

THE HOUSE OF REPRESENTATIVES  
Tuesday, April 10, 2007

Committee Substitute for  
ENGROSSED  
Senate Bill No. 509

COMMITTEE SUBSTITUTE FOR ENGROSSED SENATE BILL NO. 509 - By: WYRICK  
of the Senate and JACKSON of the House.

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

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

1           SECTION 1.   AMENDATORY   27A O.S. 2001, Section 2-10-802, as last  
2   amended by Section 1, Chapter 115, O.S.L. 2006 (27A O.S. Supp. 2006, Section 2-10-802),  
3   is amended to read as follows:  
4           Section 2-10-802. A. 1. Owners or operators of landfill disposal sites which are not  
5   generator owned and operated nonhazardous industrial waste monofills shall install  
6   scales. Such scales shall be installed on or within five (5) miles of the landfill disposal  
7   site and shall be tested and certified as required by Section 14-35 of Title 2 of the

1 Oklahoma Statutes relating to the authority of the Board of Agriculture to test the  
2 standards of weights and measures within the state and to approve if found to be correct.

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

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

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

18 a. the scales are located within the physical boundary of that installation,

19 and

20 b. the disposal site receives waste only from that military installation.

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

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

1 per ton of solid waste received for disposal, retaining twenty-five cents  
2 (\$0.25) per ton for a period of time necessary to recoup a capital  
3 investment, plus the interest costs expended in purchasing the scales,  
4 of Forty Thousand Dollars (\$40,000.00). At the end of such period the  
5 fee shall revert to One Dollar and twenty-five cents (\$1.25) per ton.  
6 For a return with remittance filed on or before the due date, the owner  
7 or operator may deduct and retain ten percent (10%) of the fees  
8 collected.

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

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

- 1                   ~~commence~~ Reimbursement shall be paid only after the wheel wash  
2                   system is installed and operational.
- 3           b.   ~~Upon the earlier of the recoupment of the capital investment in~~  
4                   ~~purchasing and installing the wheel wash system and the~~  
5                   ~~discontinuance of its use at the landfill disposal site, the retaining of~~  
6                   ~~ten cents (\$0.10) per ton shall lapse and that amount shall be included~~  
7                   ~~in the amount remitted to the Department of Environmental Quality~~  
8                   ~~under this subsection.~~
- 9           e.   The owner or operator shall provide records documenting the capital  
10                  investment costs of the wheel wash system to the Department ~~upon~~  
11                  request and shall reflect the amount retained for this purpose on each  
12                  return.
- 13           c.   At such time as the wheel wash system is in place and operational and  
14                  the capital investment costs have been approved by the Department,  
15                  the Department shall reimburse the owner or operator the approved  
16                  costs, subject to the limitations in subparagraph d of this paragraph.  
17                  The Department shall reimburse eligible applicants in the order of  
18                  approval until that limitation has been reached. If there are multiple  
19                  eligible applicants awaiting reimbursement, the Department shall  
20                  apportion the reimbursement amount among the eligible applicants  
21                  according to the capital investment costs approved by the Department.

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

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

13 4. The fee shall not be imposed on:

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

18 b. generator owned and operated nonhazardous waste land disposal  
19 monofills and waste subject to a fee pursuant to Section 2-10-803 of  
20 this title. For emergencies and other special events, the Department  
21 and the owner or operator of a site subject to this section may enter  
22 into a formal agreement to waive the fee.

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

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

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

- 21           a.       the total tonnage of solid wastes received for disposal at the gate of the  
22                      site, and

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

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

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

7           a.       the owner or operator has submitted a request for an extension in  
8 writing to the Department together with a detailed description of why  
9 the extension is requested,

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

12          c.       the Department has approved the request.

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

19          11. If the owner or operator misrepresents, or fails to properly measure or record,  
20 the amount of waste received or fails to remit fees within sixty (60) days after the last  
21 day of the quarter during which they were collected, the landfill disposal site's permit

1 shall be summarily suspended by order and the Department shall initiate the process of  
2 revoking the permit and may require closure of the landfill.

3 C. 1. The Department shall expend funds collected pursuant to the provisions of  
4 this section solely for the administration and enforcement of the provisions of the  
5 Oklahoma Solid Waste Management Act and for the development of solid waste technical  
6 assistance programs, solid waste public environmental education programs and  
7 educational curricula, solid waste studies, development of a statewide solid waste plan,  
8 solid waste recycling and litter prevention programs, and other environmental  
9 improvements.

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

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

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

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

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

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

- 1           5.       a.       The Department, in conjunction with the Corporation Commission, the  
2                           Oklahoma Energy Resources Board and the Oklahoma Conservation  
3                           Commission, may develop a plan to use suitable portions of the solid  
4                           waste stream to reclaim Oklahoma lands damaged by oil and gas  
5                           exploration and production or by mining activities.
- 6           b.       To the extent that funds are available, the Department may use up to  
7                           ten percent (10%) of the annual income from the fees received  
8                           pursuant to the provisions of this section to implement the plan. The  
9                           Department may use its discretion in administering the funds for the  
10                          purpose of this paragraph, but shall keep records subject to audit by  
11                          the State Auditor and Inspector for good business practices.
- 12          6.       a.       To the extent that funds are available, after having reasonably met  
13                           other specified uses of the solid waste fund, the Department is  
14                           authorized to expend up to five percent (5%) of the total annual solid  
15                           waste fee income for the purpose of making incentive payments to any  
16                           person, firm or corporation located in this state generating energy by  
17                           utilizing solid waste landfill methane.
- 18          b.       The Environmental Quality Board shall promulgate rules to  
19                           administer the provisions of this paragraph.
- 20          c.       No person, firm or corporation shall be eligible to receive incentive  
21                           payments as provided in subparagraph a of this paragraph for more  
22                           than three (3) years. The amount of such payments shall be

1 determined by the Department based on the amount of energy  
2 generated and the cost of production.

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

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

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

16 In any fiscal year in which the amount reimbursed to landfill disposal sites under  
17 paragraph 3 of subsection B of Section 2-10-802 of Title 27A of the Oklahoma Statutes for  
18 the costs of purchase and installation of wheel wash systems is less than Three Hundred  
19 Thousand Dollars (\$300,000.00), the Department of Environmental Quality may apply  
20 any or all of the remainder toward the proper closure of solid waste landfills that meet  
21 the following criteria:

22 1. The landfill is no longer in operation;

1           2. The owner or operator of the landfill failed to provide sufficient financial  
2 assurance for proper closure of the landfill; and

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

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

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

9           COMMITTEE REPORT BY: COMMITTEE ON NATURAL RESOURCES, dated 04-09-  
10 07 - DO PASS, As Amended.