

AN ACT concerning safety.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 1. Short title. This Act may be cited as the Paint Stewardship Act.

Section 5. Findings. The General Assembly finds that:

(1) Leftover architectural paints present significant waste management issues for counties and municipalities and create costly environmental, health, and safety risks if not properly managed.

(2) Nationally, an estimated 10% of architectural paint purchased by consumers is leftover. Current governmental programs collect only a fraction of the potential leftover paint for proper reuse, recycling, or disposal. In northern Illinois, there are only 4 permanent household hazardous waste facilities, and these facilities do not typically accept latex paint, which is the most common paint purchased by consumers.

(3) It is in the best interest of this State for paint manufacturers to assume responsibility for the development and implementation of a cost-effective paint stewardship program that will educate consumers on strategies to reduce the generation of leftover paint; provide opportunities to reuse leftover paint; and collect, transport, and process leftover

paint for end-of-life management, including reuse, recycling, and disposal. Requiring paint manufacturers to assume responsibility for the collection, recycling, reuse, transportation, and disposal of leftover paint will provide more opportunities for consumers to properly manage their leftover paint, provide fiscal relief for this State and local governments in managing leftover paint, keep paint out of the waste stream, and conserve natural resources.

(4) Similar architectural paint stewardship programs currently operate in 11 jurisdictions and successfully divert a significant portion of the collected paint waste from landfills. These paint stewardship programs are saving counties and municipalities the cost of managing paint waste and have been successful at recycling leftover paint into recycled paint products as well as other products. For instance, in the State of Oregon, 64% of the latex paint collected in the 2019-2020 fiscal year was recycled into paint products, and in Minnesota, 48% of the latex paint collected during the same period was reused or recycled into paint products. Given the lack of access to architectural paint collection programs in Illinois, especially for leftover latex architectural paint, and the demonstrated ability of the paint industry to collect and recycle a substantial portion of leftover architectural paint, this legislation is necessary. It will create a statewide program that diverts a significant portion of paint waste from landfills and facilitates the

recycling of leftover paint into paint and other products.

(5) Establishing a paint stewardship program in Illinois will create jobs as the marketplace adjusts to the needs of a robust program that requires transporters and processors. Certain infrastructure already exists in the State, and the program may attract additional resources.

(6) Legislation is needed to establish this program in part because of the risk of antitrust lawsuits. The program involves activities by competitors in the paint industry and may affect the costs or prices of those competitors. As construed by the courts, the antitrust laws impose severe constraints on concerted action by competitors that affect costs or prices. Absent State legislation, participation in this program would entail an unacceptable risk of class action lawsuits. These risks can be mitigated by legislation that would bar application of federal antitrust law under the "state action" doctrine. Under that doctrine, federal antitrust law does not apply to conduct that is (1) undertaken pursuant to a clearly expressed and affirmatively articulated state policy to displace or limit competition and (2) actively supervised by the state.

(7) To ensure that this defense will be available to protect participants in the program, it is important for this State's legislation to be specific about the conduct it is authorizing and to express clearly that the State is authorizing that conduct pursuant to a conscious policy

decision to limit the unfettered operation of market forces. It is also critical for the legislation to provide for active supervision of the conduct that might otherwise be subject to antitrust attack. In particular, the legislation must provide for active supervision of the decisions concerning the assessments that will fund the program. A clear articulation of the State's purposes and policies and provisions for active State supervision of the program will ensure that industry participation in the program will not trigger litigation.

(8) To ensure that the costs of the program are distributed in an equitable and competitively neutral manner, the program will be funded through an assessment on each container of paint sold in this State. That assessment will be sufficient to recover, but not exceed, the costs of sustaining the program and will be reviewed and approved by the Environmental Protection Agency. Funds collected through the assessment will be used by the representative organization to operate and sustain the program.

Section 10. Definitions. In this Act:

"Agency" means the Environmental Protection Agency.

"Architectural paint" means interior and exterior architectural coatings sold in containers of 5 gallons or less. "Architectural paint" does not include industrial original equipment or specialty coatings.

"Collection site" means any location, place, tract of

land, or facility or improvement at which architectural paint is accepted into a postconsumer paint collection program pursuant to a postconsumer paint collection program plan.

"Environmentally sound management practices" means procedures for the collection, storage, transportation, reuse, recycling, and disposal of architectural paint in a manner that complies with all applicable federal, State, and local laws and any rules, regulations, and ordinances for the protection of human health and the environment. These procedures shall address adequate recordkeeping, tracking and documenting of the final disposition of materials, and environmental liability coverage for the representative organization.

"Household waste" has the meaning given to that term in Section 3.230 of the Environmental Protection Act.

"Manufacturer" means a manufacturer of architectural paint who sells, offers for sale, or distributes the architectural paint in the State under the manufacturer's own name or brand or another brand. "Manufacturer" does not include a retailer that trademarks or owns a brand of architectural paint that is sold, offered for sale, or distributed within or into this State and that is manufactured by a person other than a retailer.

"Person" has the meaning given to that term in Section 3.315 of the Environmental Protection Act.

"Postconsumer paint" means architectural paint not used

and no longer wanted by a purchaser.

"Program" means the postconsumer paint stewardship program established pursuant to Section 15.

"Recycling" has the meaning given to that term in Section 3.380 of the Environmental Protection Act.

"Representative organization" means a nonprofit organization established by one or more manufacturers to implement a postconsumer paint stewardship program under this Act.

"Retailer" means a person that sells or offers to sell at retail in this State architectural paint.

"Very small quantity generator" has the meaning given to that term in 40 CFR 260.10.

Section 15. Paint stewardship program plan.

(a) Each manufacturer of architectural paint sold or offered for sale at retail in the State shall submit to the Agency a plan for the establishment of a postconsumer paint stewardship program. The program shall seek to reduce the generation of postconsumer paint, promote its reuse and recycling, and manage the postconsumer paint waste stream using environmentally sound management practices.

(b) A plan submitted under this Section shall:

(1) Provide a list of participating manufacturers and brands covered by the program.

(2) Provide information on the architectural paint

products covered under the program, such as interior or exterior water-based and oil-based coatings, primers, sealers, or wood coatings.

(3) Describe how it will provide for the statewide collection of postconsumer architectural paint in the State. The manufacturer or representative organization may coordinate the program with existing household hazardous waste collection infrastructure as is mutually agreeable with the person operating the household waste collection infrastructure.

(4) Provide a goal of sufficient number and geographic distribution of collection sites, collection services, or collection events for postconsumer architectural paint to meet the following criteria:

(A) at least 90% of State residents shall have a collection site, collection service, or collection event within a 15-mile radius; and

(B) at least one collection site, collection service, or collection event for every 50,000 residents of the State.

(5) Describe how postconsumer paint will be managed using the following strategies: reuse, recycling, and disposal.

(6) Describe education and outreach efforts to inform consumers about the program. These efforts should include:

(A) information about collection opportunities for

postconsumer paint;

(B) information about the fee for the operation of the program that shall be included in the purchase price of all architectural paint sold in the State; and

(C) efforts to promote the source reduction, reuse, and recycling of architectural paint.

(7) Include a certification from an independent auditor that any added fee to paint sold in the State as a result of the postconsumer paint stewardship program does not exceed the costs to operate and sustain the program in accordance with sound management practices. The independent auditor shall verify that the amount added to each unit of paint will cover the costs and sustain the postconsumer paint stewardship program.

(8) Describe how the paint stewardship program will incorporate and compensate service providers for activities conducted under the program that may include:

(A) the collection of postconsumer architectural paint and architectural paint containers through permanent collection sites, collection events, or curbside services;

(B) the reuse or processing of postconsumer architectural paint at a permanent collection site; and

(C) the transportation, recycling, and proper

disposal of postconsumer architectural paint.

(c) Independent audits conducted for the purposes of this Act must be conducted in accordance with generally accepted auditing standards. The work product of the independent auditor shall be submitted to the Agency as part of the annual report required by Section 40. The cost of any work performed by the independent auditor shall be funded by the program.

(d) Not later than 60 days after submission of the plan under this Section, the Agency shall determine in writing whether to approve the plan as submitted or disapprove the plan. The Agency shall approve a plan if it contains all of the information required under subsection (b). If the plan is disapproved, the manufacturer or representative organization shall resubmit a plan within 45 calendar days of receipt of the notice of disapproval.

(e) If a manufacturer or representative organization determines that the paint stewardship fee should be adjusted because the independent audit reveals that the cost of administering the program exceeds the revenues generated by the paint stewardship fee, the manufacturer or representative organization shall submit to the Agency a justification for the adjustment as well as financial reports to support the adjustment, including a 5-year projection of the financial status of the organization. The submission shall include a certification from an independent auditor that the proposed fee adjustment will generate revenues necessary and sufficient

to pay the program expenses, including any accumulated debt, and develop a reasonable reserve level sufficient to sustain the program. The Agency shall approve the fee adjustment if the submission contains all of the information required under this subsection.

(f) Within 45 calendar days after Agency approval of a plan, the Agency shall post on its website, and the manufacturer or representative organization shall post on its website, the names of the manufacturers participating in the plan, the brands of architectural paint covered by the program, and a copy of the plan.

(g) Each manufacturer under the plan shall include in the price of any architectural paint sold to retailers or distributors in the State the per container amount of the fee set forth in the plan or fee adjustment. If a representative organization is implementing the plan for a manufacturer, the manufacturer is responsible for filing, reporting, and remitting the paint stewardship fee assessment for each container of architectural paint to the representative organization. A retailer or distributor shall not deduct the amount of the fee from the purchase price of any paint it sells.

Section 20. Incineration prohibited. No person shall incinerate architectural paint collected pursuant to a paint stewardship plan approved in accordance with Section 15.

Section 25. Plan submission. The plan required by Section 15 shall be submitted not later than 12 months after the effective date of this Act.

Section 30. Sale of paint.

(a) A manufacturer or retailer shall not sell or offer for sale architectural paint to any person in the State unless the manufacturer of the paint brand or the manufacturer's representative organization is implementing a paint stewardship plan approved in accordance with Section 15.

(b) A retailer shall not be in violation of subsection (a) if, on the date the architectural paint was sold or offered for sale, the paint or the paint's manufacturer are listed on the Agency's website pursuant to subsection (f) of Section 15.

(c) A paint collection site accepting paint for a program approved under this Act shall not charge for the collection of the paint when it is offered for collection.

(d) No retailer is required to participate in a paint stewardship program as a collection site. A retailer may participate as a paint collection site on a voluntary basis, subject to the same terms, conditions, and requirements that apply to any other collection site.

(e) Nothing in this Act shall require a retailer to track, file, report, submit, or remit a paint stewardship assessment, sales data, or any other information on behalf of a

manufacturer, distributor, or representative organization. Nothing in this Act prohibits a manufacturer and a retailer from entering into remitter agreements.

Section 35. Liability. A manufacturer or representative organization participating in a postconsumer paint stewardship program shall not be liable for any claim of a violation of antitrust, restraint of trade, unfair trade practice, or other anticompetitive conduct arising from conduct undertaken in accordance with the program.

Section 40. Annual report. By July 1, 2026, and each July 1 thereafter, a manufacturer or representative organization shall submit a report to the Agency that details the implementation of the manufacturer's or representative organization's program during the prior calendar year. The report shall include:

- (1) a description of the methods used to collect and transport the postconsumer paint collected by the program;
- (2) the volume and type of postconsumer paint collected and a description of the methods used to process the paint, including reuse, recycling, and other methods;
- (3) samples of the educational materials provided to consumers of architectural paint; and
- (4) the total cost of the program and an independent financial audit of the program. An independent financial

auditor shall be chosen by the manufacturer or representative organization.

The Agency and the manufacturer or manufacturer's representative organization shall post a copy of each annual report on their websites.

Section 45. Disclosure. Financial, production, or sales data reported to the Agency by a manufacturer, retailer, or representative organization is confidential business information that is exempt from disclosure under the Freedom of Information Act.

Section 50. Program plan submission fee. A manufacturer or representative organization submitting a program plan shall pay an administrative fee of \$10,000 to the Agency at the time of submission.

Section 55. Administration fee. By July 1, 2026, and each July 1 thereafter, a manufacturer or representative organization operating a stewardship program shall remit to the Agency a \$40,000 administration fee.

Section 57. Agency fees. All fees submitted to the Agency under this Act shall be deposited into the Solid Waste Management Fund to be used for costs associated with the administration of this Act.

Section 60. Implementation. Six months following the date of the program approval, a manufacturer or representative organization shall implement a postconsumer paint collection plan approved in accordance with Section 15.

Section 65. Postconsumer paint from households and small businesses.

(a) Delivery of leftover architectural paint by households and very small quantity generators to a collection site is authorized to the extent provided in the postconsumer paint program approved in accordance with Section 15 and in accordance with federal and State law, rules, and regulations.

(b) Collection sites shall accept and temporarily store architectural paint from households and very small quantity generators to the extent provided in the postconsumer paint stewardship program approved in accordance with Section 15 and in accordance with federal and State law, rules, and regulations.

(c) Nothing in this Act shall be construed as restricting the collection of architectural paint by a postconsumer paint stewardship program where the collection is authorized under any otherwise applicable hazardous waste or solid waste laws, rules, or regulations.

(d) Nothing in this Act shall be construed to affect any requirements applicable to any person under any otherwise

applicable hazardous waste or solid waste laws, rules, or regulations.

Section 70. Penalties.

(a) Any person who violates any provision of this Act is liable for a civil penalty of \$7,000 per violation, except that the failure to register or pay a fee under this Act shall cause the person who fails to register or pay the fee to be liable for a civil penalty that is double the applicable registration fee.

(b) The penalties provided for in this Section may be recovered in a civil action brought in the name of the people of the State of Illinois by the State's Attorney of the county in which the violation occurred or by the Attorney General. Any penalties collected under this Section in an action in which the Attorney General has prevailed shall be deposited into the Environmental Protection Trust Fund, to be used in accordance with the provision of the Environmental Protection Trust Fund Act.

(c) The Attorney General or the State's Attorney of a county in which a violation occurs may institute a civil action for an injunction, prohibitory or mandatory, to restrain violations of this Act or to require such actions as may be necessary to address violations of this Act.

(d) The penalties and injunctions provided in this Act are in addition to any penalties, injunctions, or other relief

provided under any other State law. Nothing in this Act bars a cause of action by the State for any other penalty, injunction, or other relief provided by any other law.

(e) Any person who knowingly makes a false, fictitious, or fraudulent material statement, orally or in writing, to the Agency, related to or required by this Act or any rule adopted under this Act commits a Class 4 felony, and each such statement or writing shall be considered a separate Class 4 felony. A person who, after being convicted under this subsection, violates this subsection a second or subsequent time commits a Class 3 felony.

Section 905. The Freedom of Information Act is amended by changing Section 7.5 as follows:

(5 ILCS 140/7.5)

Sec. 7.5. Statutory exemptions. To the extent provided for by the statutes referenced below, the following shall be exempt from inspection and copying:

(a) All information determined to be confidential under Section 4002 of the Technology Advancement and Development Act.

(b) Library circulation and order records identifying library users with specific materials under the Library Records Confidentiality Act.

(c) Applications, related documents, and medical

records received by the Experimental Organ Transplantation Procedures Board and any and all documents or other records prepared by the Experimental Organ Transplantation Procedures Board or its staff relating to applications it has received.

(d) Information and records held by the Department of Public Health and its authorized representatives relating to known or suspected cases of sexually transmissible disease or any information the disclosure of which is restricted under the Illinois Sexually Transmissible Disease Control Act.

(e) Information the disclosure of which is exempted under Section 30 of the Radon Industry Licensing Act.

(f) Firm performance evaluations under Section 55 of the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act.

(g) Information the disclosure of which is restricted and exempted under Section 50 of the Illinois Prepaid Tuition Act.

(h) Information the disclosure of which is exempted under the State Officials and Employees Ethics Act, and records of any lawfully created State or local inspector general's office that would be exempt if created or obtained by an Executive Inspector General's office under that Act.

(i) Information contained in a local emergency energy

plan submitted to a municipality in accordance with a local emergency energy plan ordinance that is adopted under Section 11-21.5-5 of the Illinois Municipal Code.

(j) Information and data concerning the distribution of surcharge moneys collected and remitted by carriers under the Emergency Telephone System Act.

(k) Law enforcement officer identification information or driver identification information compiled by a law enforcement agency or the Department of Transportation under Section 11-212 of the Illinois Vehicle Code.

(l) Records and information provided to a residential health care facility resident sexual assault and death review team or the Executive Council under the Abuse Prevention Review Team Act.

(m) Information provided to the predatory lending database created pursuant to Article 3 of the Residential Real Property Disclosure Act, except to the extent authorized under that Article.

(n) Defense budgets and petitions for certification of compensation and expenses for court appointed trial counsel as provided under Sections 10 and 15 of the Capital Crimes Litigation Act. This subsection (n) shall apply until the conclusion of the trial of the case, even if the prosecution chooses not to pursue the death penalty prior to trial or sentencing.

(o) Information that is prohibited from being

disclosed under Section 4 of the Illinois Health and Hazardous Substances Registry Act.

(p) Security portions of system safety program plans, investigation reports, surveys, schedules, lists, data, or information compiled, collected, or prepared by or for the Department of Transportation under Sections 2705-300 and 2705-616 of the Department of Transportation Law of the Civil Administrative Code of Illinois, the Regional Transportation Authority under Section 2.11 of the Regional Transportation Authority Act, or the St. Clair County Transit District under the Bi-State Transit Safety Act.

(q) Information prohibited from being disclosed by the Personnel Record Review Act.

(r) Information prohibited from being disclosed by the Illinois School Student Records Act.

(s) Information the disclosure of which is restricted under Section 5-108 of the Public Utilities Act.

(t) All identified or deidentified health information in the form of health data or medical records contained in, stored in, submitted to, transferred by, or released from the Illinois Health Information Exchange, and identified or deidentified health information in the form of health data and medical records of the Illinois Health Information Exchange in the possession of the Illinois Health Information Exchange Office due to its

administration of the Illinois Health Information Exchange. The terms "identified" and "deidentified" shall be given the same meaning as in the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, or any subsequent amendments thereto, and any regulations promulgated thereunder.

(u) Records and information provided to an independent team of experts under the Developmental Disability and Mental Health Safety Act (also known as Brian's Law).

(v) Names and information of people who have applied for or received Firearm Owner's Identification Cards under the Firearm Owners Identification Card Act or applied for or received a concealed carry license under the Firearm Concealed Carry Act, unless otherwise authorized by the Firearm Concealed Carry Act; and databases under the Firearm Concealed Carry Act, records of the Concealed Carry Licensing Review Board under the Firearm Concealed Carry Act, and law enforcement agency objections under the Firearm Concealed Carry Act.

(v-5) Records of the Firearm Owner's Identification Card Review Board that are exempted from disclosure under Section 10 of the Firearm Owners Identification Card Act.

(w) Personally identifiable information which is exempted from disclosure under subsection (g) of Section 19.1 of the Toll Highway Act.

(x) Information which is exempted from disclosure

under Section 5-1014.3 of the Counties Code or Section 8-11-21 of the Illinois Municipal Code.

(y) Confidential information under the Adult Protective Services Act and its predecessor enabling statute, the Elder Abuse and Neglect Act, including information about the identity and administrative finding against any caregiver of a verified and substantiated decision of abuse, neglect, or financial exploitation of an eligible adult maintained in the Registry established under Section 7.5 of the Adult Protective Services Act.

(z) Records and information provided to a fatality review team or the Illinois Fatality Review Team Advisory Council under Section 15 of the Adult Protective Services Act.

(aa) Information which is exempted from disclosure under Section 2.37 of the Wildlife Code.

(bb) Information which is or was prohibited from disclosure by the Juvenile Court Act of 1987.

(cc) Recordings made under the Law Enforcement Officer-Worn Body Camera Act, except to the extent authorized under that Act.

(dd) Information that is prohibited from being disclosed under Section 45 of the Condominium and Common Interest Community Ombudsperson Act.

(ee) Information that is exempted from disclosure under Section 30.1 of the Pharmacy Practice Act.

(ff) Information that is exempted from disclosure under the Revised Uniform Unclaimed Property Act.

(gg) Information that is prohibited from being disclosed under Section 7-603.5 of the Illinois Vehicle Code.

(hh) Records that are exempt from disclosure under Section 1A-16.7 of the Election Code.

(ii) Information which is exempted from disclosure under Section 2505-800 of the Department of Revenue Law of the Civil Administrative Code of Illinois.

(jj) Information and reports that are required to be submitted to the Department of Labor by registering day and temporary labor service agencies but are exempt from disclosure under subsection (a-1) of Section 45 of the Day and Temporary Labor Services Act.

(kk) Information prohibited from disclosure under the Seizure and Forfeiture Reporting Act.

(ll) Information the disclosure of which is restricted and exempted under Section 5-30.8 of the Illinois Public Aid Code.

(mm) Records that are exempt from disclosure under Section 4.2 of the Crime Victims Compensation Act.

(nn) Information that is exempt from disclosure under Section 70 of the Higher Education Student Assistance Act.

(oo) Communications, notes, records, and reports arising out of a peer support counseling session

prohibited from disclosure under the First Responders Suicide Prevention Act.

(pp) Names and all identifying information relating to an employee of an emergency services provider or law enforcement agency under the First Responders Suicide Prevention Act.

(qq) Information and records held by the Department of Public Health and its authorized representatives collected under the Reproductive Health Act.

(rr) Information that is exempt from disclosure under the Cannabis Regulation and Tax Act.

(ss) Data reported by an employer to the Department of Human Rights pursuant to Section 2-108 of the Illinois Human Rights Act.

(tt) Recordings made under the Children's Advocacy Center Act, except to the extent authorized under that Act.

(uu) Information that is exempt from disclosure under Section 50 of the Sexual Assault Evidence Submission Act.

(vv) Information that is exempt from disclosure under subsections (f) and (j) of Section 5-36 of the Illinois Public Aid Code.

(ww) Information that is exempt from disclosure under Section 16.8 of the State Treasurer Act.

(xx) Information that is exempt from disclosure or information that shall not be made public under the

Illinois Insurance Code.

(yy) Information prohibited from being disclosed under the Illinois Educational Labor Relations Act.

(zz) Information prohibited from being disclosed under the Illinois Public Labor Relations Act.

(aaa) Information prohibited from being disclosed under Section 1-167 of the Illinois Pension Code.

(bbb) Information that is prohibited from disclosure by the Illinois Police Training Act and the Illinois State Police Act.

(ccc) Records exempt from disclosure under Section 2605-304 of the Illinois State Police Law of the Civil Administrative Code of Illinois.

(ddd) Information prohibited from being disclosed under Section 35 of the Address Confidentiality for Victims of Domestic Violence, Sexual Assault, Human Trafficking, or Stalking Act.

(eee) Information prohibited from being disclosed under subsection (b) of Section 75 of the Domestic Violence Fatality Review Act.

(fff) Images from cameras under the Expressway Camera Act. This subsection (fff) is inoperative on and after July 1, 2023.

(ggg) Information prohibited from disclosure under paragraph (3) of subsection (a) of Section 14 of the Nurse Agency Licensing Act.

(hhh) Information submitted to the Illinois Department of State Police in an affidavit or application for an assault weapon endorsement, assault weapon attachment endorsement, .50 caliber rifle endorsement, or .50 caliber cartridge endorsement under the Firearm Owners Identification Card Act.

(iii) Confidential business information prohibited from disclosure under Section 45 of the Paint Stewardship Act.

(Source: P.A. 101-13, eff. 6-12-19; 101-27, eff. 6-25-19; 101-81, eff. 7-12-19; 101-221, eff. 1-1-20; 101-236, eff. 1-1-20; 101-375, eff. 8-16-19; 101-377, eff. 8-16-19; 101-452, eff. 1-1-20; 101-466, eff. 1-1-20; 101-600, eff. 12-6-19; 101-620, eff. 12-20-19; 101-649, eff. 7-7-20; 101-652, eff. 1-1-22; 101-656, eff. 3-23-21; 102-36, eff. 6-25-21; 102-237, eff. 1-1-22; 102-292, eff. 1-1-22; 102-520, eff. 8-20-21; 102-559, eff. 8-20-21; 102-813, eff. 5-13-22; 102-946, eff. 7-1-22; 102-1042, eff. 6-3-22; 102-1116, eff. 1-10-23; revised 2-13-23.)

Section 910. The Environmental Protection Act is amended by changing Section 22.25 as follows:

(415 ILCS 5/22.15)

Sec. 22.15. Solid Waste Management Fund; fees.

(a) There is hereby created within the State Treasury a

special fund to be known as the Solid Waste Management Fund, to be constituted from the fees collected by the State pursuant to this Section, from repayments of loans made from the Fund for solid waste projects, from registration fees collected pursuant to the Consumer Electronics Recycling Act, from fees collected under the Paint Stewardship Act, and from amounts transferred into the Fund pursuant to Public Act 100-433. Moneys received by either the Agency or the Department of Commerce and Economic Opportunity in repayment of loans made pursuant to the Illinois Solid Waste Management Act shall be deposited into the General Revenue Fund.

(b) The Agency shall assess and collect a fee in the amount set forth herein from the owner or operator of each sanitary landfill permitted or required to be permitted by the Agency to dispose of solid waste if the sanitary landfill is located off the site where such waste was produced and if such sanitary landfill is owned, controlled, and operated by a person other than the generator of such waste. The Agency shall deposit all fees collected into the Solid Waste Management Fund. If a site is contiguous to one or more landfills owned or operated by the same person, the volumes permanently disposed of by each landfill shall be combined for purposes of determining the fee under this subsection. Beginning on July 1, 2018, and on the first day of each month thereafter during fiscal years 2019 through 2023, the State Comptroller shall direct and State Treasurer shall transfer an amount equal to 1/12 of \$5,000,000

per fiscal year from the Solid Waste Management Fund to the General Revenue Fund.

(1) If more than 150,000 cubic yards of non-hazardous solid waste is permanently disposed of at a site in a calendar year, the owner or operator shall either pay a fee of 95 cents per cubic yard or, alternatively, the owner or operator may weigh the quantity of the solid waste permanently disposed of with a device for which certification has been obtained under the Weights and Measures Act and pay a fee of \$2.00 per ton of solid waste permanently disposed of. In no case shall the fee collected or paid by the owner or operator under this paragraph exceed \$1.55 per cubic yard or \$3.27 per ton.

(2) If more than 100,000 cubic yards but not more than 150,000 cubic yards of non-hazardous waste is permanently disposed of at a site in a calendar year, the owner or operator shall pay a fee of \$52,630.

(3) If more than 50,000 cubic yards but not more than 100,000 cubic yards of non-hazardous solid waste is permanently disposed of at a site in a calendar year, the owner or operator shall pay a fee of \$23,790.

(4) If more than 10,000 cubic yards but not more than 50,000 cubic yards of non-hazardous solid waste is permanently disposed of at a site in a calendar year, the owner or operator shall pay a fee of \$7,260.

(5) If not more than 10,000 cubic yards of

non-hazardous solid waste is permanently disposed of at a site in a calendar year, the owner or operator shall pay a fee of \$1050.

(c) (Blank).

(d) The Agency shall establish rules relating to the collection of the fees authorized by this Section. Such rules shall include, but not be limited to:

(1) necessary records identifying the quantities of solid waste received or disposed;

(2) the form and submission of reports to accompany the payment of fees to the Agency;

(3) the time and manner of payment of fees to the Agency, which payments shall not be more often than quarterly; and

(4) procedures setting forth criteria establishing when an owner or operator may measure by weight or volume during any given quarter or other fee payment period.

(e) Pursuant to appropriation, all monies in the Solid Waste Management Fund shall be used by the Agency for the purposes set forth in this Section and in the Illinois Solid Waste Management Act, including for the costs of fee collection and administration, for administration of the Paint Stewardship Act, and for the administration of the Consumer Electronics Recycling Act and the Drug Take-Back Act.

(f) The Agency is authorized to enter into such agreements and to promulgate such rules as are necessary to carry out its

duties under this Section and the Illinois Solid Waste Management Act.

(g) On the first day of January, April, July, and October of each year, beginning on July 1, 1996, the State Comptroller and Treasurer shall transfer \$500,000 from the Solid Waste Management Fund to the Hazardous Waste Fund. Moneys transferred under this subsection (g) shall be used only for the purposes set forth in item (1) of subsection (d) of Section 22.2.

(h) The Agency is authorized to provide financial assistance to units of local government for the performance of inspecting, investigating, and enforcement activities pursuant to subsection (r) of Section 4 ~~Section 4(r)~~ at nonhazardous solid waste disposal sites.

(i) The Agency is authorized to conduct household waste collection and disposal programs.

(j) A unit of local government, as defined in the Local Solid Waste Disposal Act, in which a solid waste disposal facility is located may establish a fee, tax, or surcharge with regard to the permanent disposal of solid waste. All fees, taxes, and surcharges collected under this subsection shall be utilized for solid waste management purposes, including long-term monitoring and maintenance of landfills, planning, implementation, inspection, enforcement and other activities consistent with the Solid Waste Management Act and the Local Solid Waste Disposal Act, or for any other

environment-related purpose, including, but not limited to, an environment-related public works project, but not for the construction of a new pollution control facility other than a household hazardous waste facility. However, the total fee, tax or surcharge imposed by all units of local government under this subsection (j) upon the solid waste disposal facility shall not exceed:

(1) 60¢ per cubic yard if more than 150,000 cubic yards of non-hazardous solid waste is permanently disposed of at the site in a calendar year, unless the owner or operator weighs the quantity of the solid waste received with a device for which certification has been obtained under the Weights and Measures Act, in which case the fee shall not exceed \$1.27 per ton of solid waste permanently disposed of.

(2) \$33,350 if more than 100,000 cubic yards, but not more than 150,000 cubic yards, of non-hazardous waste is permanently disposed of at the site in a calendar year.

(3) \$15,500 if more than 50,000 cubic yards, but not more than 100,000 cubic yards, of non-hazardous solid waste is permanently disposed of at the site in a calendar year.

(4) \$4,650 if more than 10,000 cubic yards, but not more than 50,000 cubic yards, of non-hazardous solid waste is permanently disposed of at the site in a calendar year.

(5) \$650 if not more than 10,000 cubic yards of

non-hazardous solid waste is permanently disposed of at the site in a calendar year.

The corporate authorities of the unit of local government may use proceeds from the fee, tax, or surcharge to reimburse a highway commissioner whose road district lies wholly or partially within the corporate limits of the unit of local government for expenses incurred in the removal of nonhazardous, nonfluid municipal waste that has been dumped on public property in violation of a State law or local ordinance.

For the disposal of solid waste from general construction or demolition debris recovery facilities as defined in subsection (a-1) of Section 3.160, the total fee, tax, or surcharge imposed by all units of local government under this subsection (j) upon the solid waste disposal facility shall not exceed 50% of the applicable amount set forth above. A unit of local government, as defined in the Local Solid Waste Disposal Act, in which a general construction or demolition debris recovery facility is located may establish a fee, tax, or surcharge on the general construction or demolition debris recovery facility with regard to the permanent disposal of solid waste by the general construction or demolition debris recovery facility at a solid waste disposal facility, provided that such fee, tax, or surcharge shall not exceed 50% of the applicable amount set forth above, based on the total amount of solid waste transported from the general construction or

demolition debris recovery facility for disposal at solid waste disposal facilities, and the unit of local government and fee shall be subject to all other requirements of this subsection (j).

A county or Municipal Joint Action Agency that imposes a fee, tax, or surcharge under this subsection may use the proceeds thereof to reimburse a municipality that lies wholly or partially within its boundaries for expenses incurred in the removal of nonhazardous, nonfluid municipal waste that has been dumped on public property in violation of a State law or local ordinance.

If the fees are to be used to conduct a local sanitary landfill inspection or enforcement program, the unit of local government must enter into a written delegation agreement with the Agency pursuant to subsection (r) of Section 4. The unit of local government and the Agency shall enter into such a written delegation agreement within 60 days after the establishment of such fees. At least annually, the Agency shall conduct an audit of the expenditures made by units of local government from the funds granted by the Agency to the units of local government for purposes of local sanitary landfill inspection and enforcement programs, to ensure that the funds have been expended for the prescribed purposes under the grant.

The fees, taxes or surcharges collected under this subsection (j) shall be placed by the unit of local government

in a separate fund, and the interest received on the moneys in the fund shall be credited to the fund. The monies in the fund may be accumulated over a period of years to be expended in accordance with this subsection.

A unit of local government, as defined in the Local Solid Waste Disposal Act, shall prepare and post on its website, in April of each year, a report that details spending plans for monies collected in accordance with this subsection. The report will at a minimum include the following:

(1) The total monies collected pursuant to this subsection.

(2) The most current balance of monies collected pursuant to this subsection.

(3) An itemized accounting of all monies expended for the previous year pursuant to this subsection.

(4) An estimation of monies to be collected for the following 3 years pursuant to this subsection.

(5) A narrative detailing the general direction and scope of future expenditures for one, 2 and 3 years.

The exemptions granted under Sections 22.16 and 22.16a, and under subsection (k) of this Section, shall be applicable to any fee, tax or surcharge imposed under this subsection (j); except that the fee, tax or surcharge authorized to be imposed under this subsection (j) may be made applicable by a unit of local government to the permanent disposal of solid waste after December 31, 1986, under any contract lawfully

executed before June 1, 1986 under which more than 150,000 cubic yards (or 50,000 tons) of solid waste is to be permanently disposed of, even though the waste is exempt from the fee imposed by the State under subsection (b) of this Section pursuant to an exemption granted under Section 22.16.

(k) In accordance with the findings and purposes of the Illinois Solid Waste Management Act, beginning January 1, 1989 the fee under subsection (b) and the fee, tax or surcharge under subsection (j) shall not apply to:

(1) waste which is hazardous waste;

(2) waste which is pollution control waste;

(3) waste from recycling, reclamation or reuse processes which have been approved by the Agency as being designed to remove any contaminant from wastes so as to render such wastes reusable, provided that the process renders at least 50% of the waste reusable; the exemption set forth in this paragraph (3) of this subsection (k) shall not apply to general construction or demolition debris recovery facilities as defined in subsection (a-1) of Section 3.160;

(4) non-hazardous solid waste that is received at a sanitary landfill and composted or recycled through a process permitted by the Agency; or

(5) any landfill which is permitted by the Agency to receive only demolition or construction debris or landscape waste.

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SB0836 Enrolled

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