

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

May 23, 2013

TO: Honorable David Dewhurst, Lieutenant Governor, Senate

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: SB347 by Seliger (Relating to funding for the operations of the Texas Low-Level Radioactive Waste Disposal Compact Commission.), **As Passed 2nd House**

Estimated Two-year Net Impact to General Revenue Related Funds for SB347, As Passed 2nd House: a positive impact of \$2,200,000 through the biennium ending August 31, 2015.

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
2014	\$1,100,000
2015	\$1,100,000
2016	\$1,100,000
2017	\$1,100,000
2018	\$1,100,000

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from General Revenue Fund 1	Probable Savings/(Cost) from Perpetual Care Fund 5096	Probable Revenue Gain/(Loss) from Perpetual Care Fund 5096	Probable Revenue Gain/(Loss) from New General Revenue Dedicated-Environmental Radiation Perpetual Care Account
2014	\$1,100,000	(\$405,297)	\$465,098	\$9,338,000
2015	\$1,100,000	(\$415,879)	\$465,098	\$9,338,000
2016	\$1,100,000	(\$415,879)	\$465,098	\$9,338,000
2017	\$1,100,000	(\$415,879)	\$465,098	\$9,250,000
2018	\$1,100,000	(\$415,879)	\$465,098	\$9,250,000

Fiscal Year	Probable Revenue Gain/(Loss) from Low-level Waste Acct 88	Probable Revenue Gain/(Loss) from Andrews County
2014	(\$4,600,000)	\$1,100,000
2015	(\$4,600,000)	\$1,100,000
2016	(\$4,600,000)	\$1,100,000
2017	(\$4,600,000)	\$1,100,000
2018	(\$4,600,000)	\$1,100,000

Fiscal Analysis

The bill would amend Chapter 401 of the Health and Safety Code, regarding radioactive materials and other sources of radiation, and funding for the operations of the Low-Level Radioactive Waste Disposal Compact Commission (LLRWDC).

The bill would require the Texas Commission on Environmental Quality (TCEQ) to deposit fees assessed to support the activities of the LLRWDC to the Low-Level Waste Account No. 88. Under current law, those fees are deposited to the General Revenue-Dedicated LLRWDC Account No. 5151. The bill would require the Comptroller to transfer from the Low-Level Waste Account No. 88 to the LLRWDC Account No. 5151 an amount equal to the amount appropriated out of the LLRWDC Account No. 5151 for that state fiscal year. In addition, the bill would require the Comptroller to transfer on September 30th of each fiscal year any unexpended and unencumbered balance in the LLRWDC Account No. 5151 from the previous fiscal year into the Low-Level Waste Account No. 88.

The bill would provide that fees on the transport of waste collected by the Department of State Health Services (DSHS) not be collected on waste being disposed of at the federal waste disposal facility. The bill would allow DSHS to use funds in the General Revenue-Dedicated Perpetual Care Account No. 5096 for first responder training in counties with designated transportation routes, and it would remove the \$500,000 cap for fees collected and deposited into the Perpetual Care Account No. 5096.

The bill would provide that beginning September 1, 2015, the license holder of the waste facility may only accept waste from a nonparty state if the waste has been volume-reduced, and that the TCEQ adopt rules to implement this requirement. The volume reduction provisions would not apply in certain circumstances. The bill would authorize the TCEQ to assess an additional fee on a nonparty generator for failing to volume reduce, as required. Such fees would be deposited to the Low-Level Waste Account No. 88.

The bill would establish an overall limit on the amount of nonparty waste the facility could accept. In addition, the bill would raise the annual curie limit for nonparty waste that may be accepted at the facility to 275,000 curies annually beginning in fiscal year 2014.

The bill would authorize the TCEQ's Executive Director to charge the facility license holder a fee to cover costs related to adjusting, correcting, or modifying the waste disposal facility's license. The bill would require the TCEQ to complete a capacity study by December 1, 2016.

The bill would create a new account within the General Revenue Fund to be called the Environmental Radiation and Perpetual Care Account for the use of the TCEQ to prevent or mitigate the adverse effects of radioactive substances and ensure protection of public health. Funds in the account could be used for the decontamination, decommissioning, stabilization, reclamation, maintenance, surveillance, control, storage, and disposal of radioactive substances

for the protection of the public health and safety and the environment. The account would consist of fees on licenses and registrations and fees collected for technical review, administrative review, and technical review of the application. The bill would provide that revenues from the 20 percent surcharge on nonparty compact waste be deposited to the newly-created Environmental Radiation and Perpetual Care Account.

The bill would require the Texas Commission on Environmental Quality (TCEQ) to use financial security paid by low-level radioactive waste license holders to pay the cost of corrective actions. The bill would provide that financial security received by the agency be deposited to the credit of the Environmental Radiation and Perpetual Care Account.

The bill would provide that the existing Perpetual Care Account No. 5096 be exclusively for the use of DSHS and the newly created account would be for the exclusive use of the TCEQ. The bill would require the TCEQ to deposit financial assurance security from a licensee into the newly created Environmental Radiation and Perpetual Care Account.

The bill would provide that low-level license and transportation fees collected by the TCEQ and DSHS be suspended when the combined balance of the Environmental Radiation and Perpetual Care Account and the Perpetual Care Account No. 5096 reaches \$100 million. Fees would be reinstated when the balance reaches \$50 million. The bill would provide that the 20 percent surcharge on nonparty waste, which would be deposited to the Environmental and Perpetual Care Account, would continue to be collected regardless of whether the cap is reached. The bill would make an exception to the cap for uranium or thorium from ore: revenue from those elements would be capped at a \$2 million balance in the Perpetual Care Account, with the fee on those two elements being reinstated when the fund balance attributable to the applicable fees would reach \$1.5 million. In addition, a separate \$500,000 cap would be established for fees paid by compact waste generators based on the transportation of waste. Such fees would be suspended when the affected portion of the account would reach \$500,000, and the fees would be re-instated when the affected fund balance would reach \$350,000.

The bill would also repeal sections of the Texas Health and Safety Code related to State Office of Administrative Hearings (SOAH) rate and interim rate hearings, and would repeal sections related to requiring Compact Commission biennial reports. The bill would require TCEQ and DSHS to update the memorandum of understanding (MOU) regarding the regulation and oversight of radioactive materials and sources of radiation by January 1, 2004.

Methodology

In the 2012-13 biennium, appropriations for the LLRWDC were for \$583,289 in each fiscal year. This estimate assumes that the same amount would continue to be appropriated in future fiscal years; thus, it is estimated that \$583,289 would transfer from the Low-Level Waste Account No. 88 to the LLRWDC Account No. 5151 on September 1, 2013, and in all future fiscal years. Because the fee revenue assessed to support the costs of the LLRWDC, which now gets deposited to the LLRWDC Account No. 5151 would be deposited to the Low-Level Waste Account No. 88 upon passage of the bill, and the amount of fee revenues collected are expected to match the amount appropriated to the LLRWDC, it is anticipated that the revenue gain to the Low-Level Waste Account No. 88 would be offset by the amount required to be transferred out of the account. Likewise, the revenue loss to the LLRWDC Account No. 5151 would also be offset by the required transfer to that account. In addition, this estimate assumes that no unexpended and unencumbered balances would remain in the LLRWDC Account No. 5151 at the end of any fiscal year. Thus, the overall fiscal impact of the bill's provisions relating to LLRWDC operating

costs is expected to be neutral. Accordingly, this account is not shown in the tables above.

DSHS anticipates contracting to provide 155 eight-hour training classes per year for first responders, at a cost of \$319,000 for the training. Implementing the training classes and contracts will require one FTE to be hired in the second quarter of fiscal year 2014. The agency can absorb the additional FTE within its existing FTE cap. The additional FTE would cost \$43,645 in salary and wages and \$12,851 in benefits in fiscal year 2014 and \$58,038 in salary and wages and \$17,089 in benefits in each subsequent year. The other operating expenses and travel costs associated with the FTE are estimated to be \$29,801 in fiscal year 2014 and \$21,752 in fiscal year 2015. The total cost to General Revenue-Dedicated Perpetual Care Account No 5096 is \$405,297 in fiscal year 2014 and \$415,879 in fiscal year 2015. It is assumed that the fees and the balance of the account may be used to fund the training classes.

DSHS reports that the bill's new \$100 million cap on the perpetual care account would result in \$198,800 in annual revenues from the 5 percent surcharge on license and transportation fees and that the agency would collect administrative penalties totaling \$154,598 annually as a result of the bill's passage. In addition, the agency expects \$111,700 in additional revenue from low-level radioactive waste fees. These revenues, totaling \$465,098 per fiscal year, would all be deposited to the Perpetual Care Account No. 5096.

The TCEQ estimates that the bill's separate cap on uranium and thorium ore would generate \$50,000 per fiscal year from radioactive license fees that would become subject to a 5 percent surcharge. In addition, the TCEQ and the Comptroller of Public Accounts anticipate increased revenue in the amount of \$88,000 per fiscal year to the newly created General Revenue-Dedicated Environmental Radiation Perpetual Care Account as a result of the bill's removal of the fund balance ceiling that has prevented the agency from assessing annual license fees under current law. Because the cap is expected to be reached by fiscal year 2017, the \$88,000 annual revenue stream is only expected in fiscal years 2014, 2015, and 2016.

Because the bill would increase the number of curies of nonparty waste that can be accepted at the disposal facility, the amount of nonparty waste is expected to increase. The TCEQ estimates that, under the bill's proposed 275,000 curie limit, the 20 percent surcharge on non-party waste would generate an additional \$4.6 million in annual revenues.

Nonparty compact surcharge revenues which now are deposited to the Low Level-Waste Account No. 88 would instead be deposited to the new Environmental Radiation Perpetual Care Account. Therefore, upon passage of the bill, the current annual revenue stream from surcharges of \$4.6 million, as estimated by the TCEQ, would be deposited to the Environmental Radiation Perpetual Care Account.

Because the General Revenue Fund and Andrews County each receive 5 percent of gross receipts of the disposal facility, the increase in the limit of nonparty waste curies would also result in an estimated increase of \$1.1 million per fiscal year.

Passage of the bill is not expected to result in any significant additional workload for the TCEQ, nor is it expected to result in significant fiscal implications to the Low-Level Radioactive Waste Disposal Compact Commission.

Local Government Impact

Passage of the bill is expected to result in Andrews County receiving \$1.1 million in additional annual revenue from the 5 percent gross receipts fee as a result of the bill's increase in the annual

maximum number of curies for nonparty compact waste to 275,000.

Source Agencies: 535 Low-level Radioactive Waste Disposal Compact Commission, 582 Commission on Environmental Quality, 304 Comptroller of Public Accounts, 537 State Health Services, Department of

LBB Staff: UP, SZ, TL, CH, ZS