

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION

May 7, 2003

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

FROM: John Keel, Director, Legislative Budget Board

IN RE: HB2875 by Bonnen (Relating to the definition of "dispose of" for purposes of criminal penalties imposed under the Water Code.), **As Engrossed**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2875, As Engrossed: a positive impact of \$5,200,000 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	\$2,600,000
2005	\$2,600,000
2006	\$2,600,000
2007	\$2,600,000
2008	\$2,600,000

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings from <i>GENERAL REVENUE FUND</i> 1	Probable Revenue (Loss) from <i>FEDERAL FUNDS</i> 555
2004	\$2,600,000	(\$8,500,000)
2005	\$2,600,000	(\$8,500,000)
2006	\$2,600,000	(\$8,500,000)
2007	\$2,600,000	(\$8,500,000)
2008	\$2,600,000	(\$8,500,000)

Fiscal Analysis

The bill would amend Section 7.141 of the Water Code relating to criminal offenses and penalties. The bill would add a definition to be used for the purpose of criminal prosecution for not properly disposing of solid and hazardous waste, including medical waste, used oil, low-level radioactive waste, and lead-acid batteries. The definition excludes passive migration, continuous seepage, or other movement that occurs after the substance is initially disposed of, unless there is further human assistance or initiation. Current law considers passive migration, continuous seepage, or other movement of waste after initial disposal to still be waste disposal.

In exchange for receiving federal funding under Hazardous Waste Management State Program, Texas Commission on Environmental Quality (TCEQ) must enact state regulations for the disposal of waste no less stringent than the national standards set by the Environmental Protection Agency.

This bill would take effect upon passage or September 1, 2003.

Methodology

Limiting TCEQ's authority to enforce federal regulation on waste disposal excludes passive migration, continuous seepage, or other movement that occurs after a substance is initially disposed of and is expected to be considered less stringent than federal law. The federal authorization of Texas' hazardous waste program would be at risk if the provision of the bill was implemented. If Texas would lose the authorization, TCEQ would stand to lose \$8.5 million in Hazardous Waste Management State Program funds each year (a total of \$42.5 million for 2004-2008). This assumes the same level of funding would be provided to TCEQ for the next five years.

With the loss of the Hazardous Waste Management State Program, TCEQ would no longer be required to provide matching funds totaling \$2.6 million per year. This amount would thus be a savings to the General Revenue Fund.

There would be no fiscal impact if the Environmental Protection Agency approved the exclusion proposed in this bill.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 580 Water Development Board, 582 Commission on Environmental Quality

LBB Staff: JK, WP, CL, MS, TL, MH