

BILL ANALYSIS

Senate Research Center

C.S.H.B. 1171
By: Chisum (Brown)
Natural Resources
5/14/1999
Committee Report (Substituted)

DIGEST

The Texas Radiation Control Act of 1961, recodified in 1989, established regulatory framework and authority for the state agencies that regulate the possession, use, and disposal of radiation sources. C.S.H.B. 1171 sets forth provisions which clarify the entities to which certain individuals who deal with radioactive materials and other sources of radiation are required to report, or otherwise interact with.

PURPOSE

As proposed, C.S.H.B. 1171 sets forth provisions which clarify the entities to which certain individuals who deal with radioactive materials and other sources of radiation, are required to report, or otherwise interact with.

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 Section 401.003(17), Health and Safety Code, by adding Section 401.003(28) to redefine "radiation," and define "assured isolation."

SECTION 2. Amends Chapter 401A, Health and Safety Code, to add Section 401.004, as follows:

Sec. 401.004. **LOW-LEVEL RADIOACTIVE WASTE DEFINED.** Defines "low-level radioactive waste," and sets forth elements which are not included in the definition.

SECTION 3. Amends Section 401.011, Health and Safety Code, to provide that the Texas Department of Health (TDH) has jurisdiction to regulate and license assured isolation defined by Section 401.003(28).

SECTION 4. Amends Section 401.104, Health and Safety Code, by amending Subsections (a) and (b) and adding Subsection (e), to prohibit the Texas Board of Health (TBH) and the Texas Natural Resource Conservation Commission (TNRCC) from requiring a license for a certain person. Provides that this subsection does not exempt the person from complying with certain standards. Provides that the exemption granted by this subsection applies only to the assessment and remediation of the contamination at the site.

SECTION 5. Amends Sections 401.106, 401.108, 401.110, 401.201-401.203, 401.205, and 401.208, Health and Safety Code, as follows:

Sec. 401.106. **NEW HEADING: EXEMPTION FROM LICENSING OR REGISTRATION REQUIREMENTS OR FROM APPLICATION OF RULE.** Authorizes the TDH or TNRCC to exempt a radiation source from the application of an adopted rule if certain determinations are made regarding the prospective exemption. Authorizes TNRCC to authorize on-site disposal of low-level radioactive waste, under certain conditions. Requires TDH or TNRCC to provide the secretary of state with notice of, and justification for, the intent to grant an exemption.

Sec. 401.108. **FINANCIAL QUALIFICATIONS.** Requires the applicant to demonstrate certain qualifications to TNRCC, rather than TDH. Authorizes the Texas Board of Health (TBH), by rule, to require an applicant to demonstrate financial qualifications to conduct certain licensed activities, prior to the issuance or renewal of a license by TDH. Requires a license holder to submit

certain proof to TDH or TNRCC, rather than the issuing agency, at intervals required by TBH or TRNCC, rather than the issuing agency. Deletes a specification that a license is issued or renewed by TDH, and a reference to Subchapter G.

Sec. 401.110. DETERMINATION ON LICENSE. Authorizes TNRCC to consider the applicant's financial qualifications in taking certain action, including the renewal of a license or registration.

Sec. 401.201. New heading: REGULATION OF RADIOACTIVE WASTE DISPOSAL AND ASSURED INSOLATION. Requires TDH to directly regulate the assured insolation of radioactive waste. Requires the person isolating waste to comply with TDH rules. Provides that the provisions of Chapter 402, Health and Safety Code, apply to the assured insolation of radioactive waste.

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

Sec. 401.203. New heading: LICENSE CLASSIFICATIONS. Sets forth provisions for the issuance of a license for the disposal or assured insolation of low-level radioactive waste. Authorizes TNRCC to issue a license to a private entity in accordance with certain requirements. Makes conforming changes.

Sec. 401.205. RESPONSIBILITIES OF PERSONS LICENSED TO DISPOSE OF RADIOACTIVE WASTE. Requires a person licensed to dispose of radioactive waste to convey to the federal government prior to the termination of the license, rather than when the license is issued, certain information. Makes a conforming change.

Sec. 401.208. LIMITATION ON CERTAIN RADIOACTIVE WASTE DISPOSAL. Prohibits a license holder from accepting any discarded atomic weapon component or the radioactive waste resulting from the testing of any atomic weapon, for disposal.

SECTION 6. Amends Chapter 401F, Health and Safety Code, by adding Section 401.2081, as follows:

Sec. 401.2081. LIMITATION ON UNITED STATES DEPARTMENT OF ENERGY WASTE DISPOSAL IN A PRIVATE FACILITY. Requires a certain amount of total radioactivity to be 20 percent less than the radioactivity of wastes projected to be received, unless it is otherwise exempt or existing in nature.

SECTION 7. Amends Section 401.211, Health and Safety Code, to provide that the acceptance or storage of certain waste does not create certain liability. Requires the inclusion of certain provisions in any license or permit issued by certain entities. Makes a conforming change.

SECTION 8. Amends Chapter 401, Health and Safety Code, by adding Sections 401.214-401.216, as follows:

Sec. 401.214. REPORTING LOW-LEVEL RADIOACTIVE WASTE DISPOSAL. Requires TNRCC or TDH to report certain information to the legislature, on request of a member of the legislature. Requires TNRCC and TDH to post certain information regarding low-level radioactive waste on the Internet annually.

Sec. 401.215. SITING. Prohibits TNRCC from licensing a disposal site, and TDH is prohibited from licensing an assured isolation site that is located in a certain area.

Sec. 401.216. DEVELOPMENT AND OPERATION OF ASSURED ISOLATION SITE. Prohibits TDH from issuing a license for the development or operation of a certain site for certain waste unless assured isolation at the site includes certain components. Authorizes the consideration of underground disposal, under certain conditions.

SECTION 9. Amends Section 401.305(b), Health and Safety Code, to require certain entities to deposit money received from an administrative penalty collected by TDH under Sections 401.384-401.390, Health and Safety Code.

SECTION 10. Amends Section 401.381(a), Health and Safety Code, to clarify a violation of this chapter.

SECTION 11. Amends Section 401.384(a), Health and Safety Code, to authorize TDH to assess an administrative, rather than civil, penalty as provided by Sections 401.385-401.390, rather than 401.385-401.391, against a person who causes, suffers, allows, or permits a violation of a provision of this chapter.

SECTION 12. Amends Section 401.385, Health and Safety Code, to make a conforming change.

SECTION 13. Amends Sections 401.388(d) and (f), Health and Safety Code, to make conforming changes.

SECTION 14. Amends Section 402.012, Health and Safety Code, to provide that the Texas Low-Level Radioactive Waste Disposal Authority is abolished and this chapter expires on September 1, 1999, rather than 2001.

SECTION 15. Repealer: Section 402.0921, Health and Safety Code (Site Area).

SECTION 16. (a) Effective date: September 1, 1999.

(b) Makes application of this Act prospective.

(c) Authorizes any act, duty, or responsibility of TNRCC relating to the disposal of radioactive waste to be performed by TDH, for the licensing of an assured isolation site for low-level radioactive waste.

SECTION 17. Emergency clause.