

1 **HAZARDOUS WASTE REGULATION AND TAX**
2 **POLICY TASK FORCE AND MORATORIUM ON**
3 **ACCEPTANCE OF CLASS B AND C**
4 **RADIOACTIVE WASTE**

5 2003 GENERAL SESSION

6 STATE OF UTAH

7 **Sponsor: Curtis S. Bramble**

8 **This act creates a task force to study radioactive waste, hazardous waste, and commercial**
9 **solid waste issues in the state, including state policy and an evaluation of fees and taxes**
10 **imposed on these wastes. The task force is composed of 15 members of the Legislature.**
11 **The task force expires on November 30, 2004. This act also places a moratorium on any**
12 **acceptance of class B or C radioactive waste through February 15, 2005.**

13 This act affects sections of Utah Code Annotated 1953 as follows:

14 AMENDS:

15 **19-3-104**, as last amended by Chapter 297, Laws of Utah 2002

16 **19-3-105**, as last amended by Chapter 188, Laws of Utah 1994

17 ENACTS:

18 **19-3-103.7**, Utah Code Annotated 1953

19 This act enacts uncodified material.

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

21 Section 1. Section **19-3-103.7** is enacted to read:

22 **19-3-103.7. Moratorium on class B and C radioactive waste.**

23 On and after May 3, 2003, through February 15, 2005, there is a moratorium prohibiting
24 any entity in the state from accepting class B or C low-level radioactive waste for commercial
25 storage, decay in storage, treatment, incineration, or disposal.

26 Section 2. Section **19-3-104** is amended to read:

27 **19-3-104. Registration and licensing of radiation sources by department --**



28 **Assessment of fees -- Rulemaking authority and procedure -- Siting criteria.**

29 (1) As used in this section:

30 (a) "Decommissioning" includes financial assurance.

31 (b) "Source material" and "byproduct material" have the same definitions as in 42

32 U.S.C.A. 2014, Atomic Energy Act of 1954, as amended.

33 (2) The board may require the registration or licensing of radiation sources that
34 constitute a significant health hazard.

35 (3) All sources of ionizing radiation, including ionizing radiation producing machines,
36 shall be registered or licensed by the department.

37 (4) The board may make rules:

38 (a) necessary for controlling exposure to sources of radiation that constitute a
39 significant health hazard;

40 (b) to meet the requirements of federal law relating to radiation control to ensure the
41 radiation control program under this part is qualified to maintain primacy from the federal
42 government;

43 (c) to establish:

44 (i) board accreditation requirements and procedures for mammography facilities; and

45 (ii) certification procedure and qualifications for persons who survey mammography
46 equipment and oversee quality assurance practices at mammography facilities; and

47 (d) as necessary regarding the possession, use, transfer, or delivery of source and
48 byproduct material and the disposal of byproduct material to establish requirements for:

49 (i) the licensing, operation, decontamination, and decommissioning, including financial
50 assurances; and

51 (ii) the reclamation of sites, structures, and equipment used in conjunction with the
52 activities described in this Subsection (4).

53 (5) (a) On and after January 1, 2003, a fee is imposed for the regulation of source and
54 byproduct material and the disposal of byproduct material at uranium mills or commercial
55 waste facilities, as provided in this Subsection (5).

56 (b) On and after January 1, 2003 through March 30, 2003:

57 (i) \$6,667 per month for uranium mills or commercial sites disposing of or
58 reprocessing byproduct material; and

59 (ii) \$4,167 per month for those uranium mills the executive secretary has determined
60 are on standby status.

61 (c) On and after March 31, 2003 through June 30, 2003 the same fees as in Subsection
62 (5)(b) apply, but only if the federal Nuclear Regulatory Commission grants to Utah an
63 amendment for agreement state status for uranium recovery regulation on or before March 30,
64 2003.

65 (d) If the Nuclear Regulatory Commission does not grant the amendment for state
66 agreement status on or before March 30, 2003, fees under Subsection (5)(e) do not apply and
67 are not required to be paid until on and after the later date of:

68 (i) October 1, 2003; or

69 (ii) the date the Nuclear Regulatory Commission grants to Utah an amendment for
70 agreement state status for uranium recovery regulation.

71 (e) For the payment periods beginning on and after July 1, 2003, the department shall
72 establish the fees required under Subsection (5)(a) under Section 63-38-3.2, subject to the
73 restrictions under Subsection (5)(d).

74 (f) The department shall deposit fees it receives under this Subsection (5) into the
75 Environmental Quality Restricted Account created in Section 19-1-108.

76 (6) (a) The department shall assess fees for registration, licensing, and inspection of
77 radiation sources under this section.

78 (b) The department shall comply with the requirements of Section 63-38-3.2 in
79 assessing fees for licensure and registration.

80 (7) The department shall coordinate its activities with the Department of Health rules
81 made under Section 26-21a-203.

82 (8) (a) Except as provided in Subsection (9), the board may not adopt rules, for the
83 purpose of the state assuming responsibilities from the United States Nuclear Regulatory
84 Commission with respect to regulation of sources of ionizing radiation, that are more stringent
85 than the corresponding federal regulations which address the same circumstances.

86 (b) In adopting those rules, the board may incorporate corresponding federal
87 regulations by reference.

88 (9) (a) The board may adopt rules more stringent than corresponding federal
89 regulations for the purpose described in Subsection (8) only if it makes a written finding after

90 public comment and hearing and based on evidence in the record that corresponding federal
91 regulations are not adequate to protect public health and the environment of the state.

92 (b) Those findings shall be accompanied by an opinion referring to and evaluating the
93 public health and environmental information and studies contained in the record which form
94 the basis for the board's conclusion.

95 (10) (a) The board shall by rule:

96 (i) authorize independent qualified experts to conduct inspections required under this
97 chapter of x-ray facilities registered with the division; and

98 (ii) establish qualifications and certification procedures necessary for independent
99 experts to conduct these inspections.

100 (b) Independent experts under this Subsection (10) are not considered employees or
101 representatives of the division or the state when conducting the inspections.

102 (11) (a) The board may by rule establish criteria for siting commercial low-level
103 radioactive waste treatment or disposal facilities, subject to the moratorium regarding class B
104 and C low-level radioactive waste imposed by Section 19-3-103.7.

105 (b) Any facility under Subsection (11)(a) for which a radioactive material license is
106 required by this section shall comply with those criteria.

107 (c) A facility may not receive a radioactive material license until siting criteria have
108 been established by the board. The criteria also apply to facilities that have applied for but not
109 received a radioactive material license.

110 (12) The board shall by rule establish financial assurance requirements for closure and
111 postclosure care of radioactive waste land disposal facilities, taking into account existing
112 financial assurance requirements.

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

114 **19-3-105. Legislative and gubernatorial approval required -- Class B and C**
115 **low-level radioactive waste prohibited.**

116 (1) The provisions of this section are subject to the moratorium regarding class B and
117 C low-level radioactive waste under Section 19-3-103.7.

118 [(+)] (2) (a) A person may not own, construct, modify, or operate any facility for the
119 purpose of commercially transferring, storing, decaying in storage, treating, or disposing of
120 radioactive waste without first submitting and receiving the approval of the board for a

121 radioactive material license for the facility.

122 (b) A person may not construct a new commercial radioactive waste transfer, storage,
123 decay in storage, treatment, or disposal facility until:

124 (i) the requirements of Section 19-3-104 have been met;

125 (ii) in addition and subsequent to the approval required in Subsection (2)(a), the
126 governor and the Legislature have approved the facility; and

127 (iii) local planning and zoning has authorized the facility.

128 (c) For purposes of this section, the following items shall be treated as submission of a
129 new license application:

130 (i) the submission of a revised application specifying a different geographic site than a
131 previously submitted application; or

132 (ii) an application for amendment of a commercial radioactive waste license for
133 transfer, storage, decay in storage, treatment, or disposal facilities, including incinerators, if the
134 construction would cost 50% or more of the cost of construction of the original transfer,
135 storage, decay in storage, treatment, or disposal facility or the modification would result in an
136 increase in capacity or throughput of a cumulative total of 50% of the total capacity or
137 throughput which was approved in the facility license as of January 1, 1990, or the initial
138 approval facility license if the initial license approval is subsequent to January 1, 1990; or

139 (iii) any request for approval for a commercial radioactive waste transfer, storage,
140 decay in storage, treatment, or disposal facility to receive class B or class C low-level
141 radioactive waste, including the submission of a new license application, revised license
142 application, or major license amendment.

143 [~~(2)~~] (3) A person need not obtain gubernatorial or legislative approval for the
144 construction of a radioactive waste facility for which a license application has been approved
145 by the Department of Health or submitted to the federal Nuclear Regulatory Commission and
146 to the Department of Health for approval before January 1, 1990, and which has been
147 determined, on or before October 31, 1990, by the Department of Health to be complete in
148 accordance with state and federal requirements.

149 [~~(3)~~] (4) The board shall suspend acceptance of further applications for commercial
150 radioactive waste facilities upon a finding that they cannot adequately oversee existing and
151 additional radioactive waste facilities for license compliance, monitoring, and enforcement.

152 The board shall report the suspension to the Legislative Management Committee.

153 ~~[(4)]~~ (5) The board shall review each proposed radioactive waste license application to
154 determine whether the application complies with the provisions of this chapter and the rules of
155 the board.

156 ~~[(5)]~~ (6) (a) If the radioactive license application is determined to be complete, the
157 board shall issue a notice of completeness.

158 (b) If the plan is determined by the board to be incomplete, the board shall issue a
159 notice of deficiency, listing the additional information to be provided by the applicant to
160 complete the application.

161 Section 4. **Hazardous Waste Regulation and Tax Policy Task Force -- Creation --**
162 **Membership -- Interim rules followed -- Compensation -- Staff.**

163 (1) There is created the Hazardous Waste Regulation and Tax Policy Task Force
164 consisting of the following 15 members:

165 (a) seven members of the Senate, appointed by the president of the Senate, of whom
166 five shall be members of the majority political party, and two shall be members of the minority
167 political party; and

168 (b) eight members of the House of Representatives, appointed by the speaker of the
169 House of Representatives, of whom six shall be members of the majority political party, and
170 two shall be members of the minority political party.

171 (2) (a) The president of the Senate shall designate a member of the Senate appointed
172 under Subsection (1)(a) as a cochair of the task force.

173 (b) The speaker of the House of Representatives shall designate a member of the House
174 of Representatives appointed under Subsection (1)(b) as a cochair of the task force.

175 (3) In conducting its business, the task force shall comply with the rules of legislative
176 interim committees.

177 (4) Salaries and expenses of the members of the task force shall be paid in accordance
178 with Section 36-2-2 and Legislative Joint Rule 15.03.

179 (5) The Office of Legislative Research and General Counsel shall provide staff support
180 to the task force.

181 Section 5. **Duties -- Interim Reports.**

182 (1) The task force shall review and make recommendations on the following issues:

- 183 (a) radioactive waste policy and economic considerations for the state, including:
184 (i) how facilities in Utah that accept radioactive waste or radioactive material for
185 processing or reprocessing compare to other facilities in terms of competitive fees and tax
186 structure;
187 (ii) evaluation and recommendations regarding whether Utah should accept class B and
188 C low-level radioactive waste, in terms of long-term state policy, relative public health and
189 environment issues, and economic considerations;
190 (iii) the role of interstate compacts regarding radioactive waste and Utah's obligations
191 under the Interstate Compact on Low-level Radioactive Waste of which it is a member; and
192 (iv) the long-term management of radioactive waste facilities and radioactive material
193 processing and reprocessing facilities in the state and the perpetual care of those facilities; and
194 (b) evaluation and recommendations regarding policy, fees, and taxes for commercial
195 hazardous waste and nonhazardous solid waste treatment, storage, or disposal facilities, as
196 defined in Section 19-6-102, in Utah, including:
197 (i) current fee and tax structures for various types of facilities and types of hazardous
198 waste in the state;
199 (ii) taxes and fees for comparable facilities and wastes in other states; and
200 (iii) the long-term management of hazardous waste facilities in the state and the
201 perpetual care of those facilities.
202 (2) The task force shall, as funding allows:
203 (a) visit a low-level radioactive waste storage facility; and
204 (b) request information from parties having relevant expertise regarding the issues, as
205 funding allows.
206 (3) (a) The task force shall prepare a preliminary report and shall present it to the
207 Executive Appropriations Committee, the Natural Resources, Agriculture, and Environment
208 Interim Committee, and the Revenue and Taxation Interim Committee before November 30,
209 2003.
210 (b) The task force shall present a final report, including any proposed legislation, to the
211 Executive Appropriations Committee, the Natural Resources, Agriculture, and Environment
212 Interim Committee, and the Revenue and Taxation Interim Committee before November 30,
213 2004.

214 Section 6. **Repeal date.**
215 Uncodified Sections 4 and 5 that create the task force in this act are repealed November
216 30, 2004.

Legislative Review Note
as of 2-12-03 11:30 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel

Fiscal Note**Hazardous Waste Regulation and Tax Policy Task Force and Moratorium
on Acceptance of Class B and C Radioactive Waste***24-Feb-03***Bill Number: SB0172***3:03 PM*

Provisions of this act creates a task force that will meet during two fiscal years. It is estimated that \$96,200 from the General Fund will be required in FY 2003 and \$49,500 from the General Fund for FY 2004. Funds in FY 2003 will be distributed \$21,400 to the Senate, \$24,800 to the House of Representatives, and \$50,000 to the Office of Legislative Research and General Counsel for expert witnesses. In FY 2004, the funds would be distributed \$11,400 to the Senate, \$13,100 to the House, and \$25,000 to Research and General Counsel.

| | <u>FY 03 Approp.</u> | <u>FY 03 Revenue</u> | <u>FY 04 Approp.</u> | <u>FY 04 Revenue</u> | <u>FY 05 Approp.</u> | <u>FY 05 Revenue</u> |
|--------------|----------------------|----------------------|----------------------|----------------------|----------------------|----------------------|
| General Fund | \$96,200 | \$0 | \$49,500 | \$0 | \$0 | \$0 |
| TOTAL | \$96,200 | \$0 | \$49,500 | \$0 | \$0 | \$0 |

Individual and Business Impact

If individuals or businesses were to pursue acceptance of B or C radioactive wastes, profits could be effected with the moritorium required by provisions of this act.

Office of the Legislative Fiscal Analyst