



Sen. Michael E. Hastings

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1 AMENDMENT TO SENATE BILL 1355

2 AMENDMENT NO. _____. Amend Senate Bill 1355 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Environmental Protection Act is amended by
5 changing Sections 21.1 and 22.51 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 waste disposal operation on or
11 after March 1, 1985, which requires a permit under subsection
12 (d) of Section 21 of this Act, unless such person has posted
13 with the Agency a performance bond or other security for the
14 purpose of insuring closure of the site and post-closure care
15 in accordance with this Act and regulations adopted thereunder.

16 (a.5) On and after the effective date established by the

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

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

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

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

22 (b) On or before January 1, 1985, the Board shall adopt
23 regulations to promote the purposes of this Section. Without
24 limiting the generality of this authority, such regulations
25 may, among other things, prescribe the type and amount of the
26 performance bonds or other securities required under

1 subsections (a) and (a.5) of this Section, and the conditions
2 under which the State is entitled to collect monies from such
3 performance bonds or other securities. The bond amount shall be
4 directly related to the design and volume of the site. The cost
5 estimate for the post-closure care of a MSWLF unit shall be
6 calculated using a 30 year post-closure care period or such
7 other period as may be approved by the Agency under Board or
8 federal rules. On and after the effective date established by
9 the United States Environmental Protection Agency for MSWLF
10 units to provide financial assurance under Subtitle D of the
11 Resource Conservation and Recovery Act, closure, post-closure
12 care, and corrective action cost estimates for MSWLF units
13 shall be in current dollars.

14 (c) There is hereby created within the State Treasury a
15 special fund to be known as the "Landfill Closure and
16 Post-Closure Fund". Any monies forfeited to the State of
17 Illinois from any performance bond or other security required
18 under this Section or under subdivision (f) (4) of Section 22.51
19 shall be placed in the "Landfill Closure and Post-Closure Fund"
20 and shall, upon approval by the Governor and the Director, be
21 used by and under the direction of the Agency for the purposes
22 for which such performance bond or other security was issued.
23 The Landfill Closure and Post-Closure Fund is not subject to
24 the provisions of subsection (c) of Section 5 of the State
25 Finance Act.

26 (d) The Agency is authorized to enter into such contracts

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

6 (e) The Agency shall have the authority to approve or
7 disapprove any performance bond or other security posted
8 pursuant to subsection (a) or (a.5) of this Section. Any person
9 whose performance bond or other security is disapproved by the
10 Agency may contest the disapproval as a permit denial appeal
11 pursuant to Section 40 of this Act.

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

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

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

19 (415 ILCS 5/22.51)

20 Sec. 22.51. Clean Construction or Demolition Debris Fill
21 Operations.

22 (a) No person shall conduct any clean construction or
23 demolition debris fill operation in violation of this Act or
24 any regulations or standards adopted by the Board.

25 (b) (1) (A) Beginning August 18, 2005 but prior to July 1,

1 2008, no person shall use clean construction or demolition
2 debris as fill material in a current or former quarry, mine, or
3 other excavation, unless they have applied for an interim
4 authorization from the Agency for the clean construction or
5 demolition debris fill operation.

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

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

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

1 the pendency of an appeal of the Agency's denial of the interim
2 authorization brought under subsection (b)(1)(C) of this
3 Section.

4 (2) Beginning September 1, 2006, owners and operators of
5 clean construction or demolition debris fill operations shall,
6 in accordance with a schedule prescribed by the Agency, submit
7 to the Agency applications for the permits required under this
8 Section. The Agency shall notify owners and operators in
9 writing of the due date for their permit application. The due
10 date shall be no less than 90 days after the date of the
11 Agency's written notification. Owners and operators who do not
12 receive a written notification from the Agency by October 1,
13 2007, shall submit a permit application to the Agency by
14 January 1, 2008. The interim authorization of owners and
15 operators who fail to submit a permit application to the Agency
16 by the permit application's due date shall terminate on (i) the
17 due date established by the Agency if the owner or operator
18 received a written notification from the Agency prior to
19 October 1, 2007, or (ii) or January 1, 2008, if the owner or
20 operator did not receive a written notification from the Agency
21 by October 1, 2007.

22 (3) On and after July 1, 2008, no person shall use clean
23 construction or demolition debris as fill material in a current
24 or former quarry, mine, or other excavation (i) without a
25 permit granted by the Agency for the clean construction or
26 demolition debris fill operation or in violation of any

1 conditions imposed by such permit, including periodic reports
2 and full access to adequate records and the inspection of
3 facilities, as may be necessary to assure compliance with this
4 Act and with Board regulations and standards adopted under this
5 Act or (ii) in violation of any regulations or standards
6 adopted by the Board under this Act.

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

8 (A) the use of clean construction or demolition debris
9 as fill material in a current or former quarry, mine, or
10 other excavation located on the site where the clean
11 construction or demolition debris was generated;

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

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

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

24 (1) No later than December 15, 2005, the Agency shall
25 propose to the Board, and no later than September 1, 2006,
26 the Board shall adopt, regulations for the use of clean

1 construction or demolition debris as fill material in
2 current and former quarries, mines, and other excavations.
3 Such regulations shall include, but shall not be limited
4 to, standards for clean construction or demolition debris
5 fill operations and the submission and review of permits
6 required under this Section.

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

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

21 (B) Retain for a minimum of 3 years the following
22 information:

23 (i) The name of the hauler, the name of the
24 generator, and place of origin of the debris or
25 soil;

26 (ii) The approximate weight or volume of the

1 debris or soil; and

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

3 (d) This Section applies only to clean construction or
4 demolition debris that is not considered "waste" as provided in
5 Section 3.160 of this Act.

6 (e) For purposes of this Section:

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

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

19 (3) The term "clean construction or demolition debris
20 fill operation" means a current or former quarry, mine, or
21 other excavation where clean construction or demolition
22 debris is used as fill material.

23 (4) The term "uncontaminated soil" shall have the same
24 meaning as uncontaminated soil under Section 3.160 of this
25 Act.

26 (f) (1) No later than one year after the effective date of

1 this amendatory Act of the 96th General Assembly, the Agency
2 shall propose to the Board, and, no later than one year after
3 the Board's receipt of the Agency's proposal, the Board shall
4 adopt, rules for the use of clean construction or demolition
5 debris and uncontaminated soil as fill material at clean
6 construction or demolition debris fill operations. The rules
7 must include standards and procedures necessary to protect
8 groundwater, which may include, but shall not be limited to,
9 the following: requirements regarding testing and
10 certification of soil used as fill material, surface water
11 runoff, liners or other protective barriers, monitoring
12 (including, but not limited to, groundwater monitoring),
13 corrective action, recordkeeping, reporting, closure and
14 post-closure care, financial assurance, post-closure land use
15 controls, location standards, and the modification of existing
16 permits to conform to the requirements of this Act and Board
17 rules. The rules may also include limits on the use of
18 recyclable concrete and asphalt as fill material at clean
19 construction or demolition debris fill operations, taking into
20 account factors such as technical feasibility, economic
21 reasonableness, and the availability of markets for such
22 materials.

23 (2) Until the effective date of the Board rules adopted
24 under subdivision (f)(1) of this Section, and in addition to
25 any other requirements, owners and operators of clean
26 construction or demolition debris fill operations must do all

1 of the following in subdivisions (f) (2) (A) through (f) (2) (D) of
2 this Section for all clean construction or demolition debris
3 and uncontaminated soil accepted for use as fill material. The
4 requirements in subdivisions (f) (2) (A) through (f) (2) (D) of
5 this Section shall not limit any rules adopted by the Board.

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

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

25 (C) Confirm that the clean construction or demolition
26 debris or uncontaminated soil was not removed from a site

1 as part of a cleanup or removal of contaminants, including,
2 but not limited to, activities conducted under the
3 Comprehensive Environmental Response, Compensation, and
4 Liability Act of 1980, as amended; as part of a Closure or
5 Corrective Action under the Resource Conservation and
6 Recovery Act, as amended; or under an Agency remediation
7 program, such as the Leaking Underground Storage Tank
8 Program or Site Remediation Program, but excluding sites
9 subject to Section 58.16 of this Act where there is no
10 presence or likely presence of a release or a substantial
11 threat of a release of a regulated substance at, on, or
12 from the real property.

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

22 (3) Owners and operators of clean construction or
23 demolition debris fill operations must maintain all
24 documentation required under subdivision (f)(2) of this
25 Section for a minimum of 3 years following the receipt of each
26 load of clean construction or demolition debris or

1 uncontaminated soil, except that documentation relating to an
2 appeal, litigation, or other disputed claim must be maintained
3 until at least 3 years after the date of the final disposition
4 of the appeal, litigation, or other disputed claim. Copies of
5 the documentation must be made available to the Agency and to
6 units of local government for inspection and copying during
7 normal business hours. The Agency may prescribe forms and
8 formats for the documentation required under subdivision
9 (f) (2) of this Section.

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

15 (4) No later than one year after the effective date of this
16 amendatory Act of the 100th General Assembly, the Agency shall
17 propose to the Board, and, no later than one year after receipt
18 of the Agency's proposal, the Board shall adopt rules that
19 allow owners and operators of clean construction or demolition
20 debris fill operations who are transferring a portion of a fill
21 operation site to another person to be released from permitting
22 requirements with respect to the transferred portion of the
23 fill operation site, if all of the following have been
24 satisfied:

25 (A) The owner or operator files with the Agency:

26 (i) an application to modify the fill operation

1 permit to recognize a change in ownership of the
2 transferred property prior to completion of closure
3 and post-closure maintenance;

4 (ii) a document identifying the portion of the site
5 being transferred; and

6 (iii) a copy of plans describing how the portion of
7 the site being transferred will be developed.

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

12 (C) The owner or operator posts with the Agency a
13 performance bond for the purposes of closure and
14 post-closure maintenance of the portion of the site being
15 transferred. The bond amount shall be directly related to
16 the estimate of the costs for the Agency to remediate the
17 transferred portion of the site to a condition consistent
18 with the closure and post-closure maintenance requirements
19 applicable to the site.

20 The rules adopted pursuant to this subdivision (f) (4) shall
21 include the conditions under which the State is entitled to
22 collect monies from the performance bond. Those conditions may
23 include, but are not limited to, the failure of the transferee
24 to timely commence development or complete development of the
25 portion of the site being transferred.

26 Any moneys forfeited to the State of Illinois from any

1 performance bond required under this subdivision (f)(4) shall
2 be placed in the Landfill Closure and Post-Closure Fund
3 established under Section 21.1 of this Act and shall, upon
4 approval by the Governor and the Director of the Agency, be
5 used by and under the direction of the Agency for the purposes
6 for which the performance bond was issued.

7 The Agency is authorized to enter into such contracts and
8 agreements as it may deem necessary to carry out the purposes
9 of this Section. Neither the State, nor the Director of the
10 Agency, nor any State employee shall be liable for any damages
11 or injuries arising out of or resulting from any action taken
12 under this Section.

13 The Agency shall have the authority to approve or
14 disapprove any performance bond posted pursuant to this
15 subdivision (f)(4). Any person whose performance bond is
16 disapproved by the Agency may contest the disapproval in the
17 same manner as a permit denial appeal pursuant to Section 40 of
18 this Act.

19 The Agency may establish such procedures as the Agency may
20 deem necessary for the purpose of implementing and executing
21 the Agency's responsibilities under this subdivision (f)(4).
22 Until the effective date of rules adopted pursuant to this
23 subdivision (f)(4), the Agency may, consistent with the terms
24 of this subdivision (f)(4), allow owners and operators of clean
25 construction or demolition debris fill operations who are
26 transferring all or a portion of a fill operation site to

1 another person to be released from permitting requirements with
2 respect to the transferred portions of the fill operation site.

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

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

9 (2) No person shall use construction or demolition debris
10 other than clean construction or demolition debris as fill
11 material at a clean construction or demolition debris fill
12 operation.

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

14 Section 99. Effective date. This Act takes effect upon
15 becoming law."