



## 100TH GENERAL ASSEMBLY

### State of Illinois

2017 and 2018

SB1355

Introduced 2/9/2017, by Sen. Michael E. Hastings

#### SYNOPSIS AS INTRODUCED:

415 ILCS 5/22.51

Amends the Environmental Protection Act. Provides that no later than 6 months after the effective date, the Environmental Protection Agency shall propose to the Board, and, no later than one year after the Board's receipt of the Agency's proposal, the Board shall adopt rules allowing for the subdivision of areas within a permitted clean construction or demolition debris site for specified purposes. Contains provisions concerning requirements for the rules. Provides that until the effective date of the rules adopted following the Agency's proposal, the Agency may grant permit modifications for closure of a subdivided area within a permitted clean construction and demolition debris fill operation upon application by the clean construction and demolition debris fill operator as long as any permit modification so granted by the Agency is protective of human health and the environment. Provides that the Agency shall consult with members of the mining, construction, and real estate development industry during the development of any rules to promote the purpose of specified provisions.

LRB100 09974 MJP 20145 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning safety.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Environmental Protection Act is amended by  
5 changing Section 22.51 as follows:

6 (415 ILCS 5/22.51)

7 Sec. 22.51. Clean Construction or Demolition Debris Fill  
8 Operations.

9 (a) No person shall conduct any clean construction or  
10 demolition debris fill operation in violation of this Act or  
11 any regulations or standards adopted by the Board.

12 (b) (1) (A) Beginning August 18, 2005 but prior to July 1,  
13 2008, no person shall use clean construction or demolition  
14 debris as fill material in a current or former quarry, mine, or  
15 other excavation, unless they have applied for an interim  
16 authorization from the Agency for the clean construction or  
17 demolition debris fill operation.

18 (B) The Agency shall approve an interim authorization upon  
19 its receipt of a written application for the interim  
20 authorization that is signed by the site owner and the site  
21 operator, or their duly authorized agent, and that contains the  
22 following information: (i) the location of the site where the  
23 clean construction or demolition debris fill operation is

1 taking place, (ii) the name and address of the site owner,  
2 (iii) the name and address of the site operator, and (iv) the  
3 types and amounts of clean construction or demolition debris  
4 being used as fill material at the site.

5 (C) The Agency may deny an interim authorization if the  
6 site owner or the site operator, or their duly authorized  
7 agent, fails to provide to the Agency the information listed in  
8 subsection (b) (1) (B) of this Section. Any denial of an interim  
9 authorization shall be subject to appeal to the Board in  
10 accordance with the procedures of Section 40 of this Act.

11 (D) No person shall use clean construction or demolition  
12 debris as fill material in a current or former quarry, mine, or  
13 other excavation for which the Agency has denied interim  
14 authorization under subsection (b) (1) (C) of this Section. The  
15 Board may stay the prohibition of this subsection (D) during  
16 the pendency of an appeal of the Agency's denial of the interim  
17 authorization brought under subsection (b) (1) (C) of this  
18 Section.

19 (2) Beginning September 1, 2006, owners and operators of  
20 clean construction or demolition debris fill operations shall,  
21 in accordance with a schedule prescribed by the Agency, submit  
22 to the Agency applications for the permits required under this  
23 Section. The Agency shall notify owners and operators in  
24 writing of the due date for their permit application. The due  
25 date shall be no less than 90 days after the date of the  
26 Agency's written notification. Owners and operators who do not

1 receive a written notification from the Agency by October 1,  
2 2007, shall submit a permit application to the Agency by  
3 January 1, 2008. The interim authorization of owners and  
4 operators who fail to submit a permit application to the Agency  
5 by the permit application's due date shall terminate on (i) the  
6 due date established by the Agency if the owner or operator  
7 received a written notification from the Agency prior to  
8 October 1, 2007, or (ii) or January 1, 2008, if the owner or  
9 operator did not receive a written notification from the Agency  
10 by October 1, 2007.

11 (3) On and after July 1, 2008, no person shall use clean  
12 construction or demolition debris as fill material in a current  
13 or former quarry, mine, or other excavation (i) without a  
14 permit granted by the Agency for the clean construction or  
15 demolition debris fill operation or in violation of any  
16 conditions imposed by such permit, including periodic reports  
17 and full access to adequate records and the inspection of  
18 facilities, as may be necessary to assure compliance with this  
19 Act and with Board regulations and standards adopted under this  
20 Act or (ii) in violation of any regulations or standards  
21 adopted by the Board under this Act.

22 (4) This subsection (b) does not apply to:

23 (A) the use of clean construction or demolition debris  
24 as fill material in a current or former quarry, mine, or  
25 other excavation located on the site where the clean  
26 construction or demolition debris was generated;

1 (B) the use of clean construction or demolition debris  
2 as fill material in an excavation other than a current or  
3 former quarry or mine if this use complies with Illinois  
4 Department of Transportation specifications; or

5 (C) current or former quarries, mines, and other  
6 excavations that do not use clean construction or  
7 demolition debris as fill material.

8 (c) In accordance with Title VII of this Act, the Board may  
9 adopt regulations to promote the purposes of this Section. The  
10 Agency shall consult with the mining and construction  
11 industries during the development of any regulations to promote  
12 the purposes of this Section.

13 (1) No later than December 15, 2005, the Agency shall  
14 propose to the Board, and no later than September 1, 2006,  
15 the Board shall adopt, regulations for the use of clean  
16 construction or demolition debris as fill material in  
17 current and former quarries, mines, and other excavations.  
18 Such regulations shall include, but shall not be limited  
19 to, standards for clean construction or demolition debris  
20 fill operations and the submission and review of permits  
21 required under this Section.

22 (2) Until the Board adopts rules under subsection  
23 (c)(1) of this Section, all persons using clean  
24 construction or demolition debris as fill material in a  
25 current or former quarry, mine, or other excavation shall:

26 (A) Assure that only clean construction or

1 demolition debris is being used as fill material by  
2 screening each truckload of material received using a  
3 device approved by the Agency that detects volatile  
4 organic compounds. Such devices may include, but are  
5 not limited to, photo ionization detectors. All  
6 screening devices shall be operated and maintained in  
7 accordance with manufacturer's specifications.  
8 Unacceptable fill material shall be rejected from the  
9 site; and

10 (B) Retain for a minimum of 3 years the following  
11 information:

12 (i) The name of the hauler, the name of the  
13 generator, and place of origin of the debris or  
14 soil;

15 (ii) The approximate weight or volume of the  
16 debris or soil; and

17 (iii) The date the debris or soil was received.

18 (d) This Section applies only to clean construction or  
19 demolition debris that is not considered "waste" as provided in  
20 Section 3.160 of this Act.

21 (e) For purposes of this Section:

22 (1) The term "operator" means a person responsible for  
23 the operation and maintenance of a clean construction or  
24 demolition debris fill operation.

25 (2) The term "owner" means a person who has any direct  
26 or indirect interest in a clean construction or demolition

1 debris fill operation or in land on which a person operates  
2 and maintains a clean construction or demolition debris  
3 fill operation. A "direct or indirect interest" does not  
4 include the ownership of publicly traded stock. The "owner"  
5 is the "operator" if there is no other person who is  
6 operating and maintaining a clean construction or  
7 demolition debris fill operation.

8 (3) The term "clean construction or demolition debris  
9 fill operation" means a current or former quarry, mine, or  
10 other excavation where clean construction or demolition  
11 debris is used as fill material.

12 (4) The term "uncontaminated soil" shall have the same  
13 meaning as uncontaminated soil under Section 3.160 of this  
14 Act.

15 (f) (1) No later than one year after the effective date of  
16 this amendatory Act of the 96th General Assembly, the Agency  
17 shall propose to the Board, and, no later than one year after  
18 the Board's receipt of the Agency's proposal, the Board shall  
19 adopt, rules for the use of clean construction or demolition  
20 debris and uncontaminated soil as fill material at clean  
21 construction or demolition debris fill operations. The rules  
22 must include standards and procedures necessary to protect  
23 groundwater, which may include, but shall not be limited to,  
24 the following: requirements regarding testing and  
25 certification of soil used as fill material, surface water  
26 runoff, liners or other protective barriers, monitoring

1 (including, but not limited to, groundwater monitoring),  
2 corrective action, recordkeeping, reporting, closure and  
3 post-closure care, financial assurance, post-closure land use  
4 controls, location standards, and the modification of existing  
5 permits to conform to the requirements of this Act and Board  
6 rules. The rules may also include limits on the use of  
7 recyclable concrete and asphalt as fill material at clean  
8 construction or demolition debris fill operations, taking into  
9 account factors such as technical feasibility, economic  
10 reasonableness, and the availability of markets for such  
11 materials.

12 (2) Until the effective date of the Board rules adopted  
13 under subdivision (f)(1) of this Section, and in addition to  
14 any other requirements, owners and operators of clean  
15 construction or demolition debris fill operations must do all  
16 of the following in subdivisions (f)(2)(A) through (f)(2)(D) of  
17 this Section for all clean construction or demolition debris  
18 and uncontaminated soil accepted for use as fill material. The  
19 requirements in subdivisions (f)(2)(A) through (f)(2)(D) of  
20 this Section shall not limit any rules adopted by the Board.

21 (A) Document the following information for each load of  
22 clean construction or demolition debris or uncontaminated  
23 soil received: (i) the name of the hauler, the address of  
24 the site of origin, and the owner and the operator of the  
25 site of origin of the clean construction or demolition  
26 debris or uncontaminated soil, (ii) the weight or volume of



1 the clean construction or demolition debris or  
2 uncontaminated soil, and (iii) the date the clean  
3 construction or demolition debris or uncontaminated soil  
4 was received.

5 (B) For all soil, obtain either (i) a certification  
6 from the owner or operator of the site from which the soil  
7 was removed that the site has never been used for  
8 commercial or industrial purposes and is presumed to be  
9 uncontaminated soil or (ii) a certification from a licensed  
10 Professional Engineer or licensed Professional Geologist  
11 that the soil is uncontaminated soil. Certifications  
12 required under this subdivision (f) (2) (B) must be on forms  
13 and in a format prescribed by the Agency.

14 (C) Confirm that the clean construction or demolition  
15 debris or uncontaminated soil was not removed from a site  
16 as part of a cleanup or removal of contaminants, including,  
17 but not limited to, activities conducted under the  
18 Comprehensive Environmental Response, Compensation, and  
19 Liability Act of 1980, as amended; as part of a Closure or  
20 Corrective Action under the Resource Conservation and  
21 Recovery Act, as amended; or under an Agency remediation  
22 program, such as the Leaking Underground Storage Tank  
23 Program or Site Remediation Program, but excluding sites  
24 subject to Section 58.16 of this Act where there is no  
25 presence or likely presence of a release or a substantial  
26 threat of a release of a regulated substance at, on, or

1 from the real property.

2 (D) Document all activities required under subdivision  
3 (f)(2) of this Section. Documentation of any chemical  
4 analysis must include, but is not limited to, (i) a copy of  
5 the lab analysis, (ii) accreditation status of the  
6 laboratory performing the analysis, and (iii)  
7 certification by an authorized agent of the laboratory that  
8 the analysis has been performed in accordance with the  
9 Agency's rules for the accreditation of environmental  
10 laboratories and the scope of accreditation.

11 (3) Owners and operators of clean construction or  
12 demolition debris fill operations must maintain all  
13 documentation required under subdivision (f)(2) of this  
14 Section for a minimum of 3 years following the receipt of each  
15 load of clean construction or demolition debris or  
16 uncontaminated soil, except that documentation relating to an  
17 appeal, litigation, or other disputed claim must be maintained  
18 until at least 3 years after the date of the final disposition  
19 of the appeal, litigation, or other disputed claim. Copies of  
20 the documentation must be made available to the Agency and to  
21 units of local government for inspection and copying during  
22 normal business hours. The Agency may prescribe forms and  
23 formats for the documentation required under subdivision  
24 (f)(2) of this Section.

25 Chemical analysis conducted under subdivision (f)(2) of  
26 this Section must be conducted in accordance with the

1 requirements of 35 Ill. Adm. Code 742, as amended, and "Test  
2 Methods for Evaluating Solid Waste, Physical/Chemical  
3 Methods", USEPA Publication No. SW-846, as amended.

4 (g) (1) No person shall use soil other than uncontaminated  
5 soil as fill material at a clean construction or demolition  
6 debris fill operation.

7 (2) No person shall use construction or demolition debris  
8 other than clean construction or demolition debris as fill  
9 material at a clean construction or demolition debris fill  
10 operation.

11 (h) No later than 6 months after the effective date of this  
12 amendatory Act of the 100th General Assembly, the Agency shall  
13 propose to the Board, and, no later than one year after the  
14 Board's receipt of the Agency's proposal, the Board shall adopt  
15 rules allowing for the subdivision of areas within a permitted  
16 clean construction or demolition debris site for purposes of  
17 allowing closure of subdivided areas of the site prior to  
18 closure of the entire area permitted for clean construction or  
19 demolition debris disposal. The rules must include standards  
20 and criteria required for site subdivision and subdivided area  
21 closure, which may include, but not be limited to, the format  
22 of and information necessary to include in an application for a  
23 subdivided area closure; the quantity and quality of required  
24 final cover material for each subdivided area; erosion control;  
25 record keeping; inspection; an owner's certified statement of  
26 closure activities and compliance; the maximum allowable time

1 limit for Agency response to an application; and modifications  
2 of existing and continuing permits to conform to the  
3 requirements of this Act and the Board's rules.

4 (i) Until the effective date of the Board rules adopted  
5 under subsection (h), the Agency may grant permit modifications  
6 for closure of a subdivided area within a permitted clean  
7 construction and demolition debris fill operation upon  
8 application by the clean construction and demolition debris  
9 fill operator as long as any permit modification so granted by  
10 the Agency under this subsection is protective of human health  
11 and the environment. The Agency shall consult with members of  
12 the mining, construction, and real estate development industry  
13 during the development of any rules to promote the purposes of  
14 this subsection.

15 (Source: P.A. 96-1416, eff. 7-30-10; 97-137, eff. 7-14-11.)