

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 79TH LEGISLATURE 1st CALLED SESSION - 2005

June 27, 2005

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

FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

IN RE: SB39 by Duncan (Relating to responsibilities of certain state agencies concerning radioactive substances; imposing fees and surcharges; providing administrative and civil penalties.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for SB39, As Introduced: a positive impact of \$5,917,187 through the biennium ending August 31, 2007, if the effective date of the bill is July 20, 2005; or a positive impact of \$4,846,534 through the biennium ending August 31, 2007, if the effective date of the bill is November1, 2005.

The bill would appropriate \$1.2 million in General Revenue in fiscal year 2006 and \$1.1 million in fiscal year 2007.

The following table assumes the bill would take effect immediately (July 20, 2005), and that all budgetary implications would begin 31 days after that date. Costs and FTE requirements under this scenario in the remaining days of fiscal year 2005 would not be significant.

Appropriations:

Fiscal Year	Appropriation out of GENERAL REVENUE FUND 1
2006	(\$1,181,156)
2007	(\$1,064,656)

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/ (Loss) from GENERAL REVENUE FUND 1	Probable (Cost) from GENERAL REVENUE FUND 1	Change in Number of State Employees from FY 2005
2006	\$1,449,949	(\$1,449,949)	11.0
2007	\$7,170,656	(\$1,253,469)	11.0
2008	\$6,796,178	(\$869,988)	11.0
2009	\$1,505,988	(\$869,988)	11.0
2010	\$1,505,988	(\$869,988)	11.0

The following table assumes the bill would take effect on November 1, 2005.

Fiscal Year	Probable Revenue Gain/ (Loss) from GENERAL REVENUE FUND 1	Probable (Cost) from GENERAL REVENUE FUND 1	Change in Number of State Employees from FY 2005
2006	\$1,208,290	(\$1,208,290)	9.2
2007	\$6,106,003	(\$1,259,469)	11.0
2008	\$6,796,178	(\$869,988)	11.0
2009	\$1,505,988	(\$869,988)	11.0
2010	\$1,505,988	(\$869,988)	11.0

Fiscal Analysis

The bill would transfer responsibilities for regulating certain radioactive substances from the Department of State Health Services (DSHS) to the Texas Commission on Environmental Quality (TCEQ) and transfer licensing and regulation of naturally-occurring radioactive material (NORM) from the DSHS to the Railroad Commission. The bill also accelerates the timeline for completion of the application review process for radioactive waste disposal from December 7, 2007 to March 1, 2007 or April 15, 2007, depending on the effective date of the bill.

The bill also would provide for the imposition of a fee of 10 percent on the gross receipts of license holders and a surcharge on deliveries of radioactive substances. The bill would provide that the TCEQ set the fees and that the TCEQ establish a threshold level measured in millicuries below which a surcharge would not be required to be paid. Above that threshold, the TCEQ would assess a surcharge of \$10 per millicurie. The bill would provide for fees equal to eight percent of gross receipts to be deposited to the credit of the General Revenue Fund, with the remaining two percent transferred to the host county of the disposal site.

The bill would also allow the Railroad Commission to assess a fee to recover costs in administering the oil and gas NORM waste regulatory program.

Methodology

Assuming the bill takes effect immediately (Scenario No. 1), appropriations currently made to the DSHS in the amount of \$447,608 each fiscal year and eight FTEs would transfer from the DSHS to the TCEQ. In addition, this estimate assumes that the TCEQ would require an additional eight FTEs to assess and collect fees, conduct analysis and oversight of operational costs of fee payers for the related newly created fee and surcharges. Costs of \$125,000 associated with contested case hearings handled by the TCEQ are also expected to occur in fiscal year 2006 and 2007 only. Overall, administrative costs to the TCEQ not covered by funds transferred from the DSHS are expected to total \$1,181,156 in fiscal year 2006, \$1,064,656 in fiscal year 2007, and \$690,175 in subsequent years. This estimate also assumes that revenues from license fees, currently collected by the DSHS would be collected instead by the TCEQ. This estimate also assumes that administrative costs to the TCEQ in addition to those currently incurred by the DSHS would be recovered through additional assessments on application fees, resulting in additional revenues to the General Revenue Fund ranging from \$1.2 million in fiscal year 2006 to \$0.7 million in fiscal year 2010.

Designating the Railroad Commission as the agency responsible for licensing and regulating the possession, storage, processing, handling, and disposal of oil and gas NORM waste would result in the agency being required to process and maintain licenses and conduct additional investigations. This is expected to result in the need for 3.0 additional FTEs at the Railroad Commission and related costs of \$268,793 in fiscal year 2006 and \$206,813 in future years. This estimate assumes that those costs would be paid out of the General Revenue Fund, but that all costs would be recovered through fee revenues assessed to oil and gas operators and deposited to the General Revenue Fund.

If the bill would not take effect until November 1, 2005, (Scenario No. 2), the following would occur

in fiscal year 2006: only 6.7 FTEs would need to transfer from the DSHS; only \$373,007 in General Revenue appropriations to the DSHS would need to be transferred to the TCEQ; the TCEQ would need only \$984,297 for costs not covered by the transfer; and the Railroad Commission would require only 2.5 FTEs and \$223,994.

The new fee on gross receipts and surcharges created by the bill is expected to generate at least \$14 million in additional revenues to the state over the 2006-10 period. For the purposes of this estimate, the revenue stream is shown to start in fiscal year 2007. No additional revenue is expected in fiscal year 2006 because it is assumed that it would take at least one year before licensing and fee structures would be in place. This estimate assumes that the U.S. Department of Energy (DOE) would send waste from the Fernald, Ohio nuclear weapon facility to a Texas facility and that the DOE would pay a gross receipts fee equal to the fee paid at the DOE's Nevada Test Site facility. Gross receipts fee revenues would total \$10,580,380, split evenly between fiscal year 2007 and fiscal year 2008.

This estimate assumes fees from the gradual replacement of the Barnwell, South Carolina facility, which is scheduled to discontinue collecting waste from other states in 2008. The Barnwell facility accepts an average of 2,231 cubic meters of waste annually. If the facility in Texas were to apply the same rate as the DOE's Nevada Test Site facility, the Texas facility would generate \$7.6 million in gross receipts annually. The state fee of eight percent would lead to additional revenues of \$609,000 annually in fiscal years 2007 through 2010.

Local Government Impact

The host county of the radioactive waste disposal site would receive revenues estimated at \$1.3 million per year in fiscal years 2007 and 2008, and revenues of \$152,000 per year in fiscal years 2009 and 2010.

Source Agencies: 582 Commission on Environmental Quality, 537 Department of State Health Services

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