

# AN ACT

To amend sections 343.01, 343.011, 343.012, 343.022, 343.08, 3714.07, 3714.073, 3734.521, 3734.53, 3734.56, 3734.57, 3734.574, and 3745.015 and to enact section 3734.522 of the Revised Code to make changes to the laws governing the transfer and disposal of solid waste and construction and demolition debris and to provide for new procedures governing a county's withdrawal from a joint solid waste management district.

*Be it enacted by the General Assembly of the State of Ohio:*

SECTION 1. That sections 343.01, 343.011, 343.012, 343.022, 343.08, 3714.07, 3714.073, 3734.521, 3734.53, 3734.56, 3734.57, 3734.574, and 3745.015 be amended and section 3734.522 of the Revised Code be enacted to read as follows:

Sec. 343.01. (A) In order to comply with division (B) of section 3734.52 of the Revised Code, the board of county commissioners of each county shall do one of the following:

(1) Establish, by resolution, and maintain a county solid waste management district under this chapter that consists of all the incorporated and unincorporated territory within the county except as otherwise provided in division (A) of this section;

(2) With the boards of county commissioners of one or more other counties establish, by agreement, and maintain a joint solid waste management district under this chapter that consists of all the incorporated and unincorporated territory within the counties forming the joint district except as otherwise provided in division (A) of this section.

If a municipal corporation is located in more than one solid waste management district, the entire municipal corporation shall be considered to be included in and shall be under the jurisdiction of the district in which a majority of the population of the municipal corporation resides.

A county and joint district established to comply with division (B) of section 3734.52 of the Revised Code shall have a population of not less than one hundred twenty thousand unless, in the instance of a county district, the board of county commissioners has obtained an exemption from that requirement under division (C)(1) or (2) of that section. Each joint district established to comply with an order issued under division (D) of that section shall have a population of at least one hundred twenty thousand.

(B) The boards of county commissioners of the counties establishing a joint district constitute, collectively, the board of directors of the joint district, except that if a county with a form of legislative authority other than a board of county commissioners participates, it shall be represented on the board of directors by three persons appointed by the legislative authority.

The agreement to establish and maintain a joint district shall be ratified by resolution of the board of county commissioners of each participating county. Upon ratification, the board of directors shall take control of and manage the joint district subject to this chapter, except that, in the case of a joint district formed pursuant to division ~~(C)(B)~~, ~~(D)(C)~~, or ~~(E)(D)~~ of section 343.012 of the Revised Code, the board of directors shall take control of and manage the district when the formation of the district becomes final under the applicable division. A majority of the board of directors constitutes a quorum, and a majority vote is required for the board to act.

A county participating in a joint district may contribute lands or rights or interests therein, money, other personal property or rights or interests therein, or services to the district. The agreement shall specify any contributions of participating counties and the rights of the participating counties in lands or personal property, or rights or interests therein, contributed to or otherwise acquired by the joint district. The agreement may be amended or added to by a majority vote of the board of directors, but no amendment or addition shall divest a participating county of any right or interest in lands or personal property without its consent.

The board of directors may appoint and fix the compensation of employees of, accept gifts, devises, and bequests for, and take other actions necessary to control and manage the joint district. Employees of the district shall be considered county employees for the purposes of Chapter 124. of the Revised Code and other provisions of state law applicable to employees. Instead of or in addition to appointing employees of the district, the board of directors may agree to use employees of one or more of the participating counties in the service of the joint district and to share in their compensation in any manner that may be agreed upon.

The board of directors shall do one of the following:

(1) Designate the county auditor, including any other official acting in a capacity similar to a county auditor under a county charter, of a county participating in the joint district as the fiscal officer of the district, and the county treasurer, or other official acting in a capacity similar to a county treasurer under a county charter, of that county as the treasurer of the district. The designated county officials shall perform any applicable duties for the district as each typically performs for the county of which the individual is an official, except as otherwise may be provided in any bylaws or resolutions adopted by the board of directors. The board of directors may pay to that county any amount agreed upon by the board of directors and the board of county commissioners of that county to reimburse that county for the cost properly allocable to the service of its officials as fiscal officer and treasurer of the joint district.

(2) Appoint one individual who is neither a county auditor nor a county treasurer, and who may be an employee of the district, to serve as both the treasurer of the district and its fiscal officer. That individual shall act as custodian of the funds of the board and the district and shall maintain all accounts of the district. Any reference in this chapter or Chapter 3734. of the Revised Code to a county auditor or county treasurer serving as fiscal officer of a district or custodian of any funds of a board or district is deemed to refer to an individual appointed under division (B)(2) of this section.

The fiscal officer of a district shall establish a general fund and any other necessary funds for the district.

(C) A board of county commissioners of a county district or board of directors of a joint district may acquire, by purchase or lease, construct, improve, enlarge, replace, maintain, and operate such solid waste collection systems within their respective districts and such solid waste facilities within or outside their respective districts as are necessary for the protection of the public health. A board of county commissioners may acquire within its county real property or any estate, interest, or right therein, by appropriation or any other method, for use by a county or joint district in connection with such facilities. Appropriation proceedings shall be conducted in accordance with sections 163.01 to 163.22 of the Revised Code.

(D) The sanitary engineer or sanitary engineering department of a county maintaining a district and any sanitary engineer or sanitary engineering department of a county in a joint district, as determined by the board of directors, in addition to other duties assigned to that engineer or department, shall assist the board of county commissioners or directors in the performance of their duties under this chapter and sections 3734.52 to 3734.575 of the Revised Code and shall be charged with any other duties and services in relation thereto that the board prescribes. A board may employ registered professional engineers to assist the sanitary engineer in those duties and also may employ financial advisers and any other professional services it considers necessary to assist it in the construction, financing, and maintenance of solid waste collection or other solid waste facilities. Such contracts of employment shall not require the certificate provided in section 5705.41 of the Revised Code. Payment for such services may be made from the general fund or any other fund legally available for that use at times that are agreed upon or as determined by the board of county commissioners or directors, and the funds may be reimbursed from the proceeds of bonds or notes issued to pay the cost of any improvement to which the services related.

(E)(1) The prosecuting attorney of the county shall serve as the legal advisor of a county district and shall provide such services to the board of county commissioners of the district as are required or authorized to be provided to other county boards under Chapter 309. of the Revised Code, except that, if the board considers it to be necessary or appropriate, the board, on its own initiative, may employ an attorney or other legal counsel on an annual basis to serve as the legal advisor of the district in place of the prosecuting attorney. When the prosecuting attorney is serving as the district's legal advisor and the board considers it to be necessary or appropriate, the board, on its own initiative, may employ an attorney or other legal counsel to represent or advise the board regarding a particular matter in place of the prosecuting attorney. The employment of an attorney or other legal counsel on an annual basis or in a particular matter is not subject to or governed by sections 305.14 and 309.09 of the Revised Code.

Notwithstanding the employment of an attorney or other legal counsel on an annual basis to serve as the district's legal advisor, the board may require written opinions or instructions from the prosecuting attorney under section 309.09 of the Revised Code in matters connected with its official

duties as though the prosecuting attorney were serving as the legal advisor of the district.

(2) The board of directors of a joint district may designate the prosecuting attorney of one of the counties forming the district to serve as the legal advisor of the district. When so designated, the prosecuting attorney shall provide such services to the joint district as are required or authorized to be provided to county boards under Chapter 309. of the Revised Code. The board of directors may pay to that county any amount agreed upon by the board of directors and the board of county commissioners of that county to reimburse that county for the cost properly allocable to the services of its prosecuting attorney as the legal advisor of the joint district. When that prosecuting attorney is so serving and the board considers it to be necessary or appropriate, the board, on its own initiative, may employ an attorney or other legal counsel to represent or advise the board regarding a particular matter in place of the prosecuting attorney.

Instead of designating the prosecuting attorney of one of the counties forming the district to be the legal advisor of the district, the board of directors may employ on an annual basis an attorney or other legal counsel to serve as the district's legal advisor. Notwithstanding the employment of an attorney or other legal counsel as the district's legal advisor, the board of directors may require written opinions or instructions from the prosecuting attorney of any of the counties forming the district in matters connected with the board's official duties, and the prosecuting attorney shall provide the written opinion or instructions as though the prosecuting attorney had been designated to serve as the district's legal advisor under division (E)(2) of this section.

(F) A board of county commissioners may issue bonds or bond anticipation notes of the county to pay the cost of preparing general and detailed plans and other data required for the construction of solid waste facilities in connection with a county or joint district. A board of directors of a joint solid waste management district may issue bonds or bond anticipation notes of the joint solid waste management district to pay the cost of preparing general and detailed plans and other data required for the construction of solid waste facilities in connection with a joint district. The bonds and notes shall be issued in accordance with Chapter 133. of the Revised Code, except that the maximum maturity of bonds issued for that purpose shall not exceed ten years. Bond anticipation notes may be paid from the proceeds of bonds issued either to pay the cost of the solid waste facilities or to pay the cost of the plans and other data.

(G) To the extent authorized by the solid waste management plan of the district approved under section 3734.521 or 3734.55 of the Revised Code or subsequent amended plans of the district approved under section 3734.521 or 3734.56 of the Revised Code, the board of county commissioners of a county district or board of directors of a joint district may adopt, publish, and enforce rules doing any of the following:

(1) Prohibiting or limiting the receipt of solid wastes generated outside the district or outside a service area prescribed in the solid waste management plan or amended plan, at facilities located within the solid waste management district, consistent with the projections contained in the plan or amended plan under divisions (A)(6) and (7) of section 3734.53 of the Revised Code. However,

rules adopted by a board under division (G)(1) of this section may be adopted and enforced with respect to solid waste disposal facilities in the solid waste management district that are not owned by a county or the solid waste management district only if the board submits an application to the director of environmental protection that demonstrates that there is insufficient capacity to dispose of all solid wastes that are generated within the district at the solid waste disposal facilities located within the district and the director approves the application. The demonstration in the application shall be based on projections contained in the plan or amended plan of the district. The director shall establish the form of the application. The approval or disapproval of such an application by the director is an action that is appealable under section 3745.04 of the Revised Code.

In addition, the director of environmental protection may issue an order modifying a rule adopted under division (G)(1) of this section to allow the disposal in the district of solid wastes from another county or joint solid waste management district if all of the following apply:

(a) The district in which the wastes were generated does not have sufficient capacity to dispose of solid wastes generated within it for six months following the date of the director's order.

(b) No new solid waste facilities will begin operation during those six months in the district in which the wastes were generated and, despite good faith efforts to do so, it is impossible to site new solid waste facilities within the district because of its high population density.

(c) The district in which the wastes were generated has made good faith efforts to negotiate with other districts to incorporate its disposal needs within those districts' solid waste management plans, including efforts to develop joint facilities authorized under section 343.02 of the Revised Code, and the efforts have been unsuccessful.

(d) The district in which the wastes were generated has located a facility willing to accept the district's solid wastes for disposal within the receiving district.

(e) The district in which the wastes were generated has demonstrated to the director that the conditions specified in divisions (G)(1)(a) to (d) of this section have been met.

(f) The director finds that the issuance of the order will be consistent with the state solid waste management plan and that receipt of the out-of-district wastes will not limit the capacity of the receiving district to dispose of its in-district wastes to less than eight years.

Any order issued under division (G)(1) of this section shall not become final until thirty days after it has been served upon the county or joint solid waste management district that will receive the out-of-district wastes either by certified mail or, if the director has record of an internet identifier of record associated with the district, by ordinary mail and by that internet identifier of record.

(2) Governing the maintenance, protection, and use of solid waste collection or other solid waste facilities located within its district. The rules adopted under division (G)(2) of this section shall not establish design standards for solid waste facilities and shall be consistent with the solid waste provisions of Chapter 3734. of the Revised Code and the rules adopted under those provisions. The rules adopted under division (G)(2) of this section may prohibit any person, municipal corporation, township, or other political subdivision from constructing, enlarging, or modifying any

solid waste facility until general plans and specifications for the proposed improvement have been submitted to and approved by the board of county commissioners or board of directors as complying with the solid waste management plan or amended plan of the district. The construction of such a facility shall be done under the supervision of the county sanitary engineer or, in the case of a joint district, a county sanitary engineer designated by the board of directors, and any person, municipal corporation, township, or other political subdivision proposing or constructing such improvements shall pay to the county or joint district all expenses incurred by the board in connection therewith. The sanitary engineer may enter upon any public or private property for the purpose of making surveys or examinations necessary for designing solid waste facilities or for supervising the construction, enlargement, modification, or operation of any such facilities. No person, municipal corporation, township, or other political subdivision shall forbid or interfere with the sanitary engineer or the sanitary engineer's authorized assistants entering upon such property for that purpose. If actual damage is done to property by the making of the surveys and examinations, a board shall pay the reasonable value of that damage to the owner of the property damaged, and the cost shall be included in the financing of the improvement for which the surveys and examinations are made.

(3) Governing the development and implementation of a program for the inspection of solid wastes generated outside the boundaries of this state that are disposed of at solid waste facilities included in the district's solid waste management plan or amended plan. A board of county commissioners or board of directors or its authorized representative may enter upon the premises of any solid waste facility included in the district's solid waste management plan or amended plan for the purpose of conducting the inspections required or authorized by the rules adopted under division (G)(3) of this section. No person, municipal corporation, township, or other political subdivision shall forbid or interfere with a board of county commissioners or directors or its authorized representative entering upon the premises of any such solid waste facility for that purpose.

(4) Exempting the owner or operator of any existing or proposed solid waste facility provided for in the plan or amended plan from compliance with any amendment to a township zoning resolution adopted under section 519.12 of the Revised Code or to a county rural zoning resolution adopted under section 303.12 of the Revised Code that rezoned or redistricted the parcel or parcels upon which the facility is to be constructed or modified and that became effective within two years prior to the filing of an application for a permit required under division (A)(2)(a) of section 3734.05 of the Revised Code to open a new or modify an existing solid waste facility.

(H) A board of county commissioners or board of directors may enter into a contract with any person, municipal corporation, township, or other political subdivision for the operation and maintenance of any solid waste facilities regardless of whether the facilities are owned or leased by the county or joint district or the contractor.

(I)(1) No person, municipal corporation, township, or other political subdivision shall tamper with or damage any solid waste facility constructed under this chapter or any apparatus or accessory

connected therewith or pertaining thereto, fail or refuse to comply with the applicable rules adopted by a board of county commissioners or directors under division (G)(1), (2), (3), or (4) of this section, refuse to permit an inspection or examination by a sanitary engineer as authorized under division (G)(2) of this section, or refuse to permit an inspection by a board of county commissioners or directors or its authorized representative as required or authorized by rules adopted under division (G)(3) of this section.

(2) If the board of county commissioners of a county district or board of directors of a joint district has established facility designations under section 343.013, 343.014, or 343.015 of the Revised Code, or the director has established facility designations in the initial or amended plan of the district prepared and ordered to be implemented under section 3734.521, 3734.55, or 3734.56 of the Revised Code, no person, municipal corporation, township, or other political subdivision shall deliver, or cause the delivery of, any solid wastes generated within a county or joint district to any solid waste facility other than the facility designated under section 343.013, 343.014, or 343.015 of the Revised Code, or in the initial or amended plan of the district prepared and ordered to be implemented under section 3734.521, 3734.55, or 3734.56 of the Revised Code, as applicable, except that source separated recyclable materials may be taken to any legitimate recycling facility. Upon the request of a person or the legislative authority of a municipal corporation or township, the board of county commissioners of a county district or board of directors of a joint district may grant a waiver authorizing the delivery of all or any portion of the solid wastes generated in a municipal corporation or township to a solid waste facility other than the facility designated under section 343.013, 343.014, or 343.015 of the Revised Code, or in the initial or amended plan of the district prepared and ordered to be implemented under section 3734.521, 3734.55, or 3734.56 of the Revised Code, as applicable, regardless of whether the other facility is located within or outside of the district, if the board finds that delivery of those solid wastes to the other facility is not inconsistent with the projections contained in the district's initial or amended plan under divisions (A)(6) and (7) of section 3734.53 of the Revised Code as approved or ordered to be implemented and will not adversely affect the implementation and financing of the district's initial or amended plan pursuant to the implementation schedule contained in it under divisions (A)(12)(a) to (d) of that section. The board shall act on a request for such a waiver within ninety days after receiving the request. Upon granting such a waiver, the board shall send notice of that fact to the director. The notice shall indicate to whom the waiver was granted. Any waiver or authorization granted by a board on or before October 29, 1993, shall continue in force until the board takes action concerning the same entity under this division or until action is taken under division (G) of section 343.014 of the Revised Code.

(J) Divisions (G)(1) to (4) and (I)(2) of this section do not apply to the construction, operation, use, repair, enlargement, or modification of either of the following:

(1) A solid waste facility owned by a generator of solid wastes when the solid waste facility exclusively disposes of solid wastes generated at one or more premises owned by the generator

regardless of whether the facility is located on a premises where the wastes are generated;

(2) A facility that exclusively disposes of wastes that are generated from the combustion of coal, or from the combustion of primarily coal in combination with scrap tires, that is not combined in any way with garbage at one or more premises owned by the generator.

(K)(1) A member of the board of county commissioners of a county solid waste management district, member of the board of directors of a joint solid waste management district, member of the board of trustees of a regional solid waste management authority managing a county or joint solid waste management district, or officer or employee of any solid waste management district, for the purposes of sections 102.03, 102.04, 2921.41, and 2921.42 of the Revised Code, shall not be considered to be directly or indirectly interested in, or improperly influenced by, any of the following:

(a) A contract entered into under this chapter or section 307.15 or sections 3734.52 to 3734.575 of the Revised Code between the district and any county forming the district, municipal corporation or township located within the district, or health district having territorial jurisdiction within the district, of which that member, officer, or employee also is an officer or employee, but only to the extent that any interest or influence could arise from holding public office or employment with the political subdivision or health district;

(b) A contract entered into under this chapter or section 307.15 or sections 3734.52 to 3734.575 of the Revised Code between the district and a county planning commission organized under section 713.22 of the Revised Code, or regional planning commission created under section 713.21 of the Revised Code, having territorial jurisdiction within the district, of which that member also is a member, officer, or employee, but only to the extent that any interest or influence could arise from holding public office or employment with the commission;

(c) An expenditure of money made by the district for the benefit of any county forming the district, municipal corporation or township located within the district, or health district or county or regional planning commission having territorial jurisdiction within the district, of which that member also is a member, officer, or employee, but only to the extent that any interest or influence could arise from holding public office or employment with the political subdivision, health district, or commission;

(d) An expenditure of money made for the benefit of the district by any county forming the district, municipal corporation or township located within the district, or health district or county or regional planning commission having territorial jurisdiction within the district, of which that member also is a member, officer, or employee, but only to the extent that any interest or influence could arise from holding public office or employment with the political subdivision, health district, or commission.

(2) A solid waste management district, county, municipal corporation, township, health district, or planning commission described or referred to in divisions (K)(1)(a) to (d) of this section shall not be construed to be the business associate of a person who is concurrently a member of the



board of county commissioners, directors, or trustees, or an officer or employee, of the district and an officer or employee of that municipal corporation, county, township, health district, or planning commission for the purposes of sections 102.03, 2921.42, and 2921.43 of the Revised Code. Any person who is concurrently a member of the board of county commissioners, directors, or trustees, or an officer or employee, of a solid waste management district so described or referred to and an officer or employee of a county, municipal corporation, township, health district, or planning commission so described or referred to may participate fully in deliberations concerning and vote on or otherwise participate in the approval or disapproval of any contract or expenditure of funds described in those divisions as a member of the board of county commissioners or directors, or an officer or employee, of a county or joint solid waste management district; member of the board of trustees, or an officer or employee, of a regional solid waste management authority managing a county or joint solid waste management district; member of the legislative authority, or an officer or employee, of a county forming the district; member of the legislative authority, or an officer or employee, of a municipal corporation or township located within the district; member of the board of health, or an officer or employee, of a health district having territorial jurisdiction within the district; or member of the planning commission, or an officer or employee of a county or regional planning commission having territorial jurisdiction within the district.

(3) Nothing in division (K)(1) or (2) of this section shall be construed to exempt any member of the board of county commissioners, directors, or trustees, or an officer or employee, of a solid waste management district from a conflict of interest arising because of a personal or private business interest.

(4) A member of the board of county commissioners of a county solid waste management district, board of directors of a joint solid waste management district, or board of trustees of a regional solid waste management authority managing a county or joint solid waste management district, or an officer or employee, of any such solid waste management district, neither shall be disqualified from holding any other public office or position of employment nor be required to forfeit any other public office or position of employment by reason of serving as a member of the board of county commissioners, directors, or trustees, or as an officer or employee, of the district, notwithstanding any requirement to the contrary under the common law of this state or the Revised Code.

(L) As used in this chapter:

(1) "Board of health," "disposal," "health district," "scrap tires," and "solid waste transfer facility" have the same meanings as in section 3734.01 of the Revised Code.

(2) "Change in district composition" and "change" have the same meaning as in section 3734.521 of the Revised Code.

(3)(a) Except as provided in division (L)(3)(b) or (c), and (d), of this section, "solid wastes" has the same meaning as in section 3734.01 of the Revised Code.

(b) If the solid waste management district is not one that resulted from proceedings for a

change in district composition under sections 343.012 and 3734.521 of the Revised Code, until such time as an amended solid waste management plan is approved under section 3734.56 of the Revised Code, "solid wastes" need not include scrap tires unless the solid waste management policy committee established under section 3734.54 of the Revised Code for the district chooses to include the management of scrap tires in the district's initial solid waste management plan prepared under sections 3734.54 and 3734.55 of the Revised Code.

(c) If the solid waste management district is one resulting from proceedings for a change in district composition under sections 343.012 and 3734.521 of the Revised Code and if the change involves an existing district that is operating under either an initial solid waste management plan approved or prepared and ordered to be implemented under section 3734.55 of the Revised Code or an initial or amended plan approved or prepared and ordered to be implemented under section 3734.521 of the Revised Code that does not provide for the management of scrap tires and scrap tire facilities, until such time as the amended plan of the district resulting from the change is approved under section 3734.56 of the Revised Code, "solid wastes" need not include scrap tires unless the solid waste management policy committee established under division (C) of section 3734.521 of the Revised Code for the district chooses to include the management of scrap tires in the district's initial or amended solid waste management plan prepared under section 3734.521 of the Revised Code in connection with the change proceedings.

(d) If the policy committee chooses to include the management of scrap tires in an initial plan prepared under sections 3734.54 and 3734.55 of the Revised Code or in an initial or amended plan prepared under section 3734.521 of the Revised Code, the board of county commissioners or directors shall execute all of the duties imposed and may exercise any or all of the rights granted under this section for the purpose of managing solid wastes that consist of scrap tires.

(4)(a) Except as provided in division (L)(4)(b) or (c), and (d) of this section, "facility" has the same meaning as in section 3734.01 of the Revised Code and also includes any solid waste transfer, recycling, or resource recovery facility.

(b) If the solid waste management district is not one that resulted from proceedings for a change in district composition under sections 343.012 and 3734.521 of the Revised Code, until such time as an amended solid waste management plan is approved under section 3734.56 of the Revised Code, "facility" need not include any scrap tire collection, storage, monocell, monofill, or recovery facility unless the solid waste management policy committee established under section 3734.54 of the Revised Code for the district chooses to include the management of scrap tire facilities in the district's initial solid waste management plan prepared under sections 3734.54 and 3734.55 of the Revised Code.

(c) If the solid waste management district is one resulting from proceedings for a change in district composition under sections 343.012 and 3734.521 of the Revised Code and if the change involves an existing district that is operating under either an initial solid waste management plan approved under section 3734.55 of the Revised Code or an initial or amended plan approved or

prepared and ordered to be implemented under section 3734.521 of the Revised Code that does not provide for the management of scrap tires and scrap tire facilities, until such time as the amended plan of the district resulting from the change is approved under section 3734.56 of the Revised Code, "facility" need not include scrap tires unless the solid waste management policy committee established under division (C) of section 3734.521 of the Revised Code for the district chooses to include the management of scrap tires in the district's initial or amended solid waste management plan prepared under section 3734.521 of the Revised Code in connection with the change proceedings.

(d) If the policy committee chooses to include the management of scrap tires in an initial plan prepared under sections 3734.54 and 3734.55 of the Revised Code or in an initial or amended plan prepared under section 3734.521 of the Revised Code, the board of county commissioners or directors shall execute all of the duties imposed and may exercise any or all of the rights granted under this section for the purpose of managing solid waste facilities that are scrap tire collection, storage, monocell, monofill, or recovery facilities.

(M) As used in this section:

(1) "Source separated recyclable materials" means materials that are separated from other solid wastes at the location where the materials are generated for the purpose of recycling the materials at a legitimate recycling facility.

(2) "Legitimate recycling facility" has the same meaning as in rule 3745-27-01 of the Administrative Code.

(3) "Internet identifier of record" has the same meaning as in section 9.312 of the Revised Code.

Sec. 343.011. (A) The board of county commissioners of a county or the board of directors of a joint solid waste management district established under this chapter, upon its own initiative or at the request of the legislative authority of any municipal corporation or township located in the district, may adopt a resolution proposing the formation of a regional solid waste management authority for the purpose of executing all the duties and responsibilities imposed on or granted to the board under this chapter. Upon adoption of such a resolution, the board shall send a copy of it to the legislative authority of each municipal corporation and township located in the district and shall request each legislative authority to vote on the question of the formation of such a regional authority.

The board of county commissioners or board of directors shall declare the proposal to have been adopted upon determining that the legislative authorities of a combination of municipal corporations and townships with a combined population within the boundaries of the district comprising at least sixty per cent of the total population of the district have approved the proposal, provided that that combination shall include the municipal corporation having the largest population in each county within the boundaries of the district. Upon the adoption of the proposal, the board of county commissioners or board of directors shall enter into an agreement with the legislative

authorities of the municipal corporations and townships in the district to form a regional solid waste management authority, which agreement shall include, without limitation, procedures for the appointment of a board of trustees of the authority to be comprised of at least the president of the board of county commissioners of each county in the district or ~~his~~ the president's designee, the chief executive officer of the municipal corporation having the largest population within the boundaries of each county in the district or ~~his~~ the chief executive officer's designee, a member representing the townships within each county in the district chosen by a majority of the boards of township trustees within each county, the health commissioner of the health district having the largest territorial jurisdiction within each county in the district or ~~his~~ the health commissioner's designee, and one member representing the public to be appointed by the other members of the board.

The agreement forming the regional authority shall be adopted in the same manner as the initial proposal to form the regional authority. Not later than thirty days after the adoption of the agreement, the board of trustees appointed under it shall mail a copy of the agreement to the director of environmental protection.

(B) Following the formation of a regional solid waste management authority under division (A) of this section, all the duties and responsibilities imposed on or granted to a board of county commissioners or a board of directors under this chapter shall be vested in and exercised by the board of trustees of the regional authority. Those duties and responsibilities shall include, without limitation, all of the following:

(1) Appointment of employees necessary to manage the affairs of the district, including, without limitation, an executive director, and a sanitary engineer or engineers to execute the responsibilities assigned to the county sanitary engineer under this chapter;

(2) Acquisition, construction, improvement, enlargement, replacement, maintenance, and operation of solid waste facilities within the district;

(3) Issuance of bonds and bond anticipation notes in accordance with Chapter 133. of the Revised Code.

(C) In addition to the duties and responsibilities identified in division (B) of this section and division (H) of section 3734.54 of the Revised Code, the board of trustees of a regional solid waste management authority may do any of the following:

(1) Adopt bylaws for the regulation of its affairs and the conduct of its business;

(2) Maintain an office within its county or joint solid waste management district;

(3) Provide coverage for its employees under Chapters 145., 4123., and 4141. of the Revised Code and procure and pay all or any part of the cost of group hospitalization, surgical, major medical, and sickness and accident insurance and group life insurance for its employees;

(4) Procure insurance against loss to the regional authority by reason of damages to its properties resulting from fire, theft, accident, or other casualties or by reason of its liability for any damages to persons or property occurring in the construction or operation of facilities under its jurisdiction or the conduct of its activities;

(5) Procure a policy or policies insuring members of the board of trustees against liability on account of damages or injury to persons and property resulting from any act or omission of a member in ~~his~~ the member's official capacity as a member of the board or resulting solely out of ~~his~~ membership on the board;

(6) Sue or be sued;

(7) Make contracts in the exercise of the rights, powers, and duties conferred upon the regional authority;

(8) Do all acts necessary or proper to carry out the duties and responsibilities imposed on or granted to the board under this chapter and sections 3734.52 to 3734.575 of the Revised Code.

(D) The board of trustees of a regional solid waste management authority in a county solid waste management district may designate the prosecuting attorney of the county to serve as the legal advisor of the authority, and the board of trustees of an authority in a joint district may designate the prosecuting attorney of one of the counties forming the district to serve as the legal advisor of the authority. The designated prosecuting attorney shall provide such services to the authority as are required or authorized to be provided to county boards under Chapter 309. of the Revised Code. The board of trustees may pay to the county whose prosecuting attorney is serving as the authority's legal advisor any amount agreed upon by the board of trustees and the board of county commissioners of that county to reimburse that county for the cost properly allocable to the services of its prosecuting attorney as the authority's legal advisor. When a prosecuting attorney is so serving and the board considers it to be necessary or appropriate, the board, on its own initiative, may employ an attorney or other legal counsel to advise the board regarding a particular matter in place of the prosecuting attorney.

Instead of designating the prosecuting attorney of the county or of one of the counties forming the district, as appropriate, to be the legal advisor of the regional authority, the board of trustees may employ on an annual basis an attorney or other legal counsel to serve as the authority's legal advisor. Notwithstanding the employment of an attorney or other legal counsel on an annual basis as the authority's legal advisor, the board of trustees may require written opinions or instructions from the prosecuting attorney of the county or, in the case of a joint district, any of the counties forming the district in matters connected with the board's official duties, and the prosecuting attorney shall provide the written opinion or instructions as though ~~he~~ the prosecuting attorney had been designated to serve as the authority's legal advisor under this division.

(E) Within ninety days after October 29, 1993, one member representing industrial, commercial, or institutional generators of solid wastes within the district and one member representing the general interests of citizens who shall have no conflict of interest through affiliation with a waste management company or with any entity that is a significant generator of solid wastes shall be added to the board of trustees of a regional authority formed in a county district. In the case of a regional authority formed in a joint district, one member shall be added to the board of trustees from each county that is a member of the joint district to represent industrial, commercial, or

institutional generators of solid wastes within the county, and one member shall be added to the board from each such county to represent the general interests of citizens who shall have no conflict of interest through affiliation with a waste management company or with any entity that is a significant generator of solid wastes. The members representing generators and the general interests of citizens shall be added to the board of trustees without the necessity for amending the agreement to form the regional authority. They shall be appointed in the same manner as the public member of the board is required to be appointed under this section and shall serve for terms of the same length as the other members, as provided in the agreement.

(F) As used in this chapter and in division (E) of section 3714.07 of the Revised Code, divisions (D) to (H) of section 3734.57 of the Revised Code, and sections 3734.522, 3734.571, 3734.572, 3734.573, 3734.574, and 3734.575 of the Revised Code, and as used in Chapter 133. of the Revised Code for the purposes of this chapter, any reference to a board of county commissioners of a county or a board of directors of a joint solid waste management district is deemed to include the board of trustees of a regional solid waste management authority, and any reference to the county sanitary engineer is deemed to include any sanitary engineer employed by a regional authority.

Sec. 343.012. (A) As used in this section:

(1) "Change in district composition" and "change" have the same meaning as in section 3734.521 of the Revised Code.

(2) "Deliver" has the same meaning as in division (G)(2) of section 3734.55 of the Revised Code.

~~(B) The board of county commissioners of a county forming a joint solid waste management district may initiate proceedings to withdraw from the district by adopting a resolution requesting to withdraw. Upon adopting the resolution, the board shall deliver a copy of it to the board of directors of the district. Upon receiving the resolution, the board of directors shall deliver written notice of the proposed withdrawal to the boards of county commissioners of the other counties forming the district. Within sixty days after receiving the notice, the other boards of county commissioners each shall adopt a resolution approving or disapproving the proposed withdrawal and deliver a copy of the resolution to the board of directors. If any of the other boards of county commissioners adopts a resolution of disapproval, the board of directors shall declare the proposed withdrawal to be disapproved and shall deliver written notice of the disapproval to the boards of county commissioners of the affected counties. If all of the other boards of county commissioners adopt a resolution approving the proposed withdrawal, the board of directors shall declare the withdrawal to be approved and shall deliver written notice of the approval to the boards of county commissioners of the affected counties. The board of directors shall determine whether the withdrawal has been approved or disapproved and deliver the required written notice of the approval or disapproval to the boards of county commissioners of the affected counties within thirty days after receiving the resolutions of approval or disapproval from those boards. Promptly after the approval of the~~

~~withdrawal, proceedings shall be initiated in accordance with division (E) of section 3734.521 of the Revised Code to effect the withdrawal.~~

~~A withdrawal becomes final on the first day of January following the date on which the applicable conditions set forth in division (G)(1), (2), (3), or (4) of section 3734.521 of the Revised Code have been met in connection with the change in district composition that involves the withdrawal. On and after that first day of January, the withdrawing county ceases to be a part of the joint district, its members on the board of directors shall cease to be members of the board, and its power to levy a tax upon taxable property to support the district terminates, except that the county shall continue to levy and collect any taxes levied for the payment of indebtedness of the district as it was composed at the time the indebtedness was incurred. Upon the withdrawal of a county from a joint district, the board of directors shall 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 any equitable basis between the district and the withdrawing county consistent with the agreement to establish and maintain the district entered into and ratified under division (A) of section 343.01 of the Revised Code and the prior contributions of the withdrawing county.~~

~~If the withdrawal of one or more counties would leave only one county participating in a joint district, the board of directors shall ascertain, apportion, and order a final division of the funds on hand, credits, and real and personal property of the district. On and after the first day of January on which the latest withdrawal of a county from the district becomes final, the district shall be dissolved. When a joint district is dissolved and any indebtedness remains unpaid, the boards of county commissioners shall continue to levy and collect taxes for the payment of the indebtedness in support of the joint district in the amounts established by the agreement at the time the indebtedness was incurred.~~

~~For the purposes of this division, "counties forming the joint district" include only the following:~~

~~(1) The counties that are named as members of the joint district in the solid waste management plan or amended plan of the district approved or ordered to be implemented under section 3734.521, 3734.55, or 3734.56 of the Revised Code in effect when the withdrawal proceeding was initiated and that have not previously initiated proceedings under division (B) of this section to withdraw from the joint district;~~

~~(2) Any counties named as members of the joint district in that plan or amended plan that have initiated a withdrawal proceeding under division (B) of this section that has been declared to be disapproved under that division;~~

~~(3) If joinder proceedings had previously been concluded under division (D) of this section since that plan or amended plan was approved or ordered to be implemented, any county whose joinder to the district was declared to be approved in those proceedings.~~

~~(C)(B)(1) The board of county commissioners of a county seeking to establish a new joint district with the board of county commissioners of one or more other counties may initiate~~

proceedings to do so by adopting a resolution proposing the establishment of the joint district. Upon adopting the resolution, the board shall deliver a copy of it to the boards of county commissioners of the other counties to be included in the proposed joint district.

(2) If the board proposing the establishment of a new joint district also has initiated proceedings to withdraw from an existing joint district under ~~division (B) of this section 3734.522 of the Revised Code~~, the board shall not adopt a resolution proposing the establishment until after the ~~proposed withdrawal has been declared to be approved~~ memorandum of understanding has been executed in accordance with that section and, ~~upon adopting the resolution, shall deliver the board delivers~~ a copy of the ~~written notice declaring the withdrawal to be approved under that division~~ memorandum of understanding to the other boards along with the copy of the resolution proposing the establishment of the new district.

(3) Within sixty days after receiving the resolution proposing the establishment of the new joint district and, if applicable, a copy of the ~~notice of the approval of the withdrawal~~ memorandum of understanding, each of the other boards shall adopt a resolution approving or disapproving the proposed establishment and deliver a copy of it to the board of county commissioners proposing the establishment. However, if any of the other boards also has ~~initiated entered into~~ withdrawal proceedings under ~~division (B) of this section 3734.522 of the Revised Code~~, and ~~if the withdrawal has been declared to be disapproved or has not yet been declared to be approved or disapproved under that division, that board need not adopt a resolution concerning the proposed establishment, but such board~~ shall deliver to the board of county commissioners proposing the establishment a copy of the ~~written notice of the disapproval or, if the withdrawal has not yet been declared to be approved or disapproved, written notice of that fact. If the withdrawal has been declared to be approved under division (B) of this section, the board shall deliver a copy of the written notice of the approval with the copy of its resolution approving or disapproving the proposed establishment~~ executed memorandum of understanding entered into under that section. If any of the other boards adopts a resolution of disapproval, ~~or if any of the other boards initiated withdrawal proceedings under division (B) of this section and the withdrawal either has been declared to be disapproved under that division or has not yet been declared to be approved or disapproved under that division when the board of county commissioners so notified the board of county commissioners proposing the establishment, the board of county commissioners proposing the establishment shall declare the proposed establishment to be disapproved and shall deliver written notice of the disapproval to the other boards. If all of the other boards adopt a resolution approving the establishment, and, if any of the other boards initiated such withdrawal proceedings, the withdrawal already has been declared to be approved under that division when the board of county commissioners delivered the resolution approving the establishment to the board of county commissioners proposing the establishment, the board that initiated the proceedings shall declare the establishment to be approved and shall deliver written notice of the approval to the other boards. The board of county commissioners that initiated the proceedings shall determine whether the~~



establishment has been approved or disapproved and deliver the required written notice of the approval or disapproval to the other boards within thirty days after receiving the resolutions of approval or disapproval from the other boards or being otherwise notified by them in accordance with this division.

(4) Promptly after the approval of the establishment, the boards shall enter into and ratify an agreement to form the joint district under division (A) of section 343.01 of the Revised Code, and proceedings shall be initiated under section 3734.521 of the Revised Code to effect the establishment of the joint district. The establishment of the joint district becomes final when the applicable conditions set forth in division ~~(G)(1), (2), (3), or (4)~~ and, if appropriate, ~~division (H)-(E)~~ of section 3734.521 of the Revised Code have been met in connection with the change in district composition that involves the establishment. On the date that the establishment becomes final, the boards of county commissioners of the counties establishing the joint district collectively constitute the board of directors of the joint district, except that if a county with a legislative authority other than a board of county commissioners participates in the joint district, it shall be represented on the board of directors by three persons appointed by the legislative authority of the county.

~~(D)(C)(1)~~ The board of county commissioners of a county may initiate proceedings to join an existing joint district by adopting a resolution requesting membership in the joint district. Upon adoption of the resolution, the board shall deliver a copy of it to the board of directors of the joint district.

(2) If the board of county commissioners proposing the joinder also has initiated proceedings to withdraw from an existing joint district under ~~division (B) of this section~~ 3734.522 of the Revised Code, the board shall not adopt a resolution proposing the joinder until after the ~~withdrawal has been declared to be approved under that division~~ memorandum of understanding has been executed in accordance with that section and, upon adopting the resolution, such board shall deliver a copy of the ~~written notice declaring the withdrawal to be approved under that division~~ memorandum of understanding to the board of directors of the joint district along with the resolution proposing the joinder. Upon receiving the resolution and, if applicable, a copy of the ~~notice of the approval of the withdrawal~~ memorandum of understanding, the board of directors shall deliver notice of the proposed joinder to the boards of county commissioners of the counties forming the existing joint district.

(3) Within sixty days after receiving the notice of the proposed joinder, each such board shall adopt a resolution approving or disapproving the joinder and shall deliver a copy of the resolution to the board of directors. If the board of county commissioners of any of the counties forming the existing joint district adopts a resolution of disapproval ~~or if any of the counties that are members of the existing joint district had initiated a withdrawal from it under division (B) of this section that had not yet been declared to be approved or disapproved under that division when the board of county commissioners delivered their resolutions approving or disapproving the joinder to the board of directors~~, the board of directors shall declare the proposed joinder to be disapproved

and shall deliver written notice of the disapproval to the affected boards of county commissioners. If the board of county commissioners of each county forming the existing joint district adopts a resolution approving the proposed joinder ~~and, if any of the counties that are members of the existing joint district has initiated a withdrawal from it under division (B) of this section, the withdrawal has been declared to be approved or disapproved under that division,~~ the board of directors shall declare the joinder to be approved and shall deliver written notice of the approval to the affected boards of county commissioners. The board of directors shall determine whether the joinder has been approved or disapproved and deliver the required written notice of the approval or disapproval to the boards of county commissioners of the affected counties within thirty days after receiving the resolutions of approval or disapproval from the boards of county commissioners of the counties forming the existing joint district.

(4) Promptly after the approval of the joinder, the affected boards shall enter into and ratify an agreement under division (A) of section 343.01 of the Revised Code to join the county to the joint district, and proceedings shall be initiated in accordance with section 3734.521 of the Revised Code to effect the joinder. The joinder becomes final when the applicable conditions set forth in division ~~(G)(1), (2), (3), or (4) and, if appropriate, division (H)(E)~~ of section 3734.521 of the Revised Code have been met in connection with the change in district composition that involves the joinder. When the joinder becomes final, the board of county commissioners of the joining county or three members appointed by its legislative authority, if other than a board of county commissioners, shall be added to the board of directors of the joint district. If one or more counties withdrew from the existing joint district in connection with the change that involved the joinder, the members of the board of directors of the existing joint district from the counties that withdrew shall cease to serve as members of the board of directors on the date that the change becomes final.

(5) For the purposes of ~~this division (C) of this section,~~ "counties forming the existing joint district" include only the following:

(1)(a) The counties that are named as members of the joint district in the solid waste management plan or amended plan of the district approved or ordered to be implemented under section 3734.521, 3734.55, or 3734.56 of the Revised Code in effect when the joinder proceeding was initiated and that have not initiated proceedings to withdraw from the joint district under ~~division (B) of this section 3734.522 of the Revised Code;~~

~~(2) Any counties named as members of the joint district in that plan or amended plan that have initiated a withdrawal under division (B) of this section that has been declared to be disapproved under that division;~~

(3)(b) If joinder proceedings had previously been concluded under this division since that plan or amended plan was approved or ordered to be implemented, any county whose joinder to the district was declared to be approved in those proceedings.

(E)(D)(1) As used in this division:

(a) "Initiating joint district" means the joint district that initiates proceedings for the union of

the district with another joint district.

(b) "Joining joint district" means the joint district that is requested by an initiating joint district to become one joint district in union.

(c) "Counties forming the existing joint districts" includes only the following:

(i) The counties that are named as members of one of the joint districts affected by the proposed union in the solid waste management plan or amended plan of the appropriate district approved or ordered to be implemented under section 3734.521, 3734.55, or 3734.56 of the Revised Code in effect when the union proceeding was initiated and that have not initiated proceedings under section 3734.522 of the Revised Code;

(ii) If joinder proceedings previously had been concluded under this section to join a county to an existing joint district affected by the proposed union, any county whose joinder to the existing joint district was declared to be approved in that proceeding.

(2) The board of directors of a joint district may initiate proceedings for the union of the district with another joint district by adopting a resolution requesting the union.

(3) If the initiating joint district whose board of directors is requesting the union is affected by a withdrawal proceeding initiated under division (B) of this section 3734.522 of the Revised Code, the board of directors of the initiating joint district shall not adopt a resolution requesting the union until after it has declared the proposed withdrawal to be approved or disapproved under division (B) of this section. If the memorandum of understanding has been executed in accordance with that section. Upon adoption of the resolution, the board shall deliver a copy of it to the board of directors of the joining joint district with which the union is proposed. Within thirty days after receiving the resolution, the board of directors of the other joining joint district shall deliver written notice to the initiating joint district's board of directors requesting the union as to whether the other joining joint district is affected by a withdrawal proceeding initiated under division (B) of this section 3734.522 of the Revised Code. If the other joining joint district is so affected, its board of directors shall deliver with the notice a copy of the resolution proposing the withdrawal and a copy of the written notice declaring the withdrawal to be approved or disapproved under division (B) of this section or, if the withdrawal has not yet been declared to be approved or disapproved, written notice of that fact. If the memorandum of understanding executed in accordance with that section. If the board of directors of the other district declares such a withdrawal to be approved or disapproved within sixty days after the board of directors that requested the union delivered copies of the resolution requesting the union to the boards of county commissioners of the counties forming the existing joint districts, the board of directors of the other district shall deliver written notice of the approval or disapproval of the withdrawal to the board of directors that requested the union.

(4) Within thirty days after receiving from the board of directors of the other joining joint district the written notice as to whether that district is affected by a withdrawal proceeding, the initiating joint district's board of directors requesting the union shall deliver a copy of the resolution requesting the union to the boards of county commissioners of the counties forming the existing

joint districts. Within sixty days after receiving the resolution, each such board of county commissioners shall adopt a resolution approving or disapproving the union and deliver a copy of it to the initiating joint district's board of directors ~~that requested the union~~. If the board of county commissioners of any of the counties forming the existing joint districts adopts a resolution of disapproval ~~or if any of the joint districts is affected by a withdrawal from it initiated under division (B) of this section that had not yet been declared to be approved or disapproved under that division when the board of county commissioners proposing the withdrawal delivered its resolution approving or disapproving the proposed union to the board of directors~~, the board of directors shall declare the union to be disapproved and shall deliver written notice of the disapproval to the board of county commissioners of each of the affected counties. If the boards of county commissioners of all of the counties forming the existing joint districts adopt resolutions approving the proposed union ~~and, if any of the joint districts is affected by a withdrawal proceeding initiated under division (B) of this section, the withdrawal had already been declared to be approved or disapproved under that division when the board of county commissioners of the counties forming the existing joint districts delivered their resolutions approving the proposed union to the board of directors~~, the board of directors shall declare the union to be approved and shall deliver written notice of that fact to the affected boards of county commissioners. The board of directors shall determine whether the union has been approved or disapproved and deliver the required written notices of the approval or disapproval to the boards of county commissioners of the counties forming the existing joint districts within thirty days after receiving the resolutions of approval or disapproval from those boards of county commissioners.

(5) Promptly after the approval of the union, the boards of county commissioners of the affected counties shall enter into and ratify an agreement under division (A) of section 343.01 of the Revised Code to unite the districts, and proceedings shall be initiated in accordance with section 3734.521 of the Revised Code to effect the union. The union becomes final when the applicable conditions set forth in division ~~(G)(1), (2), (3), or (4) and, if appropriate, division (H)(E)~~ of section 3734.521 of the Revised Code have been met in connection with the change in district composition that involves the union. On the date that the union becomes final, the boards of directors of the former joint districts collectively constitute the board of directors of the united district, except that if one or more counties were joined to any of the existing joint districts in connection with the change in district composition that involved the union, the board of county commissioners or three members appointed by its legislative authority, if other than a board of county commissioners, shall be added to the board of directors of the united district, and except that if one or more counties withdrew from any of the existing joint districts in connection with the change in district composition that involved the union, the board of directors shall not include members from the counties that withdrew from the former joint districts.

~~For the purposes of this division, "counties forming the existing joint districts" includes only the following:~~

~~(1) The counties that are named as members of one of the joint districts affected by the proposed union in the solid waste management plan or amended plan of the appropriate district approved or ordered to be implemented under section 3734.521, 3734.55, or 3734.56 of the Revised Code in effect when the union proceeding was initiated and that have not initiated proceedings under division (B) of this section to withdraw from the joint districts of which they were members on that date;~~

~~(2) Any county named as a member of a joint district affected by the proposed union in any such plan or amended plan that has initiated a withdrawal under division (B) of this section that has been declared to be disapproved under that division;~~

~~(3) If joinder proceedings previously had been concluded under division (D) of this section to join a county to an existing joint district affected by the proposed union, any county whose joinder to the existing joint district was declared to be approved in that proceeding.~~

Sec. 343.022. (A) The board of county commissioners of a county solid waste management district or the board of directors of a joint solid waste management district may enter into a contract or agreement with the owner or operator of a solid waste facility, or with persons collecting or transporting solid wastes, to establish and collect on behalf of the district generation or disposal fees to be used by the district for the purposes set forth in ~~divisions (G)(1) to (10)~~division (G) of section 3734.57 of the Revised Code or to provide other remuneration or services to or on behalf of the district or its residents.

(B) The authority provided by division (A) of this section is cumulative and concurrent with the authority of the board of county commissioners or directors to enter into contracts or agreements under other sections of this chapter. The existence or exercise of one such authority does not prevent the exercise of the other.

(C) The authority provided by division (A) of this section pertaining to disposal or generation fees is cumulative and concurrent with the authority of the board of county commissioners or directors to levy disposal or generation fees under section 3734.57, 3734.571, 3734.572, 3734.573, or 3734.574 of the Revised Code. The exercise of the authority provided in any of those sections does not prevent the exercise of the authority provided by division (A) of this section, and the authority provided by division (A) of this section does not prevent the exercise of the authority provided in any of those sections.

Sec. 343.08. (A) The board of county commissioners of a county solid waste management district and the board of directors of a joint solid waste management district may fix reasonable rates or charges to be paid by every person, municipal corporation, township, or other political subdivision that owns premises to which solid waste collection, storage, transfer, disposal, recycling, processing, or resource recovery service is provided by the district and may change the rates or charges whenever it considers it advisable. Charges for collection, storage, transfer, disposal, recycling, processing, or resource recovery service shall be made only against lots or parcels that are improved, or in the process of being improved, with at least one permanent, portable, or temporary

building. The rates or charges may be collected by either of the following means:

(1) Periodic billings made by the district directly or in conjunction with billings for public utility rates or charges by a county water district established under section 6103.02 of the Revised Code, a county sewer district established under section 6117.02 of the Revised Code, or a municipal corporation or other political subdivision authorized by law to provide public utility service. When any such charges that are so billed are not paid, the board shall certify them to the county auditor of the county where the lots or parcels are located, who shall place them upon the real property duplicate against the property served by the collection, storage, transfer, disposal, recycling, processing, or resource recovery service. The charges shall be a lien on the property from the date they are placed upon the real property duplicate by the auditor and shall be collected in the same manner as other taxes.

(2) Certifying the rates or charges to the county auditor of the county where the lots or parcels are located, who shall place them on the real property duplicate against the lots or parcels. The rates or charges are a lien on the property from the date they are placed upon the real property duplicate by the auditor and shall be collected in the same manner as other taxes.

The county or joint district need not fix a rate or charge against property if the district does not operate a collection system.

Where a county or joint district owns or operates a solid waste facility, either without a collection system or in conjunction therewith, the board of county commissioners or board of directors may fix reasonable rates or charges for the use of the facility by persons, municipal corporations, townships, and other political subdivisions, may contract with any public authority or person for the collection of solid wastes in any part of any district for collection, storage, disposal, transfer, recycling, processing, or resource recovery in any solid waste facility, or may lease the facility to any public authority or person. The cost of collection, storage, transfer, disposal, recycling, processing, or resource recovery under such contracts may be paid by rates or charges fixed and collected under this section or by rates and charges fixed under those contracts and collected by the contractors.

All moneys collected by or on behalf of a county or joint district as rates or charges for solid waste collection, storage, transfer, disposal, recycling, processing, or resource recovery service in any district shall be paid to the county treasurer in a county district or to the county treasurer or other official designated by the board of directors in a joint district and kept in a separate and distinct fund to the credit of the district. The fund shall be used for the payment of the cost of the management, maintenance, and operation of the solid waste collection or other solid waste facilities of the district and, if applicable, the payment of the cost of collecting the rates or charges of the district pursuant to division (A)(1) or (2) of this section. Prior to the approval of the district's initial solid waste management plan under section 3734.55 of the Revised Code or the issuance of an order under that section requiring the district to implement an initial plan prepared by the director, as appropriate, the fund also may be used for the purposes of division (G)(1) or (3) of section 3734.57 of the Revised

Code. On and after the approval of the district's initial plan under section 3734.521 or 3734.55 of the Revised Code or the issuance of an order under either of those sections, as appropriate, requiring the district to implement an initial plan prepared by the director, the fund also may be used for all of the purposes of divisions (G)(1) to (10) specified in division (G) of section 3734.57 of the Revised Code. Those uses may include, in accordance with a cost allocation plan adopted under division (B) of this section, the payment of all allowable direct and indirect costs of the district, the sanitary engineer or sanitary engineering department, or a federal or state grant program, incurred for the purposes of this chapter and sections 3734.52 to 3734.572 of the Revised Code. Any surplus remaining after those uses of the fund may be used for the enlargement, modification, or replacement of such facilities and for the payment of the interest and principal on bonds and bond anticipation notes issued pursuant to section 343.07 of the Revised Code. In no case shall money so collected be expended otherwise than for the use and benefit of the district.

A board of county commissioners or directors, instead of operating and maintaining solid waste collection or other solid waste facilities of the district with county or joint district personnel, may enter into a contract with a municipal corporation having territory within the district pursuant to which the operation and maintenance of the facilities will be performed by the municipal corporation.

The products of any solid waste collection or other solid waste facility owned under this chapter shall be sold through competitive bidding in accordance with section 307.12 of the Revised Code, except when a board of county commissioners or directors determines by resolution that it is in the public interest to sell those products in a commercially reasonable manner without competitive bidding.

(B) A board of county commissioners or directors may adopt a cost allocation plan that identifies, accumulates, and distributes allowable direct and indirect costs that may be paid from the fund of the district created in division (A) of this section and prescribes methods for allocating those costs. The plan shall authorize payment from the fund for only those costs incurred by the district, the sanitary engineer or sanitary engineering department, or a federal or state grant program, and those costs incurred by the general and other funds of the county for a common or joint purpose, that are necessary and reasonable for the proper and efficient administration of the district under this chapter and sections 3734.52 to 3734.572 of the Revised Code. The plan shall not authorize payment from the fund of any general government expense required to carry out the overall governmental responsibilities of a county. The plan shall conform to United States office of management and budget Circular A-87 "Cost Principles for State and Local Governments," published January 15, 1983.

(C) A board of county commissioners or directors shall fix rates or charges, or enter into contracts fixing the rates or charges to be collected by the contractor, for solid waste collection, storage, transfer, disposal, recycling, processing, or resource recovery services at a public meeting held in accordance with section 121.22 of the Revised Code. In addition to fulfilling the

requirements of section 121.22 of the Revised Code, the board, before fixing or changing rates or charges for solid waste collection, storage, transfer, disposal, recycling, processing, or resource recovery services, or before entering into a contract that fixes rates or charges to be collected by the contractor providing the services, shall hold at least three public hearings on the proposed rates, charges, or contract. Prior to the first public hearing, the board shall publish notice of the public hearings as provided in section 7.16 of the Revised Code or once a week for three consecutive weeks in a newspaper of general circulation in the county or counties that would be affected by the proposed rates, charges, or contract. The notice shall include a listing of the proposed rates or charges to be fixed and collected by the board or fixed pursuant to the contract and collected by the contractor, and the dates, time, and place of each of the three hearings thereon. The board shall hear any person who wishes to testify on the proposed rates, charges, or contract.

Sec. 3714.07. (A)(1) For the purpose of assisting boards of health and the environmental protection agency in administering and enforcing this chapter and rules adopted under it, there is hereby levied a fee of thirty cents per cubic yard or sixty cents per ton, as applicable, on both of the following:

(a) The disposal of construction and demolition debris at a construction and demolition debris facility that is licensed under this chapter or at a solid waste facility that is licensed under Chapter 3734. of the Revised Code;

(b) The disposal of asbestos or asbestos-containing materials or products at a construction and demolition debris facility that is licensed under this chapter or at a solid waste facility that is licensed under Chapter 3734. of the Revised Code.

(2) The owner or operator of a construction and demolition debris facility or a solid waste facility shall determine if cubic yards or tons will be used as the unit of measurement. If basing the fee on cubic yards, the owner or operator shall utilize either the maximum cubic yard capacity of the container, or the hauling volume of the vehicle, that transports the construction and demolition debris to the facility or the cubic yards actually logged for disposal by the owner or operator in accordance with rules adopted under section 3714.02 of the Revised Code. If basing the fee on tonnage, the owner or operator shall use certified scales to determine the tonnage of construction and demolition debris that is disposed of.

(3) The owner or operator of a construction and demolition debris facility or a solid waste facility shall calculate the amount of money generated from the fee levied under division (A)(1) of this section and shall hold that amount as a trustee for the health district having jurisdiction over the facility, if that district is on the approved list under section 3714.09 of the Revised Code, or for the state. The owner or operator shall prepare and file with the appropriate board of health or the director of environmental protection monthly returns indicating the total volume or weight, as applicable, of construction and demolition debris and asbestos or asbestos-containing materials or products disposed of at the facility and the total amount of money generated during that month from the fee levied under division (A)(1) of this section on the disposal of construction and demolition



debris and asbestos or asbestos-containing materials or products. Not later than thirty days after the last day of the month to which the return applies, the owner or operator shall mail to the board of health or the director the return for that month together with the amount of money calculated under division (A)(3) of this section on the disposal of construction and demolition debris and asbestos or asbestos-containing materials or products during that month or may submit the return and money electronically in a manner approved by the director. The owner or operator may request, in writing, an extension of not more than thirty days after the last day of the month to which the return applies. A request for extension may be denied. If the owner or operator submits the money late, the owner or operator shall pay a penalty of ten per cent of the amount of the money due for each month that it is late.

(4) Of the money that is submitted by a construction and demolition debris facility or a solid waste facility on a per cubic yard or per ton basis under this section, a board of health shall transmit three cents per cubic yard or six cents per ton, as applicable, to the director not later than forty-five days after the receipt of the money. The money retained by a board of health under this section shall be paid into a special fund, which is hereby created in each health district, and used solely for the following purposes:

(a) To administer and enforce this chapter and Chapter 3734. of the Revised Code and rules adopted under them;

(b) To abate abandoned accumulations of construction and demolition debris as provided in section 3714.074 of the Revised Code;

(c) To mitigate any impacts to public health, safety, and welfare of any construction and demolition debris facility and solid waste disposal or transfer facility within the health district, including ensuring appropriate inspection of any such facility to prevent any negative public health, safety, and welfare impact.

The director shall transmit all money received under this section to the treasurer of state to be deposited in the state treasury to the credit of the waste management fund created in section 3734.061 of the Revised Code.

(B) The board of health of a health district or the director may enter into an agreement with the owner or operator of a construction and demolition debris facility or a solid waste facility for the quarterly payment of money generated from the disposal fee as calculated in division (A)(3) of this section. The board of health shall notify the director of any such agreement. Not later than forty-five days after receipt of the quarterly payment, the board of health shall transmit the amount established in division (A)(4) of this section to the director. The money retained by the board of health shall be deposited in the special fund of the district as required under that division. Upon receipt of the money from a board of health, the director shall transmit the money to the treasurer of state to be credited to the waste management fund.

(C) If a construction and demolition debris facility or a solid waste facility is located within the territorial boundaries of a municipal corporation or the unincorporated area of a township, the

municipal corporation or township may appropriate up to four cents per cubic yard or up to eight cents per ton of the disposal fee required to be paid by the facility under division (A)(1) of this section for the same purposes that a municipal corporation or township may levy a fee under division (C) of section 3734.57 of the Revised Code.

The legislative authority of the municipal corporation or township may appropriate the money from the fee by enacting an ordinance or adopting a resolution establishing the amount of the fee to be appropriated. Upon doing so, the legislative authority shall mail a certified copy of the ordinance or resolution to the board of health of the health district in which the construction and demolition debris facility or the solid waste facility is located or, if the facility is located in a health district that is not on the approved list under section 3714.09 of the Revised Code, to the director. Upon receipt of the copy of the ordinance or resolution and not later than forty-five days after receipt of money generated from the fee, the board or the director, as applicable, shall transmit to the treasurer or other appropriate officer of the municipal corporation or clerk of the township that portion of the money generated from the disposal fee by the owner or operator of the facility that is required by the ordinance or resolution to be paid to that municipal corporation or township.

Money received by the treasurer or other appropriate officer of a municipal corporation under this division shall be paid into the general fund of the municipal corporation. Money received by the clerk of a township under this division shall be paid into the general fund of the township. The treasurer or other officer of the municipal corporation or the clerk of the township, as appropriate, shall maintain separate records of the money received under this division.

The legislative authority of a municipal corporation or township may cease appropriating money under this division by repealing the ordinance or resolution that was enacted or adopted under this division.

The director shall adopt rules in accordance with Chapter 119. of the Revised Code establishing requirements for prorating the amount of the fee that may be appropriated under this division by a municipal corporation or township in which only a portion of a construction and demolition debris facility is located within the territorial boundaries of the municipal corporation or township.

(D) The board of county commissioners of a county in which a construction and demolition debris facility or a solid waste facility is located may appropriate up to three cents per cubic yard or up to six cents per ton of the disposal fee required to be paid by the facility under division (A)(1) of this section for the same purposes that a solid waste management district may levy a fee under division (B) of section 3734.57 of the Revised Code.

The board of county commissioners may appropriate the money from the fee by adopting a resolution establishing the amount of the fee to be appropriated. Upon doing so, the board of county commissioners shall mail a certified copy of the resolution to the board of health of the health district in which the construction and demolition debris facility or the solid waste facility is located or, if the facility is located in a health district that is not on the approved list under section 3714.09

of the Revised Code, to the director. Upon receipt of the copy of the resolution and not later than forty-five days after receipt of money generated from the fee, the board of health or the director, as applicable, shall transmit to the treasurer of the county that portion of the money generated from the disposal fee by the owner or operator of the facility that is required by the resolution to be paid to that county.

Money received by a county treasurer under this division shall be paid into the general fund of the county. The county treasurer shall maintain separate records of the money received under this division.

A board of county commissioners may cease appropriating money under this division by repealing the resolution that was adopted under this division.

~~(E)(1) This section does not apply to the disposal of construction and demolition debris at a solid waste facility that is licensed under Chapter 3734. of the Revised Code if there is no construction and demolition debris facility licensed under this chapter within thirty five miles of the solid waste facility as determined by a facility's property boundaries.~~

~~(2) This section does not apply to the disposal of construction and demolition debris at a solid waste facility that is licensed under Chapter 3734. of the Revised Code if the owner or operator of the facility chooses to collect fees on the disposal of the construction and demolition debris and asbestos or asbestos-containing materials or products that are identical to the fees that are collected under Chapters 343. and 3734. of the Revised Code on the disposal of solid wastes at that facility.~~

(3)(E)(1) Beginning three years after the effective date of this amendment, the solid waste management policy committee of a county or joint solid waste management district may levy fees upon the following activities:

(a) The disposal of construction and demolition debris and asbestos or asbestos-containing materials or products generated within the jurisdiction of the district at construction and demolition debris facilities located in an authorized county and within the district's jurisdiction and at solid waste disposal facilities located in an authorized county and within the district's jurisdiction;

(b) The disposal of construction and demolition debris and asbestos or asbestos-containing materials or products generated outside of the jurisdiction of the district, but inside this state, at construction and demolition debris facilities located in an authorized county and within the district's jurisdiction and at solid waste disposal facilities located in an authorized county and within the district's jurisdiction;

(c) The disposal of construction and demolition debris and asbestos or asbestos-containing materials or products generated outside the boundaries of this state at construction and demolition debris facilities located in an authorized county and within the district's jurisdiction and at solid waste disposal facilities located in an authorized county and within the jurisdiction of the district.

The fee levied under division (E)(1)(a) of this section shall be not less than one dollar per ton nor more than two dollars per ton, the fee levied under division (E)(1)(b) of this section shall be not less than two dollars per ton nor more than four dollars per ton, and the fee levied under division (E)

(1)(c) of this section shall be not more than the fee levied under division (E)(1)(a) of this section.

(2) The district shall establish, amend, or repeal the schedule of fees levied pursuant to this division in the same manner that applies to fees levied under division (B) of section 3734.57 of the Revised Code. All procedural requirements governing the administration and collection of solid waste fees levied under divisions (A) and (B) of that section apply to the administration and collection of the construction and demolition debris fees levied under this division and collected by an owner or operator of a solid waste facility or construction and demolition debris facility. Such procedural requirements include requirements governing fee collection and accounting, filing of returns, extensions on returns, discounts, refunds or credits, the conversion rate for fee collection in cubic yards, notices, and district composition changes. Any notices required to be made pursuant to those procedural requirements to the owner or operator of a solid waste facility also shall be provided to the owner or operator of a construction and demolition debris facility for purposes of this division, when applicable.

(3)(a) The solid waste management district may forward seventy-five per cent of the money received from an owner or operator of a facility under this division to the health district in which the facility is located, which shall deposit it into the special fund established under division (A)(4) of this section to be used solely for the purposes specified in that division. If a solid waste management district does not forward money received under this division to the health district in which the facility is located, the solid waste management district shall retain that money and use it for the purposes specified in division (G) of section 3734.57 of the Revised Code.

(b) The solid waste management district shall forward twenty-five per cent of the money received from an owner or operator of a facility under this division to the environmental protection agency, which shall deposit half of the money into the environmental protection fund created in section 3745.015 of the Revised Code and half of the money into the waste management fund created in section 3734.061 of the Revised Code.

(c) A solid waste management district shall not levy fees under this division with respect to a construction and demolition debris facility or solid waste facility that is located in a health district that is not on the approved list under section 3714.09 of the Revised Code.

As used in this division, "authorized county" means a county with a population between fifty-three thousand and fifty-eight thousand, according to the most recent decennial census.

(F) This section does not apply to the disposal of source separated materials that are exclusively composed of reinforced or nonreinforced concrete, asphalt, clay tile, building or paving brick, or building or paving stone at a construction and demolition debris facility that is licensed under this chapter when either of the following applies:

(a)(1) The materials are placed within the limits of construction and demolition debris placement at the facility as specified in the license issued to the facility under section 3714.06 of the Revised Code, are not placed within the unloading zone of the facility, and are used as a fire prevention measure in accordance with rules adopted by the director under section 3714.02 of the

Revised Code.

~~(b)~~(2) The materials are not placed within the unloading zone of the facility or within the limits of construction and demolition debris placement at the facility as specified in the license issued to the facility under section 3714.06 of the Revised Code, but are used as fill material, either alone or in conjunction with clean soil, sand, gravel, or other clean aggregates, in legitimate fill operations for construction purposes at the facility or to bring the facility up to a consistent grade.

Sec. 3714.073. (A) In addition to the fee levied under division (A)(1) of section 3714.07 of the Revised Code, beginning July 1, 2005, there is hereby levied on the disposal of construction and demolition debris at a construction and demolition debris facility that is licensed under this chapter or at a solid waste facility that is licensed under Chapter 3734. of the Revised Code and on the disposal of asbestos or asbestos-containing materials or products at a construction and demolition debris facility that is licensed under this chapter or at a solid waste facility that is licensed under Chapter 3734. of the Revised Code the following fees:

(1) A fee of twelve and one-half cents per cubic yard or twenty-five cents per ton, as applicable, the proceeds of which shall be deposited in the state treasury to the credit of the soil and water conservation district assistance fund created in section 940.15 of the Revised Code;

(2) A fee of thirty-five cents per cubic yard or seventy cents per ton, as applicable, the proceeds of which shall be deposited in the state treasury to the credit of the recycling and litter prevention fund created in section 3736.03 of the Revised Code;

(3) A fee of two and one-half cents per cubic yard or five cents per ton, as applicable, the proceeds of which shall be deposited in the state treasury to the credit of the waste management fund created in section 3734.061 of the Revised Code.

(B) The owner or operator of a construction and demolition debris facility or a solid waste facility, as a trustee of the state, shall calculate the amount of money generated from the fees levied under this section and remit the money from the fees in the manner that is established in divisions (A)(2) and (3) of section 3714.07 of the Revised Code for the fee that is levied under division (A)(1) of that section and may enter into an agreement for the quarterly payment of money generated from the fees in the manner established in division (B) of that section for the quarterly payment of money generated from the fee that is levied under division (A)(1) of that section.

(C) The amount of money that is calculated by the owner or operator of a construction and demolition debris facility or a solid waste facility and remitted to a board of health or the director of environmental protection, as applicable, pursuant to this section shall be transmitted by the board or director to the treasurer of state not later than forty-five days after the receipt of the money to be credited to the soil and water conservation district assistance fund or the recycling and litter prevention fund, as applicable.

~~(D) This section does not apply to the disposal of construction and demolition debris at a solid waste facility that is licensed under Chapter 3734. of the Revised Code if the owner or operator of the facility chooses to collect fees on the disposal of the construction and demolition debris and~~

~~asbestos or asbestos-containing materials or products that are identical to the fees that are collected under Chapters 343. and 3734. of the Revised Code on the disposal of solid wastes at that facility.~~

(E) This section does not apply to the disposal of source separated materials that are exclusively composed of reinforced or nonreinforced concrete, asphalt, clay tile, building or paving brick, or building or paving stone at a construction and demolition debris facility that is licensed under this chapter when either of the following applies:

(1) The materials are placed within the limits of construction and demolition debris placement at the facility as specified in the license issued to the facility under section 3714.06 of the Revised Code, are not placed within the unloading zone of the facility, and are used as a fire prevention measure in accordance with rules adopted by the director under section 3714.02 of the Revised Code.

(2) The materials are not placed within the unloading zone of the facility or within the limits of construction and demolition debris placement at the facility as specified in the license issued to the facility under section 3714.06 of the Revised Code, but are used as fill material, either alone or in conjunction with clean soil, sand, gravel, or other clean aggregates, in legitimate fill operations for construction purposes at the facility or to bring the facility up to a consistent grade.

Sec. 3734.521. (A) As used in this section and sections 3734.531 and 3734.57 of the Revised Code, "change in district composition" or "change" includes the withdrawal of a county from a joint solid waste management district, the establishment of a new county or joint district, the joinder of a county to an existing joint district, the union of two or more joint districts, or any combination thereof.

(B) In addition to the requirements under Chapter 343. of the Revised Code, the requirements of this section govern a change in district composition when any of the districts involved are operating under a solid waste management plan or amended plan approved or ordered to be implemented under this section or section 3734.55 or 3734.56 of the Revised Code.

(C) For purposes of preparing the initial and amended solid waste management plans for the county and joint districts resulting from any proposed change in district composition, the solid waste management policy committee for the proposed resulting districts shall consist of the members prescribed in division (B) of section 3734.54 of the Revised Code from each county within the proposed district and shall include an additional public member only when one is required to be appointed under division (C) of section 3734.54 of the Revised Code.

(D) In the case of a proposed establishment of a new joint district, joinder of a county to an existing joint district, or union of existing joint districts that only involves existing county or joint districts that are operating under solid waste management plans or amended plans approved under this section or section 3734.55 or 3734.56 of the Revised Code and that does not involve the withdrawal of a county from an existing joint district, the solid waste management policy committee of the proposed joint district resulting from the change shall do all of the following:

(1) Prepare a draft initial or amended solid waste management plan for the proposed joint

district that complies with divisions (A), (B), (D), and (E)(1) of section 3734.53 of the Revised Code;

(2) Upon completion of the draft initial or amended plan for the proposed joint district, proceed to adopt and obtain approval of it in accordance with divisions (A), (B), and (C)(1) to (3) of section 3734.55 of the Revised Code;

(3) Submit the initial or amended plan for the proposed joint district to the director of environmental protection for approval not earlier than one hundred eighty days and not later than ninety days before the date that one of the existing districts involved in the proposed change is required to submit an amended plan under section 3734.56 of the Revised Code.

If any such proposed joint district fails to submit its plan or amended plan, as appropriate, to the director on or before the date required under division (D)(3) of this section, the proposed change shall not occur, and the director shall proceed in accordance with division (D) of section 3734.55 of the Revised Code to prepare an amended plan for each of the existing districts and order the implementation of the amended plans. If the proposed joint district fails to obtain approval of its initial or amended plan, as appropriate, within eighteen months after the date for submission of its initial or amended plan required under division (D)(3) of this section, the director shall proceed in accordance with division (D) of section 3734.55 of the Revised Code to prepare a plan or amended plan, as appropriate, for the proposed joint district and to order the implementation of the plan or amended plan.

~~(E) In the case of a proposed change in district composition that involves an existing district that is operating under a solid waste management plan or amended plan prepared and ordered to be implemented by the director under this section or section 3734.55 or 3734.56 of the Revised Code or that involves the withdrawal of a county from an existing joint district, the solid waste management policy committee of each of the districts resulting from the proposed change, not later than twenty months before one of the existing districts is required to submit an amended solid waste management plan under section 3734.56 of the Revised Code or twenty months before the triennial anniversary of the issuance of the order under division (D) or (F)(1) or (2) of this section or division (D) of section 3734.55 of the Revised Code requiring one of the districts involved to implement a plan prepared and ordered to be implemented under any of those divisions, shall submit to the director a preliminary demonstration of the availability of or access to solid waste management facility capacity under division (E)(1) or (2) of this section, as appropriate. The preliminary demonstrations of each of the proposed districts shall be submitted to the director at the same time.~~

~~As used in divisions (E) and (F) of this section, "preliminary demonstration of capacity" means the certification and demonstration required to be submitted under division (E)(1) of this section or the statement and financial feasibility study required to be submitted under division (E)(2) of this section, as appropriate.~~

~~(1) If a proposed district has located within its boundaries one or more solid waste facilities that have sufficient remaining capacity to dispose of all the solid waste generated within its~~

~~boundaries during the subsequent ten-year period, or if the county or counties proposing to form the district have entered into one or more firm contracts or agreements that in the aggregate provide for the disposal of all the solid wastes generated within the proposed district during the subsequent ten-year period at facilities located outside the district or this state, the solid waste management policy committee of the proposed district shall submit to the director a certification and demonstration by the committee of the availability of or access to sufficient solid waste management facility capacity to provide for the disposal of all the solid wastes generated within the proposed district during that ten-year period.~~

~~The director shall approve or disapprove a preliminary demonstration of capacity within sixty days after receiving it. If the director finds that the policy committee has made the demonstration required by division (E)(1) of this section, he shall approve the preliminary demonstration. Otherwise, the director shall disapprove the preliminary demonstration.~~

~~(2) If a proposed district does not have sufficient solid waste management facility capacity within its boundaries or access to sufficient capacity by contract or agreement to make the demonstration required by division (E)(1) of this section, the solid waste management policy committee of the proposed district shall submit to the director a statement as to how the proposed district will provide for sufficient solid waste management facility capacity to dispose of all solid wastes generated within its boundaries during the subsequent ten-year period. The statement shall be accompanied by a study of the financial feasibility of the measures proposed in the statement. The statement and financial feasibility study shall contain an inventory of all existing solid waste disposal, transfer, and resource recovery facilities and recycling activities within the proposed district and estimates of the remaining capacity available at each such facility; estimates of the amounts of solid wastes that will be generated within the proposed district during each year of the subsequent ten-year period; an identification of the additional solid waste management facilities and capacity that the proposed district intends to provide to dispose of the estimated amounts of solid wastes; a schedule for implementation of the measures proposed in the statement; if appropriate, estimates of the capital and operating costs of the additional facilities that the district intends to provide and of the rates to be charged to meet those costs; and, if appropriate, rates to be charged to meet the costs of capacity that the district intends to provide by contract or agreement.~~

~~The director shall approve or disapprove a statement and financial feasibility study within sixty days after receiving them. The director shall approve a statement and financial feasibility study only if they demonstrate a technically feasible and economically reasonable means of providing for the environmentally sound management of solid wastes generated in the district during the subsequent ten-year period. Otherwise, the director shall disapprove the statement and financial feasibility study.~~

~~(3) Upon approving or disapproving a preliminary demonstration of capacity under division (E)(1) or (2) of this section, the director shall provide written notice of his decision to the solid waste management policy committee that submitted it. If the director disapproves the preliminary~~



~~demonstration of any of the proposed districts, the change in district composition shall not occur. The solid waste management policy committee of each of the existing districts operating under a solid waste management plan approved under this section or section 3734.55 of the Revised Code or an amended plan approved under this section or section 3734.56 of the Revised Code then shall proceed to adopt and obtain approval of an amended plan in accordance with division (A) of section 3734.56 of the Revised Code. If any of the existing districts is operating under a plan or an amended plan ordered to be implemented under this section or section 3734.55 or 3734.56 of the Revised Code, the director then shall proceed in accordance with division (B) of section 3734.56 of the Revised Code to prepare an amended plan for each such district and order the implementation of the amended plan. Division (E)(3) of this section does not preclude an existing district that is operating under a plan or amended plan prepared and ordered to be implemented by the director from proceeding under division (C) of section 3734.56 of the Revised Code to prepare and obtain approval of a plan to replace the initial or amended plan prepared by the director.~~

~~(4) If the director approves the preliminary demonstration of each of the proposed districts resulting from the change in district composition under division (E)(1) or (2) of this section, the solid waste management policy committee of each of the proposed districts shall begin preparing a draft initial solid waste management plan for the district, and the committee of the remaining joint district, if any, shall begin preparing a draft amended plan for the joint district. The initial or amended plan and certification of capacity shall comply with divisions (A), (B), (D), and (E)(1) of section 3734.53 of the Revised Code. Upon completion of the draft initial or amended plan for the proposed district, the committee shall proceed to adopt and obtain approval of it in accordance with divisions (A), (B), and (C)(1) to (3) of section 3734.55 of the Revised Code. The initial plans of the proposed districts and the amended plan of the remaining joint district, if any, shall be submitted to the director at the same time and shall be submitted not later than twenty months after the proposed districts submitted their preliminary demonstrations of capacity under division (E)(1) or (2) of this section. If any of the proposed districts fails to submit its plan or amended plan to the director on or before the required date, the proposed change shall not occur, and the director then shall proceed in accordance with division (D) of section 3734.55 of the Revised Code to prepare an amended plan for each of the existing districts and to order the implementation of the amended plans.~~

~~(F) If any of the proposed districts resulting from a change in district composition, or the remaining joint district, if any, that is required to submit a preliminary demonstration of capacity under division (E)(1) or (2) of this section fails to obtain approval of its plan or amended plan within thirty-eight months after the submission of its preliminary demonstration of capacity, the director shall determine what actions are necessary to ensure that each county involved in the proposed change will be included in a district that either will have within its boundaries sufficient solid waste management facility capacity to provide for the disposal of all of the solid wastes generated within its boundaries during the subsequent ten-year period or will have access to sufficient capacity at facilities located outside the district or this state by contract or agreement to dispose of all of the~~

~~solid wastes generated within the district during that ten-year period. Based upon that determination, the director shall do either of the following, as appropriate:~~

~~(1) If the director determines that the solid waste management needs of each of the counties involved can be met if the proposed change were to occur, he shall prepare an initial or amended plan that complies with divisions (A) and (D) of section 3734.53 of the Revised Code for each of the proposed or existing districts that failed to obtain approval of its plan or amended plan within thirty-eight months after the districts were required to submit their preliminary demonstrations of capacity under division (E)(1) or (2) of this section. None of the plans or amended plans prepared by the director shall contain any of the provisions required or authorized to be included in plans submitted by districts under division (B), (C), or (E) of section 3734.53 of the Revised Code. Upon completion of each such plan or amended plan, the director shall issue an order in accordance with Chapter 3745. of the Revised Code directing the board of county commissioners or directors of the district for which the plan or amended plan was prepared to implement it in compliance with the implementation schedule contained in it.~~

~~(2) If the director determines that the solid waste management needs of each of the counties involved cannot be met if the proposed change in district composition were to occur, he shall make a determination as to how county or joint districts should be formed from among those counties to ensure that each will be included in a district that either will have within its boundaries sufficient solid waste management facility capacity to provide for the disposal of all the solid wastes generated within the district during the subsequent ten-year period or will have access to sufficient capacity at facilities located outside the district or this state by contract or agreement to dispose of all the solid wastes generated within the district during that ten-year period. After making his determination, the director shall prepare an initial or amended solid waste management plan for each of them. If the director determines that any existing district involved in the proposed change should be retained without a modification in its composition, the director shall prepare an amended plan for the district. The director shall prepare an initial or amended plan for each district whose composition would be changed under his determination. Each such plan or amended plan shall comply with divisions (A) and (D) of section 3734.53 of the Revised Code. None of the plans or amended plans shall contain any of the provisions required or authorized to be included in plans under division (B), (C), or (E) of that section.~~

~~If a plan prepared under this division provides for the establishment of a joint district by two or more counties that had each previously formed a county district, the director, in accordance with Chapter 3745. of the Revised Code, shall issue an order to the board of county commissioners of each of the counties directing them to enter into an agreement to form a joint district under division (A) of section 343.01 of the Revised Code within thirty days after the issuance of the order. If a plan or amended plan prepared by the director provides for the withdrawal of one or more counties from an existing joint district, the establishment of a new joint district, the joinder of one or more counties to an existing joint district, or the union of two or more existing joint districts, the director, in~~

~~accordance with Chapter 3745. of the Revised Code, shall issue appropriate orders to the board of county commissioners of each county or existing county district and to the board of directors of each joint district that will be affected by the plan directing the board of county commissioners or directors, within thirty days after the issuance of the order, to adopt the appropriate resolutions and enter into any necessary agreements under division (B) of section 343.01 of the Revised Code to effect the changes provided for in the plan. The requirements and procedures for approval of the withdrawal from, establishment of, joinder to, or union of districts under section 343.012 of the Revised Code do not apply to changes ordered under division (F)(2) of this section. The other provisions of that section do apply to changes ordered under division (F)(2) of this section.~~

~~Any order issued by the director under division (F)(2) of this section also shall require the district to be formed pursuant to the order to implement the plan or amended plan prepared by the director in compliance with the implementation schedule contained in the plan.~~

~~(G) No proposed change in district composition shall become final until one of the following has occurred:~~

~~(1) The director has approved the solid waste management plan of each newly formed district under section 3734.55 of the Revised Code and the amended plan of the remaining joint district, if any, under section 3734.56 of the Revised Code;~~

~~(2) In the case of a joint district subject to division (D) of this section that failed to obtain approval of its plan or amended plan on or before the date required under that division, the director has prepared a plan or amended plan for the district and has issued an order to the district directing it to implement the plan or amended plan prepared by the director;~~

~~(3) If the circumstances described in division (F)(1) of this section apply, the director has prepared a plan or amended plan for each of the districts involved that failed to obtain approval of its plan or amended plan on or before the date required under that division and has issued an order to each of them under that division directing the district to implement the plan prepared by the director, and the director has approved the plan or amended plan of each of the other proposed districts;~~

~~(4) If the circumstances described in division (F)(2) of this section apply, the director has prepared a plan or amended plan for each of the districts set forth in the determination made under that division and has issued an order under that division directing each of the districts to implement the initial or amended plan prepared for it by the director.~~In the case of a proposed change in district composition that involves the withdrawal of a county from an existing joint district, the director of environmental protection has effectuated the change in district composition in accordance with section 3734.522 of the Revised Code, including providing for the preparation and adoption of plans in accordance with applicable provisions of this chapter.

~~(H) In addition to the requirements of division (G) of this section, if a change in district composition involves the withdrawal of a county from a joint district, it shall not become final until the county ceases to be a part of the joint district from which it is withdrawing pursuant to division (B) of section 343.012 of the Revised Code.~~

Sec. 3734.522. (A) As used in this section, "deliver" has the same meaning as in division (G) (2) of section 3734.55 of the Revised Code.

(B) Subject to division (H) of this section, a board of county commissioners of a county that is a member of a joint solid waste management district may withdraw from the district by doing all of the following:

(1) Adopting a resolution declaring that the county will unilaterally withdraw from the district;

(2) Providing the notice required under division (C) of this section;

(3) Complying with the requirements under division (D) of this section governing the memorandum of understanding.

(C) Upon adopting the resolution under division (B) of this section, the board shall deliver a copy of it to the board of directors of the district. Upon receiving the resolution, the board of directors shall deliver written notice of the proposed withdrawal to the boards of county commissioners of the other counties forming the joint district and to the director of environmental protection.

(D) If a board of county commissioners adopts a resolution under division (B) of this section, the boards of county commissioners of all the counties that are members of the joint district shall enter into a memorandum of understanding within forty-five days after notice of the withdrawal is received in accordance with division (C) of this section. The memorandum of understanding shall describe the terms of how the counties that comprise the joint district will operate as a joint district during a two-year period beginning on the date that the memorandum of understanding is agreed upon by all counties that comprise the joint district. The counties that are members of the joint district may include in the memorandum of understanding a reasonable allocation of funds for each newly formed district that will result from the withdrawal to conduct the solid waste management planning process.

In the event that those counties do not agree upon the terms of the memorandum of understanding, the county that is withdrawing shall, within ten days after it is determined that an agreement cannot be reached by the counties, request a court of common pleas located in a county adjacent to the withdrawing county to hear the parties and decide the terms of the memorandum of understanding on behalf of the counties. Not later than ninety days after the request is made, the court of common pleas shall hear the parties and issue an order that details the terms of the memorandum of understanding. The court may include in the memorandum of understanding a reasonable allocation of funds for each newly formed district that will result from the withdrawal to conduct the solid waste management planning process.

The memorandum of understanding expires two years after the date that memorandum of understanding is entered into by the counties or the court issues the order determining the details of the memorandum of understanding, as applicable, unless all parties agree in writing to an earlier date.

If a board of county commissioners wishes to extend the term of the memorandum of understanding, the board, prior to sixty days before the memorandum is scheduled to expire, shall request the boards of county commissioners of all other counties that form the joint district to agree to the extension and shall include in the request the period of time proposed for the extension, which shall not exceed forty-five days. If all such boards agree to the extension, the memorandum of understanding is extended for such time period as agreed to. If a court of common pleas issued an order establishing the terms of the memorandum of understanding, the board of county commissioners seeking the extension, prior to sixty days before the memorandum is scheduled to expire, may request the court to extend the memorandum. If so requested, the court shall issue an order either denying an extension or extending the term of the memorandum by a period of not to exceed forty-five days.

(E) The director of environmental protection shall take all actions necessary under this chapter to effectuate the withdrawal of a county from a joint solid waste management district pursuant to a memorandum of understanding executed under this section so that the withdrawal is effective upon the expiration date of the memorandum of understanding. The director shall begin taking all such necessary actions on the date that such memorandum is executed.

(F) The board of directors of the joint district shall 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 memorandum of understanding.

(G) Notwithstanding any provision of law to the contrary, on the date that the memorandum of understanding expires, all of the following apply:

(1) The withdrawing county is severed from the joint district, becomes a county solid waste management district, and shall comply with all necessary provisions of Chapter 343. of the Revised Code and this chapter that apply to county solid waste management districts. The severed county's members on the board of directors of the joint district cease to be members of that board. That board's power to levy a tax upon taxable property in the severed county to support the former joint district terminates, except that each county of the former district shall continue to levy and collect any taxes levied for the payment of indebtedness of the district that was incurred prior to the severed county's withdrawal from the district.

(2) The county or counties remaining in the former joint district become a county or joint solid waste management district, as applicable, and shall comply with all necessary provisions of Chapter 343. of the Revised Code and this chapter that apply to county or joint solid waste management districts.

(3) The solid waste management policy committee of the severed county and such committee of the county or counties of the remaining district may form or join a joint solid waste management district or a regional solid waste management authority as provided in this chapter and Chapter 343. of the Revised Code. However, in no circumstance shall the director require the county

or counties to form or join a joint district or regional solid waste management authority.

(H) In the case of a joint solid waste management district that is managed by a board of trustees of a regional solid waste management authority and that is operating under an agreement entered into pursuant to section 343.011 of the Revised Code, any withdrawal of a county from the district is subject to the following:

(1) If the agreement governs the withdrawal of a county from the joint district, the board of county commissioners of a county that is a member of the joint district may withdraw from the district only pursuant to that agreement.

(2) If the agreement does not govern the withdrawal of a county from the joint district, the board of county commissioners of a county that is a member of the joint district may withdraw from the district in accordance with divisions (B) to (G) of this section, provided the board first does all of the following:

(a) Adopts a resolution proposing to withdraw from the district;

(b) Delivers written notice of the proposed withdrawal to the legislative authority of each municipal corporation and township under the jurisdiction of the regional solid waste management authority. Not later than ninety days after the receipt of the written notice under this division, each such legislative authority shall either approve or disapprove of the proposed withdrawal by ordinance or resolution and deliver a copy of the ordinance or resolution to the board of county commissioners.

(c) Obtains the approval of the withdrawal from a combination of municipal corporations and townships with a combined population comprising at least sixty per cent of the total population of the solid waste management district, provided that that combination shall include the municipal corporation having the largest population in each county within the boundaries of the district.

Upon satisfaction of the requirements of divisions (H)(2)(a) to (c) of this section, the board of county commissioners may proceed to withdraw from the joint solid waste management district in the manner specified in divisions (B) to (G) of this section.

Sec. 3734.53. (A) The solid waste management plan of any county or joint solid waste management district shall be prepared in a format prescribed by the director of environmental protection and shall provide for compliance with the objectives of the state solid waste management plan and rules adopted under section 3734.50 of the Revised Code. The plan shall provide for, demonstrate, and certify the availability of and access to sufficient solid waste management facility capacity to meet the solid waste management needs of the district for the ten-year period covered by the plan. The solid waste management policy committee of a county or joint district created in section 3734.54 of the Revised Code may prepare and submit a solid waste management plan that covers and makes the required demonstration for a longer period of time.

The solid waste management plan shall contain all of the following:

(1) An inventory of the sources, composition, and quantities of solid wastes generated in the district during the current year;

(2) An inventory of all existing facilities where solid wastes are being disposed of, all resource recovery facilities, and all recycling activities within the district. The inventory shall identify each such facility or activity and, for each disposal facility, shall estimate the remaining disposal capacity available at the facility. The inventory shall be accompanied by a map that shows the location of each such existing facility or activity.

(3) An inventory of existing solid waste collection systems and routes, transportation systems and routes, and transfer facilities within the district. The inventory shall identify the entities engaging in solid waste collection within the district.

(4) An inventory of open dumping sites for solid wastes, including solid wastes consisting of scrap tires, and facilities for the disposal of fly ash and bottom ash, foundry sand, and slag within the district. The inventory shall identify each such site or facility and shall be accompanied by a map that shows the location of each of them.

(5) A projection of population changes within the district during the next ten years;

(6) For each year of the forecast period, projections of the amounts and composition of solid wastes that will be generated within the district, the amounts of solid wastes originating outside the district that will be brought into the district for disposal or resource recovery, the nature of industrial activities within the district, and the effect of newly regulated waste streams, solid waste minimization activities, and solid waste recycling and reuse activities on solid waste generation rates. For each year of the forecast period, projections of waste quantities shall be compiled as an aggregate quantity of wastes.

(7) An identification of the additional solid waste management facilities and the amount of additional capacity needed to dispose of the quantities of wastes projected in division (A)(6) of this section;

(8) A strategy for identification of sites for the additional solid waste management facilities and capacity identified under division (A)(7) of this section;

(9) An analysis and comparison of the capital and operating costs of the solid waste disposal facilities, solid waste resource recovery facilities, and solid waste recycling and reuse activities necessary to meet the solid waste management needs of the district, projected in five- and ten-year increments;

(10) An analysis of expenses for which the district is liable under section 3734.35 of the Revised Code;

(11) A projection of solid waste transfer facilities that will be needed in conjunction with existing solid waste facilities and those projected under division (A)(7) of this section;

(12) Such other projections as the district considers necessary or appropriate to ascertain and meet the solid waste management needs of the district during the period covered by the plan;

(13) A schedule for implementation of the plan that, when applicable, contains all of the following:

(a) An identification of the solid waste disposal, transfer, and resource recovery facilities and

recycling activities contained in the plan where solid wastes generated within or transported into the district will be taken for disposal, transfer, resource recovery, or recycling. An initial or amended plan prepared and ordered to be implemented by the director under section 3734.521, 3734.55, or 3734.56 of the Revised Code may designate solid waste disposal, transfer, or resource recovery facilities or recycling activities that are owned by a municipal corporation, county, county or joint solid waste management district, township, or township waste disposal district created under section 505.28 of the Revised Code for which debt issued under Chapter 133., 343., or 6123. of the Revised Code is outstanding where solid wastes generated within or transported into the district shall be taken for disposal, transfer, resource recovery, or recycling.

(b) A schedule for closure of existing solid waste facilities, expansion of existing facilities, and establishment of new facilities. The schedule for expansion of existing facilities or establishment of new facilities shall include, without limitation, the approximate dates for filing applications for appropriate permits to install or modify those facilities under section 3734.05 of the Revised Code.

(c) A schedule for implementation of solid waste recycling, reuse, and reduction programs needed to meet the waste reduction, recycling, reuse, and minimization objectives of the state solid waste management plan and rules adopted by the director under section 3734.50 of the Revised Code;

(d) The methods of financing implementation of the plan and a demonstration of the availability of financial resources for that purpose.

(14) A program for providing informational or technical assistance regarding source reduction to solid waste generators, or particular categories of solid waste generators, within the district. The plan shall set forth the types of assistance to be provided by the district and the specific categories of generators that are to be served. The district has the sole discretion to determine the types of assistance that are to be provided under the program and the categories of generators to be served by it.

(B) In addition to the information, projections, demonstrations, and certification required by division (A) of this section, a plan shall do all of the following:

(1) Establish the schedule of fees, if any, to be levied under divisions (B)(1) to (3) of section 3734.57 of the Revised Code;

(2) Establish the fee, if any, to be levied under division (A) of section 3734.573 of the Revised Code;

(3) Contain provisions governing the allocation among the purposes enumerated in ~~divisions (G)(1) to (10)~~ division (G) of section 3734.57 of the Revised Code of the moneys credited to the special fund of the district under that ~~division (G) of that section~~ that are available for expenditure by the district ~~under that division~~. The plan shall do all of the following:

(a) Ensure that sufficient of the moneys so credited to and available from the special fund are available for use by the solid waste management policy committee of the district at the time the moneys are needed to monitor implementation of the plan and conduct its periodic review and



amendment as required under section 3734.56 of the Revised Code;

(b) Contain provisions governing the allocation and distribution of moneys credited to and available from the special fund of the district to health districts within the county or joint district that have approved programs under section 3734.08 of the Revised Code for the purposes of division (G)(3) of section 3734.57 of the Revised Code;

(c) Contain provisions governing the allocation and distribution of moneys credited to and available from the special fund of the district to the county in which solid waste facilities are or are to be located and operated under the plan for the purposes of division (G)(4) of section 3734.57 of the Revised Code;

(d) Contain provisions governing the allocation and distribution, pursuant to contracts entered into for that purpose, of moneys credited to and available from the special fund of the district to boards of health within the district in which solid waste facilities contained in the district's plan are located for the purposes of division (G)(5) of section 3734.57 of the Revised Code.

(4) Incorporate all solid waste recycling activities that were in operation within the district on the effective date of the plan.

(C) The solid waste management plan of a county or joint district may provide for the adoption of rules under division (G) of section 343.01 of the Revised Code after approval of the plan under section 3734.521 or 3734.55 of the Revised Code doing any or all of the following:

(1) Prohibiting or limiting the receipt at facilities located within the solid waste management district of solid wastes generated outside the district or outside a prescribed service area consistent with the projections under divisions (A)(6) and (7) of this section. However, rules adopted by a board under division (C)(1) of this section may be adopted and enforced with respect to solid waste disposal facilities in the solid waste management district that are not owned by a county or the solid waste management district only if the board submits an application to the director of environmental protection that demonstrates that there is insufficient capacity to dispose of all solid wastes that are generated within the district at the solid waste disposal facilities located within the district and the director approves the application. The demonstration in the application shall be based on projections contained in the plan or amended plan of the district. The director shall establish the form of the application. The approval or disapproval of such an application by the director is an action that is appealable under section 3745.04 of the Revised Code.

In addition, the director of environmental protection may issue an order modifying a rule authorized to be adopted under division (C)(1) of this section to allow the disposal in the district of wastes from another county or joint solid waste management district if all of the following apply:

(a) The district in which the wastes were generated does not have sufficient capacity to dispose of solid wastes generated within it for six months following the date of the director's order;

(b) No new solid waste facilities will begin operation during those six months in the district in which the wastes were generated and, despite good faith efforts to do so, it is impossible to site new solid waste facilities within the district because of its high population density;

(c) The district in which the wastes were generated has made good faith efforts to negotiate with other districts to incorporate its disposal needs within those districts' solid waste management plans, including efforts to develop joint facilities authorized under section 343.02 of the Revised Code, and the efforts have been unsuccessful;

(d) The district in which the wastes were generated has located a facility willing to accept the district's solid wastes for disposal within the receiving district;

(e) The district in which the wastes were generated has demonstrated to the director that the conditions specified in divisions (C)(1)(a) to (d) of this section have been met;

(f) The director finds that the issuance of the order will be consistent with the state solid waste management plan and that receipt of the out-of-district wastes will not limit the capacity of the receiving district to dispose of its in-district wastes to less than eight years. Any order issued under division (C)(1) of this section shall not become final until thirty days after it has been served by certified mail upon the county or joint solid waste management district that will receive the out-of-district wastes.

(2) Governing the maintenance, protection, and use of solid waste collection, storage, disposal, transfer, recycling, processing, and resource recovery facilities within the district and requiring the submission of general plans and specifications for the construction, enlargement, or modification of any such facility to the board of county commissioners or board of directors of the district for review and approval as complying with the plan or amended plan of the district;

(3) Governing development and implementation of a program for the inspection of solid wastes generated outside the boundaries of the state that are being disposed of at solid waste facilities included in the district's plan;

(4) Exempting the owner or operator of any existing or proposed solid waste facility provided for in the plan from compliance with any amendment to a township zoning resolution adopted under section 519.12 of the Revised Code or to a county rural zoning resolution adopted under section 303.12 of the Revised Code that rezoned or redistricted the parcel or parcels upon which the facility is to be constructed or modified and that became effective within two years prior to the filing of an application for a permit required under division (A)(2)(a) of section 3734.05 of the Revised Code to open a new or modify an existing solid waste facility.

(D) Except for the inventories required by divisions (A)(1), (2), and (4) of this section and the projections required by division (A)(6) of this section, neither this section nor the solid waste management plan of a county or joint district applies to the construction, operation, use, repair, or maintenance of either of the following:

(1) A solid waste facility owned by a generator of solid wastes when the solid waste facility exclusively disposes of solid wastes generated at one or more premises owned by the generator regardless of whether the facility is located on a premises where the wastes are generated;

(2) A facility that exclusively disposes of wastes that are generated from the combustion of coal, or from the combustion of primarily coal in combination with scrap tires, that is not combined

in any way with garbage at one or more premises owned by the generator.

(E)(1) The initial solid waste management plans prepared by county or joint districts under section 3734.521 of the Revised Code and the amended plans prepared under section 3734.521 or 3734.56 of the Revised Code shall contain a clear statement as to whether the board of county commissioners or directors is authorized to or precluded from establishing facility designations under section 343.014 of the Revised Code.

(2) A policy committee that is preparing a draft or revised draft plan under section 3734.55 of the Revised Code on October 29, 1993, may include in the draft or revised draft plan only one of the following pertaining to the solid waste facilities or recycling activities where solid wastes generated within or transported into the district are to be taken for disposal, transfer, resource recovery, or recycling:

(a) The designations required under former division (A)(12)(a) of this section as it existed prior to October 29, 1993;

(b) The identifications required in division (A)(12)(a) of this section and the statement required under division (E)(1) of this section;

(c) Both of the following:

(i) The designations required under former division (A)(12)(a) of this section as it existed prior to October 29, 1993, except that those designations only shall pertain to solid waste disposal, transfer, or resource recovery facilities or recycling activities that are owned by a municipal corporation, county, county or joint solid waste management district, township, or township waste disposal district created under section 505.28 of the Revised Code for which debt issued under Chapter 133., 343., or 6123. of the Revised Code is outstanding;

(ii) The identifications required under division (A)(12)(a) of this section, and the statement required under division (E)(1) of this section, pertaining to the solid waste facilities and recycling activities described in division (A) of section 343.014 of the Revised Code.

(F) Notwithstanding section 3734.01 of the Revised Code, "solid wastes" does not include scrap tires and "facility" does not include any scrap tire collection, storage, monocell, monofill, or recovery facility in either of the following circumstances:

(1) For the purposes of an initial plan prepared and ordered to be implemented by the director under section 3734.55 of the Revised Code;

(2) For the purposes of an initial or amended plan prepared and ordered to be implemented by the director under division (D) ~~or (F)(1) or (2)~~ of section 3734.521 of the Revised Code in connection with a change in district composition as defined in that section that involves an existing district that is operating under either an initial plan approved or prepared and ordered to be implemented under section 3734.55 of the Revised Code or an initial or amended plan approved or prepared and ordered to be implemented under section 3734.521 of the Revised Code that does not provide for the management of scrap tires and scrap tire facilities.

(G) Notwithstanding section 3734.01 of the Revised Code, and except as provided in

division (A)(4) of this section, "solid wastes" need not include scrap tires and "facility" need not include any scrap tire collection, storage, monocell, monofill, or recovery facility ~~in either of the following circumstances:~~

(1) ~~For~~ for the purposes of an initial plan prepared under sections 3734.54 and 3734.55 of the Revised Code unless the solid waste management policy committee preparing the initial plan chooses to include the management of scrap tires and scrap tire facilities in the plan;

(2) ~~For the purposes of a preliminary demonstration of capacity as defined in section 3734.521 of the Revised Code, if any, and an initial or amended plan prepared under that section by the solid waste management policy committee of a solid waste management district resulting from proceedings for a change in district composition under sections 343.012 and 3734.521 of the Revised Code that involves an existing district that is operating either under an initial plan approved or prepared and ordered to be implemented under section 3734.55 of the Revised Code or under an initial or amended plan approved or prepared and ordered to be implemented under section 3734.521 of the Revised Code that does not provide for the management of scrap tires and scrap tire facilities unless the solid waste management policy committee of the district resulting from the change chooses to include the management of scrap tires and scrap tire facilities in the preliminary demonstration of capacity, if any, and the initial or amended plan prepared under section 3734.521 of the Revised Code in connection with the change proceedings.~~

If a policy committee chooses to include the management of scrap tires and scrap tire facilities in an initial plan pursuant to division (G)(1)(G) of this section, the initial plan shall incorporate all of the elements required under this section, and may incorporate any of the elements authorized under this section, for the purpose of managing solid wastes that consist of scrap tires and solid waste facilities that are scrap tire collection, storage, monocell, monofill, or recovery facilities. ~~If a policy committee chooses to provide for the management of scrap tires and scrap tire facilities pursuant to division (G)(2) of this section, the preliminary demonstration of capacity, if one is required, shall incorporate all of the elements required under division (E)(1) or (2) of section 3734.521 of the Revised Code, as appropriate, for the purpose of managing solid wastes that consist of scrap tires and solid waste facilities that are scrap tire collection, storage, monocell, monofill, or recovery facilities. The initial or amended plan also shall incorporate all of the elements required under this section, and may incorporate any of the elements authorized under this section, for the purpose of managing solid wastes that consist of scrap tires and solid waste facilities that are scrap tire collection, storage, monocell, monofill, or recovery facilities.~~

(H) Neither this section nor the solid waste management plan of a county or joint district applies to the construction, operation, use, repair, or maintenance of any compost facility that exclusively composts raw rendering material.

Sec. 3734.56. (A) Each county and joint solid waste management district having a solid waste management plan approved under section 3734.521 or 3734.55 of the Revised Code with a planning period of less than fifteen years shall submit triennially, on or before the anniversary date

of the approval of the initial plan, to the director of environmental protection an amended plan and certification for the subsequent ten-year period or longer period on which the district's initial plan was based. If the district's initial plan as approved by the director contained a planning period of fifteen or more years, the district shall submit such an amended plan and certification to the director every five years on or before the anniversary date of the approval of the initial plan of the district.

The amended plan and certification shall comply with divisions (A), (B), (D), and (E)(1) of section 3734.53 of the Revised Code. An amended plan may incorporate any of the elements under division (C) of that section that are not included in the district's initial plan or previous amended plans and may delete any of those elements that were contained in the initial plan or previous amended plans. An amended plan shall incorporate all of the elements required under section 3734.53 of the Revised Code, and may incorporate any of the elements authorized under that section, for the purpose of managing solid wastes that consist of scrap tires and solid waste facilities that are scrap tire collection, storage, monocell, monofill, or recovery facilities.

Not later than fifteen months before the required date for submission of the amended plan for the district under this section, the solid waste management policy committee of the county or joint district established under section 3734.54 of the Revised Code shall begin preparation of the draft amended plan for the district. The committee shall proceed to adopt and obtain approval of the amended plan of the district in accordance with divisions (A) to (C) of section 3734.55 of the Revised Code.

If a county or joint district fails to submit an amended plan in accordance with this division or fails to obtain approval of the amended plan within eighteen months after the required date for its submission under this division, the director shall proceed in accordance with division (D) of section 3734.55 of the Revised Code. An amended plan prepared by the director under this division or division (B) of this section shall incorporate all of the elements required under section 3734.53 of the Revised Code for the purpose of managing solid wastes that consist of scrap tires and solid waste facilities that are scrap tire collection, storage, monocell, monofill, or recovery facilities, except that for that purpose the amended plan shall not incorporate any of the elements required or authorized under division (B) or (C) of that section.

(B) If the solid waste management plan of a county or joint district was initially prepared and ordered to be implemented by the director under division (D) of section 3734.55 of the Revised Code or division (D) ~~or (F)~~ of section 3734.521 of the Revised Code, the director shall review the plan triennially and prepare for the district an amended plan that complies with divisions (A) and (D) of section 3734.53 of the Revised Code and is applicable to the subsequent ten-year period. An amended plan prepared by the director shall not contain any provisions required or authorized to be included in plans submitted by districts under ~~divisions~~ division (B), (C), or (E) of section 3734.53 of the Revised Code. Upon completion of the amended plan, the director shall issue an order in accordance with Chapter 3745. of the Revised Code directing the board of county commissioners or board of directors of the district to implement the amended plan in compliance with the

implementation schedule contained in it.

(C) A county or joint district that is operating under a solid waste management plan prepared and ordered to be implemented by the director under division (D) of section 3734.55 of the Revised Code or division (D) ~~or (F)~~ of section 3734.521 of the Revised Code may establish, under division (B) of section 3734.54 of the Revised Code, a solid waste management policy committee and prepare, adopt, and submit its own solid waste management plan to replace the initial or an amended plan prepared by the director. Any such district may submit its plan to the director only within the one hundred eighty days immediately preceding a triennial anniversary of the date on which the director issued the initial order under division (D) of section 3734.55 of the Revised Code or division (D) ~~or (F)~~ of section 3734.521 of the Revised Code requiring the district to implement the plan prepared by the director.

Upon approval of the solid waste management plan of the county or joint district under division (C) of section 3734.55 of the Revised Code, the director shall issue an order in accordance with Chapter 3745. of the Revised Code revoking the earlier orders issued to the district under division (D) of that section or division (D) ~~or (F)(1) or (2)~~ of section 3734.521 of ~~THE~~ the Revised Code, as appropriate.

(D) When the board of county commissioners of a county district or the board of directors of a joint district determines that circumstances materially changed from those addressed in the approved initial or amended plan of the district require submission of an amended plan prior to the time required under division (A) of this section, the board shall request the solid waste management policy committee of the district to prepare a draft amended plan. Upon receipt of the board's request, the committee shall begin preparing a draft amended plan for the district and shall proceed to adopt and obtain approval of the amended plan in accordance with divisions (A) to (C) of section 3734.55 of the Revised Code.

(E) The board of county commissioners of a county district or board of directors of a joint district may request the solid waste management policy committee of the district to prepare and adopt amendments to any provisions of the district's plan or amended plan required to be included under division (B) of section 3734.53 of the Revised Code at any time and without obtaining approval of the amendments from the director. The committee shall adopt a resolution setting forth the proposed amendments to the plan and shall proceed in accordance with division (B) of section 3734.57 of the Revised Code to conduct a public hearing on the proposed amendments and obtain their approval and ratification.

(F) The board of county commissioners of a county district or board of directors of a joint district may request the solid waste management policy committee of the district to prepare and adopt an amendment to the provision required to be included in the district's plan or amended plan under division (E) of section 3734.53 of the Revised Code at any time and without the necessity of obtaining approval of the amendment from the director. The policy committee shall adopt a resolution setting forth the proposed amendment to the plan. Upon adopting the resolution, it shall

proceed in accordance with divisions (A) and (B) of section 3734.55 of the Revised Code to adopt and obtain ratification of the proposed amendment in the same manner as a plan, except that the board need not submit a copy of the resolution to the director for review and comment under division (A) of that section. An amendment to a plan or amended plan that is proposed and ratified in accordance with this division shall take effect when the policy committee declares the amendment to be ratified pursuant to division (B) of section 3734.55 of the Revised Code.

Sec. 3734.57. (A) The following fees are hereby levied on the transfer or disposal of solid wastes in this state:

(1) Seventy-one cents per ton through June 30, 2026, eleven cents of the proceeds of which shall be deposited in the state treasury to the credit of the hazardous waste facility management fund created in section 3734.18 of the Revised Code and sixty cents of the proceeds of which shall be deposited in the state treasury to the credit of the hazardous waste clean-up fund created in section 3734.28 of the Revised Code;

(2) An additional ninety cents per ton through June 30, 2026, the proceeds of which shall be deposited in the state treasury to the credit of the waste management fund created in section 3734.061 of the Revised Code;

(3) An additional two dollars and eighty-one cents per ton through June 30, 2026, the proceeds of which shall be deposited in the state treasury to the credit of the environmental protection fund created in section 3745.015 of the Revised Code;

(4) An additional twenty-five cents per ton through June 30, 2026, the proceeds of which shall be deposited in the state treasury to the credit of the soil and water conservation district assistance fund created in section 940.15 of the Revised Code;

(5) An additional eight cents per ton through June 30, 2026, the proceeds of which shall be deposited in the state treasury to the credit of the national priority list remedial support fund created in section 3734.579 of the Revised Code.

In the case of solid wastes that are taken to a solid waste transfer facility located in this state prior to being transported for disposal at a solid waste disposal facility located in this state or outside of this state, the fees levied under this division shall be collected by the owner or operator of the transfer facility as a trustee for the state. The amount of fees required to be collected under this division at such a transfer facility shall equal the total tonnage of solid wastes received at the facility multiplied by the fees levied under this division. In the case of solid wastes that are not taken to a solid waste transfer facility located in this state prior to being transported to a solid waste disposal facility, the fees shall be collected by the owner or operator of the solid waste disposal facility as a trustee for the state. The amount of fees required to be collected under this division at such a disposal facility shall equal the total tonnage of solid wastes received at the facility that was not previously taken to a solid waste transfer facility located in this state multiplied by the fees levied under this division. Fees levied under this division do not apply to materials separated from a mixed waste stream for recycling by a generator or materials removed from the solid waste stream through

recycling, as "recycling" is defined in rules adopted under section 3734.02 of the Revised Code.

The owner or operator of a solid waste transfer facility or disposal facility, as applicable, shall prepare and file with the director of environmental protection each month a return indicating the total tonnage of solid wastes received at the facility during that month and the total amount of the fees required to be collected under this division during that month. In addition, the owner or operator of a solid waste disposal facility shall indicate on the return the total tonnage of solid wastes received from transfer facilities located in this state during that month for which the fees were required to be collected by the transfer facilities. The monthly returns shall be filed on a form prescribed by the director. Not later than thirty days after the last day of the month to which a return applies, the owner or operator shall mail to the director the return for that month together with the fees required to be collected under this division during that month as indicated on the return or may submit the return and fees electronically in a manner approved by the director. If the return is filed and the amount of the fees due is paid in a timely manner as required in this division, the owner or operator may retain a discount of three-fourths of one per cent of the total amount of the fees that are required to be paid as indicated on the return.

The owner or operator may request an extension of not more than thirty days for filing the return and remitting the fees, provided that the owner or operator has submitted such a request in writing to the director together with a detailed description of why the extension is requested, the director has received the request not later than the day on which the return is required to be filed, and the director has approved the request. If the fees are not remitted within thirty days after the last day of the month to which the return applies or are not remitted by the last day of an extension approved by the director, the owner or operator shall not retain the three-fourths of one per cent discount and shall pay an additional ten per cent of the amount of the fees for each month that they are late. For purposes of calculating the late fee, the first month in which fees are late begins on the first day after the deadline has passed for timely submitting the return and fees, and one additional month shall be counted every thirty days thereafter.

The owner or operator of a solid waste facility may request a refund or credit of fees levied under this division and remitted to the director that have not been paid to the owner or operator. Such a request shall be made only if the fees have not been collected by the owner or operator, have become a debt that has become worthless or uncollectable for a period of six months or more, and may be claimed as a deduction, including a deduction claimed if the owner or operator keeps accounts on an accrual basis, under the "Internal Revenue Code of 1954," 68A Stat. 50, 26 U.S.C. 166, as amended, and regulations adopted under it. Prior to making a request for a refund or credit, an owner or operator shall make reasonable efforts to collect the applicable fees. A request for a refund or credit shall not include any costs resulting from those efforts to collect unpaid fees.

A request for a refund or credit of fees shall be made in writing, on a form prescribed by the director, and shall be supported by evidence that may be required in rules adopted by the director under this chapter. After reviewing the request, and if the request and evidence submitted with the



request indicate that a refund or credit is warranted, the director shall grant a refund to the owner or operator or shall permit a credit to be taken by the owner or operator on a subsequent monthly return submitted by the owner or operator. The amount of a refund or credit shall not exceed an amount that is equal to ninety days' worth of fees owed to an owner or operator by a particular debtor of the owner or operator. A refund or credit shall not be granted by the director to an owner or operator more than once in any twelve-month period for fees owed to the owner or operator by a particular debtor.

If, after receiving a refund or credit from the director, an owner or operator receives payment of all or part of the fees, the owner or operator shall remit the fees with the next monthly return submitted to the director together with a written explanation of the reason for the submittal.

For purposes of computing the fees levied under this division or division (B) of this section, any solid waste transfer or disposal facility that does not use scales as a means of determining gate receipts shall use a conversion factor of three cubic yards per ton of solid waste or one cubic yard per ton for baled waste, as applicable.

The fees levied under this division and divisions (B) and (C) of this section are in addition to all other applicable fees and taxes and shall be paid by the customer or a political subdivision to the owner or operator of a solid waste transfer or disposal facility. In the alternative, the fees shall be paid by a customer or political subdivision to a transporter of waste who subsequently transfers the fees to the owner or operator of such a facility. The fees shall be paid notwithstanding the existence of any provision in a contract that the customer or a political subdivision may have with the owner or operator or with a transporter of waste to the facility that would not require or allow such payment regardless of whether the contract was entered prior to or after October 16, 2009. For those purposes, "customer" means a person who contracts with, or utilizes the solid waste services of, the owner or operator of a solid waste transfer or disposal facility or a transporter of solid waste to such a facility.

(B) For the purposes specified in division (G) of this section, the solid waste management policy committee of a county or joint solid waste management district may levy fees upon the following activities:

(1) The disposal at a solid waste disposal facility located in the district of solid wastes generated within the district;

(2) The disposal at a solid waste disposal facility within the district of solid wastes generated outside the boundaries of the district, but inside this state;

(3) The disposal at a solid waste disposal facility within the district of solid wastes generated outside the boundaries of this state.

The solid waste management plan of the county or joint district approved under section 3734.521 or 3734.55 of the Revised Code and any amendments to it, or the resolution adopted under this division, as appropriate, shall establish the rates of the fees levied under divisions (B)(1), (2), and (3) of this section, if any, and shall specify whether the fees are levied on the basis of tons or

cubic yards as the unit of measurement. A solid waste management district that levies fees under this division on the basis of cubic yards shall do so in accordance with division (A) of this section.

The fee levied under division (B)(1) of this section shall be not less than one dollar per ton nor more than two dollars per ton, the fee levied under division (B)(2) of this section shall be not less than two dollars per ton nor more than four dollars per ton, and the fee levied under division (B)(3) of this section shall be not more than the fee levied under division (B)(1) of this section.

Prior to the approval of the solid waste management plan of a district under section 3734.55 of the Revised Code, the solid waste management policy committee of a district may levy fees under this division by adopting a resolution establishing the proposed amount of the fees. Upon adopting the resolution, the committee shall deliver a copy of the resolution to the board of county commissioners of each county forming the district and to the legislative authority of each municipal corporation and township under the jurisdiction of the district and shall prepare and publish the resolution and a notice of the time and location where a public hearing on the fees will be held. Upon adopting the resolution, the committee shall deliver written notice of the adoption of the resolution; of the amount of the proposed fees; and of the date, time, and location of the public hearing to the director and to the fifty industrial, commercial, or institutional generators of solid wastes within the district that generate the largest quantities of solid wastes, as determined by the committee, and to their local trade associations. The committee shall make good faith efforts to identify those generators within the district and their local trade associations, but the nonprovision of notice under this division to a particular generator or local trade association does not invalidate the proceedings under this division. The publication shall occur at least thirty days before the hearing. After the hearing, the committee may make such revisions to the proposed fees as it considers appropriate and thereafter, by resolution, shall adopt the revised fee schedule. Upon adopting the revised fee schedule, the committee shall deliver a copy of the resolution doing so to the board of county commissioners of each county forming the district and to the legislative authority of each municipal corporation and township under the jurisdiction of the district. Within sixty days after the delivery of a copy of the resolution adopting the proposed revised fees by the policy committee, each such board and legislative authority, by ordinance or resolution, shall approve or disapprove the revised fees and deliver a copy of the ordinance or resolution to the committee. If any such board or legislative authority fails to adopt and deliver to the policy committee an ordinance or resolution approving or disapproving the revised fees within sixty days after the policy committee delivered its resolution adopting the proposed revised fees, it shall be conclusively presumed that the board or legislative authority has approved the proposed revised fees. The committee shall determine if the resolution has been ratified in the same manner in which it determines if a draft solid waste management plan has been ratified under division (B) of section 3734.55 of the Revised Code.

The committee may amend the schedule of fees levied pursuant to a resolution adopted and ratified under this division by adopting a resolution establishing the proposed amount of the amended fees. The committee may repeal the fees levied pursuant to such a resolution by adopting a

resolution proposing to repeal them. Upon adopting such a resolution, the committee shall proceed to obtain ratification of the resolution in accordance with this division.

Not later than fourteen days after declaring the new fees to be ratified or the fees to be repealed under this division, the committee shall notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the fees of the ratification and the amount of the fees or of the repeal of the fees. Collection of any fees shall commence or collection of repealed fees shall cease on the first day of the second month following the month in which notification is sent to the owner or operator.

Fees levied under this division also may be established, amended, or repealed by a solid waste management policy committee through the adoption of a new district solid waste management plan, the adoption of an amended plan, or the amendment of the plan or amended plan in accordance with sections 3734.55 and 3734.56 of the Revised Code or the adoption or amendment of a district plan in connection with a change in district composition under section 3734.521 of the Revised Code.

Not later than fourteen days after the director issues an order approving a district's solid waste management plan, amended plan, or amendment to a plan or amended plan that establishes, amends, or repeals a schedule of fees levied by the district, the committee shall notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the fees of the approval of the plan or amended plan, or the amendment to the plan, as appropriate, and the amount of the fees, if any. In the case of an initial or amended plan approved under section 3734.521 of the Revised Code in connection with a change in district composition, other than one involving the withdrawal of a county from a joint district, the committee, within fourteen days after the change takes effect pursuant to division ~~(G)~~(E) of that section, shall notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the fees that the change has taken effect and of the amount of the fees, if any. Collection of any fees shall commence or collection of repealed fees shall cease on the first day of the second month following the month in which notification is sent to the owner or operator.

If, in the case of a change in district composition involving the withdrawal of a county from a joint district, the director completes the actions required under ~~division (G)(1) or (3) of section 3734.521–3734.522~~ of the Revised Code, ~~as appropriate,~~ forty-five days or more before the beginning of a calendar year, the policy committee of each of the districts resulting from the change that obtained the director's approval of an initial or amended plan in connection with the change, within fourteen days after the director's completion of the required actions, shall notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the district's fees that the change is to take effect on the first day of January immediately following the issuance of the notice and of the amount of the fees or amended fees levied under divisions (B)(1) to (3) of this section pursuant to the district's initial or amended plan as so approved or, if appropriate, the repeal of the district's fees by that initial or amended plan. Collection of any fees set forth in such a

plan or amended plan shall commence on the first day of January immediately following the issuance of the notice. If such an initial or amended plan repeals a schedule of fees, collection of the fees shall cease on that first day of January.

If, in the case of a change in district composition involving the withdrawal of a county from a joint district, the director completes the actions required under ~~division (G)(1) or (3) of section 3734.521-3734.522~~ of the Revised Code, ~~as appropriate,~~ less than forty-five days before the beginning of a calendar year, the director, on behalf of each of the districts resulting from the change that obtained the director's approval of an initial or amended plan in connection with the change proceedings, shall notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the district's fees that the change is to take effect on the first day of January immediately following the mailing of the notice and of the amount of the fees or amended fees levied under divisions (B)(1) to (3) of this section pursuant to the district's initial or amended plan as so approved or, if appropriate, the repeal of the district's fees by that initial or amended plan. Collection of any fees set forth in such a plan or amended plan shall commence on the first day of the second month following the month in which notification is sent to the owner or operator. If such an initial or amended plan repeals a schedule of fees, collection of the fees shall cease on the first day of the second month following the month in which notification is sent to the owner or operator.

If the schedule of fees that a solid waste management district is levying under divisions (B)(1) to (3) of this section is amended or repealed, the fees in effect immediately prior to the amendment or repeal shall continue to be collected until collection of the amended fees commences or collection of the repealed fees ceases, as applicable, as specified in this division. In the case of a change in district composition, money so received from the collection of the fees of the former districts shall be divided among the resulting districts in accordance with ~~division (B) of section 343.012-3734.522~~ of the Revised Code and the agreements entered into under division (B) of section 343.01 of the Revised Code to establish the former and resulting districts and any amendments to those agreements.

For the purposes of the provisions of division (B) of this section establishing the times when newly established or amended fees levied by a district are required to commence and the collection of fees that have been amended or repealed is required to cease, "fees" or "schedule of fees" includes, in addition to fees levied under divisions (B)(1) to (3) of this section, those levied under section 3734.573 or 3734.574 of the Revised Code.

(C) For the purposes of defraying the added costs to a municipal corporation or township of maintaining roads and other public facilities and of providing emergency and other public services, and compensating a municipal corporation or township for reductions in real property tax revenues due to reductions in real property valuations resulting from the location and operation of a solid waste disposal facility within the municipal corporation or township, a municipal corporation or township in which such a solid waste disposal facility is located may levy a fee of not more than twenty-five cents per ton on the disposal of solid wastes at a solid waste disposal facility located

within the boundaries of the municipal corporation or township regardless of where the wastes were generated.

The legislative authority of a municipal corporation or township may levy fees under this division by enacting an ordinance or adopting a resolution establishing the amount of the fees. Upon so doing the legislative authority shall mail a certified copy of the ordinance or resolution to the board of county commissioners or directors of the county or joint solid waste management district in which the municipal corporation or township is located or, if a regional solid waste management authority has been formed under section 343.011 of the Revised Code, to the board of trustees of that regional authority, the owner or operator of each solid waste disposal facility in the municipal corporation or township that is required to collect the fee by the ordinance or resolution, and the director of environmental protection. Although the fees levied under this division are levied on the basis of tons as the unit of measurement, the legislative authority, in its ordinance or resolution levying the fees under this division, may direct that the fees be levied on the basis of cubic yards as the unit of measurement based upon a conversion factor of three cubic yards per ton generally or one cubic yard per ton for baled wastes.

Not later than five days after enacting an ordinance or adopting a resolution under this division, the legislative authority shall so notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the fee. Collection of any fee levied on or after March 24, 1992, shall commence on the first day of the second month following the month in which notification is sent to the owner or operator.

(D)(1) The fees levied under divisions (A), (B), and (C) of this section do not apply to the disposal of solid wastes that:

(a) Are disposed of at a facility owned by the generator of the wastes when the solid waste facility exclusively disposes of solid wastes generated at one or more premises owned by the generator regardless of whether the facility is located on a premises where the wastes are generated;

(b) Are generated from the combustion of coal, or from the combustion of primarily coal, regardless of whether the disposal facility is located on the premises where the wastes are generated;

(c) Are asbestos or asbestos-containing materials or products disposed of at a construction and demolition debris facility that is licensed under Chapter 3714. of the Revised Code or at a solid waste facility that is licensed under this chapter.

(2) Except as provided in section 3734.571 of the Revised Code, any fees levied under division (B)(1) of this section apply to solid wastes originating outside the boundaries of a county or joint district that are covered by an agreement for the joint use of solid waste facilities entered into under section 343.02 of the Revised Code by the board of county commissioners or board of directors of the county or joint district where the wastes are generated and disposed of.

(3) When solid wastes, other than solid wastes that consist of scrap tires, are burned in a disposal facility that is an incinerator or energy recovery facility, the fees levied under divisions (A), (B), and (C) of this section shall be levied upon the disposal of the fly ash and bottom ash remaining

after burning of the solid wastes and shall be collected by the owner or operator of the sanitary landfill where the ash is disposed of.

(4) When solid wastes are delivered to a solid waste transfer facility, the fees levied under divisions (B) and (C) of this section shall be levied upon the disposal of solid wastes transported off the premises of the transfer facility for disposal and shall be collected by the owner or operator of the solid waste disposal facility where the wastes are disposed of.

(5) The fees levied under divisions (A), (B), and (C) of this section do not apply to sewage sludge that is generated by a waste water treatment facility holding a national pollutant discharge elimination system permit and that is disposed of through incineration, land application, or composting or at another resource recovery or disposal facility that is not a landfill.

(6) The fees levied under divisions (A), (B), and (C) of this section do not apply to solid wastes delivered to a solid waste composting facility for processing. When any unprocessed solid waste or compost product is transported off the premises of a composting facility and disposed of at a landfill, the fees levied under divisions (A), (B), and (C) of this section shall be collected by the owner or operator of the landfill where the unprocessed waste or compost product is disposed of.

(7) When solid wastes that consist of scrap tires are processed at a scrap tire recovery facility, the fees levied under divisions (A), (B), and (C) of this section shall be levied upon the disposal of the fly ash and bottom ash or other solid wastes remaining after the processing of the scrap tires and shall be collected by the owner or operator of the solid waste disposal facility where the ash or other solid wastes are disposed of.

(8) The director of environmental protection may issue an order exempting from the fees levied under this section solid wastes, including, but not limited to, scrap tires, that are generated, transferred, or disposed of as a result of a contract providing for the expenditure of public funds entered into by the administrator or regional administrator of the United States environmental protection agency, the director of environmental protection, or the director of administrative services on behalf of the director of environmental protection for the purpose of remediating conditions at a hazardous waste facility, solid waste facility, or other location at which the administrator or regional administrator or the director of environmental protection has reason to believe that there is a substantial threat to public health or safety or the environment or that the conditions are causing or contributing to air or water pollution or soil contamination. An order issued by the director of environmental protection under division (D)(8) of this section shall include a determination that the amount of the fees not received by a solid waste management district as a result of the order will not adversely impact the implementation and financing of the district's approved solid waste management plan and any approved amendments to the plan. Such an order is a final action of the director of environmental protection.

(E) The fees levied under divisions (B) and (C) of this section shall be collected by the owner or operator of the solid waste disposal facility where the wastes are disposed of as a trustee for the county or joint district and municipal corporation or township where the wastes are disposed

of. Moneys from the fees levied under division (B) of this section shall be forwarded to the board of county commissioners or board of directors of the district in accordance with rules adopted under division (H) of this section. Moneys from the fees levied under division (C) of this section shall be forwarded to the treasurer or such other officer of the municipal corporation as, by virtue of the charter, has the duties of the treasurer or to the fiscal officer of the township, as appropriate, in accordance with those rules.

(F) Moneys received by the treasurer or other officer of the municipal corporation under division (E) of this section shall be paid into the general fund of the municipal corporation. Moneys received by the fiscal officer of the township under that division shall be paid into the general fund of the township. The treasurer or other officer of the municipal corporation or the township fiscal officer, as appropriate, shall maintain separate records of the moneys received from the fees levied under division (C) of this section.

(G) Moneys received by the board of county commissioners or board of directors under division (E) of this section or section 3734.571, 3734.572, 3734.573, or 3734.574 of the Revised Code shall be paid to the county treasurer, or other official acting in a similar capacity under a county charter, in a county district or to the county treasurer or other official designated by the board of directors in a joint district and kept in a separate and distinct fund to the credit of the district. If a regional solid waste management authority has been formed under section 343.011 of the Revised Code, moneys received by the board of trustees of that regional authority under division (E) of this section shall be kept by the board in a separate and distinct fund to the credit of the district. Moneys in the special fund of the county or joint district arising from the fees levied under division (B) of this section and the fee levied under division (A) of section 3734.573 of the Revised Code shall be expended by the board of county commissioners or directors of the district in accordance with the district's solid waste management plan or amended plan approved under section 3734.521, 3734.55, or 3734.56 of the Revised Code exclusively for the following purposes:

(1) Preparation of the solid waste management plan of the district under section 3734.54 of the Revised Code, monitoring implementation of the plan, and conducting the periodic review and amendment of the plan required by section 3734.56 of the Revised Code by the solid waste management policy committee;

(2) Implementation of the approved solid waste management plan or amended plan of the district, including, without limitation, the development and implementation of solid waste recycling or reduction programs;

(3) Providing financial assistance to boards of health within the district, if solid waste facilities are located within the district, for enforcement of this chapter and rules, orders, and terms and conditions of permits, licenses, and variances adopted or issued under it, other than the hazardous waste provisions of this chapter and rules adopted and orders and terms and conditions of permits issued under those provisions;

(4) Providing financial assistance to each county within the district to defray the added costs

of maintaining roads and other public facilities and of providing emergency and other public services resulting from the location and operation of a solid waste facility within the county under the district's approved solid waste management plan or amended plan;

(5) Pursuant to contracts entered into with boards of health within the district, if solid waste facilities contained in the district's approved plan or amended plan are located within the district, for paying the costs incurred by those boards of health for collecting and analyzing samples from public or private water wells on lands adjacent to those facilities;

(6) Developing and implementing a program for the inspection of solid wastes generated outside the boundaries of this state that are disposed of at solid waste facilities included in the district's approved solid waste management plan or amended plan;

(7) Providing financial assistance to boards of health within the district for the enforcement of section 3734.03 of the Revised Code or to local law enforcement agencies having jurisdiction within the district for enforcing anti-littering laws and ordinances;

(8) Providing financial assistance to boards of health of health districts within the district that are on the approved list under section 3734.08 of the Revised Code to defray the costs to the health districts for the participation of their employees responsible for enforcement of the solid waste provisions of this chapter and rules adopted and orders and terms and conditions of permits, licenses, and variances issued under those provisions in the training and certification program as required by rules adopted under division (L) of section 3734.02 of the Revised Code;

(9) Providing financial assistance to individual municipal corporations and townships within the district to defray their added costs of maintaining roads and other public facilities and of providing emergency and other public services resulting from the location and operation within their boundaries of a composting, energy or resource recovery, incineration, or recycling facility that either is owned by the district or is furnishing solid waste management facility or recycling services to the district pursuant to a contract or agreement with the board of county commissioners or directors of the district;

(10) Payment of any expenses that are agreed to, awarded, or ordered to be paid under section 3734.35 of the Revised Code and of any administrative costs incurred pursuant to that section. In the case of a joint solid waste management district, if the board of county commissioners of one of the counties in the district is negotiating on behalf of affected communities, as defined in that section, in that county, the board shall obtain the approval of the board of directors of the district in order to expend moneys for administrative costs incurred.

(11) Providing financial assistance to individual counties, boards of health, municipal corporations, and townships for the costs of mitigating impacts to public health, safety, and welfare of solid waste disposal or transfer facilities within the applicable political subdivision.

Prior to the approval of the district's solid waste management plan under section 3734.55 of the Revised Code, moneys in the special fund of the district arising from the fees shall be expended for those purposes in the manner prescribed by the solid waste management policy committee by



resolution.

~~Notwithstanding division (G)(6) of this section as it existed prior to October 29, 1993, or any provision in a district's solid waste management plan prepared in accordance with division (B)(2)(e) of section 3734.53 of the Revised Code as it existed prior to that date, any moneys arising from the fees levied under division (B)(3) of this section prior to January 1, 1994, may be expended for any of the purposes authorized in divisions (G)(1) to (10) of this section.~~

(H) The director shall adopt rules in accordance with Chapter 119. of the Revised Code prescribing procedures for collecting and forwarding the fees levied under divisions (B) and (C) of this section to the boards of county commissioners or directors of county or joint solid waste management districts and to the treasurers or other officers of municipal corporations and the fiscal officers of townships. The rules also shall prescribe the dates for forwarding the fees to the boards and officials and may prescribe any other requirements the director considers necessary or appropriate to implement and administer divisions (A), (B), and (C) of this section.

Sec. 3734.574. (A)(1) A county or joint solid waste management district that is levying fees under division (B) of section 3734.57 of the Revised Code on October 29, 1993, pursuant to a resolution adopted under that division and former Section 25 of Am. Sub. S.B. 359 of the 119th general assembly, or one that is levying those fees pursuant to such a resolution and for which the director of environmental protection disapproves the initial solid waste management plan of the district under section 3734.55 of the Revised Code on or after October 29, 1993, may continue to ~~levy~~ levy those fees until the district abolishes them under division (D) of this section, the director issues an order under division (F) of this section requiring the district to cease levying the fees, or the district obtains approval of its own plan under section 3734.521 or 3734.56 of the Revised Code and collection of the fees established in the approved plan commences in accordance with division (B) of section 3734.57 of the Revised Code.

(2) A county or joint solid waste management district that is levying fees under division (B) of section 3734.57 of the Revised Code or division (A) of section 3734.573 of the Revised Code under an initial or amended solid waste management plan approved under section 3734.521, 3734.55, or 3734.56 of the Revised Code when the director issues an order under division (D) ~~or (F)~~ of section 3734.521 of the Revised Code or division (A) or (B) of section 3734.56 of the Revised Code requiring the district to implement an amended plan prepared by the director, may continue to levy those fees until the district abolishes them under division (D) of this section, the director issues an order under division (F) of this section requiring the district to cease levying the fees, or the district obtains approval of its own plan or amended plan under section 3734.521 or 3734.56 of the Revised Code and collection of the fees established in the approved plan or amended plan commences in accordance with division (B) of section 3734.57 of the Revised Code.

(B) The solid waste management policy committee of a county or joint district described in division (A)(1) of this section may ~~a-levy~~ a fee under division (A) of section 3734.573 of the Revised Code by adopting and obtaining ratification of a resolution establishing the amount of the

fee. The policy committee of such a district that, after December 1, 1993, concurrently proposes to levy a fee under division (A) of section 3734.573 of the Revised Code and to amend the fees that the district is levying under division (B) of section 3734.57 of the Revised Code may adopt and obtain ratification of one resolution to do both. A county or joint district that is ordered under division (D) ~~or (F)~~ of section 3734.521 of the Revised Code to implement an initial plan prepared by the director may levy fees under division (B) of section 3734.57 of the Revised Code or division (A) of section 3734.573 of the Revised Code by adopting and obtaining ratification of a resolution specifying which of the fees are to be levied and their amounts. The requirements and procedures set forth in division (B) of section 3734.57 of the Revised Code governing the adoption of resolutions levying fees under that division, the ratification of those resolutions, and the notification of owners and operators of solid waste facilities required to collect fees under those divisions govern the adoption and ratification of resolutions levying fees under this division and the notification of owners and operators required to collect the fees levied under this division, except as otherwise specifically provided in division (C) of this section. Any such district may levy fees under this division until the district abolishes the fees under division (D) of this section, the director issues an order under division (F) of this section requiring the district to cease levying the fees, or the district obtains approval of its own plan or amended plan under section 3734.521 or 3734.56 of the Revised Code and collection of the fees established in the approved plan or amended plan commences in accordance with division (B) of section 3734.57 of the Revised Code.

(C) Any resolution adopted under division (B) of this section that proposes to levy a fee under division (A) of section 3734.573 of the Revised Code that exceeds five dollars per ton shall be ratified in accordance with the provisions of division (B) of section 3734.57 of the Revised Code, except that such a resolution shall be approved by a combination of municipal corporations and townships with a combined population within the boundaries of the district comprising at least seventy-five per cent, rather than at least sixty per cent, of the total population of the district.

(D) The policy committee of a county or joint district may amend fees levied by the district under division (A) or (B) of this section by adopting and obtaining ratification of a resolution establishing the proposed amount of the amended fees. The committee may abolish any of those fees or any amended fees established under this division by adopting and obtaining ratification of a resolution repealing them. A district that is proposing at the same time to amend or abolish the fees levied under divisions (A) and (B) of this section may adopt one resolution proposing the amendment or repeal of all of the fees. The requirements and procedures under division (B) and, if applicable, division (C) of this section govern the adoption and ratification of a resolution authorized to be adopted under this division and the notification of owners and operators of solid waste facilities required to collect the fees. Collection of the fees so amended or abolished commences or ceases in accordance with division (B) of section 3734.57 of the Revised Code.

(E) Not later than thirty days before the beginning of each calendar quarter, the board of county commissioners or board of directors of a district that is levying fees under division (A) or (B)

of this section shall submit to the director a proposed budget for the expenditure of moneys from the special fund of the district created under division (G) of section 3734.57 of the Revised Code. The proposed budget shall be submitted on a form prescribed by the director.

The director may disapprove in whole or in part such a proposed quarterly budget for any of the following reasons:

(1) The proposed budget includes expenditures for any purpose other than those authorized under ~~divisions (G)(1) to (10)~~ division (G) of section 3734.57 of the Revised Code;

(2) The director reasonably estimates that there will be insufficient moneys in the special fund created to meet the proposed expenditures;

(3) The board failed to submit the proposed budget to the director at least thirty days prior to the beginning of the calendar quarter to which it pertains;

(4) The board failed to submit the latest report of quarterly expenditures from the fund that it was required to submit under section 3734.575 of the Revised Code within thirty days after the end of the calendar quarter to which it pertains;

(5) The district is materially failing to comply with the implementation schedule contained in the plan or amended plan of the district prepared and ordered to be implemented under section 3734.521, 3734.55, or 3734.56 of the Revised Code;

(6) There have been repeated inconsistencies between the expenditures projected in the proposed budgets submitted under division (E) of this section and actual expenditures from the fund.

If the director does not disapprove a proposed quarterly budget prior to the first day of the calendar quarter to which it pertains, it is conclusively presumed that the proposed budget has not been disapproved.

Nothing in division (E) of this section precludes the board of county commissioners or directors of a district from making necessary expenditures to meet unforeseen circumstances that occur during a calendar quarter that were not provided for in the proposed budget for that quarter. Prior to making any such expenditure, the board shall notify the director of the nature of the unforeseen circumstances and of the amount of the expenditure needed to meet them. The board shall include an explanation of the nature of the unforeseen circumstances and of the necessity and amount of the expenditures to meet them in the quarterly expenditure report for the quarter in which the expenditures were made that is submitted to the director under section 3734.575 of the Revised Code.

(F) If the director finds that the board of county commissioners or directors of a district that is levying fees under division (A) or (B) of this section is in material and continued noncompliance with the implementation schedule contained in the plan or amended plan of the district prepared and ordered to be implemented under section 3734.521, 3734.55, or 3734.56 of the Revised Code, or if repeated whole or partial disapprovals of the proposed quarterly budgets of the district have occurred under division (E) of this section, the director may issue an order to the board terminating the collection of all of the fees levied by the district under division (A) or (B) of this section.

Notwithstanding section 119.06 of the Revised Code, the director may issue an order under this division or disapprove in whole or in part a proposed budget under division (E) of this section by issuance of a final action that is effective upon issuance without the necessity to hold any adjudication hearing in connection with the order or disapproval and without the issuance of a proposed action under section 3745.07 of the Revised Code.

(G) The director, in accordance with Chapter 119. of the Revised Code, may adopt, amend, suspend, and rescind such rules as the director considers to be necessary or appropriate to implement or administer this section or division (D) of section 3734.55 of the Revised Code.

(H) Moneys received by a district levying fees under division (A) or (B) of this section shall be credited to the special fund of the district created in division (G) of section 3734.57 of the Revised Code and shall be used exclusively for the purposes set forth in ~~divisions (G)(1) to (40)~~division (G) of that section in the manner prescribed by the solid waste management policy committee of the district by resolution and for the purposes of section 3734.551 of the Revised Code.

Sec. 3745.015. There is hereby created in the state treasury the environmental protection fund consisting of money credited to the fund under division (A)(3) of section 3734.57 and division (E) of section 3714.07 of the Revised Code. The environmental protection agency shall use money in the fund to pay the agency's costs associated with administering and enforcing, or otherwise conducting activities under, this chapter and Chapters 3704., 3734., 3746., 3747., 3748., 3750., 3751., 3752., 3753., 5709., 6101., 6103., 6105., 6109., 6111., 6112., 6113., 6115., 6117., and 6119. of the Revised Code, including providing compliance assistance to small businesses.

SECTION 2. That existing sections 343.01, 343.011, 343.012, 343.022, 343.08, 3714.07, 3714.073, 3734.521, 3734.53, 3734.56, 3734.57, 3734.574, and 3745.015 of the Revised Code are hereby repealed.

SECTION 3. (A) The solid waste management policy committee of a county or joint solid waste management district may levy fees upon the following activities:

(1) The disposal of construction and demolition debris and asbestos or asbestos-containing materials or products generated within the jurisdiction of the district at construction and demolition debris facilities located in an authorized county and within the district's jurisdiction and at solid waste disposal facilities located in an authorized county and within the district's jurisdiction;

(2) The disposal of construction and demolition debris and asbestos or asbestos-containing materials or products generated outside of the jurisdiction of the district, but inside this state, at construction and demolition debris facilities located in an authorized county and within the district's jurisdiction and at solid waste disposal facilities located in an authorized county and within the district's jurisdiction;

(3) The disposal of construction and demolition debris and asbestos or asbestos-containing

materials or products generated outside the boundaries of this state at construction and demolition debris facilities located in an authorized county and within the district's jurisdiction and at solid waste disposal facilities located in an authorized county and within the jurisdiction of the district.

(B)(1) Beginning on the effective date of this section and expiring one year after the effective date of this section, the fee levied under division (A)(1) of this section shall be not less than thirty-five cents per ton nor more than seventy cents per ton, the fee levied under division (A)(2) of this section shall be not less than seventy cents per ton nor more than one dollar forty cents per ton, and the fee levied under division (A)(3) of this section shall be not more than the fee levied under division (A)(1) of this section.

(2) Beginning one year after the effective date of this section and expiring two years after the effective date of this section, the fee levied under division (A)(1) of this section shall be not less than seventy cents per ton nor more than one dollar forty cents per ton, the fee levied under division (A)(2) of this section shall be not less than one dollar forty cents per ton nor more than two dollars eighty cents per ton, and the fee levied under division (A)(3) of this section shall be not more than the fee levied under division (A)(1) of this section.

(3) Beginning three years after the effective date of this section, such fee shall be levied in accordance with division (E) of section 3714.07 of the Revised Code.

(C) The district shall establish, amend, or repeal a schedule of fees levied pursuant to this division in the same manner that applies to fees levied under division (B) of section 3734.57 of the Revised Code. All procedural requirements governing the administration and collection of solid waste fees levied under divisions (A) and (B) of that section apply to the administration and collection of the construction and demolition debris fees levied under this section and collected by an owner or operator of a solid waste facility or construction and demolition debris facility. Such procedural requirements include requirements governing fee collection and accounting, filing of returns, extensions on returns, discounts, refunds or credits, the conversion rate for fee collection in cubic yards, notices, and district composition changes. Any notices required to be made pursuant to those procedural requirements to the owner or operator of a solid waste facility also shall be provided to the owner or operator of a construction and demolition debris facility for purposes of this division, when applicable.

(D)(1) The solid waste management district may forward seventy-five per cent of the money received from an owner or operator of a facility under this section to the health district in which the facility is located, which shall deposit the money into the special fund established under division (A)(4) of section 3714.07 of the Revised Code to be used solely for the purposes specified in that division. If a solid waste management district does not forward money received under this division to the health district in which the facility is located, the solid waste management district shall retain that money and use it for the purposes specified in division (G) of section 3734.57 of the Revised Code.

(2) The solid waste management district shall forward twenty-five per cent of the money

received from an owner or operator of a facility under this division to the environmental protection agency, which shall deposit half of the money into the environmental protection fund created in section 3745.015 of the Revised Code and half of the money into the waste management fund created in section 3734.061 of the Revised Code.

(3) A solid waste management district shall not levy fees under this section with respect to a construction and demolition debris facility or solid waste facility that is located in a health district that is not on the approved list under section 3714.09 of the Revised Code.

(E) As used in this section, "authorized county" means a county with a population between fifty-three thousand and fifty-eight thousand, according to the most recent decennial census.

SECTION 4. Section 3734.56 of the Revised Code is presented in this act as a composite of the section as amended by both S.B. 153 and S.B. 165 of the 120th General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

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*Speaker* \_\_\_\_\_ *of the House of Representatives.*

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*President* \_\_\_\_\_ *of the Senate.*

Passed \_\_\_\_\_, 20\_\_\_\_

Approved \_\_\_\_\_, 20\_\_\_\_

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*Governor.*

Sub. S. B. No. 147

136th G.A.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

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*Director, Legislative Service Commission.*

Filed in the office of the Secretary of State at Columbus, Ohio, on the \_\_\_\_ day of \_\_\_\_\_, A. D. 20\_\_\_\_.

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*Secretary of State.*

File No. \_\_\_\_\_ Effective Date \_\_\_\_\_