



Sen. Michael E. Hastings

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LRB100 16764 MJP 41166 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 located on a property having the following legal  
21 description to apply to the Agency to transfer a portion of the  
22 site to another person before termination of the permit, and to  
23 have the transferred portion of the site removed from the  
24 permit before completion of closure and post-closure  
25 maintenance, before the Agency's permit modification: THAT  
26 PART OF THE SOUTHWEST QUARTER OF SECTION 2, TOWNSHIP 38 NORTH,

1 RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, TOGETHER WITH  
2 PARTS OF VARIOUS LOTS IN HO STONE AND COMPANY'S 5TH ADDITION IN  
3 SECTION 2 AFORESAID, AND PART OF 44TH PLACE (50 FEET WIDE)  
4 BOUNDED AND DESCRIBED AS FOLLOWS: BEGINNING AT THE INTERSECTION  
5 OF THE NORTH LINE OF 43RD PLACE (66 FEET WIDE) AND THE WEST  
6 LINE OF VACATED RIVERSIDE AVENUE (33 FEET WIDE); THENCE SOUTH  
7 89 DEGREES 59 MINUTES 49 SECONDS WEST 33.00 FEET; THENCE SOUTH  
8 00 DEGREES 05 MINUTES 20 SECONDS EAST BEING ALONG THE WEST LINE  
9 OF RIVERSIDE AVENUE (NOW 66 FEET WIDE) 619.09 FEET TO THE NORTH  
10 LINE OF 44TH PLACE; THENCE SOUTH 89 DEGREES 59 MINUTES 52  
11 SECONDS WEST 762.07 FEET; THENCE SOUTH 00 DEGREES 06 MINUTES 21  
12 SECONDS WEST 405.04 (311.45 RECORD) FEET; THENCE NORTH 89  
13 DEGREES 59 MINUTES 58 SECONDS EAST 17.0 FEET; THENCE SOUTH 00  
14 DEGREES 06 MINUTES 11 SECONDS WEST 127.15 FEET; THENCE SOUTH 08  
15 DEGREES 44 MINUTES 49 SECONDS EAST 360.40 FEET; THENCE  
16 SOUTHEASTERLY 202.12 FEET ALONG THE ARC OF A CIRCLE CONVEX  
17 SOUTHWESTERLY WITH A RADIUS OF 920.90 FEET AND WHOSE CHORD  
18 BEARS SOUTH 15 DEGREES 02 MINUTES 04 SECONDS EAST A DISTANCE OF  
19 201.71 FEET; THENCE SOUTH 21 DEGREES 19 MINUTES 19 SECONDS EAST  
20 382.0 FEET; THENCE SOUTHEASTERLY 236.28 FEET ALONG AN ARC OF A  
21 CIRCLE CONVEX NORTHEASTERLY WITH A RADIUS OF 637.10 FEET AND  
22 WHOSE CHORD BEARS SOUTH 10 DEGREES 41 MINUTES 49 SECONDS EAST A  
23 DISTANCE OF 234.94 FEET; THENCE SOUTH 00 DEGREES 04 MINUTES 19  
24 SECONDS EAST 30.47 FEET; THENCE SOUTH 89 DEGREES 59 MINUTES 52  
25 SECONDS WEST 44.0 FEET; THENCE NORTH 00 DEGREES 00 MINUTES 52  
26 SECONDS WEST 30.48 FEET; THENCE NORTHWESTERLY 219.98 FEET ALONG

1 AN ARC OF A CIRCLE CONVEX NORTHEASTERLY WITH A RADIUS OF 593.10  
2 FEET AND WHOSE CHORD BEARS NORTH 10 DEGREES 41 MINUTES 49  
3 SECONDS WEST A DISTANCE OF 218.71 FEET; THENCE NORTH 21 DEGREES  
4 19 MINUTES 19 SECONDS WEST 382.0 FEET; THENCE NORTHWESTERLY  
5 211.77 FEET ALONG AN ARC OF A CIRCLE CONVEX SOUTHWESTERLY WITH  
6 A RADIUS OF 964.90 FEET AND WHOSE CHORD BEARS NORTH 15 DEGREES  
7 02 MINUTES 04 SECONDS WEST A DISTANCE OF 211.35 FEET; THENCE  
8 NORTH 08 DEGREES 44 MINUTES 49 SECONDS WEST 250.76 FEET; THENCE  
9 NORTHWESTERLY 148.11 FEET ALONG AN ARC OF A CIRCLE CONVEX  
10 WESTERLY WITH A RADIUS OF 960.08 FEET AND WHOSE CHORD BEARS  
11 NORTH 04 DEGREES 21 MINUTES 05 SECONDS WEST A DISTANCE OF  
12 147.96 FEET; THENCE NORTH 00 DEGREES 06 MINUTES 11 SECONDS EAST  
13 195.67 FEET; THENCE SOUTH 89 DEGREES 59 MINUTES 58 SECONDS WEST  
14 11.90 FEET ALONG THE SOUTH LINE OF 45TH STREET; THENCE NORTH 00  
15 DEGREES 06 MINUTES 21 SECONDS EAST 303.98 FEET; THENCE SOUTH 89  
16 DEGREES 59 MINUTES 52 SECONDS WEST 108.12 FEET ALONG SAID NORTH  
17 LINE OF 44TH PLACE TO THE EAST LINE OF FIRST AVENUE; THENCE  
18 NORTH 01 DEGREES 18 MINUTES 13 SECONDS EAST 290.89 FEET ALONG  
19 SAID EAST LINE OF FIRST AVENUE; THENCE NORTH 02 DEGREES 21  
20 MINUTES 09 SECONDS EAST 577.06 FEET ALONG SAID EAST LINE OF  
21 FIRST AVENUE; THENCE NORTH 03 DEGREES 06 MINUTES 19 SECONDS  
22 EAST 56.48 FEET ALONG SAID EAST LINE OF FIRST AVENUE; THENCE  
23 NORTH 89 DEGREES 58 MINUTES 49 SECONDS WEST 901.37 FEET ALONG  
24 THE NORTH LINE OF SAID SOUTHWEST QUARTER OF SECTION 2 TO SAID  
25 WEST LINE OF VACATED RIVERSIDE AVENUE (33 FEET WIDE); THENCE  
26 SOUTH 00 DEGREES 05 MINUTES 20 SECONDS EAST 304.34 FEET TO THE

1 POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

2 The owner or operator of the permitted clean construction  
3 or demolition debris fill operation described under this  
4 subsection must meet the following requirements:

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

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

11 (B) documentation identifying the portion of the  
12 site being transferred, including, but not limited to,  
13 a survey of the portion of the clean construction or  
14 demolition debris fill operation being transferred;  
15 and

16 (C) a copy of the new owner's plans for the portion  
17 of the site being transferred that document how the  
18 site will be developed, including, but not limited to,  
19 plans demonstrating how the closure and post-closure  
20 requirements set forth in Board rules will be  
21 satisfied, which shall be signed by the new owner of  
22 the portion of the site being transferred and include  
23 the name, address, and contact information of the new  
24 owner.

25 (2) The owner or operator of the site shall conduct a  
26 Phase I and Phase II Environmental Site Assessment in

1 accordance with Board rules and provide a copy of each  
2 assessment to the prospective owner and to the Agency as  
3 part of an application to modify the clean construction or  
4 demolition debris fill operation permit to remove a portion  
5 of the site from the permit.

6 (3) The portion of the site being transferred shall be  
7 filled to within at least 3 feet of the final fill  
8 elevation that would otherwise be required under the  
9 closure and post-closure maintenance requirements in the  
10 permit.

11 (4) The owner or operator shall post with the Agency a  
12 performance bond for purposes of closure and post-closure  
13 maintenance of the portion of the site being transferred.  
14 The bond shall be directly related to the estimate of the  
15 costs for the Agency to bring the transferred portion of  
16 the site to a condition consistent with the closure and  
17 post-closure maintenance requirements applicable to the  
18 site. The bond required under this paragraph shall not  
19 affect in any way any obligation or liability of any person  
20 under this Act or any other State or federal law.

21 (5) The person to whom a portion of a permitted clean  
22 construction or demolition debris fill operation is  
23 transferred must complete closure and post-closure  
24 maintenance for the transferred portion of the site in  
25 accordance with Board rules. The rules adopted under this  
26 subsection shall also specify the conditions under which

1       the State is entitled to collect moneys from the  
2       performance bond required under paragraph (4).

3       (6) Any money forfeited to the State of Illinois from  
4       any performance bond required under this subsection shall  
5       be deposited in to the Landfill Closure and Post-Closure  
6       Fund established under Section 21.1 of this Act and shall,  
7       upon approval by the Governor and the Director of the  
8       Agency, be used by and under the direction of the Agency  
9       for the purposes for which the performance bond was issued.  
10       The Agency shall have the authority to approve or  
11       disapprove any performance bond posted in accordance with  
12       the rules adopted under this subsection. If the Agency  
13       disapproves a performance bond required under the rules  
14       adopted under this subsection, the person whose  
15       performance bond is disapproved by the Agency may contest  
16       the disapproval in the same manner as the appeal of a  
17       permit denial under Section 40 of this Act. Until such time  
18       as the Agency either collects bond money forfeited to the  
19       State in accordance with rules adopted by the Board under  
20       this Section or the Agency releases the bond in favor of  
21       the site owner or operator who posted the bond, the name  
22       and address of the current owner of the portion of the  
23       clean construction or demolition debris site transferred  
24       under this subsection shall be provided to the Agency for  
25       record keeping purposes.

26       (7) The Agency is authorized to enter into contracts

1       and agreements as it may deem necessary to carry out the  
2       purposes of this subsection or rules adopted under this  
3       subsection. Neither the State, the Director of the Agency,  
4       nor any State employee shall be liable for any damages or  
5       injuries arising out of or resulting from any action taken  
6       under this subsection or rules adopted under this  
7       subsection.

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

9       Section 99. Effective date. This Act takes effect upon  
10      becoming law."