

SUBJECT: Texas Low-Level Radioactive Waste Disposal Compact Commission

COMMITTEE: State Affairs — committee substitute recommended

VOTE: 12 ayes — Cook, Menendez, Craddick, Frullo, Gallego, Geren, Harless, Hilderbran, Huberty, Oliveira, Solomons, Turner

0 nays

1 absent — Smithee

SENATE VOTE: On final passage, April 13 — 30-1 (Duncan)

WITNESSES: No public hearing

BACKGROUND: A three-state compact to dispose of low-level radioactive waste from Texas, Maine, and Vermont in Texas was approved by Congress in 1998, although Maine later withdrew after decommissioning its nuclear facility. Texas is the host state for the Texas Low-Level Radioactive Waste Disposal Compact with Vermont. It requires Texas to develop a facility for the disposal of low-level radioactive waste generated within the compact's party states. In accordance with the compact and in compliance with state law, the Texas Commission on Environmental Quality (TCEQ) issued a license to Waste Control Specialists (WCS) to build and operate a facility for the disposal of low-level radioactive waste for the compact at their company's site in Andrews County. Construction of the disposal facility is under way and expected to be completed in late 2011.

The Texas Low-Level Radioactive Waste Disposal Compact Commission and its members have the powers and duties prescribed by the compact, and the members of the commission are responsible for administering the provisions of the Texas Low Level Radioactive Waste Disposal Compact. The States of Texas and Vermont are the party states. Texas is the host state for the compact's low-level radioactive waste disposal facility.

Under the terms of the compact, the host state (Texas) appoints six voting members of the commission and the other compact states appoint one

voting member. The governor of Texas appoints the six host state commissioners for six-year terms.

**DIGEST:**

Under CSSB 1605, the compact waste disposal facility license holder for the Texas Low Level Radioactive Waste Disposal Compact could not accept compact waste unless the Texas Low-Level Radioactive Waste Disposal Compact Commission adopted bylaws necessary to carry out the terms of the compact.

**Staggering terms of Texas commission members.** The Texas commissioners would serve staggered, six-year terms, with the terms of two Texas commissioners expiring on February 1 of each even-numbered year. A Texas commissioner would serve until a successor was appointed and qualified. A vacancy in the office of a Texas commissioner would be filled for the unexpired term by appointment of the governor.

The term of office for a person serving as a Texas commissioner on September 1, 2011, would expire February 1, 2012. The bill would set out expiration dates of the staggered terms.

**Commission as an independent entity.** The compact commission would be an independent entity and not a program, department, or other division of, or administratively attached to, the Texas Commission on Environmental Quality (TCEQ).

Money for the compact commission could not be appropriated as part of an appropriation for the TCEQ.

**Biennial reports to the Legislature.** On or before December 1 of each even-numbered year, the commission would be required to file with the governor and the appropriate legislative committees a written report that included:

- a statement of the activities of the compact commission during the preceding fiscal biennium;
- the compact commission's recommendations for necessary and desirable legislation; and
- an accounting of all funds received and disbursed by the compact commission during the preceding biennium.

**Attorney general to represent the compact commission.** The attorney general would represent the commission in all matters before the state courts and any court of the United States.

**Compact commission subject to sunset review.** The compact commission would be subject to Sunset review on the same schedule as the TCEQ. The compact commission could not be abolished.

The compact commission would be required to pay the cost incurred by the Sunset Advisory Commission in performing a review of the commission. The Sunset Advisory Commission would be required to determine the cost, and the compact commission would pay the amount promptly on receipt of a statement from the Sunset Advisory Commission detailing the cost.

**Compact commission subject to audit.** The compact commission would be subject to audit by the state auditor.

**Effective date.** The bill would take effect September 1, 2011.

**SUPPORTERS  
SAY:**

Current law contains some ambiguity with regard to certain provisions on the Texas Low-level Radioactive Waste Disposal Compact Commission. CSSB 1605 would clarify the role of the commission and address some items not addressed in earlier legislation establishing the compact.

The bill also would prohibit the license holder from accepting any compact waste at the facility until the compact commission had adopted bylaws necessary to carry out the terms of the compact.

CSSB 1605 is especially important in light of the passage of SB 1504, which authorizes out-of-state generators to submit import petitions to the compact commission. The measures contained in SB 1605 would provide direction to the compact commission on key operational issues.

**OPPONENTS  
SAY:**

CSSB 1605 would stipulate that the compact commission was an independent entity completely separate from the TCEQ and require it to report only to the Legislature. Given the important decisions that the compact commission makes that could affect the health and safety of the communities surrounding the waste disposal facility in Andrews County, as well as the rest of the state, it would be inappropriate to make them a

completely independent entity. The TCEQ should retain oversight of the compact commission to ensure public health.

NOTES:

The House committee substitute differs from the Senate-passed version of the bill by adjusting the Sunset review schedule to make the compact commission Sunset review consistent with the TCEQ Sunset review.

SB 1504 by Seliger, authorizing the disposal of out-of-state, low-level radioactive waste in the Andrews County disposal site, passed the Senate by 31-0 on April 3 and passed the House, as amended, by 91-38 on May 18.