

**1999 DRAFTING REQUEST**

**Bill**

Received: **01/5/99**

Received By: **champra**

Wanted: **As time permits**

Identical to LRB:

For: **Frank Lasee (608) 266-9870**

By/Representing: **Mark**

This file may be shown to any legislator: **NO**

Drafter: **champra**

May Contact:

Alt. Drafters: **hubliks**

Subject: **State Finance - miscellaneous**

Extra Copies:

**Topic:**

Disposal of radioactive waste

**Instructions:**

Same as LRB-0201.

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	champra 01/5/99	jgeller 01/5/99		_____			State
/1			hhagen 01/5/99	_____	lrb_docadmin 01/5/99	lrb_docadmin 01/28/99	

FE Sent For

(01/28/99.)  
" / 1 "

<END>

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/?	champra	1/15 jlg	1/15	<u>1/15</u>			

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P-Note  
State of Wisconsin  
1999 - 2000 LEGISLATURE

LRB-0201/1  
KSH&RAC:jlg:jf

LRB-1580/1

RAC & KSH: jlg

1999 BILL

Regen

- 1 AN ACT to create 20.155 (1) (r), 25.17 (1) (k), 25.17 (3) (dt), 25.469 and 196.497  
2 (11s) of the statutes; relating to: escrowing certain payments to the federal  
3 government for the disposal of radioactive waste and making an appropriation.

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*Analysis by the Legislative Reference Bureau*

Under current federal law, the secretary of the federal department of energy is authorized to enter into contracts with persons who generate, or hold title to, high-level radioactive waste or spent nuclear fuel. The contracts govern the acceptance of title, subsequent transportation and disposal of the waste or spent fuel by the federal department of energy, in return for the payment of certain specified fees to the federal department of energy. The obligation of the federal department of energy to dispose of the waste or spent fuel is required under federal law to begin not later than January 31, 1998.

Under this bill, if the public service commission (commission) determines that the federal department of energy is not meeting its obligations under these contracts with state agencies or persons in this state, the commission may direct the state agencies or persons to pay to the commission, instead of the federal department of energy, the fees that are due under the contracts for the period during which the contractual obligations are not met. The bill requires the commission to deposit any funds received under the bill in a state segregated fund, the nuclear waste escrow fund, established by the bill. Upon a showing by the secretary of the federal department of energy that the federal department of energy is meeting its obligations under the contract, the commission shall pay, to the secretary of the

**BILL**

federal department of energy, all funds contained in the nuclear waste escrow fund and shall cease accepting additional funds under the bill.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1           **SECTION 1.** 20.155 (1) (r) of the statutes is created to read:

2           20.155 (1) (r) *Nuclear waste escrow fund.* From the nuclear waste escrow fund,  
3 a sum sufficient to make the payments under s. 196.497 (11s) (b).

4           **SECTION 2.** 25.17 (1) (k) of the statutes is created to read:

5           25.17 (1) (k) Nuclear waste escrow fund (s. 25.469);

6           **SECTION 3.** 25.17 (3) (dt) of the statutes is created to read:

7           25.17 (3) (dt) Invest the funds of the nuclear waste escrow fund only in  
8 investments appropriate for an escrow fund, such as interest-bearing accounts at  
9 federally insured banking institutions or short-term direct obligations of the U. S.  
10 government.

11           **SECTION 4.** 25.469 of the statutes is created to read:

12           **25.469 Nuclear waste escrow fund.** There is established a separate  
13 nonlapsible trust fund designated as the nuclear waste escrow fund, to consist of all  
14 moneys received by the public service commission under s. 196.497 (11s) (a).

15           **SECTION 5.** 196.497 (11s) of the statutes is created to read:

16           **196.497 (11s) ESCROWING OF CERTAIN PAYMENTS TO THE FEDERAL GOVERNMENT.** (a)  
17 If the commission determines that the federal department of energy is not meeting  
18 its obligations under contracts entered into under 42 USC 10222 with state agencies  
19 or with persons in this state, the commission may direct the state agencies or persons  
20 to pay to the commission, instead of the federal department of energy the fees due

**BILL**

1 under 42 USC 10222 for the period during which those contractual obligations are  
2 not met. The commission shall deposit any funds received under this paragraph in  
3 the nuclear waste escrow fund.

4 (b) Upon a showing by the secretary of the federal department of energy that  
5 the federal department of energy is meeting its obligations under contracts entered  
6 into under 42 USC 10222, the commission shall pay to the secretary of the federal  
7 department of energy all funds contained in the nuclear waste escrow fund and shall  
8 cease accepting additional funds under par. (a).

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(END) ✓

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**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

1580  
LRB-10201/1dn  
KSH&RAC;jlg:jf

↑  
stays

Friday, September 18, 1998 } new date

For your review, we are attaching a similar version of the drafter's note that accompanied 1997 Senate Bill 533:

1. Effective date. I did not add a specific effective date and, as a result, the bill will take effect on the day after publication. Under the bill, the commission could then direct the payment of any unpaid funds to the escrow account for the period for which the federal government was not meeting its contractual obligations (going back to the January 31, 1998, date, as long as the utilities hadn't already paid the funds to the federal government by the time the bill takes effect.)

2. Segregated fund. Because of constitutional issues requiring the expenditure of state funds only by appropriations, I required the escrowed moneys to be deposited in a newly created state segregated fund and created an appropriation for the commission to pay the federal government from this fund when the federal government starts meeting its obligations under the contracts. Although it may not be constitutionally required to run this money through a state fund and a state appropriation because it is arguably not state money, this was a relatively easy way to accomplish your intent. By having the moneys deposited in a state segregated fund, it makes it clear who has what responsibilities with respect to the funds and how the funds should be accounted for. If you object to having the money deposited in a segregated fund in the state treasury, please let me know and we can discuss possible alternatives.

3. Investment of the funds. Once the funds are deposited in the newly created state segregated fund, the investment board would have control over the investment of the funds. I added language to the bill which allows the investment board to invest the funds of the nuclear waste escrow fund only in investments appropriate for an escrow fund, such as interest-bearing accounts at federally insured banking institutions or short-term direct obligations of the U. S. government. Let me know if this investment authority provision is in any way inconsistent with your intent.

4. Trigger for the payment of the escrowed funds. I did not use the Minnesota language for triggering the payment of the escrowed funds to the secretary of energy: "a showing by the secretary [of the federal department of energy] that a federal repository for the long-term storage and permanent disposal of spent nuclear fuel and high-level radioactive waste is operating and currently accepting such materials". Instead, I used more general language: "a showing by the secretary of the federal department of energy that the federal department of energy is meeting its obligations under contracts entered into under 42 USC 10222".



5. PSC review. I have a call in to Susan Stratton of the PSC regarding the bill. I would like to ask her a couple of questions regarding the utilities in this state that have entered into contracts under 42 USC 10222 and regarding the process that I set up in this bill. Apparently, the contracts themselves contain provisions governing default and remedies in case of a breach of contract. I would like to make sure that the escrow approach taken in the bill is consistent with the language governing defaults in the contract. If, as a result of these discussions, changes are necessary to the bill, I will contact you to discuss them and redraft the proposal or draft an amendment to it, as appropriate.

Please do not hesitate to call me if you have any questions on the draft or if any part of it is inconsistent with your intent.

K. Scott Hubli  
Legislative Attorney  
266-0135

Richard A. Champagne  
Legislative Attorney  
266-9930

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-1580/1dn  
RAC&KSH;jlg:hmh

Tuesday, January 5, 1999

For your review, we are attaching a similar version of the drafter's note that accompanied 1997 Senate Bill 533:

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3. Investment of the funds. Once the funds are deposited in the newly created state segregated fund, the investment board would have control over the investment of the funds. I added language to the bill which allows the investment board to invest the funds of the nuclear waste escrow fund only in investments appropriate for an escrow fund, such as interest-bearing accounts at federally insured banking institutions or short-term direct obligations of the U. S. government. Let me know if this investment authority provision is in any way inconsistent with your intent.

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Please do not hesitate to call me if you have any questions on the draft or if any part of it is inconsistent with your intent.

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Legislative Attorney  
266-0135

Richard A. Champagne  
Legislative Attorney  
266-9930

**SUBMITTAL  
FORM**

**LEGISLATIVE REFERENCE BUREAU  
Legal Section Telephone: 266-3561  
5th Floor, 100 N. Hamilton Street**

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The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and sign on the appropriate line(s) below.

---

**Date:** 1/5/99

**To:** Representative F. Lasee

**Relating to LRB drafting number:** LRB-1580

**Topic**

Disposal of radioactive waste

**Subject(s)**

State Finance - miscellaneous

1. **JACKET** the draft for introduction \_\_\_\_\_

in the **Senate** \_\_\_\_\_ or the **Assembly**  (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT**. See the changes indicated or attached \_\_\_\_\_.

A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction \_\_\_\_\_.

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Richard A. Champagne, Legislative Attorney  
Telephone: (608) 266-9930