

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

**FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION**

**April 4, 2011**

**TO:** Honorable Byron Cook, Chair, House Committee on State Affairs

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

**IN RE: HB2184** by Lewis (Relating to the disposal of low-level radioactive waste under the Texas Low-Level Radioactive Waste Disposal Compact.), **Committee Report 1st House, Substituted**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB2184, Committee Report 1st House, Substituted: a positive impact of \$16,000,000 through the biennium ending August 31, 2013.

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
2012	\$4,000,000
2013	\$12,000,000
2014	\$10,000,000
2015	\$6,000,000
2016	\$6,000,000

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

Fiscal Year	Probable Revenue Gain/(Loss) from General Revenue Fund 1
2012	\$4,000,000
2013	\$12,000,000
2014	\$10,000,000
2015	\$6,000,000
2016	\$6,000,000

**Fiscal Analysis**

The bill would add definitions for curie capacity, disposal rate, maximum disposal rate, nonparty compact waste, and waste of international origin, with respect to the Texas Low-Level Radioactive Waste Disposal Compact. The bill would allow the compact waste disposal facility license holder to accept certain nonparty waste to the extent it does not diminish the facility's volume available to states that are parties to the compact. The acceptance for disposal of waste of international origin would be prohibited.

The bill would provide that for the total initial licensed capacity of the compact waste disposal facility, certain levels of volume and curie capacity would be reserved for the host and party states: 50 percent of capacity would be allocated to Texas and 20 percent to Vermont. The Texas Commission on

Environmental Quality (TCEQ) would be required to conduct and submit preliminary and final studies on the available volume and curie capacity of the compact waste disposal facility and submit these to the legislature. The TCEQ commissioner would have the authority to limit the license holder from accepting any additional waste generated in nonparty states if there is a finding in the report that there would be a capacity limitation.

The bill would provide for a 10 percent gross receipts from disposal at the compact waste disposal facility for certain nonparty compact waste, as opposed to a 5 percent fee for party states under current law. In addition, TCEQ would be required by rule to adopt and periodically revise compact waste disposal fees sufficient to support their oversight of the compact waste disposal facility and the activities of the Texas Low-level Radioactive Waste Disposal Compact Commission. Following certain guidelines, TCEQ by rule would be required to set maximum disposal rates. A nonparty state could become a member of the Texas low-level radioactive waste disposal compact for the payment of fees totaling \$40 million, instead of being subject to the additional 5 percent fee on non-party states.

The bill would require the TCEQ to determine the amount of historical operating losses that will be included in the TCEQ's establishment of compact waste disposal fees within a 90-day period based on costs and expenses submitted by the disposal operator for activities prior to the opening of the waste disposal facility. The bill proposes all historical operating losses incurred before September 1, 2003 to be recovered directly by the facility operator through contract revenues from the acceptance and disposal of imported nonparty compact waste. The bill would grant the TCEQ's executive director interim rate-making authority to establish appropriate interim rates for only the Texas Compact waste generators.

## **Methodology**

On January 4, 2011, the Texas Low Level Radioactive Waste Disposal Compact Commission (LLRWDCC) adopted a rule allowing the importation of low-level radioactive waste from nonparty states. The facility operated in Andrews County is expected to be ready to begin accepting low-level radioactive waste by nonparty generators for disposal by the beginning of fiscal 2012.

Under current law, 5 percent of the gross receipts from the disposal of certain compact and federal facility waste is collected and remitted to the state by the compact waste disposal facility. The bill would require 10 percent of gross receipts from the disposal at the compact waste disposal facility of certain nonparty compact low-level radioactive waste to be remitted to the state to General Revenue Fund.

Based on information from TCEQ and the facility operator, the Comptroller provided the revenue estimates included in the table above. The projected additional revenue for fiscal year 2012 is estimated at \$4,000,000, assuming the facility would become fully operational in that year. Revenue would be expected to increase in fiscal year 2013 as waste shipments from nonparty states increase. In fiscal year 2014 and beyond as quantities of radioactive materials that had been waiting for delivery to Texas have been transported, inflows to the facility decline.

The bill's provision increasing the fee for joining the Compact to \$40 million on September 1, 2011, and to \$60 million in 2015 is not expected to result in a fiscal impact because it is assumed that any state's cost would remain lower as a non-party state than as a party state, so no additional states would join the compact.

The bill's provisions requiring the TCEQ to set rates sufficient to cover the agency's oversight of the compact waste disposal facility and the LLRWDCC is not expected to result in a fiscal impact because such authority already exists in the language of the compact between Texas and Vermont.

Passage of the bill is not expected to result in a significant increase in workload for the TCEQ or the LLRWDCC.

### **Local Government Impact**

Because the bill would not have statewide impact on units of local government of the same type or class, no comment from this office is required by the rules of the House/Senate as to its probable fiscal implication on units of local government.

**Source Agencies:** 582 Commission on Environmental Quality

**LBB Staff:** JOB, KJG, ZS, TL