



Senate Fiscal Agency
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BILL



ANALYSIS

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Senate Bill 404 (Substitute S-1 as reported)
Sponsor: Senator Jack Brandenburg
Committee: Finance

CONTENT

The bill would amend Part 115 (Solid Waste Management) of the Natural Resources and Environmental Protection Act to revise financial assurance requirements for a disposal area. Specifically, the bill would do the following:

- Allow a landfill owner or operator to establish a required perpetual care fund as a perpetual care fund bond, i.e., a surety bond, an irrevocable letter of credit, or a combination of these instruments in favor of the Department of Environmental Quality (DEQ).
- Allow a trust or escrow account established as a perpetual care fund to be replaced with a perpetual care fund bond, and require the DEQ Director to authorize the fund's custodian to disburse the money in the trust or escrow account to the landfill owner.
- Require a landfill owner or operator who used a perpetual care fund bond also to establish a standby trust for the deposit of all payments made under the bond's terms.
- Exempt a standby trust from required increases to a perpetual care fund and annual accounting valuations until the trust was funded pursuant to the bill's requirements.
- Eliminate a requirement that a landfill owner or operator pay an amount equal to the required financial assurance over the term of the disposal area license.
- Exempt a perpetual care fund bond from a provision allowing the DEQ to use a bond posted to fulfill financial assurance requirements if the owner or operator fails to comply with Part 115 requirements to correct a violation.
- Include a perpetual care fund bond among the instruments on which the DEQ may draw if the owner or operator does not extend the bond's effective date before it expires or establish alternative financial assurance.
- Require increases to a landfill's perpetual care fund to be made within 30 days after the end of the State fiscal year, rather than semiannually.
- Eliminate a provision allowing the interest and earnings of a perpetual care fund to be used to pay the solid waste management program administration fee or a surcharge assessed on each cubic yard of waste disposed of in a landfill.
- Increase the time that the custodian of a perpetual care fund has to make an accounting to the DEQ from 30 to 60 days after the end of the State fiscal year, and refer to a perpetual care fund established as a trust or escrow account in this provision.

The bill also would repeal a section that allows person to request a reduction in the total amount of financial assurance required for a landfill; requires the DEQ to release the required financial assurance if its amount is exceeded by the amount in the perpetual care fund; and authorizes the DEQ to require an increase in the amount of required financial assurance if money is disbursed from the perpetual care fund prior to a landfill's closure.

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Date Completed: 9-23-13

Fiscal Analyst: Josh Sefton

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.