

## **BILL ANALYSIS**

C.S.H.B. 1490  
By: Bell  
Environmental Regulation  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Interested parties contend that the unexpended balance of the waste management account and the municipal solid waste disposal account is large enough to provide for a reduction in the solid waste disposal and transportation fees imposed on all solid waste that is disposed of within the state. The parties assert that the solid waste disposal account has sufficient reserves to function without continued revenue but that the waste management account needs a continued source of revenue, as it funds various programs within the Texas Commission on Environmental Quality.

C.S.H.B. 1490 proposes a reduction of the solid waste disposal and transportation fees, changes regarding the allocation of certain revenue from the fees, and changes to the current funding levels of the solid waste disposal account and the waste management account.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 1490 amends the Health and Safety Code to require the Texas Commission on Environmental Quality (TCEQ) to notify the comptroller of public accounts if the balance of the unobligated money in the municipal solid waste disposal account equals or exceeds \$30 million and requires the rate of each solid waste disposal and transportation fee charged by TCEQ to be reduced by 50 percent not later than the 60th day after the date of such notice. The bill requires revenue received by TCEQ from solid waste disposal and transportation fees collected after such a reduction in fees to be deposited to the credit of the waste management account. The bill requires TCEQ to notify the comptroller if the balance of the unobligated money in the municipal solid waste disposal account falls below \$20 million and, if a fee reduction is in effect, provides for the rate of each fee to increase to the original rate on the 60th day after the date of such notice. The bill requires one-half of the revenues received by TCEQ from fees collected after such a fee increase to be deposited to the credit of the waste management account and one-half of those revenues to be deposited to the credit of the municipal solid waste disposal account.

C.S.H.B. 1490 adds to the state's solid waste management program enhancement activities that are paid for out of the half of the revenue from the solid waste disposal and transportation fees dedicated to TCEQ's municipal solid waste permitting and enforcement programs to include the provision of funds for natural gas vehicle fueling stations in nonattainment areas to facilitate the conversion of solid waste fleets from using diesel fuel to using natural gas and to include the provision of funds for municipal solid waste projects, including waste-to-energy projects, projects to turn landfill biogas or wastewater treatment facility biogas into electricity or renewable fuel, and projects involving the anaerobic digestion of organic waste.

## **EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2013.

## **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 1490 may differ from the original in minor or nonsubstantive ways and by conforming to bill drafting conventions, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

### **INTRODUCED**

SECTION 1. Section 361.013, Health and Safety Code, is amended to read as follows:

Sec. 361.013. SOLID WASTE DISPOSAL AND TRANSPORTATION FEES. (a) Except as provided by Subsections (e) through ~~(j)~~~~(i)~~, the commission shall charge a fee on all solid waste that is disposed of within this state. The fee is \$1.25 per ton received for disposal at a municipal solid waste landfill if the solid waste is measured by weight. If the solid waste is measured by volume, the fee for compacted solid waste is 40 cents per cubic yard or, for uncompacted solid waste, 25 cents per cubic yard received for disposal at a municipal solid waste landfill. The commission shall set the fee for sludge or similar waste applied to the land for beneficial use on a dry weight basis and for solid waste received at an incinerator or a shredding and composting facility at half the fee set for solid waste received for disposal at a landfill. The commission may charge comparable fees for other means of solid waste disposal that are used.

(b) The commission may raise or lower the fees established under Subsection (a) in accordance with commission spending levels established by the legislature.

(c) Fees established under Subsection (a) shall be reduced to 50 percent on or after the first day of the second month following notification by the commission of the date on which the unobligated balance in the municipal solid waste disposal account equals or exceeds \$30,000,000. The commission shall notify the comptroller in writing of the date on which the unobligated balance equals or exceeds \$30,000,000. All fees established under Subsection (a) that are collected after

### **HOUSE COMMITTEE SUBSTITUTE**

SECTION 1. Section 361.013, Health and Safety Code, is amended by adding Subsections (a-1) and (a-2) to read as follows:

(a-1) The commission shall notify the comptroller if the balance of the unobligated money in the municipal solid waste disposal account equals or exceeds \$30 million. Notwithstanding Subsection (b), the rate of each fee established under Subsection (a) is reduced by 50 percent not later than the 60th day after the date of a notice described by this subsection. Revenues received by the commission from fees collected after a reduction in the

the commission's notice shall be distributed to the waste management account.

If the unobligated balance in the municipal solid waste disposal account falls below \$15,000,000, the fees shall be reinstated to 100 percent of established levels in Subsection (a) and equally distributed between the municipal solid waste disposal account and the waste management account, effective on the first day of the second month following notification by the commission.

(d) ~~(e)~~ The commission shall charge an annual registration fee to a transporter of municipal solid waste who is required to register with the commission under rules adopted by the commission. The commission by rule shall adopt a fee schedule. The fee shall be reasonably related to the volume, the type, or both the volume and type of waste transported. The registration fee charged under this subsection may not be less than \$25 or more than \$500.

(e) ~~(d)~~ The operator of each municipal solid waste facility shall maintain records and report to the commission annually on the amount of solid waste that the facility transfers, processes, stores, treats, or disposes of. Each transporter required to register with the commission shall maintain records and report to the commission annually on the amount of solid waste that the transporter transports. The commission by rule shall establish procedures for recordkeeping and reporting required under this subsection.

(f) ~~(e)~~ The commission may not charge a fee under Subsection (a) for scrap tires that are deposited in a designated recycling collection area at a landfill permitted by the commission or licensed by a county or by a political subdivision exercising the authority granted by Section 361.165 and that are temporarily stored for eventual recycling, reuse, or energy recovery.

(g) ~~(f)~~ The commission may not charge a fee under Subsection (a) for source separated yard waste materials that are composted at a

fees under this subsection shall be deposited to the credit of the waste management account.

(a-2) The commission shall notify the comptroller if the balance of the unobligated money in the municipal solid waste disposal account falls below \$20 million. If a fee reduction under Subsection (a-1) is in effect, on the 60th day after the date of a notice under this subsection, the rate of each fee is the rate established under Subsection (a). One-half of the revenues received by the commission from fees collected after a fee increase under this subsection shall be deposited to the credit of the waste management account, and one-half of those revenues shall be deposited to the credit of the municipal solid waste disposal account.

composting facility, including a composting facility located at a permitted landfill site. The commission shall credit any fee payment due under Subsection (a) for any material received and converted to compost or product for composting through a composting process. Any compost or product for composting that is not used as compost and is deposited in a landfill is not exempt from the fee.

(h) ~~(g)~~ The commission shall allow a home-rule municipality that has enacted an ordinance imposing a local environmental protection fee for disposal services as of January 1, 1993, to offer disposal or environmental programs or services to persons within its jurisdiction, from the revenues generated by said fee, as such services are required by state or federal mandates. If such services or programs are offered, the home-rule municipality may require their use by those persons within its jurisdiction.

(i) ~~(h)~~ The commission may not charge a fee under Subsection (a) on solid waste resulting from a public entity's effort to protect the public health and safety of the community from the effects of a natural or man-made disaster or from structures that have been contributing to drug trafficking or other crimes if the disposal facility at which that solid waste is offered for disposal has donated to a municipality, county, or other political subdivision the cost of disposing of that waste.

(j) ~~(i)~~ The commission may not charge a fee under Subsection (a) for the disposal of:

(1) Class I industrial solid waste or hazardous waste subject to the assessment of fees under Section 361.136;

(2) an industrial solid waste for which no permit may be required under Section 361.090; or

(3) sewage sludge that:

(A) has been treated to reduce the density of pathogens to the lowest level provided by commission rules; and

(B) complies with commission rules regarding:

(i) metal concentration limits;

(ii) pathogen reduction; and

(iii) vector attraction reduction.

SECTION 2. Subsection (a), Section 361.014, Health and Safety Code, is amended by adding Subdivisions (12) and (13) to read as

SECTION 2. Section 361.014(a), Health and Safety Code, is amended to read as follows:

follows:

(a) Revenue received by the commission under Section 361.013 shall be deposited in the state treasury to the credit of the commission. Half of the revenue is dedicated to the commission's municipal solid waste permitting and enforcement programs and related support activities and to pay for activities that will enhance the state's solid waste management program, including:

(1) provision of funds for the municipal solid waste management planning fund and the municipal solid waste resource recovery applied research and technical assistance fund established by the Comprehensive Municipal Solid Waste Management, Resource Recovery, and Conservation Act (Chapter 363);

(2) conduct of demonstration projects and studies to help local governments of various populations and the private sector to convert to accounting systems and set rates that reflect the full costs of providing waste management services and are proportionate to the amount of waste generated;

(3) provision of technical assistance to local governments concerning solid waste management;

(4) establishment of a solid waste resource center in the commission and an office of waste minimization and recycling;

(5) provision of supplemental funding to local governments for the enforcement of this chapter, the Texas Litter Abatement Act (Chapter 365), and Chapters 391 and 683, Transportation Code;

(6) conduct of a statewide public awareness program concerning solid waste management;

(7) provision of supplemental funds for other state agencies with responsibilities concerning solid waste management, recycling, and other initiatives with the purpose of diverting recyclable waste from landfills;

(8) conduct of research to promote the development and stimulation of markets for recycled waste products;

(9) creation of a state municipal solid waste superfund, from funds appropriated, for:

(A) the cleanup of unauthorized tire dumps and solid waste dumps for which a

(12) provision of funds for natural gas fueling stations to facilitate the conversion of solid waste diesel fleets to cleaner burning natural gas in nonattainment areas and Travis, Williamson, Hays, and Bexar counties.

(13) provision of funds for municipal solid waste renewable energy projects; including, waste-to-energy, landfill biogas for electricity, wastewater treatment facility biogas projects to electricity or renewable fuel, and food/yard waste anaerobic digestion.

SECTION 3. This Act takes effect September 1, 2013.

responsible party cannot be located or is not immediately financially able to provide the cleanup;

(B) the cleanup or proper closure of abandoned or contaminated municipal solid waste sites for which a responsible party is not immediately financially able to provide the cleanup; and

(C) remediation, cleanup, and proper closure of unauthorized recycling sites for which a responsible party is not immediately financially able to perform the remediation, cleanup, and closure;

(10) provision of funds to mitigate the economic and environmental impacts of lead-acid battery recycling activities on local governments; ~~and~~

(11) provision of funds for the conduct of research by a public or private entity to assist the state in developing new technologies and methods to reduce the amount of municipal waste disposed of in landfills;

(12) provision of funds for natural gas vehicle fueling stations in nonattainment areas to facilitate the conversion of solid waste fleets from using diesel fuel to using natural gas; and

(13) provision of funds for municipal solid waste projects, including waste-to-energy projects, projects to turn landfill biogas or wastewater treatment facility biogas into electricity or renewable fuel, and projects involving the anaerobic digestion of organic waste.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2013.