

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 696

Introduced by Pahls, 31.

Read first time January 06, 2010

Committee: Natural Resources

A BILL

1 FOR AN ACT relating to the Integrated Solid Waste Management
2 Act; to amend section 13-2042, Reissue Revised Statutes
3 of Nebraska, and section 13-2042.01, Revised Statutes
4 Supplement, 2009; to change provisions relating to
5 disposal fees; to harmonize provisions; and to repeal
6 the original sections.
7 Be it enacted by the people of the State of Nebraska,

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

3 13-2042 (1) A disposal fee of one dollar and twenty-five
4 cents is imposed for each six cubic yards of uncompacted solid
5 waste, one dollar and twenty-five cents for each three cubic yards
6 of compacted solid waste, or one dollar and twenty-five cents per
7 ton of solid waste (a) disposed of at landfills regulated by the
8 department or (b) transported from transfer stations in Nebraska
9 for disposal out of state. Each operator of a landfill ~~disposal~~
10 ~~facility or transfer station~~ shall make the fee payment quarterly.
11 The fee shall be paid quarterly to the department on or before the
12 forty-fifth day following the end of each quarter. For purposes of
13 this section, landfill has the same definition as municipal solid
14 waste landfill unit in 40 C.F.R. ~~part 258, subpart A, section~~
15 258.2.

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

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

1 time be adjusted.

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

5 (5) Fifty percent of the total of such fees collected in
6 each quarter shall be remitted to the State Treasurer for credit
7 to the Integrated Solid Waste Management Cash Fund and shall be
8 used by the department to cover the direct and indirect costs
9 of responding to spills or other environmental emergencies, of
10 regulating, investigating, remediating, and monitoring facilities
11 during and after operation of facilities, or of performance of
12 regulated activities under the Integrated Solid Waste Management
13 Act, the Livestock Waste Management Act, the Nebraska Litter
14 Reduction and Recycling Act, and the Waste Reduction and Recycling
15 Incentive Act. The department may seek recovery of expenses paid
16 from the fund for responding to spills or other environmental
17 emergencies or for investigation, remediation, and monitoring of
18 a facility from any person who owned, operated, or used the
19 facility in violation of the Integrated Solid Waste Management
20 Act, the Livestock Waste Management Act, the Nebraska Litter
21 Reduction and Recycling Act, and the Waste Reduction and Recycling
22 Incentive Act in a civil action filed in the district court of
23 Lancaster County. Of the amount credited to the Integrated Solid
24 Waste Management Cash Fund, the department may disburse amounts
25 to political subdivisions for costs incurred in response to and

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

21 (6) The remaining fifty percent of the total of such fees
22 collected per quarter shall be remitted to the State Treasurer for
23 credit to the Waste Reduction and Recycling Incentive Fund. For
24 purposes of determining the total fees collected, any amount of
25 fees rebated pursuant to section 13-2042.01 shall be included as if

1 the fees had not been rebated, and the amount of the fees rebated
2 pursuant to such section shall be deducted from the amount to be
3 credited to the Waste Reduction and Recycling Incentive Fund.

4 (7) The council shall adopt and promulgate rules and
5 regulations for the distribution of grants under subsection (6)
6 of this section from the proceeds of the fees imposed by
7 this section to counties, municipalities, and agencies for the
8 purposes of planning and implementing facilities and systems to
9 further the goals of the Integrated Solid Waste Management Act.
10 The fees collected pursuant to this section shall not be used
11 as grant proceeds to fund landfill closure site assessments,
12 closure, monitoring, or investigative or corrective action costs
13 for existing landfills or landfills already closed prior to July
14 15, 1992. The rules and regulations shall base the awarding of
15 grants on a project's reflection of the integrated solid waste
16 management policy and hierarchy established in section 13-2018, the
17 proposed amount of local matching funds, and community need.

18 Sec. 2. Section 13-2042.01, Revised Statutes Supplement,
19 2009, is amended to read:

20 13-2042.01 (1) The Department of Environmental Quality
21 shall rebate to the municipality or county of origin ten cents of
22 the disposal fee required by section 13-2042 for ~~each six cubic~~
23 ~~yards of uncompact solid waste,~~ for each three cubic yards of
24 ~~compact solid waste,~~ or for each ten of solid waste disposed
25 of at landfills regulated by the department and ~~originating or~~

1 transported from transfer stations in Nebraska for disposal out of
2 state when such solid waste originated in a municipality or county
3 with a purchasing policy approved by the department. The fee shall
4 be rebated on a schedule agreed upon between the municipality or
5 county and the department. The schedule shall be no more often than
6 quarterly and no less often than annually.

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

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

7 (3) A municipality or county shall file a report
8 complying with the rules and regulations adopted pursuant to
9 this section with the Department of Environmental Quality before
10 April 1 of each year documenting purchasing practices for the
11 past calendar year in order to continue receiving the rebate.
12 The report shall include, but not be limited to, quantities of
13 products, materials, or supplies purchased which were manufactured
14 or produced from recycled material. The department shall provide
15 copies of each report to the materiel division in a timely manner.
16 If the department determines that a municipality or county is
17 not following the purchasing policy presented in the approved
18 application or that the purchasing policy presented in the approved
19 application is not effective in assuring that a preference is
20 given to products, materials, or supplies which are manufactured
21 or produced from recycled material, the department shall suspend
22 the rebate until it determines that the municipality or county
23 is giving a preference to products, materials, or supplies which
24 are manufactured or produced from recycled material pursuant to
25 a written purchasing policy approved by the department subsequent

1 to the suspension. The materiel division may make recommendations
2 to the department regarding suspensions and reinstatements of
3 rebates. The Department of Administrative Services may adopt
4 and promulgate rules and regulations establishing procedures for
5 reviewing applications and for annual reports.

6 (4) Any suspension of the rebate or denial of an
7 application made under this section may be appealed. The appeal
8 shall be in accordance with the Administrative Procedure Act.

9 (5) The council shall adopt and promulgate rules and
10 regulations establishing criteria for application procedures, for
11 accepting and denying applications, for required reports, and
12 for suspending and reinstating the rebate. The materiel division
13 shall recommend to the council criteria for accepting and denying
14 applications and for suspending and reinstating the rebate. The
15 materiel division may make other recommendations to the council
16 regarding rules and regulations authorized under this section.

17 Sec. 3. Original section 13-2042, Reissue Revised
18 Statutes of Nebraska, and section 13-2042.01, Revised Statutes
19 Supplement, 2009, are repealed.