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Private Acts of 1991 Chapter 52

Dear Reader:

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We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other CTAS website material.

Sincerely,

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Table of Contents

Private Acts of 1991 Chapter 52	3
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SECTION 1. As used in this act unless the context otherwise requires:

1. "Landfill" means land used for disposal of solid waste by filling or covering.
2. "Operator" means the person in charge of the operation of landfill in Bedford County.
3. "Person" means any and all persons, natural or artificial, including any individual, firm or association, and municipal or private corporation organized or existing under the laws of this state or any other state, and any state or local governmental entity.
4. "Solid waste" means any garbage, refuse, including without limitation, recyclable materials when they become discarded, or sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and any other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, and agricultural operations, and from community activities, but does not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act (compiled at 33 U.S.C. Section 342), as amended, or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954 (compiled at 42 U.S.C. Section 2011, et seq.), as amended.

SECTION 2. The legislative body of Bedford County, by resolution, is authorized to levy a tax for the privilege or disposing of solid waste at a landfill located in Bedford County at a rate not to exceed ten dollars (\$10.00) per ton of solid waste.

SECTION 3. The proceeds received by the county from the tax shall be retained by the county and deposited into the general fund of the county. This tax shall be used by Bedford County to offset expenses realized by the county resulting from a landfill operation within the county, including, but not limited to, road maintenance and repair, the employment of a qualified inspector or inspectors, vehicles, equipment and test services for the purposes of monitoring and inspecting solid waste disposal in Bedford County.

SECTION 4. Such tax shall be collected by the operator of the landfill prior to authorizing the disposal of the solid waste at the landfill. Such tax shall be collected by such operator from the disposer of the solid waste, and shall be remitted to the county clerk as provided in this act.

SECTION 5.

(a) The tax levied by this act shall be due and payable monthly on the fifteenth (15th) day of the month next succeeding the month in which the solid waste disposal occurs, and shall be remitted to the county clerk of Bedford County not later than the fifteenth (15th) day of each month for the preceding month upon forms provided by the county clerk. The return shall be accompanied by a remittance covering the amount of tax due as computed by the operator.

(b) For the purpose of compensating the operator for remitting the tax levied by this act, the operator shall be allowed two percent (2%) of the amount of the tax due and remitted to the county clerk in the form of a deduction in submitting the report and paying the amount due by such operator, provided the amount due was not delinquent at the time of payment.

SECTION 6. The county clerk shall be responsible for the collection of such tax. A monthly tax return shall be filed under oath with the county clerk by the operator with such number of copies thereof as the county clerk may reasonably require for the collection of such tax. The report of the operator shall include such facts and information as may be deemed reasonable for the verification of the tax due. The form of such report shall be developed by the county clerk and approved by the county legislative body prior to use. The county clerk shall audit each operator in the county at east once a year and shall report on the audits made on a quarterly basis to the county legislative body.

SECTION 7. The tax levied by this act shall become delinquent on the sixteenth (16th) day of the month next succeeding the month in which such tax accrues. An operator is liable for interest on such delinquent taxes from the due date at the rate of twelve percent (12%) per annum, and is liable for an additional penalty of one percent (1%) for each month or fraction thereof such taxes are delinquent.

All such penalties and interest imposed by this act shall be payable to and collectable by the county clerk in the same manner as if they were a part of the tax imposed and shall be retained by the county clerk's office to help defray the expenses of administration and collection.

SECTION 8. If the nonpayment of the tax is due to an intent to evade payment, the person liable for such payment may be restrained and enjoined from performing solid waste disposal at a landfill in Bedford

County. Restraining proceedings shall be instituted in the name of the county by the sheriff upon the request of the county clerk.

SECTION 9. When any person shall fail to file any form, statement, report or return required to be filed with the county clerk, after being given written notice, the county clerk is authorized to determine the tax liability of such person from whatever source of information may be available to him. An assessment made by the county clerk pursuant to this authority shall be binding as if made upon the sworn statement, report or return of the person liable for the payment of such tax. Any person against whom such an assessment is lawfully made shall thereafter be estopped to dispute the accuracy thereof except upon filing a true and accurate return together with such supporting evidence as the county clerk may require indicating precisely the amount of the alleged inaccuracy.

SECTION 10.

(a) It is a violation of this act for any person required by this act to make a return, pay a tax keep records, or furnish information deemed necessary by the county clerk for the computation, assessment, or collection of the tax imposed by this act, to fail to make the return, pay the tax, keep the records, or furnish the information at the time required by law or regulation. It is a violation for any person to willfully or fraudulently make and sign a return which he does not believe to be true and correct as to every material fact.

(b) Violations of the provisions of this act shall be punishable by a fine of not more than one thousand dollars (\$1,000). Each day the violation continues shall constitute a separate offense.

(c) For purposes of this section, "person" also includes an officer or employee of a corporation or a member or employee of a partnerships who is under duty to perform the act in respect to which a violation occurs.

SECTION 11. It is the duty of every operator liable for the collection and payment to the county of any tax imposed by this act to keep and preserve for a period of three (3) years all records necessary to determine the amount of tax due and payable to the county. The county clerk has the right to inspect such records at all reasonable times.

SECTION 12. The county clerk in administering and enforcing the provisions of this act has as additional powers, those powers and duties with respect to collecting taxes as provided in Title 67 of Tennessee Code Annotated or otherwise provided by law. For services in administering and enforcing the provisions of this act, the county clerk is entitled to retain as a commission five percent (5%) of the taxes collected. Upon any claim of illegal assessment and collection, the taxpayer has the remedies provided in Tennessee Code Annotated, Title 67. It is the intent of this act that the provisions of law which apply to the recovery of state taxes illegally assessed and collected shall also apply to the tax levied under the authority of this act. The provisions of Tennessee Code Annotated, Section 67-1-707, shall be applicable to adjustments and refunds of such tax.

With respect to the adjustment and settlement with taxpayers, all errors of county taxes collected by the county clerk under authority of this act shall be refunded by the county clerk. Notice of any tax paid under protest shall be given to the county clerk and the resolution authorizing levy of the tax shall designate a county officer against whom suit may be brought for recovery.

SECTION 13. The county legislative body is authorized to adopt resolutions to provide reasonable rules and regulations for the implementation of the provisions of this act, including the form for reports and monitoring and inspection of landfills, vehicles disposing of solid waste, and solid waste for disposal at such landfills to ensure compliance with all laws, rules and regulations governing the operation or maintenance of landfills and solid waste disposal.

SECTION 14. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 15. This act shall have no effect unless it is approved by a two-thirds (b) vote of the county legislative body of Bedford County. Its approval or nonapproval shall be proclaimed by the presiding officer of the county legislative body and shall be certified by such presiding officer to the Secretary of State.

SECTION 16. For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect upon being approved as provided in Section 15.

PASSED: March 20, 1991.

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