

**Senate Bill No. 611**

(By Senator D. Hall)

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[Introduced February 17, 2014; referred to the Committee on the  
Judiciary; and then to the Committee on Finance.]

**FISCAL  
NOTE**

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A BILL to amend and reenact §7-5-22 of the Code of West Virginia,  
1931, as amended; to amend and reenact §22-15-11 of said code;  
to amend and reenact §22-16-4 of said code; and to amend and  
reenact §22C-4-30 of said code, all relating to county solid  
waste disposal fees generally; raising the county solid waste  
assessment fee to \$0.75; and exempting from the fee solid  
waste that is transported by rail to a solid waste disposal  
facility located in a county bordering another state.

*Be it enacted by the Legislature of West Virginia:*

That §7-5-22 of the Code of West Virginia, 1931, as amended,  
be amended and reenacted; that §22-15-11 of said code be amended  
and reenacted; that §22-16-4 of said code be amended and reenacted;  
and that §22C-4-30 of said code be amended and reenacted, all to  
read as follows:

**CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.**

1 **ARTICLE 5. FISCAL AFFAIRS.**

2 **§7-5-22. County solid waste assessment fees authorized.**

3 Each county or regional solid waste authority is hereby  
4 authorized to impose a similar solid waste assessment fee to that  
5 imposed by section eleven, article fifteen, chapter twenty-two of  
6 this code at a rate not to exceed ~~50¢~~ 75¢ per ton or part thereof  
7 upon the disposal of solid waste in that county or region. All  
8 assessments due shall be applied to the reasonable costs of  
9 administration of the county's regional or county solid waste  
10 authority including the necessary and reasonable expenses of its  
11 members, and any other expenses incurred from refuse cleanup,  
12 litter control programs, or any solid waste programs deemed  
13 necessary to fulfill its duties.

14 **CHAPTER 22. ENVIRONMENTAL RESOURCES.**

15 **ARTICLE 15. SOLID WASTE MANAGEMENT ACT.**

16 **§22-15-11. Solid waste assessment fee; penalties.**

17 (a) Imposition. -- A solid waste assessment fee is hereby  
18 imposed upon the disposal of solid waste at any solid waste  
19 disposal facility in this state in the amount of \$1.75 per ton or  
20 part thereof of solid waste. The fee imposed by this section is in  
21 addition to all other fees and taxes levied by law and shall be  
22 added to and constitute part of any other fee charged by the  
23 operator or owner of the solid waste disposal facility.

1           (b) Collection, return, payment and records. -- The person  
2 disposing of solid waste at the solid waste disposal facility shall  
3 pay the fee imposed by this section, whether or not such person  
4 owns the solid waste, and the fee shall be collected by the  
5 operator of the solid waste facility who shall remit it to the Tax  
6 Commissioner.

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

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

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

17           (4) If any operator fails to collect the fee imposed by this  
18 section, he or she is personally liable for such amount as he or  
19 she failed to collect, plus applicable additions to tax, penalties  
20 and interest imposed by article ten, chapter eleven of this code.

21           (5) Whenever any operator fails to collect, truthfully account  
22 for, remit the fee or file returns with the fee as required in this  
23 section, the Tax Commissioner may serve written notice requiring  
24 such operator to collect the fees which become collectible after

1 service of such notice, to deposit such fees in a bank approved by  
2 the Tax Commissioner, in a separate account, in trust for and  
3 payable to the Tax Commissioner, and to keep the amount of such  
4 fees in such account until remitted to the Tax Commissioner. Such  
5 notice remains in effect until a notice of cancellation is served  
6 on the operator or owner by the Tax Commissioner.

7       (6) Whenever the owner of a solid waste disposal facility  
8 leases the solid waste facility to an operator, the operator is  
9 primarily liable for collection and remittance of the fee imposed  
10 by this section and the owner is secondarily liable for remittance  
11 of the fee imposed by this section. However, if the operator fails,  
12 in whole or in part, to discharge his or her obligations under this  
13 section, the owner and the operator of the solid waste facility are  
14 jointly and severally responsible and liable for compliance with  
15 the provisions of this section.

16       (7) If the operator or owner responsible for collecting the  
17 fee imposed by this section is an association or corporation, the  
18 officers thereof are liable, jointly and severally, for any default  
19 on the part of the association or corporation, and payment of the  
20 fee and any additions to tax, penalties and interest imposed by  
21 article ten, chapter eleven of this code may be enforced against  
22 them as against the association or corporation which they  
23 represent.

24       (8) Each person disposing of solid waste at a solid waste

1 disposal facility and each person required to collect the fee  
2 imposed by this section shall keep complete and accurate records in  
3 such form as the Tax Commissioner may require in accordance with  
4 the rules of the Tax Commissioner.

5 (c) Regulated motor carriers. -- The fee imposed by this  
6 section and section twenty-two, article five, chapter seven of this  
7 code is considered a necessary and reasonable cost for motor  
8 carriers of solid waste subject to the jurisdiction of the Public  
9 Service Commission under chapter twenty-four-a of this code.  
10 Notwithstanding any provision of law to the contrary, upon the  
11 filing of a petition by an affected motor carrier, the Public  
12 Service Commission shall, within fourteen days, reflect the cost of  
13 said fee in said motor carrier's rates for solid waste removal  
14 service. In calculating the amount of said fee to said motor  
15 carrier, the commission shall use the national average of pounds of  
16 waste generated per person per day as determined by the United  
17 States Environmental Protection Agency.

18 (d) Definition of solid waste disposal facility. -- For  
19 purposes of this section, the term "solid waste disposal facility"  
20 means any approved solid waste facility or open dump in this state,  
21 and includes a transfer station when the solid waste collected at  
22 the transfer station is not finally disposed of at a solid waste  
23 disposal facility within this state that collects the fee imposed  
24 by this section. Nothing herein authorizes in any way the creation

1 or operation of or contribution to an open dump.

2 (e) Exemptions. -- The following transactions are exempt from  
3 the fee imposed by this section:

4 (1) Disposal of solid waste at a solid waste disposal facility  
5 by the person who owns, operates or leases the solid waste disposal  
6 facility if the facility is used exclusively to dispose of waste  
7 originally produced by such person in such person's regular  
8 business or personal activities or by persons utilizing the  
9 facility on a cost-sharing or nonprofit basis;

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

11 (3) Disposal of residential solid waste by an individual not  
12 in the business of hauling or disposing of solid waste on such days  
13 and times as designated by the director is exempt from the solid  
14 waste assessment fee; ~~and~~

15 (4) Disposal of solid waste at a solid waste disposal facility  
16 by a commercial recycler which disposes of thirty percent or less  
17 of the total waste it processes for recycling. In order to qualify  
18 for this exemption each commercial recycler must keep accurate  
19 records of incoming and outgoing waste by weight. Such records must  
20 be made available to the appropriate inspectors from the division,  
21 upon request; and

22 (5) Disposal of solid waste transported by rail to a solid  
23 waste disposal facility located in a county that borders another  
24 state.

1           (f) Procedure and administration. -- Notwithstanding section  
2 three, article ten, chapter eleven of this code, each and every  
3 provision of the "West Virginia Tax Procedure and Administration  
4 Act" set forth in article ten, chapter eleven of this code shall  
5 apply to the fee imposed by this section with like effect as if  
6 said act were applicable only to the fee imposed by this section  
7 and were set forth in extenso herein.

8           (g) Criminal penalties. -- Notwithstanding section two,  
9 article nine, chapter eleven of this code, sections three through  
10 seventeen, article nine, chapter eleven of this code shall apply to  
11 the fee imposed by this section with like effect as if said  
12 sections were applicable only to the fee imposed by this section  
13 and were set forth in extenso herein.

14           (h) Dedication of proceeds. -- The net proceeds of the fee  
15 collected by the Tax Commissioner pursuant to this section shall be  
16 deposited at least monthly in an account designated by the  
17 director. The director shall allocate 25¢ for each ton of solid  
18 waste disposed of in this state upon which the fee imposed by this  
19 section is collected and shall deposit the total amount so  
20 allocated into the "Solid Waste Reclamation and Environmental  
21 Response Fund" to be expended for the purposes hereinafter  
22 specified. The first \$1 million of the net proceeds of the fee  
23 imposed by this section collected in each fiscal year shall be  
24 deposited in the "Solid Waste Enforcement Fund" and expended for

1 the purposes hereinafter specified. The next \$250,000 of the net  
2 proceeds of the fee imposed by this section collected in each  
3 fiscal year shall be deposited in the "Solid Waste Management Board  
4 Reserve Fund", and expended for the purposes hereinafter specified:  
5 *Provided*, That in any year in which the water development authority  
6 determines that the solid waste management board reserve fund is  
7 adequate to defer any contingent liability of the fund, the water  
8 development authority shall so certify to the director and the  
9 director shall then cause no less than \$50,000 nor more than  
10 \$250,000 to be deposited to the fund: *Provided, however*, That in  
11 any year in which the water development authority determines that  
12 the solid waste management board reserve fund is inadequate to  
13 defer any contingent liability of the fund, the water development  
14 authority shall so certify to the director and the director shall  
15 then cause not less than \$250,000 nor more than \$500,000 to be  
16 deposited in the fund: *Provided further*, That if a facility owned  
17 or operated by the State of West Virginia is denied site approval  
18 by a county or regional solid waste authority, and if such denial  
19 contributes, in whole or in part, to a default, or drawing upon a  
20 reserve fund, on any indebtedness issued or approved by the solid  
21 waste management board, then in that event the solid waste  
22 management board or its fiscal agent may withhold all or any part  
23 of any funds which would otherwise be directed to such county or  
24 regional authority and shall deposit such withheld funds in the



1 appropriate reserve fund. The director shall allocate the  
2 remainder, if any, of said net proceeds among the following three  
3 special revenue accounts for the purpose of maintaining a  
4 reasonable balance in each special revenue account, which are  
5 hereby continued in the State Treasury:

6 (1) The "Solid Waste Enforcement Fund" which shall be expended  
7 by the director for administration, inspection, enforcement and  
8 permitting activities established pursuant to this article;

9 (2) The "Solid Waste Management Board Reserve Fund" which  
10 shall be exclusively dedicated to providing a reserve fund for the  
11 issuance and security of solid waste disposal revenue bonds issued  
12 by the solid waste management board pursuant to article three,  
13 chapter twenty-two-c of this code;

14 (3) The "Solid Waste Reclamation and Environmental Response  
15 Fund" which may be expended by the director for the purposes of  
16 reclamation, cleanup and remedial actions intended to minimize or  
17 mitigate damage to the environment, natural resources, public water  
18 supplies, water resources and the public health, safety and welfare  
19 which may result from open dumps or solid waste not disposed of in  
20 a proper or lawful manner.

21 (i) Findings. -- In addition to the purposes and legislative  
22 findings set forth in section one of this article, the Legislature  
23 finds as follows:

24 (1) In-state and out-of-state locations producing solid waste

1 should bear the responsibility of disposing of said solid waste or  
2 compensate other localities for costs associated with accepting  
3 such solid waste;

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

7 (3) Local approved solid waste facilities are being  
8 prematurely depleted by solid waste originating from other  
9 locations.

10 **ARTICLE 16. SOLID WASTE LANDFILL CLOSURE ASSISTANCE PROGRAM.**

11 **§22-16-4. Solid waste assessment fee; penalties.**

12 (a) *Imposition.* -- A solid waste assessment fee is levied and  
13 imposed upon the disposal of solid waste at any solid waste  
14 disposal facility in this state in the amount of \$3.50 per ton or  
15 like ratio on any part of a ton of solid waste, except as provided  
16 in subsection (e) of this section: *Provided*, That any solid waste  
17 disposal facility may deduct from this assessment fee an amount,  
18 not to exceed the fee, equal to the amount that the facility is  
19 required by the Public Service Commission to set aside for the  
20 purpose of closure of that portion of the facility required to  
21 close by article fifteen of this chapter. The fee imposed by this  
22 section is in addition to all other fees and taxes levied by law  
23 and shall be added to and constitute part of any other fee charged  
24 by the operator or owner of the solid waste disposal facility.

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

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

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

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

17           (4) If any operator fails to collect the fee imposed by this  
18 section, he or she is personally liable for the amount he or she  
19 failed to collect, plus applicable additions to tax, penalties and  
20 interest imposed by article ten, chapter eleven of this code;

21           (5) Whenever any operator fails to collect, truthfully account  
22 for, remit the fee or file returns with the fee as required in this  
23 section, the Tax Commissioner may serve written notice requiring  
24 the operator to collect the fees which become collectible after

1 service of the notice, to deposit the fees in a bank approved by  
2 the Tax Commissioner, in a separate account, in trust for and  
3 payable to the Tax Commissioner, and to keep the amount of the fees  
4 in the account until remitted to the Tax Commissioner. The notice  
5 shall remain in effect until a notice of cancellation is served on  
6 the operator or owner by the Tax Commissioner;

7       (6) Whenever the owner of a solid waste disposal facility  
8 leases the solid waste facility to an operator, the operator is  
9 primarily liable for collection and remittance of the fee imposed  
10 by this section and the owner is secondarily liable for remittance  
11 of the fee imposed by this section. However, if the operator fails,  
12 in whole or in part, to discharge his or her obligations under this  
13 section, the owner and the operator of the solid waste facility are  
14 jointly and severally responsible and liable for compliance with  
15 the provisions of this section;

16       (7) If the operator or owner responsible for collecting the  
17 fee imposed by this section is an association or corporation, the  
18 officers of the association or corporation are liable, jointly and  
19 severally, for any default on the part of the association or  
20 corporation, and payment of the fee and any additions to tax,  
21 penalties and interest imposed by article ten, chapter eleven of  
22 this code may be enforced against them as against the association  
23 or corporation which they represent; and

24       (8) Each person disposing of solid waste at a solid waste

1 disposal facility and each person required to collect the fee  
2 imposed by this section shall keep complete and accurate records in  
3 the form required by the Tax Commissioner in accordance with the  
4 rules of the Tax Commissioner.

5       (c) *Regulated motor carriers.* -- The fee imposed by this  
6 section is a necessary and reasonable cost for motor carriers of  
7 solid waste subject to the jurisdiction of the Public Service  
8 Commission under chapter twenty-four-a of this code.  
9 Notwithstanding any provision of law to the contrary, upon the  
10 filing of a petition by an affected motor carrier, the Public  
11 Service Commission shall, within fourteen days, reflect the cost of  
12 the fee in the motor carrier's rates for solid waste removal  
13 service. In calculating the amount of the fee to the motor carrier,  
14 the commission shall use the national average of pounds of waste  
15 generated per person per day as determined by the United States  
16 environmental protection agency.

17       (d) *Definitions.* -- For purposes of this section, the term  
18 "solid waste disposal facility" means any approved solid waste  
19 facility or open dump in this state, and includes a transfer  
20 station when the solid waste collected at the transfer station is  
21 not finally disposed of at a solid waste facility within this state  
22 that collects the fee imposed by this section. Nothing in this  
23 section authorizes in any way the creation or operation of or  
24 contribution to an open dump.

1 (e) *Exemptions.* -- The following transactions are exempt from  
2 the fee imposed by this section:

3 (1) Disposal of solid waste at a solid waste disposal facility  
4 by the person who owns, operates or leases the solid waste disposal  
5 facility if the facility is used exclusively to dispose of waste  
6 originally produced by that person in the person's regular business  
7 or personal activities or by persons utilizing the facility on a  
8 cost-sharing or nonprofit basis;

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

10 (3) Disposal of residential solid waste by an individual not  
11 in the business of hauling or disposing of solid waste on the days  
12 and times designated by the director as exempt from the solid waste  
13 assessment fee; ~~and~~

14 (4) Disposal of solid waste at a solid waste disposal facility  
15 by a commercial recycler which disposes of thirty percent or less  
16 of the total waste it processes for recycling. In order to qualify  
17 for this exemption each commercial recycler shall keep accurate  
18 records of incoming and outgoing waste by weight. The records shall  
19 be made available to the appropriate inspectors from the division,  
20 upon request; and

21 (5) Disposal of solid waste transported by rail to a solid  
22 waste disposal facility located in a county that borders another  
23 state.

24 (f) *Procedure and administration.* -- Notwithstanding section

1 three, article ten, chapter eleven of this code, each and every  
2 provision of the "West Virginia Tax Procedure and Administration  
3 Act" set forth in article ten, chapter eleven of this code applies  
4 to the fee imposed by this section with like effect as if the act  
5 were applicable only to the fee imposed by this section and were  
6 set forth in extenso in this section.

7       (g) *Criminal penalties.* -- Notwithstanding section two,  
8 article nine, chapter eleven of this code, sections three through  
9 seventeen, article nine, chapter eleven of this code apply to the  
10 fee imposed by this section with like effect as if the sections  
11 were applicable only to the fee imposed by this section and were  
12 set forth in extenso in this section.

13       (h) *Dedication of proceeds.* -- (1) The proceeds of the fee  
14 collected pursuant to this section shall be deposited in the  
15 closure cost assistance fund established pursuant to section twelve  
16 of this article: *Provided,* That the director may transfer up to 50¢  
17 for each ton of solid waste disposed of in this state upon which  
18 the fee imposed by this section is collected on or after July 1,  
19 1998, to the solid waste enforcement fund established pursuant to  
20 section eleven, article fifteen of this chapter.

21       (2) Fifty percent of the proceeds of the fee collected  
22 pursuant to this article in excess of thirty thousand tons per  
23 month from any landfill which is permitted to accept in excess of  
24 thirty thousand tons per month pursuant to section nine, article

1 fifteen of this chapter shall be remitted, at least monthly, to the  
2 county commission in the county in which the landfill is located.  
3 The remainder of the proceeds of the fee collected pursuant to this  
4 section shall be deposited in the closure cost assistance fund  
5 established pursuant to section twelve of this article.

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

8 **ARTICLE 4. COUNTY AND REGIONAL SOLID WASTE AUTHORITIES.**

9 **§22C-4-30. Solid waste assessment interim fee; regulated motor**  
10           **carriers; dedication of proceeds; criminal**  
11           **penalties.**

12           (a) *Imposition.* -- Effective July 1, 1989, a solid waste  
13 assessment fee is hereby levied and imposed upon the disposal of  
14 solid waste at any solid waste disposal facility in this state to  
15 be collected at the rate of \$1 per ton or part thereof of solid  
16 waste. The fee imposed by this section is in addition to all other  
17 fees levied by law.

18           (b) *Collection, return, payment and record.* -- The person  
19 disposing of solid waste at the solid waste disposal facility shall  
20 pay the fee imposed by this section, whether or not such person  
21 owns the solid waste, and the fee shall be collected by the  
22 operator of the solid waste facility who shall remit it to the Tax  
23 Commissioner.



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

3           (2) The operator shall remit the fee imposed by this section  
4 to the Tax Commissioner on or before the fifteenth day of the month  
5 next succeeding the month in which the fee accrued. Upon remittance  
6 of the fee, the operator is required to file returns on forms and  
7 in the manner as prescribed by the Tax Commissioner.

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

11          (4) If any operator fails to collect the fee imposed by this  
12 section, he or she is personally liable for such amount as he or  
13 she failed to collect, plus applicable additions to tax, penalties  
14 and interest imposed by article ten, chapter eleven of this code.

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

1           (6) Whenever the owner of a solid waste disposal facility  
2 leases the solid waste facility to an operator, the operator is  
3 primarily liable for collection and remittance of the fee imposed  
4 by this section and the owner is secondarily liable for remittance  
5 of the fee imposed by this section. However, if the operator fails,  
6 in whole or in part, to discharge his or her obligations under this  
7 section, the owner and the operator of the solid waste facility are  
8 jointly and severally responsible and liable for compliance with  
9 the provisions of this section.

10           (7) If the operator or owner responsible for collecting the  
11 fee imposed by this section is an association or corporation, the  
12 officers thereof are liable, jointly and severally, for any default  
13 on the part of the association or corporation, and payment of the  
14 fee and any additions to tax, penalties and interest imposed by  
15 article ten, chapter eleven of this code may be enforced against  
16 them as against the association or corporation which they  
17 represent.

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

23           (c) *Regulated motor carriers.* -- The fee imposed by this  
24 section and section twenty-two, article five, chapter seven of this

1 code is a necessary and reasonable cost for motor carriers of solid  
2 waste subject to the jurisdiction of the Public Service Commission  
3 under chapter twenty-four-a of this code. Notwithstanding any  
4 provision of law to the contrary, upon the filing of a petition by  
5 an affected motor carrier, the Public Service Commission shall,  
6 within fourteen days, reflect the cost of said fee in said motor  
7 carrier's rates for solid waste removal service. In calculating the  
8 amount of said fee to said motor carrier, the commission shall use  
9 the national average of pounds of waste generated per person per  
10 day as determined by the United States Environmental Protection  
11 Agency.

12 (d) *Definition of solid waste disposal facility.* -- For  
13 purposes of this section, the term "solid waste disposal facility"  
14 means any approved solid waste facility or open dump in this state  
15 and includes a transfer station when the solid waste collected at  
16 the transfer station is not finally disposed of at a solid waste  
17 facility within this state that collects the fee imposed by this  
18 section. Nothing herein authorizes in any way the creation or  
19 operation of or contribution to an open dump.

20 (e) *Exemptions.* -- The following transactions are exempt from  
21 the fee imposed by this section:

22 (1) Disposal of solid waste at a solid waste disposal facility  
23 by the person who owns, operates or leases the solid waste disposal  
24 facility if it is used exclusively to dispose of waste originally

1 produced by such person in such person's regular business or  
2 personal activities or by persons utilizing the facility on a  
3 cost-sharing or nonprofit basis;

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

5 (3) Disposal of residential solid waste by an individual not  
6 in the business of hauling or disposing of solid waste on such days  
7 and times as designated by the Director of the Division of  
8 Environmental Protection as exempt from the fee imposed pursuant to  
9 section eleven, article fifteen, chapter twenty-two of this code;  
10 and

11 (4) Disposal of solid waste at a solid waste disposal facility  
12 by a commercial recycler which disposes of thirty percent or less  
13 of the total waste it processes for recycling. In order to qualify  
14 for this exemption each commercial recycler must keep accurate  
15 records of incoming and outgoing waste by weight. Such records must  
16 be made available to the appropriate inspectors from the Division  
17 of Environmental Protection of solid waste authority, upon request;  
18 and

19 (5) Disposal of solid waste transported by rail to a solid  
20 waste disposal facility located in a county that borders another  
21 state.

22 (f) *Procedure and administration.* -- Notwithstanding section  
23 three, article ten, chapter eleven of this code, each and every  
24 provision of the "West Virginia Tax Procedure and Administration

1 Act" set forth in article ten, chapter eleven of this code applies  
2 to the fee imposed by this section with like effect as if said act  
3 were applicable only to the fee imposed by this section and were  
4 set forth in extenso herein.

5 (g) *Criminal penalties.* -- Notwithstanding section two,  
6 article nine, chapter eleven of this code, sections three through  
7 seventeen, article nine, chapter eleven of this code apply to the  
8 fee imposed by this section with like effect as if said sections  
9 were the only fee imposed by this section and were set forth in  
10 extenso herein.

11 (h) *Dedication of proceeds.* -- The net proceeds of the fee  
12 collected by the Tax Commissioner pursuant to this section shall be  
13 deposited, at least monthly, in a special revenue account known as  
14 the "Solid Waste Planning Fund" which is hereby continued. The  
15 solid waste management board shall allocate the proceeds of the  
16 said fund as follows:

17 (1) Fifty percent of the total proceeds shall be divided  
18 equally among, and paid over to, each county solid waste authority  
19 to be expended for the purposes of this article: *Provided*, That  
20 where a regional solid waste authority exists, such funds shall be  
21 paid over to the regional solid waste authority to be expended for  
22 the purposes of this article in an amount equal to the total share  
23 of all counties within the jurisdiction of said regional solid  
24 waste authority; and

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

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

5           (B) Administration, technical assistance or other costs of the  
6 solid waste management board necessary to implement the purposes of  
7 this article and article three of this chapter.

8           (i) *Effective date.* -- This section is ~~effective on July 1,~~  
9 ~~1990.~~ currently in effect.

NOTE: The purpose of this bill is to raise the county solid waste assessment fee to 75¢, and to exempt from the fee solid waste that is transported by rail to a solid waste disposal facility located in a county bordering another state.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.