

**Stricken language would be deleted from and underlined language would be added to the law as it existed  
prior to this session of the General Assembly.  
Act 689 of the Regular Session**

1 State of Arkansas  
2 85th General Assembly  
3 Regular Session, 2005  
4

# A Bill

SENATE BILL 504

5 By: Senator Bisbee  
6 By: Representative Anderson  
7  
8

## For An Act To Be Entitled

AN ACT TO AMEND THE JOINT COUNTY AND MUNICIPAL  
SOLID WASTE DISPOSAL ACT TO PROVIDE THAT OTHER  
ENTITIES MAY JOIN A SANITATION AUTHORITY; AND FOR  
OTHER PURPOSES.

## Subtitle

AN ACT TO AMEND THE JOINT COUNTY AND  
MUNICIPAL SOLID WASTE DISPOSAL ACT TO  
PROVIDE THAT OTHER ENTITIES MAY JOIN A  
SANITATION AUTHORITY.

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
23

24 SECTION 1. Arkansas Code § 14-233-102 is amended to read as follows:  
25 14-233-102. Definitions.

26 As used in this chapter, unless the context otherwise requires:

27 (1) "Board of directors" or "board" means the board of directors  
28 of a sanitation authority created under this chapter;

29 (2) "Bonds" means bonds and any series of bonds authorized by  
30 and issued pursuant to the provisions of this chapter;

31 (3) "Clerk" means the county clerk of a county and the city  
32 clerk, city recorder, or town recorder of a municipality, or other similar  
33 office of a county or municipality hereafter created or established;

34 (4) "Costs" or "project costs" means, but shall not be limited  
35 to:



1 (A) All costs of acquisition, construction,  
 2 reconstruction, improvement, enlargement, betterment, or extension of any  
 3 project, including the cost of studies, plans, specifications, surveys, and  
 4 estimates of costs and revenues relating thereto;

5 (B) All costs of land, land rights, rights-of-way and  
 6 easements, water rights, fees, permits, approvals, licenses, certificates,  
 7 franchises, and the preparation of applications for and securing them;

8 (C) Administrative, organizational, legal, engineering,  
 9 and inspection expenses;

10 (D) Financing fees, expenses, and costs;

11 (E) Working capital;

12 (F) All machinery and equipment including construction  
 13 equipment;

14 (G) Interest on the bonds during the period of  
 15 construction and for such reasonable period thereafter as may be determined  
 16 by the issuing sanitation authority;

17 (H) Establishment of reserves; and

18 (I) All other expenditures of the issuing sanitation  
 19 authority incidental, necessary, or convenient to the acquisition,  
 20 construction, reconstruction, improvement, enlargement, betterment, or  
 21 extension of any project and the placing of it in operation;

22 (5) "County" means any county in this state;

23 (6) "Governing body" means the quorum court of a county and the  
 24 council, board of directors, commission, or other governing body of a  
 25 municipality or district;

26 (7) "Member" means a municipality ~~or~~, county, or district which  
 27 participates, through a sanitation authority, jointly with other  
 28 municipalities or counties in projects under this chapter;

29 (8) "Municipality" means a city of the first class or a city of  
 30 the second class or an incorporated town;

31 (9) "Person" means any natural person, firm, corporation,  
 32 nonprofit corporation, association, or improvement district;

33 (10) "Project" means any real property, personal property, or  
 34 mixed property of any and every kind that can be used or will be useful in  
 35 controlling, collecting, storing, removing, handling, reducing, disposing of,  
 36 treating, and otherwise dealing in and concerning solid waste, including,

1 without limitation, property that can be used or that will be useful in  
 2 extracting, converting to steam, including the acquisition, handling,  
 3 storage, and utilization of coal, lignite, or other fuel of any kind, or  
 4 water that can be used or that will be useful in converting solid waste to  
 5 steam, and distributing the steam to users thereof, or otherwise separating  
 6 and preparing solid waste for reuse, or that can be used or will be useful in  
 7 generating electric energy by the use of solid waste as a source of  
 8 generating power and distributing the electric energy to purchasers or users  
 9 thereof in accordance with the general laws of the state. However, for  
 10 purposes of this chapter not more than twenty-five percent (25%) of the fuel  
 11 used to produce steam or generate electricity from any project shall consist  
 12 of materials other than solid waste;

13 (11) "Sanitation authority" or "authority" means a public body  
 14 and body corporate and politic organized in accordance with the provisions of  
 15 this chapter;

16 (12) "State" means the State of Arkansas;

17 (13) "Solid waste" means any garbage, refuse, sludge from a  
 18 waste treatment plant, water supply treatment plant, or air pollution control  
 19 facility, and other discarded material including solid, liquid, semisolid, or  
 20 contained gaseous material resulting from industrial, commercial, mining, and  
 21 agricultural operations, and from community activities-; and

22 (14) "District" means an entity established pursuant to Title  
 23 14, Subtitles 7, 11, or 15.

24  
 25 SECTION 2. Arkansas Code § 14-233-104(a), concerning creation of a  
 26 sanitation authority, is amended to read as follows:

27 (a)(1) Any two (2) or more municipalities, any two (2) or more  
 28 counties, or any one (1) or more municipalities together with any one (1) or  
 29 more counties are authorized to create and become members of a sanitation  
 30 authority as prescribed in this chapter.

31 (2) Any first-class city, second-class city, or incorporated  
 32 town may create a sanitation authority under this chapter, and such  
 33 sanitation authority shall have the same powers as other sanitation  
 34 authorities vested under this chapter.

35 (3) Any district may become a member of a sanitation authority  
 36 if approved for membership unanimously by the other members.

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2 SECTION 3. Arkansas Code § 14-233-105 is amended to read as follows:

3 14-233-105. Contents of ordinance - Filing of application -  
4 Certificate of incorporation - Amendments.

5 (a)(1) The governing body of each municipality and county desiring to  
6 create and become a member of a sanitation authority may, by ordinance,  
7 determine that it is in the best interest of the municipality or county in  
8 accomplishing the purposes of this chapter to create and become a member of  
9 an authority.

10 (2) The governing body of each district desiring to become a  
11 member of a sanitation authority may determine by resolution that it is in  
12 the best interest of the district to become a member of an authority.

13 (b) The ordinance or resolution shall:

14 (1) Set forth the names of the municipalities, counties, or ~~both~~  
15 districts which are proposed to be ~~initial~~ members of the authority;

16 (2) Specify the powers to be granted to the authority and any  
17 limitations on the exercise of the powers granted including limitations on  
18 the authority's area of operations, the use of projects by the authority, and  
19 the authority's power to issue bonds;

20 (3) Specify the number of directors of the authority and the  
21 voting rights of each director;

22 (4) Approve an application to be filed with the Secretary of  
23 State, setting forth:

24 (A) The names of all proposed ~~member municipalities~~  
25 members;

26 (B) Copies of all ordinances or resolutions certified by  
27 the respective clerks or secretaries;

28 (C) The powers granted to the authority and any  
29 limitations on the exercise of the powers granted;

30 (D) The number of directors of the authority and the  
31 voting rights of each director;

32 (E) The desire that an authority be created as a public  
33 body and a body corporate and politic under this chapter; and

34 (F) The name which is proposed for the authority.

35 (c)(1) The application shall be signed by the mayor of each  
36 municipality ~~and~~, county judge of each county, and presiding officer of each

1 district, attested by the respective clerks and secretaries, and subscribed  
2 and sworn to before an officer or officers authorized by the laws of this  
3 state to administer and certify oaths.

4 (2)(A) The Secretary of State shall examine the application.

5 (B) If he or she finds that the name proposed for the  
6 authority is not identical with that of any other corporation of this state  
7 or of any agency or instrumentality of this state, or so nearly similar as to  
8 lead to confusion and uncertainty, he or she shall receive and file it and  
9 shall record it in an appropriate book of record in his or her office.

10 (3) When the application has been made, filed, and recorded as  
11 provided in this chapter, the authority shall constitute a public body and a  
12 body corporate and politic under the name proposed in the application.

13 (d)(1) The Secretary of State shall make and issue a certificate of  
14 incorporation pursuant to this chapter under the seal of the state and shall  
15 record the certificate with the application.

16 (2) The certificate shall set forth the names of the ~~member~~  
17 ~~municipalities and counties~~ members.

18 (e)(1) In any suit, action, or proceeding involving the validity or  
19 enforcement of, or relating to, any contract of the authority, the authority,  
20 in the absence of establishing fraud in the premises, shall be conclusively  
21 deemed to have been established in accordance with the provisions of this  
22 chapter upon proof of the issuance of the certificate by the Secretary of  
23 State.

24 (2) A copy of the certificate, certified by the Secretary of  
25 State shall be admissible in evidence in the suit, action, or proceeding and  
26 shall be conclusive proof of the filing and contents of the certificate.

27 (f)(1) Any application filed with the Secretary of State pursuant to  
28 the provisions of this chapter may be amended from time to time with the  
29 unanimous consent of the members of the authority evidenced by ordinance or  
30 resolution of their governing bodies.

31 (2) The amendment shall be signed and filed with the Secretary  
32 of State in the manner provided in this section, whereupon the Secretary of  
33 State shall make and issue an amendment to the certificate of incorporation.

34 (g)(1) The county quorum court may appoint one (1) additional director  
35 to the authority upon the recommendation of the county industrial development  
36 corporation.

1 (2) That additional director shall be a full voting director.

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 3 SECTION 4. Arkansas Code § 14-233-106 is amended to read as follows:  
 4 14-233-106. New members - Withdrawal of old members.

5 (a)(1) After the creation of a sanitation authority, any other  
 6 municipality ~~or,~~ county, or district may become a member upon application to  
 7 the authority, after adoption of an ordinance or resolution by its governing  
 8 body making the determination prescribed in § 14-233-105 and authorizing the  
 9 municipality ~~or,~~ county, or district to participate, and with the unanimous  
 10 consent of the members of the authority evidenced by ordinance or resolution  
 11 of their governing bodies.

12 (2) Copies of the ordinances or resolutions, certified by the  
 13 respective clerks or secretaries of the member municipalities ~~and,~~ counties,  
 14 and districts, together with an amendment to the application signed by the  
 15 county judge, mayor, or presiding officer of each member and prospective  
 16 member ~~municipality and the county judge of each member and prospective~~  
 17 ~~member county~~ in the manner provided in § 14-233-105, shall be filed with the  
 18 Secretary of State, whereupon the Secretary of State shall make and issue an  
 19 amendment to the certificate of incorporation setting forth the then-current  
 20 names of the member municipalities ~~and,~~ counties, and districts.

21 (b)(1) Any municipality ~~or,~~ county, or district may withdraw from a  
 22 sanitation authority at any time without the consent of the other  
 23 ~~municipalities and counties which are~~ members of the authority. All  
 24 contractual rights acquired and obligations incurred while the municipality  
 25 ~~or,~~ county, or district was a member shall remain in full force and effect.

26 (2) The withdrawal shall become effective upon the adoption of  
 27 an ordinance by the withdrawing municipality or county, or in the case of a  
 28 district, the adoption of a resolution, and the filing of the ordinance or  
 29 resolution with the Secretary of State together with an amendment signed by  
 30 the mayor of the withdrawing municipality ~~or,~~ the county judge of the  
 31 withdrawing county, or the presiding officer of a district in the manner  
 32 provided in § 14-233-105, whereupon the Secretary of State shall make and  
 33 issue an amendment to the certificate of incorporation setting forth the  
 34 then-current names of the member municipalities ~~and,~~ counties, and districts.

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 36 SECTION 5. Arkansas Code § 14-233-108(a) and (b), concerning a board

1 of directors, are amended to read as follows:

2 (a) Each sanitation authority shall consist of a board of directors  
3 appointed by the governing bodies of the ~~respective municipalities and~~  
4 ~~counties which are~~ members of the authority.

5 (b) The number and voting rights of directors shall be determined as  
6 set forth in § 14-233-105 and shall not thereafter be changed except by  
7 unanimous consent of the ~~municipalities and counties which are~~ members of the  
8 authority evidenced by ordinances or resolutions of their governing bodies.  
9 Copies of all such ordinances or resolutions, certified by the respective  
10 clerks of the member municipalities and counties, or secretaries of the  
11 member districts, shall be filed with the Secretary of State.

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13 SECTION 6. Arkansas Code § 14-233-112(a), concerning payment and  
14 security of bonds, is amended to read as follows:

15 (a) It shall be plainly stated on the face of each bond that it has  
16 been issued under the provisions of this chapter, that the bonds are  
17 obligations only of the sanitation authority, and that in no event shall they  
18 constitute an indebtedness for which the faith and credit of the member  
19 municipalities ~~or~~, counties, or districts or any of its revenues are pledged.

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22 APPROVED: 3/09/2005

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