



ID# 12876
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Texas Low-Level Radioactive Waste Disposal Authority

RQ-125

July 2, 1991

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Opinion Committee

Ms. Madeleine Johnson
Chair, Opinions Committee
The Office of the Attorney General
P O Box 12548
Austin, Texas 78711-2548

Re: Request for Opinion, Section 402.273 (a)(2), Health & Safety Code

Dear General Morales:

At its meeting on May 16, 1991, the Authority's Board of Directors authorized the staff to request an Attorney General's opinion interpreting Section 402.273 (a)(2) of the Health & Safety Code.

The Authority has jurisdiction over the selection, construction, operation, financing and closing of a low-level waste disposal site (Section 402.051, Health & Safety Code). The Authority's expenses must be paid from fees collected from users of the site and from appropriations made by the legislature (Section 402.271). The fees must be sufficient to, among other things, "allow the Authority to recover expenses incurred before beginning operation of the disposal site amortized over a period of not more than 20 years beginning on the first day of operation of the disposal site..." (Section 402.273 (a)(2)) (Note: This provision is deleted in Section 6 of House Bill 1757 which was passed by the 72nd Regular Session of the Legislature, but was reworded and added back in the same section). Since 1982, the Authority has been funded from general appropriations. Once the disposal site is operational, those expenses will be recovered from fees and amortized over a period of not more than 20 years.

We ask the Attorney General's opinion on the following points:

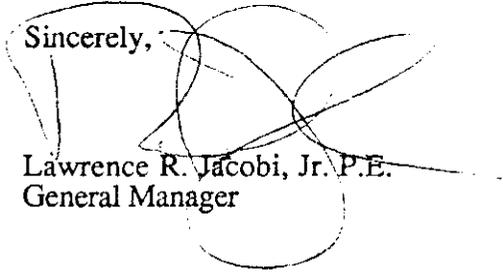
- (a) Does the word "amortize" mean that the expenses must be paid back with interest on the principal?
- (b) What is the appropriate mechanism for reimbursing the expenses, i.e. would the payments be made to the Comptroller? At what intervals? How would interest rates, if any, be determined?

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The determination of these issues will impact greatly the cost of disposal to users of the site, such as hospitals, universities and public utilities.

We appreciate your consideration of this opinion request. Should you need additional information please contact me or Lee Mathews, our General Counsel.

Sincerely,



Lawrence R. Jacobi, Jr. P.E.
General Manager

LRJ/h