

Senator Curtis S. Bramble proposes the following substitute bill:

APPROVAL REQUIRED FOR DISPOSAL OF

RADIOACTIVE WASTE

2004 GENERAL SESSION

STATE OF UTAH

Sponsor: Stephen H. Urquhart

LONG TITLE

General Description:

This bill requires legislative and gubernatorial approval before a radioactive waste facility may receive certain types or concentrations of radioactive waste and amends radioactive waste tax provisions.

Highlighted Provisions:

This bill:

- ▶ defines terms related to the regulation of radioactive waste facilities;
- ▶ deletes certain outdated provisions relating to approval for radioactive waste facilities;
- ▶ amends certain approval requirements regarding radioactive waste facilities;
- ▶ requires the approval of the Legislature, governor, and local governing body responsible for planning and zoning before a radioactive waste facility may receive specified types or concentrations of radioactive wastes;
- ▶ modifies the gross receipts tax on certain types of mixed waste; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:



26 This bill provides an immediate effective date.

27 **Utah Code Sections Affected:**

28 AMENDS:

29 **19-3-105**, as last amended by Chapter 73, Laws of Utah 2003

30 **59-24-103.5**, as enacted by Chapter 295, Laws of Utah 2003



31 *Be it enacted by the Legislature of the state of Utah:*

32 Section 1. Section **19-3-105** is amended to read:

33 **19-3-105. Legislative and gubernatorial approval required for radioactive waste**
34 **license -- Class B and C low-level radioactive waste moratorium.**

35 (1) As used in this section:

36 (a) "Alternate feed material" has the same definition as provided in Section 59-24-102.

37 (b) (i) "Class A low-level radioactive waste" means:

38 (A) radioactive waste that is classified as class A waste under 10 C.F.R. 61.55; and

39 (B) radium-226 up to a maximum radionuclide concentration level of 10,000

40 picocuries per gram.

41 (ii) "Class A low-level radioactive waste" does not include:

42 (A) uranium mill tailings;

43 (B) naturally-occurring radioactive materials; or

44 (C) the following radionuclides if classified as "special nuclear material" under the

45 Atomic Energy Act of 1954, 42 U.S.C. 2014:

46 (I) uranium-233; and

47 (II) uranium-235 with a radionuclide concentration level greater than the concentration

48 limits for specific conditions and enrichments established by an order of the Nuclear

49 Regulatory Commission:

50 (Aa) to ensure criticality safety for a radioactive waste facility in the state; and

51 (Bb) in response to a request, submitted prior to January 1, 2004, from a radioactive

52 waste facility in the state to the Nuclear Regulatory Commission to amend the facility's special

53 nuclear material exemption order.

54 (c) (i) "Radioactive waste facility" or "facility" means a facility that receives, transfers,

55 stores, decays in storage, treats, or disposes of radioactive waste:

57 (A) commercially for profit; or

58 (B) generated at locations other than the radioactive waste facility.

59 (ii) "Radioactive waste facility" does not include a facility that receives:

60 (A) alternate feed material for reprocessing; or

61 (B) radioactive waste from a location in the state designated as a processing site under
62 42 U.S.C. 7912(f).

63 (c) "Radioactive waste license" or "license" means a radioactive material license issued
64 by the executive secretary under Subsection 19-3-108(2)(c)(i), to own, construct, modify, or
65 operate a radioactive waste facility.

66 ~~[(+)] (2) The provisions of this section are subject to the moratorium regarding class B~~
67 ~~and C low-level radioactive waste under Section 19-3-103.7.~~

68 ~~[(2)-(a)] (3) A person may not own, construct, modify, or operate [any facility for the~~
69 ~~purpose of commercially transferring, storing, decaying in storage, treating, or disposing of] a~~
70 ~~radioactive waste facility without [first submitting and receiving the approval of the board for]:~~

71 ~~(a) having received a radioactive [material] waste license for the facility[-];~~

72 ~~[(b) A person may not construct a new commercial radioactive waste transfer, storage,~~
73 ~~decay in storage, treatment, or disposal facility until:]~~

74 ~~[(i) the requirements of Section 19-3-104 have been met;]~~

75 ~~(b) meeting the requirements established by rule under Section 19-3-104;~~

76 ~~(c) the approval of the governing body of the municipality or county responsible for~~
77 ~~local planning and zoning where the radioactive waste is or will be located; and~~

78 ~~[(ii)] (d) [in addition and] subsequent to meeting the requirements of Subsections (3)(a)~~
79 ~~through (c), the approval [required in Subsection (2)(a),] of the governor and the Legislature~~
80 ~~[have approved the facility; and].~~

81 ~~[(iii) local planning and zoning has authorized the facility.]~~

82 ~~[(e) For purposes of this section, the following items shall be treated as submission of a~~
83 ~~new license application:]~~

84 ~~(4) A new radioactive waste license application, or an application to renew or amend~~
85 ~~an existing radioactive waste license, is subject to the requirements of Subsections (3)(b)~~
86 ~~through (d) if the application, renewal, or amendment:~~

87 ~~[(i)] (a) [the submission of a revised application specifying] specifies a different~~

88 geographic site than a previously submitted application;

89 ~~[(ii) an application for amendment of a commercial radioactive waste license for~~
90 ~~transfer, storage, decay in storage, treatment, or disposal facilities, including incinerators, if the~~
91 ~~construction]~~

92 (b) would cost 50% or more of the cost of construction of the original [transfer,
93 storage, decay in storage, treatment, or disposal] radioactive waste facility or the modification
94 would result in an increase in capacity or throughput of a cumulative total of 50% of the total
95 capacity or throughput which was approved in the facility license as of January 1, 1990, or the
96 initial approval facility license if the initial license approval is subsequent to January 1, 1990;
97 or

98 ~~[(iii) (c) [any request for] requests approval [for a commercial radioactive waste~~
99 ~~transfer, storage, decay in storage, treatment, or disposal facility] to receive, transfer, store,~~
100 ~~decay in storage, treat, or dispose of:~~

101 (i) class B or class C low-level radioactive waste[~~, including the submission of a new~~
102 license application, revised license application, or major license amendment.]; or

103 ~~[(3) A person need not obtain gubernatorial or legislative approval for the construction~~
104 ~~of a radioactive waste facility for which a license application has been approved by the~~
105 ~~Department of Health or submitted to the federal Nuclear Regulatory Commission and to the~~
106 ~~Department of Health for approval before January 1, 1990, and which has been determined, on~~
107 ~~or before October 31, 1990, by the Department of Health to be complete in accordance with~~
108 ~~state and federal requirements.]~~

109 (ii) radioactive waste having a higher radionuclide concentration limit than allowed,
110 under an existing approved license held by the facility, for the specific type of waste to be
111 received, transferred, stored, decayed in storage, treated, or disposed of.

112 (5) The requirements of Subsection (4)(c)(ii) do not apply to an application to renew or
113 amend an existing radioactive waste license if:

114 (a) the radioactive waste facility requesting the renewal or amendment has received a
115 license prior to January 1, 2004; and

116 (b) the application to renew or amend its license is limited to a request to approve the
117 receipt, transfer, storage, decay in storage, treatment, or disposal of class A low-level
118 radioactive waste.

119 (6) A radioactive waste facility which receives a new radioactive waste license after
120 May 3, 2004, is subject to the requirements of Subsections (3)(b) through (d) for any license
121 application, renewal, or amendment that requests approval to receive, transfer, store, decay in
122 storage, treat, or dispose of radioactive waste not previously approved under an existing license
123 held by the facility.

124 ~~[(4)]~~ (7) ~~[The]~~ If the board finds that approval of additional radioactive waste license
125 applications, renewals, or amendments will result in inadequate oversight, monitoring, or
126 licensure compliance and enforcement of existing and any additional radioactive waste
127 facilities, the board shall suspend acceptance of further applications for [commercial]
128 radioactive [waste facilities upon a finding that they cannot adequately oversee existing and
129 additional radioactive waste facilities for license compliance, monitoring, and enforcement]
130 waste licenses. The board shall report the suspension to the Legislative Management
131 Committee.

132 ~~[(5)]~~ (8) The board shall review each proposed radioactive waste license application to
133 determine whether the application complies with the provisions of this chapter and the rules of
134 the board.

135 ~~[(6)]~~ (9) (a) If the radioactive waste license application is determined to be complete,
136 the board shall issue a notice of completeness.

137 (b) If the board determines that the [plan] radioactive waste license application is
138 [determined by the board to be] incomplete, the board shall issue a notice of deficiency, listing
139 the additional information to be provided by the applicant to complete the application.

140 Section 2. Section **59-24-103.5** is amended to read:

141 **59-24-103.5. Radioactive waste disposal, processing, and recycling facility tax.**

142 (1) On and after July 1, 2003, there is imposed a tax on a radioactive waste facility, or a
143 processing or recycling facility, as provided in this chapter.

144 (2) The tax is equal to the sum of the following amounts:

145 (a) 12% of the gross receipts of a radioactive waste facility derived from the disposal of
146 containerized class A waste;

147 (b) 10% of the gross receipts of a radioactive waste facility derived from the disposal
148 of processed class A waste;

149 (c) 5% of the gross receipts of a radioactive waste facility derived from the disposal of

150 uncontainerized, unprocessed class A waste from a governmental entity or an agent of a
151 governmental entity:

- 152 (i) pursuant to a contract entered into on or after April 30, 2001;
- 153 (ii) pursuant to a contract substantially modified on or after April 30, 2001;
- 154 (iii) pursuant to a contract renewed or extended on or after April 30, 2001; or
- 155 (iv) not pursuant to a contract;
- 156 (d) 5% of the gross receipts of a radioactive waste facility derived from the disposal of

157 uncontainerized, unprocessed class A waste received by the facility from an entity other than a
158 governmental entity or an agent of a governmental entity;

159 (e) (i) 5% of the gross receipts of a radioactive waste facility derived from the disposal
160 of mixed waste, other than the mixed waste described in Subsection (2)(e)(ii), received from an
161 entity other than a governmental entity or an agent of a governmental entity;

162 (ii) 10% of the gross receipts of a radioactive waste facility derived from the disposal
163 of mixed waste:

164 (A) received from an entity other than a governmental entity or an agent of a
165 governmental entity: and

166 (B) that contains a higher radionuclide concentration level than the mixed waste
167 received by any radioactive waste facility in the state prior to April 1, 2004;

168 (f) 10 cents per cubic foot of alternate feed material received at a radioactive waste
169 facility for disposal or reprocessing; and

170 (g) 10 cents per cubic foot of byproduct material received at a radioactive waste facility
171 for disposal.

172 (3) For purposes of the tax imposed by this section, a fraction of a cubic foot is
173 considered to be a full cubic foot.

174 (4) Except as provided in Subsection (2)(e), the tax imposed by this section does not
175 apply to radioactive waste containing material classified as hazardous waste under 40 C.F.R.
176 Part 261.

177 Section 3. **Effective date.**

178 If approved by two-thirds of all the members elected to each house, this bill takes effect
179 upon approval by the governor, or the day following the constitutional time limit of Utah
180 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,

181 the date of veto override.