

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

A Bill

ACT 1127 OF 1993
HOUSE BILL 2007

For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE TITLE 8, CHAPTER 6 TO
9 ESTABLISH AND CREATE A FEE ON SOLID WASTE GENERATED WITHIN
10 THE STATE AND TRANSPORTED TO LANDFILL DISPOSAL SITES IN
11 OTHER STATES; AND FOR OTHER PURPOSES."

Subtitle

14 "TO ESTABLISH AND CREATE A FEE ON SOLID WASTE GENERATED
15 WITHIN THE STATE AND TRANSPORTED TO LANDFILL DISPOSAL SITES
16 IN OTHER STATES."

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

20 SECTION 1. Findings of the General Assembly. The Arkansas General
21 Assembly makes the following findings:

22 (1) Arkansas Act 747 of 1991 (codified at Ark. Code Ann. §8-6-1001 et
23 seq. (Supp. 1991)) created the "Landfill Post-Closure Trust Fund" and imposed
24 additional landfill disposal fees for that purpose.

25 (2) Arkansas Act 754 of 1991 (codified at Ark. Code Ann. §8-6-606
26 (Supp. 1991)) amended Ark. Code Ann. §8-6-606 to increase the landfill disposal
27 fees under the Solid Waste Management Recycling Fund Act. The landfill
28 disposal fees under the Solid Waste Management Recycling Fund had previously
29 been established by Arkansas Act 849 of 1989 and Arkansas Act 934 of 1989.

30 (3) The General Assembly has learned that in many areas of the state,
31 residents and businesses are having their solid waste transported to and
32 disposed of at landfill disposal sites in other states. By doing so, these
33 residents and businesses are avoiding paying their share of taxes referenced
34 above, as would ordinarily be passed on to the solid waste generator. By such
35 transportation and disposal of solid waste in other states, this state is
36 losing much needed revenues. Further, by requiring the payment of such fees on

1 solid wastes disposed of within the state, but not on solid wastes generated
2 within this state and transported to and disposed of in other states, the
3 existing fee structure under the above-referenced law unfairly burdens landfill
4 disposal entities within the state since they are required to pay said fees
5 causing them to charge higher rates than their out of state competitors which
6 do not have to pay such fees.

7 (4) In order to remedy the present situation, it is the finding of the
8 Arkansas General Assembly that similar fees need to be assessed on all solid
9 waste transported in Arkansas but disposed of outside the state. By doing so,
10 the avoidance of landfill disposal fees by the transfer of solid waste out of
11 state will be remedied and the current unfair burden on in-state landfill
12 disposal entities will be alleviated.

13

14 SECTION 2. Ark. Code Ann. §§ 8-6-1001 through 1005 are hereby amended to
15 read as follows:

16 "8-6-1001. Definitions.

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

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

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

22 (3) Director means the Director of the Department of Pollution Control
23 and Ecology;

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

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

33 (6) Solid waste means all putrescible and nonputrescible wastes in solid
34 or semisolid form, including, but not limited to, yard or food waste, waste
35 glass, waste metals, waste plastics, waste papers, waste paperboard, and all

1 other solid or semisolid wastes, resulting from industrial, commercial,
2 agricultural, community, and residential activities;

3 (7) Solid waste disposal permit means a permit issued by the State of
4 Arkansas under provisions of § 8-6-201 et seq. for the construction and
5 operation of a landfill waste disposal facility;

6 (8) Post-closure corrective action means any measures deemed necessary
7 by the director to prevent or abate contamination of the environment from any
8 landfill which has been certified as properly closed by the department;and

9 (9) Transporter or Solid Waste Transporter means any individual,
10 corporation, company, firm, partnership, association, trust, local solid waste
11 authority, institution, county, city, town, municipal authority or trust,
12 venture or other legal entity transporting solid waste within the state that is
13 to be disposed of out of the state.

14 8-6-1002. Creation.

15 (a)(1) There is established on the books of the State Treasurer, State
16 Auditor, and Chief Fiscal Officer of the State a trust fund to be known as the
17 Landfill Post-Closure Trust Fund.

18 (2) In addition to all moneys appropriated by the General Assembly to the
19 fund, there shall be deposited in the fund all landfill disposal and
20 transportation fees collected pursuant to this subchapter and any moneys
21 received by the state as a gift or donation to the fund.

22 (3) No more than four percent (4%) of the moneys received annually into
23 the fund shall be used by the department for the administration of landfill
24 post-closure corrective action pursuant to this subchapter. However, in the
25 event the total amount in the Landfill Post-Closure Trust Fund equals or
26 exceeds ten million dollars (\$10,000,000), no additional moneys shall be
27 collected pursuant to this subchapter until the total amount in the fund equals
28 or is less than six million dollars (\$6,000,000), at which time such collection
29 of moneys shall resume.

30 (b) The fund shall be administered by the department and shall be used by
31 the department for landfill post-closure corrective action. The fund shall be
32 used only if the director determines that:

33 (1) A landfill which is no longer receiving waste, regardless of when it
34 ceased operating, is causing ground water contamination or is causing other
35 contamination that is a hazard to public health or endangers the environment;

1 and

2 (2) The owner or operator of the landfill site has expended at least ten
3 thousand dollars (\$10,000) toward corrective action, unless the owner and
4 operator cannot be located or the director determines an emergency exists
5 necessitating immediate corrective action.

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

8 (d) For the purposes of this subchapter only, closed areas or operational
9 phases contiguous to any permitted landfill which is receiving solid waste when
10 the director determines that corrective action is necessary are not eligible
11 for funding as contemplated by this subchapter.

12 8-6-1003. Landfill disposal fees.

13 (a)(1) In addition to any other fee provided by law, there is imposed on
14 each landfill permittee a landfill disposal fee of fifteen cents (15¢) for each
15 uncompacted cubic yard of solid waste and thirty cents (30¢) for each compacted
16 cubic yard of solid waste received at the landfill.

17 (2) If a landfill permittee chooses to operate on a weight basis, the
18 landfill disposal fee shall be one dollar (\$1.00) for each ton of solid waste
19 received at the landfill.

20 (b)(1) In addition to any other fee provided by law except as stated in
21 section (a) above, for all solid waste generated and transported within the
22 state but not disposed of in a solid waste facility within the state, there is
23 imposed on each transporter of such solid waste in Arkansas a solid waste
24 transportation fee of fifteen cents (15¢) for each uncompacted cubic yard of
25 solid waste and thirty cents (30¢) for each compacted cubic yard of solid waste
26 transported in the state but disposed of outside the state.

27 (2) If a transporter of such solid waste chooses to operate on a
28 weight basis, the solid waste transportation fee shall be one dollar (\$1.00)
29 for each ton of such solid waste transported.

30 (c) The landfill permittee referenced in section (a) above and solid
31 waste transporter referenced in section (b) above shall use the weight basis in
32 determining the fee for the disposal or transportation of ash.

33 8-6-1004. Collection of fees.

34 Fees imposed pursuant to the provisions of this subchapter shall be
35 collected as follows:

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

4 (2) On or before January 1, April 1, July 1, and October 1 of each year,
5 each landfill permittee and solid waste transporter shall pay to the department
6 the amount of such assessment as stated in the notice.

7 (3) The disposal and transportation fees collected pursuant to this
8 section shall be special revenues and shall be deposited in the State Treasury
9 to the credit of the Landfill Post-Closure Trust Fund.

10 8-6-1005. Penalties.

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

16

17 SECTION 3. Ark. Code Ann. §§ 8-6-603, 606-608, and 611 are hereby
18 amended as follows:

19 "8-6-603. Definitions.

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

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

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

25 (3) Landfill means all landfills permitted under the Arkansas Solid
26 Waste Management Act, § 8-6-201 et seq., except those permitted landfills
27 operated by a regulated public utility for ash generated by the combustion of
28 coal to produce electric energy;

29 (4) Permittee means any individual, corporation, company, firm,
30 partnership, association, trust, local solid waste authority, institution,
31 county, city, town, or municipal authority or trust, venture or other legal
32 entity, holding a solid waste disposal permit as provided in the Arkansas Solid
33 Waste Management Act, § 8-6-201 et seq.;

34 (5) Recycling means the systematic collection, sorting, decontamination,
35 and return of waste materials to commerce as commodities for use or exchange;

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

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

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

13 (9) Solid waste management plan means a plan which is developed
14 according to the provisions of the Arkansas Solid Waste Management Act,
15 §8-6-201 et seq., and guidelines of the department, and which is subject to
16 approval by the department; and

17 (10) Transporter or Solid Waste Transporter means any individual,
18 corporation, company, firm, partnership, association, trusts, local solid waste
19 authority, institution, county, city, town, municipal authority or trust,
20 venture or other legal entity transporting solid waste within the state that is
21 to be disposed of out of the state.

22 8-6-606. Landfill disposal fees.

23 (a) Except as provided in subsection (c), there is hereby imposed on each
24 landfill permittee a landfill disposal fee of twenty five cents (25¢) for each
25 uncompacted cubic yard of solid waste and of forty five cents (45¢) for each
26 compacted cubic yard of solid waste received at the landfill. If a landfill
27 permittee chooses to operate on a weight basis, the landfill disposal fee shall
28 be one dollar and fifty cents (\$1.50) for each ton of solid waste received at
29 the landfill.

30 (b) Except as provided in section (a) above and section (c) below, for
31 all solid waste generated and transported within the state but to be disposed
32 of outside the state, there is hereby imposed on each such solid waste
33 transporter a solid waste transportation fee of twenty five cents (25¢) for
34 each uncompacted cubic yard of solid waste and of forty five cents (45¢) for
35 each compacted cubic yard of solid waste transported. If a solid waste

1 transporter chooses to operate on a weight basis, the solid waste
2 transportation fee shall be one dollar and fifty cents (\$1.50) for each ton of
3 solid waste transported in the state.

4 (c) For those permitted landfills where a private industry bears the
5 expense of operating and maintaining the landfill solely for the disposal of
6 wastes generated by the industry, there is imposed on each landfill permittee a
7 landfill disposal fee of ten cents (10¢) for each uncompacted cubic yard of
8 solid waste and of twenty cents (20¢) for each compacted cubic yard of solid
9 waste received at the landfill. If the landfill permittee chooses to operate
10 on a weight basis, the landfill disposal fee under this subsection shall be
11 fifty cents (50¢) for each ton of solid waste received at the landfill.

12 8-6-607. Collection of fees.

13 Fees imposed pursuant to the separate provisions of this subchapter shall be
14 collected as follows:

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

18 (2) On or before January 1, April 1, July 1, and October 1 of each year,
19 each landfill permittee and solid waste transporter shall pay to the department
20 the amount of such assessment as stated in the notice of this section.

21 (3) Except as provided in subsection (4), the disposal and transportation
22 fees collected pursuant to this section shall be special revenues and shall be
23 deposited in the State Treasury to the credit of the Solid Waste Management and
24 Recycling Fund for administrative support of the State Marketing Board for
25 Recyclables.

26 (4) Twenty-five percent (25%) of the disposal fees collected from
27 landfills where a private industry bears the expense of operating and
28 maintaining the landfill solely for the disposal of wastes generated by the
29 industry shall be deposited into a special fund to be created on the books of
30 the State Treasurer, State Auditor, and Chief Fiscal Officer of the State and
31 to be known as the Marketing Board Fund. The fund shall be administered by
32 the Department and used by the State Marketing Board for Recyclables for the
33 administration and performance of its duties.

34 8-6-608. Penalties.

35 Failure of the permittee or transporter to pay the fees assessed by the

1 department provides grounds for administrative or civil enforcement action.
2 Sanctions may include civil penalties as provided in the Arkansas Solid Waste
3 Management Act, § 8-6-201 et seq., or the revocation of the solid waste
4 disposal or transporter permit.

5 8-6-611. Computation of fees.

6 For the purpose of determining landfill disposal or transportation fees
7 under this subchapter, the landfill permittees and transporters shall use the
8 dry weight basis in determining the fee for disposal or transportation of ash."

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10 SECTION 4. All provisions of this act of a general and permanent nature
11 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
12 Revision Commission shall incorporate the same in the Code.

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14 SECTION 5. If any provision of this act or the application thereof to
15 any person or circumstance is held invalid, such invalidity shall not affect
16 other provisions or applications of the act which can be given effect without
17 the invalid provision or application, and to this end the provisions of this
18 act are declared to be severable.

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20 SECTION 6. All laws and parts of laws in conflict with this act are
21 hereby repealed.

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23 SECTION 7. EMERGENCY. It is hereby found and determined by the General
24 Assembly that some areas of the state are facing critical shortages of solid
25 waste disposal capacity due to the difficulties in siting landfill facilities
26 at the local level. It is found that the authority granted to municipalities
27 and counties to adopt more restrictive standards for the location, design,
28 construction, and maintenance of solid waste disposal sites and facilities than
29 those adopted by the federal, state and regional laws, rules, regulations, and
30 orders, has exacerbated and attenuated this crises and could thwart or
31 jeopardize the purposes of Arkansas Act 752 of 1991 and its efforts to protect
32 the public health and the state_s environmental quality by establishing
33 regional solid waste management and planning. Therefore, an emergency is
34 hereby declared to exist, and this act being immediately necessary for the
35 preservation of the public peace, health, and safety shall be in full force and

1 effect from and after its passage and approval.

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APPROVED: 04/13/93