

BILL ANALYSIS

Senate Research Center
78R994 SGA-D

H.B. 253
By: Chisum (Armbrister)
Health & Human Services
5/12/2003
Engrossed

DIGEST AND PURPOSE

The 77th Texas Legislature reviewed the Texas Natural Resource Conservation Commission under the Sunset process and continued the commission, renaming it the Texas Commission on Environmental Quality (TCEQ) in H.B. 2912. As the bill moved through the legislative process, the bill was amended several times with regard to considering past compliance history of licensees. The Texas Department of Health's (TDH) statutory authority for this provision is located in the same part of the code as TCEQ's authority to regulate low-level radioactive waste disposal. The attempt to make TCEQ's program actions uniform resulted in the inadvertent removal of TDH's authority to consider past compliance history of all radiation applicants and licenses. H.B. 253 restores TDH's ability to consider the past compliance history of applicants and licensees when evaluating license applications for persons who wish to possess radioactive material or work with radiation-producing machines.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Department of Health in SECTION 3 of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 401.110, Health and Safety Code, as follows:

- (a) Created from existing text.
- (b) Authorizes the Texas Department of Health (TDH), in making a determination whether to grant, deny, amend, renew, revoke, suspend, or restrict a license or registration, to consider the technical competence, financial qualifications, and compliance history of an applicant, license holder, or registration holder. Requires TDH, after an opportunity for a hearing, to deny an application for a license or registration, license or registration amendment, or license or registration renewal if the applicant's compliance history reveals a recurring pattern of conduct that demonstrates a consistent disregard for the regulatory process through significant violations of this chapter or TDH's rules adopted under this chapter.

SECTION 2. Amends Section 401.112(a), Health and Safety Code, to require TDH or the Texas Commission on Environmental Quality (TCEQ), within its jurisdiction, in making a licensing decision on a specific license application to process or dispose of low-level radioactive waste from other persons, to consider the applicant's qualifications, including financial and technical qualifications and compliance history under the method for evaluation of compliance history developed by TCEQ under Section 5.754, Water Code, for an application to TCEQ or the requirements of Section 401.110(b) for an application to TDH.

SECTION 3. (a) Effective date: September 1, 2003.

- (b) Makes application of the changes in law made by the addition of Section 401.110(b), Health and Safety Code, and the amendment of Section 401.112(a), Health and Safety Code, by this Act, prospective.
- (c) Requires TDH, not later than December 1, 2003, to adopt rules to implement

the changes in law made by Section 401.110(b), Health and Safety Code, as added by this Act, and Section 401.112(a), Health and Safety Code, as amended by this Act.