



Bill Rowland

Bill Analysis
Legislative Service Commission

H.B. 540
123rd General Assembly
(As Introduced)

Rep. Schuring

BILL SUMMARY

- Eliminates the current annual license fee for construction and demolition debris facilities and instead establishes a 50¢ per ton fee on the disposal of construction and demolition debris.
- Requires a monthly remittance of disposal fees from owners or operators of construction and demolition debris facilities to local boards of health or the Director of Environmental Protection, but authorizes boards of health to allow owners or operators to remit the fees quarterly.
- Authorizes municipal corporations and townships to appropriate up to 25% of the disposal fees collected by a construction and demolition debris facility for the purpose of defraying the costs of maintaining roads directly impacted by the operation of the facility.
- Establishes a construction and demolition debris facility license application fee of \$100.
- Revises the definition of "construction and demolition debris."
- Eliminates a requirement to give notice to a local board of health or the Director prior to placing certain building materials as fill material on or in any site other than the site where the materials were generated or removed.
- Requires the Director to adopt rules governing the movement or extraction of soils used for construction or operation within a solid waste landfill, and specifies that certain activities involving the movement or extraction of soils used for construction or operation within a construction and demolition debris facility or solid waste facility are not surface mining under the authority of the Division of Mines and Reclamation in the Department of Natural Resources.

CONTENT AND OPERATION

Elimination of construction and demolition debris facility license fee; establishment of disposal fee

Current law establishes a fee of \$3,000 for an annual license for a construction and demolition debris facility. The board of health of a health district may issue licenses and collect the license fee only if the Director of Environmental Protection has approved the district to implement the construction and demolition debris program within its jurisdiction. A board of health issuing licenses is required to retain \$1,500 of each fee collected; the remainder must be forwarded to the Director. In jurisdictions where there is no approved health district to administer the program, the Director must issue licenses and collect all license fees. A board of health is required to use the moneys from the license fee for the purpose of administering and enforcing the construction and demolition debris program within its jurisdiction if it is approved to do so. Similarly, moneys received by the Director must be used by the Environmental Protection Agency for the administration of the construction and demolition debris program. (Sec. 3714.07, repealed.)

The bill repeals the annual license fee and in its place establishes a 50¢ per ton fee on the disposal of construction and demolition debris. The bill requires the owner or operator of a construction and demolition debris facility to collect the fee as a trustee for the health district having jurisdiction over the facility, if that district is approved to administer the construction and demolition debris program within its jurisdiction, or for the state. The owner or operator must prepare and file with the appropriate board of health or the Director monthly returns indicating the total tonnage of construction and demolition debris received for disposal at the facility and the total amount of moneys collected from the fee. Not later than 30 days after the last day of the month to which the return applies, the owner or operator must mail to the board of health or the Director the return for the month together with the moneys collected during that month. The owner or operator may request, in writing, an extension of not more than 30 days after the last day of the month to which the return applies. A request for extension may be denied. If the owner or operator submits the return and moneys late, the owner or operator must pay a penalty of 50% of the amount of the moneys due for each month that they are late. (Sec. 3714.07(A).)

A board of health must transmit 10% of the moneys collected from the disposal fees to the Director not later than 45 days after their receipt. The moneys retained by a board of health must be paid into a special fund in each health district and used solely to administer and enforce the construction and demolition debris program. (Sec. 3714.07(A).)

The Director is required to transmit all moneys received from boards of health and all moneys from the disposal fee collected by the Director to the Treasurer of State to the credit of the Construction and Demolition Debris Facility Oversight Fund, which is created in the state treasury. It is unclear if this is intended to be a continuation of the existing Oversight Fund for the program. The Fund must be administered by the Director, and moneys credited to it must be used exclusively for the administration and enforcement of the construction and demolition debris program. (Sec. 3714.07(A).)

Quarterly payment of fees

The bill authorizes a board of health to enter into an agreement with the owner or operator of a construction and demolition debris facility for the quarterly payment of the moneys collected from the disposal fee. The board of health must notify the Director of any such agreement. Not later than 45 days after receipt of the quarterly payment, the board of health must transmit 10% of the amount of the moneys received from the payment to the Director. The moneys retained by the board of health must be deposited in the special fund of the district. Moneys sent to the Director must be credited to the Construction and Demolition Debris Facility Oversight Fund. (Sec. 3714.07(B).)

Municipal corporation and township share

For the purposes of defraying the costs of maintaining roads directly impacted by the operation of a construction and demolition debris facility located within the territorial boundaries of a municipal corporation or the unincorporated area of a township, the municipal corporation or township may appropriate up to 25% of the disposal fees required to be paid by the facility (sec. 3714.07(C)). The legislative authority of the municipal corporation or township may appropriate moneys from the fee by enacting an ordinance or resolution establishing the percentage of the fee to be appropriated. Upon doing so, the legislative authority must mail a certified copy of the ordinance or resolution to the board of health of the health district in which the facility is located or to the Director if the facility is located in a health district that is not approved to administer the construction and demolition debris program. Upon receipt of the copy of the ordinance or resolution and not later than 45 days after receipt of moneys collected from the fee, the board or the Director, as applicable, must transmit to the treasurer or other appropriate officer of the municipal corporation or clerk of the township the portion of the moneys required by the ordinance or resolution to be paid to the municipal corporation or township. (Sec. 3714.07(C).)

Moneys received by the treasurer or other appropriate officer of a municipal corporation must be paid into the general fund of the municipal corporation. Moneys received by the clerk of a township must be paid into the general fund of the township. The treasurer or other officer of the municipal corporation or the

clerk of the township, as appropriate, must maintain separate records of the moneys received. The bill authorizes the legislative authority of a municipal corporation or township to cease collecting the moneys by repealing the ordinance or resolution establishing the percentage collected. (Sec. 3714.07(C).)

License application fee

The bill requires that each application for a license or license renewal for a construction and demolition debris facility be accompanied by a nonrefundable application fee of \$100. With respect to a license renewal, a person who submits an application after the deadline for submittal must pay an additional 10% of the amount of the application fee for each week that the application is late. Proceeds from the application fee collected by each board of health must be deposited in the special fund of the health district, and proceeds from the application fee collected by the Director must be deposited in the Construction and Demolition Debris Facility Oversight Fund. (Sec. 3714.06(C).)

Definition of "construction and demolition debris"

Under current law, "construction and demolition debris" means those materials resulting from the alteration, construction, destruction, rehabilitation, or repair of any manmade physical structure, including, without limitation, houses, buildings, industrial or commercial facilities, or roadways. The bill expands the definition to include product scraps; off specification, rejected, or damaged products; and other waste material of the type that normally would result from construction and demolition such as lumber, fixtures, components containing no chlorofluorocarbons regulated under the Clean Air Act, brick, glass, wall covering, roofing materials, and electrical wiring.

Current law excludes from "construction and demolition debris" materials identified or listed as solid wastes or hazardous waste under state law; materials from mining operations, nontoxic fly ash, spent nontoxic foundry sand, and slag; and reinforced or nonreinforced concrete, asphalt, building or paving brick, or building or paving stone that is stored for a period of less than two years for recycling into a usable construction material. The bill also excludes block that is stored for less than two years for recycling purposes; liquids; fuel tanks; yard waste; appliances; asbestos or asbestos-containing materials or products; infectious waste; sludges; materials from a manufacturing process that are extremely hazardous substances, hazardous chemicals, or hazardous substances; or low-level radioactive waste. (Sec. 3714.01(C).)

Elimination of notice requirements for use of fill material

The bill repeals a provision of current law under which no person can knowingly place or cause to be placed any reinforced or nonreinforced concrete,

asphalt, clay tile, building or paving brick, or building or paving stone resulting from the alteration, construction, destruction, rehabilitation, or repair of any manmade physical structure as fill material on or in any land owned, leased, or controlled by the person, other than on the site where the materials were so generated or removed, without providing written notice to the board of health of the health district in which the land is located or, if applicable, to the Director of Environmental Protection at least seven days prior to the first placement of any such materials as fill material at the off-site location. (Sec. 3714.13.)

Authority to regulate certain activities within solid waste landfills and construction and demolition debris facilities

The bill requires the Director to adopt rules establishing requirements for the closure of borrow pits used for the extraction or movement of soil or minerals, other than through blasting, within a sanitary landfill facility when the soil or minerals are used exclusively for construction or operations within that facility (sec. 3734.02(A)). In addition, the bill amends the definition of "surface mining" in the law governing surface mining of minerals other than coal by specifying that the term does include the extraction or movement of soil or minerals, other than through blasting, within a construction and demolition facility or a solid waste landfill facility when the soil or minerals are used exclusively for construction or operations within the facility (sec. 1514.01(A)). As a result of this change, the Division of Mines and Reclamation in the Department of Natural Resources will not have the authority to regulate such activities.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	01-11-00	p. 1494

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