

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## HOUSE BILL

No. 1911 Session of  
1989

INTRODUCED BY BROUJOS, NOYE, BORTNER, MAINE, BATTISTO, SAURMAN,  
MORRIS, KUKOVICH, DEMPSEY, HALUSKA, MERRY, BURD, CORRIGAN,  
MELIO, BILLOW, TIGUE, J. H. CLARK, NAILOR, PESCI, KAISER,  
COLE, VAN HORNE, COHEN, TANGRETTI AND COY, SEPTEMBER 27, 1989

AS REPORTED FROM COMMITTEE ON LOCAL GOVERNMENT, HOUSE OF  
REPRESENTATIVES, AS AMENDED, DECEMBER 4, 1989

## AN ACT

1 Amending the act of July 7, 1980 (P.L.380, No.97), entitled "An  
2 act providing for the planning and regulation of solid waste  
3 storage, collection, transportation, processing, treatment,  
4 and disposal; requiring municipalities to submit plans for  
5 municipal waste management systems in their jurisdictions;  
6 authorizing grants to municipalities; providing regulation of  
7 the management of municipal, residual and hazardous waste;  
8 requiring permits for operating hazardous waste and solid  
9 waste storage, processing, treatment, and disposal  
10 facilities; and licenses for transportation of hazardous  
11 waste; imposing duties on persons and municipalities;  
12 granting powers to municipalities; authorizing the  
13 Environmental Quality Board and the Department of  
14 Environmental Resources to adopt rules, regulations,  
15 standards and procedures; granting powers to and imposing  
16 duties upon county health departments; providing remedies;  
17 prescribing penalties; and establishing a fund," providing  
18 that no bond shall be required as a condition for issuance of  
19 a permit or license to a municipality. ~~or a municipal~~ <—  
20 ~~authority.~~

21 The General Assembly of the Commonwealth of Pennsylvania  
22 hereby enacts as follows:

23 Section 1. Section 505(a) and (e) of the act of July 7, 1980  
24 (P.L.380, No.97), known as the Solid Waste Management Act, are  
25 amended to read:

1 Section 505. Bonds.

2 (a) [With the exception of municipalities operating  
3 landfills solely for municipal waste not classified hazardous]

4 ~~Except when the operator is a municipality or a municipal~~ <—  
5 ~~authority~~, prior to the commencement of operations, the operator

6 of a municipal or residual waste processing or disposal facility  
7 or of a hazardous waste storage, treatment or disposal facility

8 for which a permit is required by this section shall file with  
9 the department a bond for the land affected by such facility on

10 a form prescribed and furnished by the department. Such bond

11 shall be payable to the Commonwealth and conditioned so that the  
12 operator shall comply with the requirements of this act, the act

13 of June 22, 1937 (P.L.1987, No.394), known as "The Clean Streams  
14 Law," the act of May 31, 1945 (P.L.1198, No.418), known as the

15 "Surface Mining Conservation and Reclamation Act," the act of  
16 January 8, 1960 (1959 P.L.2119, No.787), known as the "Air

17 Pollution Control Act," and the act of November 26, 1978

18 (P.L.1375, No.325), known as the "Dam Safety and Encroachments  
19 Act." The department may require additional bond amounts for the

20 permitted areas should such an increase be determined by the  
21 department to be necessary to meet the requirements of this act.

22 The amount of the bond required shall be in an amount determined  
23 by the secretary based upon the total estimated cost to the

24 Commonwealth of completing final closure according to the permit  
25 granted to such facility and such measures as are necessary to

26 prevent adverse effects upon the environment; such measures  
27 include but are not limited to satisfactory monitoring, post-

28 closure care, and remedial measures. The bond amount shall  
29 reflect the additional cost to the Commonwealth which may be

30 entailed by being required to bring personnel and equipment to

1 the site. All permits shall be bonded for at least \$10,000.  
2 Liability under such bond shall be for the duration of the  
3 operation, and for a period of up to ten full years after final  
4 closure of the permit site. Such bond shall be executed by the  
5 operator and a corporate surety licensed to do business in the  
6 Commonwealth and approved by the secretary: Provided, however,  
7 That the operator may elect to deposit cash, certificates of  
8 deposit, automatically renewable irrevocable letters of credit  
9 which are terminable only upon 90 days written notice to the  
10 operator and the department, or negotiable bonds of the United  
11 States Government or the Commonwealth of Pennsylvania, the  
12 Pennsylvania Turnpike Commission, the General State Authority,  
13 the State Public School Building Authority, or any municipality  
14 within the Commonwealth, with the department in lieu of a  
15 corporate surety. The cash amount of such deposit, irrevocable  
16 letters of credit or market value of such securities shall be  
17 equal at least to the sum of the bond. The secretary shall, upon  
18 receipt of any such deposit of cash or negotiable bonds,  
19 immediately place the same with the State Treasurer, whose duty  
20 it shall be to receive and hold the same in the name of the  
21 Commonwealth, in trust, for the purposes for which such deposit  
22 is made. The State Treasurer shall at all times be responsible  
23 for the custody and safekeeping of such deposits. The operator  
24 making the deposit shall be entitled from time to time to demand  
25 and receive from the State Treasurer, on the written order of  
26 the secretary, the whole or any portion of any collateral so  
27 deposited, upon depositing with him, in lieu thereof, other  
28 collateral of the classes herein specified having a market value  
29 at least equal to the sum of the bond, also to demand, receive  
30 and recover the interest and income from said negotiable bonds

1 as the same becomes due and payable: Provided, however, That  
2 where negotiable bonds, deposited as aforesaid, mature or are  
3 called, the State Treasurer, at the request of the permittee,  
4 shall convert such negotiable bonds into such other negotiable  
5 bonds of the classes herein specified as may be designated by  
6 the permittee: And provided further, That where notice of intent  
7 to terminate a letter of credit is given, the department shall,  
8 after 30 days written notice to the operator and in the absence  
9 of a replacement of such letter of credit within such 30-day  
10 period by the operator with other acceptable bond guarantees  
11 provided herein, draw upon and convert such letter of credit  
12 into cash and hold it as a collateral bond guarantee.

13 \* \* \*

14 (e) Prior to the issuance of any license for the  
15 transportation of hazardous waste to any applicant other than a  
16 municipality or municipal authority, the applicant for a license <—  
17 shall file with the department a collateral bond on a form  
18 prescribed and furnished by the department. Such bond shall be  
19 payable to the Commonwealth and conditioned upon compliance by  
20 the licensee with every requirement of this act, rule and  
21 regulation of the department, order of the department and term  
22 and condition of the license. The amount of the bond required  
23 shall be in an amount determined by the secretary, but in an  
24 amount no less than \$10,000. The department may require  
25 additional bond amounts if the department determines such  
26 additional amounts are necessary to guarantee compliance with  
27 this act. The licensee may elect to deposit cash or  
28 automatically renewable irrevocable letters of credit which are  
29 terminable only upon 90 days written notice to the operator and  
30 the department, or negotiable bonds of the United States

1 Government or the Commonwealth of Pennsylvania, the Pennsylvania  
2 Turnpike Commission, the General State Authority, the State  
3 Public School Building Authority, or any municipality within the  
4 Commonwealth. No corporate surety bond is authorized by this  
5 subsection. The cash amount of such deposit, irrevocable letters  
6 of credit, or market value of such securities shall be equal at  
7 least to the sum of the bond. The secretary shall, upon receipt  
8 of any such deposit of cash or negotiable bonds, immediately  
9 place the same with the State Treasurer, whose duty it shall be  
10 to receive and hold the same in the name of the Commonwealth, in  
11 trust, for the purposes for which such deposit is made. The  
12 State Treasurer shall at all times be responsible for the  
13 custody and safekeeping of such deposits. The licensee making  
14 the deposit shall be entitled from time to time to demand and  
15 receive from the State Treasurer, on the written order of the  
16 secretary, the whole or any portion of any collateral so  
17 deposited, upon depositing with him, in lieu thereof, other  
18 collateral of the classes herein specified having a market value  
19 at least equal to the sum of the bond, also to demand, receive  
20 and recover the interest and income from said negotiable bonds  
21 as the same becomes due and payable: Provided, however, That  
22 where negotiable bonds, deposited as aforesaid, mature or are  
23 called, the State Treasurer, at the request of the licensee,  
24 shall convert such negotiable bonds into such other negotiable  
25 bonds of the classes herein specified as may be designated by  
26 the licensee: And provided further, That where notice of intent  
27 to terminate a letter of credit is given, the department shall,  
28 after 30 days written notice to the licensee and in the absence  
29 of a replacement of such letter of credit within such 30-day  
30 period by the licensee with other acceptable bond guarantees

1 provided herein, draw upon and convert such letter of credit  
2 into cash and hold it as a collateral bond guarantee. Liability  
3 under such bond shall be for the duration of the license and for  
4 a period of one year after the expiration of the license.

5 Section 2. This act shall take effect immediately.