

*As Engrossed: 4/8/93*

1 **State of Arkansas**  
2 **79th General Assembly**  
3 **Regular Session, 1993**  
4 **By: Representatives Walker, Brown and Townsend**

# **A Bill**

**ACT 1263 OF 1993**  
**HOUSE BILL 1986**

## **For An Act To Be Entitled**

8 "AN ACT TO PROVIDE FOR ENVIRONMENTAL EQUITY IN SITING  
9 HIGH-IMPACT SOLID WASTE MANAGEMENT FACILITIES BY CREATING  
10 A REBUTTABLE PRESUMPTION AGAINST PERMITTING THE  
11 CONSTRUCTION OR OPERATION OF ANY SUCH FACILITY WITHIN  
12 *TWELVE (12) MILES* OF ANY EXISTING HIGH-IMPACT SOLID WASTE  
13 MANAGEMENT FACILITY; TO REPEAL AND SUPERSEDE A.C.A.  
14 8-6-218; AND FOR OTHER PURPOSES."

## **Subtitle**

17 "AN ACT TO PROVIDE FOR ENVIRONMENTAL EQUITY IN SITING  
18 HIGH-IMPACT SOLID WASTE MANAGEMENT FACILITIES."

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

22 SECTION 1. Legislative Intent.

23 (a) Through extensive legislation since 1989, the state has made  
24 significant strides toward a comprehensive and regionalized approach to solid  
25 waste management. The General Assembly recognizes the need to develop viable  
26 facilities for managing and disposing of the state\_s solid waste. This act  
27 should be construed as a complement to the state\_s overall regionalization  
28 strategy by encouraging an equitable and efficient dispersal of solid waste  
29 management facilities to serve the needs of all citizens.

30 (b) The General Assembly also acknowledges that, while solid waste  
31 management facilities are essential, certain types of facilities impose  
32 specific burdens on the host community. National trends indicate a tendency  
33 to concentrate high-impact solid waste disposal facilities in lower-income or  
34 minority communities. Such facilities may place an onus on the host community  
35 without any reciprocal benefits to local residents. The purpose of this act  
36 is to prevent communities from becoming the involuntary hosts to a

1 proliferation of high-impact solid waste management facilities.

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3 SECTION 2. Definitions.

4 The following definitions shall apply for the purposes of this act:

5 (1) (a) "High-impact solid waste management facility" shall mean,  
6 excluding the facilities described in subsection (1) (b), any solid waste  
7 landfill, any solid or *commercial* hazardous waste incinerator, and any  
8 *commercial* hazardous waste treatment, storage or disposal facility.

9 (b) The term "high-impact solid waste management facility" shall  
10 not include the following:

11 (i) Recycling or composting facilities;

12 (ii) Waste tire management sites;

13 (iii) Solid waste transfer stations;

14 (iv) *Solid waste landfills which have applications pending*  
15 *for either increased or new acreage or provisions for additional services or*  
16 *increased capacity;*

17 (v) *A facility dedicated solely to the treatment, storage*  
18 *or disposal of solid or hazardous wastes generated by a private industry where*  
19 *the private industry bears the expense of operating and maintaining the*  
20 *facility solely for the disposal of waste generated by the industry or wastes*  
21 *of a similar kind or character; or*

22 (vi) *A facility or activity dedicated solely to a response*  
23 *action at a location listed by the state or federal government as a hazardous*  
24 *substance site; or*

25 (vii) *An existing facility operating under interim status*  
26 *of the Federal Resource Conservation and Recovery Act or implementing*  
27 *regulations of the Arkansas Hazardous Waste Management Act or the Arkansas*  
28 *Hazardous Waste Management Code.*

29 (viii) *Expansion of existing Resource Conservation and*  
30 *Recovery Act or Arkansas Hazardous Waste Management Act hazardous waste*  
31 *facilities, either through increased acreage or provision for additional*  
32 *services or increased capacity.*

33 (2) "Permitting" means any governmental authorization to proceed with  
34 construction or operation of a facility or activity required by either state  
35 law or local ordinance.

1           (3) "Host community" means all governmental units possessing zoning  
2 authority encompassed within a *twelve (12)* mile radius of the site of a  
3 proposed high-impact solid waste management facility.

4           (4) "Solid waste" has the same meaning as set out in Arkansas Code 8-6-  
5 702 (12), provided however that this definition does not include "hazardous  
6 waste" as defined in subsection (5).

7           (5) "Hazardous waste" has the same meaning as set out in Arkansas Code  
8 8-7-203 (6).

9           (6) "Hazardous substance sites" has the same meaning as set out in  
10 Arkansas Code 8-7-503 (12).

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12           SECTION 3. (a) There shall be a rebuttable presumption against  
13 permitting the construction or operation of any high-impact solid waste  
14 management facility as defined in this act within *twelve (12)* miles of any  
15 existing high-impact solid waste management facility. This presumption shall  
16 be honored by the Department of Pollution Control and Ecology, the regional or  
17 service area solid waste planning board with jurisdiction over the site, and  
18 any other governmental entity with permitting or zoning authority concerning  
19 any facility.

20           (b) The subsection (a) presumption can be rebutted if any of the  
21 following is shown:

22                   (1) No other suitable site for such a facility is available  
23 within the region or service area because of the restraints of geology or any  
24 other factors listed ar Arkansas Code 8-6-706(b)(2); or

25                   (2) Incentives have prompted the host community to accept the  
26 siting of the facility. Such incentives may include, without limitation:

27                           (A) Increased employment opportunities;

28                           (B) Reasonable host fees *not to exceed the prevailing state*  
29 *average*;

30                           (C) Contributions by the facility to the community  
31 infrastructure (e.g. road maintenance, park development, litter control);

32                           (D) Compensation to *adjacent* individual landowners for any  
33 assessed decrease in property values; or

34                           (E) Subsidization of community services.

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1 SECTION 4. Department\_s Permitting Authority.

2 The department shall not process any application for a permit subject to  
3 Section 3 until the affected local and regional authorities have issued  
4 definitive findings regarding the criteria set out in Section 3.

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6 SECTION 5. Specific Repealer.

7 This act repeals and supersedes the provisions of Arkansas Code 8-6-218.

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

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14 SECTION 7. 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 8. All laws and parts of laws in conflict with this act are  
21 hereby repealed.

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23 /s/Rep. Walker, et al

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25 APPROVED: 4/20/93

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**HB 1986**

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