



Sen. Chapin Rose

Filed: 3/15/2013

09800SB1868sam003

LRB098 10672 JDS 43020 a

1 AMENDMENT TO SENATE BILL 1868

2 AMENDMENT NO. _____. Amend Senate Bill 1868, AS AMENDED,
3 with reference to page and line numbers of Senate Amendment No.
4 1, as follows:

5 on page 1, line 5, by replacing "Section 39" with "Sections
6 21.1 and 39"; and

7 on page 1, immediately below line 5, by inserting the
8 following:

9 "(415 ILCS 5/21.1) (from Ch. 111 1/2, par. 1021.1)

10 Sec. 21.1. (a) Except as provided in subsection (a.5), no
11 person other than the State of Illinois, its agencies and
12 institutions, or a unit of local government shall own or
13 operate a MSWLF unit or other waste disposal operation on or
14 after March 1, 1985, which requires a permit under subsection
15 (d) of Section 21 of this Act, unless such person has posted

1 with the Agency a performance bond or other security for the
2 purpose of insuring closure of the site and post-closure care
3 in accordance with this Act and regulations adopted thereunder.

4 (a.5) On and after the effective date established by the
5 United States Environmental Protection Agency for MSWLF units
6 to provide financial assurance under Subtitle D of the Resource
7 Conservation and Recovery Act, no person, other than the State
8 of Illinois, its agencies and institutions, shall own or
9 operate a MSWLF unit that requires a permit under subsection
10 (d) of Section 21 of this Act, unless that person has posted
11 with the Agency a performance bond or other security for the
12 purposes of:

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

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

18 The performance bond or other security requirement set
19 forth in this Section may be fulfilled by closure or
20 post-closure insurance, or both, issued by an insurer licensed
21 to transact the business of insurance by the Department of
22 Insurance or at a minimum the insurer must be licensed to
23 transact the business of insurance or approved to provide
24 insurance as an excess or surplus lines insurer by the
25 insurance department in one or more states.

26 (a.6) Beginning on the effective date of this amendatory

1 Act of the 98th General Assembly, no person shall own or
2 operate any site or facility for the treatment, storage, or
3 disposal of polychlorinated biphenyls (PCBs) or PCB Items
4 regulated under Subpart D of 40 C.F.R. 761, unless that person
5 has established a perpetual trust for the care and closure of
6 that site or facility. As soon as practicable after the
7 effective date of this amendatory Act of the 98th General
8 Assembly, the Agency shall adopt rules setting forth the
9 requirements that are applicable to trusts required under this
10 Section.

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

1 necessary for the purpose of implementing and executing its
2 responsibilities under this Section.

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

6 (Source: P.A. 97-887, eff. 8-2-12.)".