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Final Analysis

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Primary Sponsor: Sen. Reineke

Effective date: *

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SUMMARY

Construction and demolition debris (C&DD) fees

- Authorizes a solid waste management district (SWMD) to levy fees on the disposal of C&DD (mirroring current SWMD solid waste disposal fees) in an authorized county, which is a county that has a population between 53,000 and 58,000, according to the most recent decennial census.
- Phases-in the new fee over a three-year period.
- Requires the SWMD to forward 25% of the new fees to the Ohio Environmental Protection Agency.
- Authorizes the SWMD to either keep the remaining 75% for SWMD purposes or forward it to the board of health of the health district where the C&DD or solid waste facility that collected the fee is located.
- Applies procedural requirements governing the administration and collection of solid waste disposal fees to the new C&DD fees.
- Prohibits a SWMD from levying the new C&DD fees at a C&DD facility or solid waste facility located in a health district that is not approved to regulate C&DD under the C&DD law.
- Eliminates the ability of a solid waste facility operator to charge solid waste disposal fees on the disposal of C&DD, thus requiring the operator to collect the fees that correspond to the type of waste so disposed.

* The Legislative Service Commission had not received formal notification of the effective date at the time this analysis was prepared. Additionally, the analysis may not reflect action taken by the Governor.

Solid waste disposal fees

- Allows SWMDs to use revenue from district solid waste disposal fees to provide financial assistance to individual counties, boards of health, municipal corporations, and townships to mitigate the impacts of solid waste facilities to public health, safety, and welfare.

County withdrawal from joint SWMD

- Repeals the existing procedures that a county member of a joint SWMD must utilize to withdraw from the joint SWMD, which requires all county members to agree to the withdrawal.
- Instead, establishes a procedure whereby a county may withdraw from a joint SWMD regardless of whether all counties agree to the withdrawal.
- Establishes procedures for the counties of the joint SWMD to enter into a memorandum of understanding that governs the withdrawal.
- Requires the OEPA Director to take all actions necessary to effectuate the withdrawal.

Withdrawal and regional solid waste management authorities

- Creates an exception to the new procedures for a county to withdraw from a joint SWMD that is managed by a regional solid waste management authority.
- Accordingly, specifies that if a regional solid waste management authority manages the joint SWMD in accordance with an agreement and the agreement governs the withdrawal of a county from the joint SWMD, the act's withdrawal procedures do not apply and, instead, the agreement's withdrawal procedures apply.
- However, if a regional solid waste management authority manages the joint SWMD in accordance with an agreement that does not have terms governing a county's withdrawal, imposes preliminary requirements that apply before a county may proceed to withdraw from the joint SWMD.

DETAILED ANALYSIS

Construction and demolition debris (C&DD) fees

New C&DD fees in an authorized county

The act authorizes certain solid waste management districts (SWMDs) to levy new fees on the disposal of C&DD in the district. To qualify to levy the fees, a SWMD must be located in an authorized county, which is a county that has a population between 53,000 and 58,000, according to the most recent decennial census. (From now until the 2030 census, this population range qualifies only Seneca County.) The act also phases-in the new fees in an authorized county as follows:

Phase-in of C&DD disposal fee in an authorized county		
Year	Fee on the disposal of C&DD generated within the district or generated out-of-state	Fee on the disposal of C&DD generated outside the district, but in state
1 st year after the act's effective date	Between 35¢ and 70¢ per ton	Between 70¢ and \$1.40 per ton
2 nd year after the act's effective date	Between 70¢ and \$1.40 per ton	Between \$1.40 and \$2.80 per ton
Beginning the 3 rd year and all subsequent years after the act's effective date	Between \$1.00 and \$2.00 per ton	Between \$2.00 and \$4.00 per ton

The act applies the same procedures and requirements that currently govern the administration and collection of SWMD solid waste disposal fees to the new C&DD fees, including a requirement that solid waste and C&DD facility owners and operators collect the fee and hold it in trust for the SWMD. The procedures and requirements also include provisions governing fee collection and accounting, filing of returns, extensions on returns, discounts, refunds or credits, and the conversion rate for fees collected on the basis of cubic yards.

The SWMD must forward 25% of the money received from the fees to the Ohio Environmental Protection Agency (OEPA). Of the money OEPA receives, half must be deposited into the Environmental Protection Fund (Fund 5BC0) and half into the Waste Management Fund (Fund 4K30).

The SWMD may keep the remaining 75% of the fees for SWMD purposes or may forward it to the health district in which the facility that collected the fees is located. If the SWMD forwards the money to the health district, the health district must deposit it into the special fund used by boards of health to administer the solid waste law and the construction and demolition debris law, to abate accumulations of C&DD, and to mitigate the impacts of C&DD and solid waste on public health, safety, and welfare. If the SWMD keeps the money, it must use the money for specified purposes related to the district and the management of solid waste (see, “**Solid Waste Disposal Fees**,” below).

A SWMD may not levy the new C&DD fees with respect to a C&DD or solid waste facility located in a health district that is not approved to regulate C&DD under the C&DD law.¹

¹ R.C. 3714.07(E) and Section 3; R.C. 3714.09, not in the act.

Charging of fees

The act eliminates prior law's authorization for a solid waste facility operator to charge solid waste disposal fees on the disposal of C&DD in lieu of state-imposed C&DD fees. Thus, when C&DD is disposed of in a solid waste facility, under the act, the operator must collect the fees that correspond to the type of waste disposed. Prior law authorized the operator to choose to assess either solid waste disposal fees or state-imposed C&DD fees when C&DD is disposed in a solid waste facility. The act also eliminates law that specified that state-imposed C&DD fees do not apply when C&DD is disposed of at a solid waste facility and there is no C&DD facility within 35 miles.²

Solid waste disposal fees

The act expands the purposes for which a SWMD may use existing solid waste disposal fees. Specifically, it allows a SWMD to provide financial assistance to individual counties, boards of health, municipal corporations, and townships to mitigate the impacts of solid waste facilities to public health, safety, and welfare. Under continuing law, these fees may also be used for ten additional purposes associated with solid waste management, such as solid waste management planning and assisting boards of health with solid waste law enforcement.³

County withdrawal from a joint SWMD

The act creates a process to allow a county that is a member of a joint solid waste management district (SWMD) to unilaterally withdraw from the district, regardless of whether the other counties that are members of the district approve of the withdrawal.

Under prior law, a county could initiate proceedings to withdraw from a joint SWMD by adopting a resolution to do so. It then had to notify the other counties in the joint district once the resolution was adopted. Within 60 days after receiving the notice, the other counties had to each adopt a resolution to approve or disapprove the withdrawal. If all of the other counties adopted a resolution of approval, within 30 days after the adoption of the resolution, the board of directors of the joint SWMD had to declare the withdrawal to be approved and had to notify all affected counties. However, if any of the other counties adopted a resolution of disapproval, the joint SWMD board had to declare the proposed withdrawal to be disapproved and had to notify all affected counties. The withdrawal proceedings ended if any other county passed a resolution of disapproval.⁴

The act replaces prior law's withdrawal process with a new process that allows a county to withdraw, regardless of whether other member counties approve of it. The new process is as follows:⁵

² R.C. 3714.07(E) and 3714.073(D).

³ R.C. 3734.57(G) and 343.011(F). Conforming changes in R.C. 343.022, 343.08, 3734.53, and 3734.574.

⁴ R.C. 343.012.

⁵ R.C. 3734.522; conforming changes in R.C. 343.01, 343.011, 343.012, 3734.521, 3734.53, 3734.56, 3734.57, and 3734.574.

Resolution

The withdrawing county first must adopt a resolution declaring that the county will unilaterally withdraw from the joint SWMD.⁶

Notice

The withdrawing county must then provide notice to the joint SWMD's board of directors. The board then must deliver written notice of the proposed withdrawal to the boards of county commissioners of the other counties forming the joint SWMD and to the OEPA Director.⁷

Memorandum of understanding

Forty-five days after the joint SWMD county members receive notice, all members must enter into a memorandum of understanding (MOU) that describes the terms of how the counties will operate as a joint SWMD for a two-year period beginning on the date that the MOU is agreed upon by all counties that comprise the SWMD.

If all counties in the joint SWMD do not agree on the MOU terms, the withdrawing county must, within ten days after it is determined that an agreement cannot be reached, request a court of common pleas of an adjacent county to the withdrawing county to hear the parties and decide the MOU terms on behalf of the counties.

Within 90 days after the withdrawing county makes the request to the court, the court must hear the parties and issue an order that details the MOU terms. The MOU expires two years after it is entered into by the counties or the court issues the order determining the details, unless all parties agree in writing to an earlier date.

If a county wishes to extend the terms of the MOU beyond the two-year period, the board, prior to 60 days before the MOU is scheduled to expire, must do one of the following as applicable:

1. If the MOU was entered into without court intervention, request the boards of county commissioners of all other counties in the joint SWMD to agree to the extension. The county must include in the request the time period proposed for the extension. However, the extension cannot exceed 45 days after the original MOU expiration date.
2. If the MOU terms were determined by a court order, request the court to extend the MOU by up to 45 days after the original expiration date. The court must then issue an order either denying or granting the extension.

Additionally, the act authorizes the counties that are parties to an MOU to allocate, via the MOU, funding for the solid waste management planning process for each newly formed SWMD that results from the withdrawal. In the alternative, if a court determines the MOU terms,

⁶ R.C. 3734.522(B).

⁷ R.C. 3734.522(C).

it may allocate, via the MOU, funding for the solid waste management planning process for each newly formed SWMD that results from the withdrawal.⁸

OEPA actions

The act then requires the OEPA Director to take all actions necessary to effectuate the withdrawal so that the withdrawal is effective on the MOU's expiration date. It also requires the OEPA Director to begin taking all such necessary actions on the date that the MOU is first executed.⁹

Joint SWMD actions

The act also requires the joint district board to take all actions necessary to ascertain, apportion, and order a division of the funds on hand, credits, and real and personal property of the district, either in money or in kind, on an equitable basis between the district and the withdrawing county, effective on the MOU's expiration date.¹⁰

Post-MOU

After the MOU expires, the withdrawing county is severed from the joint SWMD, becomes a county SWMD, and must comply with all law governing county SWMDs. After the withdrawal, the board of county commissioners of the severed county may form or join a joint solid waste management district or a regional solid waste management authority. In addition, the severed county's members on the joint SWMD board cease to be members of that board. That board's power to levy a tax on taxable property in the severed county to support the former joint district terminates, except that each county of the former district must continue to levy and collect any taxes levied to pay district indebtedness that was incurred prior to the severed county's withdrawal.

The county or counties remaining in the former joint district become a county or joint solid waste management district and must comply with all provisions of the Solid Waste Law that apply to county or joint solid waste management districts. The solid waste management policy committee of the severed county and the committee of the county or counties of the remaining district may form or join a joint solid waste management district or a regional solid waste management authority. However, in no circumstance may the OEPA Director require the county or counties to form or join a joint district or regional solid waste management authority.¹¹

Withdrawal: regional solid waste management authorities

The act creates an exception to the new procedures for the withdrawal of a county from a joint SWMD that applies to a joint SWMD that is managed by a regional solid waste management authority. If a regional solid waste management authority manages the joint SWMD

⁸ R.C. 3734.522(D).

⁹ R.C. 3734.522(E)

¹⁰ R.C. 3734.522(F).

¹¹ R.C. 3734.522(G).

in accordance with an agreement and the agreement governs the withdrawal of a county from the joint SWMD, the act's withdrawal procedures do not apply, and instead the agreement's withdrawal procedures apply.

However, if a regional solid waste management authority manages the joint SWMD in accordance with an agreement, but the agreement does not have terms governing a county's withdrawal from the joint SWMD, the act imposes preliminary requirements that must be completed before a county may proceed to withdraw from the joint SWMD. Those requirements specify that the board of county commissioners of the withdrawing county must do the following:

1. Adopt a resolution proposing to withdraw from the SWMD;
2. Deliver written notice of the proposed withdrawal to the legislative authority of each municipal corporation and township under the jurisdiction of the regional solid waste management authority; and
3. Obtain approval of the withdrawal from a combination of municipal corporations and townships with a combined population comprising at least 60% of the total population of the solid waste management district, provided that that combination includes the municipal corporation having the largest population in each county within the boundaries of the district.¹²

HISTORY

Action	Date
Introduced	03-18-25
Reported, S. Agriculture and Natural Resources	04-02-25
Passed Senate (33-0)	04-09-25
Reported, H. Community Revitalization	05-28-25
Passed House (90-2)	06-11-25
Senate concurred in House amendments (32-0)	06-18-25

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¹² R.C. 343.011 and 3734.522.