

FIRST REGULAR SESSION

# SENATE BILL NO. 467

93RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR GRIESHEIMER.

Read 1st time February 28, 2005, and ordered printed.

TERRY L. SPIELER, Secretary.

1860S.02I

## AN ACT

To repeal sections 260.325, 260.330, 260.335 and 260.345, RSMo, and to enact in lieu thereof four new sections relating to solid waste.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 260.325, 260.330, 260.335 and 260.345, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 260.325, 260.330, 260.335 and 260.345, to read as follows:

260.325. 1. The executive board of each district shall submit to the department a plan which has been approved by the council for a solid waste management system serving areas within its jurisdiction and shall, from time to time, submit officially adopted revisions of its plan as it deems necessary or the department may require. In developing the district's solid waste management plan, the board shall consider the model plan distributed to the board pursuant to section 260.225. Districts may contract with a licensed professional engineer or as provided in chapter 70, RSMo, for the development and submission of a joint plan.

2. The board shall hold at least one public hearing in each county in the district when it prepares a proposed plan or substantial revisions to a plan in order to solicit public comments on the plan.

3. The solid waste management plan shall be submitted to the department within eighteen months of the formation of the district. The plan shall be prepared and submitted according to the procedures specified in section 260.220 and this section.

4. Each plan shall:

(1) Delineate areas within the district where solid waste management systems are in existence;

(2) Reasonably conform to the rules and regulations adopted by the department for

**EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

implementation of sections 260.200 to 260.345;

(3) Delineate provisions for the collection of recyclable materials or collection points for recyclable materials;

(4) Delineate provisions for the collection of compostable materials or collection points for compostable materials;

(5) Delineate provisions for the separation of household waste and other small quantities of hazardous waste at the source or prior to disposal;

(6) Delineate provisions for the orderly extension of solid waste management services in a manner consistent with the needs of the district, including economic impact, and in a manner which will minimize degradation of the waters or air of the state, prevent public nuisances or health hazards, promote recycling and waste minimization and otherwise provide for the safe and sanitary management of solid waste;

(7) Take into consideration existing comprehensive plans, population trend projections, engineering and economics so as to delineate those portions of the district which may reasonably be expected to be served by a solid waste management system;

(8) Specify how the district will achieve a reduction in solid waste placed in sanitary landfills through waste minimization, reduction and recycling;

(9) Establish a timetable, with milestones, for the reduction of solid waste placed in a landfill through waste minimization, reduction and recycling;

(10) Establish an education program to inform the public about responsible waste management practices;

(11) Establish procedures to minimize the introduction of small quantities of hazardous waste, including household hazardous waste, into the solid waste stream;

(12) Establish a time schedule and proposed method of financing for the development, construction and operation of the planned solid waste management system together with the estimated cost thereof;

(13) Identify methods by which rural households that are not served by a regular solid waste collection service may participate in waste reduction, recycling and resource recovery efforts within the district; and

(14) Include such other reasonable information as the department shall require.

5. The board shall review the district's solid waste management plan at least every twenty-four months for the purpose of evaluating the district's progress in meeting the requirements and goals of the plan, and shall submit plan revisions to the department and council.

6. In the event any plan or part thereof is disapproved, the department shall furnish any and all reasons for such disapproval and shall offer assistance for correcting deficiencies. The executive board shall within sixty days revise and resubmit the plan for approval or request a hearing in accordance with section 260.235. Any plan submitted by a

district shall stand approved one hundred twenty days after submission unless the department disapproves the plan or some provision thereof.

7. The director may institute appropriate action under section 260.240 to compel submission of plans in accordance with sections 260.200 to 260.345 and the rules and regulations adopted pursuant to sections 260.200 to 260.345.

8. The provisions of section 260.215 to the contrary notwithstanding, any county within a region which on or after January 1, 1995, is not a member of a district shall by June 30, 1995, submit a solid waste management plan to the department of natural resources. Any county which withdraws from a district and all cities within the county with a population over five hundred shall submit a solid waste plan or a revision to an existing plan to the department of natural resources within one hundred eighty days of its decision not to participate. The plan shall meet the requirements of section 260.220 and this section.

9. Funds may, upon appropriation, be made available to cities, counties and districts, under section 260.335, for the purpose of implementing the requirements of this section.

**10. The district board shall arrange for independent financial audits of the records and accounts of its operations by a certified public accountant or by a firm of certified public accountants. Districts receiving two hundred thousand dollars or more of financial assistance shall have annual independent financial audits, and districts receiving less than two hundred thousand dollars shall have independent financial audits at least every two years. The state auditor may examine the findings of such audits and may conduct audits of the districts. Subject to available resources, the department shall conduct a performance audit of grants to each district at least once every three years.**

260.330. 1. Except as otherwise provided in subsection 6 of this section, effective October 1, 1990, each operator of a solid waste sanitary landfill shall collect a charge equal to one dollar and fifty cents per ton or its volumetric equivalent of solid waste accepted and each operator of the solid waste demolition landfill shall collect a charge equal to one dollar per ton or its volumetric equivalent of solid waste accepted. Each operator shall submit the charge, less collection costs, to the department of natural resources for deposit in the "Solid Waste Management Fund" which is hereby created. On October 1, 1992, and thereafter, the charge imposed herein shall be adjusted annually by the same percentage as the increase in the general price level as measured by the Consumer Price Index for All Urban Consumers for the United States, or its successor index, as defined and officially recorded by the United States Department of Labor or its successor agency. **No annual adjustment will be made to the charge imposed herein from October 1, 2005, to October 1, 2009, except an amount consistent with the need to fund the operating costs of the department, including taking into account any annual percentage increase in the total of the volumetric equivalent of solid waste accepted in the prior year at solid waste**

sanitary landfills and demolition landfills and solid waste to be transported out of state for disposal that is accepted at transfer stations. No annual increase during this period can exceed the percentage increase measured by the Consumer Price Index for All Urban Customers for the United States, or its successor index, as defined and officially recorded by the United States Department of Labor or its successor agency. Collection costs shall be established by the department and shall not exceed two percent of the amount collected pursuant to this section.

2. The department shall, by rule and regulation, provide for the method and manner of collection.

3. The charges established in this section shall be enumerated separately from the disposal fee charged by the landfill and may be passed through to persons who generated the solid waste. Moneys shall be transmitted to the department shall be no less than the amount collected less collection costs and in a form, manner and frequency as the department shall prescribe. The provisions of section 33.080, RSMo, to the contrary notwithstanding, moneys in the account shall not lapse to general revenue at the end of each biennium. Failure to collect the charge does not relieve the operator from responsibility for transmitting an amount equal to the charge to the department.

4. The department may examine or audit financial records and landfill activity records and measure landfill usage to verify the collection and transmittal of the charges established in this section. The department may promulgate by rule and regulation procedures to ensure and to verify that the charges imposed herein are properly collected and transmitted to the department.

5. Effective October 1, 1990, any person who operates a transfer station in Missouri shall transmit a fee to the department for deposit in the solid waste management fund which is equal to one dollar and fifty cents per ton or its volumetric equivalent of solid waste accepted. Such fee shall be applicable to all solid waste to be transported out of the state for disposal. On October 1, 1992, and thereafter, the charge imposed herein shall be adjusted annually by the same percentage as the increase in the general price level as measured by the Consumer Price Index for All Urban Consumers for the United States, or its successor index, as defined and officially recorded by the United States Department of Labor or its successor agency. **No annual adjustment will be made to the charge imposed herein from October 1, 2005, to October 1, 2009, except an amount consistent with the need to fund the operating costs of the department, including taking into account any percentage increase in the total of the volumetric equivalent of solid waste accepted in the prior year at solid waste sanitary landfills and demolition landfills and solid waste to be transported out of state for disposal that is accepted at transfer stations. No annual increase during this period can exceed the percentage increase measured by the Consumer Price Index for All Urban Consumers for the**

**United States, or its successor index, as defined and officially recorded by the United States Department of Labor or its successor agency.** The department shall prescribe rules and regulations governing the transmittal of fees and verification of waste volumes transported out of state from transfer stations. Collection costs shall also be established by the department and shall not exceed two percent of the amount collected pursuant to this subsection. A transfer station with the sole function of separating materials for recycling or resource recovery activities shall not be subject to the fee imposed in this subsection.

6. Each political subdivision which owns an operational solid waste disposal area may designate, pursuant to this section, up to two free disposal days during each calendar year. On any such free disposal day, the political subdivision shall allow residents of the political subdivision to dispose of any solid waste which may be lawfully disposed of at such solid waste disposal area free of any charge, and such waste shall not be subject to any state fee pursuant to this section. Notice of any free disposal day shall be posted at the solid waste disposal area site and in at least one newspaper of general circulation in the political subdivision no later than fourteen days prior to the free disposal day.

260.335. 1. [For fiscal years 1992-1997,] One million dollars from the solid waste management fund shall be made available, upon appropriation, to the department and the environmental improvement and energy resources authority to fund activities that promote the development and maintenance of markets for recovered materials[, and beginning in fiscal year 1998, ten percent of the moneys in the solid waste management fund, from August 28, 2004, to August 28, 2005, not to exceed eight hundred thousand dollars, shall be made available for such purposes. Up to nineteen percent of such moneys may be used, upon appropriation, to administer the management of household hazardous waste and agricultural hazardous waste from family farms and family farm corporations, as defined in section 350.010, RSMo, to provide for establishment of an education program and a plan for the collection of household hazardous waste on a statewide basis by January 1, 2000. After August 28, 2005, no more than one million dollars shall be made available for such purposes.] Up to fifteen percent of such moneys may be used upon appropriation to administer the management of household hazardous waste and agricultural hazardous waste from family farms and family farm corporations, as defined in section 350.010, RSMo, to provide for establishment of an education program and a plan for the collection of household hazardous waste on a statewide basis by January 1, 2000. The department and the authority shall establish a joint interagency agreement with the department of economic development to identify state priorities for market development and to develop the criteria to be used to judge proposed projects. Additional moneys may be appropriated in subsequent fiscal years if requested. The authority shall establish a procedure to measure the effectiveness of the grant program under this subsection and shall provide a report to the governor and general

assembly by January fifteenth of each year regarding the effectiveness of the program.

2. All remaining revenues deposited into the fund each fiscal year after moneys have been made available for market development under subsection 1 of this section shall be allocated as follows:

(1) [From August 28, 2004, to August 28, 2005, up to forty-two] **Thirty-eight** percent of the revenues shall be dedicated, upon appropriation, to the elimination of illegal solid waste disposal, to identify and prosecute persons disposing of solid waste illegally, to conduct solid waste permitting activities, to administer grants and perform other duties imposed in sections 260.200 to 260.345 and section 260.432. [After August 28, 2005, up to twenty-five percent of the revenues shall be dedicated, upon appropriation, to the activities and duties authorized in this subdivision] **In addition to the thirty-eight percent of the revenues, the department shall receive any annual increases in the charge from October 1, 2005, to October 1, 2009, as established in section 260.330, and be used solely to fund the operating costs of the department;**

(2) [From August 28, 2004, to August 28, 2005, at least fifty-eight] **Sixty-two** percent of the revenues, **except any annual increases in the charge, established in section 260.330, from October 1, 2005, to October 1, 2009, shall be used solely to fund the operating costs of the department,** shall be allocated through grants, upon appropriation, to participating cities, counties, and districts. [After August 28, 2005, up to fifty percent of the revenues shall be allocated through grants, upon appropriation, to participating districts.] **Revenues to be allocated under this subdivision shall be divided as follows: fifty percent of the revenues to be allocated based on the population of each district in the latest decennial census, and fifty percent of the revenues to be allocated based on the amount of revenue generated within each district. For purposes of this subdivision, revenue generated within each district shall be determined from the previous year's data.** Forty percent of the revenue [generated within each region and] allocable under this subdivision may be allocated to the [district] **districts** upon approval of the department for implementation of a solid waste management plan and district operations, and sixty percent of the revenue [generated within each region and] allocable **to the districts** under this subdivision shall be allocated to the cities and counties of the district or to persons or entities providing solid waste management, waste reduction, recycling and related services in these cities and counties. [For the purposes of this subdivision, revenue generated within each district shall be determined from the previous year's data. From August 28, 2004, to August 28, 2005, each district shall receive a minimum of seventy-five thousand dollars under this subdivision. After August 28, 2005,] Each district shall receive a minimum of [forty] **ninety-five** thousand dollars under this subdivision **for district grants and district operations.** Each district receiving moneys under this subdivision shall expend such moneys pursuant to a solid waste management plan

required under section 260.325, and only in the case that the district is in compliance with planning requirements established by the department[, and shall submit, within ninety days of the end of the fiscal year, an audited report of the expenditure of all funds received under this subsection]. Moneys shall be awarded based upon grant applications. Any moneys remaining in any fiscal year due to insufficient or inadequate applications may be reallocated pursuant to this subdivision;

(3) [From August 28, 2004, to August 28, 2005, any remaining moneys in the fund shall be used, upon appropriation, to provide grants for statewide solid waste management planning or research projects to any district, county or city of the state or to any other person or entity involved in waste reduction or recycling or for contracted services to further the purposes of section 260.225 and sections 260.255 to 260.345. After August 28, 2005, any remaining moneys in the fund shall be used, upon appropriation, to provide grants or loans for statewide solid waste management projects to any district, county or city of the state or to any other person or entity involved in waste reduction or recycling to further the purposes of sections 260.255 to 260.345. Solid waste management districts may apply annually to the department for a three-to-one matching grant of up to twenty thousand dollars per district per year to be used for the purpose of district operations;

(4)] Funds may be made available under this subsection for the administration and grants of the used motor oil program described in section 260.253;

[(5)] (4) The department and the environmental improvement and energy resources authority shall conduct sample audits of grants provided under this subsection.

3. The advisory board created in section 260.345 shall recommend criteria to be used to allocate grant moneys to districts, cities and counties. These criteria shall establish a priority for proposals which provide methods of solid waste reduction and recycling. The department shall promulgate criteria for evaluating grants by rule and regulation. Projects of cities and counties located within a district which are funded by grants under this section shall conform to the district solid waste management plan.

4. [Beginning July 1, 2004, a joint committee appointed by the speaker of the house of representatives and the president pro tem of the senate shall consider proposals for fees, restructuring the distribution of the fees between solid waste districts, grant recipients, and the department. The committee shall consider options for the distribution of the tipping fee to the solid waste districts and any other matters it deems appropriate. The committee shall prepare and submit a report including its recommendation for changes to the governor, the house of representatives, and the senate no later than December 31, 2004.

5.] The funds awarded to the districts, counties and cities pursuant to this section shall be used for the purposes set forth in sections 260.300 to 260.345, and shall be used in addition to existing funds appropriated by counties and cities for solid waste management and shall not supplant county or city appropriated funds.

[6.] 5. The department, in conjunction with the solid waste advisory board, shall review the performance of all grant recipients to ensure that grant moneys were appropriately and effectively expended to further the purposes of the grant, as expressed in the recipient's grant application. The grant application shall contain specific goals and implementation dates, and grant recipients shall be contractually obligated to fulfill same. The department may require the recipient to submit periodic reports and such other data as are necessary, both during the grant period and up to five years thereafter, to ensure compliance with this section. The department may audit the records of any recipient to ensure compliance with this section. Recipients of grants under sections 260.300 to 260.345 shall maintain such records as required by the department. If a grant recipient fails to maintain records or submit reports as required herein, refuses the department access to the records, or fails to meet the department's performance standards, the department may withhold subsequent grant payments, if any, and may compel the repayment of funds provided to the recipient pursuant to a grant. The department shall make available all of the unencumbered funds generated during prior fiscal years by the fees established under section 260.330 through grants or loans to solid waste management areas and processing facilities, municipalities, counties, districts, and other appropriate persons who demonstrate a need for assistance to comply with section 260.250. Such grants or loans shall be used for educational programs, transportation, low-interest or no-interest loans to purchase property for composting or other solid waste source reduction activities stated to facilitate compliance with section 260.250.

[7.] 6. The department shall provide for a security interest in any machinery or equipment purchased through grant moneys distributed pursuant to this section.

[8.] 7. If the moneys are not transmitted to the department within the time frame established by the rule promulgated, interest shall be imposed on the moneys due the department at the rate of ten percent per annum from the prescribed due date until payment is actually made. These interest amounts shall be deposited to the credit of the solid waste management fund.

260.345. A state "Solid Waste Advisory Board" is created within the department of natural resources. The advisory board shall be composed of the chairman of the executive board of each of the solid waste management districts and other members as provided in this section. Up to five additional members shall be appointed by the director of which [up to] two [may] **members shall** represent the solid waste management industry and have an economic interest in or activity with any solid waste facility or operation, [and at least] one [such] member [shall] **may** represent [a locally owned] **the** solid waste [management business] **composting or recycling industry**, and the remaining members shall be public members who have demonstrated interest in solid waste management issues and shall have no economic interest in or activity with any solid waste facility or operation but may own

stock in a publicly traded corporation which may be involved in waste management as long as such holdings are not substantial. [The appointment of any member by the director shall be terminated if the member fails to attend at least fifty percent of the board meetings in any calendar year.]

The advisory board shall advise the department regarding:

- (1) The efficacy of its technical assistance program;
- (2) Solid waste management problems experienced by solid waste management districts;
- (3) The effects of proposed rules and regulations upon solid waste management within the districts;
- (4) Criteria to be used in awarding grants pursuant to section 260.335;
- (5) Waste management issues pertinent to the districts;
- (6) The development of improved methods of solid waste minimization, recycling and resource recovery; and
- (7) Such other matters as the advisory board may determine.

**T**

Bill

Copy