

1 **State of Arkansas**
2 **79th General Assembly**
3 **Regular Session, 1993**
4 **By: Representative Gibson**

A Bill

HOUSE BILL 1730

For An Act To Be Entitled

8 "AN ACT TO AMEND VARIOUS SECTIONS OF ARKANSAS CODE TITLE
9 8, CHAPTER 6, SUBCHAPTER 2 RELATING TO THE ARKANSAS SOLID
10 WASTE MANAGEMENT ACT; AND FOR OTHER PURPOSES."

Subtitle

13 "AMEND VARIOUS SECTIONS OF ARKANSAS CODE RELATING TO THE
14 ARKANSAS SOLID WASTE MANAGEMENT ACT."

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

18 SECTION 1. Findings of the General Assembly. The Arkansas General
19 Assembly makes the following findings:

20 (1) The present landfill capacity in the State of Arkansas is
21 inadequate and is at or near the critical point;

22 (2) As of January 1, 1993, the capacity in Arkansas was about four and
23 one-half (4-1/2) years of landfill life for fifty-seven (57) municipal solid
24 waste landfills;

25 (3) By the enactment of Arkansas Act 752 of 1991, the Regional Solid
26 Waste Management Boards were established from the preceding Regional Solid
27 Waste Boards and said Regional Solid Waste Boards were given additional powers
28 and duties.

29 (4) The stated purpose for the enactment of Arkansas Act 752 of 1991
30 was to protect the public health and the state_s environmental quality by
31 establishing regional solid waste management and planning. It was found that
32 the preexisting system of relying upon solid waste management by individual
33 counties and municipalities had fostered conditions in which certain areas of
34 the state were facing capacity shortages of crises proportions, while others

1 experienced a surfeit of capacity with individual disposal facilities which
2 could not muster the resources for environmentally responsible operations.
3 Despite the efforts of the Regional Solid Waste Management Boards to date,
4 those conditions remain true at this time.

5 (5) Upon enacting Arkansas Act 752 of 1991 establishing the Regional
6 Solid Waste Management Boards and providing for their powers and duties, the
7 Seventy-eighth Arkansas General Assembly authorized the districts to issue
8 rules and regulations which are consistent with and in accordance with, but no
9 more restrictive than, all applicable environmental protection performance
10 standards adopted by state law or incorporated by reference from federal law.

11 (6) Despite the limitation that rules and regulations of the districts
12 be consistent with and in accordance with, but no more restrictive than, the
13 applicable state and federal law, pursuant to Arkansas Act 237 of 1971,
14 Arkansas Code Annotated §8-6-209 (Repl.1991), counties and municipalities
15 retain the authority to adopt standards, by ordinance, resolution, or order,
16 for the location, design, construction and maintenance of solid waste disposal
17 sites and facilities, that are more restrictive than those adopted by state
18 law and by the Arkansas Pollution Control and Ecology Commission.

19 (7) This authority vested in counties and municipalities has led in
20 large part to the disparate environmental and economic concerns set out in
21 Arkansas Act 752 of 1991 and summarized above and could thwart and jeopardize
22 the purposes of Arkansas Act 752 of 1991 and its efforts to protect the public
23 health and the state_s environmental quality by establishing regional solid
24 waste management and planning.

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26 SECTION 2. Arkansas Code §8-6-209 is expressly amended to read as
27 follows:

28 "§8-6-209. Local standards.

29 No municipality or county may, by ordinance, resolution, order, or
30 otherwise, adopt standards for the location, design, construction, and
31 maintenance of solid waste disposal sites and facilities that are more
32 restrictive than those adopted by, under or pursuant to this subchapter, any
33 and all applicable laws, rules, regulations or orders adopted by state law or
34 incorporated by reference from federal law, the Arkansas Pollution Control and
35 Ecology Commission under the provisions of this subchapter or the Regional

1 Solid Waste Management Boards or Districts, unless there exists a fully
2 implemented comprehensive area-wide zoning plan, and corresponding laws or
3 ordinances, covering the entire municipality or county. *Municipal or county*
4 *ordinances, resolutions or orders effective as of the date of the passage of*
5 *this act, and more restrictive than regional or state standards shall remain*
6 *in full force and effect for a period of six (6) months following the passage*
7 *of this act. Provided, also, that if a county or municipality adopts a*
8 *comprehensive area-wide zoning plan, and corresponding laws and ordinances*
9 *covering the entire county or city as referred to in Section 4 of this act,*
10 *the county or city may incorporate existing ordinances, resolutions or orders*
11 *in that plan. Otherwise any and all such standards adopted by a municipality*
12 *or county must be consistent with, in accordance with and not more restrictive*
13 *than said federal, state and regional laws, rules, regulations and orders.*
14 Any and all such municipalities or county ordinances, resolutions, orders or
15 standards contrary to this section shall be null, void, and repealed.

16 (b)(1) *Subsection (a) shall not apply if a municipality or county, by*
17 *resolution, requests that the Regional Solid Waste Board or District for its*
18 *region adopt a more restrictive rule, regulation, order, or standard and such*
19 *Board or District either fails to hold a public hearing on the request within*
20 *sixty (60) days of the request, or after such public hearing fails to take any*
21 *action on the request within ninety (90) days of receipt of the request.*

22 (2) *If the Board or District takes action on the request, by approving,*
23 *modifying or denying the request within ninety (90) days of its receipt, the*
24 *municipality or county shall be precluded from adopting and enforcing any more*
25 *restrictive rule, regulation, order or standard under subsection (a)."*

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27 SECTION 3. Arkansas Code §8-6-211(e) is hereby amended to read as
28 follows:

29 "(e) The governing body of a municipality shall have the right to
30 establish policies for and enact laws concerning all phases of the operation
31 of a solid waste management system including hours of operation, character and
32 kind of wastes accepted at the disposal site, the separation of waste
33 according to type by those generating them prior to collection, type of
34 container for storage of wastes, prohibition of burning of wastes,
35 pretreatment of wastes, and such other rules as may be necessary or

1 appropriate, so long as the laws, policies, and rules are consistent with, in
2 accordance with and not more restrictive than those adopted by, under or
3 pursuant to this subchapter or any laws, rules, regulations, or orders
4 adopted by state law or incorporated by reference from federal law, the
5 Arkansas Pollution Control and Ecology Commission or the Regional Solid Waste
6 Management Boards or Districts, unless there exists a fully implemented
7 comprehensive area-wide zoning plan, and corresponding laws or ordinances,
8 covering the entire municipality, *or unless the municipality has made a*
9 *request to the Regional Solid Waste Board or District to adopt a more*
10 *restrictive rule, regulation, order or standard, and no public hearing has*
11 *been held within sixty (60) days or the request has not been acted upon within*
12 *ninety (90) days."*

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14 SECTION 4. Arkansas Code §8-6-212(e) is hereby amended to read as
15 follows:

16 "(e) A county shall have the right to issue orders, to establish
17 policies for, and to enact ordinances concerning all phases of the operation
18 of a solid waste management system including hours of operation, character and
19 kind of wastes accepted at the disposal site, the separation of wastes
20 according to type by those generating them prior to collection, type of
21 container for storage of wastes, prohibition of burning of wastes,
22 pretreatment of wastes, and such other rules as may be necessary or
23 appropriate, so long as such orders, policies, and ordinances are consistent
24 with, in accordance with and not more restrictive than those adopted by, under
25 or pursuant to this subchapter or any other laws, rules, regulations, or
26 orders adopted by state law or incorporated by reference from federal law, the
27 Arkansas Pollution Control and Ecology Commission or the Regional Solid Waste
28 Management Boards or Districts, unless there exists a fully implemented
29 comprehensive area-wide zoning plan, and corresponding laws or ordinances,
30 covering the entire county, *or unless the county has made a request to the*
31 *Regional Solid Waste Board or District to adopt a more restrictive rule,*
32 *regulation, order or standard, and no public hearing has been held within*
33 *sixty (60) days or the request has not been acted upon within ninety days*
34 *(90)."*

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1 SECTION 5. *Regional Solid Waste Management Boards may adopt more*
2 *restrictive standards for the location, design, construction, and maintenance*
3 *of solid waste disposal sites and facilities than the state or federal*
4 *government.*

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

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10 SECTION 7. If any provision of this act or the application thereof to
11 any person or circumstance is held invalid, such invalidity shall not affect
12 other provisions or applications of the act which can be given effect without
13 the invalid provision or application, and to this end the provisions of this
14 act are declared to be severable.

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16 SECTION 8. All laws and parts of laws in conflict with this act are
17 hereby repealed.

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19 SECTION 9. EMERGENCY. It is hereby found and determined by the General
20 Assembly that some areas of the state are facing critical shortages of solid
21 waste disposal capacity due to the difficulties in citing landfill facilities
22 at the local level. It is found that the authority granted to municipalities
23 and counties to adopt more restrictive standards for the location, design,
24 construction, and maintenance of solid waste disposal sites and facilities
25 than those adopted by the federal, state and regional laws, rules, regulations
26 and orders has exacerbated and attenuated this crises and could thwart or
27 jeopardize the purposes of Arkansas Act 752 of 1991 and its efforts to protect
28 the public health and the state_s environmental quality by establishing
29 regional solid waste management and planning. Therefore, an emergency is
30 hereby declared to exist and this act being necessary for the immediate
31 preservation of the public peace, health and safety shall be in full force and
32 effect from and after its passage and approval.

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/s/Bynum Gibson