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S.B. 147
136th General Assembly

Fiscal Note & Local Impact Statement

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Version: As Passed by the Senate

Primary Sponsor: Sen. Reineke

Local Impact Statement Procedure Required: No

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Highlights

- Local boards of health could see an increase of between \$5.1 million and \$20.4 million annually from additional permissive construction and demolition debris (C&DD) fees.
- Local subdivisions paying C&DD disposal fees may see increased expenses when paying waste disposal fees if those fees are increased by the county or joint solid waste management district.

Detailed Analysis

The bill permits additional locally collected construction and demolition debris (C&DD) fees and establishes a process for counties to unilaterally withdraw from a joint solid waste district.

County withdrawal from an SWMD

The bill creates a process for a county to unilaterally withdraw from a joint solid waste management district (SWMD) without the approval of the other counties comprising the joint district as required under current law.

Under the bill, to withdraw from a joint SWMD:

1. A county must adopt a resolution declaring that the county will unilaterally withdraw from the joint SWMD and provide notice to the joint SWMD's board of directors who are then required to deliver written notice of the proposed withdrawal to the boards of county commissioners of the other counties forming the joint SWMD and to the Ohio Environmental Protection Agency (Ohio EPA) Director;

2. Within 45 days of notification, the members of the joint SWMD are required to enter into a memorandum of understanding (MOU) for the operation of the district for a two-year period at the end of which, the withdrawing county will no longer be a member;
3. If members do not agree on an MOU, the withdrawing county is required to request a hearing in the court of common pleas of an adjacent county to decide the terms on the MOU on behalf of the counties in the joint SWMD. The court is required to issue an order detailing the terms of the MOU within 90 days.

The MOU may be extended beyond the two-year period, otherwise at the expiration of the MOU, the withdrawing county is severed from the joint SWMD. The bill requires a joint SWMD's board of directors to take all actions necessary to divide the SWMD's funds on hand, credits, and real and personal property on any equitable basis between the SWMD and the withdrawing county, effective upon the expiration date of the MOU.

The bill prohibits the Ohio EPA Director from requiring the withdrawing county to join a joint district, or regional solid waste management authority, or rejoin the joint district from which it is withdrawing.

The potential fiscal effects for any affected SWMD is difficult to predict, however, at a minimum any affected SWMD would be required to create a new solid waste plan which would increase administrative costs for the district. The potential fiscal effects on any court of common pleas to oversee the initial MOU process or MOU extension for a joint MOU is likely minimal relative to the overall operation of the court and can be assumed with currently appropriated staff and resources.

Construction and demolition debris

The bill permits a county or SWMD to levy a fee on the disposal of C&DD and asbestos or asbestos-containing material at a C&DD or solid waste disposal facility within the district based on where the waste is generated in the same manner that applies to fees levied upon the disposal of solid waste:¹

- For waste generated within the county/district: not less than \$1 per ton and not more than \$2 per ton;
- For waste generated outside the county/district: not less than \$2 per ton and not more than \$4 per ton;
- For waste generated outside of the state: not less than the fee for waste generated within the county/district.

Based on the amount of C&DD disposed in Ohio in 2023, about 5.1 tons, if all districts charged the per-ton authorized fee on C&DD disposal, between \$5.1 million and \$20.4 million could be generated by this fee annually. According to practitioners, it is also possible that there are districts that would opt to not charge the fees as permitted by the bill.

¹ Under continuing law for solid waste disposal fees, any disposal facility that does not use weight to determine the fee shall use a conversion factor of (1) three cubic yards per ton of solid waste or (2) one cubic yard per ton for baled waste, as applicable.

C&DD fee revenues are required to be used to administer C&DD laws and to abate abandoned C&DD. The bill expands the uses of the fee revenues to additionally include mitigation of the impacts to public health, safety, and welfare of C&DD facilities and solid waste facilities.²

Because of the bill's additional permissive C&DD fees, local subdivisions may see increased costs when disposing of their own locally generated C&DD waste. State agencies may also be impacted by these new costs, the extent of which would vary from agency to agency.

Solid waste fees – county or joint solid waste management district

The bill authorizes a solid waste management district to use locally collected disposal fees to provide financial assistance to counties, boards of health, municipal corporations, and townships to mitigate the impacts of solid waste facilities to public health, safety, and welfare. Under current law, the generating county or district receives an amount equal to the difference between fees assessed on waste generated inside the receiving county or district and fees assessed on waste generated outside of the county or district.

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² Under continuing law, local boards of health retain 27¢ per cubic yard or 54¢ per ton of the fees associated with the transfer or disposal of C&DD.