

STATE OF OKLAHOMA

2nd Session of the 44th Legislature (1994)

COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NO. 2400

By: Beutler

COMMITTEE SUBSTITUTE

An Act relating to environment and natural resources; amending 63 O.S. 1991, Sections 1-2413, as renumbered by Section 359, Chapter 145, O.S.L. 1993, and as last amended by Section 41, Chapter 324, O.S.L. 1993, and 1-2305, as last amended by Section 162, Chapter 145, O.S.L. 1993, and as renumbered by Section 359, Chapter 145, O.S.L. 1993 (27A O.S. Supp. 1993, Sections 2-10-1001 and 2-10-802), which relate to solid waste; requiring certain plans by county commissioners; specifying certain plan requirements; requiring implementation; setting certain time periods; authorizing certain employment of employees; providing for repeal of certain fees and procedures upon passage of constitutional amendment; and providing an effective date.

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

SECTION 1. AMENDATORY 63 O.S. 1991, Section 1-2413, as renumbered by Section 359, Chapter 145, O.S.L. 1993, and as last amended by Section 41, Chapter 324, O.S.L. 1993 (27A O.S. Supp. 1993, Section 2-10-1001), is amended to read as follows:

Section 2-10-1001. A. The board of county commissioners in each county of the state may develop a plan, subject to the approval of the Department of Environmental Quality, to provide a solid waste management system to handle adequately solid wastes generated or existing within the boundaries of such county. A plan should be submitted to the Department for approval before July 1, 1996. To provide for the consistent operation of an approved plan, the Department shall notify the board of county commissioners whenever applications or modifications to applications are made which pertain to disposal sites, whether hazardous, industrial, or other. By agreement or contractual

arrangement the board of county commissioners may assume responsibility for solid wastes generated within incorporated cities or towns whether within their counties or other counties. The board of county commissioners of a county may enter into agreements with other counties, one or more towns or cities, governmental agencies, with private persons, trusts or with any combination thereof to provide a solid waste management system for the county or any portion thereof.

B. The county commissioners shall have the authority to levy and collect such fees and charges and require such licenses as may be appropriate to discharge their responsibility for a solid waste management system or any portion thereof. Such fees, charges and licenses shall be based on a fee schedule contained in an official resolution of the board of county commissioners and may be invoiced and collected by other public or private utility services in the normal course of their business.

C. The board of county commissioners may accept and disburse funds derived from federal or state grants or from private sources or from monies that may be appropriated from the General Revenue Fund for the installation and operation of a solid waste management system.

D. The board of county commissioners is authorized to contract for the lease or purchase of land, facilities and vehicles for the operation of a solid waste management system either for the county or as a party to a regional solid waste management district.

E. The board of county commissioners of a county shall have the right to establish written policies in compliance with the plan approved by the Department for the operation of a solid waste management system including hours of operation, amount, character and kind of waste accepted at the solid waste container sites or any disposal site, and such other rules as may be necessary for the safety of the operating personnel, persons using the sites and the general public.

F. The board of county commissioners of a county is authorized to hire such persons, including peace officers, as may

be necessary to administer the county solid waste management system, enforce policies established pursuant to the solid waste plan and issue citations for violation of the solid waste laws of the State of Oklahoma.

G. Any person who violates any policy established by the board of county commissioners for the operation of a solid waste management system created pursuant to the provisions of this section, shall be subject to a civil penalty not to exceed Five Hundred Dollars (\$500.00) per day. Each violation shall constitute a separate offense.

~~G.~~ H. The provisions of this section requiring approval of the Department for plans providing for a solid waste management system, shall not apply to counties having a solid waste management system plan in effect on July 1, 1992. For any county having a solid waste management system plan in effect on July 1, 1992, the county commissioners may charge and collect reasonable service and disposal fees as necessary for any nonhazardous industrial solid waste collection and disposal system. In determining reasonable fees for any nonhazardous industrial solid waste collection and disposal system, the county may take into account the damage and repair of access roads, litter control, surveillance, civil defense, and such other costs and expenditures deemed necessary by the county. Any person subject to the assessment of such fees who is aggrieved at the action of the commissioners in determining the amount of such fees, may appeal the action of the commissioners to the district court of the county for a review as to the reasonableness of the fees. The decision of the court shall be final and binding upon the commissioners, provided that any such order of the commissioners assessing the fees shall be binding until reversed by the court.

SECTION 2. AMENDATORY 63 O.S. 1991, Section 1-2305, as last amended by Section 162, Chapter 145, O.S.L. 1993, and as renumbered by Section 359, Chapter 145, O.S.L. 1993 (27A O.S. Supp. 1993, Section 2-10-802), is amended to read as follows:

Section 2-10-802. A. 1. On and after September 1, 1990, there is imposed a one-dollar-and-fifty-cent-per-ton fee for waste
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disposed of at disposal sites or facilities, or at commercial biomedical waste processing facilities or five-dollars-per-ton at sludge land application sites or landfills accepting nonhazardous industrial waste within Oklahoma when the waste is generated from outside of Oklahoma, in accordance with Section ~~163~~ 2-10-803 of this ~~act~~ title, whichever is higher.

2. 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. 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 of Environmental Quality 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. 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. 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. 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. 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 of each year. 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.

6. The provisions of this subsection shall be repealed when comparable funds from the Natural Resources Conservation and Public Works Assistance Trust Fund or other alternative sources are authorized under Oklahoma law and become available to the Department.

C. The Department shall expend funds collected pursuant to the provisions of this section solely for the administration and enforcement of the provisions of the Oklahoma Solid Waste Management Act and for the development of solid waste technical assistance programs, solid waste public environmental education programs and educational curricula, solid waste studies, development of a statewide solid waste plan, and solid waste recycling and litter prevention programs. Any litter prevention program shall be developed by the Department in conjunction with the State Department of Transportation.

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

SECTION 3. This act shall become effective September 1, 1994.

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