

- SUBJECT:** Revising the Texas Radiation Control Act
- COMMITTEE:** Environmental Regulation — committee substitute recommended
- VOTE:** 6 ayes — Chisum, Kuempel, Uher, Geren, Howard, Zbranek
0 nays
3 absent — Bonnen, Bosse, Dukes
- WITNESSES:** For — Dr. Dale Klein, Texas Radiation Advisory Board; Richard Lowerre, Kleberg County Commissioners Court, STDP (citizen group in Kleberg County, landowners in Live Oak County); Tom “Smitty” Smith, Public Citizen
Against — None
On — Richard A. Ratliff, Texas Department of Health
- BACKGROUND:** Health and Safety Code, ch. 401, the Texas Radiation Control Act, was enacted in 1961 and recodified in 1989. The act establishes a regulatory framework and authority for state agencies that regulate the use, possession, and disposal of radioactive materials.
- DIGEST:** CSHB 1099 would amend the Texas Radiation Control Act to require the Texas Board of Health to require an applicant to demonstrate to the Texas Department of Health (TDH) that the applicant was financially qualified to conduct the licensed activity — including decontamination, decommissioning, reclamation, and disposal — before TDH issued a license.

The bill would permit TDH to require licensees to pay to the department each year an additional five percent of the appropriate annual fee. This nonrefundable additional fee would be deposited to the radiation and perpetual care fund (“fund”). TDH would have to suspend assessment of this fee if the amount collected reached \$500,000, and to reinstate the fee if the balance was reduced to \$350,000. TDH could not collect this additional fee as part of any fee that was due before the effective date of this bill.

TDH and the commission would have to deposit all administrative penalties to the fund that were collected on or after the effective date of the bill. An administrative penalty collected prior to the effective date of the bill would be deposited as provided by prior law, and that law would be continued in effect for that purpose. The bill would allow TDH to use the fund to pay for measures:

- ! to prevent or mitigate effects of abandonment of radioactive materials, default on a lawful obligation, insolvency, or other inability of a license holder to meet legal requirements or department rules, and
- ! to assure protection of public health and safety, and the environment, from effects of ionizing radiation.

The bill expressly would provide that the existence of the fund would not make TDH liable for costs arising from abandonment of radioactive materials, default on a lawful obligation, insolvency, or other inability of a license holder to meet legal requirements or department rules.

The bill would amend the section on civil penalties and the section on administrative penalties by expanding liability from a person who violated the chapter to a person who caused, suffered, allowed, or permitted a violation of the chapter. These amendments only would apply to a violation committed on or after the effective date of this bill. A violation would be committed before the effective date if any element of the violation occurred before that date. References to civil penalties would be changed to references to administrative penalties.

The bill would replace the existing requirement for an annual inspection of mammography equipment and would require the board to establish routine frequency for inspection of mammography equipment by rule.

The bill would permit TDH to provide for the decontamination, closure, decommissioning, reclamation, surveillance, or other care of a site of facility under its jurisdiction by contracting with any person, or by the terms of a license issued by the department.

The bill would strike the term “stimulated” from one of the Health and Safety Code definitions of radiation, so the definition would read “emission

of radiation from an electronic device to energy density levels that could reasonably cause bodily harm.”

The bill would take effect September 1, 2001.

NOTES:

The bill as filed would have authorized the board to require an applicant to demonstrate financial qualification prior to issuing or renewing a license. The committee substitute made this a requirement, not an authorization.

The committee substitute would require TDH or the commission, amending current law which requires only the commission, to reevaluate the qualifications and security provided by a license holder.