

## HOUSE BILL No. 2915

By Representatives Kuether, Barnes, Compton, Crow, Dillmore, Flaherty, Flora, Freeborn, Grant, Humerickhouse, Hutchins, Kirk, Klein, Levinson, Lloyd, Loganbill, McClure, McKinney, Myers, Phelps, Pottorff, Showalter, Spangler, Swenson, Thimesch, Toelkes, Wells and Wilson

2-13

---

AN ACT concerning solid waste; relating to certain programs encouraging waste reduction, recycling and reuse; amending K.S.A. 2001 Supp. 65-3406 and 65-3415a and repealing the existing sections.

*Be it enacted by the Legislature of the State of Kansas:*

Section 1. K.S.A. 2001 Supp. 65-3406 is hereby amended to read as follows: 65-3406. (a) The secretary is authorized and directed to:

(1) Adopt such rules and regulations, standards and procedures relative to solid waste management as necessary to protect the public health and environment, prevent public nuisances and enable the secretary to carry out the purposes and provisions of this act.

(2) Report to the legislature on further assistance needed to administer the solid waste management program.

(3) Administer the solid waste management program pursuant to provisions of this act.

(4) Cooperate with appropriate federal, state, interstate and local units of government and with appropriate private organizations in carrying out duties under this act.

(5) Develop a statewide solid waste management plan.

(6) Provide technical assistance, including the training of personnel to cities, counties and other political subdivisions.

(7) Initiate, conduct and support research, demonstration projects and investigations and coordinate all state agency research programs with applicable federal programs pertaining to solid waste management systems.

(8) Establish policies for effective solid waste management systems.

(9) Assist counties and groups of counties to establish and implement solid waste planning and management.

(10) Authorize issuance of such permits and orders and conduct such inspections as may be necessary to implement the provisions of this act and the rules and regulations and standards adopted pursuant to this act.

1 (11) Conduct and contract for research and investigations in the over-  
2 all area of solid waste storage, collection, transportation, processing, treat-  
3 ment, recovery and disposal including, but not limited to, new and novel  
4 procedures.

5 (12) Adopt rules and regulations for permitting of all solid waste dis-  
6posal areas, including those that are privately owned.

7 (13) Adopt rules and regulations establishing criteria for the location  
8 of processing facilities and disposal areas for solid wastes.

9 (14) Adopt rules and regulations establishing appropriate measures  
10 for monitoring solid waste disposal areas and processing facilities, both  
11 during operation and after closure.

12 (15) Adopt rules and regulations requiring that, for such period of  
13 time as the secretary shall specify, any assignment, sale, conveyance or  
14 transfer of all or any part of the property upon which a permitted disposal  
15 area for solid waste is or has been located shall be subject to such terms  
16 and conditions as to the use of such property as the secretary shall specify  
17 to protect human health and the environment.

18 (16) Adopt suitable measures, including rules and regulations if ap-  
19 propriate, to encourage recovery and recycling of solid waste for reuse  
20 whenever feasible.

21 (17) Adopt rules and regulations establishing standards for trans-  
22 porters of solid waste.

23 (18) Adopt rules and regulations establishing minimum standards for  
24 closing, termination, and long-term care of sites for the land disposal of  
25 solid waste. In this subsection, "site" refers to a site for the land disposal  
26 of solid waste which has a permit issued under K.S.A. 65-3407 and  
27 amendments thereto. The owner of a site shall be responsible for the  
28 long-term care of the site for 30 years after the closing of the site, except  
29 the secretary may extend the long-term care responsibility of a particular  
30 site or sites as the secretary deems necessary to protect the public health  
31 and safety or the environment. Any person acquiring rights of ownership,  
32 possession or operation in a permitted site or facility for the land disposal  
33 of solid waste at any time after the site has begun to accept waste and  
34 prior to closure shall be subject to all requirements of the permit for the  
35 site or facility, including the requirements relating to long-term care of  
36 the site or facility.

37 (19) Enter into cooperative agreements with the secretary of com-  
38 merce for the development and implementation of statewide market de-  
39 velopment for recyclable materials.

40 (20) Adopt rules and regulations for the management of nonhazar-  
41 dous special wastes.

42 (21) (A) *Participate in national and regional partnerships of govern-*  
43 *ment and private business which promote the principles of: (i) Reduction*

1 *of disposal of solid waste, especially common wastes such as consumer*  
2 *electronic equipment; (ii) reduction of energy and material used in pro-*  
3 *duction of consumer products and reduction or elimination of toxic or*  
4 *hazardous components of such products; and (iii) increased collection,*  
5 *recycling and reuse of consumer products; and (B) contract with a private*  
6 *statewide recycling organization or association to implement such prin-*  
7 *ciples within this state.*

8 (b) In adopting rules and regulations, the secretary shall allow the  
9 exemption contained in subsection (f)(1) of 40 CFR 258.1 (October 9,  
10 1991), as amended and in effect on the effective date of this act.

11 (c) (1) Any rules and regulations adopted by the secretary which es-  
12 tablish standards for solid waste processing facilities or solid waste dis-  
13 posal areas that are more stringent than the standards required by federal  
14 law or applicable federal regulations on such date shall not become ef-  
15 fective until 45 days after the beginning of the next ensuing session of  
16 the legislature, which date shall be specifically provided in such rule and  
17 regulation.

18 (2) The provisions of subsection (c)(1) shall not apply to rules and  
19 regulations adopted before January 1, 1995, which establish standards for  
20 location, design and operation of solid waste processing facilities and dis-  
21 posal areas.

22 (d) Any solid waste disposal area which qualifies for the exemption  
23 provided for by subsection (b) and which successfully demonstrates that  
24 naturally occurring geological conditions provide sufficient protection  
25 against groundwater contamination shall not be required to construct a  
26 landfill liner or leachate collection system. The secretary shall adopt rules  
27 and regulations which establish criteria for performing this demonstration  
28 and standards for liner and leachate collection systems for exempt landfills  
29 which fail the demonstration. Solid waste disposal areas which qualify for  
30 the exemption provided for by subsection (b) may be designed with  
31 trenches or units which have straight vertical walls. All solid waste disposal  
32 areas which qualify for the exemption provided for by subsection (b) shall  
33 be required to comply with all applicable rules and regulations adopted  
34 by the secretary and approved by the U.S. environmental protection  
35 agency, including location restrictions, operating requirements and clo-  
36 sure standards for municipal solid waste landfills. Operating requirements  
37 include, but are not limited to, hazardous waste screening, daily cover,  
38 intermediate cover, disease vector control, gas monitoring and manage-  
39 ment, air emissions, survey controls, compaction, recordkeeping and  
40 groundwater monitoring.

41 The identification of groundwater contamination caused by disposal  
42 activities at a solid waste disposal area which has qualified for the exemp-  
43 tion provided for by subsection (b) shall result in:

- 1 (1) The loss of such exemption; and
- 2 (2) the application of all corrective action and design requirements
- 3 specified in federal laws and regulations, or in equivalent rules and reg-
- 4 ulations adopted by the secretary and approved by the U.S. environmental
- 5 protection agency, to such disposal area.

6 Sec. 2. K.S.A. 2001 Supp. 65-3415a is hereby amended to read as  
7 follows: 65-3415a. (a) There is hereby created in the state treasury the  
8 solid waste management fund.

9 (b) The secretary shall remit to the state treasurer, in accordance with  
10 the provisions of K.S.A. 75-4215, and amendments thereto, all moneys  
11 collected or received by the secretary from the following sources:

12 (1) Solid waste tonnage fees imposed pursuant to K.S.A. 65-3415b,  
13 and amendments thereto;

14 (2) application and annual fees provided for by K.S.A. 65-3407, and  
15 amendments thereto;

16 (3) gifts, grants, reimbursements or appropriations intended to be  
17 used for the purposes of the fund, but excluding federal grants and co-  
18 operative agreements; and

19 (4) any other moneys provided by law.

20 Upon receipt of each such remittance, the state treasurer shall deposit  
21 in the state treasury any amount remitted pursuant to this subsection to  
22 the credit of the solid waste management fund.

23 (c) Moneys in the solid waste management fund shall be expended  
24 for the following purposes:

25 (1) Grants to counties or groups of counties or designated city or  
26 cities pursuant to K.S.A. 65-3415, and amendments thereto;

27 (2) monitoring and investigating solid waste management plans of  
28 counties and groups of counties;

29 (3) payment of extraordinary costs related to monitoring permitted  
30 solid waste processing facilities and disposal areas, both during operation  
31 and after closure;

32 (4) payment of costs of postclosure cleanup of permitted solid waste  
33 disposal areas which, as a result of a postclosure occurrence, pose a sub-  
34 stantial hazard to public health or safety or to the environment;

35 (5) emergency payment for costs of cleanup of solid waste disposal  
36 areas which were closed before the effective date of this act and which  
37 pose a substantial risk to the public health or safety or to the environment,  
38 but the total amount of such emergency payments during a fiscal year  
39 shall not exceed an amount equal to 50% of all amounts credited to the  
40 fund during the preceding fiscal year;

41 (6) payment for emergency action by the secretary as necessary or  
42 appropriate to assure that the public health or safety is not threatened  
43 whenever there is a release from a solid waste processing facility or a solid

1 waste disposal area;

2 (7) payment for corrective action by the secretary at an active or  
3 closed solid waste processing facility or a solid waste disposal area where  
4 solid waste management activity has resulted in an actual or potential  
5 threat to human health or the environment, if the owner or operator has  
6 not been identified or is unable or unwilling to perform corrective action;

7 (8) payment of the administrative, technical and legal costs incurred  
8 by the secretary in carrying out the provisions of K.S.A. 65-3401 through  
9 65-3423, and amendments thereto, including the cost of any additional  
10 employees or increased general operating costs of the department attrib-  
11 utable therefor;

12 (9) development of educational materials and programs for informing  
13 the public about solid waste issues;

14 (10) direct payments to reimburse counties or cities for household,  
15 farmer or exempt small quantity generator hazardous wastes generated  
16 from persons not served by existing household hazardous waste programs  
17 or direct payment of contractors for the disposal costs of such wastes;

18 (11) payment of costs associated with the solid waste grants advisory  
19 board pursuant to K.S.A. 2001 Supp. 65-3426, and amendments thereto;

20 (12) with the consent of the city or county, payment for the removal  
21 and disposal or on-site stabilization of solid waste which has been illegally  
22 dumped when the responsible party is unknown, unwilling or unable to  
23 perform the necessary corrective action, provided that: (A) Moneys in the  
24 fund shall be used to pay only 75% of the costs of such corrective action  
25 and the city or county shall pay the remaining 25% of such costs; and (B)  
26 not more than \$10,000 per site shall be expended from the fund for such  
27 corrective action;

28 (13) payment of the costs to administer regional or statewide waste  
29 collection programs designed to remove hazardous materials and wastes  
30 from homes, farms, ranches, institutions and small businesses not gen-  
31 erally covered by state or federal hazardous waste laws and rules and  
32 regulations; ~~and~~

33 (14) payment for the disposal of household hazardous waste gener-  
34 ated as a result of community clean-up activities following natural disas-  
35 ters such as floods and tornados; *and*

36 (15) *payment of costs incurred pursuant to subsection (a)(21) of*  
37 *K.S.A. 65-3406, and amendments thereto.*

38 (d) If the secretary determines that expenditures from the solid waste  
39 management fund are necessary to perform authorized corrective actions  
40 related to solid waste management activities, the person or persons re-  
41 sponsible for illegal dumping activity or the operation or long-term care  
42 of a disposal area whose failure to comply with this act, rules and regu-  
43 lations promulgated thereunder, or permit conditions resulted in such

1 determination, shall be responsible for the repayment of those amounts  
2 expended. The secretary shall take appropriate action to enforce this pro-  
3 vision against any responsible person. If amounts are recovered for pay-  
4 ment for corrective action pursuant to subsection (c)(12), 25% of the  
5 amount recovered shall be paid to the city or county that shared in the  
6 cost of the corrective action. Otherwise, the secretary shall remit any  
7 amounts recovered and collected in such action to the state treasurer in  
8 accordance with the provisions of K.S.A. 75-4215, and amendments  
9 thereto. Upon receipt of each such remittance, the state treasurer shall  
10 deposit the entire amount in the state treasury to the credit of the solid  
11 waste management fund. Prior to initiating any corrective action activities  
12 authorized by this section, the secretary shall give written notice to the  
13 person or persons responsible for the waste to be cleaned up and to the  
14 property owner that the department will undertake corrective action if  
15 the responsible person or persons do not perform the necessary work  
16 within a specified time period. The department and its representatives  
17 are authorized to enter private property to perform corrective actions if  
18 the responsible party fails to perform required clean-up work but no such  
19 entry shall be made without the property owner's consent except upon  
20 notice and hearing in accordance with the Kansas administrative proce-  
21 dure act and a finding that the solid waste creates a public nuisance or  
22 adversely affects the public health or the environment.

23 (e) Expenditures from the solid waste management fund shall be  
24 made in accordance with appropriations acts upon warrants of the direc-  
25 tor of accounts and reports issued pursuant to vouchers approved by the  
26 secretary or a person designated by the secretary.

27 (f) On or before the 10th of each month, the director of accounts and  
28 reports shall transfer from the state general fund to the solid waste man-  
29 agement fund interest earnings based on:

30 (1) The average daily balance of moneys in the solid waste manage-  
31 ment fund for the preceding month; and

32 (2) the net earnings rate of the pooled money investment portfolio  
33 for the preceding month.

34 (g) The solid waste management fund shall be used for the purposes  
35 set forth in this act and for no other governmental purposes. It is the  
36 intent of the legislature that the fund shall remain intact and inviolate for  
37 the purposes set forth in this act, and moneys in the fund shall not be  
38 subject to the provisions of K.S.A. 75-3722, 75-3725a and 75-3726a, and  
39 amendments thereto.

40 (h) The secretary shall prepare and deliver to the legislature on or  
41 before the first day of each regular legislative session, a report which  
42 summarizes all expenditures from the solid waste management fund, fund  
43 revenues and recommendations regarding the adequacy of the fund to

1 support necessary solid waste management programs.

2 Sec. 3. K.S.A. 2001 Supp. 65-3406 and 65-3415a are hereby  
3 repealed.

4 Sec. 4. This act shall take effect and be in force from and after its  
5 publication in the statute book.

6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43