



Sen. Bill Brady

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09300HB0911sam006

LRB093 05422 RAS 52932 a

1 AMENDMENT TO HOUSE BILL 911

2 AMENDMENT NO. _____. Amend House Bill 911, AS AMENDED, by
3 replacing the introductory clause of Section 5 with the
4 following:

5 "Section 5. The Environmental Protection Act is amended by
6 changing Sections 10 and 21.1 and by adding Section 10.1 as
7 follows:"; and

8 by inserting the following immediately before the effective
9 date:

10 "(415 ILCS 5/21.1) (from Ch. 111 1/2, par. 1021.1)

11 Sec. 21.1. (a) Except as provided in subsection (a.5), no
12 person other than the State of Illinois, its agencies and
13 institutions, or a unit of local government shall conduct any
14 waste disposal operation on or after March 1, 1985, which
15 requires a permit under subsection (d) of Section 21 of this
16 Act, unless such person has posted with the Agency a
17 performance bond or other security for the purpose of insuring
18 closure of the site and post-closure care in accordance with
19 this Act and regulations adopted thereunder.

20 (a.5) On and after the effective date established by the
21 United States Environmental Protection Agency for MSWLF units
22 to provide financial assurance under Subtitle D of the Resource
23 Conservation and Recovery Act, no person, other than the State

1 of Illinois, its agencies and institutions, shall conduct any
2 disposal operation at a MSWLF unit that requires a permit under
3 subsection (d) of Section 21 of this Act, unless that person
4 has posted with the Agency a performance bond or other security
5 for the purposes of:

6 (1) insuring closure of the site and post-closure care
7 in accordance with this Act and its rules; and

8 (2) insuring completion of a corrective action remedy
9 when required by Board rules adopted under Section 22.40 of
10 this Act or when required by Section 22.41 of this Act.

11 The performance bond or other security requirement set
12 forth in this Section may be fulfilled by closure or
13 post-closure insurance, or both, issued by an insurer licensed
14 to transact the business of insurance by the Department of
15 Insurance or at a minimum the insurer must be licensed to
16 transact the business of insurance or approved to provide
17 insurance as an excess or surplus lines insurer by the
18 insurance department in one or more states.

19 (b) On or before January 1, 1985, the Board shall adopt
20 regulations to promote the purposes of this Section. Without
21 limiting the generality of this authority, such regulations
22 may, among other things, prescribe the type and amount of the
23 performance bonds or other securities required under
24 subsections (a) and (a.5) of this Section, and the conditions
25 under which the State is entitled to collect monies from such
26 performance bonds or other securities. The bond amount shall be
27 directly related to the design and volume of the site. The cost
28 estimate for the post-closure care of a MSWLF unit shall be
29 calculated using a 30 year post-closure care period or such
30 other period as may be approved by the Agency under Board or
31 federal rules. On and after the effective date established by
32 the United States Environmental Protection Agency for MSWLF
33 units to provide financial assurance under Subtitle D of the
34 Resource Conservation and Recovery Act, closure, post-closure

1 care, and corrective action cost estimates for MSWLF units
2 shall be in current dollars.

3 (c) There is hereby created within the State Treasury a
4 special fund to be known as the "Landfill Closure and
5 Post-Closure Fund". Any monies forfeited to the State of
6 Illinois from any performance bond or other security required
7 under this Section shall be placed in the "Landfill Closure and
8 Post-Closure Fund" and shall, upon approval by the Governor and
9 the Director, be used by and under the direction of the Agency
10 for the purposes for which such performance bond or other
11 security was issued. The Landfill Closure and Post-Closure Fund
12 is not subject to the provisions of subsection (c) of Section 5
13 of the State Finance Act.

14 (d) The Agency is authorized to enter into such contracts
15 and agreements as it may deem necessary to carry out the
16 purposes of this Section. Neither the State, nor the Director,
17 nor any State employee shall be liable for any damages or
18 injuries arising out of or resulting from any action taken
19 under this Section.

20 (e) The Agency shall have the authority to approve or
21 disapprove any performance bond or other security posted
22 pursuant to subsection (a) or (a.5) of this Section. Any person
23 whose performance bond or other security is disapproved by the
24 Agency may contest the disapproval as a permit denial appeal
25 pursuant to Section 40 of this Act.

26 (f) The Agency may establish such procedures as it may deem
27 necessary for the purpose of implementing and executing its
28 responsibilities under this Section.

29 (g) Nothing in this Section shall bar a cause of action by
30 the State for any other penalty or relief provided by this Act
31 or any other law.

32 (h) The Agency must establish and maintain a program to
33 monitor the status of any performance bond or other security
34 required under this Section. If, for any reason, the Agency

1 deems that a bond or other security is insufficient to ensure
2 the closure of a site and post-closure care in accordance with
3 this Act, the Agency must notify the operator of the
4 insufficiency and require any additional security to ensure
5 compliance with this Act. Any person who fails to obtain
6 additional security within a reasonable time, as determined by
7 the Agency, commits a violation of this Act.

8 (i) If, upon or after the closure of a site, a performance
9 bond or other security required under this Section is
10 discovered to be insufficient to ensure the closure of a site
11 and post-closure care in accordance with this Act, the Agency
12 shall use any unencumbered moneys in the Landfill Closure and
13 Post-Closure Fund for the purpose of taking any action
14 necessary to bring the closure and post-closure of the site
15 into compliance with this Act. If no unencumbered moneys exist
16 in the Fund, the Department shall request from the General
17 Assembly an appropriation to the Fund to bring the closure and
18 post-closure of the site into compliance with this Act.

19 (Source: P.A. 88-496; 88-512; 89-200, eff. 1-1-96.)".