

ENGROSSED HOUSE AMENDMENT

TO

ENGROSSED SENATE BILL NO. 892

BY: WILLIAMS (Don) and LONG
(Ed) of the SENATE

and

RICE of the HOUSE

(SOLID AND CONTROLLED INDUSTRIAL WASTE - AMENDING
63 O.S., SECTIONS 1-2305 AND 1-2005.3C -
DISPOSAL FEES AND SPECIAL ECONOMIC DEVELOPMENT
AREA TRUST FUND -

EMERGENCY)

AUTHOR: Add the following House Coauthor: WIDENER

AMENDMENT NO. 1. Strike the stricken title, enacting clause and
entire bill and insert

"(SOLID AND HAZARDOUS WASTE - AMENDING 63 O.S.
1991, SECTIONS 1-2305, 1-2005.3A AND
1-2005.3C - FEE FOR CERTAIN WASTEWATER
TREATMENT SLUDGES - WASTEWATER TREATMENT
SLUDGE -

EMERGENCY)

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 63 O.S. 1991, Section 1-2305, is
amended to read as follows:

Section 1-2305. A. 1. ~~On and after September 1, 1990, there~~
There is imposed a one-dollar-and-fifty-cent-per-ton fee for waste
disposed of at disposal sites or facilities, ~~or at sludge land~~
~~application sites~~ or at commercial biomedical waste processing

facilities within Oklahoma when the waste is generated from outside of Oklahoma.

2. There is imposed a five-dollar-per-ton fee for wastewater treatment sludge which is proposed to be disposed of by land application when the sludge is generated outside of Oklahoma.

3. The fee assessed by this subsection is to be a charge to waste producers in addition to any charges specified in any contract or elsewhere. The fee shall be imposed upon and passed through to disposers of waste using the facility.

~~3.~~ 4. The owner or operator of a solid waste disposal site shall collect the fee levied pursuant to this subsection as trustee for the state and shall prepare and file with the Department monthly returns indicating:

- a. the total tonnage of solid wastes received for disposal at the gate of the site, and
- b. the total amount of the fees collected pursuant to this section.

~~4.~~ 5. Not later than thirty (30) days after the end of the month to which such a return applies, the owner or operator shall mail to the Department the return for that month together with the fees collected during that month as indicated on the return.

~~5.~~ 6. The owner or operator may receive an extension of not more than thirty (30) days for filing the return and remitting the fees, provided that:

- a. the owner or operator has submitted a request for an extension in writing to the Department together with a detailed description of why the extension is requested,
- b. the Department has received the request not later than the day on which the return is required to be filed, and
- c. the Department has approved the request.

~~6.~~ 7. If the fees are not remitted within sixty (60) days of the last day of the month during which they were collected, the owner or operator shall pay an additional fifty percent (50%) of the amount of the fees for each month that they are late.

B. 1. There is imposed upon each customer of a solid waste service operated by or on behalf of a political subdivision or public trust of which it is beneficiary a user fee of twenty-five cents (\$0.25) per month or Three Dollars (\$3.00) per year. The fee shall be in addition to any periodic charges for solid waste services. The user fee shall be included in the billing cycle, stated separately from any other periodic charges, and shall be identified as a fee for purposes of administering the Oklahoma Solid Waste Management Act, Section 1-2300 et seq. of this title. In lieu of the fee provided for in subsection A of this section, this fee shall apply to out-of-state customers of a solid waste service operated by a political subdivision or public trust within the State of Oklahoma, provided however, such exemption shall be limited to services operated in municipalities adjacent to and adjoining the boundaries of the State of Oklahoma.

2. a. The monthly fee shall be collected insofar as practicable at the same time as, and in the same manner as, the periodic charges for solid waste service or other utility services in accordance with the regular billing practice of the political subdivision or public trust. Not later than thirty (30) days after the end of the month to which such a return applies, the political subdivision or public trust shall mail to the Department the return for that month together with the fees collected during that month as indicated on the return.

b. the fee levied on an annual basis shall be collected and remitted to the Department on or before October

31, 1990 and on or before each October 31 thereafter. The annual return shall be mailed to the Department together with the annual fees collected as indicated on the return.

3. For political subdivisions or public trusts which substantially reduce their wastestream through integrated waste management systems, the Board shall adopt rules requiring a lesser fee generally commensurate with the waste reduction impact of the program of the political subdivision. The Department shall review waste reduction and recycling programs throughout the state on an annual basis in developing a statewide fee rate structure for such programs. Such a fee shall not exceed the user fee of twenty-five cents (\$0.25) per month or an annual fee of Three Dollars (\$3.00) per year levied upon each residential customer.

4. The political subdivision or public trust shall collect the fee levied pursuant to this subsection as trustee for the state and shall prepare and file with the Department the returns indicating the total amount of the fees collected pursuant to this section.

5. Each disposal site permittee or each political subdivision or public trust of which it is beneficiary which collects the user fee for the state shall be entitled to retain ten percent (10%) of collected revenue to defray the cost of collection and bookkeeping.

C. The monies remitted to the Department pursuant to this section shall be credited to a separate account in the Public Health Special Fund.

D. The State Commissioner of Health shall expend funds from the special account in the Public Health Special Fund for the purposes of administration and enforcement of the provisions of the Oklahoma Solid Waste Management Act and for the development of technical assistance programs, public environmental education programs and educational curricula, solid waste studies, development of a statewide solid waste plan, and recycling and litter prevention

programs. Any litter prevention program shall be developed by the Department in conjunction with the State Department of Transportation.

E. The provisions of this section shall not apply to landfill disposal sites that receive only ash generated by the burning of coal.

SECTION 2. AMENDATORY 63 O.S. 1991, Section 1-2005.3A, is amended to read as follows:

Section 1-2005.3A A. Every ~~controlled industrial~~ hazardous waste treatment facility, storage facility, underground injection facility, disposal facility, or off-site facility that recycles ~~controlled industrial~~ hazardous waste subject to the provisions of the Oklahoma ~~Controlled Industrial~~ Hazardous Waste Disposal Act shall pay an annual fee on the amount of ~~controlled industrial~~ hazardous waste managed to the Department of Health for deposit in the Public Health Special Fund.

1. Such fees shall be, subject to the qualifications provided in subparagraph 2 of this subsection:

- a. Six Dollars and fifty cents (\$6.50) per ton for the on-site or off-site storage, treatment or land disposal of ~~controlled industrial~~ hazardous waste.
- b. Four Dollars (\$4.00) per ton for the off-site recycling of ~~controlled industrial~~ hazardous waste.
- c. Three cents (\$0.03) per gallon for the on-site or off-site underground injection of ~~controlled industrial~~ hazardous waste.

2. There shall be a minimum fee per facility as follows:

- a. Any person owning, or operating, an off-site ~~controlled industrial~~ hazardous waste treatment facility, storage facility, or disposal facility shall pay a total fee of not less than Fifty Thousand Dollars (\$50,000.00) each state fiscal year.

- b. Any person owning, or operating, an on-site ~~controlled~~ industrial hazardous waste treatment facility, storage facility, or disposal facility shall pay a total fee of not less than Twenty Thousand Dollars (\$20,000.00) each state fiscal year.
- c. Any person owning, or operating, an off-site facility for the recycling of ~~controlled industrial~~ hazardous waste shall pay a total fee of not less than Fifty Thousand Dollars (\$50,000.00) each state fiscal year.

3. The minimum fees provided for in paragraph 2 of this subsection shall not apply to treatment facilities accepting ~~controlled industrial~~ hazardous waste exclusively for the purpose of conducting treatment research and design tests.

4. ~~Facilities are hereby authorized to charge the person contracting for the services of the facility their proportional share of the fees required by the provisions of this section. The fee assessed by this subsection is to be a charge to waste producers in addition to any charges specified in any contract or elsewhere. The fee shall be imposed upon and passed through to disposers of waste using the facility.~~

5. The facility shall become liable for payment of the fee on each ton or gallon of ~~controlled industrial~~ hazardous waste at the time it is received. The fee shall be payable by the facility to the Department of Health only as provided for in subsection C of this section.

6. The fee imposed by the provisions of this section shall be payable only once without regard to any subsequent handling and shall be based on the purpose for which the waste has been generated by or brought to the facility. In no event shall a facility be required to pay a fee on each step or process involved in the storage, treatment, or disposal of the waste at the facility or a related facility under common control.

B. The following facilities shall not be required to pay the fee required by the provisions of this section:

1. Those facilities engaged only in the on-site recycling of ~~controlled industrial~~ hazardous waste; and

2. Those facilities which have not generated or received new ~~controlled industrial~~ hazardous waste within the preceding state fiscal year.

C. Payment of the fees required by this section shall be due quarterly for ~~controlled industrial~~ hazardous waste received by the facility during the prior quarter. Such quarterly payments shall be due on the first day of the month of the following quarter during the state fiscal year in which the ~~controlled industrial~~ hazardous waste is received. All payments shall be made within thirty (30) days from the date it becomes due.

D. The fees provided for in this section shall be paid in lieu of the monitoring fees imposed in paragraph 2 of subsection A of Section 1-2005.2 of this title. All facilities subject to the provisions of this section shall not be required to pay or collect any additional fees for waste disposal unless specifically provided for in the Oklahoma ~~Controlled Industrial~~ Hazardous Waste Disposal Act.

E. All fees and other monies received by the Department pursuant to the provisions of this section shall be expended solely for the purposes specified in this section.

1. Ten percent (10%) of the fees collected from an off-site hazardous waste facility pursuant to the provisions of this section shall be deposited to the credit of the Special Economic Development Trust Funds established pursuant to Section ~~6~~ 1-2005.3C of this ~~act~~ title. The funds for the Trusts accruing pursuant to the provisions of this section shall be distributed to each Trust established in proportion to the fees generated by the ~~controlled industrial~~ off-site hazardous waste facilities within the Trust area.

2. The State Commissioner of Health shall expend monies received pursuant to the provisions of this section for one or more of the following purposes:

- a. The administration of the provisions of the Oklahoma ~~Controlled Industrial~~ Hazardous Waste Disposal Act,
- b. The development of an inventory of ~~controlled industrial~~ hazardous wastes currently produced in Oklahoma and management needs for the identified wastes,
- c. The implementation of information exchange, technical assistance, public information, and educational programs,
- d. The development and encouragement of waste reduction plans for Oklahoma waste generators, or
- e. Increased inspection of ~~controlled industrial~~ hazardous waste facilities which may include full time inspectors at off-site ~~controlled industrial~~ hazardous waste facilities.

F. To the extent that fees received pursuant to this section shall exceed the purposes specified in subsection E of this section, the Commissioner may only expend such funds for one or more of the following purposes:

1. Contributions required from the state pursuant to the federal Comprehensive Environmental Response, Compensation and Liability Act for remediation or related action upon a site within the state;

2. Response (including containment and removal) to the emergency situations involving spillage, leakage, emissions or other discharge of ~~controlled industrial~~ hazardous waste or ~~controlled industrial~~ hazardous waste constituents to the environment where a responsible party cannot be timely identified or found or compelled

to take appropriate emergency action to adequately protect human health and the environment;

3. State-funded remediation of sites contaminated by ~~controlled industrial~~ hazardous waste or ~~controlled industrial~~ hazardous waste constituents so as to present a threat to human health or the environment, to the extent that a responsible party cannot be timely identified or found or compelled to take such action, or is unable to take such action;

4. Costs incurred in pursuing an enforcement action to compel a responsible party to undertake appropriate response or remedial actions, or to recover from a responsible party monies expended by the state, as described in paragraphs 1 through 3 of this subsection; or

5. Financial assistance to municipalities or counties for the purposes and under the conditions specified in Section 1-2019 of this title.

SECTION 3. AMENDATORY 63 O.S. 1991, Section 1-2005.3C, is amended to read as follows:

Section 1-2005.3C A. The county commissioners of the counties which are within a ten-mile radius of ~~a controlled industrial~~ an off-site hazardous waste facility which is subject to the provisions of Section 1-2005.3A of ~~Title 63 of the Oklahoma Statutes~~ this title may establish a Special Economic Development Trust Fund for ~~that area~~ those counties.

B. The trust fund shall be used to market advantages of industrial development and to promote industrial development within the counties located within the trust area. Such uses shall allow the authority to acquire assets, develop property, and to contract with local municipalities or economic development trusts or authorities to promote economic development in the counties located within the trust area.

C. The trust fund shall consist of:

1. All monies received pursuant to Section 1-2005.3A of ~~Title 63 of the Oklahoma Statutes~~ this title;

2. All income from the investment of monies held in the trust fund;

3. Interest resulting from the deposit of such monies; and

4. Any other sums designated for deposit to the fund from any source, public or private.

D. Any trust established pursuant to the provisions of this section shall be governed by the provisions of Sections 176 through 180.4 of Title 60 of the Oklahoma Statutes.

E. 1. Such Trust shall be governed by a Board of Trustees of not less than six (6) nor more than ten (10) members. Each county within the Trust area shall be represented equally on the Board of Trustees.

2. Each Trustee shall be appointed by a majority vote of the county commissioners of the county that the Trustee represents. A Trustee may be removed prior to the expiration of the term of office by a majority vote of the county commissioners of the county that the Trustee represents. In the event there are two or more Trustees from each county, the initial appointments shall be made so that the terms are staggered. After the initial appointment, each Trustee shall serve a term of two (2) years and may be reappointed.

3. The Trustees shall receive no compensation for service on the Board of Trustees, but may be reimbursed for actual and necessary expenses incurred in the performance of their duties as a Trustee in accordance with the State Travel Reimbursement Act, Section 500.1 et seq. of Title 74 of the Oklahoma Statutes.

4. Any action of the Board of Trustees must be approved by a two-thirds (2/3) vote of the total authorized membership of the Board.

5. The Trustees shall have authority to exercise such powers as are necessary to perform the duties and functions imposed by the provisions of this section.

F. The Board of Trustees shall meet not less than twice each calendar year. At the first meeting in a new calendar year the members shall elect a chairman, a vice chairman, a secretary, and a treasurer.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-2306 of Title 63, unless there is created a duplication in numbering, reads as follows:

Prior to issuing any permits for the land application of any wastewater treatment sludge generated outside the State of Oklahoma, the State Board of Health shall promulgate rules which shall include, but not be limited to, the following:

1. The State Board of Health shall set a range stating the levels of heavy metal constituents of sludge at which the health and safety of the public, the wildlife and the environment can be reasonably assured if such sludge is used for land application;

2. Each load of wastewater treatment sludge shall be sampled, under the direct supervision of a representative of the Department, at the location at which it is generated and have appropriate analysis, performed by an independent laboratory approved by the Department, to assure that the sludge falls within the guidelines established by the Department;

3. The Department shall annually test the soil where wastewater treatment sludge has been land applied; and

4. The Department shall require the generators or the applicators of wastewater treatment sludge to submit the following information: dates of shipment and application of sludge; weather conditions upon delivery and application; location of sludge application site; amount of sludge delivered or applied; a copy of the test results showing the quality of the sludge; and a copy of

the wastewater sludge use agreement. Such records shall be retained by the Department for a period of five (5) years after any land application of sludge and shall be made available to the public for inspection.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-2307 of Title 63, unless there is created a duplication in numbering, reads as follows:

Wastewater treatment sludge, as regulated by the Solid Waste Management Act, Section 1-2300 et seq. of Title 63 of the Oklahoma Statutes, shall only be used on agricultural land at agronomic rates, as determined by the State Department of Health, provided the application is performed in accordance with an approved wastewater sludge management plan and the rules promulgated by the State Board of Health which shall include, but not be limited to, the following:

1. Annual land application of wastewater sludge shall not exceed nitrogen and phosphorous fertilization rates for the crop grown and shall not be applied at rates that result in phytotoxicity;

2. Wastewater treatment sludge applied to land shall be incorporated into the soil before the end of the working day;

3. Wastewater treatment sludge shall not be applied within two (2) feet of the highest seasonal water table nor applied to the land within one hundred (100) feet of a stream or body of water; and

4. Wastewater treatment sludge shall not be applied within two hundred fifty (250) feet of a public or private water supply.

SECTION 6. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval."

Passed the House of Representatives the 16th day of April, 1992.

Speaker of the House of
Representatives

Passed the Senate the ____ day of _____, 1992.

President of the Senate