



Sen. Michael E. Hastings

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10000HB4331sam001

LRB100 16764 MJP 41116 a

1 AMENDMENT TO HOUSE BILL 4331

2 AMENDMENT NO. _____. Amend House Bill 4331 by replacing
3 everything after the enacting clause with the following:

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

1 demolition debris fill operation.

2 (B) The Agency shall approve an interim authorization upon
3 its receipt of a written application for the interim
4 authorization that is signed by the site owner and the site
5 operator, or their duly authorized agent, and that contains the
6 following information: (i) the location of the site where the
7 clean construction or demolition debris fill operation is
8 taking place, (ii) the name and address of the site owner,
9 (iii) the name and address of the site operator, and (iv) the
10 types and amounts of clean construction or demolition debris
11 being used as fill material at the site.

12 (C) The Agency may deny an interim authorization if the
13 site owner or the site operator, or their duly authorized
14 agent, fails to provide to the Agency the information listed in
15 subsection (b) (1) (B) of this Section. Any denial of an interim
16 authorization shall be subject to appeal to the Board in
17 accordance with the procedures of Section 40 of this Act.

18 (D) No person shall use clean construction or demolition
19 debris as fill material in a current or former quarry, mine, or
20 other excavation for which the Agency has denied interim
21 authorization under subsection (b) (1) (C) of this Section. The
22 Board may stay the prohibition of this subsection (D) during
23 the pendency of an appeal of the Agency's denial of the interim
24 authorization brought under subsection (b) (1) (C) of this
25 Section.

26 (2) Beginning September 1, 2006, owners and operators of

1 clean construction or demolition debris fill operations shall,
2 in accordance with a schedule prescribed by the Agency, submit
3 to the Agency applications for the permits required under this
4 Section. The Agency shall notify owners and operators in
5 writing of the due date for their permit application. The due
6 date shall be no less than 90 days after the date of the
7 Agency's written notification. Owners and operators who do not
8 receive a written notification from the Agency by October 1,
9 2007, shall submit a permit application to the Agency by
10 January 1, 2008. The interim authorization of owners and
11 operators who fail to submit a permit application to the Agency
12 by the permit application's due date shall terminate on (i) the
13 due date established by the Agency if the owner or operator
14 received a written notification from the Agency prior to
15 October 1, 2007, or (ii) or January 1, 2008, if the owner or
16 operator did not receive a written notification from the Agency
17 by October 1, 2007.

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

1 Act or (ii) in violation of any regulations or standards
2 adopted by the Board under this Act.

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

4 (A) the use of clean construction or demolition debris
5 as fill material in a current or former quarry, mine, or
6 other excavation located on the site where the clean
7 construction or demolition debris was generated;

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

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

15 (c) In accordance with Title VII of this Act, the Board may
16 adopt regulations to promote the purposes of this Section. The
17 Agency shall consult with the mining and construction
18 industries during the development of any regulations to promote
19 the purposes of this Section.

20 (1) No later than December 15, 2005, the Agency shall
21 propose to the Board, and no later than September 1, 2006,
22 the Board shall adopt, regulations for the use of clean
23 construction or demolition debris as fill material in
24 current and former quarries, mines, and other excavations.
25 Such regulations shall include, but shall not be limited
26 to, standards for clean construction or demolition debris

1 fill operations and the submission and review of permits
2 required under this Section.

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

7 (A) Assure that only clean construction or
8 demolition debris is being used as fill material by
9 screening each truckload of material received using a
10 device approved by the Agency that detects volatile
11 organic compounds. Such devices may include, but are
12 not limited to, photo ionization detectors. All
13 screening devices shall be operated and maintained in
14 accordance with manufacturer's specifications.
15 Unacceptable fill material shall be rejected from the
16 site; and

17 (B) Retain for a minimum of 3 years the following
18 information:

19 (i) The name of the hauler, the name of the
20 generator, and place of origin of the debris or
21 soil;

22 (ii) The approximate weight or volume of the
23 debris or soil; and

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

25 (d) This Section applies only to clean construction or
26 demolition debris that is not considered "waste" as provided in

1 Section 3.160 of this Act.

2 (e) For purposes of this Section:

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

6 (2) The term "owner" means a person who has any direct
7 or indirect interest in a clean construction or demolition
8 debris fill operation or in land on which a person operates
9 and maintains a clean construction or demolition debris
10 fill operation. A "direct or indirect interest" does not
11 include the ownership of publicly traded stock. The "owner"
12 is the "operator" if there is no other person who is
13 operating and maintaining a clean construction or
14 demolition debris fill operation.

15 (3) The term "clean construction or demolition debris
16 fill operation" means a current or former quarry, mine, or
17 other excavation where clean construction or demolition
18 debris is used as fill material.

19 (4) The term "uncontaminated soil" shall have the same
20 meaning as uncontaminated soil under Section 3.160 of this
21 Act.

22 (f) (1) No later than one year after the effective date of
23 this amendatory Act of the 96th General Assembly, the Agency
24 shall propose to the Board, and, no later than one year after
25 the Board's receipt of the Agency's proposal, the Board shall
26 adopt, rules for the use of clean construction or demolition

1 debris and uncontaminated soil as fill material at clean
2 construction or demolition debris fill operations. The rules
3 must include standards and procedures necessary to protect
4 groundwater, which may include, but shall not be limited to,
5 the following: requirements regarding testing and
6 certification of soil used as fill material, surface water
7 runoff, liners or other protective barriers, monitoring
8 (including, but not limited to, groundwater monitoring),
9 corrective action, recordkeeping, reporting, closure and
10 post-closure care, financial assurance, post-closure land use
11 controls, location standards, and the modification of existing
12 permits to conform to the requirements of this Act and Board
13 rules. The rules may also include limits on the use of
14 recyclable concrete and asphalt as fill material at clean
15 construction or demolition debris fill operations, taking into
16 account factors such as technical feasibility, economic
17 reasonableness, and the availability of markets for such
18 materials.

19 (2) Until the effective date of the Board rules adopted
20 under subdivision (f)(1) of this Section, and in addition to
21 any other requirements, owners and operators of clean
22 construction or demolition debris fill operations must do all
23 of the following in subdivisions (f)(2)(A) through (f)(2)(D) of
24 this Section for all clean construction or demolition debris
25 and uncontaminated soil accepted for use as fill material. The
26 requirements in subdivisions (f)(2)(A) through (f)(2)(D) of

1 this Section shall not limit any rules adopted by the Board.

2 (A) Document the following information for each load of
3 clean construction or demolition debris or uncontaminated
4 soil received: (i) the name of the hauler, the address of
5 the site of origin, and the owner and the operator of the
6 site of origin of the clean construction or demolition
7 debris or uncontaminated soil, (ii) the weight or volume of
8 the clean construction or demolition debris or
9 uncontaminated soil, and (iii) the date the clean
10 construction or demolition debris or uncontaminated soil
11 was received.

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

21 (C) Confirm that the clean construction or demolition
22 debris or uncontaminated soil was not removed from a site
23 as part of a cleanup or removal of contaminants, including,
24 but not limited to, activities conducted under the
25 Comprehensive Environmental Response, Compensation, and
26 Liability Act of 1980, as amended; as part of a Closure or

1 Corrective Action under the Resource Conservation and
2 Recovery Act, as amended; or under an Agency remediation
3 program, such as the Leaking Underground Storage Tank
4 Program or Site Remediation Program, but excluding sites
5 subject to Section 58.16 of this Act where there is no
6 presence or likely presence of a release or a substantial
7 threat of a release of a regulated substance at, on, or
8 from the real property.

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

18 (3) Owners and operators of clean construction or
19 demolition debris fill operations must maintain all
20 documentation required under subdivision (f)(2) of this
21 Section for a minimum of 3 years following the receipt of each
22 load of clean construction or demolition debris or
23 uncontaminated soil, except that documentation relating to an
24 appeal, litigation, or other disputed claim must be maintained
25 until at least 3 years after the date of the final disposition
26 of the appeal, litigation, or other disputed claim. Copies of

1 the documentation must be made available to the Agency and to
2 units of local government for inspection and copying during
3 normal business hours. The Agency may prescribe forms and
4 formats for the documentation required under subdivision
5 (f)(2) of this Section.

6 Chemical analysis conducted under subdivision (f)(2) of
7 this Section must be conducted in accordance with the
8 requirements of 35 Ill. Adm. Code 742, as amended, and "Test
9 Methods for Evaluating Solid Waste, Physical/Chemical
10 Methods", USEPA Publication No. SW-846, as amended.

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

14 (2) No person shall use construction or demolition debris
15 other than clean construction or demolition debris as fill
16 material at a clean construction or demolition debris fill
17 operation.

18 (h) The Board shall adopt rules allowing the owner or
19 operator of a permitted clean construction or demolition debris
20 fill operation consisting of more than 40 acres but less than
21 75 acres and located in a county with a population over
22 2,000,000 to apply to the Agency to transfer a portion of the
23 site to another person before termination of the permit, and to
24 have the transferred portion of the site removed from the
25 permit before completion of closure and post-closure
26 maintenance, if the following requirements are met:

1 (1) The owner or operator shall file with the Agency:

2 (A) an application to modify the clean
3 construction or demolition debris fill operation
4 permit to recognize a change in ownership of the
5 transferred property before completion of closure and
6 post-closure maintenance;

7 (B) documentation identifying the portion of the
8 site being transferred, including, but not limited to,
9 a survey of the portion of the clean construction or
10 demolition debris fill operation being transferred;
11 and

12 (C) a copy of the new owner's plans for the portion
13 of the site being transferred that document how the
14 site will be developed, including, but not limited to,
15 plans demonstrating how the closure and post-closure
16 requirements set forth in Board rules will be
17 satisfied.

18 (2) The owner or operator of the site shall conduct a
19 Phase I and Phase II Environmental Site Assessment in
20 accordance with Board rules and provide a copy of each
21 assessment to the prospective owner and to the Agency as
22 part of an application to modify the clean construction or
23 demolition debris fill operation permit to remove a portion
24 of the site from the permit.

25 (3) The portion of the site being transferred shall be
26 filled to within at least 3 feet of the final fill

1 elevation that would otherwise be required under the
2 closure and post-closure maintenance requirements in the
3 permit.

4 (4) The owner or operator shall post with the Agency a
5 performance bond for purposes of closure and post-closure
6 maintenance of the portion of the site being transferred.
7 The bond shall be directly related to the estimate of the
8 costs for the Agency to remediate the transferred portion
9 of the site to a condition consistent with the closure and
10 post-closure maintenance requirements applicable to the
11 site. The bond required under this paragraph shall not
12 affect in any way any obligation or liability of any person
13 under this Act or any other State or federal law.

14 (5) The person to whom a portion of a permitted clean
15 construction or demolition debris fill operation is
16 transferred must complete closure and post-closure
17 maintenance for the transferred portion of the site in
18 accordance with Board rules. The rules adopted under this
19 subsection shall also specify the conditions under which
20 the State is entitled to collect moneys from the
21 performance bond required under paragraph (4).

22 (6) Any money forfeited to the State of Illinois from
23 any performance bond required under this subsection shall
24 be deposited in to the Landfill Closure and Post-Closure
25 Fund established under Section 21.1 of this Act and shall,
26 upon approval by the Governor and the Director of the

1 Agency, be used by and under the direction of the Agency
2 for the purposes for which the performance bond was issued.
3 The Agency shall have the authority to approve or
4 disapprove any performance bond posted in accordance with
5 the rules adopted under this subsection. If the Agency
6 disapproves a performance bond required under the rules
7 adopted under this subsection, the person whose
8 performance bond is disapproved by the Agency may contest
9 the disapproval in the same manner as the appeal of a
10 permit denial under Section 40 of this Act. Until such time
11 as the Agency either collects bond money forfeited to the
12 State in accordance with rules adopted by the Board under
13 this Section or the Agency releases the bond in favor of
14 the site owner or operator who posted the bond, the name
15 and address of the current owner of the portion of the
16 clean construction or demolition debris site transferred
17 under this subsection shall be provided to the Agency for
18 record keeping purposes.

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

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

2 Section 99. Effective date. This Act takes effect upon
3 becoming law.".