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OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
and Drafting

Legislative Budget
Office

H.B. 222
136th General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsors: Reps. Click and T. Mathews

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SUMMARY

Construction and demolition debris (C&DD) fees

- Authorizes a solid waste management district (SWMD) to levy fees on the disposal of C&DD (mirroring current SWMD solid waste disposal fees) as follows:
 - A fee between \$1 and \$2 per ton for the disposal of C&DD generated within the district or out-of-state; and
 - A fee between \$2 and \$4 per ton for the disposal of C&DD generated outside of the district, but in-state.
- Requires the SWMD to forward the fees to the board of health of the health district in which the C&DD or solid waste facility that collected the fee is located.
- Requires the fees to be used by the board of health to administer the C&DD law within its jurisdiction, to abate accumulations of C&DD, and to mitigate the impacts to public health, safety, and welfare of C&DD facilities and solid waste facilities.
- Applies procedural requirements governing the administration and collection of current solid waste disposal fees to the administration and collection of the new C&DD fees.
- Prohibits a SWMD from levying the new C&DD fees on a C&DD facility or solid waste facility that is located in a health district that is not approved to regulate C&DD under the C&DD law.
- Eliminates the ability of a solid waste facility operator to charge solid waste fees on the disposal of C&DD, thus requiring an operator to collect the fees that correspond to the type of waste so disposed.

Solid waste disposal fees

- Allows SWMDs to use revenue from district solid waste disposal fees to provide financial assistance to individual counties, boards of health, municipal corporations, and townships to mitigate the impacts of solid waste facilities to public health, safety, and welfare.

County withdrawal from joint SWMD

- Repeals the existing procedures that a county member of a joint SWMD must utilize to withdraw from the joint SWMD, which requires all county members to agree to the withdrawal.
- Instead, establishes a procedure whereby a county may withdraw from a joint SWMD regardless of all counties so agreeing, after entering into a Memorandum of Understanding with all other counties.
- Requires the EPA Director to take all actions necessary to effectuate the withdrawal.

DETAILED ANALYSIS

Construction and demolition debris (C&DD) fees

New C&DD fees

The bill authorizes a solid waste management district (SWMD) to levy new fees on the disposal of C&DD in the district (mirroring the amount of fees that a SWMD may currently levy on solid waste disposal in the district). The new fees may be levied at the following rates:

1. A fee between \$1 and \$2 per ton on the disposal of C&DD generated within the district or generated out-of-state; and
2. A fee between \$2 and \$4 per ton on the disposal of C&DD generated outside of the district, but inside the state.

The bill applies the same procedures and requirements that currently govern the administration and collection of SWMD solid waste disposal fees to the new C&DD fees, including a requirement that solid waste and C&DD facility owners and operators collect the fee and hold it in trust for the SWMD. The procedures and requirements also include provisions governing fee collection and accounting, filing of returns, extensions on returns, discounts, refunds or credits, and the conversion rate for fees collected on the basis of cubic yards. The SWMD must forward money received from the fees to the applicable health district in which the facility that collected the fees is located. The health district must deposit the money into the special fund used by boards of health for the purposes discussed below. However, a SWMD may not levy the new C&DD fees with respect to a C&DD facility or solid waste facility that is located in a health district that is not approved to regulate C&DD under the C&DD law.¹

¹ R.C. 3714.07(E); R.C. 3714.09, not in the bill.

Charging of fees

The bill eliminates current law allowing a solid waste facility operator to charge solid waste disposal fees on the disposal of C&DD in lieu of state-imposed C&DD fees. Thus, when C&DD is disposed of in a solid waste facility, under the bill, the operator must collect the fees that correspond to the type of waste disposed. Current law authorizes the operator to choose either to assess solid waste disposal fees or state-imposed C&DD fees when C&DD is disposed in a solid waste facility. The bill also eliminates a provision of law that specifies that state-imposed C&DD fees do not apply when C&DD is disposed of at a solid waste facility and there is no C&DD facility within 35 miles.²

Solid waste disposal fees

The bill allows SWMDs to use existing solid waste disposal fees to provide financial assistance to individual counties, boards of health, municipal corporations, and townships to mitigate the impacts of solid waste facilities to public health, safety, and welfare. Currently, these fees must be used for ten specific purposes associated with solid waste management, such as solid waste management planning and assisting boards of health with solid waste law enforcement.³

County withdrawal from a joint SWMD

The bill creates a process to allow a county that is a member of a joint solid waste management district (SWMD) to unilaterally withdraw from the district, regardless of whether the other members of the district approve the withdrawal.

Under current law, a county may initiate proceedings to withdraw from a joint SWMD by adopting a resolution to do so and then notify the other counties in the joint district once the resolution is adopted. Within 60 days after receiving the notice, the other counties must each adopt a resolution to approve or disapprove the withdrawal. If all of the other counties adopt a resolution of approval, within 30 days after the adoption of the resolution, the board of directors of the joint SWMD must declare the withdrawal to be approved and notify all affected counties. However, if any of the other counties adopts a resolution of disapproval, within 30 days after the adoption of the resolution, the board of directors of the joint SWMD must declare the proposed withdrawal to be disapproved and notify all affected counties. The withdrawal proceedings end if any other county pass a resolution of disapproval.⁴

Additionally, current law establishes a process for a county to withdraw from the joint SWMD in the event that all member counties agree to the withdrawal, including requiring the withdrawing county to submit to the OEPA Director a preliminary demonstration of the availability of or access to solid waste management facility capacity, as appropriate. The OEPA

² R.C. 3714.07(E) and 3714.073(D).

³ R.C. 3734.57(G) and 343.011(F). Conforming changes in R.C. 343.022, 343.08, 3734.53, and 3734.574.

⁴ R.C. 343.012.

Director then prepares a solid waste management plan for the districts (county or joint) going forward.⁵

The bill, instead, eliminates the current withdrawal process and replaces it with a new process that allows a county to withdraw, regardless of whether other member counties approve of it. The new process is as follows:⁶

Resolution

The withdrawing county first must adopt a resolution declaring that the county will unilaterally withdraw from the joint SWMD.⁷

Notice

The withdrawing county must then provide notice to the joint SWMD's board of directors. The board of directors then deliver written notice of the proposed withdrawal to the boards of county commissioners of the other counties forming the joint SWMD and to the OEPA Director.⁸

Memorandum of Understanding

Forty-five days after the joint SWMD county members receive notice, all members must enter into a Memorandum of Understanding (MOU) that describes the terms of how the counties will operate as a joint SWMD for a two-year period beginning on the date that the MOU is agreed upon by all counties that comprise the SWMD.

If all counties in the joint SWMD do not agree on the MOU terms, the withdrawing county must, within ten days after it is determined that an agreement cannot be reached, request a court of common pleas located in an adjacent county to the withdrawing county to hear the parties and decide the MOU terms on behalf of the counties.

Within 90 days after the withdrawing county makes the request to the court, the court must hear the parties and issue an order that details the MOU terms. The MOU expires two years after it is entered into by the counties or the court issues the order determining the details unless all parties agree in writing to an earlier date.

If a county wishes to extend the terms of the MOU beyond the two-year period, the board, prior to 60 days before the MOU is scheduled to expire, must do one of the following as applicable:

1. If the MOU was entered into without court intervention, request the boards of county commissioners of all other counties that form the joint SWMD to agree to the extension.

⁵ R.C. 3734.521(E).

⁶ R.C. 3734.522; conforming changes in R.C. 343.01, 343.011, 343.012, 3734.521, 3734.53, 3734.56, 3734.57, and 3734.574.

⁷ R.C. 3734.522(B).

⁸ R.C. 3734.522(C).

The county must include in the request the time period proposed for the extension. However, the extension cannot exceed 45 days after the original MOU expiration date.

2. If the MOU terms were determined by a court order, request the court to extend the MOU by a time period not to exceed 45 days after the original MOU expiration date. The court must then issue an order either denying or granting the extension.⁹

OEPA actions

The bill then requires the OEPA Director to take all actions necessary to effectuate the withdrawal so that the withdrawal is effective upon the expiration date of the MOU. It also requires the OEPA Director to begin taking all such necessary actions on the date that the MOU is first executed.¹⁰

Joint SWMD actions

The bill also requires the board of directors of the joint district to take all actions necessary to ascertain, apportion, and order a division of the funds on hand, credits, and real and personal property of the district, either in money or in kind, on an equitable basis between the district and the withdrawing county, effective upon the expiration date of the MOU.¹¹

Post-MOU

After the expiration of the MOU, the withdrawing county is severed from the joint SWMD, becomes a county SWMD, and must comply with all necessary provisions of the law governing county SWMDs. After the withdrawal, the board of county commissioners of the severed county may form or join a joint solid waste management district or a regional solid waste management authority. However, the bill expressly prohibits the OEPA Director from requiring the withdrawing county to form a joint SWMD or to rejoin the joint SWMD from which the county withdrew.¹²

HISTORY

Action	Date
Introduced	04-07-25

ANHB0222IN-136/ar

⁹ R.C. 3734.522(D).

¹⁰ R.C. 3734.522(E)

¹¹ R.C. 3734.522(F).

¹² R.C. 3734.522(G).