

CHAPTER 692

H.B. No. 449

An Act relating to disposal sites of the Texas Low-Level Radioactive Waste Disposal Authority.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 3.07, Texas Low-Level Radioactive Waste Disposal Authority Act (Article 4590f-1, Vernon's Texas Civil Statutes), is amended by adding Subsection (g) to read as follows:

(g) *The board may not select a site under this section that is within 20 miles upstream or up-drainage from the maximum elevation of the surface of any reservoir project that has been constructed or is under construction by the United States Bureau of Reclamation or the United States Corps of Engineers or has been approved for construction by the Texas Water Development Board as part of the state water plan under Subchapter C, Chapter 16, Water Code.*

SECTION 2. The Texas Low-Level Radioactive Waste Disposal Authority Act (Article 4590f-1, Vernon's Texas Civil Statutes) is amended by adding Section 3.07A to read as follows:

Sec. 3.07A. SCHOOL OR UNIVERSITY LAND. (a) *If funds are specifically appropriated to the authority to search for and acquire a disposal site on state-owned land dedicated to the permanent school fund or the permanent university fund, the authority shall give preference to any suitable site on that land over other equally suitable sites in selecting a disposal site under Section 3.07 of this Act.*

(b) *The authority may enter and investigate land dedicated to the permanent school fund or the permanent university fund to determine the suitability of the land for a disposal site.*

(c) *The authority may enter into an agreement to purchase a fee interest in land dedicated to the permanent school fund or the permanent university fund by paying to the appropriate fund fair consideration in kind or money for the interest. The authority may enter into an agreement to purchase one or more parcels of the land of a size the board considers appropriate for purposes of a disposal site.*

(d) *As an alternative to purchase of fee title to permanent school fund land or permanent university fund land the authority and the commissioner of the General Land Office or the board of regents of The University of Texas System, as appropriate, may enter into either a conveyance that reserves mineral rights to the funds or a long-term lease of all or a portion of the necessary lands for a disposal site. This provision shall apply only if the Congress of the United States has previously determined by enactment of an appropriate resolution or Act that such lease or other alternative arrangement sufficed under the federal Low-Level Radioactive Waste Policy Act to permit Texas to qualify its waste disposal site or sites.*

(e) *Nothing in this Act shall be interpreted as requiring the board of regents of The University of Texas System or the commissioner of the General Land Office to enter into an agreement to sell or lease lands for a disposal site for low-level radioactive waste.*

(f) *Before entering into an agreement with the authority for the sale or lease of permanent university fund lands to the authority, the board of regents of The University of Texas System shall enter a finding in its records that the site for low-level radioactive waste disposal to be sold or leased will not interfere with the potential siting of the Super-conducting Super Colliding Particle Accelerator Project.*

(g) *The Texas Board of Health, the commissioner of health, or the Texas Low-Level Radioactive Waste Disposal Authority may not relax any standard for the siting, construction, or operation of the disposal site because such site is located on state-owned land dedicated to the permanent school fund or the permanent university fund.*

(h) *If the board determines that a suitable site cannot be located on land dedicated to the permanent school fund or the permanent university fund, the authority shall prepare and submit to the governor and the legislature a report listing the land considered and the reasons that none of the land is considered to be suitable.*

SECTION 3. Section 3.05, Texas Low-Level Radioactive Waste Disposal Authority Act (Article 4590f-1, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 3.05. STUDIES FOR SITE SELECTION. (a) *The authority shall make studies or contract for studies to be made of the future requirements for disposal of low-level waste in this state and to determine the areas of the state that are relatively more suitable than others for low-level waste disposal activities.*

(b) *In studying future requirements and relative suitability, the authority and any persons with which it contracts under this section shall consider the following:*

- (1) *the volume of low-level waste generated by type and source categories for the expected life of the site;*
- (2) *geology;*
- (3) *surface characteristics (topography);*
- (4) *other aspects of transportation and access;*
- (5) *meteorology;*

- (6) population density;
 - (7) surface and subsurface hydrology;
 - (8) flora and fauna;
 - (9) current land use;
 - (10) criteria established by the agency for site selection;
 - (11) the proximity to sources of low-level waste, including related transportation costs, to the extent that the proximity and transportation costs do not interfere with selection of the best site for protecting public health and the environment; ~~and~~
 - (12) other site characteristics as may need study on a preliminary basis that would require detailed study to prepare any application or license required for site operation; *and*
 - (13) *alternative management techniques, including aboveground isolation facilities, waste processing and reduction both at the site of waste generation and at an authority management site, and waste recycling.*
- (c) The studies may be performed either by the authority's staff or under contract with others.
- (d) *No low-level waste may be disposed of in a landfill below the natural level of the disposal site unless:*
- (1) *state or federal regulatory programs for low-level waste preclude or recommend against aboveground disposal; or*
 - (2) *the authority has by rule determined that below ground disposal provides greater protection than aboveground disposal for the environment and public health for the period of time for which the low-level waste will continue to pose a hazard to the environment and public health.*

SECTION 4. Section 3.08(b), Texas Low-Level Radioactive Waste Disposal Authority Act (Article 4590f-1, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) The authority shall cooperate with appropriate federal and state agencies in the licensing and authorization process and shall supply any additional information and material requested by those agencies. *As a condition for obtaining a license, the authority shall submit to the Texas Board of Health or its designee evidence as to the reasonableness of any technique to be practiced at the proposed disposal site for managing low-level waste. Before determining the techniques to be used, the authority shall study alternative techniques for managing low-level waste, including waste processing and reduction at the site of waste generation and at the disposal site, and the use of aboveground isolation facilities.*

SECTION 5. Section 6, Chapter 72, Acts of the 57th Legislature, Regular Session, 1961 (Article 4590f, Vernon's Texas Civil Statutes), is amended by adding Subsection (i) to read as follows:

(i) *Before July 6, 1987, neither the Texas Board of Health nor the Commissioner of the Texas Department of Health may issue a license for construction or operation of a disposal site to the Texas Low-Level Radioactive Waste Disposal Authority created under the Texas Low-Level Radioactive Waste Disposal Authority Act (Article 4590f-1, Vernon's Texas Civil Statutes).*

SECTION 6. The Texas Low-Level Radioactive Waste Disposal Authority Act (Article 4590f-1, Vernon's Texas Civil Statutes) is amended by adding Section 3.28 to read as follows:

Sec. 3.28. DESIGN OF FACILITIES. *The board shall ensure that the design of facilities for low-level radioactive waste disposal incorporates, insofar as possible, safeguards against hazards resulting from local meteorological conditions including, without limitation, such phenomena as violent storms, hurricanes, tornados, earthquakes, earth tremors, and susceptibility to flooding.*

SECTION 7. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed by the House on March 12, 1985, by the following vote: Yeas 122, Nays 18, 1 present, not voting; House concurred in Senate amendments to H.B. No. 449 on May 20, 1985, by the following vote: Yeas 145, Nays 0, 3 present, not voting; passed by the Senate, with amendments, on May 17, 1985, by the following vote: Yeas 25, Nays 5.

Approved: June 14, 1985

Effective: Immediately