

6048

2009-2010 Regular Sessions

I N S E N A T E

June 22, 2009

Introduced by Sen. THOMPSON -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

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 NINE, 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
21 DISPOSED OF UNDER AN ORDER OF OR AGREEMENT WITH THE DEPARTMENT PURSUANT
22 TO TITLE THIRTEEN OR TITLE FOURTEEN OF THIS ARTICLE OR UNDER A CONTRACT
23 WITH THE DEPARTMENT PURSUANT TO TITLE FIVE OF ARTICLE FIFTY-SIX OF THIS
24 CHAPTER.

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

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

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

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

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

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

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

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

23 2-A. TEN PERCENT OF ANY SPECIAL ASSESSMENT PAID FOR LANDFILL DISPOSAL
24 SHALL GO TO THE COUNTY HEALTH DEPARTMENT OF THE COUNTY WHERE THE LAND-
25 FILL THAT IS ACCEPTING HAZARDOUS WASTE IS LOCATED. SUCH FUNDS SHALL BE
26 PAID TO THE COUNTY ON A QUARTERLY BASIS ON OR BEFORE THE TWENTIETH DAY
27 OF THE MONTH AFTER THE END OF EACH CALENDAR QUARTER. ALL MONEYS
28 COLLECTED OR RECEIVED BY THE COUNTY PURSUANT TO THIS SECTION SHALL BE
29 CREDITED TO THE COUNTY HEALTH DEPARTMENTS. COUNTY HEALTH DEPARTMENTS
30 SHALL USE SUCH MONIES FOR ASSESSMENT OF ANY POTENTIAL HEALTH OR ENVIRON-
31 MENTAL IMPACT FROM THE LANDFILL DISPOSAL FACILITY, INCLUDING SOIL AND
32 WATER TESTING. SUCH MONIES SHALL SUPPLEMENT AND IN NO CASE SUPPLANT
33 EXISTING FUNDING.

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

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

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

48 [e.] D. Notwithstanding any provision of this section to the contrary,
49 the actual method utilized to dispose of or treat any hazardous waste
50 shall govern the determination of the rate per ton applicable under the
51 special assessments imposed by this section, even if such hazardous
52 waste was designated for removal, removed, stored or received for
53 disposal or treatment by a method different than the method actually
54 utilized. Where any such special assessment with respect to any hazard-
55 ous waste is reported and paid on the basis of a rate per ton which is
56 greater than the rate per ton applicable to the actual method utilized

1 to dispose of or treat such hazardous waste, the difference between the
2 amount reported and paid and the amount due using the rate per ton
3 applicable to the actual method utilized shall be considered an overpay-
4 ment of such special assessment. The commissioner of taxation and
5 finance shall credit or refund such overpayment in the manner provided
6 and subject to the conditions contained in article twenty-seven of the
7 tax law, as incorporated by subdivision six of this section.

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

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

36 S 6. This act shall take effect July 1, 2009.