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Bill Analysis
Legislative Service Commission

S.B. 165
123rd General Assembly
(As Introduced)

Sens. Furney, Fingerhut, Brady, Hagan, DiDonato

BILL SUMMARY

- Increases the state fees levied on the disposal and treatment of hazardous waste, and eliminates the cap on disposal fees for on-site and satellite disposal facilities.
- Requires moneys in the Hazardous Waste Facility Management Fund to be used for the same purposes as moneys in the Hazardous Waste Clean-up Fund.
- Allows moneys from the additional treatment and disposal fee that is levied to pay certain costs incurred by municipal corporations and counties with landfills also to be used to pay consultant, witness, and attorney's fees related to the hazardous waste facility permitting process.
- Declares an emergency.

CONTENT AND OPERATION

State hazardous waste disposal fees

Background

Current law levies fees on the disposal of hazardous waste at each disposal facility to which the Hazardous Waste Facility Board (HWFB) has issued a hazardous waste facility installation and operation permit or the Director of Environmental Protection has issued a renewal permit under the Solid, Infectious, and Hazardous Waste Law (sec. 3734.18(A)).

Disposal fees for off-site facilities

Under current law, an off-site facility must pay a fee of \$4.50 per ton of hazardous waste disposed of by deep well injection and \$9 per ton of hazardous

waste disposed of by land application or landfilling.¹ The owner or operator of the facility, as a trustee for Ohio, must collect the fees and forward them to the Director in accordance with rules adopted under the Solid, Infectious, and Hazardous Waste Law. The bill increases the fee to \$50 per ton of hazardous waste and applies that fee to disposal by deep well injection, land application, and landfilling. (Sec. 3734.18(A)(1).)

Disposal fees for on-site or satellite facilities

Under existing law, an on-site or satellite facility must levy a fee of \$2 per ton of hazardous waste disposed of by deep well injection and \$4 per ton of hazardous waste disposed of by land application or landfilling.² The owner or operator of the facility must pay the fee to the Director each year on the anniversary of the issuance date of the owner's or operator's installation and operation permit during the term of that permit and any renewal permit. The bill increases the fee to \$50 per ton of hazardous waste and applies that fee to disposal by deep well injection, land application, and landfilling. (Sec. 3734.18(A)(2).)

Maximum annual fees

Existing law establishes maximum annual disposal fees for on-site and satellite disposal facilities. The maximum annual disposal fee for an on-site disposal facility that disposes of 100,000 tons or less of hazardous waste in a year is \$25,000. The maximum annual disposal fee for an on-site disposal facility that disposes of more than 100,000 tons of hazardous waste in a year is \$50,000 if disposal is by land application or landfilling and \$100,000 if disposal is by deep well injection. The maximum annual disposal fee for a satellite facility that disposes of 100,000 tons or less of hazardous waste in a year is \$37,500. The maximum annual disposal fee for a satellite facility that disposes of more than

¹ "On-site facility" means a facility that stores, treats, or disposes of hazardous waste that is generated on the premises of the facility (sec. 3734.02(E)(1)(a)).

² "Off-site facility" means a facility that stores, treats, or disposes of hazardous waste that is generated off the premises of the facility and includes such a facility that is also an on-site facility (sec. 3734.02(E)(1)(b)). "Satellite facility" means any of the following: (1) an on-site facility that also receives hazardous waste from other premises owned by the same person who generates the waste on the facility premises, (2) an off-site facility operated so that all of the hazardous waste it receives is generated on one or more premises owned by the person who owns the facility, or (3) an on-site facility that also receives hazardous waste that is transported uninterruptedly and directly to the facility through a pipeline from a generator who is not the owner of the facility (sec. 3734.02(E)(1)(c)).

100,000 tons of hazardous waste in a year is \$75,000. However, a satellite facility that receives hazardous waste from a single generation site is subject to the same maximum annual disposal fees as an on-site disposal facility. The bill eliminates the maximum annual disposal fees for on-site and satellite disposal facilities. (Sec. 3734.18(A)(2).)

State hazardous waste treatment fees

The bill increases the fees from \$2 per ton to \$50 per ton on hazardous waste that is treated at treatment facilities that are not on-site or satellite facilities to which the HWFB has issued a hazardous waste facility installation and operation permit or the Director has issued a renewal permit or that are not subject to the permit requirements under rules adopted by the Director (sec. 3734.18(B)).

Hazardous Waste Facility Management Fund

Current law requires the state hazardous waste treatment and disposal fees to be credited to the Hazardous Waste Facility Management Fund. However, if the moneys that are collected during a fiscal year from the fee levied on the disposal of hazardous waste by deep well injection at an on-site disposal facility that disposes of more than 100,000 tons of hazardous waste in a year exceed \$50,000, the Director must deposit those moneys to the credit of the Underground Injection Control Fund. (Sec. 3734.18(E).)

Under current law, the Environmental Protection Agency (EPA) and the HWFB may use moneys in the Hazardous Waste Facility Management Fund for administration of the state's hazardous waste program and may request approval by the Controlling Board for that use on an annual basis. The bill instead requires the EPA and the HWFB to use moneys in the Fund for administration of the hazardous waste program. It also requires them to use moneys in the Fund for the same purposes as moneys deposited in the Hazardous Waste Clean-up Fund. (Sec. 3734.18(E).) Those purposes include all of the following:

(1) Payment of the cost of measures necessary for the proper cleanup of sites where polychlorinated biphenyls and substances, equipment, and devices containing or contaminated with polychlorinated biphenyls have been stored or disposed of (sec. 3734.122(D));

(2) Investigations of former hazardous waste facilities or solid waste facilities where hazardous waste was disposed of upon receipt of a formal written request accompanied by supporting evidence from the legislative or executive authority of a municipal corporation, county, or township (sec. 3734.19);

(3) If the Director has reason to believe that hazardous waste was treated, stored, or disposed of at any location within Ohio, investigations and inquiries that are reasonable or necessary to determine if conditions constitute a substantial threat to public health or safety or are causing or contributing to or threatening to cause or contribute to air pollution, water pollution, or soil contamination (pollution) (sec. 3734.20);

(4) Payment of the cost of measures necessary for the proper closure of hazardous waste facilities or solid waste facilities containing significant quantities of hazardous waste, the costs of development and construction of suitable hazardous waste facilities required under current law to the extent that the Director determines that such facilities are not available, and the costs that are necessary to abate conditions at the facilities that are causing or contributing to or threatening to cause or contribute to pollution or that constitute a substantial threat to public health or safety (sec. 3734.21);

(5) Acquisition of any hazardous waste facility or any solid waste facility containing significant quantities of hazardous waste that constitutes an imminent and substantial threat to public health or safety or results in pollution, and payment of the costs of closure or other measures necessary to abate conditions at the acquired facility (sec. 3734.23);

(6) Awarding of grants for payment by the state of up to two-thirds of the reasonable and necessary expenses incurred by a municipal corporation, county, or township for the proper closure of or abatement of pollution from a solid waste facility in which significant quantities of hazardous waste were disposed of and that the political subdivision owns and once operated (sec. 3734.25);

(7) Awarding of grants to the owner, other than a political subdivision, of a solid waste facility in which significant quantities of hazardous waste were disposed of or a hazardous waste facility for up to 50% of the reasonable and necessary expenses incurred for the proper closure of or abatement or prevention of pollution from the facility and for developing the land on which it was located for use in industry, commerce, distribution, or research (sec. 3734.26).

Under law unchanged by the bill, the EPA also may use and pledge moneys in the Hazardous Waste Facility Management Fund for repayment of and for interest on any loans made by the Ohio Water Development Authority to the EPA for the hazardous waste program without the approval of the Controlling Board. That use and pledge must have priority over any other use of the moneys in the Fund. (Sec. 3734.18(E).)

Under the bill, the Director, before making grants from either fund, must establish priorities for awarding grants from them. In establishing priorities, the

Director must consider each project application submitted by a political subdivision or owner of a facility and each facility that has been surveyed. In addition, the Director must consider the feasibility, cost, and public benefits of restoring the particular land and the availability of federal or other financial assistance for restoration. (Sec. 3734.27.)

Local hazardous waste treatment and disposal fees

Current law levies an additional fee on the treatment and disposal of hazardous waste at the rate of 10% of the hazardous waste disposal and treatment fees for paying the costs that municipal corporations and counties incur for the following purposes: (1) conducting reviews of applications for hazardous waste facility installation and operation permits for proposed new or modified hazardous waste landfills within their boundaries, (2) emergency response actions with respect to releases of hazardous waste from hazardous waste facilities within their boundaries, (3) monitoring the operation of the hazardous waste facilities, and (4) local waste management planning programs. The bill also allows money from the fee to be used for the payment of expert consultant and witness fees and attorney's fees related to the permitting process for hazardous waste facilities incurred prior to, during, and after that process. (Sec. 3734.18(C).)

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	06-30-99	pp. 860-861

S0165-I.123/rss