

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION
Revision 1

March 14, 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 identification, modification, generation, and enhancement of new and existing state revenue streams from certain new and existing programs, processes, and procedures involving the state's policy in regard to the disposition of certain low-level radioactive waste and in protection of the general health, safety, and welfare of the state's citizens, including the prohibition on importation of waste of international origin and the establishment of certain fees and limits on waste disposal to maximize state revenue.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2184, As Introduced: a positive impact of \$8,000,000 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	\$2,000,000
2013	\$6,000,000
2014	\$5,000,000
2015	\$3,000,000
2016	\$3,000,000

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from General Revenue Fund 1
2012	\$2,000,000
2013	\$6,000,000
2014	\$5,000,000
2015	\$3,000,000
2016	\$3,000,000

Fiscal Analysis

The bill would amend the Texas Health and Safety Code regarding the disposition of low level radioactive waste (LLRW) and revenue generated by its waste disposal.

The bill would add two new definitions – one for “non-regional waste” and one for “waste of international origin”. The bill would allow for the importation and acceptance of “non-regional waste”

at the Texas Compact waste disposal facility in Andrews County by contract agreement as long as acceptance of such waste did not diminish the disposal volume to non-host party states (i.e., Vermont). The bill would prohibit the disposal of “waste of international origin”.

The bill would amend the compact waste gross receipts fee by requiring that an additional 5 percent (above the current 5 percent fee) on a facility's gross receipts from non-regional waste be transferred to the General Revenue Fund. A non-party 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.

The bill would require that compact waste disposal fees be sufficient to support the Texas Commission on Environmental Quality's (TCEQ) oversight function of the compact waste disposal facility and the activities of the Texas Compact Commission. The compact waste disposal fees would be additional fees separate and apart from the maximum disposal rates established by the agency for the disposal of LLRW generated in a host (Texas) or party state. Compact waste disposal fees would be established by contract with a willing generator of LLRW and the license holder of the compact waste disposal facility. The bill would allow the license holder of the Texas Compact disposal facility to accept imported non-regional waste before the agency adopts compact waste disposal fees or maximum disposal rates.

The bill would provide that generators of LLRW located in the compact states (currently Texas and Vermont) are not required to enter into any contract with the Texas Compact disposal facility license holder prior to the agency’s adoption of compact waste disposal fees or maximum disposal rates. The bill would grant the TCEQ's executive director interim rate-making authority to establish appropriate interim rates.

Methodology

The Texas compact authorizes the Texas Low-Level Radioactive Waste Disposal Compact Commission to allow additional party states into the Texas Compact and to make agreements with entities outside of the Texas compact to accept low-level radioactive waste from those entities. Currently the state of Vermont is the only other voting member.

Under current law, 5 percent of the gross receipts from the disposal of certain low-level radioactive waste is statutorily collected and remitted to the state by the low-level radioactive waste disposal site, and another 5 percent is transferred to Andrews County, although to date the site is not yet operational. The bill's passage would increase that portion going to the state for "non-regional waste" to 10 percent, all of which would be deposited to the General Revenue Fund.

The Comptroller reports that associated fee rules in Title 30 of the Texas Administrative Code, Chapter 336, Subchapter N (Fees for Low-Level Radioactive Waste Disposal) were adopted on February 11, 2009, and that on January 4, 2011, the Texas Low Level Radioactive Compact Commission adopted a rule allowing the importation of low-level radioactive waste from non-compact states. The Comptroller also reports that the facility operated in Andrews County is expected to be ready to begin accepting low-level radioactive waste by non-regional generators for disposal by the beginning of fiscal 2012.

This estimate does not assume that any additional states would join the compact and pay the additional associated fee. Based on information from the TCEQ and the facility operator, the fee increase provided in this bill is projected by the Comptroller to increase revenue by \$2,000,000 in fiscal year 2012 as the facility becomes fully operational. Revenue would be expected to increase in 2013 as shipments from non-Texas and non-Vermont (non-compact members) generators increase. In 2014 and beyond as quantities of radioactive materials that had been waiting for delivery to Texas have been transported, inflows to the facility would be expected to decline.

The bill's provision calling for disposal fee rates to be sufficient to support the TCEQ's oversight function of the compact waste disposal facility and the activities of the compact commission is not expected to have a significant fiscal impact because this estimate assumes that the TCEQ already has authority to set fees sufficient to cover such costs under current law.

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: 304 Comptroller of Public Accounts, 582 Commission on Environmental Quality

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