

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION**

**March 25, 2003**

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

**FROM:** John Keel, Director, Legislative Budget Board

**IN RE: SB824** by Bivins (Relating to the disposal of low-level radioactive waste.), **As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for SB824, As Introduced: a positive impact of \$1,255,000 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.

The bill would repeal Chapter 402 and modify Chapters 401 and 403 of the Texas Health and Safety Code (THSC) 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 10 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.

**General Revenue-Related Funds, Five-Year Impact:**

<b>Fiscal Year</b>	<b>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</b>
2004	\$1,255,000
2005	\$0
2006	\$0
2007	\$0
2008	\$0

**All Funds, Five-Year Impact:**

<b>Fiscal Year</b>	<b>Probable Revenue Gain from GENERAL REVENUE FUND 1</b>	<b>Probable (Cost) from GENERAL REVENUE FUND 1</b>	<b>Probable Revenue (Loss) from LOW-LEVEL WASTE ACCT 88</b>	<b>Probable Savings/ (Cost) from LOW-LEVEL WASTE ACCT 88</b>
2004	\$2,229,217	(\$974,217)	(\$772,000)	\$123,018
2005	\$1,098,111	(\$1,098,111)	(\$19,000)	\$123,018
2006	\$1,081,787	(\$1,081,787)	(\$19,000)	\$123,018
2007	\$925,457	(\$925,457)	(\$19,000)	\$123,018
2008	\$925,457	(\$925,457)	(\$19,000)	\$123,018

<b>Fiscal Year</b>	<b>Change in Number of State Employees from FY 2003</b>
2004	10.0
2005	10.0
2006	10.0
2007	10.0
2008	10.0

**Fiscal Analysis**

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 two assumptions: 1) TDH will receive 2 commitment fees in the first year of \$500,000 each, with expenses only offsetting \$500,000 of the fees in FY 04 and 2) the repeal of Chapter 402 Low Level Radioactive Waste (LLRW) Disposal Authority removes authority for funds in the LLRW account, General Revenue-Dedicated totalling \$755,000 at the end of FY 03, according to the Biennial Revenue Estimate. New revenues would not accrue to the account and expenditures would no longer be made from the account.

According to the Comptroller of Public Accounts, the Radiation and Perpetual Care Fund, to which fees remitted to TDH by the the facility license holder are to be deposited under the bill, was abolished by previous funds consolidation legislation. This bill would not recreate the fund.

**Methodology**

Texas Department of Health assumes applications for disposal are submitted in April 2004, the successful applicant would be selected by early FY 2005 and the technical review of the application would be completed early in FY2006. An administrative hearing by the State Office of Administrative Hearings may be requested and would occur in FY2006. 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.

**Technology**

Technology impact is estimated to be \$47,700 in FY 2004 and \$3,300 in FY 2005, 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 10% 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:** 304 Comptroller of Public Accounts, 360 State Office of Administrative Hearings, 501 Department of Health, 580 Water Development Board, 582 Commission on Environmental Quality

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