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4

*As Engrossed: H3/28/13*

# A Bill

HOUSE BILL 1215

5 By: Representatives Westerman, Barnett, Bell, Clemmer, Cozart, Dale, Davis, Payton, *Lampkin*  
6 By: Senators B. Sample, Files, Hester, Holland, Rapert, E. Williams  
7

## For An Act To Be Entitled

9 AN ACT TO AMEND THE LAWS REGARDING THE USE OF THE  
10 MONEY IN THE SOLID WASTE MANAGEMENT AND RECYCLING  
11 FUND; TO REDUCE THE MAXIMUM AMOUNT OF MONEY IN THE  
12 SOLID WASTE MANAGEMENT AND RECYCLING FUND THAT THE  
13 ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY MAY USE  
14 FOR ADMINISTRATIVE PURPOSES; TO ELIMINATE THE GRANT  
15 PROGRAM UNDER THE SOLID WASTE MANAGEMENT AND  
16 RECYCLING FUND ACT; TO PROVIDE FOR THE DISTRIBUTION  
17 OF MONEY IN THE SOLID WASTE MANAGEMENT AND RECYCLING  
18 FUND; AND FOR OTHER PURPOSES.  
19  
20

## Subtitle

21 TO AMEND THE LAWS REGARDING THE USE OF  
22 THE MONEY IN THE SOLID WASTE MANAGEMENT  
23 AND RECYCLING FUND; AND TO ELIMINATE THE  
24 GRANT PROGRAM UNDER THE SOLID WASTE  
25 MANAGEMENT AND RECYCLING FUND ACT.  
26  
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28

29 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
30

31 SECTION 1. Arkansas Code § 8-6-602(d), concerning the duties of the  
32 Arkansas Department of Environmental Quality under the Solid Waste Management  
33 and Recycling Fund Act, is amended to read as follows:

34 (d) The Arkansas Department of Environmental Quality and the Arkansas  
35 Pollution Control and Ecology Commission ~~are charged with the duty to~~ shall  
36 promulgate and implement policies, rules, regulations, and procedures for



1 *administering the terms of this subchapter, including a grant program to*  
2 *develop solid waste management plans, programs, and facilities which stress*  
3 *recycling.*

4  
5 *SECTION 2. Arkansas Code § 8-6-605(a), concerning the Solid Waste*  
6 *Management and Recycling Fund, is amended to read as follows:*

7 *(a)(1) A Solid Waste Management and Recycling Fund is hereby*  
8 *established on the books of the Treasurer of State, the Auditor of State, and*  
9 *the Chief Fiscal Officer of the State.*

10 *(2) The fund shall be administered by the department, which*  
11 *shall authorize ~~grants~~ distributions and administrative expenditures from the*  
12 *fund ~~according to the provisions of~~ under this subchapter.*

13 *(3) In addition to all moneys appropriated by the General*  
14 *Assembly to the fund, there shall be deposited in the fund all landfill*  
15 *disposal fees collected pursuant to §§ 8-6-606 and 8-6-607, all moneys*  
16 *reimbursed to the department pursuant to § 8-6-610, federal government moneys*  
17 *designated to enter the fund, any moneys received by the state as a gift or*  
18 *donation to the fund, and all interest earned upon money deposited in the*  
19 *fund.*

20 *(4) No more than ~~twenty-five percent (25%)~~ twenty percent (20%)*  
21 *of the moneys received annually into the fund shall be used by the department*  
22 *for the administration of a solid waste management and recycling program and*  
23 *for solid waste management compliance and enforcement activities at landfills*  
24 *and open dumps.*

25  
26 *SECTION 3. Arkansas Code § 8-6-609 is repealed.*

27 ~~*§ 6-609. Grant program.*~~

28 ~~*(a) There is created a grant program of assistance for districts and*~~  
29 ~~*local governments and their delegated authorities and agents to develop solid*~~  
30 ~~*waste management plans, programs, and facilities that integrate recycling as*~~  
31 ~~*a functional part of the solid waste management system, provided that the*~~  
32 ~~*legislative preference for regional or multicounty solid waste management*~~  
33 ~~*planning is implemented in the administration of this grant program.*~~

34 ~~*(b)(1)(A) Any county, city, multicounty, regional, or other solid*~~  
35 ~~*waste authority is eligible for a grant pursuant to rules and regulations*~~  
36 ~~*adopted by the Arkansas Pollution Control and Ecology Commission and*~~

1 ~~administered by the Arkansas Department of Environmental Quality,~~

2 ~~(B) Funds collected under the provisions of § 8-6-607 and~~  
3 ~~deposited in the State Treasury to the credit of the Solid Waste Management~~  
4 ~~and Recycling Fund, less up to twenty-five percent (25%) for administrative~~  
5 ~~support for the department, shall be annually allocated to each of the~~  
6 ~~approved regional solid waste management districts for costs eligible for~~  
7 ~~grant assistance utilizing a combination of two (2) methods, hereafter~~  
8 ~~referred to as "method A" and "method B".~~

9 ~~(C) Fifty percent (50%) of set-aside funds will be~~  
10 ~~determined using method A, and fifty percent (50%) will be determined using~~  
11 ~~method B.~~

12 ~~(D) The total figures obtained from each method will be~~  
13 ~~combined to arrive at each regional solid waste management district's fund~~  
14 ~~distribution.~~

15 ~~(2) Method A.~~

16 ~~(A)(i) The department shall determine the amount of funds~~  
17 ~~within each planning and development district organized under § 14-166-201 et~~  
18 ~~seq., and recognized by the Governor, based upon the same distribution as~~  
19 ~~general revenue support is distributed to the planning and development~~  
20 ~~districts in the current fiscal year.~~

21 ~~(ii) The department shall adjust the distribution~~  
22 ~~within the planning and development districts to coincide with the boundaries~~  
23 ~~of the regional solid waste management districts by determining each county's~~  
24 ~~share of the funds available within each planning and development district.~~

25 ~~(iii) Each county's share shall be based upon the~~  
26 ~~proportion that each county's population bears to the total population in the~~  
27 ~~planning and development district to which the county is assigned, multiplied~~  
28 ~~by the amount of funds determined to be available within the planning and~~  
29 ~~development district.~~

30 ~~(iv) The county's proportional share, as determined,~~  
31 ~~shall be added to all other counties' shares within the same regional solid~~  
32 ~~waste management district.~~

33 ~~(B) Formula for method A:~~

34 ~~(i) Begin with fifty percent (50%) of the total~~  
35 ~~remaining grant funds;~~

36 ~~(ii) Divide equally by the eight (8) regional~~

1 ~~planning and development districts;~~

2 ~~(iii) Multiply this result by the most recent~~  
3 ~~federal decennial census population of each county; and~~

4 ~~(iv) Divide this result by the planning and~~  
5 ~~development district population in which the county is located. This~~  
6 ~~determines the portion per county. Individual county portions are grouped and~~  
7 ~~totaled by each new regional solid waste management district to give each~~  
8 ~~regional solid waste management district's allocation.~~

9 ~~(3) Method B.~~

10 ~~(A) The remaining fifty percent (50%) of set-aside funds~~  
11 ~~in a grant round shall be based upon the ratio of the district's 1990 or~~  
12 ~~current decennial census population divided by the most recent federal~~  
13 ~~decennial census state population.~~

14 ~~(B) Formula for method B:~~

15 ~~(i) Begin with each solid waste management~~  
16 ~~district's total population;~~

17 ~~(ii) Divide by the state's most recent federal~~  
18 ~~decennial census population to get the ratio; and~~

19 ~~(iii) Multiply by the total remaining grant funds.~~  
20 ~~This equals each regional solid waste management district's allocation.~~

21 ~~(4) Funds set aside for each district in a grant round that are~~  
22 ~~not awarded to the district will be rolled over to the next grant round.~~

23 ~~(5) Funds set aside to two (2) or more districts in a grant~~  
24 ~~round may be combined to fund a joint application, provided the joint~~  
25 ~~application has been signed by the regional solid waste management board~~  
26 ~~chair for each district.~~

27 ~~(e)(1) Costs eligible for grant assistance include without limitation~~  
28 ~~costs for:~~

29 ~~(A) Solid waste management planning that integrates~~  
30 ~~recycling;~~

31 ~~(B) Public information and education programs that~~  
32 ~~encourage waste reduction and stimulate demand for products produced from~~  
33 ~~recycled materials;~~

34 ~~(C) Waste transfer facilities that integrate recycling in~~  
35 ~~their operations;~~

36 ~~(D) Equipment to be used no less than fifty percent (50%)~~

1 ~~of the time on recycling activities or other grant-funded projects;~~

2 ~~(E) Recycling and for recycling activities associated with~~  
3 ~~illegal dump abatement programs;~~

4 ~~(F) Other waste stream reduction activities that divert~~  
5 ~~the flow of materials away from landfills to be put to beneficial use; and~~

6 ~~(G) Activities that support and are an integral part of a~~  
7 ~~recycling system, including without limitation, operation, construction, and~~  
8 ~~logistical systems.~~

9 ~~(2) Grant assistance shall not be provided for purchasing~~  
10 ~~mechanical processing equipment or facilities if existing mechanical~~  
11 ~~processing equipment or facilities adequately serve the relevant area, unless~~  
12 ~~the regional solid waste management board determines and submits the~~  
13 ~~rationale for the determination along with the grant application to the~~  
14 ~~department that the equipment or facility is an indispensable component of an~~  
15 ~~otherwise eligible grant project and would more efficiently serve the~~  
16 ~~relevant area.~~

17 ~~(3)(A) The total amount of grants for administrative costs set~~  
18 ~~out for all districts shall not exceed five hundred thousand dollars~~  
19 ~~(\$500,000) per annum.~~

20 ~~(B) The department is granted authority to develop~~  
21 ~~regulations in accordance with this section.~~

22 ~~(4) Each regional solid waste management district may use up to~~  
23 ~~twenty-five percent (25%) of its annual allocation for the administration of~~  
24 ~~its regional solid waste management plan as approved by the department.~~

25 ~~(5)(A) Each regional solid waste management district is~~  
26 ~~responsible for the grant application process and acceptance of grant~~  
27 ~~applications from its district members.~~

28 ~~(B) The district shall prioritize and select grant~~  
29 ~~projects from its district members for submission to the department, the~~  
30 ~~selection being the sole discretion of the district.~~

31 ~~(6) Once grant project applications are submitted to the~~  
32 ~~department, the department shall approve those projects which comply with the~~  
33 ~~requirements and intent of this subchapter.~~

34 ~~(d)(1)(A) The department shall prepare an annual progress report on~~  
35 ~~grant assistance made under this section.~~

36 ~~(B) The report shall include:~~

1 ~~(i) The amount of each grant;~~  
 2 ~~(ii) The purpose of the grant;~~  
 3 ~~(iii) How grant funds were expended by the grant~~  
 4 ~~recipient;~~  
 5 ~~(iv) The results produced or the progress made; and~~  
 6 ~~(v) The revenues produced and tonnages of materials~~  
 7 ~~collected.~~

8 ~~(C) The report for each state fiscal year shall be filed~~  
 9 ~~by November 1 of the following fiscal year with the office of the Governor~~  
 10 ~~and the Legislative Council.~~

11 ~~(D) The report shall include information on grant~~  
 12 ~~recipients for a period of five (5) years from the date of disbursement of~~  
 13 ~~funds by the department.~~

14 ~~(2)(A)(i) Until all grant funds have been expended on a project,~~  
 15 ~~regional solid waste management boards shall provide the department with an~~  
 16 ~~annual report summarizing:~~

17 ~~(a) Progress in the project; and~~

18 ~~(b)(1) An expense itemization for each grant~~  
 19 ~~award.~~

20 ~~(2) An expense itemization is a listing~~  
 21 ~~of expenditures that includes expenditure date, item purchased, purchase~~  
 22 ~~price, and name of vendor.~~

23 ~~(ii) Copies of invoices, purchase orders, checks, or~~  
 24 ~~other supporting documents for these expenditures shall be kept on file at~~  
 25 ~~the regional solid waste district and shall be produced upon request for on-~~  
 26 ~~site inspection by the department.~~

27 ~~(iii) Copies of invoices, purchase orders, checks,~~  
 28 ~~or other supporting documents shall be required for equipment purchases and~~  
 29 ~~shall be submitted to the department with progress reports.~~

30 ~~(B) For a period of five (5) years after a grant~~  
 31 ~~recipient's receipt of grant funds, regional solid waste management boards~~  
 32 ~~shall provide the department an annual report summarizing:~~

33 ~~(i) Tonnages of materials collected by the grant~~  
 34 ~~recipient; and~~

35 ~~(ii) Revenues produced by the sale of materials~~  
 36 ~~collected.~~

1 ~~(C) The reports shall be filed annually on or before~~  
 2 ~~September 1.~~

3 ~~(D) Failure by a board to file the required reports shall~~  
 4 ~~provide grounds for the department to withhold disbursement of grant funds~~  
 5 ~~for subsequent grant rounds."~~

6  
 7 SECTION 4. Arkansas Code § 8-6-610 is amended to read as follows:

8 8-6-610. Rules and regulations ~~—Conditions imposed upon grant~~  
 9 ~~recipients.~~

10 (a) The Arkansas Pollution Control and Ecology Commission may adopt  
 11 reasonable rules and regulations necessary to implement this subchapter,  
 12 including without limitation:

13 (1) Collecting fees; and

14 ~~(2) Determining grant eligibility;~~

15 ~~(3) (2) Setting priorities for the administration of this~~  
 16 ~~subchapter; and.~~

17 ~~(4) Requiring reimbursement of grant moneys for failure to abide~~  
 18 ~~by the terms of this subchapter.~~

19 (b)~~(1)(A)~~ The rules and regulations shall be reviewed by the House  
 20 Committee on Public Health, Welfare, and Labor and the Senate Committee on  
 21 Public Health, Welfare, and Labor or appropriate subcommittees of the  
 22 committees.

23 ~~(B) At a minimum, the rules shall require that applicants~~  
 24 ~~or their agents that receive a grant meet the following conditions of the~~  
 25 ~~grant program as set forward in the department's regulations.~~

26 ~~(2) The applicants shall:~~

27 ~~(A) Have a solid waste management plan on file with the~~  
 28 ~~Arkansas Department of Environmental Quality within the first year following~~  
 29 ~~the date of the grant awarded by the department;~~

30 ~~(B) Actively develop a recycling program, as outlined in~~  
 31 ~~the grant application, in the three (3) years following the date of the grant~~  
 32 ~~award by the department;~~

33 ~~(C) Actively seek to market or reuse the materials~~  
 34 ~~diverted under the recycling program from deposition in landfills in the~~  
 35 ~~period of three (3) years following the date of the grant award by the~~  
 36 ~~department;~~

1 ~~(D)(i) In the case of mechanical processing equipment or~~  
2 ~~facilities, provide information that reasonably demonstrates that existing~~  
3 ~~mechanical processing equipment or facilities are not serving or could not~~  
4 ~~serve the relevant area.~~

5 ~~(ii) An applicant wishing to obtain a grant to~~  
6 ~~purchase mechanical processing equipment or facilities with grant funds must~~  
7 ~~describe in detail the equipment to be purchased and explain why the~~  
8 ~~applicant has concluded that such equipment is not available in the private~~  
9 ~~sector; and~~

10 ~~(E)(i) The applicant shall insert in a newspaper of~~  
11 ~~general circulation in the area affected a notice describing the applicant's~~  
12 ~~grant request and soliciting written comments from the public.~~

13 ~~(ii) The comment period shall last for thirty (30)~~  
14 ~~days after the date of publication and may be concurrent with an application~~  
15 ~~submission to the department.~~

16 ~~(iii) Copies of comments submitted under subdivision~~  
17 ~~(b)(2)(E)(i) of this section shall be forwarded to the department.~~

18 ~~(e) If, within a three-year period beginning on the date that the~~  
19 ~~department awards the grant, the grantee does not meet the conditions of the~~  
20 ~~grant prescribed under subsection (b) of this section and the regulations~~  
21 ~~promulgated under authority of this chapter, the department may order the~~  
22 ~~grantee to reimburse the department for up to one hundred percent (100%) of~~  
23 ~~the grant according to the following schedule:~~

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

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

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

33  
34 *SECTION 5. Arkansas Code Title 8, Chapter 6, Subchapter 6, is amended*  
35 *to add an additional section to read as follows:*

36 *8-6-615. Distribution of funds to regional solid waste management*



1 districts.

2 (a)(1)(A) Funds collected under § 8-6-607 and deposited into the State  
3 Treasury to the credit of the Solid Waste Management and Recycling Fund, less  
4 up to twenty percent (20%) for administrative support for the Arkansas  
5 Department of Environmental Quality, shall be allocated annually to each of  
6 the approved regional solid waste management districts utilizing a  
7 combination of the two (2) methods stated in subsections (b) and (c) of this  
8 section.

9 (B) Fifty percent (50%) of the funds shall be determined  
10 using the method provided in subsection (b) of this section, and fifty  
11 percent (50%) shall be determined using the method provided in subsection (c)  
12 of this section.

13 (C) The total figures obtained from each method shall be  
14 combined to arrive at each regional solid waste management district's fund  
15 distribution.

16 (b)(1)(A) The department shall determine the amount of funds within  
17 each planning and development district organized under § 14-166-201 et seq.  
18 and recognized by the Governor, based on the same distribution as general  
19 revenue support is distributed to the planning and development districts in  
20 the current fiscal year.

21 (B) The department shall adjust the distribution described  
22 in subdivision (b)(1)(A) of this section within the planning and development  
23 districts to coincide with the boundaries of the regional solid waste  
24 management districts by determining each county's share of the funds  
25 available within each planning and development district.

26 (C) Each county's share shall be based on the proportion  
27 that each county's population bears to the total population in the planning  
28 and development district to which the county is assigned, multiplied by the  
29 amount of funds determined to be available within the planning and  
30 development district.

31 (D) The county's proportional share as determined under  
32 this subdivision (b)(1) shall be added to all other counties' shares within  
33 the same regional solid waste management district.

34 (2) The formula to be used under this subsection is as follows:

35 (A) Divide fifty percent (50%) of the total remaining  
36 funds equally by the eight (8) regional planning and development districts;

1 (B) Multiply the quotient obtained under subdivision  
2 (b)(2)(A) of this section by the most recent federal decennial census  
3 population of each county; and

4 (C)(i) Divide the product obtained under subdivision  
5 (b)(2)(B) of this section by the planning and development district population  
6 in which the county is located to determine the portion per county.

7 (ii) Individual county portions are grouped and  
8 totalled by each new regional solid waste management district to determine  
9 each regional solid waste management district's allocation.

10 (c)(1) The remaining fifty percent (50%) of the funds shall be based  
11 on the ratio of the district's 2010 or current decennial census population  
12 divided by the most recent federal decennial census state population.

13 (2) The formula to be used under this subsection is as follows:

14 (A) Divide each solid waste management district's total  
15 population by the state's most recent federal decennial census population;  
16 and

17 (B) Multiply the quotient obtained under subdivision  
18 (c)(2)(A) of this section by the total remaining funds to determine each  
19 regional solid waste management district's allocation.

20  
21  
22 /s/Westerman

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24  
25 **APPROVED: 04/18/2013**