

Representative Ronda Rudd Menlove proposes the following substitute bill:

WASTE FEE AND RELATED AMENDMENTS

2010 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ronda Rudd Menlove

Senate Sponsor: _____

LONG TITLE

General Description:

This bill addresses various waste fees and the Environmental Quality Restricted Account.

Highlighted Provisions:

This bill:

- ▶ addresses provisions related to the Environmental Quality Restricted Account;
- ▶ provides for a supplementary fee to be charged by the Department of Environment Quality for certain services;
- ▶ changes the fee amounts related to commercial radioactive waste disposal or treatment;
- ▶ provides for review of costs by the department;
- ▶ changes the fee amounts related to hazardous waste and treated hazardous waste disposal;
- ▶ provides for a special assessment should fee amounts not cover costs related to the regulation of hazardous waste; and
- ▶ makes technical and conforming amendments.

Monies Appropriated in this Bill:

None



26 **Other Special Clauses:**

27 This bill takes effect on July 1, 2010.

28 **Utah Code Sections Affected:**

29 AMENDS:

30 **19-1-108**, as last amended by Laws of Utah 2006, Chapter 251

31 **19-1-201**, as last amended by Laws of Utah 2009, Chapter 183

32 **19-3-106**, as last amended by Laws of Utah 2005, Chapter 10

33 **19-6-118**, as last amended by Laws of Utah 2005, Chapter 10

34 **19-6-118.5**, as last amended by Laws of Utah 2006, Chapter 251



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

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

38 **19-1-108. Creation of Environmental Quality Restricted Account -- Purpose of**
39 **restricted account -- Sources of funds -- Uses of funds.**

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

41 (2) The sources of [~~monies~~] money for the restricted account are:

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

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

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

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

47 (e) [~~all~~] the investment income derived from money in the [~~restricted account created~~
48 ~~in this section~~] Environmental Quality Restricted Account.

49 (3) In each fiscal year, the first \$400,000 collected from [~~all~~] the waste disposal fees
50 listed in Subsection (2), collectively, shall be deposited in the General Fund as free revenue.

51 The balance shall be deposited in the [~~restricted account created in this section~~] Environmental
52 Quality Restricted Account.

53 (4) The Legislature may annually appropriate [~~monies~~] money from the Environmental
54 Quality 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) subject to Subsection (5), the Hazardous Substances Mitigation Fund, up to
 59 \$400,000, [for purposes set forth in Title 19, Chapter 6, Part 3, Hazardous Substances
 60 Mitigation Act.] to provide monies to:

61 (i) meet the state's cost share requirements for cleanup under the Comprehensive
 62 Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. Sec. 9601 et seq.
 63 as amended; and

64 (ii) respond to an emergency as provided in Section 19-6-309.

65 (5) An annual request for money to be appropriated from the Environmental Quality
 66 Restricted Account to the Hazardous Substances Mitigation Fund may be made by the
 67 department only after the executive director's review of the Environmental Quality Restricted
 68 Account or the Hazardous Substances Mitigation Fund's balance as of the end of the fiscal year
 69 immediately before the general session for which the request is made.

70 ~~[(5)]~~ (6) In order to stabilize funding for the radiation control program and the solid
 71 and hazardous waste program, the Legislature shall in years of excess revenues reserve in the
 72 ~~[restricted account]~~ Environmental Quality Restricted Account sufficient monies to meet
 73 departmental needs in years of projected shortages.

74 ~~[(6)]~~ (7) The Legislature may not appropriate money from the General Fund to the
 75 department as a supplemental appropriation to cover the costs of the radiation control program
 76 and the solid and hazardous waste program in an amount exceeding 25% of the amount of
 77 waste disposal fees collected during the most recent prior fiscal year.

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

81 ~~[(a) management training; and]~~

82 ~~[(b) response preparation and emergency response training.]~~

83 (8) ~~[All funds]~~ Money appropriated under this part that ~~[are]~~ is not expended at the end
 84 of the fiscal year ~~[lapse]~~ lapses into the ~~[account created in Subsection (1)]~~ Environmental
 85 Quality Restricted Account.

86 (9) (a) The balance in the Environmental Quality Restricted Account may not exceed
 87 \$4,000,000 above the anticipated revenue need for the money in the restricted account for the

88 fiscal year.

89 (b) Excess funds under Subsection (9)(a) shall be credited on a proportionate basis to
90 each person who paid monies to the fund in the previous fiscal year.

91 Section 2. Section **19-1-201** is amended to read:

92 **19-1-201. Powers of department.**

93 (1) The department shall:

94 (a) enter into cooperative agreements with the Department of Health to delineate
95 specific responsibilities to assure that assessment and management of risk to human health
96 from the environment are properly administered;

97 (b) consult with the Department of Health and enter into cooperative agreements, as
98 needed, to ensure efficient use of resources and effective response to potential health and safety
99 threats from the environment, and to prevent gaps in protection from potential risks from the
100 environment to specific individuals or population groups; and

101 (c) coordinate implementation of environmental programs to maximize efficient use of
102 resources by developing, with local health departments, a Comprehensive Environmental
103 Service Delivery Plan that:

104 (i) recognizes that the department and local health departments are the foundation for
105 providing environmental health programs in the state;

106 (ii) delineates the responsibilities of the department and each local health department
107 for the efficient delivery of environmental programs using federal, state, and local authorities,
108 responsibilities, and resources;

109 (iii) provides for the delegation of authority and pass through of funding to local health
110 departments for environmental programs, to the extent allowed by applicable law, identified in
111 the plan, and requested by the local health department; and

112 (iv) is reviewed and updated annually.

113 (2) The department may:

114 (a) investigate matters affecting the environment;

115 (b) investigate and control matters affecting the public health when caused by
116 environmental hazards;

117 (c) prepare, publish, and disseminate information to inform the public concerning
118 issues involving environmental quality;

119 (d) establish and operate programs, as authorized by this title, necessary for protection
120 of the environment and public health from environmental hazards;

121 (e) use local health departments in the delivery of environmental health programs to
122 the extent provided by law;

123 (f) enter into contracts with local health departments or others to meet responsibilities
124 established under this title;

125 (g) acquire real and personal property by purchase, gift, devise, and other lawful
126 means;

127 (h) prepare and submit to the governor a proposed budget to be included in the budget
128 submitted by the governor to the Legislature;

129 (i) (i) establish a schedule of fees that may be assessed for actions and services of the
130 department according to the procedures and requirements of Section 63J-1-504; and

131 (ii) in accordance with Section 63J-1-504, all fees shall be reasonable, fair, and reflect
132 the cost of services provided;

133 (j) prescribe by rule reasonable requirements not inconsistent with law relating to
134 environmental quality for local health departments;

135 (k) perform the administrative functions of the boards established by Section 19-1-106,
136 including the acceptance and administration of grants from the federal government and from
137 other sources, public or private, to carry out the board's functions; [~~and~~]

138 (l) upon the request of any board or the executive secretary, provide professional,
139 technical, and clerical staff and field and laboratory services, the extent of which are limited by
140 the funds available to the department for the staff and services[-]; and

141 (m) establish a supplementary fee, not subject to Section 63J-1-504, to provide service
142 that the person paying the fee agrees by contract to be charged for the service in order to
143 efficiently utilize department resources, protect department permitting processes, address
144 extraordinary or unanticipated stress on permitting processes, or make use of specialized
145 expertise.

146 (3) In providing expanded or expedited service under Subsection (2)(m), the
147 department may not expand or expedite service in a manner that impairs any other person's
148 service from the department.

149 Section 3. Section **19-3-106** is amended to read:

150 **19-3-106. Fee for commercial radioactive waste disposal or treatment.**

151 (1) (a) An owner or operator of a commercial radioactive waste treatment or disposal
152 facility that receives radioactive waste shall pay a fee as provided in Subsection (1)(b).

153 ~~[(b) (i) On and after July 1, 2003 through June 30, 2005, the fee is equal to the sum of~~
154 ~~the following amounts:]~~

155 ~~[(A) 15 cents per cubic foot, or fraction of a cubic foot, of radioactive waste, other than~~
156 ~~byproduct material, received at the facility for disposal or treatment; and]~~

157 ~~[(B) \$1 per curie, or fraction of a curie, of radioactive waste, other than byproduct~~
158 ~~material, received at the facility for disposal or treatment.]~~

159 ~~[(ii) (b) (i) On [and] or after [July 1, 2005] July 1, 2010, but on or before June 30,~~
160 ~~2011, the fee is equal to the sum of the following amounts:~~

161 (A) ~~[+5] 30~~ cents per cubic foot of radioactive waste, other than 11e.(2) byproduct
162 material, received at the facility for disposal or treatment; and

163 (B) \$1 per curie of radioactive waste, other than 11e.(2) byproduct material, received at
164 the facility for disposal or treatment.

165 (ii) On or after July 1, 2011, the fee shall be established by the department in
166 accordance with Section 63J-1-504.

167 (iii) In the development of a fee schedule prepared under Subsection (1)(b)(ii), the
168 department may conduct by no later than July 1, 2011, a review of the program costs and
169 indirect costs of regulating radioactive waste in the state.

170 (iv) In addition to the process required by Section 63J-1-504, the department shall
171 establish a fee that:

172 (A) is a flat fee, not based on the amount of waste treated or disposed of;

173 (B) provides for reasonably and timely oversight by the department; and

174 (C) adequately meets the needs of industry, including allowing for the department to
175 employ qualified personnel to appropriately oversee industry regulation.

176 (2) (a) The portion of the fee required under Subsection (1)(b)~~[(ii)](i)(A)~~ shall be
177 calculated by multiplying the total cubic feet of waste, computed to the first decimal place,
178 received during the calendar month by ~~[+5] 30~~ cents.

179 (b) The portion of the fee required in Subsection (1)(b)~~[(ii)](i)(B)~~ shall be calculated by
180 multiplying the total curies of waste, computed to the first decimal place, received during the

181 calendar month by \$1.

182 (3) (a) The owner or operator shall remit the fees imposed under this section to the
183 department on or before the 15th day of the month following the month in which the fee
184 accrued.

185 (b) The department shall deposit [~~at~~] the fees received under this section into the
186 Environmental Quality Restricted Account created in Section 19-1-108.

187 (c) The owner or operator shall submit to the department with the payment of the fee
188 under this Subsection (3) a completed form as prescribed by the department that provides
189 information the department requires to verify the amount of waste received and the fee amount
190 for which the owner or operator is liable.

191 (4) The Legislature shall appropriate to the department [~~funds~~] money to cover the cost
192 of radioactive waste disposal supervision.

193 (5) Radioactive waste that is subject to a fee under this section is not subject to a fee
194 under Section 19-6-119.

195 Section 4. Section **19-6-118** is amended to read:

196 **19-6-118. Hazardous waste and treated hazardous waste disposal fees.**

197 (1) (a) An owner or operator of any commercial hazardous waste or mixed waste
198 disposal or treatment facility that primarily receives hazardous or mixed wastes generated by
199 off-site sources not owned, controlled, or operated by the facility or site owner or operator, and
200 that is subject to the requirements of Section 19-6-108, shall pay the fee under Subsection (2).

201 (b) The owner or operator of each cement kiln, aggregate kiln, boiler, blender, or
202 industrial furnace that receives for burning hazardous waste generated by off-site sources not
203 owned, controlled, or operated by the owner or operator shall pay the fee under Subsection (2).

204 (c) The department may conduct by no later than July 1, 2011, a review of the program
205 costs and indirect costs of regulating radioactive waste in the state.

206 (2) (a) Through June 30, 2005, the owner or operator of each facility under Subsection
207 (1) shall collect from the generators of hazardous waste and mixed waste a fee of \$28 per ton
208 or fraction of a ton on all hazardous waste and mixed waste received at the facility or site for
209 disposal, treatment, or both.

210 (b) On and after July 1, 2005, the owner or operator of each facility under Subsection
211 (1) shall pay a fee of \$28 per ton on all hazardous waste and mixed waste received at the

212 facility for disposal, treatment, or both.

213 (c) The fee required under Subsection (2)(b) shall be calculated by multiplying the total
 214 tonnage of waste, computed to the first decimal place, received during the calendar month by
 215 \$28 .

216 (d) When hazardous waste or mixed waste is received at a facility for treatment or
 217 disposal and the fee required under this Subsection (2) is paid for that treatment or disposal,
 218 any subsequent treatment or disposal of the waste is not subject to additional fees under this
 219 Subsection (2).

220 (e) (i) On and after July 1, 1997 through June 30, 2003, and on and after April 1, 2004
 221 through June 30, 2005, hazardous waste received at a land disposal facility is subject to a fee of
 222 \$14 per ton or fraction of a ton, rather than the \$28 fee under Subsection (2)(a), if the waste is
 223 treated so that it:

- 224 (A) meets the state treatment standards required for land disposal at the facility; or
- 225 (B) is no longer a hazardous waste at the time of disposal at that facility.

226 (ii) On and after July 1, 2003, through March 31, 2004, hazardous waste received at a
 227 land disposal facility for treatment and disposal is subject to the \$28 fee imposed under
 228 Subsection (2)(a).

229 (f) (i) On and after July 1, 2005, hazardous waste received at a land disposal facility is
 230 subject to a fee of \$14 per ton if the waste is treated so that it:

- 231 (A) meets the state treatment standards required for land disposal at the facility; or
- 232 (B) is no longer a hazardous waste at the time of disposal at that facility.

233 (ii) The fee required under Subsection (2)(f)(i) shall be calculated by multiplying the
 234 tonnage of waste, computed to the first decimal place, received during the calendar month by
 235 \$14.

236 (3) (a) On or after July 1, 2010 remediation waste received at a land disposal facility
 237 from a remediation project is subject to a fee in the following amounts:

<u>Amount of Remediation Waste Received</u>	<u>Fee Amount</u>
<u>from a Remediation Project</u>	
<u>More than 0, but less than 1,000 tons</u>	<u>\$28 per ton</u>
<u>Equal to or greater than 1,000, but less than 12,500 tons</u>	<u>\$10 per ton</u>
<u>Equal to or greater than 12,500 tons, but less than 25,000 tons</u>	<u>\$5 per ton</u>

243 Equal to or greater than 25,000 tons \$2.50 per ton

244 (b) On and after July 1, 2010 through June 30, 2011, emission control dust/sludge from
245 the primary production of steel in electric furnaces (K061, as defined in 40 CFR 261.32)
246 received at a land disposal facility is subject to a fee of \$5 per ton in lieu of the fee established
247 in Subsection 19-6-118(2).

248 (c) On and after July 1, 2010 through June 30, 2011, nerve, military and chemical
249 agents and wastes/residues from demilitarization, treatment, testing and disposal of nerve,
250 military and chemical agents CX, GA, GB, GD, H, HD, HL, HN-1, HN-2, HN-3, HT, L and
251 VX received at a treatment, storage, or disposal facility is subject to a fee of \$5 per ton in
252 addition to the fee established in Subsection 19-6-118(2).

253 (d) (i) On or after July 1, 2010, but on or before June 30, 2011, the department may in
254 accordance with this Subsection (3)(d) assess a person required to pay a fee under this section a
255 special assessment if the department determines that the aggregate of the following fees is
256 insufficient to cover the department's costs of administering its hazardous waste program:

257 (A) a fee imposed under this section; and

258 (B) a fee imposed under Section 19-6-118.5.

259 (ii) In determining the amount of a special assessment under this Subsection (3)(d), the
260 department shall calculate the amount of the insufficiency and assess each person subject to the
261 special assessment a proportion of the insufficiency equal to the proportion of fees paid by that
262 person.

263 (iii) The department shall deposit a special assessment collected under this Subsection
264 (3)(d) into the Environmental Quality Restricted Account created in Section 19-1-108.

265 (f) (i) The department shall annually review the fee established in Subsection (3)(a) and
266 make recommendations to the Legislature concerning the amount of the fee.

267 (ii) Except as provided by Subsection (3)(f)(i), on or after July 1, 2011, the department
268 shall establish a fee in accordance with Section 63J-1-504.

269 ~~[(g) (i)]~~ (4) (a) The department shall allocate at least 10% of the fees received from a
270 facility under this section to the county in which the facility is located.

271 ~~[(ii) (b)]~~ (b) The county may use fees allocated under [Subsections (2)(e) and (f)] this
272 Subsection (3) to carry out its hazardous waste monitoring and response programs.

273 ~~[(h) (5)]~~ (5) The department shall deposit the state portion of the fees received under this

274 section into the ~~[restricted account]~~ Environmental Quality Restricted Account created in
275 Section 19-1-108.

276 ~~[(3)(a) The]~~ (6) (a) (i) Except as provided in Subsection (6)(a)(ii), the owner or
277 operator shall pay the fees imposed under this section to the department on or before the 15th
278 day of the month following the month in which the fee accrued.

279 (ii) For a fee to be paid on remediation waste, the fee shall be paid in accordance with a
280 schedule determined by the department:

281 (A) made in consultation with the person paying the fee; and

282 (B) considering any contractual schedule for payment between the person paying the
283 fee and another person with whom the person paying the fee has contracted.

284 (b) With the monthly fee, the owner or operator shall submit a completed form, as
285 prescribed by the department, specifying information required by the department to verify the
286 amount of waste received and the fee amount for which the owner or operator is liable.

287 ~~[(4)]~~ (7) (a) The department shall oversee and monitor hazardous waste treatment,
288 disposal, and incineration facilities, including federal government facilities located within the
289 state.

290 (b) The department may determine facility oversight priorities.

291 ~~[(5)]~~ (8) (a) The department, in preparing its budget for the governor and the
292 Legislature, shall separately indicate the amount necessary to administer the hazardous waste
293 program established by this part.

294 (b) The Legislature shall appropriate the costs of administering this program.

295 ~~[(6)]~~ (9) The Office of Legislative Fiscal Analyst shall monitor the fees collected under
296 this part.

297 ~~[(7)]~~ (10) Mixed waste subject to a fee under this section is not subject to a fee under
298 Section 19-3-106.

299 (11) As used in this section:

300 (a) "Remediation project" means:

301 (i) a Superfund cleanup project;

302 (ii) a Resource Conservation and Recovery Act Corrective Action Site; or

303 (iii) a voluntary cleanup of:

304 (A) hazardous debris;

305 (B) hazardous waste subject to regulation solely because of removal or remedial action
306 taken in response to environmental contamination; or

307 (C) hazardous waste resulting from corrective action or closure of a regulated or
308 unregulated hazardous waste management unit.

309 (b) "Remediation waste" means waste from a remediation project.

310 Section 5. Section **19-6-118.5** is amended to read:

311 **19-6-118.5. PCB disposal fee.**

312 (1) ~~[The]~~ (a) On or after July 1, 2010, but on or before June 30, 2011, the owner or
313 operator of a waste facility shall pay a fee of \$4.75 per ton on all wastes containing
314 polychlorinated biphenyls (PCBs) that are:

315 ~~[(a)]~~ (i) regulated under 15 U.S.C. Sec. 2605; and

316 ~~[(b)]~~ (ii) received at ~~[the]~~ a facility for disposal or treatment.

317 (b) On and after July 1, 2011, the department shall establish a fee for disposal or
318 treatment of wastes containing polychlorinated biphenyls in accordance with Section
319 63J-1-504.

320 (2) The owner or operator of a facility receiving PCBs for disposal or treatment shall:

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

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

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

329 (3) The department shall deposit ~~[aH]~~ the fees received under this section into the
330 Environmental Quality Restricted Account created in Section 19-1-108.

331 (4) The owner or operator of a waste facility that is subject to a fee under this section is
332 not subject to a fee for the same waste under Section 19-3-106, even if the waste contains
333 radioactive materials.

334 Section 6. **Effective date.**

335 This bill takes effect on July 1, 2010.

H.B. 331 1st Sub. (Buff) - Waste Fee and Related Amendments

Fiscal Note

2010 General Session

State of Utah

State Impact

Provisions of this bill increase the fees collected from hazardous waste and radioactive waste disposal facilities by an estimated \$2,533,300 to the General Fund Restricted - Environmental Quality Restricted Fund for FY 2011 and FY 2012.

	<u>FY 2010</u> <u>Approp.</u>	<u>FY 2011</u> <u>Approp.</u>	<u>FY 2012</u> <u>Approp.</u>	<u>FY 2010</u> <u>Revenue</u>	<u>FY 2011</u> <u>Revenue</u>	<u>FY 2012</u> <u>Revenue</u>
Restricted Funds	\$0	\$0	\$0	\$0	\$2,533,300	\$2,533,300
Total	\$0	\$0	\$0	\$0	\$2,533,300	\$2,533,300

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals or local governments. Businesses related to the hazardous waste and radioactive waste disposal will be required to pay more fees.