

**Senate Bill No. 27**

(By Senator D. Hall)

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[Introduced January 14, 2015; referred to the Committee on the Judiciary; and then to the  
Committee on Finance.]

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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 county solid waste assessment fee to seventy-five cents ; and exempting  
from the fee solid waste that is transported by rail to 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.**

**ARTICLE 5. FISCAL AFFAIRS.**

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

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

## 8                                   **CHAPTER 22. ENVIRONMENTAL RESOURCES.**

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

#### 10           **§22-15-11. Solid waste assessment fee; penalties.**

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

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

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

22           (2) The operator shall remit the fee imposed by this section to the Tax Commissioner on or

1 before the fifteenth day of the month next succeeding the month in which the fee accrued. Upon  
2 remittance of the fee, the operator is required to file returns on forms and in the manner as prescribed  
3 by the Tax Commissioner.

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

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

9 (5) Whenever any operator fails to collect, truthfully account for, remit the fee or file returns  
10 with the fee as required in this section, the Tax Commissioner may serve written notice requiring  
11 ~~such~~ the operator to collect the fees which become collectible after service of ~~such~~ the notice, to  
12 deposit ~~such~~ the fees in a bank approved by the Tax Commissioner, in a separate account, in trust  
13 for and payable to the Tax Commissioner and to keep the amount of ~~such~~ the fees in ~~such~~ the  
14 account until remitted to the Tax Commissioner. ~~Such~~ The notice remains in effect until a notice  
15 of cancellation is served on the operator or owner by the Tax Commissioner.

16 (6) Whenever the owner of a solid waste disposal facility leases the solid waste facility to an  
17 operator, the operator is primarily liable for collection and remittance of the fee imposed by this  
18 section and the owner is secondarily liable for remittance of the fee imposed by this section.  
19 However, if the operator fails, in whole or in part, to discharge his or her obligations under this  
20 section, the owner and the operator of the solid waste facility are jointly and severally responsible  
21 and liable for compliance with the provisions of this section.

22 (7) If the operator or owner responsible for collecting the fee imposed by this section is an

1 association or corporation, the officers thereof are liable, jointly and severally, for any default on the  
2 part of the association or corporation, and payment of the fee and any additions to tax, penalties and  
3 interest imposed by article ten, chapter eleven of this code may be enforced against them as against  
4 the association or corporation which they represent.

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

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

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

22 (e) *Exemptions.* -- The following transactions are exempt from the fee imposed by this

1 section:

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

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

7 (3) Disposal of residential solid waste by an individual not in the business of hauling or  
8 disposing of solid waste on such days and times as designated by the secretary is exempt from the  
9 solid waste assessment fee; ~~and~~

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

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

17 (f) *Procedure and administration.* -- Notwithstanding section three, article ten, chapter eleven  
18 of this code, each and every provision of the "West Virginia Tax Procedure and Administration Act"  
19 set forth in article ten, chapter eleven of this code shall apply to the fee imposed by this section with  
20 like effect as if said act were applicable only to the fee imposed by this section and were set forth  
21 in extenso herein.

22 (g) *Criminal penalties.* -- Notwithstanding section two, article nine, chapter eleven of this

1 code, sections three through seventeen, article nine, chapter eleven of this code shall apply to the fee  
2 imposed by this section with like effect as if said sections were applicable only to the fee imposed  
3 by this section and were set forth in extenso herein.

4       (h) *Dedication of proceeds.* -- The net proceeds of the fee collected by the Tax Commissioner  
5 pursuant to this section shall be deposited at least monthly in an account designated by the secretary.  
6 The secretary shall allocate \$0.25 for each ton of solid waste disposed of in this state upon which the  
7 fee imposed by this section is collected and shall deposit the total amount so allocated into the “Solid  
8 Waste Reclamation and Environmental Response Fund” to be expended for the purposes hereinafter  
9 specified. The first \$1 million dollars of the net proceeds of the fee imposed by this section collected  
10 in each fiscal year shall be deposited in the “Solid Waste Enforcement Fund” and expended for the  
11 purposes hereinafter specified. The next \$250,000 of the net proceeds of the fee imposed by this  
12 section collected in each fiscal year shall be deposited in the “Solid Waste Management Board  
13 Reserve Fund”, and expended for the purposes hereinafter specified: *Provided*, That in any year in  
14 which the Water Development Authority determines that the Solid Waste Management Board  
15 Reserve Fund is adequate to defer any contingent liability of the fund, the Water Development  
16 Authority shall so certify to the secretary and the secretary shall then cause no less than \$50,000 nor  
17 more than \$250,000 to be deposited to the fund: *Provided, however*, That in any year in which the  
18 water development authority determines that the Solid Waste Management Board Reserve Fund is  
19 inadequate to defer any contingent liability of the fund, the Water Development Authority shall so  
20 certify to the secretary and the secretary shall then cause not less than \$250,000 nor more than  
21 \$500,000 to be deposited in the fund: *Provided further*, That if a facility owned or operated by the  
22 State of West Virginia is denied site approval by a county or regional solid waste authority, and if

1 such denial contributes, in whole or in part, to a default, or drawing upon a reserve fund, on any  
2 indebtedness issued or approved by the Solid Waste Management Board, then in that event the Solid  
3 Waste Management Board or its fiscal agent may withhold all or any part of any funds which would  
4 otherwise be directed to such county or regional authority and shall deposit such withheld funds in  
5 the appropriate reserve fund. The secretary shall allocate the remainder, if any, of said net proceeds  
6 among the following three special revenue accounts for the purpose of maintaining a reasonable  
7 balance in each special revenue account, which are hereby continued in the State Treasury:

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

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

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

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

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

1 such solid waste;

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

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

6 (j) The “Gas Field Highway Repair and Horizontal Drilling Waste Study Fund” is hereby  
7 created as a special revenue fund in the State Treasury to be administered by the West Virginia  
8 Division of Highways and to be expended only on the improvement, maintenance, and repair of  
9 public roads of three lanes or less located in the watershed from which the revenue was received that  
10 are identified by the Commissioner of Highways as having been damaged by trucks and other traffic  
11 associated with horizontal well drilling sites or the disposal of waste generated by such sites, and that  
12 experience congestion caused, in whole or in part, by such trucks and traffic that interferes with the  
13 use of said roads by residents in the vicinity of such roads: *Provided*, That up to \$750,000 from such  
14 fund shall be made available to the Department of Environmental Protection from the same fund to  
15 offset contracted costs incurred by the Department of Environmental Protection while undertaking  
16 the horizontal drilling waste disposal studies mandated by the provisions of subsection (j), section  
17 eight of this article. Any balance remaining in the special revenue account at the end of any fiscal  
18 year shall not revert to the General Revenue Fund but shall remain in the special revenue account  
19 and shall be used solely in a manner consistent with this section. The fund shall consist of the fee  
20 provided for in subsection (k) of this section.

21 (k) Horizontal drilling waste assessment fee-- An additional solid waste assessment fee is  
22 hereby imposed upon the disposal of drill cuttings and drilling waste generated by horizontal well

1 sites in the amount of \$1 per ton, which fee is in addition to all other fees and taxes levied by this  
2 section or otherwise and shall be added to and constitute part of any other fee charged by the operator  
3 or owner of the solid waste disposal facility: *Provided*, That the horizontal drilling waste assessment  
4 fee shall be collected and administered in the same manner as the solid waste assessment fee  
5 imposed by this section, but shall be imposed only upon the disposal of drill cuttings and drilling  
6 waste generated by horizontal well sites.

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

8 **§22-16-4. Solid waste assessment fee; penalties.**

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

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

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

1 solid waste disposal facility;

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

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

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

11 (5) Whenever any operator fails to collect, truthfully account for, remit the fee or file returns  
12 with the fee as required in this section, the Tax Commissioner may serve written notice requiring the  
13 operator to collect the fees which become collectible after service of the notice, to deposit the fees  
14 in a bank approved by the Tax Commissioner, in a separate account, in trust for and payable to the  
15 Tax Commissioner, and to keep the amount of the fees in the account until remitted to the Tax  
16 Commissioner. The notice shall remain in effect until a notice of cancellation is served on the  
17 operator or owner by the Tax Commissioner;

18 (6) Whenever the owner of a solid waste disposal facility leases the solid waste facility to an  
19 operator, the operator is primarily liable for collection and remittance of the fee imposed by this  
20 section and the owner is secondarily liable for remittance of the fee imposed by this section.  
21 However, if the operator fails, in whole or in part, to discharge his or her obligations under this  
22 section, the owner and the operator of the solid waste facility are jointly and severally responsible

1 and liable for compliance with the provisions of this section;

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

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

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

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

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

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

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

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

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

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

18 (f) *Procedure and administration.* -- Notwithstanding section three, article ten, chapter eleven  
19 of this code, each and every provision of the "West Virginia Tax Procedure and Administration Act"  
20 set forth in article ten, chapter eleven of this code applies to the fee imposed by this section with like  
21 effect as if the act were applicable only to the fee imposed by this section and were set forth in  
22 extenso in this section.

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

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

10           (2) Fifty percent of the proceeds of the fee collected pursuant to this article in excess of thirty  
 11 thousand tons per month from any landfill which is permitted to accept in excess of thirty thousand  
 12 tons per month pursuant to section nine, article fifteen of this chapter shall be remitted, at least  
 13 monthly, to the county commission in the county in which the landfill is located. The remainder of  
 14 the proceeds of the fee collected pursuant to this section shall be deposited in the closure cost  
 15 assistance fund established pursuant to section twelve of this article.

16                   **CHAPTER 22C. ENVIRONMENTAL RESOURCES; BOARDS,**

17                           **AUTHORITIES, COMMISSIONS AND COMPACTS.**

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

19           **§22C-4-30. Solid waste assessment interim fee; regulated motor carriers; dedication of**  
 20                           **proceeds; criminal penalties.**

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

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

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

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

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

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

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

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

1 to the Tax Commissioner. Such notice remains in effect until a notice of cancellation is served on  
2 the operator or owner by the Tax Commissioner.

3 (6) Whenever the owner of a solid waste disposal facility leases the solid waste facility to an  
4 operator, the operator is primarily liable for collection and remittance of the fee imposed by this  
5 section and the owner is secondarily liable for remittance of the fee imposed by this section.  
6 However, if the operator fails, 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 jointly and severally responsible  
8 and liable for compliance with the provisions of this section.

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

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

17 (c) *Regulated motor carriers.* -- The fee imposed by this section and section twenty-two,  
18 article five, chapter seven of this code is a necessary and reasonable cost for motor carriers of solid  
19 waste subject to the jurisdiction of the Public Service Commission under chapter twenty-four-a of  
20 this code. Notwithstanding any provision of law to the contrary, upon the filing of a petition by an  
21 affected motor carrier, the Public Service Commission shall, within fourteen days, reflect the cost  
22 of said fee in said motor carrier's rates for solid waste removal service. In calculating the amount of

1 said fee to said motor carrier, the commission shall use the national average of pounds of waste  
2 generated per person per day as determined by the United States Environmental Protection Agency.

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

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

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

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

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

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

1 Division of Environmental Protection of solid waste authority, upon request; and

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

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

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

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

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

22 (2) Fifty percent of the total proceeds shall be expended by the solid waste management

1 board for:

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

3 and

4 (B) Administration, technical assistance or other costs of the solid waste management board

5 necessary to implement the purposes of this article and article three of this chapter.

6 (i) *Effective date.* -- This section is ~~effective on July 1, 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.