

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Enrolled

Committee Substitute

for

Senate Bill 368

BY SENATORS SWOPE, STOLLINGS, PLYMALE, PHILLIPS,

WOELFEL, SMITH, BALDWIN, AND JEFFRIES

[Passed April 10, 2021; to take effect July 1, 2021]

1 AN ACT to amend and reenact §22-15-11 of the Code of West Virginia, 1931, as amended; to
2 amend and reenact §22-15A-1 and §22-15A-19 of said code; to amend said code by
3 adding thereto a new section, designated §22-15A-30; to amend and reenact §22-16-4
4 and §22-16-12 of said code; to amend and reenact §22C-4-30 of said code; and to amend
5 and reenact §24-2-1m of said code, all relating to regulation of certain waste disposal and
6 processing activities generally; authorizing certain additional solid waste assessment fees;
7 providing for the distribution of the additional solid waste assessment fees; changing the
8 location of certain public roads upon which the moneys of the Gas Field Highway Repair
9 and Horizontal Drilling Waste Study Fund is to be expended for their improvement,
10 maintenance, and repair from those public roads located in the watershed from which
11 certain revenues are received to those public roads located in the county where the waste
12 is generated; providing that those funds only be expended through the Division of
13 Highways county office in that county; exempting certain mixed waste processing and
14 resource recovery facilities from certain fees and assessments; providing legislative
15 findings; authorizing the Department of Environmental Protection to develop the
16 Reclamation of Abandoned and Dilapidated Properties Program to assist county
17 commissions or municipalities in their efforts to remediate abandoned and dilapidated
18 structures; creating a special revenue fund to be known as the Reclamation of Abandoned
19 and Dilapidated Properties Program Fund; permitting the payment of excess money from
20 the Solid Waste Facility Closure Cost Assistance Fund into the Reclamation of Abandoned
21 and Dilapidated Properties Program Fund; authorizing increases in certain solid waste
22 assessment fees; providing that the jurisdiction of the West Virginia Public Service
23 Commission does not extend to these mixed waste processing and resource recovery
24 facilities; and providing effective date.

Be it enacted by the Legislature of West Virginia:

CHAPTER 22. ENVIRONMENTAL RESOURCES.

ARTICLE 15. SOLID WASTE MANAGEMENT ACT.

§22-15-11. Solid waste assessment fee; penalties.

1 (a) *Imposition.* —

2 (1) A solid waste assessment fee is hereby imposed upon the disposal of solid waste at
3 any solid waste disposal facility in this state in the amount of \$1.75 per ton or part thereof of solid
4 waste. The fee imposed by this section is in addition to all other fees and taxes levied by law and
5 shall be added to and constitute part of any other fee charged by the operator or owner of the
6 solid waste disposal facility.

7 (2) Effective July 1, 2021, in addition to the fee set forth in subdivision (1) of this
8 subsection, an additional solid waste assessment fee shall be levied and imposed upon the
9 disposal of solid waste at any solid waste landfill disposal facility in this state. This additional fee
10 shall be in the amount of 20 cents per ton beginning July 1, 2021, 40 cents per ton beginning July
11 1, 2022, 60 cents per ton beginning July 1, 2023, 80 cents per ton beginning July 1, 2024, and
12 \$1.00 per ton beginning July 1, 2025, thereafter or like ratio on any part of a ton of solid waste.
13 The additional fee set forth in this subdivision shall be distributed as follows:

14 (A) Twenty-five percent of the additional fee shall be distributed equally to each county or
15 regional solid waste authority; and

16 (B) Seventy-five percent of the additional fee shall be distributed on a per capita basis to
17 each county or regional solid waste authority based on the most recent population projections
18 from the United States Census Bureau.

19 The proceeds from this fee are to be expended for the reasonable costs of administration
20 of the county or regional solid waste authority including the necessary and reasonable expenses
21 of its members, and any other expenses incurred from refuse cleanup, recycling programs, litter
22 control programs, or any other locally important solid waste programs deemed necessary to fulfill

23 its duties. The Tax Commissioner may promulgate interpretive rules to provide for the distribution
24 of funds as provided by this subdivision.

25 (b) *Collection, return, payment, and records.* — The person disposing of solid waste at the
26 solid waste disposal facility shall pay the fees imposed by this section, whether or not such person
27 owns the solid waste, and the fees shall be collected by the operator of the solid waste facility
28 who shall remit it to the Tax Commissioner.

29 (1) The fees imposed by this section accrues at the time the solid waste is delivered to the
30 solid waste disposal facility.

31 (2) The operator shall remit the fees imposed by this section to the Tax Commissioner on
32 or before the 15th day of the month next succeeding the month in which the fees accrued. Upon
33 remittance of the fees, the operator is required to file returns on forms and in the manner as
34 prescribed by the Tax Commissioner.

35 (3) The operator shall account to the state for all fees collected under this section and shall
36 hold them in trust for the state until remitted to the Tax Commissioner.

37 (4) If any operator fails to collect the fees imposed by this section, he or she is personally
38 liable for such amount as he or she failed to collect, plus applicable additions to tax, penalties,
39 and interest imposed by §11-10-1 *et seq.* of this code.

40 (5) Whenever any operator fails to collect, truthfully account for, remit the fees, or file
41 returns with the fees as required in this section, the Tax Commissioner may serve written notice
42 requiring such operator to collect the fees which become collectible after service of such notice,
43 to deposit such fees in a bank approved by the Tax Commissioner, in a separate account, in trust
44 for and payable to the Tax Commissioner and to keep the amount of such fees in such account
45 until remitted to the Tax Commissioner. Such notice remains in effect until a notice of cancellation
46 is served on the operator or owner by the Tax Commissioner.

47 (6) Whenever the owner of a solid waste disposal facility leases the solid waste facility to
48 an operator, the operator is primarily liable for collection and remittance of the fees imposed by

49 this section and the owner is secondarily liable for remittance of the fees imposed by this section.
50 However, if the operator fails, in whole or in part, to discharge his or her obligations under this
51 section, the owner and the operator of the solid waste facility are jointly and severally responsible
52 and liable for compliance with the provisions of this section.

53 (7) If the operator or owner responsible for collecting the fees imposed by this section is
54 an association or corporation, the officers thereof are liable, jointly and severally, for any default
55 on the part of the association or corporation, and payment of the fees and any additions to tax,
56 penalties, and interest imposed by §11-10-1 *et seq.* of this code may be enforced against them
57 as against the association or corporation which they represent.

58 (8) Each person disposing of solid waste at a solid waste disposal facility and each person
59 required to collect the fees imposed by this section shall keep complete and accurate records in
60 such form as the Tax Commissioner may require in accordance with the rules of the Tax
61 Commissioner.

62 (c) *Regulated motor carriers.* — The fees imposed by this section and §7-5-22 of this code
63 is considered a necessary and reasonable cost for motor carriers of solid waste subject to the
64 jurisdiction of the Public Service Commission under chapter 24A of this code. Notwithstanding
65 any provision of law to the contrary, upon the filing of a petition by an affected motor carrier, the
66 Public Service Commission shall, within 14 days, reflect the cost of said fees in said motor carrier's
67 rates for solid waste removal service. In calculating the amount of said fees to said motor carrier,
68 the commission shall use the national average of pounds of waste generated per person per day
69 as determined by the United States Environmental Protection Agency.

70 (d) *Definition of "solid waste disposal facility".* — For purposes of this section, the term
71 "solid waste disposal facility" means any approved solid waste facility or open dump in this state,
72 and includes a transfer station when the solid waste collected at the transfer station is not finally
73 disposed of at a solid waste disposal facility within this state that collects the fees imposed by this

74 section. Nothing herein authorizes in any way the creation or operation of or contribution to an
75 open dump.

76 (e) *Exemptions.* — The following transactions are exempt from the fees imposed by this
77 section:

78 (1) Disposal of solid waste at a solid waste facility: (A) By the person who owns, operates,
79 or leases the solid waste disposal facility if it is used exclusively to dispose of waste originally
80 produced by that person in his or her regular business or personal activities; (B) by persons
81 utilizing the facility on a cost-sharing or nonprofit basis; or (C) by a mixed waste processing and
82 resource recovery facility as those facilities are defined in code or rule and which processes a
83 minimum of 70 percent of the material brought to the facility on any given day on a 30-day
84 aggregate basis;

85 (2) Reuse or recycling of any solid waste;

86 (3) Disposal of residential solid waste by an individual not in the business of hauling or
87 disposing of solid waste on such days and times as designated by the secretary is exempt from
88 the solid waste assessment fees; and

89 (4) Disposal of solid waste at a solid waste disposal facility by a commercial recycler which
90 disposes of 30 percent or less of the total waste it processes for recycling. In order to qualify for
91 this exemption each commercial recycler must keep accurate records of incoming and outgoing
92 waste by weight. Such records must be made available to the appropriate inspectors from the
93 division, upon request.

94 (f) *Procedure and administration.* — Notwithstanding §11-10-3 of this code, each and
95 every provision of the West Virginia Tax Procedure and Administration Act set forth in §11-10-1
96 *et seq.* of this code shall apply to the imposed by this section with like effect as if said act were
97 applicable only to the fees imposed by this section and were set forth in extenso herein.

98 (g) *Criminal penalties.* — Notwithstanding §11-9-2 of this code, sections three through
99 seventeen, article nine, chapter eleven of this code shall apply to the fees imposed by this section

100 with like effect as if said sections were applicable only to the fees imposed by this section and
101 were set forth in extenso herein.

102 (h) *Dedication of proceeds.* – Except as provided in subdivision (2), subsection (a) of this
103 section, the net proceeds of the fees collected by the Tax Commissioner pursuant to this section
104 shall be deposited at least monthly in an account designated by the secretary. The secretary shall
105 allocate 25 cents for each ton of solid waste disposed of in this state upon which the fees imposed
106 by this section is collected and shall deposit the total amount so allocated into the Solid Waste
107 Reclamation and Environmental Response Fund to be expended for the purposes hereinafter
108 specified. The first \$1 million of the net proceeds of the fees imposed by this section collected in
109 each fiscal year shall be deposited in the Solid Waste Enforcement Fund and expended for the
110 purposes hereinafter specified. The next \$250,000 of the net proceeds of the fees imposed by
111 this section collected in each fiscal year shall be deposited in the Solid Waste Management Board
112 Reserve Fund, and expended for the purposes hereinafter specified: *Provided*, That in any year
113 in which the Water Development Authority determines that the Solid Waste Management Board
114 Reserve Fund is adequate to defer any contingent liability of the fund, the Water Development
115 Authority shall so certify to the secretary and the secretary shall then cause no less than \$50,000
116 nor more than \$250,000 to be deposited to the fund: *Provided, however*, That in any year in which
117 the Water Development Authority determines that the Solid Waste Management Board Reserve
118 Fund is inadequate to defer any contingent liability of the fund, the Water Development Authority
119 shall so certify to the secretary and the secretary shall then cause not less than \$250,000 nor
120 more than \$500,000 to be deposited in the fund: *Provided further*, That if a facility owned or
121 operated by the State of West Virginia is denied site approval by a county or regional solid waste
122 authority, and if such denial contributes, in whole or in part, to a default, or drawing upon a reserve
123 fund, on any indebtedness issued or approved by the Solid Waste Management Board, then in
124 that event the Solid Waste Management Board or its fiscal agent may withhold all or any part of
125 any funds which would otherwise be directed to such county or regional authority and shall deposit

126 such withheld funds in the appropriate reserve fund. The secretary shall allocate the remainder,
127 if any, of said net proceeds among the following three special revenue accounts for the purpose
128 of maintaining a reasonable balance in each special revenue account, which are hereby continued
129 in the State Treasury:

130 (1) The Solid Waste Enforcement Fund which shall be expended by the secretary for
131 administration, inspection, enforcement, and permitting activities established pursuant to this
132 article;

133 (2) The Solid Waste Management Board Reserve Fund which shall be exclusively
134 dedicated to providing a reserve fund for the issuance and security of solid waste disposal
135 revenue bonds issued by the solid waste management board pursuant to §22C-3-1 *et seq.* of this
136 code;

137 (3) The Solid Waste Reclamation and Environmental Response Fund which may be
138 expended by the secretary for the purposes of reclamation, cleanup, and remedial actions
139 intended to minimize or mitigate damage to the environment, natural resources, public water
140 supplies, water resources and the public health, safety, and welfare which may result from open
141 dumps or solid waste not disposed of in a proper or lawful manner.

142 (i) *Findings.* — In addition to the purposes and legislative findings set forth in §22-15-1 of
143 this code, the Legislature finds as follows:

144 (1) In-state and out-of-state locations producing solid waste should bear the responsibility
145 of disposing of said solid waste or compensate other localities for costs associated with accepting
146 such solid waste;

147 (2) The costs of maintaining and policing the streets and highways of the state and its
148 communities are increased by long distance transportation of large volumes of solid waste; and

149 (3) Local approved solid waste facilities are being prematurely depleted by solid waste
150 originating from other locations.

151 (j) The Gas Field Highway Repair and Horizontal Drilling Waste Study Fund is hereby
152 created as a special revenue fund in the State Treasury to be administered by the West Virginia
153 Division of Highways and to be expended only on the improvement, maintenance, and repair of
154 public roads of three lanes or less located in the county where the waste is generated through the
155 Division of Highways county office in that county that are identified by the Commissioner of the
156 Division of Highways as having been damaged by trucks and other traffic associated with
157 horizontal well drilling sites or the disposal of waste generated by such sites, and that experience
158 congestion caused, in whole or in part, by such trucks and traffic that interferes with the use of
159 said roads by residents in the vicinity of such roads: *Provided*, That up to \$750,000 from such
160 fund shall be made available to the Department of Environmental Protection from the same fund
161 to offset contracted costs incurred by the Department of Environmental Protection while
162 undertaking the horizontal drilling waste disposal studies mandated by the provisions of §22-15-
163 8(j) of this code. Any balance remaining in the special revenue account at the end of any fiscal
164 year shall not revert to the General Revenue Fund but shall remain in the special revenue account
165 and shall be used solely in a manner consistent with this section. The fund shall consist of the fee
166 provided for in subsection (k) of this section.

167 (k) *Horizontal drilling waste assessment fee.* — An additional solid waste assessment fee
168 is hereby imposed upon the disposal of drill cuttings and drilling waste generated by horizontal
169 well sites in the amount of \$1 per ton, which fee is in addition to all other fees and taxes levied by
170 this section or otherwise and shall be added to and constitute part of any other fee charged by
171 the operator or owner of the solid waste disposal facility: *Provided*, That the horizontal drilling
172 waste assessment fee shall be collected and administered in the same manner as the solid waste
173 assessment fee imposed by this section, but shall be imposed only upon the disposal of drill
174 cuttings and drilling waste generated by horizontal well sites.

**ARTICLE 15A. THE A. JAMES MANCHIN REHABILITATION ENVIRONMENTAL ACTION
PLAN.**

§22-15A-1. Legislative findings and purpose.

1 (a) The Legislature finds that litter is a public nuisance and distracts from the beauty of
2 the state and its natural resources. It is therefore necessary to establish and implement a litter
3 control program to coordinate public and private litter control efforts; to establish penalties for
4 littering; to provide for litter pickup programs; to create education programs; and to provide
5 assistance to local solid waste authority litter control efforts.

6 (b) The Legislature further finds that the improper management of commercial and
7 residential solid waste and the unlawful disposal of such waste create open dumps that adversely
8 impact the state's natural resources, public water supplies, and the public health, safety, and
9 welfare of the citizens of the state. It is therefore necessary to establish a program to promote
10 pollution prevention and to eliminate and remediate open dumps.

11 (c) The Legislature further finds that waste tire piles are a direct product of state citizens'
12 use and enjoyment of state roads and highways, and proper tire waste disposal is a necessary
13 component of maintenance of the transportation system. The accumulation of waste tires has
14 also become a significant environmental and public health hazard to the state, and the location
15 and number of waste tires are directly related to the efficiency of travel, by citizens, visitors, and
16 commerce, along public highways in West Virginia. In particular, the Legislature recognizes that
17 waste tires are widespread in location and in number throughout the state; waste tires physically
18 touch and concern public highways, including, but not limited to, state roads, county roads, park
19 roads, secondary routes, and orphan roads, all of which interferes with the efficiency of public
20 highways; and further that the existence of waste tires along and near public highways is
21 sometimes accompanied by other hazards and, in turn, adversely impacts the proper
22 maintenance and efficiency of public highways for citizens.

23 (d) The Legislature also recognizes and declares that waste tires are a public nuisance
24 and hazard; that waste tires serve as harborage and breeding places for rodents, mosquitoes,
25 fleas, ticks, and other insects and pests injurious to the public health, safety, and general welfare;

26 that waste tires collected in large piles pose an excessive risk to public health, safety, and welfare
27 from disease or fire; that the environmental, economic, and societal damage resulting from fires
28 in waste tire piles can be avoided by removing the piles; and that tire pile fires cause extensive
29 pollution of the air and surface and groundwater for miles downwind and downstream from the
30 fire.

31 (e) Therefore, in view of the findings relating to waste tires, the Legislature declares it to
32 be the public policy of the State of West Virginia to eliminate the present danger resulting from
33 discarded or abandoned waste tires and to eliminate the visual pollution resulting from waste tire
34 piles and that in order to provide for the public health, safety, welfare, and quality of life, and to
35 reverse the adverse impacts to the proper maintenance and efficiency of public highways, it is
36 necessary to enact legislation to those ends by providing expeditious means and methods for
37 effecting the disposal of waste tires.

38 (f) The Legislature further finds that abandoned and dilapidated structures statewide have
39 become a significant hazard and can result in the formation of open dumps or solid waste not
40 disposed of in a proper or lawful manner. In particular, the Legislature recognizes that damage to
41 the environment, natural resources, and the public health, safety, and welfare may result from
42 abandoned and dilapidated structures. Abandoned and dilapidated structures are widespread in
43 location and in number throughout the state; and further, that the existence of abandoned and
44 dilapidated structures along and near public highways is sometimes accompanied by other
45 hazards and, in turn, adversely impacts the proper maintenance and efficiency of public highways
46 for citizens.

47 (g) In view of the findings relating to abandoned and dilapidated structures, the Legislature
48 declares it to be the public policy of the State of West Virginia to establish a program to eliminate
49 and remediate abandoned and dilapidated structures.

50 (h) The Legislature finds that many citizens desire a recycling program in order to conserve
51 limited natural resources, reduce litter, recycle valuable materials, extend the useful life of solid

52 waste landfills, reduce the need for new landfills, and create markets for recyclable materials. It
53 is therefore necessary to establish goals for recycling solid waste; to require certain municipalities
54 to implement recycling programs; to authorize counties to adopt comprehensive recycling
55 programs; to encourage source separation of solid waste; to increase the purchase of recycled
56 products by the various agencies and instrumentalities of government; and to educate the public
57 concerning the benefits of recycling.

58 (i) The Legislature finds that the effectiveness of litter control, open dump, tire cleanup
59 programs and recycling programs have been made less efficient by fragmented implementation
60 of the various programs by different agencies. It is therefore necessary to coordinate all such
61 programs under one program managed by the department to ensure that all current and future
62 litter, open dump, waste tire, and recycling issues are managed and addressed efficiently and
63 effectively.

64 (j) This article implements the A. James Manchin Rehabilitation Environmental Action
65 Plan, a coordinated effort to address litter, waste, open dump, tire cleanup, and recycling
66 programs.

**§22-15A-19. Recycling assessment fee; regulated motor carriers; dedication of proceeds;
criminal penalties.**

1 (a) *Imposition.* — A recycling assessment fee is hereby levied and imposed upon the
2 disposal of solid waste at all solid waste disposal facilities in this state, to be collected at the rate
3 of \$2 per ton or part of a ton of solid waste. The fee imposed by this section is in addition to all
4 other fees levied by law.

5 (b) *Collection, return, payment, and records.* — The person disposing of solid waste at the
6 solid waste disposal facility shall pay the fee imposed by this section, whether or not that person
7 owns the solid waste, and the fee shall be collected by the operator of the solid waste facility who
8 shall remit it to the Tax Commissioner:

9 (1) The fee imposed by this section accrues at the time the solid waste is delivered to the

10 solid waste disposal facility;

11 (2) The operator shall remit the fee imposed by this section to the Tax Commissioner on
12 or before the 15th day of the month next succeeding the month in which the fee accrued. Upon
13 remittance of the fee, the operator shall file returns on forms and in the manner as prescribed by
14 the Tax Commissioner;

15 (3) The operator shall account to the state for all fees collected under this section and shall
16 hold them in trust for the state until they are remitted to the Tax Commissioner;

17 (4) If any operator fails to collect the fee imposed by this section, he or she is personally
18 liable for the amount that he or she failed to collect, plus applicable additions to tax, penalties and
19 interest imposed by §11-10-1 *et seq.* of this code;

20 (5) Whenever any operator fails to collect, truthfully account for, remit the fee or file returns
21 with the fee as required in this section, the Tax Commissioner may serve written notice requiring
22 the operator to collect the fees which become collectible after service of the notice, to deposit the
23 fees in a bank approved by the Tax Commissioner, in a separate account, in trust for and payable
24 to the Tax Commissioner, and to keep the amount of the fees in the account until remitted to the
25 Tax Commissioner. The notice remains in effect until a notice of cancellation is served on the
26 operator or owner by the Tax Commissioner;

27 (6) Whenever the owner of a solid waste disposal facility leases the solid waste facility to
28 an operator, the operator is primarily liable for collection and remittance of the fee imposed by
29 this section and the owner is secondarily liable for remittance of the fee imposed by this section.
30 However, if the operator fails, in whole or in part, to discharge his or her obligations under this
31 section, the owner and the operator of the solid waste facility are jointly and severally responsible
32 and liable for compliance with the provisions of this section;

33 (7) If the operator or owner responsible for collecting the fee imposed by this section is an
34 association or corporation, the officers of the association or corporation are liable, jointly and
35 severally, for any default on the part of the association or corporation, and payment of the fee and

36 any additions to tax, penalties and interest imposed by §11-10-1 *et seq.* of this code may be
37 enforced against them and against the association or corporation which they represent; and

38 (8) Each person disposing of solid waste at a solid waste disposal facility and each person
39 required to collect the fee imposed by this section shall keep complete and accurate records in
40 the form required by the Tax Commissioner in accordance with the rules of the Tax Commissioner.

41 (c) *Regulated motor carriers.* — The fee imposed by this section is a necessary and
42 reasonable cost for motor carriers of solid waste subject to the jurisdiction of the Public Service
43 Commission under §24A-1-1 *et seq.* of this code. Notwithstanding any provision of law to the
44 contrary, upon the filing of a petition by an affected motor carrier, the Public Service Commission
45 shall, within 14 days, reflect the cost of the fee in the motor carrier's rates for solid waste removal
46 service. In calculating the amount of the fee to the motor carrier, the commission shall use the
47 national average of pounds of waste generated per person per day as determined by the United
48 States Environmental Protection Agency.

49 (d) *Definition.* — For purposes of this section, "solid waste disposal facility" means any
50 approved solid waste facility or open dump in this state and includes a transfer station when the
51 solid waste collected at the transfer station is not finally disposed of at a solid waste facility within
52 this state that collects the fee imposed by this section.

53 Nothing in this section authorizes in any way the creation or operation of or contribution to
54 an open dump.

55 (e) *Exemptions.* — The following transactions are exempt from the fee imposed by this
56 section:

57 (1) Disposal of solid waste at a solid waste facility: (A) By the person who owns, operates,
58 or leases the solid waste disposal facility if it is used exclusively to dispose of waste originally
59 produced by that person in his or her regular business or personal activities; (B) by persons
60 utilizing the facility on a cost-sharing or nonprofit basis; or (C) by a mixed waste processing and
61 resource recovery facility as those facilities are defined in code or rule and which processes a

62 minimum of 70 percent of the material brought to the facility on any given day on a 30-day
63 aggregate basis;

64 (2) Reuse or recycling of any solid waste; and

65 (3) Disposal of residential solid waste by an individual not in the business of hauling or
66 disposing of solid waste on the days and times designated by the secretary by rule as exempt
67 from the fee imposed pursuant to §22-15-11 of this code.

68 (f) *Procedure and administration.* — Notwithstanding the provisions of §11-10-3 of this
69 code, each and every provision of the West Virginia Tax Procedure and Administration Act set
70 forth in §11-10-1 *et seq.* of this code applies to the fee imposed by this section with like effect as
71 if the act were applicable only to the fee imposed by this section and were set forth in extenso in
72 this section.

73 (g) *Criminal penalties.* — Notwithstanding §11-9-2 and §11-9-3 through §11-9-17,
74 inclusive, of this code apply to the fee imposed by this section with like effect as if the sections
75 were the only fee imposed by this section and were set forth in extenso in this section.

76 (h) *Dedication of proceeds.* — The proceeds of the fee collected pursuant to this section
77 shall be deposited by the Tax Commissioner, at least monthly, in a special revenue account
78 designated as the Recycling Assistance Fund which is hereby continued and transferred to the
79 Department of Environmental Protection. The secretary shall allocate the proceeds of the fund as
80 follows:

81 (1) Fifty percent of the total proceeds shall be provided in grants to assist municipalities,
82 counties, and other interested parties in the planning and implementation of recycling programs,
83 public education programs and recycling market procurement efforts, established pursuant to this
84 article. The secretary shall promulgate rules, in accordance with. §29A-3-1 *et seq.* of this code,
85 containing application procedures, guidelines for eligibility, reporting requirements, and other
86 matters considered appropriate: *Provided*, That persons responsible for collecting, hauling, or
87 disposing of solid waste who do not participate in the collection and payment of the solid waste

88 assessment fee imposed by this section in addition to all other fees and taxes levied by law for
89 solid waste generated in this state which is destined for disposal, are not eligible to receive grants
90 under the provisions of this article;

91 (2) Twelve and one-half percent of the total proceeds shall be expended for personal
92 services and benefit expenses of full-time salaried natural resources police officers;

93 (3) Twelve and one-half percent of the total proceeds shall be directly allocated to the solid
94 waste planning fund;

95 (4) Twelve and one-half percent of the total proceeds shall be transferred to the Solid
96 Waste Reclamation and Environmental Response Fund, established pursuant to §22-15-11 of
97 this code, to be expended by the Department of Environmental Protection to assist in the funding
98 of the pollution prevention and open dumps program which encourages recycling, reuse, waste
99 reduction, and clean-up activities; and

100 (5) Twelve and one-half percent of the total proceeds shall be deposited in the Hazardous
101 Waste Emergency Response Fund established in §22-19-1 *et seq.* of this code.

§22-15A-30. Reclamation of Abandoned and Dilapidated Properties Program.

1 (a) To assist county commissions or municipalities in their efforts to remediate abandoned
2 and dilapidated structures as provided by §7-1-3ff and §8-38-5 of this code, the Department of
3 Environmental Protection may develop a program called the Reclamation of Abandoned and
4 Dilapidated Properties Program. Using the fund established in subsection (b) of this section, the
5 Department of Environmental Protection may work with county commissions or municipalities and
6 implement redevelopment plans which will, at a minimum, establish prioritized inventories of
7 structures eligible to participate in the program, offer reuse options for high-priority sites, and
8 recommend actions county commissions or municipalities may take to remediate abandoned and
9 dilapidated structures in their communities.

10 (b) There is created in the State Treasury a special revenue fund known as the
11 Reclamation of Abandoned and Dilapidated Properties Program Fund. The fund shall be

12 comprised of any money granted by charitable foundations, allocated by the Legislature, allocated
13 from federal agencies, and earned from the investment of money held in the fund, and all other
14 money designated for deposit to the fund from any source, public or private. The fund shall
15 operate as a special revenue fund and all deposits and payments into the fund do not expire to
16 the General Revenue Fund but shall remain in the account and be available for expenditure in
17 succeeding fiscal years.

18 (c) The fund, to the extent that money is available, may be used solely to assist county
19 commissions or municipalities in remediating abandoned and dilapidated structures in their
20 communities by demolishing or deconstructing them and other activities as authorized by a
21 charitable grant or legislative appropriation. The fund may also be used to defray costs incurred
22 by the Department of Environmental Protection in administering the provisions of this section.
23 However, no more than five percent of money transferred from the Solid Waste Facility Closure
24 Cost Assistance Fund may be used for administrative purposes.

25 (d) The Department of Environmental Protection may promulgate rules, in accordance
26 with the provisions of §29A-3-1 *et seq.* of this code, to govern the disbursement of money from
27 the fund, establish the Reclamation of Abandoned and Dilapidated Properties Program, direct the
28 distribution of money from the fund, and establish criteria for eligibility to receive money from the
29 fund.

30 (e) Nothing in this section shall be construed to limit, restrain, or otherwise discourage this
31 state and its political subdivisions from disposing of abandoned and dilapidated structures in any
32 other manner provided by the laws of this state.

ARTICLE 16. SOLID WASTE LANDFILL CLOSURE ASSISTANCE PROGRAM.

§22-16-4. Solid waste assessment fee; penalties.

1 (a) *Imposition.* — A solid waste assessment fee is levied and imposed upon the disposal
2 of solid waste at any solid waste disposal facility in this state in the amount of \$3.30 per ton
3 beginning July 1, 2021, \$3.10 per ton beginning July 1, 2022, \$2.90 per ton beginning July 1,

4 2023, \$2.70 per ton beginning July 1, 2024, and \$2.50 per ton beginning July 1, 2025, and
5 thereafter or like ratio on any part of a ton of solid waste, except as provided in subsection (e) of
6 this section: *Provided*, That any solid waste disposal facility may deduct from this assessment fee
7 an amount, not to exceed the fee, equal to the amount that the facility is required by the Public
8 Service Commission to set aside for the purpose of closure of that portion of the facility required
9 to close by article fifteen of this chapter. The fee imposed by this section is in addition to all other
10 fees and taxes levied by law and shall be added to and constitute part of any other fee charged
11 by the operator or owner of the solid waste disposal facility.

12 (b) *Collection, return, payment, and records.* — The person disposing of solid waste at the
13 solid waste disposal facility shall pay the fee imposed by this section, whether or not that person
14 owns the solid waste, and the fee shall be collected by the operator of the solid waste facility who
15 shall remit it to the Tax Commissioner:

16 (1) The fee imposed by this section accrues at the time the solid waste is delivered to the
17 solid waste disposal facility;

18 (2) The operator shall remit the fee imposed by this section to the Tax Commissioner on
19 or before the 15th day of the month next succeeding the month in which the fee accrued. Upon
20 remittance of the fee, the operator shall file returns on forms and in the manner prescribed by the
21 Tax Commissioner;

22 (3) The operator shall account to the state for all fees collected under this section and shall
23 hold them in trust for the state until they are remitted to the Tax Commissioner;

24 (4) If any operator fails to collect the fee imposed by this section, he or she is personally
25 liable for the amount he or she failed to collect, plus applicable additions to tax, penalties, and
26 interest imposed by §11-10-1 *et seq.* of this code;

27 (5) Whenever any operator fails to collect, truthfully account for, remit the fee, or file returns
28 with the fee as required in this section, the Tax Commissioner may serve written notice requiring
29 the operator to collect the fees which become collectible after service of the notice, to deposit the

30 fees in a bank approved by the Tax Commissioner, in a separate account, in trust for and payable
31 to the Tax Commissioner, and to keep the amount of the fees in the account until remitted to the
32 Tax Commissioner. The notice shall remain in effect until a notice of cancellation is served on the
33 operator or owner by the Tax Commissioner;

34 (6) Whenever the owner of a solid waste disposal facility leases the solid waste facility to
35 an operator, the operator is primarily liable for collection and remittance of the fee imposed by
36 this section and the owner is secondarily liable for remittance of the fee imposed by this section.
37 However, if the operator fails, in whole or in part, to discharge his or her obligations under this
38 section, the owner and the operator of the solid waste facility are jointly and severally responsible
39 and liable for compliance with the provisions of this section;

40 (7) If the operator or owner responsible for collecting the fee imposed by this section is an
41 association or corporation, the officers of the association or corporation are liable, jointly and
42 severally, for any default on the part of the association or corporation, and payment of the fee and
43 any additions to tax, penalties and interest imposed by §11-10-1 *et seq.* of this code may be
44 enforced against them as against the association or corporation which they represent; and

45 (8) Each person disposing of solid waste at a solid waste disposal facility and each person
46 required to collect the fee imposed by this section shall keep complete and accurate records in
47 the form required by the Tax Commissioner in accordance with the rules of the Tax Commissioner.

48 (c) *Regulated motor carriers.* — The fee imposed by this section is a necessary and
49 reasonable cost for motor carriers of solid waste subject to the jurisdiction of the Public Service
50 Commission under chapter 24A of this code. Notwithstanding any provision of law to the contrary,
51 upon the filing of a petition by an affected motor carrier, the Public Service Commission shall,
52 within 14 days, reflect the cost of the fee in the motor carrier's rates for solid waste removal
53 service. In calculating the amount of the fee to the motor carrier, the commission shall use the
54 national average of pounds of waste generated per person per day as determined by the United
55 States Environmental Protection Agency.

56 (d) *Definitions.* — For purposes of this section, the term “solid waste disposal facility”
57 means any approved solid waste facility or open dump in this state, and includes a transfer station
58 when the solid waste collected at the transfer station is not finally disposed of at a solid waste
59 facility within this state that collects the fee imposed by this section. Nothing in this section
60 authorizes in any way the creation or operation of or contribution to an open dump.

61 (e) *Exemptions.* — The following transactions are exempt from the fee imposed by this
62 section:

63 (1) Disposal of solid waste at a solid waste facility: (A) By the person who owns, operates,
64 or leases the solid waste disposal facility if it is used exclusively to dispose of waste originally
65 produced by that person in his or her regular business or personal activities; (B) by persons
66 utilizing the facility on a cost-sharing or nonprofit basis; or (C) by a mixed waste processing and
67 resource recovery facility as those facilities are defined in code or rule and which processes a
68 minimum of 70 percent of the material brought to the facility on any given day on a 30-day
69 aggregate basis;

70 (2) Reuse or recycling of any solid waste;

71 (3) Disposal of residential solid waste by an individual not in the business of hauling or
72 disposing of solid waste on the days and times designated by the director as exempt from the
73 solid waste assessment fee; and

74 (4) Disposal of solid waste at a solid waste disposal facility by a commercial recycler which
75 disposes of 30 percent or less of the total waste it processes for recycling. In order to qualify for
76 this exemption each commercial recycler shall keep accurate records of incoming and outgoing
77 waste by weight. The records shall be made available to the appropriate inspectors from the
78 division, upon request.

79 (f) *Procedure and administration.* — Notwithstanding §11-10-3 of this code, each and
80 every provision of the West Virginia Tax Procedure and Administration Act set forth in §11-10-1

81 *et seq.* of this code applies to the fee imposed by this section with like effect as if the act were
82 applicable only to the fee imposed by this section and were set forth in extenso in this section.

83 (g) *Criminal penalties.* — Notwithstanding §11-9-2 and §11-9-3 through §11-9-17 of this
84 code apply to the fee imposed by this section with like effect as if the sections were applicable
85 only to the fee imposed by this section and were set forth in extenso in this section.

86 (h) *Dedication of proceeds.* — (1) The proceeds of the fee collected pursuant to this
87 section shall be deposited in the closure cost assistance fund established pursuant to §22-16-12
88 of this code: *Provided*, That the director may transfer up to 50 cents for each ton of solid waste
89 disposed of in this state upon which the fee imposed by this section is collected on or after July
90 1, 1998, to the solid waste enforcement fund established pursuant to §22-15-11 of this code.

91 (2) Fifty percent of the proceeds of the fee collected pursuant to this article in excess of
92 30,000 tons per month from any landfill which is permitted to accept in excess of 30,000 tons per
93 month pursuant to §22-15-9 of this code shall be remitted, at least monthly, to the county
94 commission in the county in which the landfill is located. The remainder of the proceeds of the fee
95 collected pursuant to this section shall be deposited in the closure cost assistance fund
96 established pursuant to §22-16-12 of this code.

**§22-16-12. Solid Waste Facility Closure Cost Assistance Fund; closure extension;
reporting requirements.**

1 (a) The Solid Waste Facility Closure Cost Assistance Fund continues as a special revenue
2 account in the State Treasury. The fund operates as a special fund in which all deposits and
3 payments do not expire to the General Revenue Fund, but remain in the account and are available
4 for expenditure in the succeeding fiscal year. Separate subaccounts may be established within
5 the special account for the purpose of identification of various revenue resources and payment of
6 specific obligations.

7 (b) Interest earned on any money in the fund shall be deposited to the credit of the fund.

8 (c) The fund consists of the following:

9 (1) Moneys collected and deposited in the State Treasury which are specifically
10 designated by Acts of the Legislature for inclusion in the fund, including moneys collected and
11 deposited into the fund pursuant to §22-16-4 of this code;

12 (2) Contributions, grants, and gifts from any source, both public and private, which may
13 be used by the secretary for any project or projects;

14 (3) Amounts repaid by permittees pursuant to §22-15-18 of this code; and

15 (4) All interest earned on investments made by the state from moneys deposited in this
16 fund.

17 (d) The Solid Waste Management Board, upon written approval of the secretary, has the
18 authority to pledge all or part of the revenues paid into the Solid Waste Facility Closure Cost
19 Assistance Fund as needed to meet the requirements of any revenue bond issue or issues of the
20 Solid Waste Management Board authorized by this article, including the payment of principal of,
21 interest and redemption premium, if any, on the revenue bonds and the establishing and
22 maintaining of a reserve fund or funds for the payment of the principal of, interest and redemption
23 premium, if any, on the revenue bond issue or issues where other moneys pledged may be
24 insufficient. Any pledge of moneys in the Solid Waste Facility Closure Cost Assistance Fund for
25 revenue bonds is a prior and superior charge on the fund over the use of any of the moneys in
26 the fund to pay for the cost of any project on a cash basis. Expenditures from the fund, other than
27 for the retirement of revenue bonds, may only be made in accordance with this article.

28 (e) The amounts deposited in the fund may be expended only on the cost of projects as
29 provided in §22-16-3 and §22-16-15 of this code, as provided in subsection (f) of this section, and
30 for payment of bonds and notes issued pursuant to §22-16-5 of this code. No more than two
31 percent of the annual deposits to the fund may be used for administrative purposes.

32 (f) Notwithstanding any provision of this article, upon request of the Solid Waste
33 Management Board, and with the approval of the projects by the Secretary of the Department of
34 Environmental Protection, the secretary may pledge and place into escrow accounts up to an

35 aggregate of \$2 million of the fund to satisfy two years debt service requirement that permittees
36 of publicly owned landfills and transfer stations are required to meet in order to obtain loans.
37 Pledges shall be made on a project-by-project basis, may not exceed \$500,000 for a project, and
38 are made available after loan commitments are received. The secretary may pledge funds for a
39 loan only when the following conditions are met:

40 (1) The proceeds of the loan are used only to perform construction of a transfer station or
41 a composite liner system that is required to meet Title 47, Series 38, Solid Waste Management
42 Rules;

43 (2) The permittee dedicates all yearly debt service revenue, as determined by the Public
44 Service Commission, to meet the repayment schedule of the loan, before it uses available
45 revenue for any other purpose; and

46 (3) That any funds pledged may only be paid to the lender if the permittee is in default on
47 the loan.

48 (g) Notwithstanding any provision of this code to the contrary, the Elkins-Randolph County
49 Landfill, located in Randolph County, and the Webster County Landfill, located in Webster County,
50 are eligible for funds from the Solid Waste Facility Closure Cost Assistance Fund necessary to
51 complete their closure upon the filing of appropriate application. Upon the filing of an appropriate
52 application, the Department of Environmental Protection shall work with the applicant to ensure
53 the application meets the department's requirements.

54 (h) The Department of Environmental Protection is required to file, by January 1 of each
55 year, an annual report with the Joint Committee on Government and Finance providing details on
56 the manner in which the landfill closure assistance funds were expended for the prior fiscal year.

57 (i) The Prichard Landfill in Wayne County is eligible for funds from the Solid Waste Facility
58 Closure Cost Assistance Fund necessary to complete post-closure maintenance and monitoring
59 upon the filing of an appropriate application. In the event of a permit transfer, neither the state nor

60 the Wayne County Economic Development Authority or entity may assume any liability from the
61 private landfill other than post-closure maintenance and monitoring costs.

62 (j)(1) Notwithstanding any other provision of this code, upon completion of the landfill
63 closure-related services at all eligible landfills pursuant to §22-16-3 of this code, the secretary
64 may transfer excess money from the Solid Waste Facility Closure Cost Assistance Fund to the
65 Reclamation of Abandoned and Dilapidated Properties Program Fund created by §22-15A-30 of
66 this code. However, the secretary may not transfer moneys from the Solid Waste Facility Closure
67 Cost Assistance Fund that are required to be maintained so that the department can conduct
68 post-closure activities authorized by this article and the legislative rules promulgated thereunder.
69 The department shall maintain in the Solid Waste Facility Closure Cost Assistance Fund a
70 minimum balance of twice the total cost of post-closure expenses projected for the fiscal year as
71 a buffer for unanticipated necessary post-closure activities.

72 (2) Contingent upon the Department of Environmental Protection securing private
73 foundation funding to establish the Reclamation of Abandoned and Dilapidated Properties
74 Program, and prior to the completion of the landfill closure-related services at all eligible landfills,
75 the secretary may expend money from the Solid Waste Facility Closure Cost Assistance Fund for
76 pilot projects conducted by the Department of Environmental Protection demonstrating the
77 function of the Reclamation of Abandoned and Dilapidated Properties Program.

CHAPTER 22C. ENVIRONMENTAL RESOURCES; BOARDS, AUTHORITIES, COMMISSIONS, AND COMPACTS.

ARTICLE 4. COUNTY AND REGIONAL SOLID WASTE AUTHORITIES.

§22C-4-30. Solid waste assessment interim fee; regulated motor carriers; dedication of proceeds; criminal penalties.

1 (a) *Imposition.* — Effective July 1, 1989, a solid waste assessment fee is hereby levied
2 and imposed upon the disposal of solid waste at any solid waste disposal facility in this state to

3 be collected at the rate of \$1 per ton or part thereof of solid waste. The fee imposed by this section
4 is in addition to all other fees levied by law.

5 (b) *Collection, return, payment, and record.* — The person disposing of solid waste at the
6 solid waste disposal facility shall pay the fee imposed by this section, whether or not such person
7 owns the solid waste, and the fee shall be collected by the operator of the solid waste facility who
8 shall remit it to the Tax Commissioner.

9 (1) The fee imposed by this section accrues at the time the solid waste is delivered to the
10 solid waste disposal facility.

11 (2) The operator shall remit the fee imposed by this section to the Tax Commissioner on
12 or before the 15th day of the month next succeeding the month in which the fee accrued. Upon
13 remittance of the fee, the operator is required to file returns on forms and in the manner as
14 prescribed by the Tax Commissioner.

15 (3) The operator shall account to the state for all fees collected under this section and shall
16 hold them in trust for the state until they are remitted to the Tax Commissioner.

17 (4) If any operator fails to collect the fee imposed by this section, he or she is personally
18 liable for such amount as he or she failed to collect, plus applicable additions to tax, penalties and
19 interest imposed by §11-10-1 *et seq.* of this code.

20 (5) Whenever any operator fails to collect, truthfully account for, remit the fee, or file returns
21 with the fee as required in this section, the Tax Commissioner may serve written notice requiring
22 such operator to collect the fees which become collectible after service of such notice, to deposit
23 such fees in a bank approved by the Tax Commissioner, in a separate account, in trust for and
24 payable to the Tax Commissioner, and to keep the amount of such fees in such account until
25 remitted to the Tax Commissioner. Such notice remains in effect until a notice of cancellation is
26 served on the operator or owner by the Tax Commissioner.

27 (6) Whenever the owner of a solid waste disposal facility leases the solid waste facility to
28 an operator, the operator is primarily liable for collection and remittance of the fee imposed by

29 this section and the owner is secondarily liable for remittance of the fee imposed by this section.
30 However, if the operator fails, in whole or in part, to discharge his or her obligations under this
31 section, the owner and the operator of the solid waste facility are jointly and severally responsible
32 and liable for compliance with the provisions of this section.

33 (7) If the operator or owner responsible for collecting the fee imposed by this section is an
34 association or corporation, the officers thereof are liable, jointly and severally, for any default on
35 the part of the association or corporation, and payment of the fee and any additions to tax,
36 penalties and interest imposed by §11-10-1 *et seq.* of this code may be enforced against them as
37 against the association or corporation which they represent.

38 (8) Each person disposing of solid waste at a solid waste disposal facility and each person
39 required to collect the fee imposed by this section shall keep complete and accurate records in
40 such form as the Tax Commissioner may require in accordance with the rules of the Tax
41 Commissioner.

42 (c) *Regulated motor carriers.* — The fee imposed by this section and §7-5-22 of this code
43 is a necessary and reasonable cost for motor carriers of solid waste subject to the jurisdiction of
44 the Public Service Commission under §24A-1-1 *et seq.* of this code. Notwithstanding any
45 provision of law to the contrary, upon the filing of a petition by an affected motor carrier, the Public
46 Service Commission shall, within 14 days, reflect the cost of said fee in said motor carrier's rates
47 for solid waste removal service. In calculating the amount of said fee to said motor carrier, the
48 commission shall use the national average of pounds of waste generated per person per day as
49 determined by the United States Environmental Protection Agency.

50 (d) *Definition of solid waste disposal facility.* — For purposes of this section, the term "solid
51 waste disposal facility" means any approved solid waste facility or open dump in this state and
52 includes a transfer station when the solid waste collected at the transfer station is not finally
53 disposed of at a solid waste facility within this state that collects the fee imposed by this section.
54 Nothing herein authorizes in any way the creation or operation of or contribution to an open dump.

55 (e) *Exemptions.* — The following transactions are exempt from the fee imposed by this
56 section:

57 (1) Disposal of solid waste at a solid waste facility: (A) By the person who owns, operates,
58 or leases the solid waste disposal facility if it is used exclusively to dispose of waste originally
59 produced by that person in his or her regular business or personal activities; (B) by persons
60 utilizing the facility on a cost-sharing or nonprofit basis; or (C) by a mixed waste processing and
61 resource recovery facility as those facilities are defined in code or rule and which processes a
62 minimum of 70 percent of the material brought to the facility on any given day on a 30-day
63 aggregate basis;

64 (2) Reuse or recycling of any solid waste;

65 (3) Disposal of residential solid waste by an individual not in the business of hauling or
66 disposing of solid waste on such days and times as designated by the director of the Division of
67 Environmental Protection as exempt from the fee imposed pursuant to §22-15-11 of this code;
68 and

69 (4) Disposal of solid waste at a solid waste disposal facility by a commercial recycler which
70 disposes of 30 percent or less of the total waste it processes for recycling. In order to qualify for
71 this exemption each commercial recycler must keep accurate records of incoming and outgoing
72 waste by weight. Such records must be made available to the appropriate inspectors from the
73 Division of Environmental Protection of solid waste authority, upon request.

74 (f) *Procedure and administration.* — Notwithstanding §11-10-3 of this code, each and
75 every provision of the West Virginia Tax Procedure and Administration Act set forth in §11-10-1
76 *et seq.* of this code applies to the fee imposed by this section with like effect as if said act were
77 applicable only to the fee imposed by this section and were set forth in extenso herein.

78 (g) *Criminal penalties.* — Notwithstanding §11-9-2 and §11-9-3 through §11-9-17,
79 inclusive, of this code apply to the fee imposed by this section with like effect as if said sections
80 were the only fee imposed by this section and were set forth in extenso herein.

81 (h) *Dedication of proceeds.* — The net proceeds of the fee collected by the Tax
82 Commissioner pursuant to this section shall be deposited, at least monthly, in a special revenue
83 account known as the Solid Waste Planning Fund which is hereby continued. The solid waste
84 management board shall allocate the proceeds of the said fund as follows:

85 (1) Fifty percent of the total proceeds shall be divided equally among, and paid over, to,
86 each county solid waste authority to be expended for the purposes of this article: *Provided*, That
87 where a regional solid waste authority exists, such funds shall be paid over to the regional solid
88 waste authority to be expended for the purposes of this article in an amount equal to the total
89 share of all counties within the jurisdiction of said regional solid waste authority; and

90 (2) Fifty percent of the total proceeds shall be expended by the solid waste management
91 board for:

92 (A) Grants to the county or regional solid waste authorities for the purposes of this article;
93 and

94 (B) Administration, technical assistance, or other costs of the solid waste management
95 board necessary to implement the purposes of this article and §22C-3-1 *et seq.* of this code.

96 (i) *Effective date.* — This section is effective on July 1, 1990. The amendment and
97 reenactment of this section in 2021 is effective on July 1, 2021.

CHAPTER 24. PUBLIC SERVICE COMMISSION.

ARTICLE 2. POWERS AND DUTIES OF PUBLIC SERVICE COMMISSION.

§24-2-1m. Commission jurisdiction does not extend to materials recovery facilities, mixed waste processing facilities, and certain mixed waste processing and resource recovery facilities.

1 Notwithstanding any other provision of this code, the jurisdiction of the commission does
2 not extend to materials recovery facilities or mixed waste processing facilities as defined by §22-
3 15-2 of this code, except within a 35-mile radius of a facility sited in a county that is, in whole or

4 in part, within a karst region as determined by the West Virginia Geologic and Economic Survey
5 that has been permitted and classified by the West Virginia Department of Environmental
6 Protection as a mixed waste processing resource recovery facility and has received a certificate
7 of need by July 1, 2016: *Provided*, That nothing in this section shall affect the requirements of
8 §24A-2-5 and §24A-3-3 of this code: *Provided, however*, That the jurisdiction of the commission
9 does not extend to any mixed waste processing and resource recovery facility that processes a
10 minimum of 70 percent of the material brought to the facility on any given day on a 30-day
11 aggregate basis.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

.....
Chairman, Senate Committee

.....
Chairman, House Committee

Originated in the Senate.

To take effect July 1, 2021.

.....
Clerk of the Senate

.....
Clerk of the House of Delegates

.....
President of the Senate

.....
Speaker of the House of Delegates

The within this the.....
Day of, 2021.

.....
Governor