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S.B. 119*
135th General Assembly

Bill Analysis

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Version: As Reported by Senate Agriculture and Natural Resources

Primary Sponsor: Sen. Reineke

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SUMMARY

Construction and demolition debris (C&DD) fees

- Authorizes a solid waste management district (SWMD) to levy fees on the disposal of C&DD (mirroring current SWMD solid waste disposal fees) as follows:
 - A fee between \$1 and \$2 per ton for the disposal of C&DD generated within the district or out-of-state; and
 - A fee between \$2 and \$4 per ton for the disposal of C&DD generated outside of the district, but in-state.
- Requires the SWMD to forward the fees to the board of health of the health district in which the C&DD or solid waste facility that collected the fee is located.
- Requires the fees to be used by the board of health to administer the C&DD law within its jurisdiction, to abate accumulations of C&DD, and to mitigate the impacts to public health, safety, and welfare of C&DD facilities and solid waste facilities.
- Applies procedural requirements governing the administration and collection of current solid waste disposal fees to the administration and collection of the new C&DD fees.
- Expands the purposes for which a board of health may spend money from the existing and new C&DD disposal fees to include mitigating the public health, safety, and welfare impacts of solid waste and C&DD facilities.

* This analysis was prepared before the report of the Senate Agriculture and Natural Resources Committee appeared in the Senate Journal. Note that the legislative history may be incomplete.

- Specifies that a SWMD may not levy the new C&DD fees with respect to a C&DD facility or solid waste facility that is located in a health district that is not approved to regulate C&DD under the C&DD law.
- Eliminates the ability of a solid waste facility operator to charge solid waste fees on the disposal of C&DD.

Solid waste disposal fees

- Allows SWMDs to use revenue from district solid waste disposal fees to provide financial assistance to individual counties, boards of health, municipal corporations, and townships to mitigate the impacts of solid waste facilities to public health, safety, and welfare.
- Revises and reallocates the current solid waste transfer and disposal fees (while maintaining the total fees charged at \$4.75 per ton) as follows:
 - Reduces a 90¢ per ton fee to 71¢ per ton and allocates the proceeds as follows:
 - ❖ 11¢ per ton, rather than 20¢ per ton, to the Hazardous Waste Facility Management Fund, which must be used by OEPA to administer the hazardous waste program;
 - ❖ 60¢ per ton, rather than 70¢ per ton, to the Hazardous Waste Clean-Up Fund, which must be used by OEPA to administer hazardous waste clean-up programs.
 - Increases, from 75¢ per ton to 90¢ per ton, the fee that is deposited in the Waste Management Fund, which is used by OEPA to administer and enforce laws governing solid and infectious waste and construction and demolition debris;
 - Reduces, from \$2.85 per ton to \$2.81 per ton, the fee that is deposited in the Environmental Protection Fund, which is used by OEPA to administer and enforce environmental protection laws;
 - Maintains the current 25¢ per ton fee that is used to provide assistance to soil and water conservation districts;
 - Imposes a new additional fee on the transfer or disposal of solid waste of 8¢ per ton, through June 30, 2026, which must be deposited in the National Priority List Remedial Support Fund created by the bill.
- Extends the sunset on all four existing solid waste transfer and disposal fees from June 30, 2024 to June 30, 2026.
- Requires the OEPA Director to use money in the National Priority List Remedial Support Fund for the state's removal action and remedial action and long term operation and maintenance costs or applicable cost shares for actions taken under the federal "Comprehensive Environmental Response, Compensation, and Liability Act."
- Also authorizes the Director to use money in the fund to contract with federal, state, or local government agencies, nonprofit organizations, colleges, and universities to carry out the responsibilities specified above on behalf of OEPA.

County withdrawal from joint solid waste management district

- Allows a county that is the locale of solid waste facilities and that collectively paid more than 75% of the annual revenue of a joint SWMD during the prior year to adopt a resolution declaring that the county will unilaterally withdraw from the joint district.
- Specifies that the withdrawal does not require the approval of the other member counties.
- Requires the board of directors of the joint district to hold a meeting if any county objects to a member county's unilateral withdrawal.

DETAILED ANALYSIS

Construction and demolition debris (C&DD) fees

New C&DD fees

The bill authorizes solid waste management districts (SWMD) to levy new fees on the disposal in the district of C&DD (mirroring the amounts of current solid waste disposal fees) as follows:

1. A fee between \$1 and \$2 per ton on the disposal of C&DD generated within the district or from out-of-state; and
2. A fee between \$2 and \$4 per ton on the disposal of C&DD generated outside of the district, but in-state.

The bill applies the same procedures and requirements that currently govern the administration and collection of SWMD solid waste disposal fees to the new C&DD fees, including a requirement that solid waste and C&DD facility owners and operators collect the fee and hold it in trust for the SWMD. The procedures and requirements also include provisions governing fee collection and accounting, filing of returns, extensions on returns, discounts, refunds or credits, and the conversion rate for fees collected on the basis of cubic yards. The SWMD must forward money received from the fees to the applicable health district in which the facilities are located. The health district must deposit it into the special fund used by boards of health for the purposes discussed below. However, a SWMD may not levy the new C&DD fees with respect to a C&DD facility or solid waste facility that is located in a health district that is not approved to regulate C&DD under the C&DD law.¹

Use of fee proceeds and charging of fees

The bill expands the purposes for which a board of health may spend money from fees levied on the disposal of C&DD (including the new C&DD fees) to include mitigation of any impacts to public health, safety, and welfare of any C&DD facility and solid waste disposal or

¹ R.C. 3714.07(E); R.C. 3714.09, not in the bill.

transfer facility within the health district. Currently, a board of health may use these fees to administer and enforce the C&DD Law and to abate abandoned accumulations of C&DD.²

The bill eliminates current law allowing a solid waste facility operator to charge solid waste disposal fees on the disposal of C&DD in lieu of C&DD fees. Thus, when C&DD is disposed of in a solid waste facility, under the bill, the operator must collect the fees that correspond to the type of waste disposed. Current law authorizes the operator to choose either to assess solid waste fees or C&DD fees when C&DD is disposed in a solid waste facility. The bill also eliminates a provision of law that specifies that C&DD fees do not apply when C&DD is disposed of at a solid waste facility and there is no C&DD facility within 35 miles.³

Solid waste disposal fees

Use of SWMD solid waste disposal fees

The bill allows SWMDs to use existing solid waste disposal fees to provide financial assistance to individual counties, boards of health, municipal corporations, and townships to mitigate the impacts of solid waste facilities to public health, safety, and welfare. Currently, these fees must be used for ten specific purposes associated with solid waste management, such as solid waste management planning and assisting boards of health with solid waste law enforcement.⁴

State solid waste disposal fees

The bill revises and reallocates the current state fees collected on the transfer or disposal of solid waste and imposes one new fee, while maintaining the current total per ton charge collected at \$4.75 per ton.⁵ The table below illustrates the revisions to each fee and the imposition of one new fee:

Fee under current law	Fee under the bill
<p>The 90¢ fee, collected until June 30, 2024, is currently allocated as follows:</p> <ul style="list-style-type: none"> ▪ 20¢ per ton, to the Hazardous Waste Facility Management Fund, which must be used by OEPA to administer the hazardous waste program; ▪ 70¢ per ton, to the Hazardous Waste Clean-Up Fund, which must be used by OEPA to 	<p>The bill extends the sunset of the fee to June 30, 2026, reduces the fee to 71¢ per ton, and allocates the proceeds as follows:</p> <ul style="list-style-type: none"> ▪ 11¢ per ton to the Hazardous Waste Facility Management Fund; ▪ 60¢ per ton to the Hazardous Waste Clean-Up Fund.

² R.C. 3714.07(A)(4).

³ R.C. 3714.07(E) and 3714.073(D).

⁴ R.C. 3734.57(G) and 343.011(F). Conforming changes in R.C. 343.022, 343.08, 3734.53, and 3734.574.

⁵ R.C. 3734.57(A) and 3734.579.

Fee under current law	Fee under the bill
administer hazardous waste clean-up programs.	
The 75¢ per ton fee, collected until June 30, 2024, is deposited in the Waste Management Fund, which is used by OEPA to administer and enforce laws governing solid and infectious waste and construction and demolition debris.	The bill increases the fee to 90¢ per ton and extends the sunset of the fee to June 30, 2026.
The \$2.85 per ton fee, collected until June 30, 2024, is deposited in the Environmental Protection Fund, which is used by OEPA to administer and enforce environmental protection laws.	The bill reduces the fee to \$2.81 per ton and extends the sunset of the fee to June 30, 2026.
The 25¢ per ton fee, collected until June 30, 2024, is used to provide assistance to soil and water conservation districts.	The bill maintains the 25¢ fee and extends the sunset of the fee to June 30, 2026.
Not applicable: this fee is not collected under current law.	<p>The bill imposes a new 8¢ per ton fee, until June 30, 2026, which must be deposited in the National Priority List Remedial Support Fund created by the bill.</p> <p>The OEPA Director must use the fund for the state’s removal action and remedial action and long term operation and maintenance costs or applicable cost shares for actions taken under the federal “Comprehensive Environmental Response, Compensation, and Liability Act” (CERCLA). The Director may use money in the fund to contract with federal, state, or local government agencies, nonprofit organizations, colleges, and universities to carry out those responsibilities on behalf of OEPA.</p>

County withdrawal from a joint SWMD

The bill creates a unilateral process by which certain counties may withdraw from a joint SWMD in lieu of the current process. Under the bill, if a county is the locale of solid waste facilities that collectively paid more than 75% of the annual revenue of the joint SWMD in the immediately preceding calendar year, the board of county commissioners may adopt a resolution (“unilateral withdrawal resolution”) declaring that the county will unilaterally withdraw from the joint SWMD. The withdrawing county must submit the resolution to the boards of county commissioners of the other counties comprising the joint SWMD and to the OEPA Director. Approval of the other counties that are a part of the joint SWMD is not required, which is not the case under current law.

After the withdrawing county submits a unilateral withdrawal resolution, the nonwithdrawing counties must adopt a resolution either approving or disapproving that withdrawal. If any county adopts a resolution of disapproval, the board of directors of the joint SWMD must give written notice of that objection to all of the boards of county commissioners. Within 30 days of that notice, the board of directors must hold a meeting to discuss the objection. After the meeting, if the county declaring withdrawal still desires to proceed with the withdrawal, the board of directors must approve it. Within 30 days of that approval, the board of directors must give written notice to all of the boards of county commissioners that the county is withdrawing and the withdrawal process begins.⁶

The bill requires the OEPA Director to take all actions necessary to effectuate the withdrawal so that the withdrawal is effective within 180 days after the submission of the unilateral withdrawal resolution. After the expiration of the 180-day period, the withdrawing county is severed from the joint SWMD, becomes a county SWMD, and must comply with all necessary provisions of the law governing county SWMDs. After the withdrawal, the board of county commissioners may form or join a joint solid waste management district or a regional solid waste management authority. However, the bill expressly prohibits the OEPA Director from requiring the withdrawing county to form a joint SWMD or to rejoin the joint SWMD from which the county withdrew.⁷

HISTORY

Action	Date
Introduced	05-09-23
Reported, S. Agriculture and Natural Resources	--

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⁶ R.C. 343.012, conforming changes in R.C. 343.01.

⁷ R.C. 3734.521.