

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 21.1 as follows:

6 (415 ILCS 5/21.1) (from Ch. 111 1/2, par. 1021.1)

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

17 (a.5) On and after the effective date established by the
18 United States Environmental Protection Agency for MSWLF units
19 to provide financial assurance under Subtitle D of the Resource
20 Conservation and Recovery Act, no person, other than the State
21 of Illinois, its agencies and institutions, shall own or
22 operate ~~conduct any disposal operation at~~ a MSWLF unit that
23 requires a permit under subsection (d) of Section 21 of this

1 Act, unless that person has posted with the Agency a
2 performance bond or other security for the purposes of:

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

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

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

16 (b) On or before January 1, 1985, the Board shall adopt
17 regulations to promote the purposes of this Section. Without
18 limiting the generality of this authority, such regulations
19 may, among other things, prescribe the type and amount of the
20 performance bonds or other securities required under
21 subsections (a) and (a.5) of this Section, and the conditions
22 under which the State is entitled to collect monies from such
23 performance bonds or other securities. The bond amount shall be
24 directly related to the design and volume of the site. The cost
25 estimate for the post-closure care of a MSWLF unit shall be
26 calculated using a 30 year post-closure care period or such

1 other period as may be approved by the Agency under Board or
2 federal rules. On and after the effective date established by
3 the United States Environmental Protection Agency for MSWLF
4 units to provide financial assurance under Subtitle D of the
5 Resource Conservation and Recovery Act, closure, post-closure
6 care, and corrective action cost estimates for MSWLF units
7 shall be in current dollars.

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

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

25 (e) The Agency shall have the authority to approve or
26 disapprove any performance bond or other security posted

1 pursuant to subsection (a) or (a.5) of this Section. Any person
2 whose performance bond or other security is disapproved by the
3 Agency may contest the disapproval as a permit denial appeal
4 pursuant to Section 40 of this Act.

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

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

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

12 Section 99. Effective date. This Act takes effect upon
13 becoming law.