

SUBJECT: Eliminating Hudspeth County as low-level radioactive waste disposal site

COMMITTEE: Environmental Regulation — favorable, with amendment

VOTE: 6 ayes — Chisum, Uher, Dukes, Geren, Howard, Zbranek

0 nays

3 absent — Bonnen, Kuempel, Bosse

WITNESSES: For — None

Against — None

On — Edward Selig, Advocates for Responsible Disposal in Texas

BACKGROUND: In 1981, the Legislature created the Texas Low-Level Radioactive Waste Disposal Authority (LLRWA) in response to the Federal LLRW Policy Act of 1980, which encouraged the formation of regional compacts among states to handle LLRW. Officials studied sites in the late 1980s and selected a 400-square-mile area in Hudspeth County, known as “the box,” as the disposal site location. In 1991, the Legislature specifically designated this area for LLRW disposal. Construction of the site near Sierra Blanca was scheduled to begin in 2000, pending approval of a disposal license by the Texas Natural Resource Conservation Commission (TNRCC). In 1998, however, TNRCC rejected the license application, concurring with administrative law judges that the application did not provide enough information on a possible earthquake fault beneath the proposed site or on possible socioeconomic impacts of the facility.

Health and Safety Code, ch. 402, subchapters B and C set forth the administration, powers, and duties of the LLRWA. The 76th Legislature in 1999 enacted HB 2954 by Gray, abolishing the LLRWA and transferring its duties to TNRCC. TNRCC has sole authority to issue a license to operate a LLRW disposal site, while the Texas Department of Health must issue any license for processing or storing low-level waste.

DIGEST: HB 85, as amended, would delete references to the LLRW disposal location in Hudspeth County from portions of the Health and Safety Code that specify the site area, grant eminent domain authority to acquire the site, govern suits by and against the authority, and allow the authority to enter property to assess the suitability of land for a disposal site.

The bill also would remove the requirement that one of the voting members of the Texas Low-Level Radioactive Waste Disposal Compact be a resident of Hudspeth County. Instead, that requirement would apply to a resident of the “host county” as defined under Health and Safety Code, sec. 403.006.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2001.

SUPPORTERS SAY: Enactment of HB 85 would be an important step in focusing attention on the need to identify a new location for a LLRW disposal facility. After a 20-year delay, the state needs to remove all obstacles to locating a site suitable under federal law for LLRW disposal. Texas’ LLRW now is being stored in more than 900 locations across the state, including universities, hospitals, closets, garages, and nuclear power plants.

Since TNRCC rejected the application for the Hudspeth County location as a disposal facility, the state needs to remove from the statutes any references to that specific location as the designated site. The state has been stymied in its efforts to locate a site for a disposal facility because the base of public, institutional, and political support has not been in place to surmount the many impediments to selecting a suitable site.

OPPONENTS SAY: Although it would be practical to remove references to Hudspeth County from the statutes referring to LLRW, nothing would prevent the Legislature from specifying another area of Texas as a “box” for locating a disposal facility. State law should place more emphasis on choosing an appropriate disposal site after thorough geological, hydrological, and socioeconomic study and consideration.

NOTES: The committee amendment would delete eminent domain authority to acquire the Hudspeth County site.