

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NO. 1713

By: Beutler

COMMITTEE SUBSTITUTE

An Act relating to environment and natural resources; providing for use of certain funds for implementing county solid waste management plans; providing for prioritization; creating the Solid Waste Facility Emergency Closure Revolving Fund; providing for use, deposits and expenditures; providing for certain recovery; amending 63 O.S. 1991, Section 1-2416, as renumbered by Section 359, Chapter 145, O.S.L. 1993, and as last amended by Section 2, Chapter 59, O.S.L. 1996 (27A O.S. Supp. 1996, Section 2-10-701), which relates to site closure plans; providing for pay-in periods; providing limitation; providing for codification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-10-804 of Title 27A, unless there is created a duplication in numbering, reads as follows:

If funds are available, the Department of Environmental Quality shall use at least ten percent (10%) of the annual income from the solid waste fees received under Section 2-10-802 of Title 27A of the Oklahoma Statutes to assist in implementing county solid waste management plans developed under Section 2-10-1001 of Title 27A of the Oklahoma Statutes. The Department shall prioritize its assistance for enforcement, clean-up and prevention of unpermitted disposal sites, and the management of solid waste that is hard to dispose of.

The Department may consult with the Association of County Commissioners of Oklahoma and the Oklahoma State University Cooperative Extension Service to assure that boards of county commissioners receive adequate administrative and technical

support for implementing their county solid waste management plans.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-10-805 of Title 27A, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created in the State Treasury a revolving fund for the Department of Environmental Quality to be designated the "Solid Waste Facility Emergency Closure Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Department for the purpose specified by this section. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

B. The Department shall, after satisfying the requirements of Section 2-10-801 of Title 27A of the Oklahoma Statutes, annually deposit any surplus solid waste fees in the Solid Waste Facility Emergency Closure Revolving Fund until the balance of the fund reaches Three Million Dollars (\$3,000,000.00).

C. The Department shall expend the funds in the Solid Waste Facility Emergency Closure Revolving Fund solely for closure and monitoring activities at closed landfill disposal sites where the owner or operator is unable and the financial assurance as specified in Section 2-10-701 of Title 27A of the Oklahoma Statutes is insufficient to properly close or monitor the site as the Department determines to be necessary to prevent environmental harm.

D. The Department shall seek to recover from the owner or operator, and their successors who may be legally responsible, all costs expended under this section. Such costs shall be a lien with priority over all other obligations arising out of the conduct of business in or the laws of the State of Oklahoma.

SECTION 3. AMENDATORY 63 O.S. 1991, Section 1-2416, as renumbered by Section 359, Chapter 145, O.S.L. 1993, and as last

amended by Section 2, Chapter 59, O.S.L. 1996 (27A O.S. Supp. 1996, Section 2-10-701), is amended to read as follows:

Section 2-10-701. A. All disposal site owners shall provide a closure plan to the Department of Environmental Quality for approval which defines operational phases and includes cost estimates, and plans and specifications for final closure. A site may be closed in phases according to a closure plan approved by the Department.

1. Owners of landfills that receive household solid waste, defined as Municipal Solid Waste Landfill Facilities in the federal regulations adopted under Subtitle D of the federal Solid Waste Disposal Act, and owners of commercial nonhazardous industrial waste landfills shall provide for the maintenance and monitoring of such works for thirty (30) years. Provided, the owner of any landfill that stops receiving waste on or before April 9, 1994, and has completed final closure of the site on or before October 9, 1994, shall provide for the maintenance and monitoring of such site for eight (8) years after final closure has been completed. A permittee who stopped receiving waste at his permitted solid waste municipal landfill on or before April 9, 1994, may apply to the Department for a modification of his permit to operate an on-site solid waste transfer station, a yard-waste composting facility or a citizen's collection station. Provided no land disposal occurs, such site shall not require monitoring or financial assurance as a municipal solid waste landfill.

2. Generator owned and operated private industrial nonhazardous monofills shall only be required to have an eight-year post-closure period or such post-closure time period as may be mandated under the federal Solid Waste Disposal Act.

3. Disposal sites other than land disposal sites shall have a closure plan which would accomplish the removal and proper disposal of any remaining waste and the elimination of potential environmental health hazards.

B. The Department shall require that financial assurances be provided in an amount sufficient to cover the estimated cost of closure and any post-closure. An increase in financial assurance

shall be required when any permittee deviates from the approved closure plan or when the cost of closure or post-closure is found to have increased. Owners of landfills that receive household solid waste shall increase financial assurance if corrective action is required.

C. 1. Disposal site owners shall provide financial assurance to guarantee the performance of final closure and for any required post-closure. The state shall be the sole beneficiary of any such assurance solely for the cost of performance of closure and post-closure and shall have a security interest therein.

2. The financial assurance shall be in a form described in rules promulgated by the Board or the owner may provide the Department with cash or certificates of deposit payable to the Department of Environmental Quality Revolving Fund for deposit with the State Treasurer's Office.

3. Owners of disposal sites which receive waste after April 9, 1994, shall provide financial assurance for closure and any applicable post-closure on or before April 9, 1995, unless such date is extended by the federal Environmental Protection Agency pursuant to Subtitle D of the federal Resource, Conservation and Recovery Act. If any disposal site owner fails to provide such financial assurance by the applicable deadline, the Department shall cause the landfill disposal site permit to be summarily suspended by order. The Department shall initiate the process of revoking the permit and may require closure of the landfill. This subsection shall not apply to units of the federal government.

4. Financial assurance provided prior to June 8, 1994, as a condition of issuance of any permit or any agreement with the Department shall continue in effect. In lieu of the performance guarantee mechanisms specified herein, owners or operators of a nonhazardous industrial solid waste landfill which is owned or operated by an industry or manufacturer for its exclusive noncommercial use may satisfy the financial assurance requirements for closure, post-closure and maintenance by meeting the requirements of a corporate financial test and corporate guarantee similar to that applicable to hazardous waste facilities. Any

unit of local government or public trust of which it is a beneficiary may satisfy financial assurance requirements for closure and, when required, post-closure, by participating in a statewide trust capable of guaranteeing performance of such closure and post-closure.

5. Owners who use mechanisms such as a trust fund or escrow which provide for a pay-in period shall utilize a pay-in period equal to the life of the site, but not to exceed twenty-five (25) years.

D. When financial security is required, it shall remain in effect until closure and any post-closure is completed. The amount of such security shall be set by the Department and shall not be less than the anticipated cost of contracting for performance of each phase of the closure plan and post-closure. The Department may allow a reduction in the amount of security to reflect the anticipated costs which remain.

SECTION 4. This act shall become effective November 1, 1997.

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