Commission (NRC), would bring state statutes

into line with federal statutes governing the regulation of by-product materials.

OPPONENTS
SAY:

Oversight of the processing or disposal of any kind of radioactive waste should remain at TNRCC, the state's chief environmental agency, since the major problems posed by uranium mill tailings are environmental. TDH staff are already busy protecting the health of all Texas citizens and do not have the time to oversee uranium mines. Indeed, when TDH used to regulate uranium mines, it almost never sought penalties for the thousands of violations identified. SB 1857 would also weaken the state's ability to regulate uranium tailings by providing that radioactive material license holders comply with decontamination and disposal standards that were compatible with, rather than equal to or more stringent than, federal standards. The NRC does not require this change; this provision is an attempt by the uranium industry to weaken or limit regulatory standards in the state.

SB 1857 would represent a move away from the goal of establishing a “one-stop shopping” process for allowing industries to obtain all necessary permits from one agency at the same time. This bill would require facilities that handled their own by-product waste on-site to get two different permits from separate agencies: an injection well permit from TNRCC and a radioactive materials license from TDH.