An Act

ENROLLED SENATE
BILL NO. 25

By: Marlatt of the Senate

and

Hickman and Pittman of the House

An Act relating to waste disposal; amending 27A O.S. 2011, Section 2-10-802, which relates to weight scales and disposal fees; clarifying application of certain fees for non-hazardous waste disposal at certain sites; and declaring an emergency.

SUBJECT: Solid waste disposal

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 27A O.S. 2011, Section 2-10-802, is amended to read as follows:

Section 2-10-802. A. 1. Owners or operators of landfill disposal sites which are not generator-owned and -operated nonhazardous industrial waste monofills and owners or operators of commercial incinerators shall install scales. Such scales shall be installed on or within five (5) miles of the landfill disposal site or incinerator and shall be tested and certified as required by Section 14-35 of Title 2 of the Oklahoma Statutes relating to the authority of the State Board of Agriculture to test the standards of weights and measures within the state and to approve if found to be correct. For purposes of this section, any reference to "incinerator" or "incineration" shall encompass waste-to-energy

facilities that produce recoverable energy by high-temperature combustion.

2. The owner or operator shall upon receipt weigh all waste received and record the weight in writing. If scales at a disposal site or incinerator are not operative, tonnage shall be estimated on a volume basis whereby the volume reported shall be no less than the volume capacity of the containers or, if none, of the vehicles delivering the waste, and one cubic yard of solid waste shall be calculated to weigh one-third (1/3) ton. The owner or operator shall place notice in the operating record of the disposal site or incinerator of the time and date at which the scales became inoperable, describe the steps taken to repair them, and note the date use was resumed. If daily use has not resumed within thirty (30) days after the scales became inoperable, the owner or operator shall give written notice to the Department of Environmental Quality.

3. The owner or operator shall also maintain a written record of the weight or volume of any solid waste received which is productively reused or recovered in materially the same form as when received and sold in accordance with the permit for the landfill disposal site or incinerator.

4. The scale location restriction of this subsection shall not apply to federal or state military installations so long as:

a. the scales are located within the physical boundary of that installation, and

b. the disposal site or incinerator receives waste only from that military installation.

B. 1. Except as otherwise provided by this subsection:

a. owners and operators of landfill disposal sites or commercial incinerators which receive an average of less than one hundred (100) tons of solid waste per operating day shall assess a fee of One Dollar and fifty cents ($1.50) per ton of solid waste received for disposal or incineration. A total of fifty cents ($.50) per ton of such fee shall be retained by the

owner or operator and used exclusively for capital improvement to their facilities and for the projects required pursuant to the Oklahoma Solid Waste Management Act or the permit for the disposal site or incinerator for such period of time necessary to recoup a capital investment, plus the interest costs expended in purchasing the scales, of a total of Forty Thousand Dollars ($40,000.00),

b. when the owner or operators have recouped a capital investment of the total specified in subparagraph a of this paragraph, the fee to be assessed shall be One Dollar and twenty-five cents ($1.25) per ton of solid waste received for disposal or incineration. At such time, for a return with remittance filed on or before the due date, the owner or operator may deduct and retain ten percent (10%) of the fees collected, and

c. records documenting the projects and use of the funds shall be included with each return.

2. a. Owners and operators of landfill disposal sites or commercial incinerators which receive an average of more than one hundred (100) tons of solid waste per operating day shall assess a fee of One Dollar and fifty cents ($1.50) per ton of solid waste received for disposal or incineration, retaining twenty-five cents ($0.25) per ton for a period of time necessary to recoup a capital investment, plus the interest costs expended in purchasing the scales, of Forty Thousand Dollars ($40,000.00). At the end of such period the fee shall revert to One Dollar and twenty-five cents ($1.25) per ton. For a return with remittance filed on or before the due date, the owner or operator may deduct and retain ten percent (10%) of the fees collected.

b. Records documenting the capital investment and the use of the funds shall be included with each return.

3. Owners and operators of commercial composting facilities shall assess a fee of One Dollar and twenty-five cents ($1.25) per ton of all composting material received.

4. a. Owners and operators of landfill disposal sites or commercial incinerators may be reimbursed for capital investment costs that have been or will be expended for the purchase and installation of a wheel wash system for use at the landfill disposal site or commercial incinerator facility. To be eligible to claim this reimbursement, the owner or operator must notify the Department no later than January 1, 2011, of the intent to claim the reimbursement, and the wheel wash system must be in place and operational no later than January 1, 2012. Reimbursement shall be paid only after the wheel wash system is installed and operational and each landfill disposal site or commercial incinerator shall be eligible for reimbursement for only one wheel wash system.

b. The owner or operator shall provide records documenting the capital investment costs of the wheel wash system to the Department.

c. At such time as the wheel wash system is in place and operational and the capital investment costs have been approved by the Department, the Department shall reimburse the owner or operator the approved costs, subject to the limitations in subparagraph d of this paragraph. The Department shall reimburse eligible applicants in the order of approval until that limitation has been reached. If there are multiple eligible applicants awaiting reimbursement, the Department shall apportion the reimbursement amount among the eligible applicants according to the capital investment costs approved by the Department.

d. If the total amount reimbursed to all eligible owners and operators reaches Fifty Thousand Dollars ($50,000.00) within any state fiscal year, the Department shall notify the owners and operators, and

thereafter the owners and operators shall not receive any reimbursement until the next state fiscal year.

e. The Environmental Quality Board is authorized to promulgate rules as necessary to implement the provisions of the Solid Waste Management Act, including rules specifying minimum standards or other criteria for wheel wash systems necessary to qualify for the reimbursement.

5. The fee assessed by paragraph 1 or 2 of this subsection shall not be imposed on:

a. the solid waste received which is productively reused or recovered in materially the same form as when received in accordance with the permit for the landfill disposal site or incinerator. The owner or operator shall include records pertaining to this fee exemption in the quarterly return of fees to the Department,

b. generator-owned and -operated nonhazardous waste land disposal monofills and waste subject to a fee pursuant to Section 2-10-803 of this title. For emergencies and other special events, the Department and the owner or operator of a site subject to this section may enter into a formal agreement to waive the fee, and

c. ash produced as a result of the combustion in a commercial incinerator of waste on which the fee imposed by this section has been paid.

6. Large industrial waste generators who generate over ten thousand (10,000) tons of nonhazardous industrial solid waste in the state in a calendar year may annually apply to the Department for a certificate exempting the disposal or incineration of such generated waste in excess of ten thousand (10,000) tons from the disposal and incineration fee authorized by this section. An applicant must have implemented a pollution prevention plan for such waste and filed it with the Department, provided operational documentation regarding such plan and paid the disposal and incineration fee on ten thousand (10,000) tons of the waste during the calendar year of application.

The Department-issued exemption certificates shall be valid for the remainder of the calendar year of application, may contain conditions, and, upon presentation by authorized persons, shall be recognized by owners or operators of landfill disposal sites and incinerators subject to this section. If a generator operates a landfill or incinerator solely for waste from that generator, and if that generator chooses to seek the exemption authorized by this paragraph, the generator shall not be required to install scales or keep records relative to quantity of waste received for the landfill or incinerator.

7. The fee assessed by paragraph 1 or 2 of this subsection shall be imposed for all nonhazardous solid wastes accepted for disposal at a site or facility to which a solid waste or hazardous waste permit has been issued by the Department of Environmental Quality, and is to be a charge to waste producers in addition to any charges specified in any contract or elsewhere. The fee shall be imposed upon and passed through to disposers of waste using the facility.

8. The owner or operator of a solid waste disposal site or incinerator and the owner or operator of a commercial composting facility shall collect the fee levied pursuant to this subsection as trustee for the state and shall prepare and file with the Department quarterly returns indicating:

a. the total tonnage of solid wastes or material for composting received for disposal, incineration or composting at the gate of the site, and

b. the total amount of the fees collected pursuant to this section.

9. Not later than thirty (30) days after the end of the quarter to which such a return applies, the owner or operator shall mail to the Department the return for that quarter together with the fees collected during that quarter as indicated on the return.

10. The owner or operator may receive an extension of not more than thirty (30) days for filing the return and remitting the fees, provided that:

a. the owner or operator has submitted a request for an extension in writing to the Department together with a detailed description of why the extension is requested,

b. the Department has received the request not later than the day on which the return is required to be filed, and

c. the Department has approved the request.

11. For any quarterly return filed more than thirty (30) days after the last day of the quarter or extension date, the owner or operator shall remit an additional five percent (5%) of the fees collected during the month to which the return applies. If the fees are not remitted within sixty (60) days of the last day of the quarter during which they were collected, the owner or operator shall pay an additional fifteen percent (15%) of the amount of the fees for each month that they are late.

12. If the owner or operator misrepresents, or fails to properly measure or record, the amount of waste received or fails to remit fees within sixty (60) days after the last day of the quarter during which they were collected, the permit for the landfill disposal site, incinerator or commercial composting facility shall be summarily suspended by order and the Department shall initiate the process of revoking the permit and may require closure of the landfill, incinerator or commercial composting facility.

C. 1. The Department shall expend funds collected pursuant to the provisions of this section solely for the administration and enforcement of the provisions of the Oklahoma Solid Waste Management Act and for the development of solid waste technical assistance programs, solid waste public environmental education programs and educational curricula, solid waste studies, development of a statewide solid waste plan, solid waste recycling and litter prevention programs, and other environmental improvements.

2. In order to assist the Department of Environmental Quality regarding its responsibilities relating to the promotion of recycling of solid waste, each fiscal year the Department shall contract with units of local government, political subdivisions of

this state, components of The Oklahoma State System of Higher Education, local and statewide organizations representing municipalities or counties, or substate planning districts recognized by the Oklahoma Department of Commerce, for up to a total of One Hundred Thousand Dollars ($100,000.00) and to the extent such monies are available for projects promoting the recycling of solid waste. Local governments, political subdivisions of this state, components of The Oklahoma State System of Higher Education, local and statewide organizations representing municipalities and counties and substate planning districts recognized by the Oklahoma Department of Commerce desiring to contract with the Department for such projects shall meet the application requirements of rules promulgated by the Environmental Quality Board and the criteria established by a recycling priorities plan prepared annually by the Department after review and comment by the Solid Waste Management Advisory Council. Except as otherwise provided by this section, contracts for such projects shall not be granted to state agencies.

3. Any litter prevention program shall be developed by the Department in conjunction with the Department of Transportation.

4. a. To the extent that funds are available, the Department may also reimburse any governmental entity for equipment other than motor vehicles or buildings to separate, process, modify, convert or treat solid waste or recovered materials so that the resulting product is being used in a productive manner.

b. The reimbursements shall be from solid waste fee funds and shall not exceed twenty-five percent (25%) of the person's total project costs. No reimbursement may be larger than Twenty Thousand Dollars ($20,000.00).

c. Reimbursements must be expended in accordance with rules promulgated by the Environmental Quality Board and criteria established through the Department's annual recycling priorities plan. The Department shall not expend more than Two Hundred Thousand Dollars ($200,000.00) in each fiscal year for such reimbursements, nor shall the Department reimburse used tire recycling facilities that may be eligible

for compensation from the Used Tire Recycling Indemnity Fund.

5. a. The Department, in conjunction with the Corporation Commission, the Oklahoma Energy Resources Board and the Oklahoma Conservation Commission, may develop a plan to use suitable portions of the solid waste stream to reclaim Oklahoma lands damaged by oil and gas exploration and production or by mining activities.

   b. To the extent that funds are available, the Department may use up to ten percent (10%) of the annual income from the fees received pursuant to the provisions of this section to implement the plan. The Department may use its discretion in administering the funds for the purpose of this paragraph, but shall keep records subject to audit by the State Auditor and Inspector for good business practices.

6. a. To the extent that funds are available, after having reasonably met other specified uses of the solid waste fund, the Department is authorized to expend up to five percent (5%) of the total annual solid waste fee income for the purpose of making incentive payments to any person, firm or corporation located in this state generating energy by utilizing solid waste landfill methane or steam produced by a commercial incinerator.

   b. The Environmental Quality Board shall promulgate rules to administer the provisions of this paragraph.

   c. No person, firm or corporation shall be eligible to receive incentive payments as provided in subparagraph a of this paragraph for more than three (3) years. The amount of such payments shall be determined by the Department based on the amount of energy generated and the cost of production.

D. The provisions of this section shall not apply to landfill disposal sites that receive only ash generated by the burning of coal.

E. On or before September 1 of each year, the Department of Environmental Quality shall prepare a report of income and expenditures for the period of each fiscal year in which solid waste fee monies authorized by this section were received and such report shall be distributed to members of the Solid Waste Management Advisory Council for review. By November 1 of each year, the Council shall submit to the Executive Director, Governor, Speaker of the House of Representatives and President Pro Tempore of the Senate its written comments on the comparison of income with program expenditures.

SECTION 2. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 27th day of February, 2013.

Presiding Officer of the Senate

Passed the House of Representatives the 17th day of April, 2013.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 18th

day of April, 20 13, at 1:36 o'clock P M.

By: Audrey Rockwell

Approved by the Governor of the State of Oklahoma this 24th

day of April, 20 13, at 3:01 o'clock P M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 24th

day of April, 20 13, at 5:00 o'clock P. M.

By: