

Representative Lee B. Perry proposes the following substitute bill:

WASTE MANAGEMENT AMENDMENTS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lee B. Perry

Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill deals with fees set by the Division of Waste Management and Radiation Control.

Highlighted Provisions:

This bill:

- ▶ creates the Division of Waste Management and Radiation Control Expendable

⌚→ Special ←⌚

Revenue Fund and describes the uses of the fund;

- ▶ requires the Division of Waste Management and Radiation Control to upgrade technology;
- ▶ states that the annual fee schedule set by the Division of Waste Management and Radiation Control shall be equitable and fair, though not necessarily equal or uniform;
- ▶ provides criteria in setting the annual fee schedule;
- ▶ authorizes a landfill to conduct a self-inspection with reporting to the Division of Waste Management and Radiation Control;
- ▶ provides a repeal date; and
- ▶ makes technical changes.

Money Appropriated in this Bill:



26 None

27 **Other Special Clauses:**

28 This bill provides a special effective date.

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **19-1-108**, as last amended by Laws of Utah 2013, Chapter 330

32 **19-6-109**, as last amended by Laws of Utah 2012, Chapter 360

33 **19-6-119**, as last amended by Laws of Utah 2017, Chapter 281

34 **19-6-307**, as last amended by Laws of Utah 2013, Chapter 400

35 **63I-2-219**, as last amended by Laws of Utah 2016, Chapter 369

36 ENACTS:

37 **19-6-126**, Utah Code Annotated 1953



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

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

41 **19-1-108. Creation of Environmental Quality Restricted Account -- Purpose of**
42 **restricted account -- Sources of funds -- Uses of funds.**

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

44 (2) The sources of money for the restricted account are:

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

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

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

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

50 (e) the investment income derived from money in the Environmental Quality
51 Restricted Account.

52 (3) In each fiscal year[;]:

53 (a) the first [~~\$400,000~~] \$200,000 collected from the waste disposal fees listed in
54 Subsection (2), collectively, shall be deposited in the [~~General Fund as free revenue. The~~

55 ~~balance~~] Division of Waste Management and Radiation Control Expendable **H→ Special ←H**

55a Revenue Fund

56 created in Section 19-6-126; and

57 (b) the balance of the money collected from the waste disposal fees listed in Subsection
 58 (2), collectively, shall be deposited in the Environmental Quality Restricted Account.

59 (4) The Legislature may annually appropriate money from the Environmental Quality
 60 Restricted Account to the department for the costs of administering:

61 (a) ~~[the department for the costs of administering]~~ radiation control programs; and

62 (b) ~~[the department for the costs of administering]~~ solid and hazardous waste
 63 programs~~[-and].~~

64 ~~[(c) subject to Subsection (6), the Hazardous Substances Mitigation Fund, up to~~
 65 ~~\$400,000, to provide money to:]~~

66 (5) Each year beginning July 1, 2018, and ending on June 30, 2022, the Division of
 67 Finance shall transfer \$200,000 from the Environmental Quality Restricted Account to the
 68 H→ [Hazard] Hazardous ←H Substances Mitigation Fund, to provide money to:

69 ~~[(i)]~~ (a) meet the state's cost share requirements for cleanup under the Comprehensive
 70 Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. Sec. 9601 et seq.
 71 as amended; and

72 ~~[(ii)]~~ (b) respond to an emergency as provided in Section 19-6-309.

73 ~~[(5)]~~ (6) After the requirements of Subsection (3) are met, sources of money for the
 74 restricted account described in Subsection (2)(a) may only be used for the purpose described in
 75 Subsection (4)(a).

76 ~~[(6) An annual request for money to be appropriated from the Environmental Quality~~
 77 ~~Restricted Account to the Hazardous Substances Mitigation Fund may be made by the~~
 78 ~~department only after the executive director's review of the Environmental Quality Restricted~~
 79 ~~Account's or the Hazardous Substances Mitigation Fund's balance as of the end of the fiscal~~
 80 ~~year immediately before the general session for which the request is made.]~~

81 (7) In order to stabilize funding for the radiation control program and the solid and
 82 hazardous waste program, the Legislature shall in years of excess revenues reserve in the
 83 Environmental Quality Restricted Account sufficient money to meet departmental needs in
 84 years of projected shortages.

85 (8) The Legislature may not appropriate money from the General Fund to the
 86 department as a supplemental appropriation to cover the costs of the radiation control program
 87 and the solid and hazardous waste program in an amount exceeding 25% of the amount of

119 total.

120 (c) An owner or operator that elects to self-inspect a solid waste management facility
 121 under Subsection (5)(a) shall:

122 (i) provide all information to the division that is required by this chapter and any rules
 123 issued by the board; and

124 (ii) conduct the self-inspection annually and send a ~~H~~→ [certified] ←~~H~~ self-inspection
 124a report ~~H~~→, certified by an individual who completed the training described in Subsection
 124b (5)(b)(i), ←~~H~~ to
 125 the division upon completion.

126 (d) The division shall ensure that a solid waste management facility is inspected by an
 127 authorized division employee:

128 (i) every three to five years, if the solid waste management facility does not elect to
 129 self-inspect under Subsection (5)(a);

130 (ii) at least once every five years, regardless of whether the solid waste management
 131 facility elects to self-inspect under Subsection (5)(a);

132 (iii) promptly upon receipt of a ~~H~~→ [valid] credible ←~~H~~ complaint about the
 132a solid waste management
 133 facility; and

134 (iv) upon request by the solid waste management facility or upon issuance of a notice
 135 of violation.

136 (6) ~~H~~→ (a) ←~~H~~ The division shall ensure that a fine assessed against a solid
 136a waste management
 137 facility that elects to self-inspect for a violation of this chapter or a rule made by the board is
 138 higher than the fine that would be assessed against a solid waste management facility that does
 139 not elect to self-inspect.

139a ~~H~~→ (b) The division may determine that, upon a severe violation of this chapter or a rule
 139b made by the board by a facility that elects to self-inspect, that a facility is no longer eligible to
 139c self-inspect. ←~~H~~

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

141 **19-6-119. Nonhazardous solid waste disposal fees.**

142 (1) (a) Through December 31, 2018, and except as provided in Subsection (4), the
 143 owner or operator of a commercial nonhazardous solid waste disposal facility or incinerator
 144 shall pay the following fees for waste received for treatment or disposal at the facility if the
 145 facility or incinerator is required to have operation plan approval under Section 19-6-108 and
 146 primarily receives waste generated by off-site sources not owned, controlled, or operated by the
 147 facility or site owner or operator:

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

149 (ii) 50 cents per ton on the following wastes if the facility disposes of one or more of

243 by all persons whose treatment, transfer, or disposal of nonhazardous solid waste creates a
 244 regulatory burden to the department, based on the actual cost as described in Section 19-6-126
 244a **H→ and taking into consideration whether the owner or operator of a facility elects to self-**
 244b **inspect under Section 19-6-109 ←H** ,

245 except as provided in Subsection (6)(d);

246 (ii) cover the fully burdened costs of the program and provide for reasonable and
 247 timely oversight by the department;

248 (iii) adequately meet the needs of industry, local government, and the department,
 249 including enabling the department to employ the appropriate number of qualified personnel to
 250 appropriately oversee industry and local government regulation;

251 (iv) provide stable funding for the Environmental Quality Restricted Account created
 252 in Section 19-1-108; and

253 (v) [~~give consideration to a fee differential regarding~~] for solid waste managed at a
 254 transfer facility, be no greater than [~~50 percent of the fee set for the treatment or disposal of the~~
 255 ~~same solid waste~~] the cost of regulatory services provided to the transfer facility.

256 (d) Any person who treats, transfers, stores, or disposes of solid waste from the
 257 extraction, beneficiation, and processing of ores and minerals on a site owned, controlled, or
 258 operated by that person may not be charged a fee under this section for the treatment, transfer,
 259 storage, or disposal of solid waste from the extraction, beneficiation, and processing of ores
 260 and minerals that are generated:

261 (i) on-site by the person; or

262 (ii) by off-site sources owned, controlled, or operated by the person.

263 (e) The fees in the fee schedule established by Subsection (6)(a) shall take effect on
 264 January 1, 2019.

265 (7) On and after January 1, 2019, a facility required to pay fees under this section shall:

266 (a) pay the fees imposed by this section to the department by the 15th day of the month
 267 following the quarter in which the fees accrued; and

268 (b) with the fees required under Subsection (7)(a), submit to the department, on a form
 269 prescribed by the department, information that verifies the amount of nonhazardous solid waste
 270 received and the fees that the owner or operator is required to pay.

271 (8) In setting the fee schedule described in Subsection (6)(a), the department shall
 272 ensure that a party is not charged multiple fees for the same solid waste, except the department
 273 may charge a separate fee for a transfer station.

274 (9) The department shall:

275 (a) deposit all fees received under this section into the Environmental Quality
276 Restricted Account created in Section 19-1-108; and

277 (b) in preparing its budget for the governor and the Legislature, separately indicate the
278 amount of the department's budget necessary to administer the solid and hazardous waste
279 program established by this part.

280 (10) The department may contract or agree with a county to assist in performing
281 nonhazardous solid waste management activities, including agreements for:

282 (a) the development of a solid waste management plan required under Section
283 17-15-23; and

284 (b) pass-through of available funding.

285 (11) This section does not exempt any facility from applicable regulation under the
286 Atomic Energy Act, 42 U.S.C. Sec. 2014 and 2021 through 2114.

287 (12) The department shall report to the Natural Resources, Agriculture, and
288 Environment Interim Committee by November 30, 2017, on the fee schedule described in
289 Subsection (6)(a).

290 Section 4. Section **19-6-126** is enacted to read:

291 **19-6-126. Division of Waste Management and Radiation Control Expendable**

291a **Ĥ→ Special ←Ĥ**

292 **Revenue Fund.**

293 (1) There is created the Division of Waste Management and Radiation Control
294 Expendable Ĥ→ Special ←Ĥ Revenue Fund.

295 (2) The fund consists of money deposited in the fund pursuant to Section 19-1-108.

296 (3) The Division of Waste Management and Radiation Control may expend money in
297 the fund to upgrade technology for permitting and compliance purposes, and other expenditures
298 that will result in increased efficiency and reduced cost, as described in this section.

299 (4) The technology upgrade authorized in this section shall be designed to assist the
300 division in the following ways:

301 (a) allowing forms to be digitized and accessible online for:

302 (i) completion and submission by a division employee Ĥ→ or the owner or operator of a
302a facility that elects to self-inspect ←Ĥ ; and

303 (ii) review by a regulated facility;

304 (b) tracking expenses of a division employee, including travel time to inspected