

CS for SB 1557

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**THE STATE SENATE**  
**Wednesday, February 22, 2006**

**Committee Substitute for**  
**Senate Bill No. 1557**

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 1557 - By: SHURDEN of the Senate and ROGGOW of the House.

[ environment and natural resources - solid waste disposal - 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 site are not operative, tonnage shall be estimated on a volume basis

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

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

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

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

21 B. 1. Except as otherwise provided by this subsection, ~~on and~~  
22 ~~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. a. In addition to any other amount that the owner or  
20 operator may be entitled to retain from the fee under  
21 paragraphs 1 and 2 of this subsection, the owner or  
22 operator may retain ten cents (\$0.10) per ton to  
23 recoup capital investment costs that have been or will

1 be expended for the purchase and installation of a  
2 wheel wash system for use at the landfill disposal  
3 site. To be eligible to claim this recoupment  
4 allowance, the owner or operator must notify the  
5 Department no later than June 30, 2007, of the intent  
6 to claim the allowance, and the wheel wash system must  
7 be in place and operational no later than June 30,  
8 2008. Recoupment may commence only after the wheel  
9 wash system is installed and operational.

10 b. Upon the earlier of the recoupment of the capital  
11 investment in purchasing and installing the wheel wash  
12 system and the discontinuance of its use at the  
13 landfill disposal site, the retaining of ten cents  
14 (\$0.10) per ton shall lapse and that amount shall be  
15 included in the amount remitted to the Department of  
16 Environmental Quality under this subsection.

17 c. The owner or operator shall provide records  
18 documenting the capital investment costs of the wheel  
19 wash system to the Department upon request and shall  
20 reflect the amount retained for this purpose on each  
21 return.

22 d. If the total amount retained under subparagraph a of  
23 this paragraph by all eligible owners and operators

1 reaches Three Hundred Thousand Dollars (\$300,000.00)  
2 within any state fiscal year, the Department shall  
3 notify the owners and operators, and thereafter the  
4 owners and operators shall not be entitled to retain  
5 any amount under the provisions of subparagraph a of  
6 this paragraph until the next state fiscal year.

7 e. The Environmental Quality Board is authorized to  
8 promulgate rules as necessary to implement the  
9 provisions of this act, including rules specifying  
10 minimum standards or other criteria for wheel wash  
11 systems necessary to qualify for the recoupment  
12 allowance.

13 4. The fee shall not be imposed on:

- 14 a. the solid waste received which is productively reused  
15 or recovered in accordance with the landfill disposal  
16 site's permit. The owner or operator shall include  
17 records pertaining to this fee exemption in the  
18 quarterly return of fees to the Department, and
- 19 b. generator owned and operated nonhazardous waste land  
20 disposal monofills and waste subject to a fee pursuant  
21 to Section 2-10-803 of this title. For emergencies  
22 and other special events, the Department and the owner

1 or operator of a site subject to this section may  
2 enter into a formal agreement to waive the fee.

3 ~~4.~~ 5. Large industrial waste generators who generate over ten  
4 thousand (10,000) tons of nonhazardous industrial solid waste in the  
5 state in a calendar year may annually apply to the Department for a  
6 certificate exempting the disposal of such generated waste in excess  
7 of ten thousand (10,000) tons from the disposal fee authorized by  
8 this section. An applicant must have implemented a pollution  
9 prevention plan for such waste and filed it with the Department,  
10 provided operational documentation regarding such plan and paid the  
11 disposal fee on ten thousand (10,000) tons of the waste during the  
12 calendar year of application. The Department-issued exemption  
13 certificates shall be valid for the remainder of the calendar year  
14 of application, may contain conditions, and, upon presentation by  
15 authorized persons, shall be recognized by owners or operators of  
16 landfill disposal sites subject to this section. If a generator  
17 operates a landfill solely for waste from that generator, and if  
18 that generator chooses to seek the exemption authorized by this  
19 paragraph, the generator shall not be required to install scales or  
20 keep records relative to quantity of waste received for the  
21 landfill.

22 ~~5.~~ 6. The fee assessed by this subsection is to be a charge to  
23 waste producers in addition to any charges specified in any contract

1 or elsewhere. The fee shall be imposed upon and passed through to  
2 disposers of waste using the facility.

3 ~~6.~~ 7. The owner or operator of a solid waste disposal site  
4 shall collect the fee levied pursuant to this subsection as trustee  
5 for the state and shall prepare and file with the Department  
6 quarterly returns indicating:

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

9 b. the total amount of the fees collected pursuant to  
10 this section.

11 ~~7.~~ 8. Not later than thirty (30) days after the end of the  
12 quarter to which such a return applies, the owner or operator shall  
13 mail to the Department the return for that quarter together with the  
14 fees collected during that quarter as indicated on the return.

15 ~~8.~~ 9. The owner or operator may receive an extension of not  
16 more than thirty (30) days for filing the return and remitting the  
17 fees, provided that:

18 a. the owner or operator has submitted a request for an  
19 extension in writing to the Department together with a  
20 detailed description of why the extension is  
21 requested,

1           b.    the Department has received the request not later than  
2                    the day on which the return is required to be filed,  
3                    and

4           c.    the Department has approved the request.

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

13        ~~10.~~ 11. If the owner or operator misrepresents, or fails to  
14 properly measure or record, the amount of waste received or fails to  
15 remit fees within sixty (60) days after the last day of the quarter  
16 during which they were collected, the landfill disposal site's  
17 permit shall be summarily suspended by order and the Department  
18 shall initiate the process of revoking the permit and may require  
19 closure of the landfill.

20        C.    1. The Department shall expend funds collected pursuant to  
21 the provisions of this section solely for the administration and  
22 enforcement of the provisions of the Oklahoma Solid Waste Management  
23 Act and for the development of solid waste technical assistance

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

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

1 the Solid Waste Management Advisory Council. Except as otherwise  
2 provided by this section, contracts for such projects shall not be  
3 granted to state agencies.

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

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

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

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

1 compensation from the Waste Tire Recycling Indemnity  
2 Fund.

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

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

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

1                   generating energy by utilizing solid waste landfill  
2                   methane.

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

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

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

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

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

1 SECTION 2. This act shall become effective July 1, 2006.

2 SECTION 3. It being immediately necessary for the preservation  
3 of the public peace, health and safety, an emergency is hereby  
4 declared to exist, by reason whereof this act shall take effect and  
5 be in full force from and after its passage and approval.

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