

1 AN ACT relating to solid waste.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 68.178 is amended to read as follows:

4 (1) The fiscal court of any county may license off-site waste management facilities,  
5 **including residual landfills**, located within the county with the imposition of a  
6 license fee at a percentage rate not to exceed two percent (2%) per annum of the  
7 gross receipts of ~~the~~<sup>such a</sup> waste management facility owned or operated by self-  
8 employed individuals, partnerships, or corporations. The proceeds from the license  
9 fee shall be used to defray the general revenue requirements of the county where the  
10 facility is located. For purposes of assessing the licensing fee provided for in this  
11 section, off-site waste management shall consist of establishing and operating a  
12 facility whose principal purpose is treatment, storage, disposal, or a combination of  
13 these activities ~~but shall not include those treatment, storage, or disposal activities~~  
14 ~~which occur incidental to or which are not otherwise distinguishable from a broader~~  
15 ~~manufacturing operation at the site of said operation].~~

16 (2) (a) The fiscal court of a county or the urban-county council of an urban-county  
17 government may license a solid waste landfill **or residual landfill** located  
18 within the county or urban-county area. The license fee may be set at not less  
19 than one cent (\$0.01) but no more than fifty cents (\$0.50) per ton of waste  
20 received by the landfill or set at up to five percent (5%) of gross receipts of the  
21 landfill.

22 (b) The license fee as set may be increased by an amount up to one-quarter (1/4)  
23 of the base fee per ton or on gross receipts of waste received at the landfill  
24 which originates from outside of the planning area. For purposes of this  
25 section, planning area shall mean those areas within Kentucky as indicated in  
26 solid waste management plans filed with the cabinet by a county, multicounty  
27 area, or waste management district. However, before **the license fee is**

1 ~~*increased*~~, ~~[a fee differential may be imposed]~~ the county or urban-county  
 2 government shall demonstrate that the *increase in amount prescribed by this*  
 3 *paragraph* ~~[differential]~~ is reasonably related to additional government  
 4 services which must be undertaken because of the landfilling of *wastes*  
 5 *generated outside the planning* ~~[nonplanning]~~ area ~~[waste]~~. This  
 6 demonstration may be made by showing *the increase in waste from outside*  
 7 *the planning area will:*

- 8 *1. Reduce the* ~~[an unplanned for reduction in]~~ waste disposal capacity *in*  
 9 *the planning area;* ~~[and]~~
- 10 *2. Create* a need to provide for future disposal capacity; ~~[or]~~
- 11 *3. Impact* ~~[impacts on]~~ roads; *or*
- 12 *4. Increase the need for environmental controls or monitoring,* litter  
 13 control, or emergency services.

14 (c) The proceeds from the license fee shall be used to defray the government  
 15 services provided to the landfill, necessary clean-up operations or emergency  
 16 responses related to operation of the landfill or transporting waste to the  
 17 landfill, necessary maintenance, improvement or construction of roads, and  
 18 for the general revenue requirements of the county or urban-county  
 19 government where the landfill is located.

20 (d) Ten percent (10%) of the license fee shall be remitted annually in equal shares  
 21 to all counties and urban-county governments in the planning area served by  
 22 the landfill from where the fees originated which shall be used for local solid  
 23 waste planning and plan implementation. Counties or urban-county  
 24 governments desiring to impose the fee provided for herein are authorized to  
 25 accept payments in lieu of the fee under duly-executed contracts between the  
 26 county and the permitted site or facility. The fee provided for in this  
 27 subsection shall be in lieu of the provisions of subsection (1) *of this*

1            section. ~~[Special waste, as defined in KRS 224.50-760, except for waste from~~  
2            ~~sanitary wastewater treatment facilities, shall be exempt from this subsection.]~~

3        (3) In the case of hazardous waste facilities involving land disposal, including a  
4            regional integrated waste treatment and disposal demonstration facility as defined in  
5            KRS Chapter 224, the rate levied under this section shall be not more than five  
6            percent (5%) per annum of the gross receipts and shall be calculated so as to  
7            produce sufficient revenue to compensate the county for any additional costs  
8            incurred by it from having a hazardous waste facility located in its jurisdiction,  
9            including, but not limited to, the loss of ad valorem property tax revenues from the  
10           property on which the facility is located, the loss of ad valorem property tax  
11           revenues from abutting properties or other affected properties, the cost of providing  
12           any additional emergency services, the cost of monitoring air, surface water, ground  
13           water to the extent that other monitoring data is not available, and other costs  
14           established as being associated with the facility and for which the county is not  
15           otherwise compensated.

16        ➔Section 2. KRS 224.40-315 is amended to read as follows:

17        (1) No permit to construct or expand a municipal solid waste disposal facility shall be  
18            accepted for processing by the cabinet unless the application contains a  
19            determination from the governing body for the solid waste management area in  
20            which the facility is or will be located concerning the consistency of the application  
21            with the area solid waste management plan submitted under KRS 224.43-345(1)(a)  
22            to (d) and (l) until January 1, 1993, and the entire plan after January 1, 1993. The  
23            governing body for the area shall, within sixty (60) days of receipt of a written  
24            request, make the determination after public notice and opportunity for public  
25            comment and public hearing. For applications with a notice of intent filed prior to  
26            February 26, 1991, the cabinet shall continue to process the application but no  
27            permit shall be approved until the governing body for the solid waste management

1 area in which the facility is or will be located has made a determination in  
2 accordance with this section.

3 (2) No permit to construct or expand a municipal solid waste disposal facility shall be  
4 approved unless the applicant affirmatively demonstrates and the cabinet makes a  
5 written finding in the preliminary determination made pursuant to KRS 224.40-  
6 310(2) that the application conforms to and is consistent with all of the following:

- 7 (a) The capacity needs identified in the area solid waste management plan;
- 8 (b) Other elements of the area solid waste management plan, for permit  
9 applications filed after approval of those elements;
- 10 (c) The statewide solid waste reduction and management plan, for permit  
11 applications filed after completion of the plan; and
- 12 (d) Applicable zoning regulations adopted pursuant to KRS Chapter 100.

13 (3) If the cabinet approves a permit to construct or expand a municipal solid waste  
14 management facility after the governing body for the area has determined the  
15 application to be inconsistent with the area solid waste management plan, as part of  
16 the written finding the cabinet shall state in detail the reasons why it did not accept  
17 the determination of the governing body for the area.

18 (4) For the purposes of this section, "[the term] municipal solid waste disposal facility"  
19 includes, in addition to those facilities defined in KRS 224.1-010(14), any residual  
20 or contained landfill or incinerator disposing of industrial solid waste for a fee, ~~but~~  
21 ~~does not include a waste site or facility which is operated exclusively by a solid~~  
22 ~~waste generator on property owned by the solid waste generator which accepts only~~  
23 ~~industrial solid waste from the solid waste generator or industrial solid waste~~  
24 ~~generated at another facility owned and operated by the generator or wholly-owned~~  
25 ~~subsidiary].~~