



Sen. Bill Brady

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09300HB0911sam008

LRB093 05422 BDD 54161 a

1 AMENDMENT TO HOUSE BILL 911

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 911, AS AMENDED,  
3 with reference to page and line numbers of Senate Amendment No.  
4 7, as follows:

5 on page 1, line 5, by changing "Section 3.330" to "Sections  
6 3.330 and 21.1"; and

7 on page 4, immediately below line 4, by inserting the  
8 following:

9 "(415 ILCS 5/21.1) (from Ch. 111 1/2, par. 1021.1)

10 Sec. 21.1. (a) Except as provided in subsection (a.5), no  
11 person other than the State of Illinois, its agencies and  
12 institutions, or a unit of local government shall conduct any  
13 waste disposal operation on or after March 1, 1985, which  
14 requires a permit under subsection (d) of Section 21 of this  
15 Act, unless such person has posted with the Agency a  
16 performance bond or other security for the purpose of insuring  
17 closure of the site and post-closure care in accordance with  
18 this Act and regulations adopted thereunder.

19 (a.5) On and after the effective date established by the  
20 United States Environmental Protection Agency for MSWLF units  
21 to provide financial assurance under Subtitle D of the Resource  
22 Conservation and Recovery Act, no person, other than the State  
23 of Illinois, its agencies and institutions, shall conduct any

1 disposal operation at a MSWLF unit that requires a permit under  
2 subsection (d) of Section 21 of this Act, unless that person  
3 has posted with the Agency a performance bond or other security  
4 for the purposes of:

5 (1) insuring closure of the site and post-closure care  
6 in accordance with this Act and its rules; and

7 (2) insuring completion of a corrective action remedy  
8 when required by Board rules adopted under Section 22.40 of  
9 this Act or when required by Section 22.41 of this Act.

10 The performance bond or other security requirement set  
11 forth in this Section may be fulfilled by closure or  
12 post-closure insurance, or both, issued by an insurer licensed  
13 to transact the business of insurance by the Department of  
14 Insurance or at a minimum the insurer must be licensed to  
15 transact the business of insurance or approved to provide  
16 insurance as an excess or surplus lines insurer by the  
17 insurance department in one or more states.

18 (b) On or before January 1, 1985, the Board shall adopt  
19 regulations to promote the purposes of this Section. Without  
20 limiting the generality of this authority, such regulations  
21 may, among other things, prescribe the type and amount of the  
22 performance bonds or other securities required under  
23 subsections (a) and (a.5) of this Section, and the conditions  
24 under which the State is entitled to collect monies from such  
25 performance bonds or other securities. The bond amount shall be  
26 directly related to the design and volume of the site. The cost  
27 estimate for the post-closure care of a MSWLF unit shall be  
28 calculated using a 30 year post-closure care period or such  
29 other period as may be approved by the Agency under Board or  
30 federal rules. On and after the effective date established by  
31 the United States Environmental Protection Agency for MSWLF  
32 units to provide financial assurance under Subtitle D of the  
33 Resource Conservation and Recovery Act, closure, post-closure  
34 care, and corrective action cost estimates for MSWLF units

1 shall be in current dollars.

2 (c) There is hereby created within the State Treasury a  
3 special fund to be known as the "Landfill Closure and  
4 Post-Closure Fund". Any monies forfeited to the State of  
5 Illinois from any performance bond or other security required  
6 under this Section shall be placed in the "Landfill Closure and  
7 Post-Closure Fund" and shall, upon approval by the Governor and  
8 the Director, be used by and under the direction of the Agency  
9 for the purposes for which such performance bond or other  
10 security was issued. The Landfill Closure and Post-Closure Fund  
11 is not subject to the provisions of subsection (c) of Section 5  
12 of the State Finance Act.

13 (d) The Agency is authorized to enter into such contracts  
14 and agreements as it may deem necessary to carry out the  
15 purposes of this Section. Neither the State, nor the Director,  
16 nor any State employee shall be liable for any damages or  
17 injuries arising out of or resulting from any action taken  
18 under this Section.

19 (e) The Agency shall have the authority to approve or  
20 disapprove any performance bond or other security posted  
21 pursuant to subsection (a) or (a.5) of this Section. Any person  
22 whose performance bond or other security is disapproved by the  
23 Agency may contest the disapproval as a permit denial appeal  
24 pursuant to Section 40 of this Act.

25 (f) The Agency may establish such procedures as it may deem  
26 necessary for the purpose of implementing and executing its  
27 responsibilities under this Section.

28 (g) Nothing in this Section shall bar a cause of action by  
29 the State for any other penalty or relief provided by this Act  
30 or any other law.

31 (h) The Agency must establish and maintain a program to  
32 monitor the status of any performance bond or other security  
33 required under this Section. If, for any reason, the Agency  
34 deems that a bond or other security is insufficient to ensure

1 the closure of a site and post-closure care in accordance with  
2 this Act, the Agency must notify the operator of the  
3 insufficiency and require any additional security to ensure  
4 compliance with this Act. Any person who fails to obtain  
5 additional security within a reasonable time, as determined by  
6 the Agency, commits a violation of this Act.

7 (i) If, upon or after the closure of a site, a performance  
8 bond or other security required under this Section is  
9 discovered to be insufficient to ensure the closure of a site  
10 and post-closure care in accordance with this Act, the Agency  
11 shall use any unencumbered moneys in the Landfill Closure and  
12 Post-Closure Fund for the purpose of taking any action  
13 necessary to bring the closure and post-closure of the site  
14 into compliance with this Act. If no unencumbered moneys exist  
15 in the Fund, the Department shall request from the General  
16 Assembly an appropriation to the Fund to bring the closure and  
17 post-closure of the site into compliance with this Act.

18 (Source: P.A. 88-496; 88-512; 89-200, eff. 1-1-96.)".