



93RD GENERAL ASSEMBLY

State of Illinois

2003 and 2004

Introduced 2/6/2004, by Bill Brady

SYNOPSIS AS INTRODUCED:

415 ILCS 5/21.1

from Ch. 111 1/2, par. 1021.1

Amends the Environmental Protection Act. Requires the Department to establish and maintain a program to monitor the status of performance bonds or other security required to operate a solid waste disposal site. Provides that if the Agency determines that a bond or other security is insufficient to ensure the closure of a site and post-closure care, the Agency must notify that operator of the site of the insufficiency and require any additional security and requires the operator to obtain additional security. Provides that if, upon or after the closure of a site, a performance bond or other security required under this Section is discovered to be insufficient to ensure the closure of a site and post-closure care in accordance with this Act, the Agency shall use any unencumbered moneys in the Landfill Closure and Post-Closure Fund for the purpose of taking any action necessary to bring the closure and post-closure of the site into compliance with this Act, and, if no unencumbered moneys exist in the Fund, the Department shall request from the General Assembly an appropriation to the Fund to bring the closure and post-closure of the site into compliance with this Act. Effective immediately.

LRB093 20649 BDD 46665 b

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning environmental protection.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Environmental Protection Act is amended by
5 changing Section 21.1 as follows:

6 (415 ILCS 5/21.1) (from Ch. 111 1/2, par. 1021.1)

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

16 (a.5) On and after the effective date established by the
17 United States Environmental Protection Agency for MSWLF units
18 to provide financial assurance under Subtitle D of the Resource
19 Conservation and Recovery Act, no person, other than the State
20 of Illinois, its agencies and institutions, shall conduct any
21 disposal operation at a MSWLF unit that requires a permit under
22 subsection (d) of Section 21 of this Act, unless that person
23 has posted with the Agency a performance bond or other security
24 for the purposes of:

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

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

30 The performance bond or other security requirement set
31 forth in this Section may be fulfilled by closure or
32 post-closure insurance, or both, issued by an insurer licensed

1 to transact the business of insurance by the Department of
2 Insurance or at a minimum the insurer must be licensed to
3 transact the business of insurance or approved to provide
4 insurance as an excess or surplus lines insurer by the
5 insurance department in one or more states.

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

24 (c) There is hereby created within the State Treasury a
25 special fund to be known as the "Landfill Closure and
26 Post-Closure Fund". Any monies forfeited to the State of
27 Illinois from any performance bond or other security required
28 under this Section shall be placed in the "Landfill Closure and
29 Post-Closure Fund" and shall, upon approval by the Governor and
30 the Director, be used by and under the direction of the Agency
31 for the purposes for which such performance bond or other
32 security was issued. The Landfill Closure and Post-Closure Fund
33 is not subject to the provisions of subsection (c) of Section 5
34 of the State Finance Act.

35 (d) The Agency is authorized to enter into such contracts
36 and agreements as it may deem necessary to carry out the

1 purposes of this Section. Neither the State, nor the Director,
2 nor any State employee shall be liable for any damages or
3 injuries arising out of or resulting from any action taken
4 under this Section.

5 (e) The Agency shall have the authority to approve or
6 disapprove any performance bond or other security posted
7 pursuant to subsection (a) or (a.5) of this Section. Any person
8 whose performance bond or other security is disapproved by the
9 Agency may contest the disapproval as a permit denial appeal
10 pursuant to Section 40 of this Act.

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

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

17 (h) The Agency must establish and maintain a program to
18 monitor the status of any performance bond or other security
19 required under this Section. If, for any reason, the Agency
20 deems that a bond or other security is insufficient to ensure
21 the closure of a site and post-closure care in accordance with
22 this Act, the Agency must notify the operator of the
23 insufficiency and require any additional security to ensure
24 compliance with this Act. Any person who fails to obtain
25 additional security within a reasonable time, as determined by
26 the Agency, commits a violation of this Act.

27 (i) If, upon or after the closure of a site, a performance
28 bond or other security required under this Section is
29 discovered to be insufficient to ensure the closure of a site
30 and post-closure care in accordance with this Act, the Agency
31 shall use any unencumbered moneys in the Landfill Closure and
32 Post-Closure Fund for the purpose of taking any action
33 necessary to bring the closure and post-closure of the site
34 into compliance with this Act. If no unencumbered moneys exist
35 in the Fund, the Department shall request from the General
36 Assembly an appropriation to the Fund to bring the closure and

1 post-closure of the site into compliance with this Act.

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

3 Section 99. Effective date. This Act takes effect upon
4 becoming law.