

Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 10-0833.01 Kate Meyer

HOUSE BILL 10-1329

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A BILL FOR AN ACT

101 CONCERNING SOLID WASTE USER FEES.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Section 1 of the bill adds a definition of the term "commission", which means the solid and hazardous waste commission (commission) in the department of public health and environment (department), to the definitions section of the laws pertaining to hazardous waste sites.

Section 2:

! Requires the commission to establish and impose, by July 1, 2011, a solid waste user fee on persons disposing of

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

HOUSE
Amended 2nd Reading
March 1, 2010

- ! solid waste at an attended solid waste disposal site;
- ! Specifies criteria for determination of the fee and the destinations to which portions of the fee shall be sent;
- ! Repeals, on the date that the new fee takes effect or on July 1, 2011, whichever occurs first, current provisions relating to solid waste user fees; and
- ! Extends from July 1, 2010, to July 1, 2017, the future repeal date of the solid waste user fee laws.

Section 3 requires 100% of the state-imposed solid waste user fees that are collected by attended solid waste disposal sites to be credited to those sites if, and to the extent that, the sites are also subject to local government solid waste disposal fees for hazardous substance response activities at sites listed on the national priority list under the federal "Comprehensive Environmental Response, Compensation, and Liability Act of 1980" (federal act).

Section 4 authorizes the state treasurer to make the following one-time transfers from the hazardous substance response fund for the state fiscal year commencing on July 1, 2010:

- ! Up to \$400,000 to the solid waste management fund, for use by the department in connection with its solid waste management activities; and
- ! Up to \$550,000 to the department of law, to be used in connection with the department of law's duties under the federal act.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** 25-16-102, Colorado Revised Statutes, is amended
 3 BY THE ADDITION OF A NEW SUBSECTION to read:

4 **25-16-102. Definitions.** As used in this article, unless the context
 5 otherwise requires:

6 (1.5) "COMMISSION" MEANS THE SOLID AND HAZARDOUS WASTE
 7 COMMISSION CREATED IN SECTION 25-15-302.

8 **SECTION 2.** 25-16-104.5 (6), Colorado Revised Statutes, is
 9 amended, and the said 25-16-104.5 is further amended BY THE
 10 ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

11 **25-16-104.5. Solid waste user fee - imposed - rate - direction**

1 **- legislative declaration - repeal.** (1.7) (a) ON OR AFTER JULY 1, 2010,
2 THE COMMISSION SHALL PROMULGATE RULES THAT ESTABLISH
3 A SOLID WASTE USER FEE UPON EACH PERSON DISPOSING OF SOLID WASTE
4 AT AN ATTENDED SOLID WASTE DISPOSAL SITE. THE OPERATOR OF THE
5 SITE AT THE TIME OF DISPOSAL SHALL COLLECT THE FEE FROM WASTE
6 PRODUCERS OR OTHER PERSONS DISPOSING OF SOLID WASTE. THE
7 EFFECTIVE DATE AND AMOUNT OF THE FEE SHALL BE SET BY RULE OF THE
8 COMMISSION, AND THE AMOUNT SHALL BE SUFFICIENT TO OFFSET:

9 (I) THE DEPARTMENT'S DIRECT AND INDIRECT COSTS ASSOCIATED
10 WITH IMPLEMENTATION OF THE SOLID WASTE MANAGEMENT PROGRAM
11 UNDER SECTION 30-20-101.5, C.R.S.;

12 (II) THE DEPARTMENT'S DIRECT AND INDIRECT COSTS FOR THE
13 IMPLEMENTATION OF ITS RESPONSIBILITIES UNDER THE FEDERAL ACT, AS
14 DESCRIBED IN THIS PART 1, AND TO PROVIDE MATCHING FUNDS AND COVER
15 FUTURE MAINTENANCE COSTS PURSUANT TO SECTION 25-16-103; AND

16 (III) THE DIRECT AND INDIRECT COSTS OF THE DEPARTMENT OF
17 LAW FOR THE IMPLEMENTATION OF ITS RESPONSIBILITIES UNDER THE
18 FEDERAL ACT, AS DESCRIBED IN THIS PART 1, WHICH COSTS ARE DISTINCT
19 FROM THOSE DESCRIBED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (a).

20 (b) (I) THE PORTION OF THE FEE COLLECTED FOR THE COSTS
21 DESCRIBED IN SUBPARAGRAPH (I) OF PARAGRAPH (a) OF THIS SUBSECTION
22 (1.7) SHALL BE TRANSMITTED TO THE DEPARTMENT FOR DEPOSIT INTO THE
23 SOLID WASTE MANAGEMENT FUND CREATED IN SECTION 30-20-118, C.R.S.

24 (II) THE PORTIONS OF THE FEE IMPOSED UNDER THIS SUBSECTION
25 (1.7) THAT ARE COLLECTED FOR THE COSTS DESCRIBED IN SUBPARAGRAPHS
26 (II) AND (III) OF PARAGRAPH (a) OF THIS SUBSECTION (1.7) SHALL BE
27 TRANSMITTED TO THE DEPARTMENT FOR DEPOSIT INTO THE HAZARDOUS

1 SUBSTANCE RESPONSE FUND CREATED IN SECTION 25-16-104.6. OF THOSE
2 MONEYS, THE DEPARTMENT SHALL TRANSFER TO THE DEPARTMENT OF
3 LAW THE PORTION OF THE FEE COLLECTED UNDER SUBPARAGRAPH (III) OF
4 PARAGRAPH (a) OF THIS SUBSECTION (1.7).

5 (c) THE FEE ESTABLISHED BY THE COMMISSION UNDER THIS
6 SUBSECTION (1.7) SHALL NOT EXCEED FIFTY CENTS PER CUBIC YARD OF
7 SOLID WASTE, OF WHICH NO MORE THAN THREE AND ONE-HALF CENTS
8 SHALL PAY FOR THE COSTS DESCRIBED IN SUBPARAGRAPH (III) OF
9 PARAGRAPH (a) OF THIS SUBSECTION (1.7).

10 (d) THE DEPARTMENT SHALL GIVE THE OPERATORS OF ATTENDED
11 SOLID WASTE DISPOSAL SITES WRITTEN NOTICE OF CHANGES TO THE SOLID
12 WASTE USER FEES NO LATER THAN NINETY DAYS BEFORE THE EFFECTIVE
13 DATE OF THE CHANGES. FAILURE TO PROVIDE THE NOTICE REQUIRED BY
14 THIS PARAGRAPH (d) SHALL INVALIDATE THE RULES THAT CHANGED THE
15 FEES.

16 (6) This section is repealed, effective July 1, ~~2010~~ 2017.

17 (7) SUBSECTIONS (1), (3), AND (3.7) OF THIS SECTION, THIS
18 SUBSECTION (7), AND PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION
19 ARE REPEALED, EFFECTIVE UPON THE DATE THAT THE FEE ADOPTED
20 PURSUANT TO SUBSECTION (1.7) OF THIS SECTION TAKES EFFECT OR ON
21 JULY 1, 2011, WHICHEVER OCCURS FIRST.

22 **SECTION 3.** 25-16-104.5 (2), Colorado Revised Statutes, is
23 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

24 **25-16-104.5. Solid waste user fee - imposed - rate - direction**
25 **- legislative declaration - repeal.** (2) (a.5) NOTWITHSTANDING ANY
26 PROVISION OF LAW TO THE CONTRARY, ONE HUNDRED PERCENT OF THE
27 MONEYS COLLECTED PURSUANT TO SUBPARAGRAPH (II) OF PARAGRAPH (a)

1 OF SUBSECTION (1.7) OF THIS SECTION FROM PERSONS DISPOSING OF SOLID
2 WASTE AT AN ATTENDED SOLID WASTE DISPOSAL SITE WHERE A LOCAL
3 GOVERNMENT SOLID WASTE DISPOSAL FEE IS IMPOSED TO FUND
4 HAZARDOUS SUBSTANCE RESPONSE ACTIVITIES AT SITES DESIGNATED ON
5 THE NATIONAL PRIORITY LIST PURSUANT TO THE FEDERAL ACT SHALL BE
6 TRANSMITTED TO THE OWNER OF THE SOLID WASTE DISPOSAL SITE TO THE
7 EXTENT THAT THE MONEYS ARE USED TO FUND THE RESPONSE ACTIVITIES
8 AT THE SITES ON THE NATIONAL PRIORITY LIST. THE BALANCE OF ANY
9 MONEYS DESCRIBED UNDER THIS PARAGRAPH (a.5) THAT ARE NOT USED TO
10 FUND SUCH RESPONSE ACTIVITIES SHALL BE CREDITED TO THE HAZARDOUS
11 SUBSTANCE RESPONSE FUND CREATED IN SECTION 25-16-104.6.

12 **SECTION 4.** 25-16-104.6 (1) (a), Colorado Revised Statutes, is
13 amended, and the said 25-16-104.6 (1) is further amended BY THE
14 ADDITION OF A NEW PARAGRAPH, to read:

15 **25-16-104.6. Fund established - administration - revenue**
16 **sources - use.** (1) (a) There is hereby established in the state treasury the
17 hazardous substance response fund. The fund shall be composed of any
18 moneys that the general assembly may choose to appropriate from the
19 general fund and any moneys derived from the fee imposed pursuant to
20 section 25-16-104.5 and any interest derived therefrom; any moneys
21 recovered from responsible parties pursuant to the federal act that are not
22 generated by the state litigating as trustee for natural resources pursuant
23 to section 25-16-104.7; any moneys recovered through litigation by the
24 state pursuant to the federal act that are designated for future response
25 cost; and any other moneys derived from public or private sources that
26 may be credited to the fund. Moneys in the fund shall be annually
27 appropriated by the general assembly, subject to the provisions of section

1 25-16-104, shall remain available for the purposes of this article, and
2 shall not revert or be transferred to the general fund of the state at the end
3 of any fiscal year. IF THE FUND BALANCE EXCEEDS TEN MILLION DOLLARS
4 IN ANY STATE FISCAL YEAR AND THE FUND BALANCE IS NOT PROJECTED TO
5 FALL BELOW TEN MILLION DOLLARS WITHIN TWENTY-FOUR MONTHS, THE
6 DEPARTMENT SHALL EVALUATE THE NEED TO REDUCE FEES TO BRING THE
7 BALANCE OF THE FUND BELOW TEN MILLION DOLLARS, AND SHALL
8 PRESENT THE EVALUATION TO THE COMMISSION.

9 (f) NOTWITHSTANDING ANY PROVISION OF PARAGRAPH (a) OF THIS
10 SUBSECTION (1) TO THE CONTRARY, FOR THE STATE FISCAL YEAR
11 COMMENCING JULY 1, 2010, THE STATE TREASURER SHALL MAKE THE
12 FOLLOWING ONE-TIME TRANSFERS FROM THE HAZARDOUS SUBSTANCE
13 RESPONSE FUND:

14 (I) TO THE SOLID WASTE MANAGEMENT FUND CREATED IN SECTION
15 30-20-118, C.R.S., UP TO FOUR HUNDRED THOUSAND DOLLARS, TO BE
16 USED IN CONNECTION WITH THE DEPARTMENT'S SOLID WASTE
17 MANAGEMENT ACTIVITIES; AND

18 (II) TO THE DEPARTMENT OF LAW, UP TO FIVE HUNDRED FIFTY
19 THOUSAND DOLLARS, FOR IMPLEMENTATION OF ITS RESPONSIBILITIES
20 UNDER THE FEDERAL ACT.

21 **SECTION 5.** 30-20-115, Colorado Revised Statutes, is amended
22 to read:

23 **30-20-115. Solid wastes disposal site and facility fund - tax -**
24 **fees.** (1) Any governing body having jurisdiction is authorized to
25 establish a solid wastes disposal site and facility fund. The governing
26 body having jurisdiction may levy a solid wastes disposal site and facility
27 tax, in addition to any other tax authorized by law, on the taxable property

1 within such A county or municipality, the proceeds of which shall be
2 deposited to the credit of said fund and appropriated to pay the cost of
3 land, labor, equipment, and services needed in the operation of solid
4 wastes disposal sites and facilities and for any other solid wastes
5 management purpose in or on behalf of that county or municipality. Any
6 governing body having jurisdiction is also authorized, after a public
7 hearing, to fix, modify, and collect service charges from users of solid
8 wastes disposal sites and facilities or transfer stations for the purpose of
9 financing solid wastes management in that county or municipality. In the
10 event that a countywide solid waste disposal site and facility tax has been
11 imposed with the consent of a majority of the voters in the county, that
12 tax may continue to be collected countywide and may accrue to the
13 county's solid waste disposal site and facility fund, notwithstanding any
14 subsequent taxes as may be levied by any municipalities within the county
15 under this section.

16 (2) (a) NOTHING IN SUBSECTION (1) OF THIS SECTION SHALL BE
17 CONSTRUED TO AUTHORIZE ANY GOVERNING BODY HAVING JURISDICTION
18 TO COLLECT SERVICE CHARGES FROM USERS OF ANY PRIVATELY OWNED OR
19 OPERATED SITE AND FACILITY THAT IS FOR THE PRIMARY PURPOSE OF
20 PROCESSING, RECLAIMING, OR RECYCLING:

- 21 (I) RECYCLABLE MATERIALS;
- 22 (II) EXCLUDED SCRAP METAL;
- 23 (III) AUTO PARTS; OR
- 24 (IV) SCRAP THAT IS COMPOSED OF WORN OUT METAL OR A METAL
25 PRODUCT THAT HAS OUTLIVED ITS ORIGINAL USE, COMMONLY REFERRED
26 TO AS OBSOLETE SCRAP.

27 (b) NOTHING IN THIS SUBSECTION (2) SHALL BE CONSTRUED TO

1 PROHIBIT ANY GOVERNING BODY HAVING JURISDICTION FROM LEVYING OR
2 COLLECTING SERVICE CHARGES FROM USERS OF A SOLID WASTES DISPOSAL
3 SITE AND FACILITY AT WHICH RECYCLING OCCURS.

4 **SECTION 6. Safety clause.** The general assembly hereby finds,
5 determines, and declares that this act is necessary for the immediate
6 preservation of the public peace, health, and safety.