

SB 1548

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THE STATE SENATE
Wednesday, February 22, 2006

Senate Bill No. 1548
As Amended

SENATE BILL NO. 1548 - By: GARRISON of the Senate and ROUSSELOT of the House.

[environment and natural resources - solid waste landfills
- fee - County Bridge and Road Improvement Fund -
codification - noncodification - effective date -
emergency]

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

SECTION 1. AMENDATORY 27A O.S. 2001, Section 2-10-802,
as amended by Section 1, Chapter 400, O.S.L. 2005 (27A O.S. Supp.
2005, Section 2-10-802), is amended to read as follows:

Section 2-10-802. A. 1. Owners or operators of landfill
disposal sites which are not generator owned and operated
nonhazardous industrial waste monofills shall install scales ~~by~~
~~January 1, 1996.~~ Such scales shall be installed on or within five
(5) miles of the landfill disposal site and shall be tested and
certified as required by Section 14-35 of Title 2 of the Oklahoma
Statutes relating to the authority of the Board of Agriculture to
test annually the standards of weights and measures used by any city
or county within the state and to approve if found to be correct.

2. The owner or operator shall upon receipt weigh all waste
received and record the weight in writing. If scales at a disposal

1 site are not operative, tonnage shall be estimated on a volume basis
2 whereby the volume reported shall be no less than the volume
3 capacity of the containers or, if none, of the vehicles delivering
4 the waste, and one cubic yard of solid waste shall be calculated to
5 weigh one-third (1/3) ton. The owner or operator shall place notice
6 in the disposal site's operating record of the time and date at
7 which the scales became inoperable, describe the steps taken to
8 repair them, and note the date use was resumed. If daily use has
9 not resumed within thirty (30) days after the scales became
10 inoperable, the owner or operator shall give written notice to the
11 Department of Environmental Quality.

12 3. The owner or operator shall also maintain a written record
13 of the weight or volume of any solid waste received which is
14 productively reused or recovered and sold in accordance with the
15 landfill disposal site's permit.

16 4. The scale location restriction of this subsection shall not
17 apply to federal or state military installations so long as:

- 18 a. the scales are located within the physical boundary of
19 that installation, and
20 b. the disposal site receives waste only from that
21 military installation.

22 B. 1. Except as otherwise provided by this subsection, on and
23 after January 1, 1996:

1 a. owners and operators of landfill disposal sites which
2 receive an average of less than one hundred (100) tons
3 of solid waste per operating day shall assess a fee of
4 One Dollar and fifty cents (\$1.50) per ton of solid
5 waste received for disposal. A total of fifty cents
6 (\$.50) per ton of such fee shall be retained by the
7 owner or operator and used exclusively for capital
8 improvement to their facilities and for the projects
9 required pursuant to the Oklahoma Solid Waste
10 Management Act or the disposal site's permit for such
11 period of time necessary to recoup a capital
12 investment, plus the interest costs expended in
13 purchasing the scales, of a total of Forty Thousand
14 Dollars (\$40,000.00),
15 b. when the owner or operators have recouped a capital
16 investment of the total specified in subparagraph a of
17 this paragraph, the fee to be assessed shall be One
18 Dollar and twenty-five cents (\$1.25) per ton of solid
19 waste received for disposal. At such time, for a
20 return with remittance filed on or before the due
21 date, the owner or operator may deduct and retain ten
22 percent (10%) of the fees collected, and

- 1 c. records documenting the projects and use of the funds
2 shall be included with each return.
- 3 2. a. Owners and operators of landfill disposal sites which
4 receive an average of more than one hundred (100) tons
5 of solid waste per operating day shall assess a fee of
6 One Dollar and fifty cents (\$1.50) per ton of solid
7 waste received for disposal, retaining twenty-five
8 cents (\$0.25) per ton for a period of time necessary
9 to recoup a capital investment, plus the interest
10 costs expended in purchasing the scales, of Forty
11 Thousand Dollars (\$40,000.00). At the end of such
12 period the fee shall revert to One Dollar and twenty-
13 five cents (\$1.25) per ton. For a return with
14 remittance filed on or before the due date, the owner
15 or operator may deduct and retain ten percent (10%) of
16 the fees collected.
- 17 b. Records documenting the capital investment and the use
18 of the funds shall be included with each return.
- 19 3. The fee shall not be imposed on:
- 20 a. the solid waste received which is productively reused
21 or recovered in accordance with the landfill disposal
22 site's permit. The owner or operator shall include

1 records pertaining to this fee exemption in the
2 quarterly return of fees to the Department, and
3 b. generator owned and operated nonhazardous waste land
4 disposal monofills and waste subject to a fee pursuant
5 to Section 2-10-803 of this title. For emergencies
6 and other special events, the Department and the owner
7 or operator of a site subject to this section may
8 enter into a formal agreement to waive the fee.

9 4. Large industrial waste generators who generate over ten
10 thousand (10,000) tons of nonhazardous industrial solid waste in the
11 state in a calendar year may annually apply to the Department for a
12 certificate exempting the disposal of such generated waste in excess
13 of ten thousand (10,000) tons from the disposal fee authorized by
14 this section. An applicant must have implemented a pollution
15 prevention plan for such waste and filed it with the Department,
16 provided operational documentation regarding such plan and paid the
17 disposal fee on ten thousand (10,000) tons of the waste during the
18 calendar year of application. The Department-issued exemption
19 certificates shall be valid for the remainder of the calendar year
20 of application, may contain conditions, and, upon presentation by
21 authorized persons, shall be recognized by owners or operators of
22 landfill disposal sites subject to this section. If a generator
23 operates a landfill solely for waste from that generator, and if

1 that generator chooses to seek the exemption authorized by this
2 paragraph, the generator shall not be required to install scales or
3 keep records relative to quantity of waste received for the
4 landfill.

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

9 6. The owner or operator of a solid waste disposal site shall
10 collect the fee levied pursuant to this subsection as trustee for
11 the state and shall prepare and file with the Department quarterly
12 returns indicating:

13 a. the total tonnage of solid wastes received for
14 disposal at the gate of the site, and

15 b. the total amount of the fees collected pursuant to
16 this section.

17 7. Not later than thirty (30) days after the end of the quarter
18 to which such a return applies, the owner or operator shall mail to
19 the Department the return for that quarter together with the fees
20 collected during that quarter as indicated on the return.

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

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

9 9. For any quarterly return filed more than thirty (30) days
10 after the last day of the quarter or extension date, the owner or
11 operator shall remit an additional five percent (5%) of the fees
12 collected during the month to which the return applies. If the fees
13 are not remitted within sixty (60) days of the last day of the
14 quarter during which they were collected, the owner or operator
15 shall pay an additional fifteen percent (15%) of the amount of the
16 fees for each month that they are late.

17 10. If the owner or operator misrepresents, or fails to
18 properly measure or record, the amount of waste received or fails to
19 remit fees within sixty (60) days after the last day of the quarter
20 during which they were collected, the landfill disposal site's
21 permit shall be summarily suspended by order and the Department
22 shall initiate the process of revoking the permit and may require
23 closure of the landfill.

1 C. In addition to the fees levied by subsection B of this
2 section there is hereby levied an additional fee of One Dollar
3 (\$1.00) per ton on each recorded ton of solid waste disposed at any
4 permitted commercial solid waste disposal site and solid waste
5 transfer station located in this state. Such fee shall be remitted
6 at the same time and in the same manner as the fees required by
7 subsection B of this section. The Department shall annually deposit
8 the monies collected pursuant to this subsection into the County
9 Bridge and Road Improvement Fund, created pursuant to the provisions
10 of Section 664 of Title 69 of the Oklahoma Statutes and administered
11 by the Oklahoma Department of Transportation, based on the recorded
12 amount of solid waste received by commercial solid waste disposal
13 sites and solid waste transfer stations located in a county. The
14 Department shall itemize the amounts which shall be accredited to
15 each eligible county's account and submit that information to the
16 Oklahoma Department of Transportation when monies are deposited.
17 The Department is authorized to retain one percent (1%) of all
18 monies collected pursuant to this subsection to cover administration
19 costs. The Environmental Quality Board is authorized to promulgate
20 rules necessary to implement the provisions of this subsection.

21 D. 1. The Department shall expend funds collected pursuant to
22 the provisions of this section solely for the administration and
23 enforcement of the provisions of the Oklahoma Solid Waste Management

1 Act and for the development of solid waste technical assistance
2 programs, solid waste public environmental education programs and
3 educational curricula, solid waste studies, development of a
4 statewide solid waste plan, solid waste recycling and litter
5 prevention programs, and other environmental improvements.

6 2. In order to assist the Department of Environmental Quality
7 regarding its responsibilities relating to the promotion of
8 recycling of solid waste, beginning July 1, 1996, and each fiscal
9 year thereafter, the Department shall contract with units of local
10 government, political subdivisions of this state, components of The
11 Oklahoma State System of Higher Education, local and statewide
12 organizations representing municipalities or counties, or substate
13 planning districts recognized by the Oklahoma Department of
14 Commerce, for up to a total of One Hundred Thousand Dollars
15 (\$100,000.00) and to the extent such monies are available for
16 projects promoting the recycling of solid waste. Local governments,
17 political subdivisions of this state, components of The Oklahoma
18 State System of Higher Education, local and statewide organizations
19 representing municipalities and counties and substate planning
20 districts recognized by the Oklahoma Department of Commerce desiring
21 to contract with the Department for such projects shall meet the
22 application requirements of rules promulgated by the Environmental
23 Quality Board and the criteria established by a recycling priorities

1 plan prepared annually by the Department after review and comment by
2 the Solid Waste Management Advisory Council. Except as otherwise
3 provided by this section, contracts for such projects shall not be
4 granted to state agencies.

5 3. Any litter prevention program shall be developed by the
6 Department in conjunction with the Department of Transportation.

7 4. a. To the extent that funds are available, the Department
8 may also reimburse any governmental entity for
9 equipment other than motor vehicles or buildings to
10 separate, process, modify, convert or treat solid
11 waste or recovered materials so that the resulting
12 product is being used in a productive manner.

13 b. The reimbursements shall be from solid waste fee funds
14 and shall not exceed twenty-five percent (25%) of the
15 person's total project costs. No reimbursement may be
16 larger than Twenty Thousand Dollars (\$20,000.00).

17 c. Reimbursements must be expended in accordance with
18 rules promulgated by the Environmental Quality Board
19 and criteria established through the Department's
20 annual recycling priorities plan. The Department
21 shall not expend more than Two Hundred Thousand
22 Dollars (\$200,000.00) in each fiscal year for such
23 reimbursements, nor shall the Department reimburse

1 waste tire facilities that may be eligible for
2 compensation from the Waste Tire Recycling Indemnity
3 Fund.

4 5. a. The Department, in conjunction with the Corporation
5 Commission, the Oklahoma Energy Resources Board and
6 the Oklahoma Conservation Commission, may develop a
7 plan to use suitable portions of the solid waste
8 stream to reclaim Oklahoma lands damaged by oil and
9 gas exploration and production or by mining
10 activities.

11 b. To the extent that funds are available, the Department
12 may use up to ten percent (10%) of the annual income
13 from the fees received pursuant to the provisions of
14 this section to implement the plan. The Department
15 may use its discretion in administering the funds for
16 the purpose of this paragraph, but shall keep records
17 subject to audit by the State Auditor and Inspector
18 for good business practices.

19 6. a. To the extent that funds are available, after having
20 reasonably met other specified uses of the solid waste
21 fund, the Department is authorized to expend up to
22 five percent (5%) of the total annual solid waste fee
23 income for the purpose of making incentive payments to

1 any person, firm or corporation located in this state
2 generating energy by utilizing solid waste landfill
3 methane.

4 b. The Environmental Quality Board shall promulgate rules
5 to administer the provisions of this paragraph.

6 c. No person, firm or corporation shall be eligible to
7 receive incentive payments as provided in subparagraph
8 a of this paragraph for more than three (3) years.

9 The amount of such payments shall be determined by the
10 Department based on the amount of energy generated and
11 the cost of production.

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

15 E. On or before September 1, 1996, and September 1 of each year
16 thereafter, the Department of Environmental Quality shall prepare a
17 report of income and expenditures for the period of each fiscal year
18 in which solid waste fee monies authorized by this section were
19 received and such report shall be distributed to members of the
20 Solid Waste Management Advisory Council for review. By November 1
21 of each year the Council shall submit to the Executive Director,
22 Governor, Speaker of the House of Representatives and President Pro

1 Tempore of the Senate, its written comments on the comparison of
2 income with program expenditures.

3 SECTION 2. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 14-109 of Title 47, unless there
5 is created a duplication in numbering, reads as follows:

6 No county of this state shall be eligible to receive funds
7 pursuant to the provisions of subsection C of Section 2-10-802 of
8 Title 27A of the Oklahoma Statutes if the county establishes any
9 limits on oversize or overweight vehicles which are more restrictive
10 than those limits authorized by Section 14-109 of Title 47 of the
11 Oklahoma Statutes.

12 SECTION 3. NEW LAW A new section of law not to be
13 codified in the Oklahoma Statutes reads as follows:

14 The Oklahoma Department of Transportation is authorized to
15 promulgate any rules necessary to implement the provisions of this
16 act.

17 SECTION 4. This act shall become effective July 1, 2006.

18 SECTION 5. It being immediately necessary for the preservation
19 of the public peace, health and safety, an emergency is hereby
20 declared to exist, by reason whereof this act shall take effect and
21 be in full force from and after its passage and approval.

22 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS, dated 2-15-06 - DO
23 PASS, As Amended and Coauthored.