

Act No. 68  
Public Acts of 1996  
Approved by the Governor  
February 25, 1996  
Filed with the Secretary of State  
February 26, 1996

**STATE OF MICHIGAN  
88TH LEGISLATURE  
REGULAR SESSION OF 1996**

Introduced by Rep. Freeman

# **ENROLLED HOUSE BILL No. 5319**

AN ACT to amend sections 10 and 19 of Act No. 204 of the Public Acts of 1987, entitled "An act to provide for matters pertaining to a low-level radioactive waste disposal site in this state; to create a low-level radioactive waste authority and prescribe its powers and duties; to create certain boards, committees, and institutes and prescribe their powers and duties; to prescribe the powers and duties of certain persons, municipalities, and counties and state departments and agencies; to provide for certain methods of dispute resolution; to create certain funds; and to provide for an appropriation and the expenditure of certain funds," section 19 as amended by Act No. 434 of the Public Acts of 1994, being sections 333.26210 and 333.26219 of the Michigan Compiled Laws.

*The People of the State of Michigan enact:*

Section 1. Sections 10 and 19 of Act No. 204 of the Public Acts of 1987, section 19 as amended by Act No. 434 of the Public Acts of 1994, being sections 333.26210 and 333.26219 of the Michigan Compiled Laws, are amended to read as follows:

Sec. 10. The authority shall establish final siting criteria that at a minimum excludes a candidate site that is any of the following:

- (a) Located in a 500-year floodplain.
- (b) Located over a sole source aquifer.
- (c) Located 1 mile or less from a fault where tectonic movement has occurred within the 10,000 years preceding the effective date of this act.
- (d) Not sufficiently large to assure that an isolation distance of 3,000 feet or more from the disposal unit and adjacent property lines is available.
- (e) Has wetlands within the boundaries of the candidate site as defined in part 303 (wetland protection) of the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, being sections 324.30301 to 324.30323 of the Michigan Compiled Laws.
- (f) An environmental area or a high risk area as defined in part 323 (shorelands protection and management) of Act No. 451 of the Public Acts of 1994, being sections 324.32301 to 324.32315 of the Michigan Compiled Laws.
- (g) A floodway designated under part 31 (water resources protection) of Act No. 451 of the Public Acts of 1994, being sections 324.3101 to 324.3119 of the Michigan Compiled Laws.
- (h) Located where the hydrogeology beneath the site discharges groundwater to the land surface within 3,000 feet of the boundaries of the candidate site.

(i) Located within 10 miles of Lake Michigan, Lake Superior, Lake Huron, Lake Erie, Saint Marys river, Detroit river, St. Clair river, or lake St. Clair. This subdivision shall not apply to a site that is located at or adjacent to a nuclear power generating facility.

Sec. 19. (1) The authority shall establish a fee system that is reasonable and equitable and that provides the authority with sufficient revenue to cover any and all costs associated with the disposal site, including, but not limited to, the planning, siting, licensure, operation, regulation, monitoring, site closure and stabilization, post closure monitoring and maintenance, institutional control, and liability pertaining to the disposal site. In addition, the authority shall assure that sufficient funds will be available in the low-level radioactive waste fund for all of the following:

(a) The authority and all of the expenses the authority incurs in meeting the requirements of this act, part 137, and the rules promulgated under part 137.

(b) The expenses of the department that pertain to the department's regulatory responsibility under part 137.

(c) If this state is a member of a compact, the expenses related to compact membership.

(d) The international low-level radioactive waste research and education institute established pursuant to section 17.

(e) The review board established pursuant to section 13.

(f) Local monitoring committees.

(g) The siting criteria advisory committee established pursuant to section 8.

(h) If this state is a member of a compact, the expenses of compact member states that are incurred to obtain privileges in this state to enable waste generated in the compact member states to be disposed of in the disposal site.

(i) If this state is a member of a compact, the funds required to be paid to the commission by the compact member states.

(j) Compensation to the host site community and any county or municipality in this state for the reasonable direct costs related to the disposal site including, but not limited to, necessary road and other capital improvements, emergency response training, and other specialized personnel training.

(k) Benefits to the candidate sites and host site community including incentives available to candidate sites and the host site community, pursuant to agreements reached by the commission and with the authority.

(l) Provide funds sufficient to fulfill the provisions of sections 13714 and 13715 of part 137.

(m) Annually to this state for unrestricted purposes, \$500,000.00.

(n) Annually to the host site community for unrestricted purposes, \$800,000.00.

(o) Costs incurred by a municipality or county as a result of externalities associated with the disposal site.

(p) Revenue for the funds created in subsection (2).

(q) Paying debt service on revenue bonds issued pursuant to section 20a.

(2) The remedial action fund, the long-term liability fund, the long-term care fund, and the tax contingency fund are created as separate funds in the department of treasury. The funds created in this subsection shall be administered by the authority. The income and earnings of the funds created in this subsection shall be added to the assets of the fund which generated the income. The funds created in this subsection shall be funded and expended as follows:

(a) Not less than \$10,000,000.00 during the period the disposal site accepts waste for disposal, for deposit in the remedial action fund which is available only to pay for remedial action taken by the authority in the event of a release or threatened release from the disposal site that presents a danger to the public health, safety, or welfare, or the environment.

(b) Not less than \$500,000.00 annually for deposit in the long-term liability fund which shall be available only to pay judgments or judicially approved settlements of claims against the authority or, if this state is a member of a compact any compact member state for death, personal injury, illness, or property damage resulting from the disposal of low-level radioactive waste at the disposal site. The long-term liability fund shall be used only after funds available pursuant to sections 13714 and 13715 of part 137 have been exhausted.

(c) Not less than \$600,000.00 annually for deposit in the long-term care fund which is available only to pay for the expenses of site closure and stabilization and institutional control.

(d) Not more than \$100,000.00 annually for deposit in the tax contingency fund which is available for reasonable payments in lieu of real property taxes which, but for ownership of the disposal site by the authority, would be payable with respect to the disposal site, for as long as the disposal site is not subject to pay property taxes.

(3) The authority shall impose a 20% surcharge to be added to the disposal fees established under subsection (1). The surcharge shall be sufficient to cover the following expenses and shall be distributed by the authority according to the following:

(a) The host site community shall receive 35% of the surcharge or \$400,000.00, whichever is greater.

(b) One or more municipalities that share a boundary with the host site community shall receive 20% of the surcharge or \$400,000.00, whichever is greater. If there is more than 1 municipality that is eligible for funding under this subdivision, the eligible municipalities shall split equally that funding.

(c) The county in which the host site is located shall receive 15% of the surcharge or \$300,000.00, whichever is greater.

(d) The environmental response fund created in part 201 (environmental remediation) of the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, being sections 324.20101 to 324.20142 of the Michigan Compiled Laws, shall receive 15% of the surcharge or \$400,000.00, whichever is greater.

(e) The clean Michigan fund created in part 191 (clean Michigan fund) of Act No. 451 of the Public Acts of 1994, being sections 324.19101 to 324.19121 of the Michigan Compiled Laws, shall receive 15% of the surcharge or \$200,000.00, whichever is greater.

(4) The authority may impose a just and reasonable surcharge on any generator, carrier, processor, or collector who does not comply with part 137 or the rules promulgated under part 137.

(5) In the second and each subsequent year of the operation of the disposal site, the amount of each fee established in subsection (1) shall be increased in proportion to each annual increase for the preceding year in the annual consumer price index for all urban consumers as defined and officially reported by the bureau of labor statistics of the United States department of labor for the north central region of the United States. If the disposal site does not operate for the entire year during the second or last year the disposal site accepts waste, the proportional increase provided for in this subsection shall be prorated according to the number of months of operation.

(6) The fee system created by the authority under subsection (1) for the disposal of waste in the disposal site shall not be dependent on revenues received for the disposal of class C waste and shall be based on both of the following:

(a) The volume, radioactivity, and half-life of the waste deposited in the disposal site. The fee shall be proportionately higher for waste that has higher levels of radioactivity as measured in curies, and for waste that has longer half-lives.

(b) A realistic model of the projected cost of the disposal of each classification of waste.

(7) All revenues in the fee system created under subsection (1) that result from the disposal of class C waste in the disposal site shall be deposited in the clean Michigan fund created in part 191 of Act No. 451 of the Public Acts of 1994.

This act is ordered to take immediate effect.

-----  
Clerk of the House of Representatives.

-----  
Secretary of the Senate.

Approved -----

-----  
Governor.