



HOUSE BILL No. 5319

October 25, 1995, Introduced by Rep. Freeman and referred to the Committee on Conservation, Environment and Great Lakes.

A bill to amend sections 10 and 19 of Act No. 204 of the Public Acts of 1987, entitled "Low-level radioactive waste authority act," 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:

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

5 Sec. 10. The authority shall establish final siting cri-
6 teria that at a minimum excludes a candidate site that is any of
7 the following:

1 (a) Located in a 500-year floodplain.

2 (b) Located over a sole source aquifer.

3 (c) Located 1 mile or less from a fault where tectonic move-
4 ment has occurred within the 10,000 years preceding the effective
5 date of this act.

6 (d) Not sufficiently large to assure that an isolation dis-
7 tance of 3,000 feet or more from the disposal unit and adjacent
8 property lines is available.

9 (e) Has wetlands within the boundaries of the candidate site
10 as defined in ~~the Goemaere Anderson wetland protection act, Act~~
11 ~~No. 203 of the Public Acts of 1979, being sections 281.701 to~~
12 ~~281.722~~ PART 303 (WETLAND PROTECTION) OF THE NATURAL RESOURCES
13 AND ENVIRONMENTAL PROTECTION ACT, ACT NO. 451 OF THE PUBLIC ACTS
14 OF 1994, BEING SECTIONS 324.30301 TO 324.30323 of the Michigan
15 Compiled Laws.

16 (f) An environmental area or a high risk area as defined in
17 ~~the shorelands protection and management act of 1970, Act~~
18 ~~No. 245 of the Public Acts of 1970, being sections 281.631 to~~
19 ~~281.644~~ PART 323 (SHORELANDS PROTECTION AND MANAGEMENT) OF ACT
20 NO. 451 OF THE PUBLIC ACTS OF 1994, BEING SECTIONS 324.32301 TO
21 324.32315 of the Michigan Compiled Laws.

22 (g) A floodway designated under ~~Act No. 245 of the Public~~
23 ~~Acts of 1929, being sections 323.1 to 323.13~~ PART 31 (WATER
24 RESOURCES PROTECTION) OF ACT NO. 451 OF THE PUBLIC ACTS OF 1994,
25 BEING SECTIONS 324.3101 TO 324.3119 of the Michigan Compiled
26 Laws.

1 (h) Located where the hydrogeology beneath the site
2 discharges groundwater to the land surface within 3,000 feet of
3 the boundaries of the candidate site.

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

9 Sec. 19. (1) The authority shall establish a fee system
10 that is reasonable and equitable and that provides the authority
11 with sufficient revenue to cover any and all costs associated
12 with the disposal site, including, but not limited to, the plan-
13 ning, siting, licensure, operation, regulation, monitoring, site
14 closure and stabilization, post closure monitoring and mainte-
15 nance, institutional control, and liability pertaining to the
16 disposal site. In addition, the authority shall assure that suf-
17 ficient funds will be available in the low-level radioactive
18 waste fund for all of the following:

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

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

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

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

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

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

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

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

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

20 (b) Not less than \$500,000.00 annually for deposit in the
21 long-term liability fund which shall be available only to pay
22 judgments or judicially approved settlements of claims against
23 the authority or, if this state is a member of a compact any com-
24 pact member state for death, personal injury, illness, or prop-
25 erty damage resulting from the disposal of low-level radioactive
26 waste at the disposal site. The long-term liability fund shall

1 be used only after funds available pursuant to sections 13714 and
2 13715 of part 137 have been exhausted.

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

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

13 (3) The authority shall impose a 20% surcharge to be added
14 to the disposal fees established under subsection (1). The sur-
15 charge shall be sufficient to cover the following expenses and
16 shall be distributed by the authority according to the
17 following:

18 (a) The host site community shall receive 35% of the sur-
19 charge or \$400,000.00, whichever is greater.

20 (b) One or more municipalities that share a boundary with
21 the host site community shall receive 20% of the surcharge or
22 \$400,000.00, whichever is greater. If there is more than 1
23 municipality that is eligible for funding under this subdivision,
24 the eligible municipalities shall split equally that funding.

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

1 (d) The environmental response fund created in ~~the~~
2 ~~environmental response act, Act No. 307 of the Public Acts of~~
3 ~~1982, being sections 299.601 to 299.618~~ PART 201 (ENVIRONMENTAL
4 REMEDIATION) OF THE NATURAL RESOURCES AND ENVIRONMENTAL PROTEC-
5 TION ACT, ACT NO. 451 OF THE PUBLIC ACTS OF 1994, BEING SECTIONS
6 324.20101 TO 324.20142 of the Michigan Compiled Laws, shall
7 receive 15% of the surcharge or \$400,000.00, whichever is
8 greater.

9 (e) The clean Michigan fund created in ~~the clean Michigan~~
10 ~~fund act, Act No. 249 of the Public Acts of 1986, being sections~~
11 ~~299.371 to 299.393~~ PART 191 (CLEAN MICHIGAN FUND) OF ACT NO. 451
12 OF THE PUBLIC ACTS OF 1994, BEING SECTIONS 324.19101 TO 324.19121
13 of the Michigan Compiled Laws, shall receive 15% of the surcharge
14 or \$200,000.00, whichever is greater.

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

18 (5) In the second and each subsequent year of the operation
19 of the disposal site, the amount of each fee established in sub-
20 section (1) shall be increased in proportion to each annual
21 increase for the preceding year in the annual consumer price
22 index for all urban consumers as defined and officially reported
23 by the bureau of labor statistics of the United States department
24 of labor for the north central region of the United States. If
25 the disposal site does not operate for the entire year during the
26 second or last year the disposal site accepts waste, the

1 proportional increase provided for in this subsection shall be
2 prorated according to the number of months of operation.

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

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

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

13 (7) All revenues in the fee system created under subsection
14 (1) that result from the disposal of class C waste in the dis-
15 posal site shall be deposited in the clean Michigan fund created
16 in ~~the clean Michigan fund act, Act No. 249 of the Public Acts~~
17 ~~of 1986, being sections 299.371 to 299.393 of the Michigan~~
18 ~~Compiled Laws~~ PART 191 OF ACT NO. 451 OF THE PUBLIC ACTS OF
19 1994.