

As Engrossed: 2/13/91 2/14/91 2/15/91 3/21/91

1 **State of Arkansas**

2 **78th General Assembly**

3 **Regular Session, 1991**

4 **By: Representative Gibson, *Representatives Horn and Watts***

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For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE TITLE 8, CHAPTER 6 TO
9 CREATE THE 'LANDFILL POST-CLOSURE TRUST FUND'; TO IMPOSE
10 AN ADDITIONAL LANDFILL DISPOSAL FEE; AND FOR OTHER
11 PURPOSES."

12

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

14

15 SECTION 1. Arkansas Code Title 8, Chapter 6 is amended to add the
16 following new subchapter:

17

18 "SUBCHAPTER 10.

19

20 8-6-1001. Definitions.

21 As used in this subchapter, unless the context otherwise requires:

22 (1) 'Commission' means the Arkansas Pollution Control and Ecology
23 Commission;

24 (2) 'Department' means the Arkansas Department of Pollution Control
25 and Ecology;

26 (3) 'Director' means the Director of the Department of Pollution
27 Control and Ecology;

28 (4) 'Landfill' means all landfills permitted under the Arkansas *Solid*
29 *Waste Management Act, § 8-6-201 et seq., except those landfills where a*
30 *private industry bears the expense of operating and maintaining the landfill*
31 *solely for the disposal of wastes generated by the industry or wastes of a*
32 *similar kind or character, and except those landfills where a private industry*
33 *bears the expense of operating and maintaining the landfill solely for the*
34 *disposal of wastes generated by the industry or wastes of a similar kind or*
35 *character;*

1 (5) 'Permittee' means any person holding a solid waste disposal permit
2 as provided in the Arkansas Solid Waste Management Act, §8-6-201 et seq.;

3 (6) 'Solid Waste' means all putrescible and nonputrescible wastes in
4 solid or semisolid form, including, but not limited to, yard or food waste,
5 waste glass, waste metals, waste plastics, waste papers, waste paperboard, and
6 all other solid or semisolid wastes, resulting from industrial, commercial,
7 agricultural, community, and residential activities;

8 (7) 'Solid Waste Disposal Permit' means a permit issued by the State
9 of Arkansas under provisions of §8-6-201 et seq. for the construction and
10 operation of a landfill waste disposal facility; and

11 (8) *'Post-closure corrective action' means any measures deemed*
12 *necessary by the Director to prevent or abate contamination of the environment*
13 *from any landfill which has been certified as properly closed by the*
14 *Department. For the purposes of this subchapter only, closed areas or*
15 *operational phases contiguous to any permitted landfill which is receiving*
16 *solid waste when the Director determines that corrective action is necessary*
17 *are not eligible for funding as contemplated by this subchapter.*

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19 8-6-1002. Landfill Post-Closure Trust Fund.

20 (a) There is established on the books of the State Treasurer, State
21 Auditor, and Chief Fiscal Officer of the State a trust fund to be known as the
22 Landfill Post-Closure Trust Fund. In addition to all moneys appropriated by
23 the General Assembly to the fund, there shall be deposited in the fund all
24 landfill disposal fees collected pursuant to this subchapter and any moneys
25 received by the state as a gift or donation to the fund. No more than four
26 percent (4%) of the moneys received annually into the fund shall be used by
27 the department for the administration of landfill post-closure corrective
28 action pursuant to this subchapter. However, in the event the total amount in
29 the Landfill Post-Closure Trust Fund equals or exceeds ten million dollars
30 (\$10,000,000), no additional moneys shall be collected pursuant to this
31 subchapter until the total amount in the fund equals or is less than six
32 million dollars (\$6,000,000), at which time such collection of moneys shall
33 resume.

34 (b) The fund shall be administered by the department and shall be used
35 by the department for landfill post-closure corrective action. The fund shall

1 be used only if the director determines that:

2 (1) *A landfill which is no longer receiving waste, regardless of*
3 *when it ceased operating, is causing ground water contamination or is causing*
4 *other contamination that is a hazard to public health or endangers the*
5 *environment; and*

6 (2) *The owner or operator of the landfill site has expended at*
7 *least ten thousand dollars (\$10,000) toward corrective action, unless the*
8 *owner and operator cannot be located or the Director determines an emergency*
9 *exists necessitating immediate corrective action.*

10 (c) The fund shall not be used to compensate third parties for damages
11 to property caused by the contamination.

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13 8-6-1003. Landfill disposal fees.

14 (a) In addition to any other fee provided by law, there is imposed on
15 each landfill permittee a landfill disposal fee of fifteen cents (15¢) for
16 each uncompacted cubic yard of solid waste and thirty cents (30¢) for each
17 compacted cubic yard of solid waste received at the landfill. If a landfill
18 permittee chooses to operate on a weight basis, the landfill disposal fee
19 shall be one dollar (\$1.00) for each ton of solid waste received at the
20 landfill.

21 (b) The landfill permittee shall use the weight basis in determining
22 the fee for the disposal of ash.

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24 8-6-1004. Collection of fees.

25 Fees imposed pursuant to the provisions of this subchapter shall be
26 collected as follows:

27 (a) On or before December 1, March 1, June 1, and September 1 of each
28 year the department shall send each solid waste disposal permittee a notice of
29 assessment by mail.

30 (b) On or before January 1, April 1, July 1, and October 1 of each year
31 each landfill permittee shall pay to the department the amount of such
32 assessment as stated in the notice.

33 (c) The disposal fees collected pursuant to this section shall be
34 special revenues and shall be deposited in the State Treasury to the credit of
35 the Landfill Post-Closure Trust Fund.

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8-6-1005. Penalties.

Failure of the permittee to pay the fees assessed by the department shall provide grounds for administrative or civil enforcement action. Sanctions may include civil penalties as provided in the Arkansas Solid Waste Management Act, §8-6-201 et seq., or the revocation of the solid waste disposal permit."

SECTION 2. All provisions of this Act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 3. 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 4. All laws or parts of laws in conflict with this Act are hereby repealed.

/s/ B. Gibson et al