

S T A T E O F N E W Y O R K

8922--A

2009-2010 Regular Sessions

I N A S S E M B L Y

June 16, 2009

Introduced by M. of A. DeMONTE, STIRPE -- Multi-Sponsored by -- M. of A. GABRYSZAK, HOOPER, MAYERSOHN, MENG, PEOPLES-STOKES, PERRY, SCHIMEL -- read once and referred to the Committee on Environmental Conservation -- recommitted to the Committee on Environmental Conservation in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the environmental conservation law, in relation to creating a hazardous waste landfill special assessment

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. The section heading, the opening paragraph and paragraph a
2 of subdivision 1 of section 27-0923 of the environmental conservation
3 law, the section heading and the opening paragraph of subdivision 1 as
4 added by chapter 38 of the laws of 1985 and paragraph a of subdivision 1
5 as amended by chapter 423 of the laws of 1990, are amended and a new
6 paragraph g is added to read as follows:
7 Special assessments on hazardous wastes [generated].
8 On and after [June] JULY first, [nineteen hundred eighty-five] TWO
9 THOUSAND TEN, there is hereby imposed upon every person who is engaged
10 within the state in the generation of hazardous waste identified or
11 listed pursuant to this title a special assessment to be determined as
12 follows:
13 a. [Twenty-seven] SEVEN dollars per ton of hazardous waste generated
14 which is disposed of in a landfill on the site where the waste is gener-
15 ated or which is designated for removal or removed from the site of
16 generation for disposal in a landfill or which is designated for removal
17 or removed from the site of generation for storage prior to disposal in
18 a landfill;
19 G. FOR THE PURPOSE OF THIS SUBDIVISION, GENERATION OF HAZARDOUS WASTE
20 SHALL NOT INCLUDE RETRIEVAL OR CREATION OF HAZARDOUS WASTE WHICH MUST BE

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets [] is old law to be omitted.

LBD14310-04-0

1 DISPOSED OF UNDER AN ORDER OF OR AGREEMENT WITH THE DEPARTMENT PURSUANT
2 TO TITLE THIRTEEN OR TITLE FOURTEEN OF THIS ARTICLE OR UNDER A CONTRACT
3 WITH THE DEPARTMENT PURSUANT TO TITLE FIVE OF ARTICLE FIFTY-SIX OF THIS
4 CHAPTER.

5 S 2. Subdivision 2 of section 27-0923 of the environmental conserva-
6 tion law, as amended by chapter 423 of the laws of 1990, is amended to
7 read as follows:

8 2. On or after [June] JULY first, [nineteen hundred eighty-five] TWO
9 THOUSAND TEN, there is hereby imposed upon persons holding permits or
10 required to hold permits for the storage, treatment or disposal of
11 hazardous waste pursuant to section 27-0913 of this title a hazardous
12 waste disposal special assessment [to be determined as follows:

13 a. Twenty-seven] OF TWENTY dollars per ton of hazardous waste which is
14 received for disposal in a landfill or for storage prior to disposal in
15 a landfill[;

16 b. Nine dollars per ton of hazardous waste which is received for
17 incineration or for storage prior to incineration;

18 c. Sixteen dollars per ton of hazardous waste which is received for
19 treatment or disposal, exclusive of disposal in a landfill or by incin-
20 eration, or for storage prior to such treatment or disposal;

21 d. No special assessment shall be imposed under this subdivision upon
22 receipt for treatment or disposal, or storage prior thereto of hazardous
23 waste where such waste was generated by persons subject to the special
24 assessment under subdivision one of this section].

25 S 3. Section 27-0923 of the environmental conservation law is amended
26 by adding a new subdivision 2-a to read as follows:

27 2-A. TEN PERCENT OF ANY SPECIAL ASSESSMENT PAID FOR LANDFILL DISPOSAL
28 SHALL GO TO THE COUNTY HEALTH DEPARTMENT OF THE COUNTY WHERE THE LAND-
29 FILL THAT IS ACCEPTING HAZARDOUS WASTE IS LOCATED. SUCH FUNDS SHALL BE
30 PAID TO THE COUNTY ON A QUARTERLY BASIS ON OR BEFORE THE TWENTIETH DAY
31 OF THE MONTH AFTER THE END OF EACH CALENDAR QUARTER. ALL MONEYS
32 COLLECTED OR RECEIVED BY THE COUNTY PURSUANT TO THIS SECTION SHALL BE
33 CREDITED TO THE COUNTY HEALTH DEPARTMENTS. COUNTY HEALTH DEPARTMENTS
34 SHALL USE SUCH MONIES FOR ASSESSMENT OF ANY POTENTIAL HEALTH OR ENVIRON-
35 MENTAL IMPACT FROM THE LANDFILL DISPOSAL FACILITY, INCLUDING SOIL AND
36 WATER TESTING. SUCH MONIES SHALL SUPPLEMENT AND IN NO CASE SUPPLANT
37 EXISTING FUNDING.

38 S 4. Paragraphs c, d and e of subdivision 3 of section 27-0923 of the
39 environmental conservation law, paragraph c as amended by section 5 of
40 part I of chapter 577 of the laws of 2004, paragraph d as added by chap-
41 ter 512 of the laws of 1986 and paragraph e as added by chapter 423 of
42 the laws of 1990, are amended to read as follows:

43 c. [For the purpose of this section, generation of hazardous waste
44 shall not include retrieval or creation of hazardous waste which must be
45 disposed of under an order of or agreement with the department pursuant
46 to title thirteen or title fourteen of this article or under a contract
47 with the department pursuant to title five of article fifty-six of this
48 chapter.

49 d.] No portion of the special assessments collected pursuant to this
50 section shall be used for any purpose if such use, under federal law,
51 would preclude the collection of such special assessment.

52 [e.] D. Notwithstanding any provision of this section to the contrary,
53 the actual method utilized to dispose of or treat any hazardous waste
54 shall govern the determination of the rate per ton applicable under the
55 special assessments imposed by this section, even if such hazardous
56 waste was designated for removal, removed, stored or received for

1 disposal or treatment by a method different than the method actually
2 utilized. Where any such special assessment with respect to any hazard-
3 ous waste is reported and paid on the basis of a rate per ton which is
4 greater than the rate per ton applicable to the actual method utilized
5 to dispose of or treat such hazardous waste, the difference between the
6 amount reported and paid and the amount due using the rate per ton
7 applicable to the actual method utilized shall be considered an overpay-
8 ment of such special assessment. The commissioner of taxation and
9 finance shall credit or refund such overpayment in the manner provided
10 and subject to the conditions contained in article twenty-seven of the
11 tax law, as incorporated by subdivision six of this section.

12 S 5. Paragraph b of subdivision 4 of section 27-0923 of the environ-
13 mental conservation law, as added by chapter 38 of the laws of 1985, is
14 amended to read as follows:

15 b. All [moneys] MONIES collected or received by the department of
16 taxation and finance pursuant to this section shall be deposited daily
17 to the credit of the comptroller with such responsible banks, banking
18 houses or trust companies as may be designated by the comptroller. Such
19 deposits shall be kept separate and apart from all other moneys in the
20 possession of the comptroller. The comptroller shall require adequate
21 security from all such depositories. Of the revenues collected under
22 this section, the comptroller shall retain in his hands such amounts as
23 the commissioner of taxation and finance may determine to be necessary
24 for refunds under this section and the comptroller shall pay any refunds
25 to which those liable for special assessments shall be entitled under
26 the provisions of this section. The comptroller, after reserving the
27 amount to pay such refunds, shall, on or before the tenth day of each
28 month, pay all special assessments, interest and penalties collected
29 under this section and remaining to his credit in such banks, banking
30 houses or trust companies at the close of business on the last day of
31 the preceding month into the hazardous waste remedial fund created
32 pursuant to section ninety-seven-b of the state finance law. Within
33 thirty days after each quarterly reporting date, the comptroller shall
34 certify the amount of special assessments under this section deposited
35 in the hazardous waste remedial fund during the preceding quarter and
36 the cumulative amount collected since the start of the current calendar
37 year, and shall submit such certification to the governor and the chair-
38 man of the senate finance committee and the chairman of the assembly
39 ways and means committee.

40 S 6. This act shall take effect July 1, 2010.