

Act 934 of the 1989 Regular Session.

Act 934

SB328

By: Senators Kinard and Dowd

"AN ACT TO REQUIRE THE PREPARATION OF SOLID WASTE RECYCLING PLANS; TO REQUIRE THE IMPLEMENTATION OF SAID PLANS; TO ESTABLISH A SOLID WASTE MANAGEMENT AND RECYCLING FUND; TO AUTHORIZE THE COLLECTION OF LANDFILL DISPOSAL FEES; TO ESTABLISH A STATE GRANT PROGRAM TO LOCAL GOVERNMENTS; AND TO EMPOWER THE ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION TO ADOPT RULES AND REGULATIONS TO ADMINISTER AND ENFORCE THIS ACT; AND FOR OTHER PURPOSES."

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

SECTION 1. SHORT TITLE. This act may be known and cited as the "Solid Waste Management and Recycling Fund Act".

SECTION 2. LEGISLATIVE INTENT.

(a) The General Assembly finds that the solid waste needs of the state are not being met in an efficient, cost-efficient and environmentally sound manner. The current reliance upon localized landfills is threatening to add Arkansas to those states experiencing solid waste management crises.

(b) The General Assembly concludes that, to the extent practicable, regional solid waste management systems should be developed which address solid waste needs in the context of cooperation and shared resources.

(c) The General Assembly finds that recycling glass, plastic, cans, paper, and other materials will reduce the state's reliance upon landfills, curb littering, and abate the environmental risks caused by current solid waste practices. The General Assembly therefore mandates that recycling shall be integrated as a component of any Solid Waste Management Plan required pursuant to the Arkansas Solid Waste Management Act, Arkansas Code 8-6-201 et seq., and that said recycling plans shall be implemented in accordance with the terms of this act.

(d) The Department and the Commission are charged with the duty to promulgate and implement policies, regulations and procedures for administering the terms of this act, including a grant program to develop solid waste management plans, programs and facilities which stress recycling.

(e) The terms and obligations of this act shall be liberally construed so as to achieve remedial intent.

SECTION 3. DEFINITIONS. As used in this act, unless the context otherwise requires:

(1) "Commission" means the Arkansas Pollution Control and Ecology Commission;

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

(3) "Landfill" means all landfills permitted under the Arkansas Solid Waste Management Act, Arkansas Code 8-6-201 et seq., except those permitted landfills where a private industry bears the expense of operating and maintaining the landfill solely for the disposal of wastes generated by the industry;

(4) "Permittee" means any individual, corporation, company, firm,

partnership, association, trust, local solid waste authority, institution, county, city, town or municipal authority or trust, venture or other legal entity holding a solid waste disposal permit as provided in the Arkansas Solid Waste Management Act, Arkansas Code 8-6-201 et seq.;

(5) "Recycling" means to separate or divert an item or items from the solid waste stream for the purposes of processing it or causing it to be processed into a material product, including the production of compost, in order to provide for the final disposition of the material product in a manner other than landfilling or incineration;

(6) "Solid Waste" means all putrescible and non-putrescible wastes in solid or semi-solid form, including, but not limited to, yard or food waste, waste glass, waste metals, waste plastics, waste papers, waste paperboard and all other solid and semi-solid wastes resulting from industrial, commercial, agricultural, community and residential activities;

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

(8) "Solid Waste Management" means the management of, but not limited to, the storage, collection, transfer, transportation, treatment, utilization, processing, and final disposal of solid waste including, but not limited to, the prevention, reduction, or recycling of wastes; and

(9) "Solid Waste Management Plan" means a plan which is developed according to the provisions of Arkansas Code 8-6-201 et seq., the Arkansas Solid Waste Management Code and guidelines of the Department, and which is subject to approval by the Department.

SECTION 4. RECYCLING PLANS AND IMPLEMENTATION.

(a) Unless otherwise excused by the Commission pursuant to the Arkansas Solid Waste Management Act, Arkansas Code 8-6-201 et seq., each governmental entity which is required to submit or has submitted a Solid Waste Management Plan pursuant to Arkansas Code 8-6-211 shall produce by July 1, 1991, a Solid Waste Management Plan which proposes the establishment of recycling programs and facilities. The plan shall be subject to review and approval by the Department.

(b) Pursuant to established procedures, the Department may initiate enforcement actions against governmental entities for failure to abide by the requirements of subsection (a) of this section. Enforcement sanctions may include, but are not limited to, denial, discontinuation or reimbursement of grant funds awarded pursuant to any programs administered by the Department.

SECTION 5. CREATION OF A SOLID WASTE MANAGEMENT AND RECYCLING FUND. A Solid Waste Management and Recycling Fund is hereby established on the books of the State Treasurer, State Auditor, and Chief Fiscal Officer. The fund shall be administered by the Department which shall authorize grants and administrative expenditures from the fund according to the provisions of the act. In addition to all monies appropriated by the General Assembly to the fund, there shall be deposited in the fund all landfill disposal fees collected pursuant to Section 6 and Section 7 of this act, all monies reimbursed to the Department pursuant to Section 10 of this act, federal government monies designated to enter the fund, any monies received by the state as a gift or donation to the fund, and all interest earned upon money deposited in the fund. No more than twenty-five percent (25%) of the monies received annually into the fund shall be used by the Department for the administration of a solid waste management and recycling program and for solid waste management compliance and enforcement activities at landfills and open dumps.

SECTION 6. Landfill Disposal Fees. There is hereby imposed on each landfill permittee a landfill disposal fee of fifteen cents (15_) for each uncompacted cubic yard of solid waste and of thirty cents (30_) for each compacted cubic yard of solid waste received at the landfill. If a landfill permittee chooses to operate on a weight basis, the landfill disposal fee shall be one dollar (\$1.00) for each ton of solid waste received at the landfill.

SECTION 7. COLLECTION OF FEES. Fees imposed pursuant to the separate provisions of this act shall be collected as follows:

(a) On or before December 1, March 1, June 1, and September 1 of each year the Department shall send each solid waste disposal permittee a notice of assessment by means of registered or certified mail.

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

(c) The disposal fees collected pursuant to this section shall be special revenues and shall be deposited in the State Treasury to the credit of the Solid Waste Management and Recycling Fund.

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

SECTION 9. GRANTS TO COUNTIES, CITIES, AND SOLID WASTE AUTHORITIES.

(a) There is hereby created a grant program of assistance for districts, local governments and their delegated authorities and agents to develop solid waste management plans, programs, and facilities that integrate recycling as a functional part of the solid waste management system, provided that the legislative preference for regional or multi-county solid waste management planning is implemented in the administration of this grant program.

(b) Any county, city, multi-county, regional, or other solid waste authority is eligible for a grant pursuant to rules and regulations adopted by the Commission and administered by the Department.

(c) Costs eligible for grant assistance include, but are not limited to, costs for solid waste management planning that integrate recycling, costs of waste transfer facilities that integrate recycling in their operations, costs of recycling equipment, and recycling program and market development costs.

SECTION 10. RULES AND REGULATIONS. (a) The Commission may adopt reasonable rules and regulations necessary to implement or effectuate the purposes and intent of this act, including but not limited to, collecting fees, determining grant eligibility, setting priorities for the administration of this act, and requiring reimbursement of grant monies for failure to abide by the terms of this act.

(b) At a minimum the rules shall require that applicants or their agents which receive a grant meet the following conditions of the grant program as set forward in the Department's regulations. The applicants shall:

(1) Have a solid waste management plan on file with the Department within the first year following the date of the grant awarded by the Department;

(2) Develop a recycling program, as outlined in the grant application, in the three years following the date of the grant award by the Department; and

(3) Seek to market or reuse the materials diverted under the

recycling program from deposition in landfills or incinerators in the period of three years following the date of the grant award by the Department.

(c) If, within a three (3) year period beginning on the date that the Department awards the grant, the grantee does not meet the conditions of the grant prescribed under subsection (b) of this section, the Department may order the grantee to reimburse the Department for up to one hundred percent (100%) of the grant according to the following schedule:

(1) If the grantee fails to meet the conditions in the first year after the grant award, the grantee may be required to reimburse one hundred percent (100%) of the grant; or

(2) If the grantee fails to meet the conditions in the second year after the grant award, the grantee may be required to reimburse sixty-six percent (66%) of the grant; or

(3) If the grantee fails to meet the conditions in the third year after the grant award the grantee may be required to reimburse thirty-three percent (33%) of the grant.

SECTION 11. SEPARABILITY. The provisions of this act are hereby declared to be separable and if any provision shall be determined to be invalid, it shall not affect the validity of the remaining provisions of the act.

SECTION 12. 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 13. All laws and parts of laws in conflict with this act are hereby repealed.

APPROVED: March 24, 1989
