



**Am. Sub. H.B. 432**  
125th General Assembly  
(As Passed by the House)

**Reps. Webster, McGregor, Wolpert, Niehaus, Aslanides, Setzer, Flowers**

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**BILL SUMMARY**

- Eliminates the current annual license fee for construction and demolition debris facilities, and instead establishes a 30¢ per cubic yard or 60¢ per ton fee on the disposal of construction and demolition debris at construction and demolition debris facilities and at solid waste facilities except under specified circumstances.
- Requires the owner or operator of a construction and demolition debris facility to attempt to remove all solid wastes from construction and demolition debris prior to the disposal of the debris on the working face of the facility, states that the existence of solid wastes on the working face of such a facility does not constitute a violation of the Construction and Demolition Debris Law under certain circumstances, and authorizes a board of health or the Director of Environmental Protection to request the removal of specific, visible solid wastes from the working face of a facility.
- Revises the definition of "construction and demolition debris."

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**CONTENT AND OPERATION**

**Background**

The Construction and Demolition Debris Law, which was enacted in 1990, requires each construction and demolition debris disposal facility to be licensed annually by either the applicable local board of health or the Director of Environmental Protection. The Director only licenses facilities, and conducts inspections, in areas of the state in which a board of health has not been approved by the Director to administer the construction and demolition debris management program. The program generally is funded through license fees.

**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 30¢ per cubic yard or 60¢ per ton fee, as applicable, on the disposal of construction and demolition debris at a construction and demolition debris facility or at a solid waste facility (sec. 3714.07(A)(1)). However, the requirement that a fee be levied on the disposal of construction and demolition debris at a solid waste facility does not apply if there is no licensed construction and demolition debris facility within 40 miles of the solid waste facility as determined by a facility's property boundaries. That requirement also does not apply if the owner or operator of a solid waste facility collects fees under the Solid, Infectious, and Hazardous Waste Law on the disposal of the construction and demolition debris. (Sec. 3714.07(E).)

If construction and demolition debris is disposed of at a construction and demolition debris facility, the facility's owner or operator must determine if cubic yards or tons will be used as the unit of measurement. In estimating the fee based on cubic yards, the owner or operator must utilize either the maximum cubic yard capacity of the container, or the hauling volume of the vehicle, that transports the construction and demolition debris to the facility or the cubic yards actually logged for disposal by the owner or operator in accordance with rules adopted by the Director. If basing the fee on tonnage, the owner or operator must use certified scales to determine the tonnage of construction and demolition debris that is transported to the facility for disposal. (Sec. 3714.07(A)(2).) If construction and demolition debris is disposed of at a solid waste facility, the owner or operator of the facility must assess the fee on a per cubic yard or per ton basis as designated in the solid waste management plan of the solid waste management district in which

the facility is located for the collection of the district's solid waste disposal fee pursuant to the Solid, Infectious, and Hazardous Waste Law (sec. 3714.07(A)(3)).

The bill requires the owner or operator of a construction and demolition debris facility or a solid waste 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 volume or weight, as applicable, of construction and demolition debris received for disposal at the facility and the total amount of money required to be collected on the construction and demolition debris disposed of during that month. 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 that month together with the money required to be collected on the construction and demolition debris disposed of 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 money late, the owner or operator must pay a penalty of 10% of the amount of the money due for each month that it is late. (Sec. 3714.07(A)(4).)

A board of health must transmit 3¢ per cubic yard or 6¢ per ton, as applicable, of the money collected from a construction and demolition debris facility or a solid waste facility to the Director not later than 45 days after the receipt of the money. The money retained by the board must be paid into a special fund and used solely to administer and enforce the construction and demolition debris program.

The Director is required to transmit all money received from boards of health and all money from the disposal fee collected by the Director to the Treasurer of State to be credited to the Construction and Demolition Debris Facility Oversight Fund, which the bill creates in the state treasury. The Fund must be administered by the Director, and money credited to it must be used exclusively for the administration and enforcement of the construction and demolition debris program. (Sec. 3714.07(A)(5).) The bill provides that the Fund is a continuation of the existing Construction and Demolition Debris Facility Oversight Fund, which the bill eliminates, and that money credited to the existing fund must be used for the purposes specified in the bill (Section 3).

#### **Quarterly payment of fees**

The bill authorizes a board of health or the Director to enter into an agreement with the owner or operator of a construction and demolition debris

facility or a solid waste facility for the quarterly payment of the money 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 must transmit the amount specified in the bill from the disposal fee to the Director (see above). The money retained by the board of health must be deposited in the special fund of the health district discussed above. Money sent to the Director must be credited to the new Construction and Demolition Debris Facility Oversight Fund. (Sec. 3714.07(B).)

### **Municipal corporation and township share**

If a construction and demolition debris facility or a solid waste facility is 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 4¢ per cubic yard or up to 8¢ per ton of the disposal fee required to be paid by the facility for the same purposes that a municipal corporation or township may levy a solid waste disposal fee under the Solid, Infectious, and Hazardous Waste Law.<sup>1</sup> The legislative authority of the municipal corporation or township may appropriate the money from the fee by enacting an ordinance or resolution establishing the amount 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 construction and demolition debris facility or the solid waste 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 money 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 that portion of the money collected from the disposal fee by the owner or operator of the facility that is required by the ordinance or resolution to be paid to that municipal corporation or township.

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

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<sup>1</sup> *That Law allows a disposal fee to be levied by a municipal corporation or township for the purposes of defraying the added costs to the municipal corporation or township of maintaining roads and other public facilities and of providing emergency and other public services and compensating the municipal corporation or township for reductions in real property tax revenues due to reductions in real property valuations resulting from the location and operation of a solid waste disposal facility within the municipal corporation or township (sec. 3734.57(C), not in the bill).*

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 money received. The legislative authority of a municipal corporation or township may cease collecting money by repealing the ordinance or resolution establishing the amount to be collected. (Sec. 3714.07(C).)

### County share

The board of county commissioners of a county in which a construction and demolition debris facility or a solid waste facility is located may appropriate up to 3¢ per cubic yard or up to 6¢ per ton of the disposal fee required to be paid by the facility for the same purposes that a solid waste management district may levy a solid waste disposal fee under the Solid, Infectious, and Hazardous Waste Law.<sup>2</sup>

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<sup>2</sup> That Law allows a disposal fee to be levied by the solid waste management policy committee of a county or joint solid waste management district for the purposes of: (1) preparing, revising, and implementing the district's solid waste management plan, (2) providing financial assistance to boards of health within the district, if solid waste facilities are located within the district, for the enforcement of the Solid, Infectious, and Hazardous Waste Law and rules adopted and orders and terms and conditions of permits, licenses, and variances issued under it, other than the hazardous waste provisions of the Law and rules adopted and orders and terms and conditions of permits issued under those provisions, (3) providing financial assistance to the county to defray the added costs of maintaining roads and other public facilities and of providing emergency and other public services resulting from the location and operation of a solid waste facility within the county under the district's approved solid waste management plan, (4) paying the costs incurred by boards of health for collecting and analyzing water samples from public or private wells on lands adjacent to solid waste facilities that are contained in the district's approved plan, (5) paying the costs of developing and implementing a program for the inspection of solid wastes generated outside the boundaries of Ohio that are disposed of at solid waste facilities included in the district's approved plan, (6) providing financial assistance to boards of health within the district for enforcing laws prohibiting open dumping, (7) providing financial assistance to local law enforcement agencies within the district for enforcing laws and ordinances prohibiting littering, (8) providing financial assistance to boards of health within the district that are on the Director's approved list for the training and certification required for their employees responsible for solid waste enforcement, (9) providing financial assistance to individual municipal corporations and townships within the district to defray their added costs of maintaining roads and other public facilities and of providing emergency and other public services resulting from the location and operation within their boundaries of a composting, energy or resource recovery, incineration, or recycling facility that either is owned by the district or is furnishing solid waste management facility or recycling services to the district pursuant to a contract or agreement with the board of county commissioners or directors of the district, and (10) payment of any expenses that are agreed to, awarded, or ordered to be paid to a community that is

The board of county commissioners may appropriate the money from the fee by adopting a resolution establishing the amount of the fee to be appropriated. Upon doing so, the board must mail a certified copy of the resolution to the board of health of the health district in which the construction and demolition debris facility or the solid waste 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 resolution and not later than 45 days after receipt of money collected from the fee, the board of health or the Director, as applicable, must transmit to the treasurer of the county that portion of the money collected from the disposal fee by the owner or operator of the facility that is required by the resolution to be paid to that county. (Sec. 3714.07(D).)

Money received by a county treasurer must be paid into the general fund of the county. The county treasurer must maintain separate records of the money received. A board of county commissioners may cease collecting money by repealing the resolution that established the amount to be collected. (Sec. 3714.07(D).)

#### **Solid wastes at construction and demolition debris facilities**

The bill requires the owner or operator of a licensed construction and demolition debris facility to remove all solid wastes from construction and demolition debris prior to the disposal of the debris on the working face of the facility (sec. 3714.021(B)). It defines "working face" as the portion of a construction and demolition debris facility where construction and demolition debris is placed for final disposal (sec. 3714.021(A)).

However, except as discussed below, the existence of solid wastes on the working face of a construction and demolition debris facility does not constitute a violation of the Construction and Demolition Debris Law and rules adopted under it if: (1) the wastes constitute not more than two cubic yards per 1,000 cubic yards, or four cubic yards per 1,000 tons, of construction and demolition debris disposed of at the facility based on the amount of construction and demolition debris disposed of at the facility on the preceding full business day as determined by using the amount of disposal fees collected under the bill (see above) for wastes disposed of at the facility on that preceding full business day, or (2) the owner or operator or the employees of the facility remove the solid wastes from the working face. The exception to this provision is the existence of solid wastes on the working face of a construction and demolition debris facility that is located within the boundaries of a sole source aquifer as described in the Construction and

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*affected by a new or modified publicly owned sanitary landfill and of any applicable administrative costs incurred (sec. 3734.57(B), not in the bill).*

Demolition Debris Law, which constitutes a violation of that Law and rules adopted under it. (Sec. 3714.021(B).)

The bill authorizes the board of health of the health district in which a construction and demolition debris facility is located, the Director, or an authorized representative of either to request the removal of specific, visible solid wastes that are located on the working face of a facility. The owner or operator or the employees of the facility must remove those solid wastes if so requested. (Sec. 3714.021(C).)

**Definition of "construction and demolition debris"**

Current law defines "construction and demolition debris" to mean 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 adds that "construction and demolition debris" includes particles and dust created during demolition activities and through transport. In addition, current law excludes from the definition of "construction and demolition debris" materials identified or listed as solid wastes or hazardous waste pursuant to the Solid and Hazardous Waste Law and rules adopted under it; 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 adds that "construction and demolition debris" also does not include inorganic arsenical pressure-treated wood, including, without limitation, wood treated with chromate copper arsenate, ammoniacal copper arsenate, or ammoniacal copper zinc arsenate. (Sec. 3714.01(C).)

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**HISTORY**

ACTION	DATE	JOURNAL ENTRY
Introduced	03-10-04	p. 1673
Reported, H. Energy & Environment	05-11-04	p. 1879
Passed House (60-37)	05-12-04	pp. 1908-1915

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