

As Engrossed: 2/7/91, 2/20/91, 2/28/91

1 **State of Arkansas**
2 **78th General Assembly**
3 **Regular Session, 1991**

A BILL ACT 319 OF 1991
SENATE BILL 222

4 **By: Senators Chaffin and Luelf**
5
6

7 **For An Act To Be Entitled**

8 "AN ACT TO ESTABLISH A TEMPORARY MORATORIUM ON THE
9 EXPANSION LANDFILL SERVICE AREAS; TO ALLOW EXEMPTIONS FOR
10 SOLID WASTE USED FOR RECYCLING; AND FOR OTHER PURPOSES."

11

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

13

14 SECTION 1. FINDINGS. The Arkansas General Assembly makes the following
15 findings:

16 (1) As of July 30, 1990 the landfill capacity in Arkansas stood at about
17 4.3 years of landfill life for sixty-three (63) municipal solid waste
18 landfills;

19 (2) The present landfill capacity in the State of Arkansas is inadequate
20 and a landfill capacity of at least ten (10) years should be developed for
21 solid waste generated in this state in order to provide sufficient protection
22 for the public health, welfare and safety and to provide for the future
23 development of the state;

24 (3) Adequate solid waste management planning has not been possible
25 because of the lack of accurate statistics on industrial waste generation, and
26 landfill capacity, and use; and

27 (4) Legislation has been introduced in this session of the General
28 Assembly to:

29 (A) require better reporting by industries using landfills;

30 (B) assist the development of adequate landfill capacity through
31 regional funding and grants; and

32 (C) lengthen the usable life of existing landfills through
33 recycling.

34 (5) Temporary restrictions on the disposal of out-of-district solid
35 waste should be imposed for the purpose of:

36 (A) providing additional time for districts to obtain information

1 necessary for regional planning;

2 (B) encouraging districts to develop regional solid waste
3 management solutions; and

4 (C) developing a statewide and district landfill capacity of at
5 least ten (10) years.

6

7 SECTION 2. Purpose. As directed by Act 870 of 1989, the Arkansas Solid
8 Waste Fact Finding Task Force has presented its findings and proposals. The
9 Task Force Report identifies serious and chronic deficiencies in how solid
10 waste is managed in this state. The report is accompanied by legislative
11 proposals which reaffirm the State's commitment to regional solid waste
12 management embodied in Act 870, and aim, through extensive revision of current
13 law, to make regionalization a reality. The report and the Task Force's
14 legislative proposals demonstrate that the State does not have sufficient
15 understanding or control of the overall solid waste stream to realize its goal
16 of regional solid waste management, much less a responsible recycling and
17 source reduction program. These goals cannot be attained if the waste streams
18 assigned to the respective regional planning districts continue to change
19 during the crucial planning and development stages.

20 Federal law has placed the burden of implementing regional solid waste
21 management strategies upon the states, 42 U.S.C. §6941 et seq. To this end,
22 the Arkansas General Assembly has embarked upon the difficult task of
23 addressing the complex solid waste needs of the State on a regional basis.
24 After giving due regard to all of the contingencies and exigencies inherent in
25 planning a regional solid waste strategy, and after accommodating existing
26 business expectations based upon waste streams originating from outside the
27 Act 870 solid waste planning districts, the General Assembly hereby enacts the
28 following emergency measure as an essential component of its efforts to reform
29 solid waste management in Arkansas. This Act should be given a liberal
30 construction so as to effectuate its remedial intent.

31

32 SECTION 3. Definitions. As used in this act:

33 (1) "Board" means a regional solid waste planning board or a solid
34 waste service area board established pursuant to Arkansas Code Title 8,
35 Chapter 6, Subchapter 7 or a successor board to the powers of either type of
36 board;

1 (2) "Director" means the director of the Arkansas Department of
2 Pollution Control and Ecology;

3 (3) "District" means a regional solid waste planning district or a
4 solid waste services area as established by Arkansas Code Title 8, Chapter 6,
5 Subchapter 7 or a successor district of a regional solid waste planning
6 district or solid waste service area;

7 (4) "Commission" means the Arkansas Pollution Control and Ecology
8 Commission;

9 (5) "Landfill" means a permitted landfill under the Arkansas Solid
10 Waste Management Act, §8-6-201 et seq.; and

11 (6) "Solid waste" shall have the same meaning as provide by §8-6-702.
12

13 SECTION 4. (a) This section shall apply until the later of: (1) July 1,
14 1992 or (2) until the capacity of landfills in both the district and the state
15 reaches a ten (10) year capacity.

16 (b) Landfill capacity shall be determined by the director of the
17 Department of Pollution Control and Ecology.

18 (c) (1) No existing landfill shall expand its service area outside the
19 district in which it is located; *except that existing landfills that on the*
20 *March 1, 1989 do not serve areas outside their respective districts shall not*
21 *accept more than fifty (50) tons per day of solid waste originating from*
22 *outside their districts.*

23 (2) Existing landfills that on *March 1, 1989* serve areas outside
24 of their respective districts shall not increase the total amount of solid
25 waste originating from outside their districts by more than twenty percent
26 (20%) annually of the total volume of solid waste received at the facility
27 from outside their districts. The amount of solid waste shall be determined
28 by volume except that the amount of incinerator ash shall be determined by
29 weight.

30 (3) No new landfill shall be allowed to receive solid waste
31 outside the boundaries of the district in which it is located, *unless it is a*
32 *landfill where a private industry bears the expense of operating and*
33 *maintaining the landfill solely for the disposal of wastes generated by the*
34 *industry or of wastes of a similar kind or character, and such industry has*
35 *commenced, prior to the effective date of this Act, the process for obtaining*

1 a permit by issuing notice to the local government having jurisdiction, as
2 required under the rules and regulations of the Department of Pollution
3 Control and Ecology.

4 (4) No new applications for landfill permits seeking to dispose of
5 solid waste originating outside of a district or that propose to dispose of
6 solid waste originating from outside such district shall be accepted or
7 processed by the commission or a board, unless such applications were pending
8 before the Department of Pollution Control and Ecology on March 1, 1989.
9 Provided, the prohibition contained in this subsection shall not apply to new
10 applications for landfill permits if the landfill is one where a private
11 industry bears the expense of operating and maintaining the landfill solely
12 for the disposal of wastes generated by the industry or of wastes of a similar
13 kind or character, and such industry has commenced, prior to the effective
14 date of this Act, the process for obtaining a permit by issuing notice to the
15 local government having jurisdiction, as required under the rules and
16 regulations of the Department of Pollution Control and Ecology.

17 (d) The director of the Department of Pollution Control and Ecology may
18 grant an exemption from this section for solid waste brought into a district
19 for the purpose of recycling. Exemption shall be subject to such terms and
20 conditions as the director may deem appropriate.

21 (5) A successor district may transport solid waste to any one of
22 the original districts of which the members of the successor district were a
23 part.

24
25 SECTION 5. In any instance where a landfill has a useful life of less
26 than one and one-half years, the Director of the Department of Pollution
27 Control and Ecology may authorize any city utilizing that landfill to
28 transport solid waste outside the boundaries of the district. Provided,
29 however, in no instance shall that authority be extended after a landfill with
30 a useful life in excess of one and one-half years becomes available within the
31 district for accepting the solid waste of the city.

32
33 SECTION 6. All provisions of this Act of a general and permanent nature
34 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
35 Revision Commission shall incorporate the same in the Code.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

SECTION 7. 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 this end the provisions of this Act are declared to be severable.

SECTION 8. All laws and parts of laws in conflict with this Act are hereby repealed.

SECTION 9. EMERGENCY. It is hereby found and determined by the Seventy-Eighth General Assembly of the State of Arkansas that some areas of the state are facing serious shortages of solid waste landfill capacity to the point of crisis; additional time is needed to develop regional solid waste management and planning and to increase the landfill capacity in the state to a level sufficient for the future needs of the state; and in order to address the serious financial and environmental problems, temporary restrictions should be placed on the expansion of landfill service areas. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.

/s/Chaffin, et al

APPROVED: 3-1-91

3. Amendment 2/7/07 2/22/07 2/22/07

- 1
- 2