

- SUBJECT:** Sale and lease of land by Low-Level Radioactive Waste Authority
- COMMITTEE:** Environmental Regulation — favorable with amendment
- VOTE:** 6 ayes — Chisum, Jackson, Dukes, Howard, Kuempel, Yost  
0 nays  
3 absent — Saunders, Stiles, Talton
- WITNESSES:** For — Jim Ed Miller; Les Breeding, Sierra Blanca Legal Defense Fund  
Against — Bill Addington, Save Sierra Blanca Citizens Group/Sierra Blanca Legal Defense Fund; Susan Lee, Alert Citizens for Environmental Safety/Roy Griffin; John Dolley, People Preventing a Texas Chernobyl; Brent Alan White  
On — Ric Jacobi, Texas Low-Level Radioactive Waste Authority
- BACKGROUND:** In 1993 the 73rd Legislature enacted HB 2318 by Gallego, which provides that the Texas Low-Level Radioactive Waste Authority (LLRWA) can lease land owned by the authority that is not directly part of their proposed disposal site, for agricultural, ranching or grazing purposes. The LLRWA owns approximately 16,000 acres in southeastern Hudspeth County. Their proposed disposal site, is located on 1,000 acres approximately seven miles southeast of the town of Sierra Blanca.
- Low-level radioactive waste, which includes materials contaminated with radiation in nuclear power plants, laboratories, industry and medical processes and research, must be disposed of either at state-built disposal facilities or through a compact with other states. The requirement is imposed by the federal Low-Level Radioactive Waste Policy Act of 1980.
- The Texas Low-Level Radioactive Waste Authority (LLRWA) was created by the Texas Legislature in 1981 and commissioned to finance, construct, operate, and decommission a disposal site for low-level radioactive waste produced in Texas. The authority initially selected a site in Hudspeth County near Fort Hancock but a suit was filed by El Paso County, Hudspeth County and other parties challenging the appropriateness of the site. In January 1991 State District Judge William Moody of El Paso declared the Fort Hancock site unsuitable and ordered work stopped.

In 1991 the 72nd Legislature required the authority to select another disposal site within a designated area in Hudspeth County. In February of 1992 the authority selected a site seven miles southeast of the town of Sierra Blanca, and began gathering data for a low-level radioactive waste license.

In 1993 the 73rd Legislature created the Texas Low-Level Radioactive Waste Disposal Compact, composed of the "host" state of Texas plus Maine and Vermont. The compact requires Texas to operate a facility to manage and dispose of low-level radioactive waste generated from the states in the compact. The states are required to help pay for operation of the facility plus disposal fees. The compact has not yet been ratified by Congress.

In 1994 the authority completed its license application to operate a low-level radioactive waste site. The Texas Natural Resource Conservation Commission (TNRCC) is reviewing the LLRWA application for a low-level radioactive waste license.

Since January 30, 1994, Texas' waste must be stored at the many locations that produce it, including hospitals, utilities and universities. A disposal site in South Carolina was closed to Texas on June 30, 1994. The only other low-level radioactive waste dump of this kind currently operating in the United States is on the Hanford Reservation in Washington, and is now open only to 11 western and northwestern states.

**DIGEST:**

HB 1681, as amended, would permit the LLRWA to sell or lease land owned by the authority that is not part of a licensed disposal site. Land leased or sold could not be used for purposes that could interfere with the proper operation of the authority disposal site, or for a facility that stored, processed or disposed of waste, other than a facility owned and operated by a unit of local government.

The bill would delete the current statutory language in Health and Safety Code, sec. 402.094 (d) providing that the authority may lease the land it owns (that is not part of a licensed disposal site) only for agricultural, ranching or grazing purposes.

The LLRWA would be required to include in a lease or deed a statement that the land could not be used for purposes that could interfere with proper

operation of the disposal site. A copy of the deed would be filed in the county deed records of the county in which the land sold was located.

HB 1681 as amended, would take effect September 1, 1995.

**SUPPORTERS  
SAY:**

HB 1681 as amended, would allow the authority to sell land to Hudspeth County for a municipal solid waste site. For over a year, all landfills in Hudspeth County have been closed because of new federal landfill requirements. Hudspeth County must now transport its waste to El Paso and pay a tipping fee to dump it. This is expensive and inefficient for the county.

It makes perfect sense for a new Hudspeth County landfill to be located on land currently owned by the LLRWA. Extensive hydrological, geological and engineering studies of the site have already been completed by the authority, and infrastructure improvements are planned, which would probably make the construction and siting of a landfill much cheaper and easier for Hudspeth county.

The committee amendment specifically provides that land sold by the authority could not be used for a facility that would store, process or dispose of waste, other than a facility owned by a unit of local government. This would prevent any kind of waste incinerators, or other kinds of waste disposal facilities from being sited on the land.

The LLRWA owns 16,000 acres, and only about 1000 acres of that land will be used for waste disposal activities. There is absolutely no need for the state to keep all of that land as a buffer. Because the authority would make infrastructure improvements in the area, such as better roads and telephone service, new industries may also want to buy land from the LLRWA and site new facilities there. Economic development and new jobs are badly needed in the area.

Selling the land will allow the LLRWA to recoup some of the disposal site's cost.

**OPPONENTS  
SAY:**

HB 1681 would provide that the LLRWA could sell up to 15,000 acres of land in Hudspeth County surrounding the site of the dump. Although the land could not be leased or sold to be used for waste storage, processing or disposal, unless the facility is owned by a local government, the state should not even take the chance of opening up the acreage around the

dump. Once the land is sold it will be difficult to control the use of the land.

The site of the low-level radioactive waste dump in Barnwell, South Carolina has become a target for polluting facilities. Already private companies like the Scientific Ecology Group, which stores radioactive waste, have expressed interest in the LLRWA site or areas close by. The land surrounding the dump site should be used as an open buffer zone around the dump to ensure accurate monitoring of possible leaks and spills from the dump, and should be leased for agricultural purposes only.

If the intent of the bill is to allow only Hudspeth County to site a landfill on the authority's land, it should stipulate exactly that. Under the bill, the land could become a site for a multi-county regional landfill or the county commissioners could decide that they want to operate a hazardous waste facility for profit. Hudspeth County residents already have the proposed LLRWA and New York City sewage sludge to contend with — they do not need a regional landfill as well.

OTHER  
OPPONENTS  
SAY:

The bill should clarify that units of local government could contract out for the operation of their landfill, which could be more efficient than operating it themselves.

NOTES:

The committee amendment provides that any land leased or sold by the authority could not be used for a facility that stored, processed or disposed of waste, other than a facility owned and operated by a unit of local government.

A related bill, HB 1775 by Jackson, which would provide that the LLRWA would not be required to obtain a solid waste disposal permit or other authorization under Health and Safety Code Chapter 361 unless the authority proposed to dispose of mixed waste, passed the House on April 12 and has been referred to the Senate Finance Committee.