

1 SENATE BILL NO. 161

2 INTRODUCED BY D. HARGROVE

3 BY REQUEST OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY

4

5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING AND CLARIFYING THE AUTHORITY OF THE
6 DEPARTMENT OF ENVIRONMENTAL QUALITY AND THE BOARD OF ENVIRONMENTAL REVIEW TO
7 ESTABLISH AND ASSESS FEES RELATED TO SOLID WASTE; AUTHORIZING THE DEPARTMENT TO
8 ASSESS PENALTIES FOR LATE OR NONPAYMENT OF ALL SOLID WASTE MANAGEMENT FEES;
9 REPEALING THE QUARTERLY SOLID WASTE MANAGEMENT FEE OF \$5 PER TON ON THE IN-STATE
10 DISPOSAL OR INCINERATION OF OUT-OF-STATE WASTE; REPEALING THE MORATORIUM ON CERTAIN
11 INTERSTATE TRANSPORT OF SOLID WASTE; AMENDING SECTIONS 7-13-231, 75-10-104, 75-10-105,
12 75-10-106, 75-10-115, 75-10-116, 75-10-117, 75-10-204, 75-10-206, AND 75-10-221, MCA;
13 REPEALING SECTIONS 75-10-118 AND 75-10-209, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE
14 DATE."

15

16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

17

18 **Section 1.** Section 7-13-231, MCA, is amended to read:

19 **"7-13-231. Authorization for charges for services.** (1) To defray the cost of maintenance and
20 operation of a solid waste management district, the board shall establish a fee for service, with approval
21 of the county commissioners, provided that a public hearing has been held if written protest has been
22 made as provided in 7-13-211. An increase in fees may not be approved and implemented unless notice
23 of the increase is given as provided in 7-13-208(1) and (2) and an opportunity for protest is allowed as
24 provided in 7-13-209 and 7-13-211.

25 (2) This fee must be assessed to all units in the district that are receiving a service, for the
26 purpose of maintenance and operation of the district.

27 (3) An opportunity for protest or hearing is not required to increase fees for the purpose of paying
28 fees ~~imposed~~ collected by the department of environmental quality under 75-10-115. Notice must be
29 provided to all units of the rate or portion of any rate that is directly attributable to the fee imposed.

30 (4) In order to aid in the determination of rates for service charges under 7-13-232, the

1 department of revenue shall assist the board by providing the board with information pertaining to new
 2 construction, demolition, remodeling that changes the use of a building, and the location of mobile homes
 3 within the district boundaries."

4

5 **Section 2.** Section 75-10-104, MCA, is amended to read:

6 **"75-10-104. Duties of department.** The department shall:

7 (1) prepare a state solid waste management and resource recovery plan as required by 75-10-807
 8 for submission to the board;

9 (2) prepare rules necessary for the implementation of this part for submission to the board,
 10 including but not limited to rules:

11 (a) governing the submission of plans for a solid waste management system;

12 (b) governing procedures to be followed in applying for and making loans;

13 (c) governing agreements between a local government and the department for grants or loans
 14 under this part;

15 (d) establishing, for the purpose of determining the TONNAGE OR volume-based solid waste
 16 management fee ~~to which that~~ a facility is subject to under ~~75-10-118~~ 75-10-115(1)(c), methods for
 17 determining or estimating the amount of solid waste incinerated or disposed of at a facility;

18 (e) establishing the license application fee that a facility is subject to under 75-10-115(1)(a);

19 (f) establishing the flat annual license renewal fee that a facility is subject to under
 20 75-10-115(1)(b);

21 (g) establishing the TONNAGE OR volume-based annual renewal fee that a facility is subject to under
 22 75-10-115(1)(c);

23 ~~(e)(h)~~ (h) providing procedures for the quarterly collection of the solid waste management fee provided
 24 for in ~~75-10-118~~ 75-10-204(6); and

25 ~~(f)(i)~~ (i) providing guidelines for integrated waste management;

26 (3) provide financial assistance to local governments for front-end planning activities for a
 27 proposed solid waste management system ~~which that~~ is compatible with the state plan whenever financial
 28 assistance is available;

29 (4) provide technical assistance to persons within the state for planning, designing, constructing,
 30 financing, and operating:

- 1 (a) a solid waste management system in order to ensure that the system conforms to the state
2 plan;
- 3 (b) integrated waste management programs; and
- 4 (c) collection, disposal, reduction, and educational programs for household hazardous waste and
5 conditionally exempt small quantities of hazardous waste as defined in ARM 16.44.402;
- 6 (5) provide front-end organizational loans for the implementation of an approved solid waste
7 management system whenever funds for loans are available;
- 8 (6) enforce and administer the provisions of this part;
- 9 (7) administer loans made by the state under the provisions of this part;
- 10 (8) approve plans for a proposed solid waste management system submitted by a local
11 government; and
- 12 (9) serve as a clearinghouse for information on waste reduction and reuse, recycling technology
13 and markets, composting, and household hazardous waste disposal, including chemical compatibility."
14

15 **Section 3.** Section 75-10-105, MCA, is amended to read:

16 **"75-10-105. Powers of department.** The department may:

- 17 (1) accept loans and grants from the federal government and other sources to carry out the
18 provisions of this part;
- 19 (2) make loans to a local government for the planning, design, and implementation of a solid waste
20 management system;
- 21 (3) make grants for a local government for planning or implementation of a solid waste
22 management system; and
- 23 (4) collect the solid waste management ~~fee~~ fees provided for in ~~75-10-118~~ 75-10-115."
24

25 **Section 4.** Section 75-10-106, MCA, is amended to read:

26 **"75-10-106. Duties of board.** The board shall:

- 27 (1) adopt a state solid waste management and resource recovery plan after complying with the
28 procedures outlined in 75-10-111; and
- 29 (2) adopt rules necessary for the implementation of this part, including but not limited to rules
30 governing the following:

- 1 (a) submission of plans for a solid waste management system;
- 2 (b) the procedures to be followed in applying for and making loans and grants;
- 3 (c) the requirements for eligibility for grants; ~~and~~
- 4 (d) the agreements between the local government and the department for grants and loans under
- 5 this part; and
- 6 (e) the application fee, flat annual license renewal fee, and TONNAGE OR volume-based renewal fee
- 7 for solid waste management systems prepared by the department pursuant to 75-10-104 and 75-10-115."

8

9 **Section 5.** Section 75-10-115, MCA, is amended to read:

10 **"75-10-115. Solid waste management fee.** (1) The department may ~~establish and collect~~ prepare

11 rules for adoption by the board, pursuant to 75-10-104 and 75-10-106, that set fees for the management

12 and regulation of solid waste disposal AT FACILITIES SUBJECT TO REGULATION PURSUANT TO PART 2 OF THIS

13 CHAPTER. Upon adoption by the board, the department may collect the fees. These fees may include:

14 (a) a license application fee that reflects the cost of reviewing a new solid waste management

15 system or a substantial change to an existing facility;

16 (b) ~~an a flat~~ a flat annual license renewal fee that reflects a minimal base fee related to the fixed costs

17 of an annual inspection and license renewal and that is based upon the following formula: categorization

18 of solid waste management systems into separate classes identified by the following criteria:

19 (i) the quantity of solid waste received by the solid waste management system;

20 (ii) the nature of the solid waste received; and

21 (iii) the nature of the waste management occurring within the solid waste management system;

22 ~~(i) for a major facility with a planned capacity of more than 25,000 tons of solid waste a year,~~

23 ~~\$3,500;~~

24 ~~—— (ii) for an intermediate facility with a planned capacity of more than 5,000 tons a year but not more~~

25 ~~than 25,000 tons a year, \$3,000;~~

26 ~~—— (iii) for a minor facility with a planned capacity of not more than 5,000 tons a year, \$2,500; and~~

27 (c) a TONNAGE OR volume-based fee on solid waste disposal.

28 (2) All fees collected must be deposited in the solid waste management account provided for in

29 75-10-117."

30

1 **Section 6.** Section 75-10-116, MCA, is amended to read:

2 **"75-10-116. Penalties for failure to pay fee.** A person who owns a solid waste disposal facility
3 that is subject to ~~a fee~~ the fees under ~~75-10-118~~ 75-10-115 and who fails to pay the fee in the manner
4 provided by department rule is subject to a fine of not more than \$2,000 or imprisonment not to exceed
5 6 months, or both, and shall reimburse the department for the amount of the fee owed and interest
6 calculated at a rate equal to the previous fiscal year's average rate of return on the board of investments'
7 short-term investment pool."

8

9 **Section 7.** Section 75-10-117, MCA, is amended to read:

10 **"75-10-117. Solid waste management account.** (1) There is a solid waste management account
11 in the state special revenue fund provided for in 17-2-102.

12 (2) There must be deposited in the account:

13 (a) all revenue from the solid waste management ~~fee~~ fees provided for in ~~75-10-118~~ 75-10-115;

14 and

15 (b) money received by the department in the form of legislative appropriations, reimbursements,
16 gifts, federal funds, or appropriations from any source; that is intended to be used for the purposes of the
17 account.

18 (3) The account may be used by the department only for the administration of ~~part 2, this part,~~
19 ~~and~~ 75-2-215, part 2 of this chapter, and this part."

20

21 **Section 8.** Section 75-10-204, MCA, is amended to read:

22 **"75-10-204. Powers and duties of department.** The department shall, subject to the provisions
23 of 75-10-107, adopt rules governing solid waste management systems that must include but are not
24 limited to:

25 (1) requirements for the plan of operation and maintenance that must be submitted with an
26 application under this part;

27 (2) the classification of disposal sites according to the physical capabilities of the site to contain
28 the type of solid waste to be disposed of;

29 (3) the procedures to be followed in the disposal, treatment, or transport of solid wastes;

30 (4) the suitability of the site from a public health standpoint when hydrology, geology, and

1 climatology are considered;

2 (5) requirements relating to ground water monitoring, including but not limited to:

3 (a) information that owners and operators of municipal solid waste landfills and other disposal sites
4 specified in 75-10-207 ~~must~~ are required to submit to the department to enable the department to prepare
5 the priority compliance list authorized by 75-10-207(3);

6 (b) the content of plans for the design, construction, operation, and maintenance of monitoring
7 wells and monitoring systems; and

8 (c) recordkeeping and reporting;

9 (6) ~~fees related to the review of solid waste management system license applications;~~

10 ~~—— (7) the renewal of solid waste management system licenses and related fees;~~

11 ~~—— (8) the imposition of a quarterly fee based on the justifiable direct and indirect costs to the state~~
12 of administering Title 75, chapter 10, parts 1 and 2, for solid waste generated outside Montana and
13 disposed of or incinerated within Montana;

14 ~~(9)(7)~~ requirements to maintain financial assurance payable to the state of Montana with a surety
15 satisfactory to the department in an amount sufficient to provide for waste tire treatment, removal,
16 transportation, and disposal, fire suppression, or other measures necessary to protect the environment and
17 the health, safety, and welfare of the public;

18 ~~(10)(8)~~ any other factors relating to the sanitary disposal or management of solid wastes."

19

20 **Section 9.** Section 75-10-206, MCA, is amended to read:

21 **"75-10-206. Variance.** (1) ~~Any~~ A person may apply to the board for a variance from rules adopted
22 by the department pursuant to 75-10-204, except for rules adopted pursuant to 75-10-204~~(8)(6)~~. The
23 board may grant a variance if it finds that:

24 (a) failure to comply with the rules does not result in a danger to public health or safety; or

25 (b) compliance with the rules from which a variance is sought would produce hardship without
26 producing benefits to the health and safety of the public that outweigh the hardship.

27 (2) ~~No~~ A variance may not be granted pursuant to this section except after a hearing pursuant to
28 the Montana Administrative Procedure Act and consideration by the board of the relative interests of the
29 applicant and owners of the property likely to be affected by the waste disposal system under
30 consideration.

1 (3) ~~Nothing in this~~ This section may not be construed as relieving the board from the obligation
 2 to comply with the Resource Conservation and Recovery Act of 1976, as amended, or as allowing the
 3 board to grant a variance less restrictive than that act."

4

5 **Section 10.** Section 75-10-221, MCA, is amended to read:

6 **"75-10-221. License required -- application.** (1) Except as provided in 75-10-214, ~~no~~ a person
 7 may not dispose of solid waste or operate a solid waste management system without a license from the
 8 department.

9 (2) The department shall provide application forms for a license as provided in this part.

10 (3) The application ~~shall~~ must contain the name and business address of the applicant, the location
 11 of the proposed solid waste management system, a plan of operation and maintenance, and ~~such~~ other
 12 information ~~as~~ that the department may by rule require.

13 (4) The license provided for in this section is for a period not to exceed 12 months unless renewed
 14 by the department. ~~The department may provide exceptions to the 12-month requirement for a 2-year~~
 15 ~~period following July 1, 1991.~~

16 (5) The department may require submission of a new application if the department determines that
 17 the plan of operation, the management of the solid waste system, or the geological or ground water
 18 conditions have changed since the license was initially approved.

19 (6) In preparing rules for board adoption that establish ~~establishing~~ fees for licenses and the review
 20 of applications pursuant to 75-10-104(2), the department shall consider the TONNAGE OR volume of waste
 21 to be managed and the size of the proposed solid waste management system. The fees adopted by the
 22 board must encourage reduction in the TONNAGE OR volume of waste to be managed and cover the costs
 23 to the department of initially reviewing and annually licensing the solid waste management system."

24

25 NEW SECTION. **Section 11. Repealer.** Sections 75-10-118 and 75-10-209, MCA, are repealed.

26

27 NEW SECTION. **Section 12. Effective date.** [This act] is effective on passage and approval.

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