

1 **State of Arkansas**
2 **78th General Assembly**
3 **Regular Session, 1991**
4 **By: Representative Gibson**

A Bill

HOUSE BILL 1169

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."

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

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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:

1 (A) providing additional time for districts to obtain information
2 necessary for regional planning;

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

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

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

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

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

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

1 board;

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

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

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

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

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

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14 SECTION 3. (a) This section shall apply until the later of: (1) July 1,
15 1992 or (2) until the capacity of landfills in both the district and the state
16 reaches a ten (10) year capacity.

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

19 (c) (1) No existing landfill shall expand its service area outside the
20 district in which it is located.

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

28 (3) No new landfill shall be allowed to receive solid waste
29 outside the boundaries of the district in which it is located.

30 (4) No new applications for landfill permits seeking to dispose of
31 solid waste originating outside of a district or that propose to dispose of
32 solid waste originating from outside such district shall be accepted or
33 processed by the commission or a board, unless such applications were pending
34 before the Department of Pollution Control and Ecology on the effective date
35 of this act.

36 (d) The director of the Department of Pollution Control and Ecology may

1 grant an exemption from this section for solid waste brought into a district
2 for the purpose of recycling. Exemption shall be subject to such terms and
3 conditions as the director may deem appropriate.

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5 SECTION 4. All provisions of this Act of a general and permanent nature
6 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
7 Revision Commission shall incorporate the same in the Code.

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9 SECTION 5. If any provision of this Act or the application thereof to
10 any person or circumstance is held invalid, such invalidity shall not affect
11 other provisions or applications of the Act which can be given effect without
12 the invalid provision or application, and to this end the provisions of this
13 Act are declared to be severable.

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15 SECTION 6. All laws and parts of laws in conflict with this Act are
16 hereby repealed.

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18 SECTION 7. EMERGENCY. It is hereby found and determined by the
19 Seventy-Eighth General Assembly of the State of Arkansas that some areas of
20 the state are facing serious shortages of solid waste landfill capacity to the
21 point of crisis; additional time is needed to develop regional solid waste
22 management and planning and to increase the landfill capacity in the state to
23 a level sufficient for the future needs of the state; and in order to address
24 the serious financial and environmental problems, temporary restrictions
25 should be placed on the expansion of landfill service areas. Therefore, an
26 emergency is hereby declared to exist, and this Act being necessary for the
27 immediate preservation of the public peace, health and safety shall be in full
28 force and effect from and after its passage and approval.

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30 /s/Bynum Gibson
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