

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 580

Introduced by Hilkemann, 4.

Read first time January 22, 2019

Committee:

1 A BILL FOR AN ACT relating to the Integrated Solid Waste Management Act;
2 to amend sections 13-2042 and 13-2042.01, Reissue Revised Statutes
3 of Nebraska; to change a landfill disposal fee; to change provisions
4 relating to a rebate to a municipality or a county; to harmonize
5 provisions; to provide an operative date; and to repeal the original
6 sections.

7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 13-2042, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 13-2042 (1) A disposal fee of two dollars ~~one dollar and twenty-five~~
4 ~~cents~~ is imposed for each six cubic yards of uncompacted solid waste, two
5 dollars ~~one dollar and twenty-five cents~~ for each three cubic yards of
6 compacted solid waste, or two dollars ~~one dollar and twenty-five cents~~
7 per ton of solid waste (a) disposed of at landfills regulated by the
8 department or (b) transported for disposal out of state from a solid
9 waste processing facility holding a permit under the Integrated Solid
10 Waste Management Act. Each operator of a landfill or solid waste
11 processing facility shall make the fee payment quarterly. The fee shall
12 be paid quarterly to the department on or before the forty-fifth day
13 following the end of each quarter. For purposes of this section, landfill
14 has the same definition as municipal solid waste landfill unit in 40
15 C.F.R. 258.2.

16 (2) Each fee payment shall be accompanied by a form prepared and
17 furnished by the department and completed by the permitholder. The form
18 shall state the total volume of solid waste disposed of at the landfill
19 or transported for disposal out of state from the solid waste processing
20 facility during the payment period and shall provide any other
21 information deemed necessary by the department. The form shall be signed
22 by the permitholder.

23 (3) If a permitholder fails to make a timely payment of the fee, he
24 or she shall pay interest on the unpaid amount at the rate specified in
25 section 45-104.02, as such rate may from time to time be adjusted.

26 (4) This section shall not apply to a site used solely for the
27 reclamation of land through the introduction of landscaping rubble or
28 inert material.

29 (5) Fifty percent of the total of such fees collected in each
30 quarter shall be remitted to the State Treasurer for credit to the
31 Integrated Solid Waste Management Cash Fund and shall be used by the

1 department to cover the direct and indirect costs of responding to spills
2 or other environmental emergencies, of regulating, investigating,
3 remediating, and monitoring facilities during and after operation of
4 facilities, or of performance of regulated activities under the
5 Integrated Solid Waste Management Act, the Nebraska Litter Reduction and
6 Recycling Act, and the Waste Reduction and Recycling Incentive Act. The
7 department may seek recovery of expenses paid from the fund for
8 responding to spills or other environmental emergencies or for
9 investigation, remediation, and monitoring of a facility from any person
10 who owned, operated, or used the facility in violation of the Integrated
11 Solid Waste Management Act, the Nebraska Litter Reduction and Recycling
12 Act, and the Waste Reduction and Recycling Incentive Act in a civil
13 action filed in the district court of Lancaster County.

14 (6)(a) The remaining fifty percent of the total of such fees
15 collected per quarter shall be remitted to the State Treasurer for credit
16 to the Waste Reduction and Recycling Incentive Fund. For purposes of
17 determining the total fees collected, any amount of fees rebated pursuant
18 to section 13-2042.01 shall be included as if the fees had not been
19 rebated, and the amount of the fees rebated pursuant to such section
20 shall be deducted from the amount to be credited to the Waste Reduction
21 and Recycling Incentive Fund.

22 (b) From the fees credited to the Waste Reduction and Recycling
23 Incentive Fund under this subsection:

24 (i) Grants shall be awarded to counties, municipalities, and
25 agencies for the purposes of planning and implementing facilities and
26 systems to further the goals of the Integrated Solid Waste Management
27 Act. The grant proceeds shall not be used to fund landfill closure site
28 assessments, closure, monitoring, or investigative or corrective action
29 costs for existing landfills or landfills already closed prior to July
30 15, 1992. The council shall adopt and promulgate rules and regulations to
31 carry out this subdivision. Such rules and regulations shall base the

1 awarding of grants on a project's reflection of the integrated solid
2 waste management policy and hierarchy established in section 13-2018, the
3 proposed amount of local matching funds, and community need; and

4 (ii) The department may disburse amounts to political subdivisions
5 for costs incurred in response to and remediation of any solid waste
6 disposed of or abandoned at dump sites or discrete locations along public
7 roadways or ditches and on any contiguous area affected by such disposal
8 or abandonment. Such reimbursement shall be by application to the
9 department on forms prescribed by the department. The department shall
10 prepare and make available a schedule of eligible costs and application
11 procedures which may include a requirement of a demonstration of
12 preventive measures to be taken to discourage future dumping. The
13 department may not disburse to political subdivisions an amount which in
14 the aggregate exceeds five percent of total revenue from the disposal
15 fees collected pursuant to this section in the preceding fiscal year.
16 These disbursements shall be made on a fiscal-year basis, and
17 applications received after funds for this purpose have been exhausted
18 may be eligible during the next fiscal year but are not an obligation of
19 the state. Any eligible costs incurred by a political subdivision which
20 are not funded due to a lack of funds shall not be considered an
21 obligation of the state. In disbursing funds under this subdivision, the
22 director shall make efforts to ensure equal geographical distribution
23 throughout the state and may deny reimbursements in order to accomplish
24 this goal.

25 Sec. 2. Section 13-2042.01, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 13-2042.01 (1)(a) ~~(1)~~ The Department of Environmental Quality shall
28 rebate to the municipality or county of origin a portion ~~ten cents~~ of the
29 disposal fee required by section 13-2042 for solid waste disposed of at
30 landfills regulated by the department or transported for disposal out of
31 state from a solid waste processing facility holding a permit under the

1 Integrated Solid Waste Management Act and when such solid waste
2 originated in a municipality or county as follows:

3 (i) Ten cents of each fee if such municipality or county has with a
4 purchasing policy approved by the department as described in subsection
5 (2) of this section; and -

6 (ii) Seventy-five cents of each fee for use by such municipality or
7 county for residential household hazardous waste collection events or for
8 operational funding for residential household hazardous waste facilities,
9 or both.

10 (b) The fee shall be rebated on a schedule agreed upon between the
11 municipality or county and the department. The schedule shall be no more
12 often than quarterly and no less often than annually.

13 (2) Any municipality or county may apply to the department for the
14 rebate authorized in subdivision (1)(a)(i) subsection (1) of this section
15 if the municipality or county has a written purchasing policy in effect
16 requiring a preference for purchasing products, materials, or supplies
17 which are manufactured or produced from recycled material. The policy
18 shall provide that the preference shall not operate when it would result
19 in the purchase of products, materials, or supplies which are of
20 inadequate quality as determined by the municipality or county. Upon
21 receipt of an application, the Department of Environmental Quality shall
22 submit the application to the materiel division of the Department of
23 Administrative Services for review. The materiel division shall review
24 the application for compliance with this section and any rules and
25 regulations adopted pursuant to this section and to determine the
26 probable effectiveness in assuring that a preference is given to
27 products, materials, or supplies which are manufactured or produced from
28 recycled material. The materiel division shall provide a report of its
29 findings to the Department of Environmental Quality within thirty days
30 after receiving the review request. The Department of Environmental
31 Quality shall approve the application or suggest modifications to the

1 application within sixty days after receiving the application based on
2 the materiel division's report, any analysis by the Department of
3 Environmental Quality, and any factors affecting compliance with this
4 section or the rules and regulations adopted pursuant to this section.

5 (3) Any municipality or county may apply to the department for the
6 rebate authorized in subdivision (1)(a)(ii) of this section if the
7 municipality or county operates, either directly or in combination with
8 one or more public or private entities, a residential household hazardous
9 waste collection facility or provides residential household hazardous
10 waste collection events. The basis for the rebate shall be the household
11 hazardous waste facility operating budget for the previous year and the
12 amount of funding previously provided from any waste reduction and
13 recycling grant program or the amount of waste reduction and recycling
14 grant funds allocated for collection events for the previous year. The
15 department shall adopt and promulgate rules and regulations establishing
16 procedures for evaluating rebate requests.

17 (4)(a) ~~(3)~~ A municipality or county shall file a report complying
18 with the rules and regulations adopted pursuant to this section with the
19 Department of Environmental Quality before April 1 of each year
20 documenting (i) purchasing practices for the past calendar year in order
21 to continue receiving the rebate authorized in subdivision (1)(a)(i) of
22 this section, or (ii) residential household hazardous waste collection
23 events or operations for the past calendar year in order to continue
24 receiving the rebate authorized in subdivision (1)(a)(ii) of this
25 section. The report regarding purchasing practices to receive the rebate
26 authorized in subdivision (1)(a)(i) of this section shall include, but
27 not be limited to, quantities of products, materials, or supplies
28 purchased which were manufactured or produced from recycled material. The
29 department shall provide copies of each report to the materiel division
30 in a timely manner.

31 (b) If the department determines that a municipality or county is

1 not (i) following the purchasing policy presented in the approved
2 application or that the purchasing policy presented in the approved
3 application is not effective in assuring that a preference is given to
4 products, materials, or supplies which are manufactured or produced from
5 recycled material or (ii) conducting residential household hazardous
6 waste collection events or operations presented in the approved
7 application, the department shall suspend the rebate until it determines
8 that the municipality or county is either giving a preference to
9 products, materials, or supplies which are manufactured or produced from
10 recycled material pursuant to a written purchasing policy approved by the
11 department or conducting residential household hazardous waste collection
12 events or operations, whichever is applicable, subsequent to the
13 suspension. The materiel division may make recommendations to the
14 department regarding suspensions and reinstatements of rebates. The
15 Department of Administrative Services may adopt and promulgate rules and
16 regulations establishing procedures for reviewing applications and for
17 annual reports.

18 (5) (4) Any suspension of the rebate authorized in subdivision (1)
19 (a)(i) or (ii) of this section or denial of an application made for such
20 rebates under this section may be appealed. The appeal shall be in
21 accordance with the Administrative Procedure Act.

22 (6) (5) The council shall adopt and promulgate rules and regulations
23 establishing criteria for application procedures, for accepting and
24 denying applications, for required reports, and for suspending and
25 reinstating the rebate authorized under subdivision (1)(a)(i) or (ii) of
26 this section. The materiel division shall recommend to the council
27 criteria for accepting and denying applications and for suspending and
28 reinstating such rebates ~~the rebate~~. The materiel division may make other
29 recommendations to the council regarding rules and regulations authorized
30 under this section.

31 Sec. 3. This act becomes operative on October 1, 2019.

1 Sec. 4. Original sections 13-2042 and 13-2042.01, Reissue Revised
2 Statutes of Nebraska, are repealed.