

1 ENGROSSED HOUSE AMENDMENT
TO
2 ENGROSSED SENATE BILL NO. 509

By: Wyrick of the Senate

3 and

4 Jackson of the House

5
6
7 (environment and natural resources - authorizing
8 reimbursement to certain owners or operators for
9 installation of wheel wash systems - codification -
10 effective date -
11 emergency)

12
13
14 AMENDMENT NO. 1. Strike the stricken title, enacting clause and
entire bill and insert

15
16 "An act relating to environment and natural
resources; amending 27A O.S. 2001, Section 2-10-802,
17 as last amended by Section 1, Chapter 115, O.S.L.
2006 (27A O.S. Supp. 2006, Section 2-10-802), which
18 relates to landfill disposal sites; modifying
certain fee retained by owners and operators;
19 providing for reimbursement to certain owners or
operators for installation of wheel wash systems;
20 authorizing certain use of funds for proper closure
of certain landfills; stating certain criteria;
21 providing for codification; providing an effective
date; and declaring an emergency.

22
23 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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1 SECTION 1. AMENDATORY 27A O.S. 2001, Section 2-10-802,
2 as last amended by Section 1, Chapter 115, O.S.L. 2006 (27A O.S.
3 Supp. 2006, Section 2-10-802), is amended to read as follows:

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

13 2. The owner or operator shall upon receipt weigh all waste
14 received and record the weight in writing. If scales at a disposal
15 site are not operative, tonnage shall be estimated on a volume basis
16 whereby the volume reported shall be no less than the volume
17 capacity of the containers or, if none, of the vehicles delivering
18 the waste, and one cubic yard of solid waste shall be calculated to
19 weigh one-third (1/3) ton. The owner or operator shall place notice
20 in the disposal site's operating record of the time and date at
21 which the scales became inoperable, describe the steps taken to
22 repair them, and note the date use was resumed. If daily use has
23 not resumed within thirty (30) days after the scales became

24

1 inoperable, the owner or operator shall give written notice to the
2 Department of Environmental Quality.

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

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

- 9 a. the scales are located within the physical boundary of
10 that installation, and
- 11 b. the disposal site receives waste only from that
12 military installation.

13 B. 1. Except as otherwise provided by this subsection:

- 14 a. owners and operators of landfill disposal sites which
15 receive an average of less than one hundred (100) tons
16 of solid waste per operating day shall assess a fee of
17 One Dollar and fifty cents (\$1.50) per ton of solid
18 waste received for disposal. A total of fifty cents
19 (\$.50) per ton of such fee shall be retained by the
20 owner or operator and used exclusively for capital
21 improvement to their facilities and for the projects
22 required pursuant to the Oklahoma Solid Waste
23 Management Act or the disposal site's permit for such
24 period of time necessary to recoup a capital

1 investment, plus the interest costs expended in
2 purchasing the scales, of a total of Forty Thousand
3 Dollars (\$40,000.00),

4 b. when the owner or operators have recouped a capital
5 investment of the total specified in subparagraph a of
6 this paragraph, the fee to be assessed shall be One
7 Dollar and twenty-five cents (\$1.25) per ton of solid
8 waste received for disposal. At such time, for a
9 return with remittance filed on or before the due
10 date, the owner or operator may deduct and retain ten
11 percent (10%) of the fees collected, and

12 c. records documenting the projects and use of the funds
13 shall be included with each return.

14 2. a. Owners and operators of landfill disposal sites which
15 receive an average of more than one hundred (100) tons
16 of solid waste per operating day shall assess a fee of
17 One Dollar and fifty cents (\$1.50) per ton of solid
18 waste received for disposal, retaining twenty-five
19 cents (\$0.25) per ton for a period of time necessary
20 to recoup a capital investment, plus the interest
21 costs expended in purchasing the scales, of Forty
22 Thousand Dollars (\$40,000.00). At the end of such
23 period the fee shall revert to One Dollar and twenty-
24 five cents (\$1.25) per ton. For a return with

1 remittance filed on or before the due date, the owner
2 or operator may deduct and retain ten percent (10%) of
3 the fees collected.

4 b. Records documenting the capital investment and the use
5 of the funds shall be included with each return.

6 3. a. ~~In addition to any other amount that the owner or~~
7 ~~operator may be entitled to retain from the fee under~~
8 ~~paragraphs 1 and 2 of this subsection, the owner or~~
9 ~~operator may retain ten cents (\$0.10) per ton to~~
10 ~~recoup~~ Owners and operators of landfill disposal sites
11 may be reimbursed for capital investment costs that
12 have been or will be expended for the purchase and
13 installation of a wheel wash system for use at the
14 landfill disposal site. To be eligible to claim this
15 ~~recoupment allowance~~ reimbursement, the owner or
16 operator must notify the Department no later than June
17 30, 2007, of the intent to claim the ~~allowance~~
18 reimbursement, and the wheel wash system must be in
19 place and operational no later than June 30, 2008.
20 ~~Recoupment may commence~~ Reimbursement shall be paid
21 only after the wheel wash system is installed and
22 operational.

23 b. ~~Upon the earlier of the recoupment of the capital~~
24 ~~investment in purchasing and installing the wheel wash~~

1 ~~system and the discontinuance of its use at the~~
2 ~~landfill disposal site, the retaining of ten cents~~
3 ~~(\$0.10) per ton shall lapse and that amount shall be~~
4 ~~included in the amount remitted to the Department of~~
5 ~~Environmental Quality under this subsection.~~

6 ~~e.~~ The owner or operator shall provide records
7 documenting the capital investment costs of the wheel
8 wash system to the Department ~~upon request and shall~~
9 ~~reflect the amount retained for this purpose on each~~
10 ~~return.~~

11 c. At such time as the wheel wash system is in place and
12 operational and the capital investment costs have been
13 approved by the Department, the Department shall
14 reimburse the owner or operator the approved costs,
15 subject to the limitations in subparagraph d of this
16 paragraph. The Department shall reimburse eligible
17 applicants in the order of approval until that
18 limitation has been reached. If there are multiple
19 eligible applicants awaiting reimbursement, the
20 Department shall apportion the reimbursement amount
21 among the eligible applicants according to the capital
22 investment costs approved by the Department.

23 d. If the total amount ~~retained under subparagraph a of~~
24 ~~this paragraph by~~ reimbursed to all eligible owners

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

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

14 4. The fee shall not be imposed on:

15 a. the solid waste received which is productively reused
16 or recovered in accordance with the landfill disposal
17 site's permit. The owner or operator shall include
18 records pertaining to this fee exemption in the
19 quarterly return of fees to the Department, and

20 b. generator owned and operated nonhazardous waste land
21 disposal monofills and waste subject to a fee pursuant
22 to Section 2-10-803 of this title. For emergencies
23 and other special events, the Department and the owner
24

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

3 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 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
24

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

3 7. The owner or operator of a solid waste disposal site shall
4 collect the fee levied pursuant to this subsection as trustee for
5 the state and shall prepare and file with the Department quarterly
6 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 8. Not later than thirty (30) days after the end of the quarter
12 to which such a return applies, the owner or operator shall mail to
13 the Department the return for that quarter together with the fees
14 collected during that quarter as indicated on the return.

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

22 b. the Department has received the request not later than
23 the day on which the return is required to be filed,
24 and

1 c. the Department has approved the request.

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

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

17 C. 1. The Department shall expend funds collected pursuant to
18 the provisions of this section solely for the administration and
19 enforcement of the provisions of the Oklahoma Solid Waste Management
20 Act and for the development of solid waste technical assistance
21 programs, solid waste public environmental education programs and
22 educational curricula, solid waste studies, development of a
23 statewide solid waste plan, solid waste recycling and litter
24 prevention programs, and other environmental improvements.

1 2. In order to assist the Department of Environmental Quality
2 regarding its responsibilities relating to the promotion of
3 recycling of solid waste, each fiscal year the Department shall
4 contract with units of local government, political subdivisions of
5 this state, components of The Oklahoma State System of Higher
6 Education, local and statewide organizations representing
7 municipalities or counties, or substate planning districts
8 recognized by the Oklahoma Department of Commerce, for up to a total
9 of One Hundred Thousand Dollars (\$100,000.00) and to the extent such
10 monies are available for projects promoting the recycling of solid
11 waste. Local governments, political subdivisions of this state,
12 components of The Oklahoma State System of Higher Education, local
13 and statewide organizations representing municipalities and counties
14 and substate planning districts recognized by the Oklahoma
15 Department of Commerce desiring to contract with the Department for
16 such projects shall meet the application requirements of rules
17 promulgated by the Environmental Quality Board and the criteria
18 established by a recycling priorities plan prepared annually by the
19 Department after review and comment by the Solid Waste Management
20 Advisory Council. Except as otherwise provided by this section,
21 contracts for such projects shall not be granted to state agencies.

22 3. Any litter prevention program shall be developed by the
23 Department in conjunction with the Department of Transportation.
24

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

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

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

21 5. a. The Department, in conjunction with the Corporation
22 Commission, the Oklahoma Energy Resources Board and
23 the Oklahoma Conservation Commission, may develop a
24 plan to use suitable portions of the solid waste

1 stream to reclaim Oklahoma lands damaged by oil and
2 gas exploration and production or by mining
3 activities.

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

12 6. a. To the extent that funds are available, after having
13 reasonably met other specified uses of the solid waste
14 fund, the Department is authorized to expend up to
15 five percent (5%) of the total annual solid waste fee
16 income for the purpose of making incentive payments to
17 any person, firm or corporation located in this state
18 generating energy by utilizing solid waste landfill
19 methane.

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

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

1 The amount of such payments shall be determined by the
2 Department based on the amount of energy generated and
3 the cost of production.

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

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

17 SECTION 2. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 2-10-802.1 of Title 27A, unless
19 there is created a duplication in numbering, reads as follows:

20 In any fiscal year in which the amount reimbursed to landfill
21 disposal sites under paragraph 3 of subsection B of Section 2-10-802
22 of Title 27A of the Oklahoma Statutes for the costs of purchase and
23 installation of wheel wash systems is less than Three Hundred
24 Thousand Dollars (\$300,000.00), the Department of Environmental

1 Quality may apply any or all of the remainder toward the proper
2 closure of solid waste landfills that meet the following criteria:

- 3 1. The landfill is no longer in operation;
- 4 2. The owner or operator of the landfill failed to provide
5 sufficient financial assurance for proper closure of the landfill;
6 and

7 3. The owner or operator of the landfill cannot be identified,
8 found or, despite all reasonable efforts, cannot be compelled to
9 properly close the landfill.

10 SECTION 3. This act shall become effective July 1, 2007.

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

15 Passed the House of Representatives the 12th day of April, 2007.

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18 _____
Presiding Officer of the House of
Representatives

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20 Passed the Senate the ____ day of _____, 2007.

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23 _____
Presiding Officer of the Senate

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