

CS for SB 509

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

THE STATE SENATE
Monday, February 26, 2007

Committee Substitute for
Senate Bill No. 509

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

[environment and natural resources - authorizing reimbursement to certain owners or operators for installation of wheel wash systems - 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 last amended by Section 1, Chapter 115, O.S.L. 2006 (27A O.S. Supp. 2006, 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. 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 the standards of weights and measures 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:

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 Owners and operators of landfill disposal sites

1 may be reimbursed for capital investment costs that
2 have been or will be expended for the purchase and
3 installation of a wheel wash system for use at the
4 landfill disposal site. To be eligible to claim this
5 ~~recoupment allowance~~ reimbursement, the owner or
6 operator must notify the Department no later than June
7 30, 2007, of the intent to claim the ~~allowance~~
8 reimbursement, and the wheel wash system must be in
9 place and operational no later than June 30, 2008.
10 ~~Recoupment may commence~~ Reimbursement shall be paid
11 only after the wheel wash system is installed and
12 operational.

13 b. ~~Upon the earlier of the recoupment of the capital~~
14 ~~investment in purchasing and installing the wheel wash~~
15 ~~system and the discontinuance of its use at the~~
16 ~~landfill disposal site, the retaining of ten cents~~
17 ~~(\$0.10) per ton shall lapse and that amount shall be~~
18 ~~included in the amount remitted to the Department of~~
19 ~~Environmental Quality under this subsection.~~

20 e. The owner or operator shall provide records
21 documenting the capital investment costs of the wheel
22 wash system to the Department ~~upon request and shall~~

1 ~~reflect the amount retained for this purpose on each~~
2 ~~return.~~

3 c. At such time as the wheel wash system is in place and
4 operational and the capital investment costs have been
5 approved by the Department, the Department shall
6 reimburse the owner or operator the approved costs,
7 subject to the limitations in subparagraph d of this
8 paragraph. The Department shall reimburse eligible
9 applicants in the order of approval until that
10 limitation has been reached. If there are multiple
11 eligible applicants awaiting reimbursement, the
12 Department shall apportion the reimbursement amount
13 among the eligible applicants according to the capital
14 investment costs approved by the Department.

15 d. If the total amount ~~retained under subparagraph a of~~
16 ~~this paragraph by~~ reimbursed to all eligible owners
17 and operators reaches Three Hundred Thousand Dollars
18 (\$300,000.00) within any state fiscal year, the
19 Department shall notify the owners and operators, and
20 thereafter the owners and operators shall not ~~be~~
21 ~~entitled to retain any amount under the provisions of~~
22 ~~subparagraph a of this paragraph~~ receive any
23 reimbursement until the next state fiscal year.

1 e. The Environmental Quality Board is authorized to
2 promulgate rules as necessary to implement the
3 provisions of ~~this act~~ the Solid Waste Management Act,
4 including rules specifying minimum standards or other
5 criteria for wheel wash systems necessary to qualify
6 for the ~~recoupment allowance~~ reimbursement.

7 4. The fee shall not be imposed on:

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

19 5. Large industrial waste generators who generate over ten
20 thousand (10,000) tons of nonhazardous industrial solid waste in the
21 state in a calendar year may annually apply to the Department for a
22 certificate exempting the disposal of such generated waste in excess
23 of ten thousand (10,000) tons from the disposal fee authorized by

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

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

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

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

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

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

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

12 a. the owner or operator has submitted a request for an
13 extension in writing to the Department together with a
14 detailed description of why the extension is
15 requested,

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

19 c. the Department has approved the request.

20 10. For any quarterly return filed more than thirty (30) days
21 after the last day of the quarter or extension date, the owner or
22 operator shall remit an additional five percent (5%) of the fees
23 collected during the month to which the return applies. If the fees

1 are not remitted within sixty (60) days of the last day of the
2 quarter during which they were collected, the owner or operator
3 shall pay an additional fifteen percent (15%) of the amount of the
4 fees for each month that they are late.

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

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

20 2. In order to assist the Department of Environmental Quality
21 regarding its responsibilities relating to the promotion of
22 recycling of solid waste, each fiscal year the Department shall
23 contract with units of local government, political subdivisions of

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

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

20 4. a. To the extent that funds are available, the Department
21 may also reimburse any governmental entity for
22 equipment other than motor vehicles or buildings to
23 separate, process, modify, convert or treat solid

1 waste or recovered materials so that the resulting
2 product is being used in a productive manner.

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

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

17 5. a. The Department, in conjunction with the Corporation
18 Commission, the Oklahoma Energy Resources Board and
19 the Oklahoma Conservation Commission, may develop a
20 plan to use suitable portions of the solid waste
21 stream to reclaim Oklahoma lands damaged by oil and
22 gas exploration and production or by mining
23 activities.

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

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

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

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

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

19 In any fiscal year in which the amount reimbursed to landfill
20 disposal sites under paragraph 3 of subsection B of Section 2-10-802
21 of Title 27A of the Oklahoma Statutes for the costs of purchase and
22 installation of wheel wash systems is less than Three Hundred
23 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 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS, dated 2-21-07 - DO
16 PASS, As Amended and Coauthored.