

## LEGISLATIVE BILL 592

Approved by the Governor May 27, 1999

Introduced by Beutler, 28; Bruning, 3; Kiel, 9; Preister, 5

AN ACT relating to waste management; to amend sections 13-2042, 81-1558, and 81-15,162, Reissue Revised Statutes of Nebraska, and section 81-15,160, Revised Statutes Supplement, 1998; to change provisions relating to landfill disposal fees; to change grant provisions; to provide powers and duties; to eliminate transfers from a fund; to harmonize provisions; to repeal the original sections; and to declare an emergency.

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

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

13-2042. (1) A disposal fee of one dollar and twenty-five cents is imposed for each six cubic yards of uncompacted solid waste, one dollar and twenty-five cents for each three cubic yards of compacted solid waste, or one dollar and twenty-five cents per ton of solid waste disposed of at landfills regulated by the department. Each operator of a landfill disposal facility shall make the fee payment quarterly. The fee shall be paid quarterly to the department on or before the forty-fifth day following the end of each quarter. For purposes of this section, landfill has the same definition as municipal solid waste landfill unit in 40 C.F.R. part 258, subpart A, section 258.2.

(2) ~~The department shall exempt a landfill operator from the disposal fee imposed by this section for solid waste that is disposed pursuant to a contract shown to have been in effect on or before December 15, 1991, if such contract requires the landfill operator to dispose of solid waste without a mechanism for a price increase for a period of not less than one year. Such exemption shall terminate at the earlier of the following dates: (a) The date such contract allows for a price increase; (b) the expiration of such contract; or (c) July 1, 1994.~~

(3) Each fee payment shall be accompanied by a form prepared and furnished by the department and completed by the permitholder. The form shall state the total volume of solid waste disposed of at that facility during the payment period and shall provide any other information deemed necessary by the department. The form shall be signed by the permitholder.

(4) (3) If a permitholder fails to make a timely payment of the fee, he or she shall pay interest on the unpaid amount at the rate specified in section 45-104.02, as such rate may from time to time be adjusted.

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

(6) (5) Fifty percent of the total of such fees collected in each quarter shall be remitted to the State Treasurer for credit to the Integrated Solid Waste Management Cash Fund and shall be used by the department to cover the direct and indirect costs of regulating and monitoring facilities during and after operation of facilities or performance of regulated activities under the Integrated Solid Waste Management Act. Of the amount credited to the Integrated Solid Waste Management Cash Fund, the department may disburse amounts to political subdivisions for costs incurred in response to and remediation of any solid waste disposed of or abandoned at dump sites or discrete locations along public roadways or ditches and on any contiguous area affected by such disposal or abandonment. Such reimbursement shall be by application to the department on forms prescribed by the department. The department shall prepare and make available a schedule of eligible costs and application procedures which may include a requirement of a demonstration of preventive measures to be taken to discourage future dumping. The department may not disburse to political subdivisions an amount which in the aggregate exceeds five percent of total revenue from the disposal fees collected pursuant to this section in the preceding fiscal year. These disbursements shall be made on a fiscal-year basis, and applications received after funds for this purpose have been exhausted may be eligible during the next fiscal year but are not an obligation of the state. Any eligible costs incurred by a political subdivision which are not funded due to a lack of funds shall not be considered an obligation of the state. In disbursing funds under this section, the director shall make efforts to ensure equal geographic distribution throughout the state and may deny reimbursements in order to accomplish this goal.

~~(7)~~ (6) The remaining fifty percent of the total of such fees collected per quarter shall be remitted to the State Treasurer for credit to the Waste Reduction and Recycling Incentive Fund. For purposes of determining the total fees collected, any amount of fees rebated pursuant to section 13-2042.01 shall be included as if the fees had not been rebated, and the amount of the fees rebated pursuant to such section shall be deducted from the amount to be credited to the Waste Reduction and Recycling Incentive Fund.

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

Sec. 2. Section 81-1558, Reissue Revised Statutes of Nebraska, is amended to read:

81-1558. There is hereby created within the state treasury a fund to be known as the Nebraska Litter Reduction and Recycling Fund. The proceeds of the fee imposed by sections 81-1559 to 81-1560.02, money received by the department as gifts, donations, or contributions toward the goals stated in section 81-1535, and money received by the department for nonprofit activities concerning litter reduction and recycling, including, but not limited to, honoraria, literature furnished by the department, and funds realized as reimbursement for expenses in conducting educational forums, shall be remitted to the State Treasurer for credit to such fund to be used for the administration and enforcement of the Nebraska Litter Reduction and Recycling Act. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. ~~On or before December 17, 1994, and each year thereafter, the director shall direct the State Treasurer to transfer all amounts remitted to the department pursuant to section 81-1561, raised in the previous fiscal year from the Nebraska Litter Reduction and Recycling Act, which are in excess of eight hundred thousand dollars to the Waste Reduction and Recycling Incentive Fund. If such transfer occurs, the Waste Reduction and Recycling Incentive Fund shall consist of such transfers in addition to amounts credited pursuant to section 81-15,160.~~

Sec. 3. Section 81-15,160, Revised Statutes Supplement, 1998, is amended to read:

81-15,160. (1) The Waste Reduction and Recycling Incentive Fund is created. The department shall deduct from the fund amounts sufficient to reimburse itself for its costs of administration of the fund. The fund shall be administered by the Department of Environmental Quality. The fund shall consist of proceeds from the fees imposed pursuant to ~~sections 81-15,159 to 81-15,165~~ the Waste Reduction and Recycling Incentive Act.

(2) The fund may be used for purposes which include, but are not limited to:

(a) Technical and financial assistance to political subdivisions for creation of recycling systems and for modification of present recycling systems;

(b) Recycling and waste reduction projects, including public education, planning, and technical assistance;

(c) Market development for recyclable materials separated by generators, including public education, planning, and technical assistance;

(d) Capital assistance for establishing private and public intermediate processing facilities for recyclable materials and facilities using recyclable materials in new products;

(e) Programs which develop and implement composting of yard waste and composting with sewage sludge;

(f) Technical assistance for waste reduction and waste exchange for waste generators;

(g) Programs to assist communities and counties to develop and implement household hazardous waste management programs;

(h) Incentive grants to political subdivisions to assist and encourage the closure of landfills operating without a permit, the regional consolidation of solid waste disposal facilities operating with a permit, and the use of transfer stations. Grants awarded for programs involving land disposal shall include provisions for waste reduction and recycling; and

(i) Capital assistance for establishing private and public facilities to manufacture combustible waste products and to incinerate waste to generate and recover energy resources.

(3) No grant shall be made under section 81-15,161 to a political subdivision which operates a landfill operating without a permit unless the grant will be used to meet permit standards and the landfill is issued a permit within two years after the award of the grant.

~~(4) Priority for grants made under section 81-15,161 shall be given to grant proposals that will be used for the recycling of tires or tire waste reduction~~

(4) Priority for grants made under section 81-15,161 shall be given to grant proposals that will be used for the recycling of tires or tire waste reduction, except that on or before June 1, 2002, up to one million dollars will be available for scrap tire projects only, if acceptable scrap tire project applications are received. Eligible categories of disbursement may include:

(a) Studies to determine economic and technical feasibility of uses of scrap tires or tire-derived product, with disbursements of up to one hundred percent of the cost of the study;

(b) Reimbursement for the purchase of crumb rubber generated and used in Nebraska, with disbursements not to exceed fifty percent of the cost of the crumb rubber;

(c) Reimbursement for the purchase of tire-derived product which utilizes a minimum of twenty-five percent recycled tire content, with disbursements not to exceed twenty-five percent of the product's retail cost;

(d) Participation in the capital costs of building, equipment, and other capital improvement needs or startup costs for scrap tire processing or manufacturing of tire-derived product, with disbursements not to exceed fifty percent of such costs or five hundred thousand dollars, whichever is less;

(e) Participation in the capital costs of building, equipment, or other startup costs needed to establish collection sites or to collect and transport scrap tires, with disbursements not to exceed fifty percent of such costs;

(f) Cost-sharing for the manufacturing of tire-derived product, with disbursements not to exceed twenty dollars per ton or two hundred fifty thousand dollars, whichever is less, to any person annually;

(g) Cost-sharing for the processing of scrap tires, with disbursements not to exceed twenty dollars per ton or two hundred fifty thousand dollars, whichever is less, to any person annually; and

(h) Cost-sharing for the use of scrap tires for civil engineering applications for specified projects, with disbursements not to exceed twenty dollars per ton or two hundred fifty thousand dollars, whichever is less, to any person annually.

The director shall give preference to projects which utilize scrap tires generated and used in Nebraska.

(5) The department may disburse (a) to any person up to one hundred percent of the costs incurred in cleaning up scrap tire collection sites existing on June 11, 1997, if application for such cleanup is submitted prior to June 1, 1999, and the cleanup is completed by September 1, 2000, or (b) to a political subdivision up to one hundred percent of costs incurred in cleaning up collection sites if application for such cleanup is submitted prior to June 1, 1999, and the cleanup is completed by September 1, 2000.

(6) Priority for grants made under section 81-15,161 shall be given to grant proposals demonstrating a formal public/private partnership except for grants awarded from fees collected under subsection (6) of section 13-2042.

(7) Grants awarded from fees collected under subsection (6) of section 13-2042 may be renewed for up to a five-year grant period. Such applications shall include an updated integrated solid waste management plan pursuant to section 13-2032. Annual disbursements are subject to available funds and the grantee meeting established grant conditions. Priority for such grants shall be given to grant proposals showing regional participation and programs which address the first integrated solid waste management hierarchy as stated in section 13-2018 which shall include toxicity reduction. Disbursements for any one year shall not exceed fifty percent of the total fees collected after rebates under subsection (6) of section 13-2042 during that year. <sup>7</sup> except that on or before June 30, 1999, grant proposals that will be used for the recycling of tires or tire waste reduction shall be submitted and considered under section 81-15,162.02 and shall not be funded from the Waste Reduction and Recycling Incentive Fund.

~~(5) (8) Any person who operates a scrap tire collection site in violation of state law which is the subject of abatement or cleanup as~~

provided in section 81-15,161.01 shall be liable to the State of Nebraska for the reimbursement of expenses of such abatement or cleanup paid out of the fund.

(9) The Department of Environmental Quality may receive gifts, bequests, and any other contributions for deposit in the fund. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 4. Section 81-15,162, Reissue Revised Statutes of Nebraska, is amended to read:

81-15,162. (1) Commencing October 1, 1990, there is hereby imposed a fee of one dollar on each tire of every new motor vehicle, trailer, or semitrailer sold at retail in this state. Such fee shall be collected by the county treasurer at the time of registration of the motor vehicle, trailer, or semitrailer and remitted to the Department of Revenue.

(2) Commencing October 1, 1990, there is hereby imposed a fee of one dollar on every tire sold at retail in this state, including every farm tractor tire, which tires are not on a motor vehicle, trailer, or semitrailer pursuant to subsection (1) of this section. Such fee shall be collected from the purchaser by the tire retailer at the time of purchase and shall be remitted to the Department of Revenue.

(3) For purposes of this section, tire shall have the definition found in section 81-15,159.02 and shall include a pneumatic and solid tire but shall not include a recapped or regrooved tire.

(4) Subject to section 81-15,165:

(a) On or before June 30, 1999, the fees remitted to the Department of Revenue under this section shall be remitted to the State Treasurer for credit to the Scrap Tire Reduction and Recycling Incentive Fund; and

(b) After June 30, 1999, the fees remitted to the Department of Revenue under this section along with any unobligated balance in the Scrap Tire Reduction and Recycling Incentive Fund shall be remitted to the State Treasurer for credit to the Waste Reduction and Recycling Incentive Fund. Fees collected in excess of one million dollars shall be available for grants to political subdivisions under rules and regulations adopted pursuant to subsection (7) of section 13-2042.

Sec. 5. Original sections 13-2042, 81-1558, and 81-15,162, Reissue Revised Statutes of Nebraska, and section 81-15,160, Revised Statutes Supplement, 1998, are repealed.

Sec. 6. Since an emergency exists, this act takes effect when passed and approved according to law.