

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

May 20, 2011

TO: Honorable David Dewhurst, Lieutenant Governor, Senate

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

IN RE: SB1504 by Seliger (Relating to the disposal of waste at the Texas Low-Level Radioactive Waste Disposal Compact waste disposal facility.), **As Passed 2nd House**

Estimated Two-year Net Impact to General Revenue Related Funds for SB1504, As Passed 2nd House: an impact of \$0 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	\$0
2013	\$0
2014	\$0
2015	\$0
2016	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from <i>Low-level Waste Acct</i> 88
2012	\$8,000,000
2013	\$24,000,000
2014	\$20,000,000
2015	\$12,000,000
2016	\$12,000,000

Fiscal Analysis

The bill would create limits for imported low-level radioactive waste (LLRW) and defines "nonparty compact waste" and "waste of international origin." Waste of a foreign origin could not be accepted at the LLRW disposal facility licensed by the state. The bill would provide that the license holder could not accept nonparty compact waste for disposal at the facility until the license has been modified by the commission to specifically authorize the disposal of nonparty compact waste.

The bill sets a maximum annual volume of LLRW that may be imported from nonparty compact waste generators that the license holder of the Texas compact waste disposal facility may accept for disposal. That limit would be 50,000 total cubic feet year, and there would be a limit of an average of 120,000 curies of nonparty compact waste per year, except that in the first year the license holder could accept 220,000 curies. The bill contains provisions allowing the Texas Commission on Environmental

Quality's (TCEQ) Executive Director to prohibit the license holder from accepting waste based on a study of the capacity of the facility, regardless of whether the limits have been reached on noncompact waste volumes. The TCEQ would also be required to certify that waste to be disposed of at the facility is authorized for disposal under the facility's license. Nonparty compact waste would be limited to 30 percent of the total volume of the facility, and, of the remaining capacity, 80 percent would be reserved for Texas and 20 percent for Vermont.

The bill also sets a new surcharge for nonparty compact waste imported into the Texas compact waste disposal facility of 20 percent of the total contracted rate that is assessed by the license holder. The new surcharge revenues are to be deposited to the General Revenue-Dedicated Low Level Waste Account No. 88. The TCEQ would be required to conduct a study of the surcharge by December 1, 2016, and the TCEQ would be authorized to request the assistance of the Comptroller in conducting an analysis of the surcharge.

The bill would require the TCEQ to conduct a study on available volume and curie capacity of the compact waste disposal site, which would include costs and benefits. In addition, the TCEQ would be required to conduct a review of the adequacy of financial assurance mechanisms of the compact waste facility license-holder that were approved before January 1, 2011, against post-closure costs, including a review of the adequacy of funds for unplanned events. The final report would be due to the Legislature by December 1, 2012.

The bill provides clarification on how interim party state compact disposal fees should be set by TCEQ. The bill would also provide for the review of and approval by TCEQ of rates set by the disposal facility for nonparty compact waste. The rates would be set both by a price per curie and a price per cubic foot. Such fees would have to be greater than those charged to party states and greater than any interim fee rates. In determining compact waste disposal fees, the TCEQ would be directed to use only capital investment in property by the facility license-holder, and no costs that were incurred before September 1, 2003 could be considered in determining disposal fees.

In addition, the bill would provide for a fee for new states to join the Texas Compact as party states. For states joining on or after January 1, 2011, but before September 1, 2018, there would be an initial payment to the state of \$30 million, half of which would be due on the date the state becomes a party to the compact and one-half due when the facility first accepts waste from the state. States joining between 2018 and 2023 would pay \$50 million. The bill provides that payments are nonrefundable even if a party state withdraws from the Texas Compact.

The bill would require the TCEQ to conduct, not later than December 1, 2012, a study regarding LLRW generated by party and nonparty states to the Texas compact. The study would include a projection of the volume and radioactivity of the waste and be used by the Texas Low-Level Radioactive Waste Disposal Compact Commission to anticipate the future capacity of the site.

The bill would also provide for a storage fee of 20 percent of the permit holder's gross receipts from the storage of radioactive waste or elemental mercury stored at or adjacent to the waste disposal facility.

Methodology

The bill is not expected to result in significant administrative costs to the TCEQ.

Passage of the bill is expected to increase the revenue deposited to the Low-Level Waste Account No. 88 from the required 10 percent surcharge on imported nonparty compact waste. The Comptroller provided revenue estimates based on information from the TCEQ and the facility operator. Beginning in 2012, as the facility becomes operational, an estimated \$8.0 million is projected to be collected, increasing to \$24 million in 2013 and \$20.0 million in 2014 as disposers of waste that have been waiting for a disposal site would send their waste to the facility in Andrews County. Beginning in 2015, the revenue stream is projected to decrease to an annual level of \$12.0 million.

Additional fees would be deposited to the Low-Level Waste Account No. 88 if additional states join the compact. However, for purposes of this estimate, it is assumed that there would be no additional members joining the compact.

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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