

1 **State of Arkansas**
2 **78th General Assembly**
3 **Regular Session, 1991**

A BILL ACT 629 OF 1991
HOUSE BILL 1693

4 **By: Representatives S. Miller and Lipton**

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For An Act To Be Entitled

8 "AN ACT TO AMEND VARIOUS SECTIONS OF THE ARKANSAS
9 PRIVATIZATION ACT TO EXPAND THE APPLICATION OF THE ACT TO
10 INCLUDE SOLID WASTE DISPOSAL FACILITIES; AND FOR OTHER
11 PURPOSES."

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

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15 SECTION 1. Arkansas Code 8-5-602 is hereby amended to read as follows:

16 "8-5-602. Legislative policy.

17 The General Assembly declares that the policy of this state is to assure
18 its citizens adequate public services, particularly wastewater projects, and
19 solid waste disposal projects, at reasonable cost, and that such services are
20 essential to the maintenance and general welfare of the citizens of this state
21 and to the continued expansion of the state's economy, job market, and
22 industrial base. However, the cost of constructing, owning, and operating
23 capital facilities to meet the demand for those public services is becoming
24 increasingly burdensome to cities, counties, and improvement districts, and it
25 is desirable that innovative financing mechanisms be made available to assist
26 the communities of this state in developing wastewater projects and solid
27 waste disposal projects at reasonable cost. Private sector ownership and
28 operation of capital facilities providing public services can result in cost
29 savings to communities contracting for those public services. It is,
30 therefore, in the best public interest of the state and its citizens that
31 cities, counties, and improvement districts be authorized to cause such
32 service to be provided by private enterprise and to contract with private
33 owners or operators for providing the services to the public."

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35 SECTION 2. Arkansas Code 8-5-603(4) is hereby amended to read as
36 follows:

1 "(4) 'Facility' means any structure, building, machinery, system,
2 land, right, permit, or other property necessary or desirable for the
3 ownership and operation of a wastewater project or solid waste disposal
4 project including, without limitation, all related and appurtenant easements
5 and rights-of-way, improvements, utilities, equipment, and furnishings;"
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7 SECTION 3. Arkansas Code 8-5-603(8) is hereby amended to read as
8 follows:

9 "(8) 'Privatization' means any wastewater project or solid waste
10 disposal project, including projects acquired from a local government, which
11 is owned or operated by a private owner or operator and provides the related
12 service to the public. This includes, but is not limited to:

13 (A) The acquisition, construction, reconstruction, repair, alteration,
14 modernization, renovation, improvement, or extension of any such project,
15 whether or not in existence or under construction, and financing the cost of
16 those activities;

17 (B) The purchase, installation, or financing of equipment, machinery, and
18 other personal property required by such project;

19 (C) The acquisition, improvement, or financing of real property and the
20 extension or provision of utilities, access roads, and other appurtenant
21 facilities, all of which are to be used or occupied by any person in providing
22 wastewater projects or solid waste disposal projects;"
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24 SECTION 4. Arkansas Code 8-5-603 is hereby amended by adding two new
25 subsections at the end thereof to read as follows:

26 "(10) 'Solid waste' means all putrescible and nonputrescible wastes in
27 solid or semisolid form, including but not limited to yard or food waste,
28 waste glass, waste metals, waste plastics, wastepaper, waste paperboard, and
29 all other solid and semisolid wastes resulting from industrial, commercial,
30 agricultural, community, and residential activities.

31 "(11) 'Solid waste disposal project' means any facility designed and
32 operated for the disposition by landfilling, incinerating, composting or other
33 method, of disposing of solid waste."
34

35 SECTION 5. Arkansas Code 8-5-606(a) and (b)(1) are hereby amended to

1 read as follows:

2 "(a) Any local government may enter into a privatization contract with
3 a private owner or operator to accomplish the transfer of any local
4 government-owned wastewater project or solid waste disposal project or the
5 designing, construction, operation, maintenance, or financing of cost, or any
6 combination thereof, of a wastewater project or solid waste disposal project,
7 pursuant to the provisions of this subchapter.

8 (b)(1) A local government considering entering into a privatization
9 contract pertaining to its municipally owned wastewater project or solid waste
10 disposal project, or any portion thereof, shall publish notice of its
11 intention to adopt an ordinance to accomplish the privatization."

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13 SECTION 6. Arkansas Code 8-5-607(a) is hereby amended to read as
14 follows:

15 "(a)(1) In connection with a privatization contract, a local
16 government, if authorized by ordinance of its governing body, may enter into
17 one (1) or more service agreements with a private owner or operator pursuant
18 to which the private owner or operator will provide one (1) or more sewer
19 services or solid waste disposal services to or for the benefit of the local
20 government.

21 (2) The service agreement may provide for the purchase by the local
22 government of all or any part of the capacity, capability, or output of the
23 facilities used to provide the applicable sewer service or solid waste
24 disposal service and shall contain such other terms and conditions as the
25 local government and the private owner or operator may provide including,
26 without limitation, the charges or rates for the services and a covenant by
27 the local government to maintain rates sufficient to pay debt service incurred
28 in connection with the financing of construction of a wastewater or solid
29 waste disposal project."

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31 SECTION 7. Arkansas Code 8-5-608 is hereby amended to read as follows:

32 "8-5-608. Privatization contracts and service agreements - Assignment.

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34 The privatization contract or the service agreement may be assigned by
35 either party to secure the performance of any obligation in connection with

1 the financing of construction or operation of a wastewater or solid waste
2 disposal project."

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4 SECTION 8. Arkansas Code 8-5-612 is hereby amended to read as follows:

5 "8-5-612. Wastewater projects and solid waste disposal projects are
6 industrial facilities for other acts.

7 For purposes of any other law, including, without limitation, 14-164-201
8 et seq., the term 'facilities' or a similar term shall include a wastewater
9 project or solid waste disposal project as those terms are defined in this
10 subchapter, so that any law adopted authorizing the issuance of industrial
11 development bonds, industrial development revenue bonds, or similar evidences
12 of indebtedness shall be available for utilization in connection with a
13 privatization project.

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15 SECTION 9. All provisions of this act of a general and permanent nature
16 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
17 Revision Commission shall incorporate the same in the Code.

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19 SECTION 10. If any provision of this act or the application thereof to
20 any person or circumstance is held invalid, such invalidity shall not affect
21 other provisions or applications of the act which can be given effect without
22 the invalid provision or application, and to this end the provisions of this
23 act are declared to be severable.

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25 SECTION 11. All laws and parts of laws in conflict with this act are
26 hereby repealed.

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APPROVED: 3-19-91