

RADIOACTIVE WASTE DISPOSAL AND STORAGE FEE REVENUE

AN ISSUE BRIEF FROM LEGISLATIVE BUDGET BOARD STAFF

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OBJECTIVE

Texas receives various fee revenues related to a low-level radioactive waste storage and disposal at a site in Andrews County.

KEY FACTS

- ◆ The Low-Level Radioactive Waste Disposal Compact Commission (LLRWDC) is an interstate compact approved by the Texas Legislature in 1993 and subsequently ratified by the U.S. Congress in 1998.
- ◆ The Texas Commission on Environmental Quality (TCEQ) approved a permit for Waste Control Specialists to operate a low-level radioactive waste disposal facility in Andrews County in September 2009.
- ◆ Waste Control Specialists began operating the disposal site in April 2012.

BUDGETARY IMPACT

Texas received approximately \$17.5 million in revenues from fees relating to the low-level waste disposal site in fiscal year 2012. An additional \$24.5 million is expected to be collected during the 2014–15 biennium. Recommended appropriations for low-level waste disposal and storage for the 2014–15 biennium include \$2.9 million for TCEQ and \$1.2 million for the LLRWDC.

STATUTORY REFERENCES

Health and Safety Code, Chapters 401 and 403

The Texas Commission on Environmental Quality (TCEQ) has direct jurisdiction over the following: the disposal of radioactive substances; the processing or storage of low-level radioactive waste or naturally occurring radioactive material waste (NORM), except for NORM waste related to oil and gas production; the recovery of source material and the processing of by-product material; and sites for the disposal of such materials. TCEQ also has the authority to license a facility for the disposal and processing of low-level radioactive waste.

The Texas Low-Level Radioactive Waste Disposal Compact, an interstate compact administered by the Low-Level Radioactive Waste Disposal Compact Commission (LLRWDC), is governed by five members from Texas and two members from Vermont. The LLRWDC has jurisdiction over whether waste generated in non-compact states can be disposed of at the Texas facility and whether in-state producers of waste may dispose of that waste outside the state of Texas. The LLRWDC also is charged with ensuring there is enough space in the disposal facility to meet the future needs of the compact states.

The TCEQ licensed a site for the disposal of low-level radioactive waste in Andrews County adjacent to the New Mexico border in September 2009. The site, which is operated by Waste Control Specialists, became operational in April 2012. The disposal site includes an area for low-level radioactive waste, an area for “non-low-level” radioactive waste, and an area for industrial hazardous waste. These areas are all located on the same piece of property, but each one has a separate operating permit from TCEQ.

There are two components to the low-level radioactive waste disposal facility: the Compact Waste Disposal Facility (CWF), which can include non-compact state waste if approved by the LLRWDC, and the Federal Waste Disposal Facility (FWF). The CWF accepts commercial low-level radioactive waste and the FWF accepts low-level radioactive waste that is the responsibility of the federal government. Examples of waste accepted at the CWF include commercially generated waste, such as waste generated at nuclear power plants, academic institutions, and medical facilities; while the FWF accepts waste generated from weapons production, government research, and environmental cleanups.

REVENUE SOURCES

Several fees related to permitting, storage, and disposal of radioactive materials are assessed at the site in Andrews County. Fig. 1 shows each fee, the statutory authority for such fees, the account to which fee revenues are deposited, and the estimated revenues associated with each fee for fiscal years 2010 through 2015. The Application Processing Fee/Compact Waste Facility License Holder Fee and the Nonparty Compact Waste Surcharge represent the most significant annual revenue streams to the state. Payments by Compact Party States, although significant in fiscal year 2012, are not expected to occur again, unless an additional state besides Vermont joins the compact. If an additional state joins, a one-time payment of \$30 million to \$50 million to Texas would be expected.

FIG. 1
RADIOACTIVE WASTE DISPOSAL FEE REVENUES 2010–2015

FEE DESCRIPTION				REVENUE (IN MILLIONS) BY FISCAL YEAR					
NAME	FEE RATE	STATUTORY AUTHORITY	METHOD OF FINANCING	2010	2011	2012	2013 (ESTIMATED)	2014 (ESTIMATED)	2015 (ESTIMATED)
Fee on Disposal of Radioactive Substances—State	5 percent of gross receipts	Health and Safety Code, Sec. 401.271(a)(1) and 401.2445	General Revenue Fund	\$0.5	\$0.0	\$0.6	\$0.4	\$0.4	\$0.4
Fee on Storage of Radioactive Substances for More Than One Year—State	20 percent of gross receipts	Health and Safety Code, Sec. 401.271(c)	General Revenue Fund	\$0.0	\$0.0	\$0.1	\$0.0	\$0.0	\$0.0
Application Processing Fee/Compact Waste Facility License Holder Fee	\$500,000 or more per application prior to facility opening then based on agency cost recovery	Health and Safety Code, Sec. 401.229 and 401.246	Low-Level Waste Account No. 88	\$1.2	\$0.6	\$1.7	\$1.2	\$1.2	\$1.2
Payments by Compact Party States	\$12,500,000 prior to 1/1/11 \$30,000,000 for each state joining between 1/1/11 and 8/31/18 \$50,000,000 for each state joining between 8/31/23	Health and Safety Code, Sec. 401.250 and 403.006	Low-Level Waste Account No. 88	\$0.0	\$0.0	\$12.5	\$0.0	\$0.0	\$0.0
Nonparty Compact Waste Surcharge	20 percent gross receipts surcharge	Health and Safety Code, 401.207 and 401.249	Low-Level Waste Account No. 88	\$0.0	\$0.0	\$2.5	\$4.8	\$5.8	\$6.8
Interest	Interest accrued on funds in the Low-Level Waste Account No. 88	Health and Safety Code, Sec. 401.241(b) and 401.249	Low-Level Waste Account No. 88	\$0.2	\$0.1	\$0.1	\$0.1	\$0.2	\$0.2
Compact Waste Facility Holder License Fee—LLRWDC Operating Costs	Based on cost recovery for LLRWDC (currently 1.25 percent of gross receipts)	Health and Safety Code, Sec. 401.246	LLRWDC Account No. 5151	\$0.0	\$0.0	\$0.0	\$0.6	\$0.6	\$0.6
Fee on Disposal of Radioactive Substances—Local	5 percent of gross receipts	Health and Safety Code, Sec. 401.271(a)(2)	Local (Andrews County)	\$0.5	\$0.0	\$0.6	\$0.4	\$0.4	\$0.4

SOURCE: Texas Commission on Environmental Quality.

NOTE: 2013–2015 revenue projections are based on the Comptroller's Biennial Revenue Estimate for 2014–15.

REVENUE USES

Fees related to the disposal and storage of radioactive materials that are deposited to the General Revenue Fund are not designated for a specific use in statute; thus, they are available for general expenditure by the Legislature. The Application Processing Fee and Compact Waste Facility License Holder Fee are designated for use by TCEQ to cover costs incurred for administrative and technical reviews, and hearings. All funds that are deposited to the Low-Level Waste (LLW) Account No. 88 that are not statutorily designated for specific purposes are available to be used to cover the TCEQ's costs in carrying out its duties with respect to disposal and storage of radioactive materials. The TCEQ is authorized to transfer funds from the LLW Account No. 88 to the Perpetual Care Account No. 5096 to pay for costs of perpetual care, maintenance, surveillance, and other care that is required upon termination of the facility license. Interest that accrues to the LLW Account No. 88 that is derived from financial assurance payments from the facility operator/license holder are designated to be used to offset other financial obligations incurred by TCEQ upon site closure. Fees deposited to the LLRWDC Account No. 5151 are designated to cover expenses incurred by the LLRWDC in carrying out its duties.

LOCAL IMPACT

In addition to fee revenues accruing to the state, five percent of gross receipts from compact and federal waste received at the site are required to be remitted to Andrews County. The funds are used for projects that benefit the public in the county. The county may spend the funds directly or may disburse the money to other local entities or nonprofits. Revenues from this fee are expected to generate an estimated \$400,000 per fiscal year for Andrews County during the fiscal year 2013–2015 period.

USEFUL REFERENCES

<http://www.tceq.texas.gov/permitting/radmat/licensing/rw.html>

<http://www.tllrwddc.org/>

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