

1 **WASTE FEE AMENDMENTS**

2 2006 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Dan R. Eastman**

5 House Sponsor: Rebecca D. Lockhart

6 Cosponsor: Curtis S. Bramble

7

8 **LONG TITLE**

9 **General Description:**

10 This bill modifies nonhazardous solid waste disposal fees and reduces the amount of
11 waste disposal fees that are deposited into the General Fund.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ reduces the amount of waste disposal fees that are deposited into the General Fund;
- 15 ▶ modifies provisions relating to the payment of fees on wastes containing
16 polychlorinated biphenyls;
- 17 ▶ modifies waste fees charged for certain wastes received for disposal by:
 - 18 • commercial nonhazardous solid waste disposal facilities;
 - 19 • facilities solely under contract with a local government within the state to
20 dispose of nonhazardous solid waste generated within the boundaries of the
21 local government; and
 - 22 • waste disposal facilities owned by a political subdivision;
- 23 ▶ defines terms;
- 24 ▶ establishes fees on certain wastes sent to facilities not regulated by the state by
25 owners or operators of transfer stations or recycling centers; and
- 26 ▶ makes technical changes.

27 **Monies Appropriated in this Bill:**



28 None

29 **Other Special Clauses:**

30 None

31 **Utah Code Sections Affected:**

32 AMENDS:

33 **19-1-108**, as last amended by Chapter 297, Laws of Utah 2002

34 **19-6-118.5**, as last amended by Chapter 10, Laws of Utah 2005

35 **19-6-119**, as last amended by Chapter 10, Laws of Utah 2005



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

38 Section 1. Section **19-1-108** is amended to read:

39 **19-1-108. Creation of Environmental Quality Restricted Account -- Purpose of**
40 **restricted account -- Sources of funds -- Uses of funds.**

41 (1) There is created the Environmental Quality Restricted Account.

42 (2) The sources of monies for the restricted account are:

43 (a) radioactive waste disposal fees collected under Sections 19-3-106 and 19-3-106.4
44 and other fees collected under Subsection 19-3-104(5);

45 (b) hazardous waste disposal fees collected under Section 19-6-118;

46 (c) PCB waste disposal fees collected under Section 19-6-118.5;

47 (d) nonhazardous solid waste disposal fees collected under Section 19-6-119; and

48 (e) all investment income derived from money in the restricted account created in this
49 section.

50 (3) In each fiscal year, the first [~~\$500,000~~] \$400,000 collected from all waste disposal
51 fees listed in Subsection (2), collectively, shall be deposited in the General Fund as free
52 revenue. The balance shall be deposited in the restricted account created in this section.

53 (4) The Legislature may annually appropriate monies from the Environmental Quality
54 Restricted Account to:

55 (a) the department for the costs of administering radiation control programs;

56 (b) the department for the costs of administering solid and hazardous waste programs;

57 and

58 (c) the Hazardous Substances Mitigation Fund, up to \$400,000, for purposes set forth

59 in Title 19, Chapter 6, Part 3, Hazardous Substances Mitigation Act.

60 (5) In order to stabilize funding for the radiation control program and the solid and
61 hazardous waste program, the Legislature shall in years of excess revenues reserve in the
62 restricted account sufficient monies to meet departmental needs in years of projected shortages.

63 (6) The Legislature may not appropriate money from the General Fund to the
64 department as a supplemental appropriation to cover the costs of the radiation control program
65 and the solid and hazardous waste program in an amount exceeding 25% of the amount of
66 waste disposal fees collected during the most recent prior fiscal year.

67 (7) The Legislature may annually appropriate not more than \$200,000 from this
68 account to the Department of Public Safety, created in Section 53-1-103, to be used by that
69 department solely for hazardous materials:

70 (a) management training; and

71 (b) response preparation and emergency response training.

72 (8) All funds appropriated under this part that are not expended at the end of the fiscal
73 year lapse into the account created in Subsection (1).

74 ~~[(9) For fiscal year 1998-99, up to \$537,000 in the Environmental Quality Restricted
75 Account may be appropriated by the Legislature to fund legislative priorities.]~~

76 Section 2. Section **19-6-118.5** is amended to read:

77 **19-6-118.5. PCB disposal fee.**

78 ~~[(1) On and after July 1, 1993 through June 30, 2005, a fee of \$4.75 per ton or fraction
79 of a ton is imposed on all wastes containing polychlorinated biphenyls (PCBs) that are
80 regulated under 15 U.S.C.A. 2605, and that are received at a facility for disposal or treatment.]~~

81 ~~[(2) On and after July 1, 2005,]~~

82 (1) The owner or operator of a waste facility shall pay a fee of \$4.75 per ton [is
83 imposed] on all wastes containing polychlorinated biphenyls (PCBs) that are:

84 (a) regulated under 15 [~~U.S.C.A.~~] U.S.C. 2605; and

85 (b) received at [a] the facility for disposal or treatment.

86 ~~[(3)-(a)]~~ (2) The owner or operator of a facility receiving PCBs for disposal or
87 treatment shall [pay the fees imposed under Subsection (1) or (2) to the department on or
88 before the 15th day of the calendar month following the month in which the fee accrued.];

89 ~~[(b) The owner or operator shall submit a completed form, as prescribed by the~~

90 department, with the monthly fee under Subsection (3)(a).]

91 ~~[(c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,~~
 92 ~~the department shall make rules specifying the information required to verify the amount of~~
 93 ~~waste received and the fee amount for which the owner or operator is liable on the form~~
 94 ~~required under Subsection (3)(b).]~~

95 ~~[(4) The fees collected under this section shall be managed by the same procedure as~~
 96 ~~under Subsection 19-6-119(3) regarding nonhazardous solid waste.]~~

97 ~~[(5) The Legislature shall appropriate to the department the cost of administering the~~
 98 ~~program.]~~

99 (a) calculate the fees imposed under Subsection (1) by multiplying the total tonnage of
 100 waste received during the calendar month, computed to the first decimal place, by the required
 101 fee rate of \$4.75 per ton;

102 (b) pay the fees imposed by this section to the department by the 15th day of the month
 103 following the month in which the fees accrued; and

104 (c) with the fees required under this section, submit to the department, on a form
 105 prescribed by the department, information that verifies the amount of waste received and the
 106 fees that the owner or operator is required to pay.

107 (3) The department shall deposit all fees received under this section into the
 108 Environmental Quality Restricted Account created in Section 19-1-108.

109 ~~[(6) Waste]~~ (4) The owner or operator of a waste facility that is subject to a fee under
 110 this section is not subject to a fee for the same waste under Section 19-3-106, even if the waste
 111 [also] contains radioactive materials.

112 Section 3. Section **19-6-119** is amended to read:

113 **19-6-119. Nonhazardous solid waste disposal fee.**

114 (1) (a) ~~[An]~~ Except as provided in Subsection (5), the owner or operator of [any] a
 115 commercial nonhazardous solid waste disposal facility or incinerator[, or any commercial
 116 facility, except for facilities that receive the following wastes solely for the purpose of
 117 recycling, reuse, or reprocessing, that accepts for treatment or disposal, and with the intent to
 118 make a profit, fly ash waste, bottom ash waste, slag waste, or flue gas emission control waste
 119 generated primarily from the combustion of coal or other fossil fuels; waste from the
 120 extraction, beneficiation, and processing of ores and minerals, or cement kiln dust wastes for

121 ~~treatment or disposal, that is required to have a plan approval under Section 19-6-108, and that~~
122 ~~primarily receives waste generated by off-site sources not owned, controlled, or operated by the~~
123 ~~facility or site owner or operator, shall pay the following fees per ton or fraction of a ton, on all~~
124 ~~nonhazardous solid waste that is received at the facility or site for disposal:] shall pay the~~
125 ~~following fees for waste received for treatment or disposal at the facility if the facility or~~
126 ~~incinerator is required to have operation plan approval under Section 19-6-108 and primarily~~
127 ~~receives waste generated by off-site sources not owned, controlled, or operated by the facility~~
128 ~~or site owner or operator:~~

129 ~~[(i) on and after July 1, 1994 through June 30, 2005, a fee of \$2.50 per ton or fraction~~
130 ~~of a ton on all nonhazardous solid waste received at the facility or site for disposal or treatment;~~
131 ~~and]~~

132 ~~[(ii) on and after July 1, 2005, a fee of \$2.50 per ton on all nonhazardous solid waste~~
133 ~~received at the facility or site for disposal or treatment.]~~

134 ~~[(b) When nonhazardous solid waste, fly ash waste, bottom ash waste, slag waste, or~~
135 ~~flue gas emission control waste generated primarily from the combustion of coal or other fossil~~
136 ~~fuels; waste from the extraction, beneficiation, and processing of ores and minerals, or cement~~
137 ~~kiln dust wastes, is received at a facility for treatment or disposal and the fee required under~~
138 ~~Subsection (1)(a) is paid for that treatment or disposal, any subsequent treatment or disposal of~~
139 ~~the waste is not subject to additional fees under Subsection (1)(a).]~~

140 ~~[(c) (i) On and after January 1, 2004 through June 30, 2005, an owner or operator of~~
141 ~~any commercial nonhazardous solid waste disposal facility that receives only construction and~~
142 ~~demolition waste shall pay a fee of 50 cents per ton, or fraction of a ton, on any construction~~
143 ~~and demolition waste received at the facility or site for disposal.]~~

144 ~~[(ii) On and after July 1, 2005, an owner or operator of any commercial nonhazardous~~
145 ~~solid waste disposal facility that receives only construction and demolition waste shall pay a~~
146 ~~fee of 50 cents per ton on any construction and demolition waste received at the facility or site~~
147 ~~for disposal.]~~

148 ~~[(iii) Through June 30, 2005, an owner or operator of any commercial nonhazardous~~
149 ~~solid waste disposal facility that receives municipal waste, including municipal incinerator ash~~
150 ~~shall pay a fee of 50 cents per ton, or fraction of a ton, on all municipal waste, including~~
151 ~~municipal incinerator ash, that is received at the facility or site for disposal.]~~

152 ~~[(iv) On and after July 1, 2005, an owner or operator of any commercial nonhazardous~~
153 ~~solid waste disposal facility that receives municipal waste, including municipal incinerator ash,~~
154 ~~shall pay a fee of 50 cents per ton on all municipal waste, including municipal incinerator ash,~~
155 ~~that is received at the facility or site for disposal.]~~

156 ~~[(v) On and after January 1, 2004 through June 30, 2005, the owner or operator of any~~
157 ~~facility under Subsection 19-6-102(3)(b)(iii) shall pay a fee of 50 cents per ton, or fraction of a~~
158 ~~ton, on all municipal waste received at the facility or site for disposal.]~~

159 ~~[(vi) On and after July 1, 2005, the]~~

160 (i) 13 cents per ton on all municipal waste and municipal incinerator ash;

161 (ii) 50 cents per ton on the following wastes if the facility disposes of one or more of
162 the following wastes in a cell exclusively designated for the waste being disposed:

163 (A) construction waste or demolition waste;

164 (B) yard waste, including vegetative matter resulting from landscaping, land
165 maintenance, and land clearing operations;

166 (C) dead animals;

167 (D) waste tires and materials derived from waste tires disposed of in accordance with
168 Title 19, Chapter 6, Part 8, Waste Tire Recycling Act; and

169 (E) petroleum contaminated soils that are approved by the executive secretary; and

170 (iii) \$2.50 per ton on:

171 (A) all nonhazardous solid waste not described in Subsections (1)(a)(i) and (ii); and

172 (B) (I) fly ash waste;

173 (II) bottom ash waste;

174 (III) slag waste;

175 (IV) flue gas emission control waste generated primarily from the combustion of coal
176 or other fossil fuels;

177 (V) waste from the extraction, beneficiation, and processing of ores and minerals; and

178 (VI) cement kiln dust wastes.

179 (b) A commercial nonhazardous solid waste disposal facility or incinerator subject to
180 the fees under Subsection (1)(a)(i) or (ii) is not subject to the fee under Subsection (1)(a)(iii)
181 for those wastes described in Subsections (1)(a)(i) and (ii).

182 (c) The owner or operator of [any] a facility [under] described in Subsection

183 19-6-102(3)(b)(iii) shall pay a fee of ~~[50]~~ 13 cents per ton on all municipal waste received for
184 disposal at the facility ~~[or site for disposal].~~

185 ~~[(d) Facilities subject to the fee under Subsections (1)(c)(i) through (iv) are not subject~~
186 ~~to the fee under Subsection (1)(a).]~~

187 ~~[(e) On and after July 1, 2005, the fees due under this Subsection (1) shall be calculated~~
188 ~~by multiplying the total tonnage of waste, computed to the first decimal place, received during~~
189 ~~the calendar month by the required fee rate.]~~

190 ~~[(2) (a) The owner or operator of a commercial nonhazardous solid waste disposal~~
191 ~~facility or incinerator shall pay to the department all fees imposed under this section on or~~
192 ~~before the 15th day of the month following the month in which the fee accrued.]~~

193 ~~[(b) With the monthly fee, the owner or operator shall submit a completed form, as~~
194 ~~prescribed by the department, specifying information required by the department to verify the~~
195 ~~amount of waste received and the fee amount for which the owner or operator is liable.]~~

196 ~~[(c) The department shall deposit all fees received under this section into the restricted~~
197 ~~account created in Section 19-1-108.]~~

198 ~~[(3) (a) The department, in preparing its budget for the governor and the Legislature,~~
199 ~~shall separately indicate the amount necessary to administer the solid waste program~~
200 ~~established by this part.]~~

201 ~~[(b) The Legislature shall appropriate the costs of administering this program.]~~

202 ~~[(c) The department may contract or agree with a county to assist in performing~~
203 ~~nonhazardous solid waste management activities, including agreements for:]~~

204 ~~[(i) the development of a solid waste management plan required under Section~~
205 ~~17-15-23; and]~~

206 ~~[(ii) pass-through of available funding.]~~

207 ~~[(4) This section may not be construed to exempt any facility from applicable~~
208 ~~regulation under the federal Atomic Energy Act, 42 U.S.C. Sections 2014 and 2021 through~~
209 ~~2114.]~~

210 ~~[(5) (a) Each]~~ (2) (a) Except as provided in Subsections (2)(b) and (5), a waste facility
211 that is owned by a political subdivision [and operated solely for the purpose of receiving waste
212 generated within that political subdivision] shall pay [an] the following annual facility fee[-
213 The fee shall be paid to the department on or before] to the department by January 15 of each

214 year[. ~~The fee is~~]:

215 (i) \$800 if the facility receives 5,000 or more but fewer than 10,000 tons of municipal
216 waste each year;

217 (ii) \$1,450 if the facility receives 10,000 or more but fewer than 20,000 tons of
218 municipal waste each year;

219 (iii) \$3,850 if the facility receives 20,000 or more but fewer than 50,000 tons of
220 municipal waste each year;

221 (iv) \$12,250 if the facility receives 50,000 or more but fewer than 100,000 tons of
222 municipal waste each year;

223 (v) \$14,700 if the facility receives 100,000 or more but fewer than 200,000 tons of
224 municipal waste each year;

225 (vi) \$33,000 if the facility receives 200,000 or more but fewer than 500,000 tons of
226 municipal waste each year; and

227 (vii) \$66,000 if the facility receives 500,000 or more tons of municipal waste each
228 year.

229 ~~[(b) The department shall deposit all fees received under this Subsection (5) into the
230 Environmental Quality Restricted Account created in Section 19-1-108.]~~

231 ~~[(c) Municipal waste subject to the facility fee under this Subsection (5) is not subject
232 to the fee under Subsection (1)(c).]~~

233 (b) Except as provided in Subsection (5), a waste facility that is owned by a political
234 subdivision shall pay \$2.50 per ton for:

235 (i) nonhazardous solid waste that is not a waste described in Subsection (1)(a)(i) or (ii)
236 received for disposal if the waste is:

237 (A) generated outside the boundaries of the political subdivision; and

238 (B) received from a single generator and exceeds 500 tons in a calendar year; and

239 (ii) waste described in Subsection (1)(a)(iii)(B) received for disposal if the waste is:

240 (A) generated outside the boundaries of the political subdivision; and

241 (B) received from a single generator and exceeds 500 tons in a calendar year.

242 (c) Waste received at a facility owned by a political subdivision under Subsection

243 (2)(b) may not be counted as part of the total tonnage received by the facility under Subsection

244 (2)(a).

245 (3) (a) As used in this Subsection (3):

246 (i) "Facility not regulated by the state" means a nonhazardous solid waste disposal or
247 treatment facility that is not subject to a fee under this section.

248 (ii) "Recycling center" means a facility that extracts valuable materials from a waste
249 stream and transforms or remanufactures the material into a usable form that has demonstrated
250 or potential market value.

251 (iii) "Transfer station" means a permanent, fixed, supplemental collection and
252 transportation facility that is used to deposit collected solid waste from off-site into a transfer
253 vehicle for transport to a solid waste handling or disposal facility.

254 (b) Except as provided in Subsection (5), the owner or operator of a transfer station or
255 recycling center shall pay to the department the following fees on waste sent for disposal to a
256 facility not regulated by the state:

257 (i) \$1.25 per ton on:

258 (A) all nonhazardous solid waste; and

259 (B) waste described in Subsection (1)(a)(iii)(B);

260 (ii) 10 cents per ton on all construction and demolition waste; and

261 (iii) 5 cents per ton on all municipal waste or municipal incinerator ash.

262 (c) Wastes subject to fees under Subsection (3)(b)(ii) or (iii) are not subject to the fee
263 required under Subsection (3)(b)(i).

264 (4) If a facility required to pay fees under this section receives nonhazardous solid
265 waste for treatment or disposal, and the fee required under this section is paid for that treatment
266 or disposal, any subsequent treatment or disposal of the waste is not subject to additional fees
267 under this section.

268 (5) The owner or operator of a waste disposal facility that receives waste described in
269 Subsection (1)(a)(iii)(B) is not required to pay any fee on those wastes if received solely for the
270 purpose of recycling, reuse, or reprocessing.

271 (6) Except as provided in Subsection (2)(a), a facility required to pay fees under this
272 section shall:

273 (a) calculate the fees by multiplying the total tonnage of waste received during the
274 calendar month, computed to the first decimal place, by the required fee rate;

275 (b) pay the fees imposed by this section to the department by the 15th day of the month

276 following the month in which the fees accrued; and
277 (c) with the fees required under Subsection (6)(b), submit to the department, on a form
278 prescribed by the department, information that verifies the amount of waste received and the
279 fees that the owner or operator is required to pay.
280 (7) The department shall:
281 (a) deposit all fees received under this section into the Environmental Quality
282 Restricted Account created in Section 19-1-108; and
283 (b) in preparing its budget for the governor and the Legislature, separately indicate the
284 amount of the department's budget necessary to administer the solid and hazardous waste
285 program established by this part.
286 (8) The department may contract or agree with a county to assist in performing
287 nonhazardous solid waste management activities, including agreements for:
288 (a) the development of a solid waste management plan required under Section
289 17-15-23; and
290 (b) pass-through of available funding.
291 (9) This section does not exempt any facility from applicable regulation under the
292 Atomic Energy Act, 42 U.S.C. Sec. 2014 and 2021 through 2114.

Legislative Review Note
as of 2-8-06 9:19 AM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

State Impact

This bill reduces the annual transfer from the Environmental Quality Restricted Account to the General Fund by \$100,000. The fees paid by non hazardous solid waste disposal operators are changed by the bill with a net annual loss estimated to be \$32,800 to the Environmental Quality Restricted Account. Though no effective date is provided in the bill it is anticipated that the fiscal impact would begin in FY 2007.

	<u>FY 2007</u> <u>Approp.</u>	<u>FY 2008</u> <u>Approp.</u>	<u>FY 2007</u> <u>Revenue</u>	<u>FY 2008</u> <u>Revenue</u>
General Fund	\$0	\$0	(\$100,000)	(\$100,000)
Restricted Funds	\$0	\$0	(\$32,800)	(\$32,800)
TOTAL	\$0	\$0	(\$132,800)	(\$132,800)

Individual and Business Impact

Nonhazardous solid waste disposal operators fees will be changed by the bill. Some are estimated to pay higher fees while others may realize a savings in the fees they are required to pay.

Office of the Legislative Fiscal Analyst