

HOUSE BILL No. 2251

By Committee on Taxation

2-7

AN ACT concerning solid waste; amending K.S.A. 65-3415a and 65-3415b and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 65-3415a is hereby amended to read as follows: 65-3415a. (a) There is hereby created in the state treasury the solid waste management fund.

(b) The secretary shall remit to the state treasurer, in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, all moneys collected or received by the secretary from the following sources:

(1) Solid waste tonnage fees imposed pursuant to K.S.A. 65-3415b, and amendments thereto;

(2) application and annual fees provided for by K.S.A. 65-3407, and amendments thereto;

(3) gifts, grants, reimbursements or appropriations intended to be used for the purposes of the fund, but excluding federal grants and cooperative agreements; and

(4) any other moneys provided by law.

Upon receipt of each such remittance, the state treasurer shall deposit in the state treasury any amount remitted pursuant to this subsection to the credit of the solid waste management fund.

(c) Moneys in the solid waste management fund shall be expended for the following purposes:

(1) Grants to counties or groups of counties or designated city or cities pursuant to K.S.A. 65-3415, and amendments thereto;

(2) monitoring and investigating solid waste management plans of counties and groups of counties;

(3) payment of extraordinary costs related to monitoring permitted solid waste processing facilities and disposal areas, both during operation and after closure;

(4) payment of costs of postclosure cleanup of permitted solid waste disposal areas which, as a result of a postclosure occurrence, pose a substantial hazard to public health or safety or to the environment;

(5) emergency payment for costs of cleanup of solid waste disposal areas which were closed before the effective date of this act and which

1 pose a substantial risk to the public health or safety or to the environment,
2 but the total amount of such emergency payments during a fiscal year
3 shall not exceed an amount equal to 50% of all amounts credited to the
4 fund during the preceding fiscal year;

5 (6) payment for emergency action by the secretary as necessary or
6 appropriate to assure that the public health or safety is not threatened
7 whenever there is a release from a solid waste processing facility or a solid
8 waste disposal area;

9 (7) payment for corrective action by the secretary at an active or
10 closed solid waste processing facility or a solid waste disposal area where
11 solid waste management activity has resulted in an actual or potential
12 threat to human health or the environment, if the owner or operator has
13 not been identified or is unable or unwilling to perform corrective action;

14 (8) payment of the administrative, technical and legal costs incurred
15 by the secretary in carrying out the provisions of K.S.A. 65-3401 through
16 65-3423, and amendments thereto, including the cost of any additional
17 employees or increased general operating costs of the department attrib-
18 utable therefor;

19 (9) development of educational materials and programs for informing
20 the public about solid waste issues;

21 (10) direct payments to reimburse counties or cities for household,
22 farmer or exempt small quantity generator hazardous wastes generated
23 from persons not served by existing household hazardous waste programs
24 or direct payment of contractors for the disposal costs of such wastes;

25 (11) payment of costs associated with the solid waste grants advisory
26 board pursuant to K.S.A. 65-3426, and amendments thereto;

27 (12) with the consent of the city or county, payment for the removal
28 and disposal or on-site stabilization of solid waste which has been illegally
29 dumped when the responsible party is unknown, unwilling or unable to
30 perform the necessary corrective action, provided that: (A) Moneys in the
31 fund shall be used to pay only 75% of the costs of such corrective action
32 and the city or county shall pay the remaining 25% of such costs; and (B)
33 not more than \$10,000 per site shall be expended from the fund for such
34 corrective action;

35 (13) payment of the costs to administer regional or statewide waste
36 collection programs designed to remove hazardous materials and wastes
37 from homes, farms, ranches, institutions and small businesses not gen-
38 erally covered by state or federal hazardous waste laws and rules and
39 regulations; ~~and~~

40 (14) payment for the disposal of household hazardous waste gener-
41 ated as a result of community clean-up activities following natural disas-
42 ters such as floods and tornados; *and*

43 (15) *payments to cities as provided by subsection (d).*

1 (d) (1) On or before the 15th day of each calendar quarter, the state
2 treasurer shall pay to each city in which there is located a solid waste
3 disposal area an amount equal to \$.25 for each ton or equivalent volume
4 of solid waste disposed of at such disposal area during the preceding
5 calendar quarter. Amounts received by a city pursuant to this section shall
6 be deposited in the city treasury and shall be used to defray expenses
7 related to the operation of the solid waste disposal area and the operation
8 of such area, including, but not limited to, costs of: Responding to citizen
9 inquiries and concerns regarding such disposal area and related opera-
10 tions; constructing and maintaining safe and adequate streets and high-
11 ways to carry traffic to and from such disposal area; and city officials'
12 and employees' time spent in addressing issues related to such disposal
13 area and related operations.

14 (2) Not later than the 10th day of each calendar quarter, the secretary
15 of health and environment shall provide to the state treasurer the infor-
16 mation necessary to determine the amounts to be paid to cities pursuant
17 to paragraph (1).

18 (e) If the secretary determines that expenditures from the solid waste
19 management fund are necessary to perform authorized corrective actions
20 related to solid waste management activities, the person or persons re-
21 sponsible for illegal dumping activity or the operation or long-term care
22 of a disposal area whose failure to comply with this act, rules and regu-
23 lations promulgated thereunder, or permit conditions resulted in such
24 determination, shall be responsible for the repayment of those amounts
25 expended. The secretary shall take appropriate action to enforce this pro-
26 vision against any responsible person. If amounts are recovered for pay-
27 ment for corrective action pursuant to subsection (c)(12), 25% of the
28 amount recovered shall be paid to the city or county that shared in the
29 cost of the corrective action. Otherwise, the secretary shall remit any
30 amounts recovered and collected in such action to the state treasurer in
31 accordance with the provisions of K.S.A. 75-4215, and amendments
32 thereto. Upon receipt of each such remittance, the state treasurer shall
33 deposit the entire amount in the state treasury to the credit of the solid
34 waste management fund. Prior to initiating any corrective action activities
35 authorized by this section, the secretary shall give written notice to the
36 person or persons responsible for the waste to be cleaned up and to the
37 property owner that the department will undertake corrective action if
38 the responsible person or persons do not perform the necessary work
39 within a specified time period. The department and its representatives
40 are authorized to enter private property to perform corrective actions if
41 the responsible party fails to perform required clean-up work but no such
42 entry shall be made without the property owner's consent except upon
43 notice and hearing in accordance with the Kansas administrative proce-

1 dure act and a finding that the solid waste creates a public nuisance or
2 adversely affects the public health or the environment.

3 ~~(e)~~ (f) Expenditures from the solid waste management fund shall be
4 made in accordance with appropriations acts upon warrants of the direc-
5 tor of accounts and reports issued pursuant to vouchers approved by the
6 secretary or a person designated by the secretary.

7 ~~(f)~~ (g) On or before the 10th of each month, the director of accounts
8 and reports shall transfer from the state general fund to the solid waste
9 management fund interest earnings based on:

10 (1) The average daily balance of moneys in the solid waste manage-
11 ment fund for the preceding month; and

12 (2) the net earnings rate of the pooled money investment portfolio
13 for the preceding month.

14 ~~(g)~~ (h) The solid waste management fund shall be used for the pur-
15 poses set forth in this act and for no other governmental purposes. It is
16 the intent of the legislature that the fund shall remain intact and inviolate
17 for the purposes set forth in this act, and moneys in the fund shall not be
18 subject to the provisions of K.S.A. 75-3722, 75-3725a and 75-3726a, and
19 amendments thereto.

20 ~~(h)~~ (i) The secretary shall prepare and deliver to the legislature on or
21 before the first day of each regular legislative session, a report which
22 summarizes all expenditures from the solid waste management fund, fund
23 revenues and recommendations regarding the adequacy of the fund to
24 support necessary solid waste management programs.

25 Sec. 2. K.S.A. 65-3415b is hereby amended to read as follows: 65-
26 3415b. (a) There is hereby imposed a state solid waste tonnage fee of
27 ~~\$1.00~~ \$1.50 for each ton or equivalent volume of solid waste disposed of
28 at any solid waste disposal area in this state other than solid waste enu-
29 merated in subsection (c) or solid waste disposal authorized by the sec-
30 retary pursuant to subsection (a) of K.S.A. 65-3407c, and amendments
31 thereto.

32 (b) There is hereby imposed a state solid waste tonnage fee of ~~\$1.00~~
33 \$1.50 for each ton or equivalent volume of solid waste transferred out of
34 Kansas through a transfer station, other than waste enumerated in sub-
35 section (c).

36 (c) The fees imposed by this section shall not apply to:

37 (1) Any waste tire, as defined by K.S.A. 65-3424, and amendments
38 thereto, disposed in or at a permitted solid waste disposal area;

39 (2) sludges from public drinking water supply treatment plants, when
40 disposed of at a monofill permitted by the secretary;

41 (3) clean rubble;

42 (4) solid waste solely consisting of vegetation from land clearing and
43 grubbing, utility maintenance and seasonal or storm-related cleanup but

1 such exception shall not apply to yard waste;

2 (5) construction and demolition waste disposed of by the federal gov-
3 ernment, by the state of Kansas, or by any city, county or other unit of
4 local government in the state of Kansas, or by any person on behalf
5 thereof; and

6 (6) industrial waste disposed of at a solid waste disposal area which
7 is permitted by the secretary, owned and operated by the facility gener-
8 ating the waste and used only for industrial waste generated by such
9 facility.

10 (d) The operator of a solid waste disposal area or transfer station shall
11 pay the fee imposed by this section.

12 (e) The secretary of health and environment shall administer, enforce
13 and collect the fee imposed by this section. The secretary shall have the
14 authority to waive such fee when large quantities of waste are generated
15 due to major natural disasters such as floods, tornados and fires unless
16 persons paying such fees are able to recover such fees from the federal
17 government. Except as otherwise provided by subsections (a) and (b), all
18 laws and rules and regulations of the secretary of revenue relating to the
19 administration, enforcement and collection of the retailers' sales tax shall
20 apply to such fee insofar as they can be made applicable. The secretary
21 of health and environment shall adopt any other rules and regulations as
22 necessary for the efficient and effective administration, enforcement and
23 collection thereof.

24 (f) The secretary of health and environment shall remit all moneys
25 collected from fees imposed pursuant to subsections (a) and (b) to the
26 state treasurer in accordance with the provisions of K.S.A. 75-4215, and
27 amendments thereto. Upon receipt of each such remittance, the state
28 treasurer shall deposit the entire amount in the state treasury to the credit
29 of the solid waste management fund created by K.S.A. 65-3415a, and
30 amendments thereto.

31 Sec. 3. K.S.A. 65-3415a and 65-3415b are hereby repealed.

32 Sec. 4. This act shall take effect and be in force from and after its
33 publication in the statute book.

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