

1 State of Arkansas As Engrossed: H1/24/11 S2/15/11 S2/17/11 S2/24/11

2 88th General Assembly

# A Bill

3 Regular Session, 2011

HOUSE BILL 1060

4

5 By: Representatives Lindsey, D. Altes, Carnine, Fielding, Leding, B. Overbey, Summers, Woods

6 By: Senators M. Lamoureux, Madison

7

8

## For An Act To Be Entitled

9 *AN ACT TO CLARIFY THE POWER OF REGIONAL SOLID WASTE*  
10 *MANAGEMENT BOARDS TO CHARGE AND COLLECT A FEE FOR*  
11 *MANAGEMENT OF SOLID WASTE; TO DECLARE AN EMERGENCY;*  
12 *AND FOR OTHER PURPOSES.*

13

14

### Subtitle

15 *TO CLARIFY THE POWER OF REGIONAL SOLID*  
16 *WASTE MANAGEMENT BOARDS TO CHARGE AND*  
17 *COLLECT A FEE FOR MANAGEMENT OF SOLID WASTE*  
18 *AND TO DECLARE AN EMERGENCY.*

19

20

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

22

23 SECTION 1. The General Assembly finds that:

24 (1) In 1989, the General Assembly recognized the need to create  
25 regional boards to address the disposal of solid waste and encourage programs  
26 to conserve landfill capacity in the State of Arkansas that was deemed  
27 inadequate and at or near the critical point;

28 (2) In 1991, as an effort to aid in the establishment of  
29 regional boards and to provide economic viability, the General Assembly  
30 granted to regional solid waste management boards certain powers to collect  
31 fees and charges and to allow the boards to carry out the mandate of the  
32 enabling legislation;

33 (3) There now appears to be an economic crisis affecting a  
34 number of the regional solid waste management boards in the state because a  
35 legal challenge has been made regarding the authority of regional solid waste  
36 management boards to charge certain fees and charges;



1           (4) Adequate solid waste management planning that affects the  
2 ability to charge fees and charges on solid waste generated within a district  
3 is in question because of the lack of clear direction within the existing  
4 statutes; and

5           (5) The important steps the state has taken to encourage  
6 recycling and to address the state's solid waste management needs will be  
7 greatly hampered unless clear authority is given to regional solid waste  
8 management boards to charge fees and charges that will support the programs  
9 mandated by statute, but for which no other means of funding exists.

10  
11           SECTION 2. Arkansas Code § 8-6-714 is amended to read as follows:  
12           8-6-714. Rents, fees, and charges.

13           (a)(1)(A) ~~A regional solid waste management board may fix, charge, and~~  
14 ~~collect rents, fees, and charges for the disposal, treatment, or other~~  
15 ~~handling of solid waste by the district~~ of no more than two dollars (\$2.00)  
16 per ton of solid waste related to the movement or disposal of solid waste  
17 within the district, including without limitation fees and charges:

18                           (i) Related to the district's direct involvement  
19 with the district's disposal or treatment; or

20                           (ii) That support the district's management of the  
21 solid waste needs of the district.

22                           (B) The board may fix, charge, and collect fees or charges  
23 under subdivision (a)(1)(A)(ii) of this section only if the board:

24                           (i) Employs or otherwise makes available from  
25 another agency an enforcement officer to:

26   (a) Enforce all local ordinances, statutes,  
27 and regulations for which the district has been previously given enforcement  
28 authority regarding solid waste including the Illegal Dump Eradication and  
29 Corrective Action Program Act, § 8-6-501 et seq.; and

30   (b) Seek to prevent and to identify and  
31 eliminate illegal dump sites;

32   (ii) Has a program for household hazardous waste  
33 collection and disposal; and

34   (iii) Has a program for recycling that includes  
35 rural areas of the district and the recycling of bulky waste.

36           (2) The board may fix, charge, and collect fees or charges for

1 solid waste generated:

2 (A) Within or without the district delivered to a landfill  
3 or transfer station within the district, regardless of whether the disposal  
4 facilities are owned or operated by the district; or

5 (B) Within the district but delivered to a location  
6 outside the district.

7 (3) The board may fix, charge, and collect penalties from  
8 entities that fail to timely remit rents, fees, and charges under this  
9 section.

10 (4) Solid waste generated within one district and delivered to  
11 another district for disposal may be assessed a fee as follows:

12 (A) Either the district in which the solid waste was  
13 generated or a district in which the same solid waste is transported, stored,  
14 managed, or disposed may assess the fee;

15 (B) The fee may be assessed against the generator,  
16 transporter, or disposal facility; and

17 (C) Each ton or cubic yard of waste may be assessed only  
18 one (1) fee.

19 (b) The fees created in this section do not apply to:

20 (1)(A) Solid waste generated by private industry if the private  
21 industry bears the expense of operating and maintaining the disposal facility  
22 for the waste; or

23 (B) Non-municipal solid waste generated by private  
24 industry and shipped to another state for recycling, treatment, or disposal;

25 (2) Solid waste recycled, used, or generated by steel mills or  
26 related facilities classified within Subsector 331 of the 2007 North American  
27 Industrial Classification System, as it existed on January 1, 2011;

28 (3) Recyclable materials that are transported, processed, or  
29 marketed for recycling;

30 (4) Organic materials that are delivered to a permitted  
31 composting facility;

32 (5) Materials that are removed from solid waste and processed  
33 for recycling;

34 (6) Waste tires processed through a district's waste tire  
35 program; or

36 (7) Household hazardous waste collected through a district's

1 household hazardous waste program.

2 (c)(1) The fee created in subsection (b) of this section shall not  
3 exceed two dollars (\$2.00) per ton of solid waste.

4 (2) However, if weight tickets are not available, the fee shall  
5 be calculated on a volume basis at twenty-five cents (25¢) per uncompacted  
6 cubic yard or forty-five cents (45¢) per compacted cubic yard.

7 (3)(A) Districts shall determine by interlocal agreement how the  
8 districts shall:

9 (i) Assess and administer the fee; and

10 (ii) Divide the fees.

11 (B) If districts cannot reach an interlocal agreement  
12 regarding the division of the fees, then the fees shall be divided equally  
13 between the districts.

14 ~~(b)(d)~~ The board may levy a service fee on each residence or business  
15 for which the board makes solid waste collection or disposal services  
16 available.

17 ~~(e)(1)(A)~~ (e)(1)(A) The board may, by majority vote, require fees or  
18 delinquent fees to be collected with the real and personal property taxes of  
19 any county within the district.

20 (B) If the board elects to collect such fees in this  
21 manner, it shall so notify the county tax collector, who shall enter such  
22 fees on tax notices to be collected with the real and personal property taxes  
23 of the county.

24 (C) No county tax collector shall accept payment of any  
25 property taxes where the taxpayer has been billed for solid waste collection  
26 services unless the service fee is also receipted.

27 (2) If a property owner fails to pay the service fee, it shall  
28 become a lien on the property.

29  
30 SECTION 3. EMERGENCY CLAUSE. It is found and determined by the  
31 General Assembly of the State of Arkansas that unintended consequences of  
32 court action regarding the wording of Arkansas Code § 8-6-714, have been  
33 curtailed or discontinued a main source of funding for many of the programs  
34 of the solid waste management districts; that reinstatement of these funding  
35 sources and the immediate collection of these fees will put the Solid Waste  
36 Management District's budgets back on track; and that this act is immediately

1 necessary because no other funding source in state government currently  
2 exists to continue these programs of the Solid Waste Management Districts to  
3 provide services necessary to the health and welfare of Arkansas citizens and  
4 to safeguard the state's fragile ecological health and well being.

5 Therefore, an emergency is declared to exist and this act being immediately  
6 necessary for the preservation of the public peace, health, and safety shall  
7 become effective on:

8 (1) The date of its approval by the Governor;

9 (2) If the bill is neither approved nor vetoed by the Governor,  
10 the expiration of the period of time during which the Governor may veto the  
11 bill; or

12 (3) If the bill is vetoed by the Governor and the veto is  
13 overridden, the date the last house overrides the veto.

14  
15 */s/Lindsey*

16  
17  
18 **APPROVED: 03/08/2011**

19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36