SUBJECT: Managing Texas' low-level radioactive waste

COMMITTEE: Environmental Regulation — committee substitute recommended

VOTE: 7 ayes — Chisum, Allen, Culberson, Dukes, Kuempel, Palmer, Talton

0 nays

2 absent — Howard, Zbranek

WITNESSES: For — Bill Clayton, Envirocare of Texas

Against — Bill Addington, Sierra Blanca Legal Defense Fund and Save Sierra Blanca; Bob Geyer, Sierra Blanca Legal Defense Fund; Susan Lee Solar, Grandmothers Alliance for the Future; Donald Darling; John Dolley; Gena Fleming; Karen Hadden; Alfred Reza; Dave Schroeder

On — Ken Kramer, Sierra Club, Lone Star Chapter; Doug Bell and Lee Matthews, Texas Low-Level Radioactive Waste Disposal Authority

BACKGROUND: In 1980, Congress enacted the Low-Level Radioactive Waste Policy Act, directing states to dispose of the low-level radioactive waste generated within their borders, other than waste generated by government facilities. The Texas Low-Level Radioactive Waste Disposal Authority (LLRWA) was created in 1981 to select, finance, build, operate, and ultimately decommission a disposal site for low-level radioactive waste produced in Texas.

After a lengthy search for a site, complicated by legal challenges, LLRWA was directed by the Legislature to concentrate on a site near Sierra Blanca in Hudspeth County and was due to begin construction in 2000 pending approval of a disposal license by the Texas Natural Resource Conservation Commission (TNRCC). In October 1998, however, the three-member commission rejected the license application, concurring with administrative law judges that the application did not provide enough information on a possible fault beneath the proposed site or on possible socioeconomic impacts of the facility.

Disposal compact. Federal law encourages states to form interstate compacts to create single disposal sites by authorizing states in compacts to refuse waste from other states. In September 1998, Congress ratified the Texas Low-Level Radioactive Waste Disposal Compact, including Texas as the host state plus Maine and Vermont. The compact requires Texas to operate a disposal facility to manage and dispose of low-level waste generated from the states in the compact. Disposal is defined as the permanent isolation of low-level radioactive waste pursuant to requirements established by the U.S. Nuclear Regulatory Commission and the U.S. Environmental Protection Agency under applicable laws or by the host state.

Maine and Vermont are required to help pay for the compact through disposal fees. Together, they must contribute $50 million to Texas for the project. The first $25 million must be deposited in the Low-Level Waste Fund no later than the 60th day after congressional ratification of the compact. The second $25 million must be paid within 60 days after the facility opens. Maine and Vermont have delayed paying the first $25 million due to the uncertainty surrounding the Texas facility and the authority's failure to obtain a license.

Requirements laid out for a compact in the Health and Safety Code specify that the volume of waste from nonhost states in the compact may not exceed 20 percent of the annual average volume of low-level waste the governor projects will be produced by Texas between 1995 and 2045.

LLRWA. TNRCC has the sole authority to issue a license to operate a low-level radioactive waste disposal site, while the Texas Department of Health (TDH) must issue any license for processing and storage of low-level waste. Under current law, a radioactive disposal license may be issued only to a public entity specifically authorized by law for radioactive waste disposal.

LLRWA must build all works and facilities on the disposal site but may contract with a political subdivision, state agency, or private entity to perform its overall operation. Current law requires the authority's board to select a disposal site within certain geographical boundaries in Hudspeth County.

The eight-member Texas Low-Level Radioactive Waste Disposal Compact Commission, which would govern the compact, must include six members from Texas and one each from Maine and Vermont. The six Texas members are to be appointed by the governor. The commission may enter into an

agreement with any person, state, regional body, or group of states for the importation of low-level radioactive waste into the compact states for management or disposal if a majority vote of the commission approves this agreement.

LLRWA funding. LLRWA is funded by planning and implementation fees paid by Texas waste generators. The majority of these fees are paid by Texas Utilities and Reliant Energy, formerly Houston Lighting and Power. Both the House and the Senate versions of HB 1 by Junell, the general appropriations bill for fiscal 2000-01, would phase out LLRWA, appropriating $1.14 million for that purpose. The Legislative Budget Board recommended this after TNRCC denied the authority's application for the Sierra Blanca disposal license.

HB 1 also includes a rider, contingent on enactment of HB 1910 or a similar bill, defining the authority's role. The rider would appropriate to LLRWA the estimated costs of implementing HB 1910 or a similar bill. It also would authorize LLRWA to transfer the agency's appropriation to administrative oversight, temporary storage of low-level waste, and payments to the host county. It would establish key measures of the agency's progress in selecting a site and waste management technology. The rider also would appropriate unexpended balances from fiscal 2000 to fiscal 2001.

DIGEST:

CSHB 1910 would require that any license for a disposal or assured isolation site for low-level radioactive waste be issued to the renamed Texas Low-Level Radioactive Waste Management Authority. The license could not be transferred to a private entity, although the authority could contract with a private entity to build and operate a site.

The bill would changes references to waste "disposal" in the statutes to "waste management." It also would repeal statutory language requiring a low-level radioactive waste facility to be located within a geographical area commonly called the "box" within Hudspeth County.

CSHB 1910 would grant TDH the sole authority to issue a license for an assured isolation site. It would restrict the volume of waste that Texas could accept from noncompact states and would provide that once a low-level radioactive waste disposal or assured isolation facility accepted waste, title and liability for the waste would transfer to the authority.

The bill also would provide that the site could not be located in a county adjacent to an international boundary and would direct the authority to give preference to a site in a county where voters had approved the site in a nonbinding referendum. CSHB 1910 would limit the amount of planning and implementation fees that could be collected from waste generators and would create the Low-Level Radioactive Waste Perpetual Care Fund for long-term care and maintenance of a state-owned low-level waste facility.

Assured isolation. The bill would give the authority an additional choice besides disposing of low-level waste: assured isolation for specific categories of low-level waste. The bill would define assured isolation as an integrated management system for isolating low-level radioactive waste with the intent of long-term management or disposal.

An assured isolation site would be the property owned by the authority at which low-level radioactive waste was isolated and placed in above-grade, accessible concrete vaults to isolate the waste for long-term management and disposal. The system would feature planned preventative maintenance and guarantees to address contingencies or to implement future management alternatives.

The assured isolation site would have to have above-grade vaults with internal access designed to isolate the waste from the environment. The waste would have to be easily retrievable and each waste structure or building would have to be monitored individually. The ground beneath and the perimeter around the facility also would be monitored for leakage.

Licensing and contracting. TDH would have sole authority to issue a license to operate an assured isolation site, while TNRCC would retain its current statutory authority to issue a license to operate a disposal site. The authority or any other entity authorized by contract to operate a site could not operate before obtaining the appropriate license. TDH could adopt rules necessary to exercise its licensing authority.

The bill would expand current statutes concerning licensing, operating contracts, fee criteria, and other aspects of low-level waste facility operation and management to include TDH as well as TNRCC. Current law envisions only the possibility of a disposal site licensed by TNRCC.

TDH and TNRCC would have to review an application for administrative completeness within 60 days, rather than within 30 days as current law requires of TNRCC. If either agency did not inform the authority as to whether the application was administratively complete within 60 days of receiving the application, it would be presumed to be complete.

The authority could contract with a political subdivision, state agency, or private entity to operate a disposal or assured isolation facility.

Siting and liability. The site could not be in a county adjacent to an international boundary, and construction could not begin on a low-level radioactive waste disposal or assured isolation facility before the state owned the land on which the facility would be located. This would not prohibit the authority from performing site characterizations on land not yet acquired by the state.

Site selection studies concerning assured isolation would have to consider the volume — by type and source category — of low-level radioactive waste, including waste from decommissioning nuclear power plants in Texas and other compact states, that would be generated for the life of the assured isolation facility. Other criteria required to be considered would include geology, hydrology, transportation and access, population density, meteorology, transportation costs, and current land use.

The authority would have to build or contract for construction of all works and facilities for the site. The authority also could build or contract for construction of facilities and equipment required for emergency services at the site.

TDH could employ an inspector under contract to the department, rather than a TDH employee as current law requires, to inspect packaged waste before it was transported to a disposal or assured isolation site in the state.

Nonbinding referendum. In choosing a site, the authority would give preference to a county in which the majority of voters had approved the site in a nonbinding referendum and the commissioner's court had passed a resolution favoring establishment of the site in that county. A person would be eligible to vote in the referendum only if he or she were eligible to vote in the most recent gubernatorial election in the county in which the referendum

was held. The election would not have to be held on uniform election dates specified by the Election Code. The ballot language would read: “Would you be in favor of _____ County being selected as the host county for a low-level radioactive waste disposal site? Yes __ No __.”

Out-of-state waste. Neither the board nor the operator of a low-level radioactive waste disposal or assured isolation site could accept waste from a state other than Texas, Maine, or Vermont unless it was approved by the compact commission and the total volume of waste to be accepted would not exceed 10 percent of the volume expected to be placed in the compact facility by Texas generators during its operating life. (Under current law, waste from nonhost states in the compact may not exceed 20 percent of the volume estimated to be disposed of during a 50-year period.)

Acceptance of out-of-state waste would be governed by rules and limitations established by the board for the compact facility, by TNRCC, or by TDH as appropriate, and the board would have to contract properly with the generator of that waste.

Planning and implementation fees. CSHB 1910 would call waste disposal fees “waste acceptance fees.” These fees would be paid by anyone delivering low-level waste to a disposal or assured isolation site.

Under CSHB 1910, the fees could not be assessed before the fiscal year after the year in which the Low-Level Waste Fund fell below $4 million. More than $3 million in planning and implementation fees could not be assessed in any fiscal biennium, and these fees could not be collected at all if the balance of the Low-Level Waste Fund was $9 million or more.

Once planning and implementation fees were ended because the authority had begun to operate a disposal or assured isolation facility, the balance of these funds would be transferred to a separate account. Out of this balance, the fees would be credited pro-rata to waste generators who had paid into the account. Until it was exhausted, this credit would be used against waste acceptance fees that generators would owe for depositing waste at the site. This credit would not be available to generators who still owed fees on the date they were terminated.

Low-Level Radioactive Waste Perpetual Care Fund. This fund would be created as a special account in the treasury outside general revenue. It would consist of payments made by compact party states, waste acceptance fees, and interest earned on the fund.

Money in the fund could be appropriated only for the long-term care and maintenance of a state-owned disposal or assured isolation facility. This would include use by TNRCC, TDH, and the authority for decontamination, decommissioning, maintenance, surveillance, control, storage, and disposal activities related to the facility. Interest but not principal in the fund could be used for normal operating expenses of the authority, as appropriated by the Legislature.

$50 million from compact states. CSHB 1910 would require the comptroller to retain the first $25 million received from compact states in the Low-Level Waste Fund, to be appropriated only for the construction of a low-level radioactive waste disposal or assured isolation facility. The comptroller would transfer the second $25 million to the Low-Level Radioactive Waste Perpetual Care Fund.

CSHB 1910 would take effect September 1, 1999.

SUPPORTERS SAY:

CSHB 1910 at long last would provide a way for Texas to dispose safely of the state's low-level radioactive waste. Requiring the state to hold the license to a disposal or assured isolation facility would ensure that the waste would be managed so as to protect public health and safety.

Texas' low-level radioactive waste currently is being stored in more than 900 locations across the state, including universities, hospitals, closets, garages, and nuclear power plants. The state has been stymied in its efforts to locate a site for a facility because the base of public, institutional, and political support was not in place to overcome the obstacles to finding a suitable site.

Public-private partnership. CSHB 1910 would overcome these obstacles by encouraging the private sector to work as a partner with the state. The state would retain the license, but the authority could contract with the private sector for construction, operation, and maintenance of the facility. This would achieve the best of both worlds. The state could retain oversight, but the private sector would make sure it was operated with maximum efficiency.

The authority would have the specialized experience necessary to oversee a competitive bidding process among private-sector companies.

A state-licensed facility would be subject to legislative oversight and the Open Records Act and could be held far more accountable than a private entity for public health and safety and environmental protection. An activity of such significance as radioactive waste management argues for the highest level of public oversight. If the state held the license, for example, it would have the flexibility to change private operators if it were dissatisfied with a contractor's performance or to determine the amount and type of waste it would accept.

The state also would be in a good position to ensure that it fulfilled its compact obligations — an important consideration in view of the $50 million Texas is due to receive from Maine and Vermont. Also, it would not be fair to privatize a facility that then would hold Texas, Maine, and Vermont in a captive market.

Privatized facilities and federal waste. Requiring the authority to hold the license for any low-level waste disposal or assured isolation site would ensure that Texas would not become a dumping ground for high volumes of low-level radioactive waste from the U.S. Department of Energy (DOE). Stipulating that the license must be held by a public entity would keep a private company from using a state disposal license to convince DOE that the company should be able to accept DOE waste in the state.

In the past, the Nuclear Regulatory Commission (NRC) has not given companies the authority to dispose of DOE's low-level waste unless they held a license in the state where they proposed to dispose of the waste. Accepting DOE waste may be very lucrative for private companies but it is bad public policy. The Legislature, not a private company, should decide if and how much of this kind of waste the state should accept.

If a private company were licensed to dispose of commercial low-level wastes, there would be no practical way of preventing it from accepting DOE wastes. This would mean a huge increase in the volume of radioactive materials coming to Texas. It would be unwise to mingle compact and DOE wastes at one site so that any future problems could not be traced to the responsible party. Even though some argue that the state would have no

liability for DOE waste, if a private company were licensed as a disposal facility, the land still would have to be deeded to the state. If DOE waste caused problems on this land, the state would have to clean it up as a matter of public safety.

LLRWA has estimated that the volume of waste generated by Texas, Maine, and Vermont, including wastes from decommissioning the nuclear power plants in these states, would total 2 to 3 million cubic feet over a 50-year period. The amount of DOE waste, on the other hand, is estimated to be in the range of 100 to 300 million cubic feet. CSHB 1910 would enable Texas to keep these massive volumes of radioactive waste out of the state.

Assured isolation. An assured isolation facility licensed through TDH would serve as a permanent storage facility. CSHB 1910 specifically would define assured isolation as a system for isolating low-level radioactive waste with the intent of long-term management and disposal. Assured isolation would meet the terms of the compact, and the compact states would have no problem with Texas using assured isolation as a disposal system. NRC has not given clear indication where it stands on this issue. Since the bill would provide that Texas must take title to the waste, the other compact states would be satisfied that assured isolation was equivalent to disposal.

Assured isolation would give the state flexibility in managing its waste. An assured isolation facility, where the waste would be stored in above-grade or above-ground reinforced vaults, could be inspected easily, monitored for any leakage, and retrieved if necessary. Short-lived radionucleides could be placed together so that after several decades, when the materials had reached a safe level, they could be retrieved and disposed of safely in a landfill.

An assured isolation facility also would provide multiple options to those who must operate it. They could continue to monitor the facility for as long as needed, seal it partially or completely, dispose of the waste on site, or transfer the waste to another location. If a new and safer disposal or containment technology became available in the future, the waste could be retrieved easily for processing. Siting would not be as difficult for an assured isolation facility, since geologic isolation would not have to be ensured so strictly.

State liability. Even if a private contractor were licensed to operate a site, the state ultimately would be liable for the waste and the site itself. Under Health

and Safety Code, sec. 401.205, Texas eventually would become the owner of any radioactive waste disposal site in Texas. It would be better to have the state take title to the land and waste at a low-level waste facility as soon as possible. It would be far better for the state to ensure proper maintenance and construction from the start than to inherit problems from private contractors who had no incentive to plan for the very long term.

A private contractor proposing to operate an assured isolation site could be required to meet substantial financial assurance requirements before placing waste in the facility to guarantee resources adequate for its indefinite operation or decommissioning. Often, however, the financial securities offered would be bonds and insurance, both of which can disappear when business is bad. It would be far better for the state to create its own perpetual care fund, as CSHB 1910 would require, and fund it with the second payment of $25 million from Maine and Vermont.

A recent study by two professors at the University of Texas and Texas A&M estimated that closure and long-term monitoring at a compact site would cost around $25 million. A remediation fund of $50 million to $100 million was suggested to cover any unexpected remediation costs or changes in the regulatory environment. Since a privately licensed site would be sorely tempted to accept DOE waste, the increased volumes would mean that a meaningful remediation or perpetual care fund would have to be truly gigantic.

Licensing agency. TDH's Bureau of Radiation Control is more qualified than TNRCC to regulate an assured isolation facility. TDH has expertise in health physics and already regulates the storage and processing of radioactive materials and above-ground facilities such as large irradiators used to sterilize equipment. TDH also already regulates radioactive waste generators and inspects every shipment of low-level radioactive waste that would go to a Texas waste site.

Importing waste from noncompact states. CSHB 1910 would not fully close the statutory loophole that would allow the compact commission to import noncompact waste from other states, but it would leave the authority some regulatory flexibility in case of an unusual situation or an emergency.

OPPONENTS SAY:

It would be prudent of the 76th Legislature to avoid revamping the state's radioactive waste system at this time. Instead, the Legislature should use the sunset review process during the coming interim to undertake a thorough review of LLRWA. In conjunction with that review, a legislative interim study could give legislators a chance to weigh carefully the best way for Texas to manage its low-level radioactive waste.

In addition, congressional and industry representatives are beginning to discuss abandoning the compact since not one compact facility has been built since enactment of the federal enactment of the Low-Level Radioactive Waste Policy Act in 1981. If Texas opens a facility, Congress might be tempted to designate it as the nation's dump. There is no urgent need for disposal capacity after 20 years of waiting. Indeed, the delay in building a facility has resulted in some waste generators actively pursuing techniques to minimize the amount of waste they generate.

Many uncertainties exist at this time regarding the issue of radioactive waste management — in part because two private companies, Waste Control Specialists (WCS) and Envirocare, have expressed interest in operating a low-level radioactive waste site in Texas. WCS already holds a TNRCC permit for disposal of hazardous and toxic waste and a TDH license for treatment and storage of low-level radioactive waste. The company also has expressed interest in acquiring a low-level radioactive waste disposal permit and accepting low-level waste from DOE.

Envirocare, which already has the authority to accept DOE waste at its Utah facility, has bought property in Andrews County within 10 miles of the WCS site. WCS's site lies near the Texas-New Mexico border in Andrews County, at the southern limit of the Ogallala Aquifer, and questions have been raised about whether one or both sites would be hydrologically appropriate.

Private-sector option for noncompact waste. The state should allow TNRCC to license a private company for disposal of DOE low-level waste. This would not interfere with the state's efforts to site a state-licensed low-level waste management site. TNRCC then could limit the amount of waste that could be accepted under that permit. DOE low-level wastes are no different from low-level wastes from other sources. In fact, the majority of them consist of mildly contaminated dirt.

As long as statutory language provided that such a site owned by a private entity would create no liability on the part of the state, such a site would be an acceptable alternative for low-level radioactive waste disposal in the state. Generators, who have no other options, would welcome this alternative.

If a privately licensed site could accept DOE waste, it would create no liability for the state. A state does not assume liability for DOE wastes by participating in the regulatory system. A similar situation exists between DOE and Texas with regard to the Pantex facility. Texas oversees Pantex but assumes no liability. As long as a private-sector licensee disposes of DOE waste, the licensee and DOE remain responsible for those wastes forever.

Unlike a public entity, a private business would put a facility in place quickly using its own money rather than taxpayer dollars to provide the necessary assurances to complete the project. If such a site chose to accept DOE waste, it would be with the support of the surrounding community and would bring jobs and economic development to areas sorely needing them.

A private operator could accomplish safely, quickly, and efficiently what the state has failed to do in almost 20 years. Texas waste generators have spent approximately $50 million on planning and implementation fees and have nothing to show for it. Texas generators would welcome a private facility, especially one that could accept noncompact waste and use it to subsidize in-state commercial prices.

It is estimated that prices for disposing of commercial waste in the state would be a fraction of those at the only site in the country that now accepts low-level waste, if that site could accept DOE waste.

There is no reason why a private company cannot build and operate a facility in a manner that would protect public health and safety. A private facility operator would be subject to state and federally imposed licensing and regulatory requirements. A private operator also would have to meet substantial financial assurance requirements to cover its liability before being granted a license.

The private sector generally can pay higher salaries, attract more qualified employees, and operate in more efficiently than a site either run or overseen

by a state bureaucracy. LLRWA has failed to find a site in 18 years of trying. The state should give private operators a chance.

Disposal rather than assured isolation. NRC does not consider assured isolation equivalent to disposal. In a letter from the commission to Rep. Gary Walker, NRC clearly states: "We do not consider assured storage to be the equivalent of permanent disposal of low-level waste. By its very nature, assured storage is considered a temporary facility."

This bodes ill for Texas, since the compact requires Texas to have a disposal site for low-level waste. Assured isolation could result in Congress having to amend the Texas-Maine-Vermont compact legislation and in the state having to forfeit the $50 million it is supposed to receive from the two compact states. If Texas had to seek re-ratification of the compact in Congress, it could take years.

Moreover, retrievability is not necessarily a desirable design feature for a disposal facility intended to isolate waste permanently, and it is not safer for the public, since the facility is more exposed to the elements and there is a greater dependence on stringent monitoring and maintenance. Assured isolation facilities avoid the far more stringent safety and environmental requirements associated with disposal. Most experts, including NRC, agree that disposal is a better option. Assured isolation also would place an obligation on future generations, since it is not a permanent solution.

The state should stick to its promise. Some generators in Texas who would prefer the waste to be buried fear that if their waste were placed in an assured isolation site, they would have to pay to have it transferred to a disposal site later on.

Liability. It is not true that the state must assume all liability for a low-level radioactive waste site. A privately operated site could be required to buy insurance, bonds, and other securities to make sure there was enough money to cover any accidents. The state merely would have to pick up the slack in the unlikely prospect that a company went out of business. This would be a much better deal for taxpayers, who would not have to shoulder the liability from the beginning.

Licensing agency. TNRCC, not TDH, should license an assured isolation facility. Historically, TNRCC has been authorized to license disposal sites, while TDH has regulated storage facilities. CSHB 1910 would propose assured isolation with the "intent of long-term management or disposal."

A storage facility with a virtually indefinite life span is essentially a disposal facility and should be licensed as such. This would also help make it clear to compact states, and to anyone else who might be in doubt, that assured isolation is essentially equivalent to disposal. Also, it is harder for a member of the public to gain standing at TDH for a contested case hearing. The public should have every possible opportunity to participate in contested case hearings for low-level radioactive waste management facilities.

Importing waste from noncompact states. The state should completely close the current statutory loophole that allows the authority to import waste from noncompact states. Although CSHB 1910 would make a first step in that direction by providing that out-of-state waste could not exceed 10 percent of the volume expected to be placed in the facility by host-state generators, that is not enough. There is no reason for Texas to accept waste from other states.

OTHER OPPONENTS SAY:

Barring any facility 60 miles from the border. The bill should provide that low-level radioactive waste could not be stored in any area within 60 miles of an international border. This would be in the spirit of the La Paz agreement and would help foster better relations with Mexico, Texas' most important trading partner. It also would encourage the Mexican government to have the same sort of commitment on the other side of the border.

Notice and hearing. The bill should give citizens the right to early notice and a contested case hearing on any major amendment to a license for assured isolation of low-level radioactive waste.

Rebate generators their planning and implementation fees. Generators have paid about $50 million over the past 18 years for a disposal site that never materialized. The Legislature should return at least some of this money once Maine and Vermont make their first $25 million payment under the compact. The bill would make a step in the right direction by capping the fees, but there is no excuse for generators to pay another cent for services they never received.

The Midwest Compact returned money to utilities recently after abandoning efforts to build a dump, and Texas should do the same. Some Texas generators have been sending their wastes to a low-level radioactive waste management facility in Barnwell, S.C., in the meantime. Since this is the only site taking these kinds of wastes, the prices are extremely high.

Storing waste at Texas' two nuclear plants. A substantial volume of low-level waste is generated by the state's two operating nuclear power plants, the South Texas Nuclear Plant near Bay City, managed by Reliant Energy, and Texas Utilities' Comanche Peak plant near Glen Rose. Serious consideration needs to be given to establishing above-ground assured isolation facilities at each of these plants.

It would be safer to isolate the majority of Texas' waste at the point of generation than to transport it across the state. Other less hazardous medical and university wastes could be brought to the sites as well. The two nuclear plants already have the ability to store high-level waste and they easily could integrate small facilities to handle low-level waste. This would put more of the responsibility for waste management on the utility companies that are the source of the largest volume of low-level radioactive wastes generated in Texas.

NOTES:

The committee substitute differs substantially from the original bill. Provisions in the substitute that were not in the original bill include keeping LLRWA's sunset date at September 1, 2001, rather than 2007; restricting the amount of waste that could be accepted from noncompact states; reducing and capping the amount of planning and implementation fees that generators would have to pay; crediting a pro-rata balance of these fees to generators when the facility opens; and establishing the Low-Level Radioactive Waste Perpetual Care Fund.

Also included in the substitute but not in the original bill are provisions that would expand the definition of assured isolation; add criteria and conditions for an assured isolation site; prohibit a site from being located in a county adjacent to the Mexican border; include geology and hydrology in a list of things to be considered when siting an assured isolation site; remove consideration of the proximity of waste to a site as an area of study; give preference to a county in which the majority of voters approved the site; and prohibit construction of a site before the state acquired ownership of the land.

Two related bills — HB 674 by Gallego, which would require the authority to contract with a private person to develop, maintain, and operate a low-level site, and HB 1541 by Uher, which would abolish planning and implementation fees — were left pending in the House Environmental Regulation Committee on March 8.

Another related bill, HB 3323 by Chavez, which would locate LLRWA headquarters at the site designated for a disposal facility, has been referred to the House Environmental Regulation Committee. HB 3320 by Chavez, which would prohibit LLRWA from designating a disposal site unless the site was endorsed in writing by the county judge of each county where it was located, the mayor of the city nearest the site, and the superintendent of each school district in which the site was located, also has been referred to the House Environmental Regulation Committee.

HB 1172 by Chisum, which would replace the definition of low-level radioactive waste in the Texas statutes, passed the House on April 22 and was referred to the Senate Natural Resources Committee.