



COUNTY ADVISORY BULLETIN

CAB

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SOLID WASTE MANAGEMENT DISTRICT WITHDRAWAL AND FEES

APPLICABLE LEGISLATION: Senate Bill 147 (136th General Assembly)

REVISED CODE SECTIONS ENACTED: 3734.522

REVISED CODE SECTIONS AMENDED: 343.01, 343.011, 343.012, 343.022, 343.08, 3714.07, 3714.073, 3734.521, 3734.53, 3734.56, 3734.57, 3734.574, and 3745.015

LEAD SPONSORS: Senator Bill Reineke

HOUSE COSPONSORS: Click, Brennan, Dovilla, Mathews, T., McClain, Schmidt, Williams, Willis

SENATE COSPONSORS: Antonio, Blackshear, Cirino, Craig, DeMora, Hicks-Hudson, Huffman, Ingram, Johnson, Lang, Manning, O'Brien, Patton, Schaffer, Timken, Weinstein, Wilson

EFFECTIVE DATE: September 30, 2025

BACKGROUND

In the 135th General Assembly, Senator Reineke introduced Senate Bill 119 with two stated goals: to reduce the amount of out-of-state waste brought into Ohio landfills and to allow counties to withdraw from joint solid waste management districts (SWMDs) without approval from all counties in the district.

The original legislation included several increased fees aimed at making the disposal of waste in Ohio more expensive to dissuade businesses from bringing waste by rail into Ohio facilities. Due to the Interstate Commerce Clause, Ohio cannot charge higher fees for waste disposal on out-of-state businesses. Therefore, the fee increases, if enacted, would have applied to waste generated inside Ohio as well. Throughout the legislative process in both the 135th and 136th General Assemblies, most of these proposed fee increases were removed from the legislation.

Senator Reineke's district includes part of the Ottawa Sandusky Seneca Solid Waste District (OSS). Seneca County is home to a landfill that primarily receives rail-delivered construction and demolition debris generated outside Ohio. The Seneca County commissioners and health department publicly called for additional oversight capabilities, and funding to provide such oversight, of the landfill. To

accomplish this objective, the Seneca County commissioners wanted to pursue becoming a single county solid waste district.

At the time, if a county wanted to withdraw from a joint SWMD, all the other counties in the district had to approve of the split. The situation in OSS prompted Senator Reineke to include an expedited unilateral withdraw process in SB 119 which would have separated the counties into two SWMDs in 90 days without consent of all counties involved. This timeline would be challenging logistically for all parties. SB 119 did not pass during the 135th General Assembly.

In the 136th General Assembly, Senator Reineke introduced Senate Bill 147 with a more tailored change to district fee structures. SB 147 maintained a unilateral withdraw provision but extended the time frame during which the split and formation of new SWMDs will occur and included Ohio Environmental Protection Agency (OEPA) oversight over the process.

Following several committee hearings in both the Senate and the House where changes were adopted, SB 147 ultimately passed and was signed into law. The provisions of SB 147 are explained below.

SOLID WASTE DISPOSAL FEE ALLOWABLE USES

SWMDs may levy solid waste disposal fees at all landfills located within the district. The fee schedule is often included as a part of the solid waste management plan. Fees can also be established or changed outside of the planning process. The solid waste disposal fee is sometimes colloquially referred to as the “tiered fee” due to the nature of its requirements.

R.C. 3734.57(B) mandates that disposal fees are within the following ranges:

- For waste generated within the district, the disposal fee range is \$1.00 to \$2.00. This is a “tier-one fee.”
- For waste generated outside the district, but within the state, the disposal fee range is \$2.00 to \$4.00 per ton. This is a “tier-two fee.”
- For waste generated outside the state, the disposal fee can be no more than the “in-district” or “tier-one fee” of \$1.00 to \$2.00.

Prior to SB 147, SWMDs could use the revenue collected from solid waste disposal fees for 10 purposes (listed below).

SB 147 adds a new, broader allowable use for disposal fee revenue: Providing financial assistance to individual counties, boards of health, municipal corporations, and townships for the costs of mitigating impacts to public health, safety, and welfare of solid waste disposal or transfer facilities within the applicable political subdivision (R.C. 3734.57(G)(11)).

Any SWMD that levies a solid waste disposal fee may use the revenue for this new purpose. SWMDs will need to consider whether using funds in accordance with the new allowable use should be included in the district’s next solid waste management plan. If a SWMD wishes to use the funds for this new purpose prior to the adoption of a new or updated solid waste management plan, it is recommended that the district review its current plan and consult legal counsel and OEPA.

The continuing allowable uses are:

- Preparation of the solid waste management plan of the district, monitoring implementation of the plan, and conducting the periodic review and amendment of the plan by the solid waste management policy committee;
- Implementation of the approved solid waste management plan or amended plan of the district, including, without limitation, the development and implementation of solid waste recycling or reduction programs;
- Providing financial assistance to boards of health within the district, if solid waste facilities are located within the district, for enforcement of this chapter and rules, orders, and terms and conditions of permits, licenses, and variances adopted or issued under it, other than the hazardous waste provisions of this chapter and rules adopted and orders and terms and conditions of permits issued under those provisions;
- Providing financial assistance to each county within the district to defray the added costs of maintaining roads and other public facilities and of providing emergency and other public services resulting from the location and operation of a solid waste facility within the county under the district's approved solid waste management plan or amended plan;
- Pursuant to contracts entered into with boards of health within the district, if solid waste facilities contained in the district's approved plan or amended plan are located within the district, for paying the costs incurred by those boards of health for collecting and analyzing samples from public or private water wells on lands adjacent to those facilities;
- Developing and implementing a program for the inspection of solid wastes generated outside the boundaries of this state that are disposed of at solid waste facilities included in the district's approved solid waste management plan or amended plan;
- Providing financial assistance to boards of health within the district for the enforcement of R.C. 3734.03 or to local law enforcement agencies having jurisdiction within the district for enforcing anti-littering laws and ordinances;
- Providing financial assistance to boards of health of health districts within the district that are on the approved list under R.C. 3734.08 to defray the costs to the health districts for the participation of their employees responsible for enforcement of the solid waste provisions of this chapter and rules adopted and orders and terms and conditions of permits, licenses, and variances issued under those provisions in the training and certification program as required by rules adopted under R.C. 3734.02(L);
- Providing financial assistance to individual municipal corporations and townships within the district to defray their added costs of maintaining roads and other public facilities and of providing emergency and other public services resulting from the location and operation within their boundaries of a composting, energy or resource recovery, incineration, or recycling facility that either is owned by the district or is furnishing solid waste management facility or recycling services to the district pursuant to a contract or agreement with the board of county commissioners or directors of the district; and
- Payment of any expenses that are agreed to, awarded, or ordered to be paid under R.C. 3734.35 and of any administrative costs incurred pursuant to that section. In the case of a joint solid waste management district, if the board of county commissioners of one of the

counties in the district is negotiating on behalf of affected communities, as defined in that section, in that county, the board shall obtain the approval of the board of directors of the district in order to expend moneys for administrative costs incurred.

(R.C. 3734.57)

WITHDRAWAL FROM JOINT SOLID WASTE MANAGEMENT DISTRICT

SB 147 allows a county to withdraw from a joint solid waste management district (SWMD) at any time without approval of all of the other counties comprising the SWMD.

Prior to the enactment of SB 147, if a board of county commissioners passed a resolution seeking to withdraw from a joint SWMD, each of the other boards of county commissioners in the district had to pass a resolution approving or disapproving the withdraw. If any county were to pass a resolution disapproving the withdraw, the withdrawal proceedings ended.

SB 147 mandates a new process counties will follow if a board of commissioners initiates a withdrawal from a joint SWMD. To initiate the withdrawal, the board of county commissioners must adopt a resolution declaring the county will withdraw from the joint SWMD.

The board of commissioners of the withdrawing county must then provide notice to the joint SWMD's board of directors. The board of directors will then provide written notice of the proposed withdrawal to the boards of county commissioners of the other counties forming the joint SWMD and to the OEPA Director.

Once this notification occurs, the counties proceed with the subsequent steps outlined below (beginning with the "**WITHDRAWAL PROCESS MEMORANDUM OF UNDERSTANDING**" section). The new process applies to all withdrawal proceedings moving forward.

(R.C. 3734.522; conforming changes in R.C. 343.01, 343.011, 343.012, 3734.521, 3734.53, 3734.56, 3734.57, and 3734.574)

UNILATERAL WITHDRAWAL FROM JOINT REGIONAL SOLID WASTE MANAGEMENT AUTHORITY

SB 147 implements a different withdrawal process for joint regional solid waste management authorities formed under R.C. 343.011. Prior to the bill, there was no statutory withdrawal mechanism for regional solid waste management authorities. Most regional authorities in Ohio are composed of a single county. At the time of publication of this bulletin, there is one joint regional solid waste management authority.

A regional solid waste management authority is governed by a board of trustees that includes representation of multiple political subdivisions in the boundaries of the authority. If that governance includes an agreement that outlines procedures for withdrawal, those procedures apply.

If there is no governing agreement or if the agreement is silent on withdrawal, SB 147 implements the following withdrawal process.

The board of county commissioners of the county wishing to withdraw must adopt a resolution declaring the intent to withdraw. Following adoption, the board must deliver written notice of the proposed withdrawal to the legislative authority of each municipal corporation and township under the jurisdiction of the regional solid waste management authority.

Following this notification, the board of commissioners must obtain approval of the withdrawal from both municipalities and townships with a combined population comprising at least 60% of the total population of the authority. This approval must include the municipality with the largest population in each county within the boundaries of the authority.

Once this approval is maintained, the counties proceed with the subsequent steps outlined below (beginning with the “**WITHDRAWAL PROCESS MEMORANDUM OF UNDERSTANDING**” section).

(R.C. 343.011 and 3734.522)

WITHDRAWAL PROCESS MEMORANDUM OF UNDERSTANDING

Within 45 days of all counties receiving notice of the proposed withdrawal, all boards of county commissioners must enter into a memorandum of understanding (MOU) that describes the terms of how the counties will operate during the withdrawal process – a two-year period that begins once all parties have agreed to the MOU.

If the counties cannot agree on the terms of the MOU, the withdrawing county must, within ten days after it is determined that an agreement cannot be reached, request a court of common pleas of an adjacent county to the withdrawing county to hear the parties and decide the MOU terms on behalf of the counties.

Within 90 days after the withdrawing county makes the request to the court, the court must hear the parties and issue an order that details the MOU terms.

The MOU expires two years after it is entered into by the counties or the court issues the order determining the details, unless all parties agree in writing to an earlier date.

(R.C. 3734.522(D))

OPTIONAL EXTENSION OF MEMORANDUM OF UNDERSTANDING

Up to 60 days before the MOU is scheduled to expire, a board of county commissioners may opt to extend the terms of the MOU beyond the two-year period. The maximum length of extension is 45 days from the original expiration date of the MOU.

If the MOU was entered into independent of the courts, the board of county commissioners would request the boards of county commissioners of all other counties in the joint SWMD agree to the extension. The request must include the time period for the proposed extension and the other boards of county commissioners must agree to the extension request.

If the MOU terms were determined by a court order, the board of county commissioners requesting the extension must request the court to extend the MOU. The court must then issue an order either denying or granting the extension.

(R.C. 3734.522(D))

FUNDING FOR SOLID WASTE MANAGEMENT PLANNING PROCESSES

The Revised Code explicitly permits the counties involved in a joint SWMD split to include a reasonable allocation of funds for the newly formed district and the remaining district that will result from the withdrawal to conduct the solid waste management planning process. This allocation of funds would be negotiated through the memorandum of understanding.

(R.C. 3734.522(D))

OHIO ENVIRONMENTAL PROTECTION AGENCY INVOLVEMENT

The Ohio Environmental Protection Agency (OEPA) is required to take all actions necessary to effectuate the withdrawal of a county from a joint solid waste management district pursuant to the MOU so that the withdrawal is effective upon the expiration date of the MOU. The Revised Code requires OEPA to begin the process on the date the MOU is executed.

(R.C. 3734.522(E))

JOINT SOLID WASTE MANAGEMENT DISTRICT ALLOCATION OF ASSETS

The board of directors of the joint district involved in the withdrawal must take all actions necessary to ascertain, apportion, and order a division of the funds on hand, credits, and real and personal property of the district, either in money or in kind, on an equitable basis between the district and the withdrawing county, effective upon the expiration date of the MOU.

(R.C. 3734.522(F))

SEVERANCE OF JOINT SOLID WASTE MANAGEMENT DISTRICT

The withdrawing county is officially severed from the joint SWMD after the MOU expires. At this time, the county becomes a new SWMD and must comply with all laws governing SWMDs in Chapter 343 of the Ohio Revised Code. The board of commissioners of the severed county is no longer on the board of directors for the joint SWMD from which the county withdrew.

The board of commissioners of a severed county are permitted to form or join a joint SWMD or regional solid waste management authority; however, the statute prohibits the OEPA from requiring the county to do so.

(R.C. 3734.522(G)(1) and (3))

REMAINING COUNTIES IN JOINT SOLID WASTE MANAGEMENT DISTRICT

The remaining counties in the former joint SWMD inherit the solid waste management plan from the previous joint district and must comply with all laws governing SWMDs in Chapter 343 of the Ohio Revised Code. The district must amend the inherited plan and obtain approval from the OEPA.

If a withdrawal leaves a single county in the former joint SWMD, the previous district is dissolved and the county must draft an initial solid waste management plan, obtain approval of that plan from the OEPA, and comply with all laws governing SWMDs in Chapter 343.

The county or counties are permitted to form or join a joint SWMD or regional solid waste management authority; however, the statute prohibits the OEPA from requiring the county or counties to do so.

(R.C. 3734.521(E), 3734.522(G)(2) and (3))

TAXATION

The board of directors of the joint SWMD from which a county withdrew is no longer able to levy a tax on taxable property in the severed county to support the efforts of the former joint SWMD.

However, each county of the former district must continue to levy and collect any taxes levied to pay SWMD indebtedness that was incurred prior to the severed county's withdrawal from the joint SWMD.

(R.C. 3734.522(G)(1))

CONSTRUCTION AND DEMOLITION DEBRIS (C&DD) FEES

SB 147 allows certain SWMDs to levy a new, permissive fee on construction and demolition debris (C&DD) disposal. In order to levy the fee, a SWMD must be located in an authorized county, defined as a county that has a population between 53,000 and 58,000. From publication of this bulletin until the 2030 census, this population range qualifies only Seneca County as an authorized county.

The fee follows the "tiered" model of solid waste disposal fees, with different allowable ranges for in-state or out-of-state C&DD versus in-state but out-of-district C&DD. The statute phases in the fees over a three-year period.

Timeframe	In-District or Out-of-State C&DD	In-State but Out-of-District C&DD
September 30, 2025 – September 29, 2026	\$0.35 to \$0.70 per ton	\$0.70 to \$1.40 per ton
September 30, 2026 – September 29, 2027	\$0.70 to \$1.40 per ton	\$1.40 to \$2.80 per ton
Beginning September 30, 2027	\$1.00 to \$2.00 per ton	\$2.00 to \$4.00 per ton

To levy the permissive fee, a SWMD will follow the same procedures required to levy solid waste disposal fees under R.C. 3734.57(B).

Solid waste and C&DD facility owners and operators are required to collect the C&DD fee and hold it in trust for the SWMD. A SWMD may only levy the new C&DD fees with respect to a C&DD or solid waste facility located in a health district that is on OEPA's approved list maintained under R.C. 3714.09.

Of the money collected from the levying of this fee, 25% will be forwarded to OEPA. The OEPA will split the funds evenly between the Environmental Protection Fund (Fund 5BC0) and the Waste Management Fund (Fund 4K30).

For the remaining 75%, the SWMD has a choice to keep the remaining revenue or allocate dollars to the health district in which the facility that collected the fees is located.

If the SWMD chooses to keep the revenue, the district must use the funds in accordance with R.C. 3734.57(G). The allowable purposes of that section are listed in the **“SOLID WASTE DISPOSAL FEE ALLOWABLE USES”** section of this bulletin.

If the SWMD forwards the money to the health district, the health district must deposit it into the special fund used by the board of health to administer the solid waste law and the construction and demolition debris law, to abate accumulations of C&DD, and to mitigate the impacts of C&DD and solid waste on public health, safety, and welfare.

(R.C. 3714.07(E) and Section 3 of Senate Bill 147)

OPERATOR FEE CHARGES

Prior to SB 147, a solid waste facility operator could choose to charge solid waste disposal fees in place of C&DD fees on the disposal of C&DD at its facility. SB 147 eliminates this option. Operators must charge C&DD fees on C&DD disposed of in a solid waste facility, collecting the fees that correspond with the type of waste disposed.

SB 147 also eliminates the law specifying that state-imposed C&DD fees do not apply when C&DD is disposed of at a solid waste facility and there is no C&DD facility within 35 miles.

(R.C. 3714.07(E) and 3714.073(D))