

Department of Finance and Administration

Legislative Impact Statement

Bill: SB518

Bill Subtitle: TO AMEND THE SOLID WASTE MANAGEMENT AND RECYCLING FUND ACT; AND TO TRANSFER ADMINISTRATION OF CERTAIN FUNDS AND DUTIES FROM THE DIVISION OF ENVIRONMENTAL QUALITY TO THE DEPARTMENT OF FINANCE AND ADMINISTRATION.

Basic Change :

Sponsor: Sen. B. Ballinger

SB518 transfers responsibility for collection and distribution of certain landfill disposal fees from the Division of Environmental Quality (DEQ) to the Arkansas Department of Finance and Administration (DFA). SB518 also transfers responsibility of the administration of the Solid Waste Management and Recycling Fund (the "Fund") from DEQ to DFA.

SB518 provides that landfills must file a quarterly report with DFA stating the amount of solid waste received by the landfill during the previous quarter. The landfill must pay a fee of 25¢ per cubic yard of uncompacted solid waste received by the landfill and 45¢ per cubic yard of compacted solid waste received. If the landfill operates on a weight basis, the fee is \$1.50 per ton of solid waste the landfill received. Businesses that transport solid waste generated in Arkansas to out-of-state landfills and private businesses that operate a landfill to dispose of their own solid waste pay separate fees. Businesses will now report and pay these fees to DFA rather than to DEQ.

SB518 requires that DFA deposit most of the landfill fee collections into the Fund. Other portions of those collections are deposited into the Marketing Recyclables Program Fund, the Crime Information System Fund, and the Arkansas Unpaved Roads Program Fund. SB518 provides that DFA is to annually distribute amounts deposited into the Fund to the approved regional solid waste management districts in the manner provided by law. DEQ currently makes those distributions.

Revenue Impact :

None.

Taxpayer Impact :

Solid waste transporters and landfill permittees will be required to file reports and pay fees to DFA. Currently, they are required to file with the DEQ.

Resources Required :

Computer programming, manual updates, and employee training will be required. Additional cost for computer programming is undetermined. The Miscellaneous Tax Section of DFA would require additional staff to review and monitor reporting and collection of fees. Anticipated staff needed are as follows (total additional personnel cost of \$165,000 per year):

- One Auditor - \$65,000 per year.
- Two Fiscal Support Analysts to help with any extra duties and support audit staff members. - \$100,000 per year.

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Time Required :

It is anticipated that a six to nine-month implementation period will be necessary to fully implement the transfer of duties to DFA.

Procedural Changes :

Programming a new tax type in the Arkansas Integrated Revenue System (AIRS) will have to be completed and tested prior to transfer of duties to DFA. Manual updates and employee training will be required.

Other Comments :

None.

Legal Analysis :

SB518 requires each regional solid waste management board to file an annual report with DFA explaining how it spent the funds received. That report must include any equipment purchases, material purchases, and operating costs of the board. SB518 does not address DFA's obligations upon receipt of the report. The bill would benefit from an amendment to address the use of this report by DFA.

SB518 does not address whether the Arkansas Tax Procedure Act (TPA) applies to DFA's administration of landfill fees. Unless SB518 is amended to provide otherwise, the TPA applies to all taxes and fees administered by DFA. Accordingly, DFA would have to conduct audits of landfills to ensure compliance with landfill fees, to provide notice and opportunity for administrative hearing regarding those assessments, to assess interest and penalties under the TPA for failure to timely file quarterly reports or pay the landfill fee, to file state tax liens for unpaid fees, and take other administrative actions authorized by the TPA. SB518 would require an amendment to exclude application of the TPA.