

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION
Revision 1

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TO: Honorable Kenneth Armbrister, Chair, Senate Committee on Natural Resources

FROM: John Keel, Director, Legislative Budget Board

IN RE: HB1567 by West, George "Buddy" (Relating to the disposal of low-level radioactive waste; authorizing the exercise of the power of eminent domain.), **Committee Report 2nd House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1567, Committee Report 2nd House, Substituted: a positive impact of \$25,554,494 through the biennium ending August 31, 2005.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2004	\$25,554,494
2005	\$0
2006	\$0
2007	\$0
2008	\$12,900,000

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain from <i>GENERAL REVENUE</i> <i>FUND</i> 1	Probable (Cost) from <i>GENERAL REVENUE</i> <i>FUND</i> 1	Change in Number of State Employees from FY 2003
2004	\$26,000,000	(\$445,506)	5.0
2005	\$1,287,466	(\$1,287,466)	9.0
2006	\$977,399	(\$977,399)	9.0
2007	\$991,012	(\$991,012)	10.0
2008	\$13,825,457	(\$925,457)	10.0

Fiscal Analysis

The bill would repeal Chapter 402 and modify Chapters 401 and 403 of the Health and Safety Code to provide for the licensing of a low-level radioactive waste (LLRW) disposal facility. The bill establishes the procedures for the Texas Department of Health (TDH) to accept and assess license applications from private entities to dispose of LLRW. Sec. 401.201 requires TDH, rather than the Texas Commission on Environmental Quality (TCEQ), to directly regulate the disposal of low-level radioactive waste in accordance with this subchapter. The bill requires the person making the disposal to comply with this subchapter and TDH, rather than TCEQ, rules. Sec. 401.202 authorizes TDH, rather than TCEQ, to grant, deny, renew, revoke, suspend, or withdraw licenses for the disposal of

low-level radioactive waste from other persons and for the processing of that waste. It also allows TDH to refer one application, after technical review and public comment, to the State Office of Administrative Hearings for a contested case hearing, if requested by an affected person, the applicant, or the department.

The bill would require TDH and local public health officials to develop a health surveillance survey for the population surrounding the facility. It would also require the quarterly transfer from the license holder to the host county 5 percent of the gross receipts from waste received at the disposal facility and any adjacent facility. The bill would require that the revenue be spent on public projects in the host county.

The bill would repeal Chapter 402 (the Texas Low Level Radioactive Waste Disposal Authority Act) in its entirety and repeals provisions which provide that a LLRW disposal license be issued only to a public entity specifically authorized for LLRW disposal. The bill would provide that the licensed disposal facility would be the regional disposal facility established and operated under the compact agreement. The bill would also authorize the licensed disposal facility to accept federal facility waste for disposal at a separate and distinct facility adjacent to the compact facility. Section 12 of the bill moves Section 402.275, Health and Safety Code, to Subchapter F, Chapter 401 Health and Safety Code relating to the Low Level Radioactive Waste Fund.

The bill would re-create the Radiation and Perpetual Care Account in the General Revenue Fund, to which shipping fees remitted to TDH by the facility license holder are to be deposited under the bill. Money and security in the account would be used by TDH or TCEQ only for the decontamination, decommissioning, stabilization, reclamation, maintenance, surveillance, control, storage, and disposal of radioactive material for the protection of the public health and safety and the environment under this chapter.

Methodology

Texas Department of Health (TDH) assumes applications for disposal are submitted in July 2004, the successful applicant would be selected by January 2005 and the technical review of the application would be completed in fiscal year 2006. An administrative hearing by the State Office of Administrative Hearings may be requested and would occur in fiscal year 2006 and fiscal year 2007. The cost of the hearing, estimated to be \$54,000, would be paid by TDH is included. Costs for 10.0 FTEs, travel, professional services, other operating, and equipment are also included. TDH estimates the duties specified under the bill will require five environmental specialists, a geologist, an engineer, an attorney, and two administrative technicians. Four of the FTEs would be phased in after 3 months and three other FTEs would be phased in after a year or more.

Chapter 401.301 of the Health and Safety Code provides TDH the authority to collect fees sufficient to cover the expense of regulation. Hence, the costs of TDH functions pursuant to the bill may be offset by fees. The General Revenue gain reflected here is the result of 1) the assumption that TDH will receive two application processing fees in the first year of \$500,000 each, with expenses only offsetting \$500,000 of the fees in fiscal year 2004; 2) the initial payment of \$12.5 million due from each nonhost party state of the Texas Compact is due not later than November 1, 2003. All payments made by the party states under this provision shall be deposited to the credit of the general revenue fund. Maine and Vermont constitute the nonhost party states, and Maine cannot leave the compact for over one year from now. Therefore, it is assumed that a total of \$25 million would be collected and deposited to the General Revenue Fund during FY 2004; 3) The radioactive waste disposal licensee is required to pay five percent of its gross revenues to the host county and five percent to the state. This would begin when the licensed facility begins taking waste and 4) Vermont will make its final \$12.5 million when the facility opens in FY 2008. Assuming that the license will be issued in FY 2007, the facility would be able to begin taking waste in FY 2008. Based on estimates of waste expected to be received from the compact states of Texas, Maine and Vermont and the amount of bulk radioactive material that could be received as federal waste during FY 2008, the gross receipts for the facility will be approximately \$8 million. Therefore, the 5% surcharge on gross receipts going to the state general revenue would be approximately \$400,000 for FY 2008.

Technology

Technology impact is estimated to be \$31,500 in fiscal year 2004, \$16,200 in fiscal year 2005, and \$3,300 in fiscal year 2007 for 10 desktop computers, 4 laser printers, computer scanning/imaging system software, other specialized software and 3 laptop computers.

Local Government Impact

The host county of a low-level radioactive waste facility licensed under the proposed Chapter 401, Subchapter F of this bill would be entitled to 5 percent of the gross revenues of all waste receipts to the facility. The potential of this impact to a local government's public projects could be significant. These payments would be used for local projects that are for the use and benefit of the public at large.

Local public health officials would be required to assist the state in the development of a health surveillance survey for the population located in the vicinity of a disposal site.

In order for an application to be considered administratively complete, the applicant must submit a resolution in support of the proposed facility by the county commissioners court of the proposed host county.

Other economic impacts to services and infrastructure may result to the county where the site is selected; these would be evaluated in the application review.

Source Agencies: 360 State Office of Administrative Hearings, 501 Department of Health, 582 Commission on Environmental Quality, 304 Comptroller of Public Accounts, 580 Water Development Board

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