

1 **APPROVAL REQUIRED FOR DISPOSAL OF**
2 **RADIOACTIVE WASTE**

3 2004 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Stephen H. Urquhart**

7 **LONG TITLE**

8 **General Description:**

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

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ defines terms related to the regulation of radioactive waste facilities;
- 14 ▶ deletes certain outdated provisions relating to approval for radioactive waste
15 facilities;
- 16 ▶ amends certain approval requirements regarding radioactive waste facilities;
- 17 ▶ requires the approval of the Legislature, governor, and local governing body
18 responsible for planning and zoning before a radioactive waste facility may receive
19 specified types or concentrations of radioactive wastes; and
- 20 ▶ makes technical corrections.

21 **Monies Appropriated in this Bill:**

22 None

23 **Other Special Clauses:**

24 This bill provides an immediate effective date.

25 **Utah Code Sections Affected:**

26 AMENDS:

27 **19-3-105**, as last amended by Chapter 73, Laws of Utah 2003

27a **Ⓜ 59-24-103.5, AS ENACTED BY CHAPTER 295, LAWS OF UTAH 2003 Ⓜ**



28

29 *Be it enacted by the Legislature of the state of Utah:*30 Section 1. Section **19-3-105** is amended to read:31 **19-3-105. Legislative and gubernatorial approval required for radioactive waste**
32 **license -- Class B and C low-level radioactive waste moratorium.**

33 (1) As used in this section:

34 (a) "Alternate feed material" has the same definition as provided in Subsection
35 59-24-102(1).35a **Ĥ (b)(i) "CLASS A LOW-LEVEL RADIOACTIVE WASTE" MEANS LOW-LEVEL RADIOACTIVE**
35b **WASTE, AS DEFINED IN SUBSECTION 19-3-102(8), WHICH IS NOT CLASS B AND CLASS C**
35c **LOW-LEVEL RADIOACTIVE WASTE, AS DEFINED IN SUBSECTION 19-3-102(4).**35d **(ii) "Class A LOW-LEVEL RADIOACTIVE WASTE" DOES NOT INCLUDE URANIUM MILL**
35e **TAILINGS. ĥ**36 **Ĥ [(b)-(i)] (iii) ĥ "Radioactive waste facility" or "facility" means a facility that receives,**
36a **transfers,**37 **stores, decays in storage, treats, or disposes of radioactive waste:**38 (A) commercially for profit; or39 (B) generated at locations other than the radioactive waste facility.

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

41 (A) alternate feed material for reprocessing; or42 (B) radioactive waste from a location in the state designated as a processing site under
43 42 U.S.C. Sec. 7912(f).44 (c) "Radioactive waste license" or "license" means a radioactive material license issued
45 by the executive secretary under Subsection 19-3-108(2)(c)(i), to own, construct, modify, or
46 operate a radioactive waste facility.47 [(+) (2) The provisions of this section are subject to the moratorium regarding class B
48 and C low-level radioactive waste under Section 19-3-103.7.49 [(2)-(a)] (3) A person may not own, construct, modify, or operate [any facility for the
50 purpose of commercially transferring, storing, decaying in storage, treating, or disposing of] a
51 radioactive waste facility without [first submitting and receiving the approval of the board for]:52 (a) having received a radioactive [material] waste license for the facility[-];53 [(b) A person may not construct a new commercial radioactive waste transfer, storage,
54 decay in storage, treatment, or disposal facility until:]

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

56 (b) meeting the requirements established by rule under Section 19-3-104;57 (c) the approval of the governing body of the municipality or county responsible for
58 local planning and zoning where the radioactive waste is or will be located; and

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

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

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

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

68 ~~[(i)] (a) [the submission of a revised application specifying] specifies a different~~
69 ~~geographic site than a previously submitted application;~~

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

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

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

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

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

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

92a **Ĥ (5) NOTWITHSTANDING SUBSECTION (4)(c)(ii), A RADIOACTIVE WASTE FACILITY WHICH,**
 92b **PRIOR TO JANUARY 1, 2004, HAS RECEIVED A RADIOACTIVE WASTE LICENSE TO RECEIVE,**
 92c **TRANSFER, STORE, DECAY IN STORAGE, TREAT, OR DISPOSE OF CLASS A LOW-LEVEL**
 92d **RADIOACTIVE WASTE, IS NOT SUBJECT TO THE REQUIREMENTS OF SUBSECTIONS (3)(c) AND (d)**
 92e **FOR ANY APPLICATION TO AMEND THE EXISTING LICENSE IF THE APPLICATION REQUESTS**
 92f **APPROVAL TO RECEIVE, TRANSFER, STORE, DECAY IN STORAGE, TREAT, OR DISPOSE OF CLASS**
 92g **A LOW-LEVEL RADIOACTIVE WASTE. ĥ**

93 Ĥ ~~(5)~~ (6) ĥ A radioactive waste facility which receives a new radioactive waste license after
 94 May 3, 2004, is subject to the requirements of Subsections (3)(b) through (d) for any license
 95 application, renewal, or amendment that requests approval to receive, transfer, store, decay in
 96 storage, treat, or dispose of radioactive waste not previously approved under an existing license
 97 held by the facility.

98 ~~(4)~~ Ĥ ~~(6)~~ (7) ĥ ~~[The]~~ If the board finds that approval of additional radioactive waste
 98a license
 99 applications, renewals, or amendments will result in inadequate oversight, monitoring, or
 100 licensure compliance and enforcement of existing and any additional radioactive waste
 101 facilities, the board shall suspend acceptance of further applications for ~~[commercial]~~
 102 radioactive ~~[waste facilities upon a finding that they cannot adequately oversee existing and~~
 103 additional radioactive waste facilities for license compliance, monitoring, and enforcement]
 104 waste licenses. The board shall report the suspension to the Legislative Management
 105 Committee.

106 ~~(5)~~ Ĥ ~~(7)~~ (8) ĥ The board shall review each proposed radioactive waste license
 106a application to
 107 determine whether the application complies with the provisions of this chapter and the rules of
 108 the board.

109 ~~(6)~~ Ĥ ~~(8)~~ (9) ĥ (a) If the radioactive waste license application is determined to be
 109a complete,
 110 the board shall issue a notice of completeness.

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

113a **Ĥ Section 2. Section 59-24-103.5 is amended to read:**

113b **59-24-103.5. Radioactive waste disposal, processing, and recycling facility tax.**

113c **(1) On and after July 1, 2003, there is imposed a tax on a radioactive waste facility, or a**
 113d **processing or recycling facility, as provided in this chapter.**

113e **(2) The tax is equal to the sum of the following amounts: ĥ**

- 113f **Ĥ** (a) 12% of the gross receipts of a radioactive waste facility derived from the disposal of
 113g **containerized class A waste;**
- 113h **(b) 10% of the gross receipts of a radioactive waste facility derived from the disposal of**
 113i **processed class A waste;**
- 113j **(c) 5% of the gross receipts of a radioactive waste facility derived from the disposal of**
 113k **uncontainerized, unprocessed class A waste from a governmental entity or an agent of a**
 113l **governmental entity:**
- 113m **(i) pursuant to a contract entered into on or after April 30, 2001;**
 113n **(ii) pursuant to a contract substantially modified on or after April 30, 2001;**
 113o **(iii) pursuant to a contract renewed or extended on or after April 30, 2001; or**
 113p **(iv) not pursuant to a contract;**
- 113q **(d) 5% of the gross receipts of a radioactive waste facility derived from the disposal of**
 113r **uncontainerized, unprocessed class A waste received by the facility from an entity other than a**
 113s **governmental entity or an agent of a governmental entity;**
- 113t **(e) (i) 5% of the gross receipts of a radioactive waste facility derived from the disposal of**
 113u **mixed waste, OTHER THAN THE MIXED WASTE DESCRIBED IN SUBSECTION (2)(e)(ii), received from**
 113v **an entity other than a governmental entity or an agent of a governmental entity; AND**
 113w **(ii) 10% OF THE GROSS RECEIPTS OF A RADIOACTIVE FACILITY DERIVED FROM THE**
 113x **DISPOSAL OF MIXED WASTE:**
- 113y **(A) RECEIVED FROM AN ENTITY OTHER THAN A GOVERNMENTAL ENTITY OR AN AGENT OF**
 113z **A GOVERNMENTAL ENTITY: AND**
- 113aa **(B) THAT CONTAINS A HIGHER RADIONUCLIDE CONCENTRATION LEVEL THAN THE MIXED**
 113ab **WASTE RECEIVED BY THE RADIOACTIVE WASTE FACILITY PRIOR TO APRIL 1, 2004;**
- 113ac **(f) 10 cents per cubic foot of alternate feed material received at a radioactive waste facility for**
 113ad **disposal or reprocessing; and**
- 113ae **(g) 10 cents per cubic foot of byproduct material received at a radioactive waste facility for**
 113af **disposal.**
- 113ag **(3) For purposes of the tax imposed by this section, a fraction of a cubic foot is considered to**
 113ah **be a full cubic foot.**
- 113ai **(4) Except as provided in Subsection (2)(e), the tax imposed by this section does not apply to**
 113aj **radioactive waste containing material classified as hazardous waste under 40 C.F.R. Part 261. ĥ**
- 114 Section **Ĥ [2] 3 ĥ** . **Effective date.**
- 115 **If approved by two-thirds of all the members elected to each house, this bill takes effect**
 116 **upon approval by the governor, or the day following the constitutional time limit of Utah**
 117 **Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,**
 118 **the date of veto override.**

Legislative Review Note

as of 2-3-04 10:15 AM

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

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number HB0145

Approval Required for Disposal of Radioactive Waste

06-Feb-04

10:39 AM

State Impact

Provisions of this bill can be handled within existing budgets.

Individual and Business Impact

Businesses will be responsible for licensure costs for new waste streams.

Office of the Legislative Fiscal Analyst