

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 696

FINAL READING

Introduced by Pahls, 31; Langemeier, 23.

Read first time January 06, 2010

Committee: Natural Resources

A BILL

1 FOR AN ACT relating to the Integrated Solid Waste Management
2 Act; to amend section 13-2042, Reissue Revised Statutes
3 of Nebraska, and section 13-2042.01, Revised Statutes
4 Supplement, 2009; to change provisions relating to
5 disposal fees; to harmonize provisions; and to repeal
6 the original sections.

7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 13-2042, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 13-2042 (1) A disposal fee of one dollar and twenty-five
4 cents is imposed for each six cubic yards of uncompacted solid
5 waste, one dollar and twenty-five cents for each three cubic yards
6 of compacted solid waste, or one dollar and twenty-five cents
7 per ton of solid waste (a) disposed of at landfills regulated
8 by the department or (b) transported for disposal out of state
9 from a solid waste processing facility holding a permit under
10 the Integrated Solid Waste Management Act. Each operator of a
11 landfill or solid waste processing disposal facility shall make
12 the fee payment quarterly. The fee shall be paid quarterly to the
13 department on or before the forty-fifth day following the end of
14 each quarter. For purposes of this section, landfill has the same
15 definition as municipal solid waste landfill unit in 40 C.F.R. ~~part~~
16 ~~258, subpart A, section 258.2.~~

17 (2) Each fee payment shall be accompanied by a form
18 prepared and furnished by the department and completed by the
19 permitholder. The form shall state the total volume of solid waste
20 disposed of at ~~that~~ the landfill or transported for disposal out of
21 state from the solid waste processing facility during the payment
22 period and shall provide any other information deemed necessary by
23 the department. The form shall be signed by the permitholder.

24 (3) If a permitholder fails to make a timely payment of
25 the fee, he or she shall pay interest on the unpaid amount at the

1 rate specified in section 45-104.02, as such rate may from time to
2 time be adjusted.

3 (4) This section shall not apply to a site used solely
4 for the reclamation of land through the introduction of landscaping
5 rubble or inert material.

6 (5) Fifty percent of the total of such fees collected in
7 each quarter shall be remitted to the State Treasurer for credit
8 to the Integrated Solid Waste Management Cash Fund and shall be
9 used by the department to cover the direct and indirect costs
10 of responding to spills or other environmental emergencies, of
11 regulating, investigating, remediating, and monitoring facilities
12 during and after operation of facilities, or of performance of
13 regulated activities under the Integrated Solid Waste Management
14 Act, the Livestock Waste Management Act, the Nebraska Litter
15 Reduction and Recycling Act, and the Waste Reduction and Recycling
16 Incentive Act. The department may seek recovery of expenses paid
17 from the fund for responding to spills or other environmental
18 emergencies or for investigation, remediation, and monitoring of
19 a facility from any person who owned, operated, or used the
20 facility in violation of the Integrated Solid Waste Management
21 Act, the Livestock Waste Management Act, the Nebraska Litter
22 Reduction and Recycling Act, and the Waste Reduction and Recycling
23 Incentive Act in a civil action filed in the district court of
24 Lancaster County. Of the amount credited to the Integrated Solid
25 Waste Management Cash Fund, the department may disburse amounts

1 to political subdivisions for costs incurred in response to and
2 remediation of any solid waste disposed of or abandoned at dump
3 sites or discrete locations along public roadways or ditches and on
4 any contiguous area affected by such disposal or abandonment. Such
5 reimbursement shall be by application to the department on forms
6 prescribed by the department. The department shall prepare and make
7 available a schedule of eligible costs and application procedures
8 which may include a requirement of a demonstration of preventive
9 measures to be taken to discourage future dumping. The department
10 may not disburse to political subdivisions an amount which in the
11 aggregate exceeds five percent of total revenue from the disposal
12 fees collected pursuant to this section in the preceding fiscal
13 year. These disbursements shall be made on a fiscal-year basis,
14 and applications received after funds for this purpose have been
15 exhausted may be eligible during the next fiscal year but are
16 not an obligation of the state. Any eligible costs incurred by a
17 political subdivision which are not funded due to a lack of funds
18 shall not be considered an obligation of the state. In disbursing
19 funds under this section, the director shall make efforts to ensure
20 equal geographic distribution throughout the state and may deny
21 reimbursements in order to accomplish this goal.

22 (6) The remaining fifty percent of the total of such fees
23 collected per quarter shall be remitted to the State Treasurer for
24 credit to the Waste Reduction and Recycling Incentive Fund. For
25 purposes of determining the total fees collected, any amount of

1 fees rebated pursuant to section 13-2042.01 shall be included as if
2 the fees had not been rebated, and the amount of the fees rebated
3 pursuant to such section shall be deducted from the amount to be
4 credited to the Waste Reduction and Recycling Incentive Fund.

5 (7) The council shall adopt and promulgate rules and
6 regulations for the distribution of grants under subsection (6)
7 of this section from the proceeds of the fees imposed by
8 this section to counties, municipalities, and agencies for the
9 purposes of planning and implementing facilities and systems to
10 further the goals of the Integrated Solid Waste Management Act.
11 The fees collected pursuant to this section shall not be used
12 as grant proceeds to fund landfill closure site assessments,
13 closure, monitoring, or investigative or corrective action costs
14 for existing landfills or landfills already closed prior to July
15 15, 1992. The rules and regulations shall base the awarding of
16 grants on a project's reflection of the integrated solid waste
17 management policy and hierarchy established in section 13-2018, the
18 proposed amount of local matching funds, and community need.

19 Sec. 2. Section 13-2042.01, Revised Statutes Supplement,
20 2009, is amended to read:

21 13-2042.01 (1) The Department of Environmental Quality
22 shall rebate to the municipality or county of origin ten cents of
23 the disposal fee required by section 13-2042 for ~~each six cubic~~
24 ~~yards of uncompact solid waste,~~ for each three cubic yards of
25 ~~compact solid waste,~~ or for each ten of solid waste disposed

1 of at landfills regulated by the department and ~~originating~~
2 or transported for disposal out of state from a solid waste
3 processing facility holding a permit under the Integrated Solid
4 Waste Management Act and when such solid waste originated in a
5 municipality or county with a purchasing policy approved by the
6 department. The fee shall be rebated on a schedule agreed upon
7 between the municipality or county and the department. The schedule
8 shall be no more often than quarterly and no less often than
9 annually.

10 (2) Any municipality or county may apply to the
11 department for the rebate authorized in subsection (1) of this
12 section if the municipality or county has a written purchasing
13 policy in effect requiring a preference for purchasing products,
14 materials, or supplies which are manufactured or produced from
15 recycled material. The policy shall provide that the preference
16 shall not operate when it would result in the purchase of
17 products, materials, or supplies which are of inadequate quality
18 as determined by the municipality or county. Upon receipt of an
19 application, the Department of Environmental Quality shall submit
20 the application to the materiel division of the Department of
21 Administrative Services for review. The materiel division shall
22 review the application for compliance with this section and any
23 rules and regulations adopted pursuant to this section and to
24 determine the probable effectiveness in assuring that a preference
25 is given to products, materials, or supplies which are manufactured

1 or produced from recycled material. The materiel division shall
2 provide a report of its findings to the Department of Environmental
3 Quality within thirty days after receiving the review request. The
4 Department of Environmental Quality shall approve the application
5 or suggest modifications to the application within sixty days after
6 receiving the application based on the materiel division's report,
7 any analysis by the Department of Environmental Quality, and any
8 factors affecting compliance with this section or the rules and
9 regulations adopted pursuant to this section.

10 (3) A municipality or county shall file a report
11 complying with the rules and regulations adopted pursuant to
12 this section with the Department of Environmental Quality before
13 April 1 of each year documenting purchasing practices for the
14 past calendar year in order to continue receiving the rebate.
15 The report shall include, but not be limited to, quantities of
16 products, materials, or supplies purchased which were manufactured
17 or produced from recycled material. The department shall provide
18 copies of each report to the materiel division in a timely manner.
19 If the department determines that a municipality or county is
20 not following the purchasing policy presented in the approved
21 application or that the purchasing policy presented in the approved
22 application is not effective in assuring that a preference is
23 given to products, materials, or supplies which are manufactured
24 or produced from recycled material, the department shall suspend
25 the rebate until it determines that the municipality or county

1 is giving a preference to products, materials, or supplies which
2 are manufactured or produced from recycled material pursuant to
3 a written purchasing policy approved by the department subsequent
4 to the suspension. The materiel division may make recommendations
5 to the department regarding suspensions and reinstatements of
6 rebates. The Department of Administrative Services may adopt
7 and promulgate rules and regulations establishing procedures for
8 reviewing applications and for annual reports.

9 (4) Any suspension of the rebate or denial of an
10 application made under this section may be appealed. The appeal
11 shall be in accordance with the Administrative Procedure Act.

12 (5) The council shall adopt and promulgate rules and
13 regulations establishing criteria for application procedures, for
14 accepting and denying applications, for required reports, and
15 for suspending and reinstating the rebate. The materiel division
16 shall recommend to the council criteria for accepting and denying
17 applications and for suspending and reinstating the rebate. The
18 materiel division may make other recommendations to the council
19 regarding rules and regulations authorized under this section.

20 Sec. 3. Original section 13-2042, Reissue Revised
21 Statutes of Nebraska, and section 13-2042.01, Revised Statutes
22 Supplement, 2009, are repealed.