

AN ACT concerning safety.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Illinois Low-Level Radioactive Waste Management Act is amended by changing Sections 10.2, 10.3, 12.1, and 14 as follows:

(420 ILCS 20/10.2) (from Ch. 111 1/2, par. 241-10.2)

Sec. 10.2. Selection ~~Creation of Low-Level Radioactive Waste Task Group; adoption of criteria; selection of site for characterization.~~

(a) (Blank). ~~There is hereby created the Low-Level Radioactive Waste Task Group consisting of the Directors of the Environmental Protection Agency, the Department of Natural Resources, and the Illinois Emergency Management Agency (or their designees) and 6 additional members designated by the Governor. The 6 additional members shall:~~

~~(1) be confirmed by the Senate; and~~

~~(2) receive compensation of \$300 per day for their services on the Task Group unless they are officers or employees of the State, in which case they shall receive no additional compensation.~~

~~Four of the additional members shall have expertise in the field of geology, hydrogeology, or hydrology. Of the 2~~

~~remaining additional members, one shall be a member of the public with experience in environmental matters and one shall have at least 5 years experience in local government. The Directors of the Environmental Protection Agency, the Department of Natural Resources, and the Illinois Emergency Management Agency (or their designees) shall receive no additional compensation for their service on the Task Group. All members of the Task Group shall be compensated for their expenses. The Governor shall designate the chairman of the Task Group. Upon adoption of the criteria under subsection (b) of this Section, the Directors of the Illinois Emergency Management Agency and the Environmental Protection Agency shall be replaced on the Task Group by members designated by the Governor and confirmed by the Senate. The members designated to replace the Directors of the Illinois Emergency Management Agency and the Environmental Protection Agency shall have such expertise as the Governor may determine. The members of the Task Group shall be members until they resign, are replaced by the Governor, or the Task Group is abolished. Except as provided in this Act, the Task Group shall be subject to the Open Meetings Act and the Illinois Administrative Procedure Act. Any action required to be taken by the Task Group under this Act shall be taken by a majority vote of its members. An identical vote by 5 members of the Task Group shall constitute a majority vote.~~

(b) (Blank). ~~To protect the public health, safety and~~

~~welfare, the Task Group shall develop proposed criteria for selection of a site for a regional disposal facility. Principal criteria shall relate to the geographic, geologic, seismologic, tectonic, hydrologic, and other scientific conditions best suited for a regional disposal facility. Supplemental criteria may relate to land use (including (i) the location of existing underground mines and (ii) the exclusion of State parks, State conservation areas, and other State owned lands identified by the Task Group), economics, transportation, meteorology, and any other matter identified by the Task Group as relating to desirable conditions for a regional disposal facility. All of the criteria shall be as specific as possible.~~

~~The chairman of the Task Group shall publish a notice of availability of the proposed criteria in the State newspaper, make copies of the proposed criteria available without charge to the public, and hold public hearings to receive comments on the proposed criteria. Written comments on the proposed criteria may be submitted to the chairman of the Task Group within a time period to be determined by the Task Group. Upon completion of the review of timely submitted comments on the proposed criteria, the Task Group shall adopt criteria for selection of a site for a regional disposal facility. Adoption of the criteria is not subject to the Illinois Administrative Procedure Act. The chairman of the Task Group shall provide copies of the criteria to the Governor, the President and~~

~~Minority Leader of the Senate, the Speaker and Minority Leader of the House, and all county boards in the State of Illinois and shall make copies of the criteria available without charge to the public.~~

(c) (Blank). ~~Upon adoption of the criteria, the Director of Natural Resources shall direct the Scientific Surveys to screen the State of Illinois. By September 30, 1997, the Scientific Surveys shall (i) complete a Statewide screening of the State using available information and the Surveys' geography based information system to produce individual and composite maps showing the application of individual criteria; (ii) complete the evaluation of all land volunteered before the effective date of this amendatory Act of 1997 to determine whether any of the volunteered land appears likely to satisfy the criteria; (iii) document the results of the screening and volunteer site evaluations in a written report and submit the report to the chairman of the Task Group and to the Director; and (iv) transmit to the Task Group and to the Agency, in a form specified by the Task Group and the Agency, all information and documents assembled by the Scientific Surveys in performing the obligations of the Scientific Surveys under this Act. Upon completion of the screening and volunteer site evaluation process, the Director of the Department of Natural Resources shall be replaced on the Task Group by a member appointed by the Governor and confirmed by the Senate. The member appointed to replace the Director of the Department of Natural Resources~~

~~shall have expertise that the Governor determines to be appropriate.~~

(c-3) (Blank). ~~By December 1, 2000, the Department of Nuclear Safety (now the Illinois Emergency Management Agency), in consultation with the Task Group, waste generators, and any interested counties and municipalities and after holding 3 public hearings throughout the State, shall prepare a report regarding, at a minimum, the impact and ramifications, if any, of the following factors and circumstances on the siting, design, licensure, development, construction, operation, closure, and post-closure care of a regional disposal facility:~~

~~(1) the federal, state, and regional programs for the siting, development, and operation of disposal facilities for low-level radioactive wastes and the nature, extent, and likelihood of any legislative or administrative changes to those programs;~~

~~(2) (blank);~~

~~(3) the current and most reliable projections regarding the costs of the siting, design, development, construction, operation, closure, decommissioning, and post-closure care of a regional disposal facility;~~

~~(4) the current and most reliable estimates of the total volume of low-level radioactive waste that will be disposed at a regional disposal facility in Illinois and the projected annual volume amounts;~~

~~(5) the nature and extent of the available, if any,~~

~~storage and disposal facilities outside the region of the Compact for storage and disposal of low-level radioactive waste generated from within the region of the Compact; and~~

~~(6) the development and implementation of a voluntary site selection process in which land may be volunteered for the regional disposal facility jointly by landowners and (i) the municipality in which the land is located, (ii) every municipality within 1 1/2 miles of the land if the land is not within a municipality, or (iii) the county or counties in which the land is located if the land is not within a municipality and not within 1 1/2 miles of a municipality. The Director shall provide copies of the report to the Governor, the President and Minority Leader of the Senate, and the Speaker and Minority Leader of the House. The Director shall also publish a notice of availability of the report in the State newspaper and make copies of the report available without charge to the public.~~

(c-5) The ~~Following~~ ~~submittal of the report pursuant to subsection (c-3) of this Section,~~ the Agency may adopt rules establishing a site selection process for a ~~the~~ regional disposal facility. In developing rules, the Agency shall, at a minimum, consider the following:

(1) A comprehensive and open process under which the land for sites recommended and proposed by the contractor under subsection (e) of this Section shall be volunteered

lands as provided in this Section. Land may be volunteered for the regional disposal facility jointly by landowners and (i) the municipality in which the land is located, (ii) every municipality with 1 1/2 miles of the land if the land is not within a municipality, or (iii) the county or counties in which the land is located if the land is not within a municipality and not within 1 1/2 miles of a municipality.

(2) Utilization of ~~the~~ State screening and volunteer site evaluation reports ~~report~~ prepared by the Scientific Surveys ~~under subsection (c) of this Section~~ for the purpose of determining whether proposed sites appear likely to satisfy the site selection criteria.

(3) Coordination of the site selection process with the projected annual and total volume of low-level radioactive waste to be disposed at the regional disposal facility ~~as identified in the report prepared under subsection (c-3) of this Section.~~

The site selection process established under this subsection shall require the contractor selected by the Agency pursuant to Sections 5 and 10 of this Act to propose one site to the Agency Task Group for approval ~~under subsections (d) through (i) of this Section.~~

~~No proposed site shall be selected as the site for the regional disposal facility unless it satisfies the site selection criteria established by the Task Group under~~

~~subsection (b) of this Section.~~

(d) The contractor selected by the Agency under Sections 5 and 10 of this Act shall conduct evaluations, including possible intrusive field investigations, of the sites and locations identified under the site selection process established under subsection (c-5) of this Section.

(e) Upon completion of the site evaluations, the contractor selected by the Agency shall identify one site of at least 640 acres that appears promising for development of the regional disposal facility in compliance ~~with the site selection criteria established by the Task Group pursuant to subsection (b) of this Section.~~ The contractor may conduct any other evaluation of the site identified under this subsection that the contractor deems appropriate ~~to determine whether the site satisfies the criteria adopted under subsection (b) of this Section.~~ Upon completion of the evaluations under this subsection, the contractor shall prepare and submit to the Agency a report on the evaluation of the identified site, including a recommendation as to whether the identified site should be further considered for selection as a site for the regional disposal facility. A site so recommended for further consideration is hereinafter referred to as a "proposed site".

(f) (Blank). ~~A report completed under subsection (e) of this Section that recommends a proposed site shall also be submitted to the chairman of the Task Group. Within 45 days following receipt of a report, the chairman of the Task Group~~

~~shall publish in newspapers of general circulation in the county or counties in which a proposed site is located a notice of the availability of the report and a notice of a public meeting. The chairman of the Task Group shall also, within the 45 day period, provide copies of the report and the notice to the Governor, the President and Minority Leader of the Senate, the Speaker and Minority Leader of the House, members of the General Assembly from the legislative district or districts in which a proposed site is located, the county board or boards of the county or counties containing a proposed site, and each city, village, and incorporated town within a 5 mile radius of a proposed site. The chairman of the Task Group shall make copies of the report available without charge to the public.~~

(g) ~~The~~ The ~~chairman of the Task Group shall convene at least one public meeting on each proposed site. At the public meeting or meetings, the contractor selected by the Agency shall present the results of the evaluation of the proposed site. The Task Group shall receive such other written and oral information about the proposed site that may be submitted at the meeting. Following the meeting, the Task Group shall decide whether the proposed site satisfies the criteria adopted under subsection (b) of this Section. If the Task Group determines that the proposed site does not satisfy the criteria, the Agency may require a contractor to submit a further report pursuant to subsection (e) of this Section proposing another site from the locations identified under the site selection~~

process established pursuant to subsection (c-5) of this Section as likely to satisfy the criteria. ~~The Following notice and distribution of the report as required by subsection (f) of this Section,~~ the new proposed site shall be the subject of a public meeting under this subsection. The contractor selected by the Agency shall propose additional sites, ~~and the Task Group shall conduct additional public meetings,~~ until the Agency Task Group has approved a proposed site recommended by a contractor ~~as satisfying the criteria adopted under subsection (b) of this Section.~~ In the event that the Agency Task Group does not approve any of the proposed sites recommended by the contractor under this subsection, ~~as satisfying the criteria adopted under subsection (b) of this Section,~~ the Task Group ~~shall immediately suspend all work and~~ the Agency shall prepare a study containing, at a minimum, the Agency's recommendations regarding the viability of the site selection process established pursuant to this Act, ~~based on the factors and circumstances specified in items (1) through (6) of subsection (c-3) of Section 10.2.~~ The Agency shall provide copies of the study to the Governor, the President and Minority Leader of the Senate, and the Speaker and Minority Leader of the House. The Agency shall also publish a notice of availability of the study in the State newspaper and make copies of the report available without charge to the public.

(h) (Blank).

(i) Upon the Agency's approval ~~Task Group's decision that a~~

~~proposed site satisfies the criteria adopted under subsection (b) of this Section, the contractor shall proceed with the characterization and licensure of the proposed site under Section 10.3 of this Act and the Task Group shall immediately suspend all work, except as otherwise specifically required in subsection (b) of Section 10.3 of this Act.~~

(Source: P.A. 95-777, eff. 8-4-08.)

(420 ILCS 20/10.3) (from Ch. 111 1/2, par. 241-10.3)

Sec. 10.3. Site characterization; license application; adjudicatory hearing; exclusivity.

(a) If the contractor chosen under Sections 5 and 10, following characterization, determines that the proposed site is appropriate for the development of a regional disposal facility, ~~(i) the contractor shall submit to the Agency an application for a license to construct and operate the facility at the selected site and (ii) the Task Group shall be abolished and its records transferred to the Agency.~~

(b) If the contractor determines, following or at any time during characterization of a ~~the site proposed under Section 10.2 of this Act~~, that the proposed site is not appropriate for the development of a regional disposal facility, the Agency may require the contractor to propose an additional site ~~to the Task Group~~ from the locations identified under the site selection process established under subsection (c-5) of Section 10.2 ~~that is likely to satisfy the criteria adopted~~

~~under subsection (b) of Section 10.2.~~ The new proposed site shall be the subject of public notice, distribution, and public meeting conducted by the Agency ~~Task Group~~ under the procedures set forth in subsections (f) and (g) of Section 10.2 of this Act. The contractor selected by the Agency shall propose additional sites and the Agency ~~Task Group~~ shall conduct additional public meetings until ~~(i) the Task Group has approved a proposed site recommended by a contractor as satisfying the criteria adopted under subsection (b) of Section 10.2, and (ii)~~ the contractor has determined, following characterization, that the site is appropriate for the development of the regional disposal facility. Upon the selection of a proposed site under this subsection, ~~(i)~~ the contractor shall submit to the Agency an application for a license to construct and operate a regional disposal facility at the selected site ~~and (ii) the Task Group shall be abolished and its records transferred to the Agency.~~

(c) The Agency shall review the license application filed pursuant to Section 8 and subsections (a) and (b) of this Section in accordance with its rules and the agreement between the State of Illinois and the Nuclear Regulatory Commission under Section 274 of the Atomic Energy Act. If the Agency determines that the license should be issued, the Agency shall publish in the State newspaper a notice of intent to issue the license. Objections to issuance of the license may be filed within 90 days of publication of the notice. Upon receipt of

objections, the Director shall appoint a hearing officer who shall conduct an adjudicatory hearing on the objections. The burden of proof at the hearing shall be on the person filing the objections. Upon completion of the hearing, the hearing officer shall recommend to the Director whether the license should be issued. The decision of the Director to issue or deny the license may be appealed under Section 18.

(d) The procedures, criteria, terms, and conditions set forth in this Act, and in the rules adopted under this Act, for the treatment, storage, and disposal of low-level radioactive waste and for the siting, licensure, design, construction, maintenance, operation, closure, decommissioning, and post-closure care of the regional disposal facility shall be the exclusive procedures, criteria, terms, and conditions for those matters.

(Source: P.A. 95-777, eff. 8-4-08.)

(420 ILCS 20/12.1) (from Ch. 111 1/2, par. 241-12.1)

Sec. 12.1. Grants; community agreements.

(a) The Director may make grants to the county or counties containing a site proposed under subsection (d) of Section 10.2 and may make grants to any municipality containing or within 1.5 miles of a proposed site. The grants may be used for any lawful purposes, including technical reviews of the proposed site and participation in public meetings ~~the meeting~~ held during the site selection process ~~under subsection (g) of~~

~~Section 10.2.~~

(b) The Director may make grants to the county or counties containing a site to be characterized under Section 10.3 and may make a grant to any municipality containing or within 1.5 miles of any such site. The grants may be used for any lawful purposes, including review of site characterization work, participation in an adjudicatory hearing under subsection (c) of Section 10.3, and negotiation of an agreement under subsection (c) of this Section.

(c) The Director may enter into one or more community agreements with the county or counties containing a site for which a license application has been submitted under Section 10.3. The Director may also enter into one or more community agreements with any municipality containing or within 1.5 miles of a site for which a license application has been submitted under Section 10.3. An agreement under this subsection may include, but need not be limited to, matters of technical and socioeconomic concern regarding the development, operation, closure, and post-closure care of the disposal facility to be constructed at the site.

(Source: P.A. 90-29, eff. 6-26-97.)

(420 ILCS 20/14) (from Ch. 111 1/2, par. 241-14)

Sec. 14. Waste management funds.

(a) There is hereby created in the State Treasury a special fund to be known as the "Low-Level Radioactive Waste Facility

Development and Operation Fund". All monies within the Low-Level Radioactive Waste Facility Development and Operation Fund shall be invested by the State Treasurer in accordance with established investment practices. Interest earned by such investment shall be returned to the Low-Level Radioactive Waste Facility Development and Operation Fund. Except as otherwise provided in this subsection, the Agency shall deposit 80% of all receipts from the fees required under subsections (a) and (b) of Section 13 in the State Treasury to the credit of this Fund. Beginning July 1, 1997, and until December 31 of the year in which the Agency ~~Task Group~~ approves a proposed site under Section 10.3, the Agency ~~Department~~ shall deposit all fees collected under subsections (a) and (b) of Section 13 of this Act into the Fund. Subject to appropriation, the Agency is authorized to expend all moneys in the Fund in amounts it deems necessary for:

(1) hiring personnel and any other operating and contingent expenses necessary for the proper administration of this Act;

(2) contracting with any firm for the purpose of carrying out the purposes of this Act;

(3) grants to the Central Midwest Interstate Low-Level Radioactive Waste Commission;

(4) hiring personnel, contracting with any person, and meeting any other expenses incurred by the Agency in fulfilling its responsibilities under the Radioactive

Waste Compact Enforcement Act;

(5) activities under Sections 10, 10.2 and 10.3;

(6) payment of fees in lieu of taxes to a local government having within its boundaries a regional disposal facility;

(7) payment of grants to counties or municipalities under Section 12.1; and

(8) fulfillment of obligations under a community agreement under Section 12.1.

In spending monies pursuant to such appropriations, the Agency shall to the extent practicable avoid duplicating expenditures made by any firm pursuant to a contract awarded under this Section. ~~On or before March 1, 1989 and on or before October 1 of 1989, 1990, 1991, 1992, and 1993, the Department of Nuclear Safety (now the Illinois Emergency Management Agency) shall deliver to the Governor, the President and Minority Leader of the Senate, the Speaker and Minority Leader of the House, and each of the generators that have contributed during the preceding State fiscal year to the Low Level Radioactive Waste Facility Development and Operation Fund a financial statement, certified and verified by the Director, which details all receipts and expenditures from the fund during the preceding State fiscal year; provided that the report due on or before March 1, 1989 shall detail all receipts and expenditures from the fund during the period from July 1, 1988 through January 31, 1989. The financial statements shall~~

~~identify all sources of income to the fund and all recipients of expenditures from the fund, shall specify the amounts of all the income and expenditures, and shall indicate the amounts of all the income and expenditures, and shall indicate the purpose for all expenditures.~~

(b) There is hereby created in the State Treasury a special fund to be known as the "Low-Level Radioactive Waste Facility Closure, Post-Closure Care and Compensation Fund". All monies within the Low-Level Radioactive Waste Facility Closure, Post-Closure Care and Compensation Fund shall be invested by the State Treasurer in accordance with established investment practices. Interest earned by such investment shall be returned to the Low-Level Radioactive Waste Facility Closure, Post-Closure Care and Compensation Fund. The Agency shall deposit 20% of all receipts from the fees required under subsections (a) and (b) of Section 13 of this Act in the State Treasury to the credit of this Fund, except that, pursuant to subsection (a) of Section 14 of this Act, there shall be no such deposit into this Fund between July 1, 1997 and December 31 of the year in which the Agency ~~Task Group~~ approves a proposed site pursuant to Section 10.3 of this Act. All deposits into this Fund shall be held by the State Treasurer separate and apart from all public money or funds of this State. Subject to appropriation, the Agency is authorized to expend any moneys in this Fund in amounts it deems necessary for:

(1) decommissioning and other procedures required for the proper closure of the regional disposal facility;

(2) monitoring, inspecting, and other procedures required for the proper closure, decommissioning, and post-closure care of the regional disposal facility;

(3) taking any remedial actions necessary to protect human health and the environment from releases or threatened releases of wastes from the regional disposal facility;

(4) the purchase of facility and third-party liability insurance necessary during the institutional control period of the regional disposal facility;

(5) mitigating the impacts of the suspension or interruption of the acceptance of waste for disposal;

(6) compensating any person suffering any damages or losses to a person or property caused by a release from the regional disposal facility as provided for in Section 15; and

(7) fulfillment of obligations under a community agreement under Section 12.1.

On or before March 1 of each year, the Agency shall deliver to the Governor, the President and Minority Leader of the Senate, the Speaker and Minority Leader of the House, and each of the generators that have contributed during the preceding State fiscal year to the Fund a financial statement, certified and verified by the Director, which details all receipts and

expenditures from the Fund during the preceding State fiscal year. The financial statements shall identify all sources of income to the Fund and all recipients of expenditures from the Fund, shall specify the amounts of all the income and expenditures, and shall indicate the amounts of all the income and expenditures, and shall indicate the purpose for all expenditures.

(c) (Blank).

(d) The Agency may accept for any of its purposes and functions any donations, grants of money, equipment, supplies, materials, and services from any state or the United States, or from any institution, person, firm or corporation. Any donation or grant of money received after January 1, 1986 shall be deposited in either the Low-Level Radioactive Waste Facility Development and Operation Fund or the Low-Level Radioactive Waste Facility Closure, Post-Closure Care and Compensation Fund, in accordance with the purpose of the grant.

(Source: P.A. 95-777, eff. 8-4-08.)