

1-1 By: Birdwell, Seliger S.B. No. 1046
 1-2 (In the Senate - Filed March 4, 2021; March 18, 2021, read
 1-3 first time and referred to Committee on Natural Resources &
 1-4 Economic Development; April 12, 2021, reported adversely, with
 1-5 favorable Committee Substitute by the following vote: Yeas 8,
 1-6 Nays 1; April 12, 2021, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10		X		
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 1046 By: Birdwell

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to the regulation of radioactive waste; reducing a
 1-22 surcharge; reducing a fee.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Section 401.205, Health and Safety Code, is
 1-25 amended by adding Subsection (a-1) to read as follows:

1-26 (a-1) In this subsection, "high-level radioactive waste"
 1-27 has the meaning assigned by 42 U.S.C. Section 10101(12) and "spent
 1-28 nuclear fuel" has the meaning assigned by 42 U.S.C. Section
 1-29 10101(23). With the exception of storage at the site of currently
 1-30 or formerly operating nuclear power reactors and currently or
 1-31 formerly operating nuclear research and test reactors located on
 1-32 university campuses, a person, including the compact waste disposal
 1-33 facility license holder, may not dispose of or store high-level
 1-34 radioactive waste or spent nuclear fuel in this state.

1-35 SECTION 2. Subchapter F, Chapter 401, Health and Safety
 1-36 Code, is amended by adding Sections 401.2065 and 401.2066 to read as
 1-37 follows:

1-38 Sec. 401.2065. RESERVED CAPACITY FOR PARTY STATE WASTE.

1-39 (a) The following are reserved for the exclusive use of party state
 1-40 compact waste disposal in the compact waste disposal facility:

1-41 (1) the greater of:
 1-42 (A) three million total cubic feet; or
 1-43 (B) the required volume identified by the
 1-44 commission under Section 401.208; and

1-45 (2) the greater of:
 1-46 (A) two million total curies; or
 1-47 (B) the required curie capacity identified by the
 1-48 commission under Section 401.208.

1-49 (b) Of the reserved volume and curie capacity described by
 1-50 Subsection (a):

1-51 (1) 80 percent is reserved for compact waste generated
 1-52 in the host state; and

1-53 (2) 20 percent is reserved for compact waste generated
 1-54 in nonhost party states.

1-55 Sec. 401.2066. CORRECTION FOR DECAY IN DETERMINING
 1-56 CAPACITY. The commission shall correct for radioactive decay in
 1-57 determining licensed disposal curie capacity in a compact waste
 1-58 disposal facility under this subchapter.

1-59 SECTION 3. Sections 401.207(e-2) and (g), Health and Safety
 1-60 Code, are amended to read as follows:

2-1 (e-2) The commission's executive director, on completion of
2-2 the study under Section 401.208, may prohibit the license holder
2-3 from accepting any additional nonparty compact waste if the
2-4 commission determines from the study that the capacity of the
2-5 facility will be limited, regardless of whether the capacity
2-6 required [limit] under Section 401.2065 is available [Subsection
2-7 (f) has been reached].

2-8 (g) The commission shall assess a surcharge for the disposal
2-9 of nonparty compact waste at the compact waste disposal facility.
2-10 The surcharge is five [20] percent of the total contracted rate
2-11 under Section 401.2456 and must be assessed in addition to the total
2-12 contracted rate under that section.

2-13 SECTION 4. Subchapter F, Chapter 401, Health and Safety
2-14 Code, is amended by adding Section 401.2075 to read as follows:

2-15 Sec. 401.2075. LIMITATION ON NONPARTY COMPACT WASTE. (a)
2-16 The compact waste disposal facility license holder may accept
2-17 nonparty compact waste at the facility only if:

2-18 (1) the waste is authorized by the compact commission;
2-19 and

2-20 (2) the facility has not less than three years' worth
2-21 of constructed capacity based on the average amount of party state
2-22 compact waste disposed in the compact waste disposal facility in
2-23 the preceding five years.

2-24 (b) If the compact waste disposal facility does not have
2-25 sufficient constructed capacity as described by Subsection (a), in
2-26 order to be permitted to accept nonparty compact waste, the compact
2-27 waste disposal facility license holder must:

2-28 (1) add constructed capacity sufficient to meet the
2-29 requirements of Subsection (a); or

2-30 (2) file and have approved by the commission a bond
2-31 acceptable to the commission conditioned on the construction of
2-32 additional constructed capacity sufficient to meet the
2-33 requirements of Subsection (a).

2-34 (c) If a utility operating a nuclear electric generation
2-35 facility in a party state has notified the federal commission that
2-36 the facility will be decommissioned, and the time-phased
2-37 decommissioning schedule and the Post-Shutdown Decommissioning
2-38 Activities Report indicate that low-level radioactive waste is to
2-39 be disposed of at the compact waste disposal facility, the compact
2-40 waste disposal facility license holder must have constructed
2-41 adequate disposal capacity at the time of the disposal of waste from
2-42 the decommissioning.

2-43 (d) The compact waste disposal facility license holder must
2-44 obtain an amendment to the facility operating license to increase
2-45 the allowable curie capacity by two million curies when the compact
2-46 waste disposal facility has reached 80 percent of the total curies
2-47 for which the facility is licensed.

2-48 SECTION 5. Section 401.215, Health and Safety Code, is
2-49 amended to read as follows:

2-50 Sec. 401.215. ACCEPTANCE OF LOW-LEVEL RADIOACTIVE WASTE.
2-51 Except as otherwise provided by this subchapter [Subject to
2-52 limitations provided by Sections 401.207 and 401.248], the compact
2-53 waste disposal facility shall accept for disposal all compact waste
2-54 that is presented to it and that is properly processed and packaged.

2-55 SECTION 6. Section 401.2445, Health and Safety Code, is
2-56 amended to read as follows:

2-57 Sec. 401.2445. STATE FEE. The compact waste disposal
2-58 facility license holder each quarter shall transfer to the state
2-59 general revenue fund five percent of the gross receipts from[+

2-60 (1) compact waste received at the compact waste
2-61 disposal facility; and

2-62 (2) any federal facility waste received at a federal
2-63 facility waste disposal facility licensed under Section 401.216.

2-64 SECTION 7. Section 401.2456(b), Health and Safety Code, is
2-65 amended to read as follows:

2-66 (b) Rates and contract terms negotiated under this section
2-67 are subject to periodic review [and approval] by the commission's
2-68 executive director to ensure that the compact waste disposal
2-69 facility license holder's contracted rates and terms do not have a

3-1 long-term, adverse effect on the cumulative surcharges paid to the
3-2 host state and the host county [~~they meet all of the requirements of~~
3-3 ~~this section~~].

3-4 SECTION 8. Subchapter F, Chapter 401, Health and Safety
3-5 Code, is amended by adding Section 401.2465 to read as follows:

3-6 Sec. 401.2465. WASTE DISPOSAL FEE COMPARISON. (a) The
3-7 compact waste disposal facility license holder shall conduct an
3-8 annual comparison of party state and nonparty state compact waste
3-9 disposal fees. The comparison must include:

3-10 (1) an average party state disposal fee calculated by
3-11 dividing the total invoiced party state compact waste disposal fees
3-12 by the total volume of party state compact waste disposed; and

3-13 (2) an average nonparty state disposal fee calculated
3-14 by dividing the total invoiced nonparty state compact waste
3-15 disposal fees by the total volume of nonparty state compact waste
3-16 disposed.

3-17 (b) If the average party state disposal fee exceeds the
3-18 average nonparty state disposal fee, the compact waste disposal
3-19 facility license holder must issue a rebate for the preceding
3-20 year's fees to the party state generators in an amount sufficient to
3-21 reduce the average party state disposal fee after the rebate to \$1
3-22 less than the average nonparty state disposal fee.

3-23 (c) The compact waste disposal facility license holder
3-24 shall allocate the rebate issued under Subsection (b) according to
3-25 the fractional amount of the total compact waste disposal fees paid
3-26 by each generator based on the compact waste disposal facility
3-27 license holder's records for the preceding year.

3-28 (d) Not more often than once per year, on written request of
3-29 a utility operating a nuclear electric generation facility in a
3-30 party state, the compact waste disposal facility license holder
3-31 shall:

3-32 (1) retain an independent auditor, who must be
3-33 approved by the compact waste disposal facility license holder and
3-34 the utility making the request, to evaluate the computation of the
3-35 average compact waste disposal fee and rebate described by this
3-36 section; and

3-37 (2) not later than the 30th day after the date the
3-38 license holder receives the final audit report, make a copy of the
3-39 report available to the requesting utility, the governor, the
3-40 lieutenant governor, the speaker of the house of representatives,
3-41 and each standing committee of the legislature with jurisdiction
3-42 over environmental matters.

3-43 SECTION 9. The following provisions of the Health and
3-44 Safety Code are repealed:

3-45 (1) Sections 401.207(d-1), (d-2), (d-3), (e), (e-1),
3-46 (f), and (h-1); and

3-47 (2) Sections 401.2456(c), (d), and (e).

3-48 SECTION 10. A state agency is required to implement a
3-49 provision of this Act only if the legislature appropriates money
3-50 specifically for that purpose. If the legislature does not
3-51 appropriate money specifically for that purpose, the state agency
3-52 may, but is not required to, implement a provision of this Act using
3-53 other appropriations available for that purpose.

3-54 SECTION 11. This Act takes effect immediately if it
3-55 receives a vote of two-thirds of all the members elected to each
3-56 house, as provided by Section 39, Article III, Texas Constitution.
3-57 If this Act does not receive the vote necessary for immediate
3-58 effect, this Act takes effect September 1, 2021.

3-59 * * * * *