

Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

1 State of Arkansas
2 82nd General Assembly
3 Regular Session, 1999
4

As Engrossed: S3/10/99

A Bill

SENATE BILL 796

5 By: Senator Gwatney
6
7

For An Act To Be Entitled

9 "AN ACT AMENDING THE SOLID WASTE MANAGEMENT ACT TO
10 RESTORE TO LOCAL GOVERNMENTS PRIMARY RESPONSIBILITY
11 FOR SOLID WASTE MANAGEMENT; TO ELIMINATE REGIONAL
12 SOLID WASTE MANAGEMENT BOARDS AND DISTRICTS; AND FOR
13 OTHER PURPOSES."

Subtitle

15 "AN ACT TO ELIMINATE REGIONAL SOLID WASTE
16 MANAGEMENT BOARDS AND DISTRICTS."
17
18
19

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

22 *SECTION 1. Arkansas Code 8-6-203 is amended to read as follows:*

23 *"8-6-203. Definitions.*

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

25 *(1) 'Commission' means the Arkansas Pollution Control and Ecology*
26 *Commission;*

27 *(2) 'County' means any county in this state;*

28 *~~(2)(3)~~ 'Department' means the Arkansas Department of Environmental*
29 *Quality, or its successor ~~Pollution Control and Ecology;~~*

30 *~~(3)(4)~~ 'Disposal site' means any place at which solid waste is dumped,*
31 *abandoned, or accepted or disposed of for final disposition by incineration,*
32 *landfilling, composting, or any other method;*

33 *(5) 'Governing body' means the quorum court of a county and the*
34 *council, board of directors, commission, or other governing body of a*
35 *municipality;*

36 *~~(4)(6)~~ 'Municipality' means a city of the first class, a city of the*



1 second class, or an incorporated town;

2 ~~(5)~~(7) 'Person' means any individual, corporation, company, firm,
3 partnership, association, trust, state agency, government instrumentality or
4 agency, institution, county, city, town, municipal authority or trust,
5 venture, or other legal entity, however organized;

6 (8) 'Sanitation Authority' means a public body and body corporate and
7 politic organized in accordance with the provisions of A.C.A. §14-233-101 et
8 seq.

9 ~~(6)~~(9) 'Solid waste' means any garbage or refuse, sludge from a
10 wastewater treatment plant, water supply treatment plant, or air pollution
11 control facility, and other discarded material, including solid, liquid,
12 semisolid, or contained gaseous material resulting from industrial,
13 commercial, mining, and agricultural operations, and from community
14 activities, but does not include solid or dissolved materials in domestic
15 sewage, or solid or dissolved materials in irrigation return flows or
16 industrial discharges that are point sources subject to permit under 33
17 U.S.C. § 1342, or source, special nuclear, or by-products material as defined
18 by the Atomic Energy Act of 1954, as amended (68 Stat. 923);

19 ~~(7) 'Solid waste board' or 'board' means a regional solid waste~~
20 ~~planning board or a solid waste service area board, or its successor, created~~
21 ~~under § 8-6-701 et seq.;~~

22 ~~(8)~~(10) 'Solid waste management system' means the entire process of
23 source reduction, storage, collection, transportation, processing, waste
24 minimization, recycling, and disposal of solid wastes by any person engaging
25 in the process as a business or by any municipality, authority, trust,
26 county, or by any combination thereof; and

27 ~~(9)~~(11) 'Transfer station' means a facility that is used to manage the
28 removal, compaction, and transfer of solid waste from collection vehicles and
29 other small vehicles to greater capacity transport vehicles."
30

31 SECTION 2. Arkansas Code 8-6-207(a) is amended to read as follows:

32 "(a) The Arkansas Department of Environmental Quality Pollution
33 ~~Control and Ecology~~, or its successor, shall have the following powers and
34 duties:

35 (1) To administer and enforce all laws, rules, and regulations
36 relating to solid waste disposal;

1 (2) To advise, consult, and cooperate with appropriate federal,
2 state, interstate, and local units of government and with affected groups and
3 industries in the formulation of plans and the implementation of a solid
4 waste management program pursuant to this subchapter;

5 (3) To accept and administer loans and grants from the federal
6 government and from such other sources as may be available to the commission
7 for the planning, construction, and operation of solid waste management
8 systems and disposal facilities;

9 (4) To develop a statewide solid waste management plan in
10 cooperation with municipal and county governments and sanitation authorities
11 ~~solid waste boards~~, giving emphasis to regional planning where feasible;

12 (5) To require to be submitted and to approve plans and
13 specifications for the construction and operation of solid waste disposal
14 facilities and sites and to inspect the construction and operation thereof;

15 (6) To issue, continue in effect, revoke, modify, or deny, under
16 such conditions as it may prescribe, permits for the establishment,
17 construction, operation, or maintenance of solid waste management systems,
18 disposal sites, and facilities;

19 (7) To make investigations, inspections, and to hold such
20 hearings, after notice, as it may deem necessary or advisable for the
21 discharge of duties under this subchapter and to ensure compliance with this
22 subchapter and any orders, rules, and regulations issued pursuant thereto;

23 (8) To make, issue, modify, revoke, and enforce orders, after
24 notice and opportunity for adjudicatory review by the commission, prohibiting
25 violation of any of the provisions of this subchapter or of any rules and
26 regulations issued pursuant to it, and to require the taking of such remedial
27 measures for solid waste disposal as may be necessary or appropriate to
28 implement or effectuate the provisions and purposes of this subchapter;

29 (9) To institute proceedings in the name of the department in
30 any court of competent jurisdiction to compel compliance with, and to
31 restrain any violation of, the provisions of this subchapter or any rules,
32 regulations, and orders issued pursuant thereto, and to require the taking of
33 such remedial measures for solid waste disposal as may be necessary or
34 appropriate to implement or effectuate the provisions and purposes of this
35 subchapter;

36 (10) To initiate, conduct, and support research, demonstration

1 projects, and investigations and to coordinate all state agency research
2 programs pertaining to solid waste disposal and management systems;

3 (11) To make periodic inspections not less than quarterly in
4 accordance with regulations promulgated by the commission of all solid waste
5 disposal facilities or sites permitted under this subchapter to ensure
6 compliance with all requirements of this subchapter and the regulations
7 promulgated under this subchapter and to make final inspection of closed or
8 abandoned solid waste disposal sites to determine compliance with rules and
9 regulations for proper closure and proper filling and drainage of the site;

10 (12) To issue, continue in effect, revoke, modify, or deny,
11 under such conditions as it may prescribe, permits for the establishment,
12 construction, operation, or maintenance of transfer stations;

13 (13) To regulate and license persons engaged in the business of
14 transporting used and waste tires;

15 (14) To establish minimum standards for the operation of a solid
16 waste collection system; and

17 (15) Upon the petition of a municipality or county government,
18 ~~solid waste board~~ or upon its own initiative, to revoke, modify, or deny a
19 permit for a solid waste disposal facility or a permit for any other element
20 of a solid waste management system based on noncompliance with ~~an approved~~
21 ~~regional~~ a municipal or county solid waste management plan developed in
22 accordance with the provisions of A.C.A §8-6-211 or 8-6-212 ~~of a solid waste~~
23 ~~board.~~"

24
25 SECTION 3. Arkansas Code 8-6-209 is amended to read as follows:

26 "8-6-209. Local standards.

27 (a)~~(1)~~ No municipality or county may, by ordinance, resolution, order,
28 or otherwise, adopt standards for the location, design, construction, and
29 maintenance of solid waste disposal sites and facilities that are more
30 restrictive than those adopted by, under, or pursuant to this subchapter or
31 any and all applicable laws, rules, regulations, or orders adopted by state
32 law or incorporated by reference from federal law, or the Arkansas Pollution
33 Control and Ecology Commission under the provisions of this subchapter, ~~or~~
34 ~~the regional solid waste management boards or districts,~~ unless there exists
35 a fully implemented comprehensive area-wide zoning plan, and corresponding
36 laws or ordinances, covering the entire municipality or county.

1 ~~(b)(1) Subsection (a) of this section shall not apply if a~~
 2 ~~municipality or county, by resolution, requests that the regional solid waste~~
 3 ~~management board or district for its region adopt a more restrictive rule,~~
 4 ~~regulation, order, or standard and such board or district either fails to~~
 5 ~~hold a public hearing on the request within sixty (60) days of the request,~~
 6 ~~or, after such public hearing, fails to take any action on the request within~~
 7 ~~ninety (90) days of receipt of the request.~~

8 ~~(2) If the board or district takes action on the request by~~
 9 ~~approving, modifying, or denying the request within ninety (90) days of its~~
 10 ~~receipt, the municipality or county shall be precluded from adopting and~~
 11 ~~enforcing any more restrictive rule, regulation, order, or standard under~~
 12 ~~subsection (a) of this section.~~

13 ~~(2)(b)~~ Municipal or county ordinances, resolutions, or orders effective
 14 as of the date of the passage of this act, and more restrictive than regional
 15 or state standards, shall remain in full force and effect for a period of six
 16 (6) months following the date of the passage of this act.

17 ~~(3)(c)~~ Provided, also, that if a county or municipality adopts a
 18 comprehensive area-wide zoning plan, and corresponding laws and ordinances
 19 covering the entire county or city as referred to in §8-6-212(e), the county
 20 or city may incorporate existing ordinances, resolutions, or orders in that
 21 plan.

22 ~~(4)(d)~~ Otherwise, any and all such standards adopted by a municipality
 23 or county must be consistent with, in accordance with, and not more
 24 restrictive than, said federal ~~and~~, state, ~~and regional~~ laws, rules,
 25 regulations, and orders. Any and all such municipalities or county
 26 ordinances, resolutions, orders, or standards contrary to this section shall
 27 be null, void, and repealed.”

28
 29 SECTION 4. Arkansas Code 8-6-210 is amended to read as follows:

30 “8-6-210. Compacts Agreements authorized.

31 (a) ~~Any two (2) or more municipalities, counties or other public~~
 32 ~~agencies may enter into agreements with one another for joint or cooperative~~
 33 ~~action pursuant to a solid waste management system. Any county or~~
 34 ~~municipality is authorized and empowered to enter into compacts, with any~~
 35 ~~county or counties, any municipality or municipalities, for the purpose of a~~
 36 ~~cooperative effort to carry out any or all of the purposes authorized by the~~

1 Arkansas Solid Waste Management Act, beginning at § 8-6-201.

2 (b) Any compact ~~agreement~~ shall specify the following:

3 (1) Its duration;

4 (2) The precise organization, composition, and nature of any
5 separate legal or administrative entity created by the compact, ~~agreement~~
6 together with the powers delegated thereto, provided that the entity may be
7 legally created;

8 (3) Its purpose;

9 (4) The manner of financing the joint or cooperative undertaking
10 and of establishing and maintaining a budget, provided that the legal entity
11 may incur indebtedness for the lease or purchase of land, equipment, and
12 other expenses necessary to the operation of a solid waste management system,
13 or any part of it;

14 (5) The permissible methods to be employed in accomplishing the
15 partial or complete termination of the ~~agreement~~ compact and for disposing of
16 property upon the partial or complete termination;

17 (6) Any other necessary and proper matters.”

18
19 SECTION 5. Arkansas Code 8-6-211 is amended to read as follows:

20 “8-6-211. Municipal solid waste management systems.

21 (a) All municipalities shall develop a solid waste management plan for
22 providing a solid waste management system which will adequately provide for
23 the collection and disposal of all solid wastes generated or existing within
24 the incorporated limits of the municipality or in the area to be served.
25 Such plan shall be maintained at the appropriate public offices of the
26 municipality. The plan shall be subject to the approval of the department and
27 shall be made available to the department or any authorized employee or agent
28 upon request. The commission shall promulgate rules and regulations
29 governing the contents, at a minimum, that the solid waste management plan
30 shall include, the deadline for completing such plan, and the frequency with
31 which the plan shall be updated.

32 ~~(a)(b) All municipalities shall provide a solid waste management system~~
33 ~~which will adequately provide for the collection and disposal of all solid~~
34 ~~wastes generated or existing within the incorporated limits of the~~
35 ~~municipality or in the area to be served and in accordance with the rules,~~
36 ~~regulations, and orders of the Arkansas Pollution Control and Ecology~~

1 ~~Commission~~. The governing body of the municipality may enter into agreements
2 with one (1) or more other municipalities, or counties, ~~a regional solid~~
3 ~~waste management district~~, private persons or trusts, or with any combination
4 thereof, to provide a solid waste management system, or any part of a system,
5 for the municipality, but the agreement shall not relieve the parties of
6 their responsibilities under this subchapter.

7 ~~(b)~~(c)(1) The governing body of the municipality shall have the
8 authority to levy and collect such fees and charges and require such licenses
9 as may be appropriate to discharge its responsibility under this subchapter,
10 and the fees, charges, and licenses shall be based on a fee schedule as set
11 forth in an ordinance.

12 (2)(A) Without limitation on otherwise appropriate collection
13 procedures, a municipality may collect its fees and service charges through
14 either its own system of periodic billing or by entering the fees and service
15 charges on the tax records of the county and then collecting the fees and
16 service charges with the personal property taxes on an annual basis.

17 (B) Further, any fees and service charges billed
18 periodically by the cities which are more than ninety (90) days delinquent on
19 November 1 of each year may be entered on the tax records of the county as a
20 delinquent periodic fee or service charge and may be collected by the county
21 with personal property taxes.

22 (3)(A)(i) In counties where the fees are entered on the tax
23 records for yearly collection or if the periodic fees and service charges are
24 more than ninety (90) days delinquent as of November 1, the fees and service
25 charges shall be entered on the tax records of the county by the county clerk
26 and shall be collected by the county collector with the personal property
27 taxes.

28 (ii) The fees and service charges to be collected
29 shall be certified to the county clerk by December 1 each year by an
30 appropriate municipal official or the mayor.

31 (iii) No county collector of taxes shall accept
32 payment of any property taxes where annual fees and service charges or
33 delinquent periodic fees and service charges appear on the county tax records
34 of a taxpayer unless the fees and service charges due are also receipted.

35 (iv) These funds shall be receipted and deposited
36 into an official account of the county collector, who shall settle the

1 account at least quarterly.

2 (B) Annual fees and service charges or the delinquent
3 periodic fees and service charges which remain unpaid after the time other
4 property taxes are due shall constitute a lien on the real and personal
5 property of the taxpayer which may be enforced against such property by an
6 action in chancery court.

7 (C) The amount of any fees and service charges collected
8 shall then be paid to the municipality by the collector, less four percent
9 (4%) to be retained by the collector.

10 (D) In addition, where the collector maintains a separate
11 tax book for these fees and charges, the collector may charge an additional
12 two dollars and fifty cents (\$2.50) for collection.

13 ~~(e)~~(d) Municipalities may accept and disburse funds derived from grants
14 from the federal or state governments, from private sources, or from moneys
15 that may be appropriated from any available funds for the installation and
16 operation of a solid waste management system or any part of a system.

17 ~~(d)~~(e) Municipalities are authorized to contract for the purchase of
18 land, facilities, vehicles, and machinery necessary to the installation and
19 operation of a solid waste management system ~~either individually or as a~~
20 ~~party to a regional or county solid waste authority.~~

21 ~~(e)~~(f) The governing body of a municipality shall have the right to
22 establish policies for and enact laws concerning all phases of the operation
23 of a solid waste management system, including hours of operation, the
24 character and kinds of wastes accepted at the disposal site, the separation
25 of wastes according to type by those generating them prior to collection, the
26 type of container for storage of wastes, the prohibition of burning of
27 wastes, the pretreatment of wastes, and such other rules as may be necessary
28 or appropriate, so long as the laws, policies, and rules are consistent with,
29 in accordance with, and not more restrictive than, those adopted by, under,
30 or pursuant to this subchapter or any laws, rules, regulations, or orders
31 adopted by state law or incorporated by reference from federal law, or the
32 Arkansas Pollution Control and Ecology Commission, ~~or the regional solid~~
33 ~~waste management boards or districts~~, unless there exists a fully implemented
34 comprehensive area-wide zoning plan and corresponding laws or ordinances
35 covering the entire municipality, ~~or unless the municipality has made a~~
36 ~~request to the regional solid waste management board or district to adopt a~~

1 ~~more restrictive rule, regulation, order, or standard and no public hearing~~
2 ~~has been held within sixty (60) days or the request has not been acted upon~~
3 ~~within ninety (90) days.”~~

4
5 SECTION 6. Arkansas Code 8-6-212 is amended to read as follows:

6 “8-6-212. County solid waste management systems.

7 (a) Each county shall develop a solid waste management plan for
8 providing a solid waste management system which will adequately provide for
9 the collection and disposal of all solid wastes generated or existing within
10 the boundaries of the county and outside the corporate limits of any
11 municipality in the county. Such plan shall be maintained at the appropriate
12 public offices of the county. The plan shall be subject to the approval of
13 the department and shall be made available to the department or any
14 authorized employee or agent upon request. The commission shall promulgate
15 rules and regulations governing the contents, at a minimum, that the solid
16 waste management plan shall include, the deadline for completing such plan,
17 and the frequency with which the plan shall be updated.

18 ~~(a)(b)~~(1) Each county of the state is authorized to provide, and shall
19 provide, a solid waste management system adequate to collect and dispose of
20 all solid wastes generated or existing within the boundaries of the county
21 and outside the corporate limits of any municipality in the county.

22 (2) By agreement or contractual arrangement the county may
23 assume responsibility for solid wastes generated within municipalities
24 whether within its county or other counties.

25 (3) A county may enter into agreements with other counties, one
26 (1) or more municipalities, ~~a regional solid waste management district,~~
27 governmental agencies, private persons, trusts, or with any combination
28 thereof, to provide a solid waste management system for the county or any
29 portion thereof, but the agreement shall not relieve the parties to the
30 agreement of their responsibilities under this subchapter.

31 ~~(b)(c)~~ A county government shall have the authority to levy and
32 collect such fees and charges and require such licenses as may be appropriate
33 to discharge the county’s responsibility for a solid waste management system
34 or any portion thereof. The fees, charges, and licenses shall be based on a
35 fee schedule contained in a duly adopted ordinance.

36 (1)(A) A county government may collect its fees and service

1 charges through either its own system of periodic billing or by entering the
2 fees and service charges on the tax records of the county and then collecting
3 the fees and service charges with the personal property taxes on an annual
4 basis.

5 (B) Further, any fees and service charges billed
6 periodically by the county which are more than ninety (90) days delinquent on
7 November 1 of each year may be entered on the tax records of the county as a
8 delinquent periodic fee or service charge and may be collected by the county
9 with personal property taxes.

10 (C) No county collector of taxes shall accept payment of
11 any property taxes where annual fees and service charges or delinquent
12 periodic fees and service charges appear on the county tax records of a
13 taxpayer unless the fees and service charges due are also receipted.

14 (i) These funds shall be receipted and deposited
15 into an official account of the county collector who shall settle the account
16 at least quarterly.

17 (ii) The amount of any fees and service charges
18 collected shall then be paid to the county treasurer by the collector, less
19 four percent (4%) to be retained by the collector. In addition, where the
20 collector maintains a separate tax book for those fees and charges, the
21 collector may charge an additional two dollars and fifty cents (\$2.50) for
22 collection.

23 (2)(A) In counties where the fees are entered on the tax records
24 for yearly collection or if the periodic fees and service charges are more
25 than ninety (90) days delinquent as of November 1, the fees and service
26 charges shall be entered on the tax records of the county by the county clerk
27 and shall be collected by the county collector with the personal property
28 taxes.

29 (B) The fees and service charges to be collected shall be
30 certified to the county clerk by December 1 each year by an appropriate
31 municipal official or the mayor.

32 (3) Annual fees and service charges or the delinquent periodic
33 fees and service charges which remain unpaid after the time other property
34 taxes are due shall constitute a lien on the real and personal property of
35 the taxpayer which may be enforced against such property by an action in
36 chancery court.

1 ~~(e)~~(d) A county may accept and disburse funds derived from federal or
 2 state grants, from private sources, or from moneys that may be appropriated
 3 from any available funds for the installation and operation of a solid waste
 4 management system or any part thereof.

5 ~~(d)~~(e) A county is authorized to contract for the lease or purchase of
 6 land, facilities, and vehicles for the operation of a solid waste management
 7 system ~~either for the county or as a party to a regional solid waste~~
 8 ~~authority.~~

9 ~~(e)~~(f) A county shall have the right to issue orders, to establish
 10 policies for, and to enact ordinances concerning all phases of the operation
 11 of a solid waste management system, including hours of operation, the
 12 character and kinds of wastes accepted at the disposal site, the separation
 13 of wastes according to type by those generating them prior to collection, the
 14 type of container for storage of wastes, the prohibition of burning of
 15 wastes, the pretreatment of wastes, and such other rules as may be necessary
 16 or appropriate, so long as such orders, policies, and ordinances are
 17 consistent with, in accordance with, and not more restrictive than, those
 18 adopted by, under, or pursuant to this subchapter or any other laws, rules,
 19 regulations, or orders adopted by state law or incorporated by reference from
 20 federal law, or the Arkansas Pollution Control and Ecology Commission, ~~or the~~
 21 ~~regional solid waste management boards or districts,~~ unless there exists a
 22 fully implemented comprehensive area-wide zoning plan and corresponding laws
 23 or ordinances covering the entire county, ~~or unless the county has made a~~
 24 ~~request to the regional solid waste management board or district to adopt a~~
 25 ~~more restrictive rule, regulation, order, or standard and no public hearing~~
 26 ~~has been held within sixty (60) days or the request has not been acted upon~~
 27 ~~within ninety (90) days."~~

28
 29 SECTION 7. Arkansas Code 8-6-219(a) is amended to read as follows:

30 “(a) An applicant for a new permit under this subchapter or the
 31 modification or transfer of a permit shall be a person, partnership,
 32 corporation, association, the State of Arkansas, a political subdivision of
 33 the state, an improvement district, or a sanitation authority, ~~or a solid~~
 34 ~~waste board.”~~

35
 36 SECTION 8. Section 8-6-220(b) is amended to read as follows:

1 “(b)(1) ~~In addition to composting requirements for regional solid~~
2 ~~waste management districts set forth in § 8-6-719, each district~~ Each
3 municipality or county shall furnish yard waste reduction or usage and/or
4 opportunities to ensure that its residents are provided with the availability
5 to choose, based upon need by population and/or area, ways and means of
6 usage, reduction, reuse, and/or composting of yard waste.

7 (2) Such choices of yard waste reduction and/or usage ~~shall be~~
8 ~~submitted to the department for approval and shall become an integral part of~~
9 ~~the district's~~ municipality or county's solid waste management plan developed
10 pursuant to §8-6-211(a) or §8-6-212(a).”

11
12 SECTION 9. Section 8-6-222 is hereby repealed:

13 ~~8-6-222. Standards for sites and facilities.~~

14 ~~Regional solid waste management boards may adopt more restrictive~~
15 ~~standards for the location, design, construction, and maintenance of solid~~
16 ~~waste disposal sites and facilities than the state or federal governments.~~

17
18 SECTION 10. Title 8, Chapter 6, Subchapter 2 is amended to add a new
19 section, to be numbered by the Arkansas Code Revision Commission:

20 “Certificate of Need.

21 Any applicant seeking a permit for a solid waste landfill to be located
22 within the jurisdiction of a municipality or county which provides a solid
23 waste management system through its participation in a compact, sanitation
24 authority, or other multi-jurisdictional agreement as provided for in §§ 8-6-
25 210, 8-6-211, 8-6-212, 14-232-112, or the Joint County and Municipal Solid
26 Waste Disposal Act, must obtain a certificate of need from the appropriate
27 multi-jurisdictional solid waste authority identified or created by such an
28 agreement prior to submitting a permit application to the department. The
29 department may deny any permit based upon the denial of a certificate of
30 need.

31 (a)(1) Applicants must petition the appropriate multi-jurisdictional
32 solid waste authority with jurisdiction over a proposed solid waste disposal
33 site for a certificate of need in accordance with procedures established for
34 such authority by the governing bodies of the local governments participating
35 in the multi-jurisdictional agreement.

36 (2) The applicant's petition must establish, at a minimum, that

1 the proposed disposal facility:

2 (A) Is consistent with the solid waste management plan
3 adopted by the local governments participating in the multi-jurisdictional
4 agreement or the authority created pursuant to the multi-jurisdictional
5 agreement;

6 (B) Does not conflict with existing comprehensive land use
7 plans of the municipality or county with jurisdiction over the proposed site;

8 (C) Does not disturb an archaeological site as recognized
9 by the Arkansas Archaeological Survey, or a rare and endangered species
10 habitat as recognized by the Arkansas State Game and Fish Commission or the
11 United States Fish and Wildlife Service;

12 (D) Will not adversely affect the public use of any local,
13 state, or federal facility, including, but not limited to, parks and wildlife
14 management areas;

15 (E) Does not conflict with the requirements of state or
16 federal laws and regulations on the location of disposal facilities; and

17 (F) If located in the 100-year floodplain, does not
18 restrict the flow of the 100-year flood, reduce the temporary water storage
19 capacity of the floodplain, or result in washout of solid waste so as to pose
20 a hazard to human health or the environment.

21 (b) Any interested party to a certificate of need determination by an
22 appropriate authority identified or created pursuant to a multi-
23 jurisdictional agreement may appeal the decision of the authority to the
24 director of the department pursuant to procedures adopted by the commission.
25 The director may issue a permit despite the denial of a certificate of need
26 if the director finds upon appeal that the decision of the authority was not
27 supported by substantial evidence.

28 (c) After notice and a public hearing to be held by the appropriate
29 authority in the county where the proposed landfill is to be located,
30 certificates of need shall be issued or denied based upon an evaluation of:

31 (1) The information provided by the applicant in the petition
32 for a certificate of need;

33 (2) The location of the applicant's proposed landfill based on
34 the needs of the local governments participating in the multi-jurisdictional
35 solid waste authority and their highway and road systems;

36 (3) The need for the landfill based upon the participating local

1 governments' excess projected capacity which is currently permitted for
 2 operation, but in no event shall the participating local governments' excess
 3 permitted projected capacity exceed thirty (30) years;

4 (4) Any solid waste management system plans, promulgated
 5 pursuant to §§ 8-6-211 and 8-6-212;

6 (5) A detailed history of the applicant's record and that of the
 7 stockholders and officers with respect to violations of environmental laws
 8 and regulations of the United States or any state or any political
 9 subdivision of any state; and

10 (6) Any procedures adopted by the appropriate authority for
 11 issuance of certificates of need.

12 (d) All landfill permit applications shall specify the service areas
 13 which the landfill will serve under the permit."

14
 15 SECTION 11. Arkansas Code 8-6-503 is amended to read as follows:
 16 "8-6-503. 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 Environmental
 21 Quality, or its successor ~~Pollution Control and Ecology;~~

22 (3) 'Director' means the Director of the Arkansas Department of
 23 Environmental Quality ~~Pollution Control and Ecology;~~

24 (4) 'Illegal dump' means any place at which solid waste is placed,
 25 deposited, abandoned, dumped, or otherwise disposed of in a manner that is
 26 prohibited by this subchapter or other statutes, rules, or regulations, and
 27 which constitute one (1) of and/or any of the following:

28 (A) Attractive nuisance;

29 (B) Fire, health, or safety hazard;

30 (C) Potential sources of surface and/or groundwater
 31 contamination; or

32 (D) Other contamination that is hazardous to the public health
 33 or endangers the environment;

34 (5) 'Illegal dumping of solid waste' means the illegal placing,
 35 depositing, dumping, or causing to be placed, deposited, or dumped, by any
 36 person any solid waste that is prohibited by this chapter:

1 (A) In or upon any public or private highway or road, including
2 any portion of the right-of-way thereof;

3 (B) In or upon any private property into or upon which the
4 public is admitted by easement or license, or any private property;

5 (C) In or upon any public park or other public property, other
6 than the property designated or set aside for such purpose by the governing
7 board or body having charge thereof; or

8 (D) Upon any property for which a permit has not been issued by
9 the department;

10 (6) 'Illegal dumps control officer' means an individual employed by a
11 ~~duly authorized regional solid waste management district within this state, a~~
12 county government within this state, or a pollution control inspector or
13 other authorized representative of the Arkansas Department of Environmental
14 Quality Pollution Control and Ecology, who is empowered to ensure compliance
15 with the provisions of this subchapter.

16 (7) 'Landfill' means all landfills permitted under the Arkansas Solid
17 Waste Management Act, beginning at § 8-6-201 et seq., except those landfills
18 where a private industry bears the expense of operating and maintaining the
19 landfill solely for the disposal of wastes generated by the industry or
20 wastes of a similar kind or character;

21 (8) 'Person' means any individual, corporation, company, firm,
22 partnership, association, trust, state agency, government instrumentality or
23 agency, institution, county, city, town, municipal authority or trust,
24 venture, or other legal entity, however organized; and

25 (9) 'Solid waste' means any garbage or refuse, sludge from a
26 wastewater treatment plant, water supply treatment plant, or air pollution
27 control facility, and other discarded material, including solid, liquid,
28 semisolid, or contained gaseous material resulting from industrial,
29 commercial, mining, and agricultural operations and from community
30 activities, but does not include solid or dissolved materials in domestic
31 sewage, or solid or dissolved materials in irrigation return flows or
32 industrial discharges that are point sources subject to permit under 33
33 U.S.C. § 1342, or source, special nuclear, or by-product material as defined
34 by the Atomic Energy Act of 1954, as amended (68 Stat. 923)."

35
36 SECTION 12. Arkansas Code 8-6-602 is amended to read as follows:

1 “8-6-602. Legislative findings and intent - Duties of commission and
2 department - Construction.

3 (a) The General Assembly finds that adequate ~~the~~ solid waste
4 management must be provided ~~needs of the state are not being met in an~~
5 efficient, cost-efficient, and environmentally sound manner, for the benefit
6 of the citizens of Arkansas. ~~The current reliance upon localized landfills~~
7 ~~is threatening to add Arkansas to those states experiencing solid waste~~
8 ~~management crises.~~

9 ~~(b) The General Assembly concludes that, to the extent practicable,~~
10 ~~regional solid waste management systems should be developed which address~~
11 ~~solid waste needs in the context of cooperation and shared resources.~~

12 ~~(e)(b)~~ (b) The General Assembly finds that recycling glass, plastic, cans,
13 paper, and other materials will reduce the state’s reliance upon landfills,
14 curb littering, and abate the environmental risks caused by current solid
15 waste practices. The General Assembly therefore mandates that recycling shall
16 be integrated as a component of any solid waste management plan required
17 pursuant to the Arkansas Solid Waste Management Act, beginning at § 8-6-201
18 ~~et seq.~~, and that said recycling plans shall be implemented in accordance
19 with the terms of this subchapter.

20 ~~(d)(c)~~ (c) The ~~department and the commission are~~ is charged with the duty
21 to promulgate ~~and implement policies, regulations, and procedures~~ regulations
22 prescribing procedures for administering the terms of this subchapter,
23 including a grant program to develop solid waste management plans, programs,
24 and facilities which stress recycling. The department is charged with the
25 duty to implement the policies and procedures prescribed under this
26 subchapter.

27 ~~(e)(d)~~ (d) The terms and obligations of this subchapter shall be liberally
28 construed so as to achieve remedial intent”’

29
30 SECTION 13. Arkansas Code 8-6-603 is amended to read as follows:

31 “8-6-603. Definitions.

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

33 (1) ‘Commission’ means the Arkansas Pollution Control and Ecology
34 Commission;

35 (2) ‘County’ means any county in this state;

36 ~~(2)(3)~~ (3) ‘Department’ means the Arkansas Department of Environmental

1 Quality or its successor ~~Pollution Control and Ecology~~;

2 ~~(3)~~(4) 'Landfill' means all landfills permitted under the Arkansas
3 Solid Waste Management Act, beginning at § 8-6-201 et seq., except those
4 permitted landfills operated by a regulated public utility for ash generated
5 by the combustion of coal to produce electric energy;

6 (5) 'Municipality' means a city of the first class, a city of the
7 second class, or an incorporated town;

8 ~~(4)~~(6) 'Permittee' means any individual, corporation, company, firm,
9 partnership, association, trust, local solid waste authority, institution,
10 county, city, town, or municipal authority or trust, venture, or other legal
11 entity holding a solid waste disposal permit as provided in the Arkansas
12 Solid Waste Management Act, beginning at § 8-6-201 et seq.;

13 ~~(5)~~(7) 'Recycling' means the systematic collection, sorting,
14 decontamination, and return of waste materials to commerce as commodities for
15 use or exchange;

16 ~~(6)~~(8) 'Solid waste' means any garbage or refuse, sludge from a
17 wastewater treatment plant, water supply treatment plant, or air pollution
18 control facility, and other discarded material, including solid, liquid,
19 semisolid, or contained gaseous material resulting from industrial,
20 commercial, mining, and agricultural operations, and from community
21 activities, but does not include solid or dissolved materials in domestic
22 sewage, or solid or dissolved materials in irrigation return flows or
23 industrial discharges that are point sources subject to permit under 33
24 U.S.C. § 1342, or source, special nuclear, or by-product material as defined
25 by the Atomic Energy Act of 1954, as amended (68 Stat. 923);

26 ~~(7)~~(9) 'Solid waste disposal permit' means a permit issued by the State
27 of Arkansas under the provisions of the Arkansas Solid Waste Management Act,
28 ~~under provisions of~~ beginning at § 8-6-201 et seq. for the construction and
29 operation of a landfill waste disposal facility;

30 ~~(8)~~(10) 'Solid waste management' means the management of, but is not
31 limited to, the storage, collection, transfer, transportation, treatment,
32 utilization, processing, and final disposal of solid waste, including, but
33 not limited to, the prevention, reduction, or recycling of wastes;

34 ~~(9)~~(11) 'Solid waste management plan' means a plan which is developed
35 according to the provisions of the Arkansas Solid Waste Management Act,
36 beginning at § 8-6-201 et seq., and guidelines of the department, and which

1 is subject to approval by the department; and

2 ~~(10)~~(12) 'Transporter' or 'solid waste transporter' means any
3 individual, corporation, company, firm, partnership, association, trust,
4 local solid waste authority, institution, county, city, town, or municipal
5 authority or trust, venture, or other legal entity transporting solid waste
6 within the state that is to be disposed of outside the state."

7
8 SECTION 14. Arkansas Code 8-6-609 is amended to read as follows:

9 "8-6-609. Grant program.

10 (a) There is hereby created a grant program of assistance for
11 ~~districts and local~~ municipalities and county governments and their delegated
12 authorities and agents to develop solid waste management plans, programs, and
13 facilities that integrate recycling as a functional part of the solid waste
14 management system, ~~provided that the legislative preference for regional or~~
15 ~~multicounty solid waste management planning is implemented in the~~
16 ~~administration of this grant program.~~

17 (b)(1) Any county, municipality ~~city~~, multi-county, ~~regional~~,
18 sanitation authority, or other solid waste authority is eligible to receive a
19 grant for a grant pursuant to rules and regulations adopted by the commission
20 and administered by the department. Funds collected under the provisions of
21 § 8-6-607 and deposited in the State Treasury to the credit of the Solid
22 Waste Management and Recycling Fund, shall be allocated annually as follows:
23 less up to twenty-five percent (25%) one million dollars (\$1,000,000) shall
24 be allocated for a college scholarship program to be administered by the
25 school superintendents for the purpose of awarding 1,000 scholarships of no
26 more than \$1,000 each; and of the remaining amount, fifty percent (50%) shall
27 be allocated to the department for administrative support for the department
28 and fifty percent (50%) shall be annually allocated to among local
29 governments and any other authorities eligible to receive a grant. each of
30 the approved regional solid waste management districts for costs eligible for
31 grant assistance utilizing a combination of two (2) methods, hereafter
32 referred to as 'method A' and 'method B'. Fifty percent (50%) of set aside
33 funds will be determined using method A, and fifty percent (50%) will be
34 determined using method B. The total figures obtained from each method will
35 be combined to arrive at each regional solid waste management district's fund
36 distribution.

1 ~~(2)(A) Method A:~~

2 ~~(i) The department shall determine the amount of~~
3 ~~funds within each planning and development district organized under~~
4 ~~§14-166-201 et seq., and recognized by the Governor, based upon the same~~
5 ~~distribution as general revenue support is distributed to the planning and~~
6 ~~development districts in the current fiscal year.~~

7 ~~(ii) The department shall adjust the distribution~~
8 ~~within the planning and development districts to coincide with the boundaries~~
9 ~~of the regional solid waste management districts by determining each county's~~
10 ~~share of the funds available within each planning and development district.~~
11 ~~Each county's share shall be based upon the proportion that each county's~~
12 ~~population bears to the total population in the planning and development~~
13 ~~district to which the county is assigned, multiplied by the amount of funds~~
14 ~~determined to be available within the planning and development district. The~~
15 ~~county's proportional share, as determined, shall be added to all other~~
16 ~~counties' shares within the same regional solid waste management district.~~

17 ~~(B)(i) Formula for method A:~~

18 ~~(a) Begin with fifty percent (50%) of the~~
19 ~~total remaining grant funds;~~

20 ~~(b) Divide equally by the eight (8) regional~~
21 ~~planning and development districts;~~

22 ~~(c) Multiply this result by the 1990 or~~
23 ~~current decennial census population of each county; and~~

24 ~~(d) Divide this result by the planning and~~
25 ~~development district population in which the county is located. This~~
26 ~~determines the portion per county.~~

27 ~~(ii) Individual county portions are grouped and~~
28 ~~totaled by each new regional solid waste management district to give each~~
29 ~~regional solid waste management district's allocation.~~

30 ~~(3)(A) Method B: The remaining fifty percent (50%) of set aside~~
31 ~~funds in a grant round shall be based upon the ratio of the district's 1990~~
32 ~~or current decennial census population divided by the 1990 or current~~
33 ~~decennial census state population.~~

34 ~~(B)(i) Formula for method B:~~

35 ~~(a) Begin with each solid waste management~~
36 ~~district's total population;~~

1 ~~(b) Divide by the state's 1990 or current~~
2 ~~decennial census population to get the ratio; and~~

3 ~~(c) Multiply by the total remaining grant~~
4 ~~funds.~~

5 ~~(ii) This equals each regional solid waste~~
6 ~~management district's allocation.~~

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

9 ~~(5) Funds set aside to two (2) or more districts in a grant~~
10 ~~round may be combined to fund a joint application, provided the joint~~
11 ~~application has been signed by the regional solid waste management board~~
12 ~~chairman for each district.~~

13 (c)(1) Costs eligible for grant assistance include, but are not
14 limited to, costs for solid waste management planning that integrates
15 recycling, costs for public information and education programs that encourage
16 waste reduction and stimulate demand for products produced from recycled
17 materials, costs of waste transfer facilities that integrate recycling in
18 their operations, costs of recycling equipment, and recycling program and
19 market development costs.

20 (2) Grant assistance shall not be provided for the purpose of
21 purchasing mechanical processing equipment or facilities if existing
22 mechanical processing equipment or facilities adequately serve the relevant
23 area, unless the department determines that the equipment or facility is an
24 indispensable component of an otherwise eligible grant project and would more
25 efficiently serve the relevant area.

26 ~~(3)(A) The total amount of grants for administrative costs set~~
27 ~~out for all districts shall not exceed five hundred thousand dollars~~
28 ~~(\$500,000) per annum.~~

29 ~~(B)(d) The commission department is hereby granted authority to~~
30 ~~promulgate develop regulations in accordance herewith.~~

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

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

1 ~~(B) The district shall prioritize and select grant~~
2 ~~projects from its district members for submission to the department, such~~
3 ~~selection being the sole discretion of the district.~~

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

7 ~~(d)~~(e) (1) The department shall prepare an annual progress report on
8 grant assistance made under this section.

9 (A) The report shall include:

10 (i) The amount of each grant;

11 (ii) The purpose of the grant;

12 (iii) How grant funds were expended by the
13 applicant;

14 (iv) The results produced or the progress made on
15 the project; and

16 (v) Revenues produced and tonnages of materials
17 collected by the project.

18 (B) The report for each calendar year shall be filed by
19 July 1 of the following year with the office of the Governor.

20 (C) The report shall include information on grant
21 recipients for a period of five (5) years from the date of disbursement of
22 funds by the department.

23 (2)(A) Grantees ~~Regional solid waste management boards~~ shall
24 provide the department with a report summarizing:

25 (i) Progress in the project;

26 (ii) Expenditures from the grant award;

27 (iii) Tonnages of materials collected by the
28 project; and

29 (iv) Revenues produced by the sale of materials
30 collected.

31 (B) The report shall be filed by April 1 of each year for the
32 preceding calendar year ~~six (6) months after disbursement of funds and~~
33 ~~semiannually for each year thereafter.~~

34 (C) Failure of a grantee ~~by a board~~ to file the required reports
35 shall provide grounds for the department to withhold disbursement of grant
36 funds for subsequent grant rounds.”

1
2 SECTION 15. Subchapter 7 of Chapter 6 of Title 8 of the Arkansas Code
3 is hereby repealed:

4 ~~“Subchapter 7,~~

5 ~~Regional Solid Waste Management Districts and Boards,~~

6 ~~§ 6-701. Purpose—Legislative findings—Construction.~~

7 ~~The purpose of this subchapter is to protect the public health and the~~
8 ~~state’s environmental quality by establishing regional solid waste~~
9 ~~management and planning. The current system relying upon solid waste~~
10 ~~management by individual counties and municipalities has fostered present~~
11 ~~conditions in which certain areas of the state are facing capacity shortages~~
12 ~~of crisis proportions, while others experience a surfeit of capacity with~~
13 ~~individual disposal facilities which cannot muster the resources for~~
14 ~~environmentally responsible operations. Given these disparate environmental~~
15 ~~and economic concerns, the Arkansas General Assembly concludes that regional~~
16 ~~solid waste management and planning, under the oversight of the Department of~~
17 ~~Pollution Control and Ecology and the Arkansas Pollution Control and Ecology~~
18 ~~Commission or Pollution Control and Ecology, is essential to address the~~
19 ~~imminent and future needs of the state. The terms and obligations of this~~
20 ~~subchapter shall be liberally construed so as to achieve remedial intent.~~

21
22 ~~§ 6-702. Definitions.~~

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

24 ~~(1) ‘Board’ or ‘regional board’ means a regional solid waste~~
25 ~~management board established pursuant to this subchapter;~~

26 ~~(2) ‘Commission’ means the Arkansas Pollution Control and Ecology~~
27 ~~Commission;~~

28 ~~(3) ‘Department’ means the Department of Pollution Control and~~
29 ~~Ecology;~~

30 ~~(4) ‘Director’ means the Director of the Department of Pollution~~
31 ~~Control and Ecology;~~

32 ~~(5) ‘Disposal site’ means any place at which solid waste is dumped,~~
33 ~~accepted, or disposed of for final disposition by landfilling, incinerating,~~
34 ~~composting, or any other method;~~

35 ~~(6) ‘District’ means a regional solid waste management district;~~

36 ~~(7) ‘Interested party’ means the director or his designee, the board,~~

1 ~~the person making application to the board, or any person submitting written~~
2 ~~comments on an application within the public comment period;~~

3 ~~(8) 'Landfill' means a permitted landfill under the Arkansas Solid~~
4 ~~Waste Management Act, § 8-6-201 et seq.;~~

5 ~~(9) 'Recyclable materials' or 'recyclables' means those materials from~~
6 ~~the solid waste stream that can be recovered for reuse in present or~~
7 ~~reprocessed form;~~

8 ~~(10) 'Recyclable materials collection center' or 'collection center'~~
9 ~~means a facility which receives or stores recyclable materials prior to~~
10 ~~timely transportation to material recovery facilities, markets for recycling,~~
11 ~~or disposal;~~

12 ~~(11) 'Recycling' means the systematic collection, sorting,~~
13 ~~decontaminating, and returning of waste materials to commerce as commodities~~
14 ~~for use or exchange;~~

15 ~~(12) 'Solid waste' means all putrescible and nonputrescible wastes in~~
16 ~~solid, semisolid, or liquid form, including, but not limited to, yard or food~~
17 ~~waste, waste glass, waste metals, waste plastics, wastepaper, waste~~
18 ~~paperboard, and all other solid and semisolid wastes resulting from~~
19 ~~industrial, commercial, agricultural, community, and residential activities,~~
20 ~~but does not include materials in the recycling process as the same are~~
21 ~~defined herein;~~

22 ~~(13) 'Solid waste management system' shall have the same meaning as~~
23 ~~provided in § 8-6-203;~~

24 ~~(14) 'Source separation' means the act or process of removing a~~
25 ~~particular type of recyclable material from the solid waste stream at the~~
26 ~~point of generation or at a point under control of the generator for the~~
27 ~~purpose of collection and recycling;~~

28 ~~(15) 'Yard waste' means grass clippings, leaves, and shrubbery~~
29 ~~trimmings; and~~

30 ~~(16) 'Materials in the recycling process' means ferrous and nonferrous~~
31 ~~metals diverted or removed from the solid waste stream so that they may be~~
32 ~~reused, as long as such materials are processed or handled using reasonably~~
33 ~~available processing equipment and control technology as determined by the~~
34 ~~director, taking cost into account, and a substantial amount of the materials~~
35 ~~are consistently utilized to manufacture a product which otherwise would have~~
36 ~~been produced using virgin material.~~

1
2 ~~8-6-703. Creation of districts and boards—Members of boards.~~

3 ~~(a)(1)(A) The eight (8) regional solid waste planning districts~~
4 ~~created by Act 870 of 1989 and each solid waste service area created pursuant~~
5 ~~to Act 870 of 1989 are renamed regional solid waste management districts.~~

6 ~~(B) Each district shall be governed by a regional solid~~
7 ~~waste management board.~~

8 ~~(2) The boundaries of a regional solid waste management district~~
9 ~~may be modified and new regional solid waste management districts may be~~
10 ~~created pursuant to § 8-6-707.~~

11 ~~(b) Each regional solid waste management board shall be composed of~~
12 ~~representatives of the counties within the district and representatives of~~
13 ~~all first class cities, of all cities with a population over two thousand~~
14 ~~(2,000) according to the latest federal decennial census, and of the~~
15 ~~largest city of each county within the district. The county judge of each~~
16 ~~county within the district and the mayor of each city entitled to a~~
17 ~~representative in the district shall serve on the board, unless such county~~
18 ~~judge or mayor elects instead to appoint a member as follows:~~

19 ~~(1) The county judge with confirmation by the quorum court of~~
20 ~~each county within the district shall appoint one (1) member to the board;~~

21 ~~(2) The mayor with confirmation by the governing body of each~~
22 ~~city entitled to a representative in the district shall appoint one (1)~~
23 ~~member.~~

24 ~~(c) Each board shall have a minimum of five (5) members.~~

25 ~~(1) If the number of members serving under subsection (b) above~~
26 ~~is less than five (5), additional members necessary to make the total number~~
27 ~~equal five (5) shall be appointed by mutual agreement of the other board~~
28 ~~members and shall represent the general public within the district.~~

29 ~~(2) Appointed regional board members shall serve for staggered~~
30 ~~terms of two (2) years; provided, however, that all members appointed~~
31 ~~pursuant to subsection (b) of this section shall serve at the pleasure of the~~
32 ~~appointing body. Each appointed board member shall be eligible for a maximum~~
33 ~~of two (2) terms or four (4) years, total.~~

34 ~~(3) Vacancies shall be filled for any unexpired term of an~~
35 ~~appointed member in the same manner as provided in subsection (b) and~~
36 ~~subdivision (c)(1) of this section.~~

1 ~~(4)(A) A majority of the membership of the board shall~~
2 ~~constitute a quorum.~~

3 ~~(B) A majority vote of those members present shall be~~
4 ~~required for any action of the board.~~

5 ~~(5) Each board shall annually select a chairman.~~

6
7 ~~8-6-704. Boards — Powers and duties.~~

8 ~~(a) The regional solid waste management boards shall have the~~
9 ~~following powers and duties:~~

10 ~~(1) To collect data, study, and initially evaluate the solid~~
11 ~~waste management needs of all localities within their districts, as provided~~
12 ~~in § 8-6-716, and to publish their findings as a regional needs assessment;~~

13 ~~(2) To evaluate on a continuous basis the solid waste needs of~~
14 ~~their districts, and thereby update the regional needs assessments at least~~
15 ~~biennially;~~

16 ~~(3) To formulate recommendations to all local governments within~~
17 ~~their districts on solid waste management issues, and to formulate plans for~~
18 ~~providing adequate solid waste management;~~

19 ~~(4) To issue or deny certificates of need to any applicant for a~~
20 ~~solid waste disposal facility permit within their districts with the~~
21 ~~exception of permits for landfills when a private industry bears the expense~~
22 ~~of operating and maintaining the landfill solely for the disposal of waste~~
23 ~~generated by the industry or wastes of a similar kind or character;~~

24 ~~(5) To petition the commission or director to issue, continue in~~
25 ~~effect, revoke, modify, or deny any permit for any element of a solid waste~~
26 ~~management system located within a district based on compliance or~~
27 ~~noncompliance with the solid waste management plan of the district;~~

28 ~~(6) To adopt such rules or regulations pursuant to the Arkansas~~
29 ~~Administrative Procedure Act, § 25-15-201 et seq., as are reasonably~~
30 ~~necessary to assure public notice and participation in any findings or~~
31 ~~rulings of the boards and to administer the duties of the boards;~~

32 ~~(7) To establish programs to encourage recycling;~~

33 ~~(8) To adopt official seals and alter them at pleasure;~~

34 ~~(9) To maintain offices at such places as they may determine;~~

35 ~~(10) To sue and be sued in their own names and to plead and be~~
36 ~~impleaded;~~

1 ~~(11) To make and execute contracts and other instruments~~
2 ~~necessary or convenient in the exercise of the powers and functions of a~~
3 ~~district, including, but not limited to, entering into contracts and~~
4 ~~agreements with private entities for provision of services;~~

5 ~~(12) To carry out all other powers and duties conferred by this~~
6 ~~subchapter and § 8-6-801 et seq.;~~

7 ~~(13) To enter into agreements with adjoining solid waste~~
8 ~~management districts to allow a district, or any person within that district,~~
9 ~~to transfer solid waste into an adjoining district; provided, however, that~~
10 ~~notice of all such authorizations shall be submitted to the department within~~
11 ~~thirty (30) days and shall be incorporated into the district needs assessment~~
12 ~~in its next regular update; and~~

13 ~~(14) To authorize a disposal facility within a district to~~
14 ~~accept the receipt of solid waste from an adjoining district upon request by~~
15 ~~the generator of that solid waste, provided that such request specifies the~~
16 ~~disposal facility and the nature and estimated annual volume of solid waste~~
17 ~~to be received; provided, however, that notice of all such authorizations~~
18 ~~shall be submitted to the department within thirty (30) days and shall be~~
19 ~~incorporated into the district needs assessment in~~
20 ~~its next regular update.~~

21 ~~(b) The regional solid waste management boards may:~~

22 ~~(1) Apply for such permits, licenses, certificates, or approvals as~~
23 ~~may be necessary to construct, maintain, and operate any portion of a solid~~
24 ~~waste management system, and to obtain, hold, and use licenses, permits,~~
25 ~~certificates, or approvals in the same manner as any other person or~~
26 ~~operating unit of any other person;~~

27 ~~(2) Employ such engineers, architects, attorneys, real estate~~
28 ~~counselors, appraisers, financial advisors, and other consultants and~~
29 ~~employees as may be required in the judgment of the district and fix and pay~~
30 ~~their compensation from funds available to the district therefor; and~~

31 ~~(3) Purchase all kinds of insurance, including, but not limited to,~~
32 ~~insurance against tort liability, business interruption, and risks of damage~~
33 ~~to property.~~

34 ~~(c) The regional solid waste management boards shall adopt county~~
35 ~~purchasing procedures, as provided in § 14-22-101 et seq., as the approved~~
36 ~~purchasing procedures for the districts.~~

1 ~~(d)(1) Each regional solid waste management board shall procure an~~
2 ~~annual financial audit of the district. Such audits shall be conducted~~
3 ~~following each board's fiscal year end. Regional solid waste management funds~~
4 ~~which are subject to audit in conjunction with a single audit performed~~
5 ~~consistent with Governmental Auditing and Reporting Standards are not~~
6 ~~required to have a separate audit.~~

7 ~~(2) Each district shall choose and employ accountants, in good~~
8 ~~standing with the Arkansas State Board of Public Accountancy, to conduct~~
9 ~~these audits in accordance with Governmental Auditing and Reporting Standards~~
10 ~~issued by the Comptroller General of the United States. The regional solid~~
11 ~~waste management district shall pay for such audits from their administrative~~
12 ~~moneys.~~

13 ~~(3) Each audit report and accompanying comments and~~
14 ~~recommendations shall be reviewed by the appropriate regional solid waste~~
15 ~~management board.~~

16 ~~(4) Copies of each audit report of a regional solid waste~~
17 ~~management district shall be filed with the department and with the Division~~
18 ~~of Legislative Audit. In addition, one (1) copy of the audit report shall be~~
19 ~~kept for public inspection with the books and records of the district.~~

20 ~~(5) Failure to provide a full and complete audit report, as~~
21 ~~required by this subchapter, shall prohibit future distribution of revenue~~
22 ~~from funding programs that are administered by the department, unless~~
23 ~~otherwise authorized by the director.~~

24
25 ~~8-6-705. Needs assessments.~~

26 ~~(a) All needs assessments required by this subchapter are subject to~~
27 ~~review and approval for completeness by the Department of Pollution Control~~
28 ~~and Ecology.~~

29 ~~(b) Failure to provide complete assessments as required by this~~
30 ~~subchapter may provide the department with grounds to initiate enforcement~~
31 ~~actions against the regional boards or their component governmental entities.~~
32 ~~Pursuant to established administrative procedures, sanctions may be imposed,~~
33 ~~including, but not limited to, denial, discontinuation, or reimbursement of~~
34 ~~any grant funding administered by the department to a district or any of its~~
35 ~~component government entities.~~

36 ~~(c) The department may award grants to the districts for the~~

1 ~~development of the initial regional needs assessments, for the biennial~~
2 ~~updates, and for any other update required by the law.~~

3
4 ~~8-6-706. Solid waste landfill permits.~~

5 ~~(a) Any applicant for a solid waste landfill permit, with the~~
6 ~~exception of permits for landfills when a private industry bears the expense~~
7 ~~of operating and maintaining the landfill solely for the disposal of waste~~
8 ~~generated by the industry or wastes of a similar kind or character, under the~~
9 ~~Arkansas Solid Waste Management Act, § 8-6-201 et seq., must obtain a~~
10 ~~certificate of need from the board with jurisdiction over the proposed site~~
11 ~~prior to submitting the application to the Department of Pollution Control~~
12 ~~and Ecology. The department may deny any permit based upon the denial of a~~
13 ~~certificate of need by any regional board.~~

14 ~~(b)(1) Applicants must petition the board with jurisdiction over a~~
15 ~~proposed solid waste disposal site for a certificate of need in accordance~~
16 ~~with procedures adopted by the board.~~

17 ~~(2) The applicant's petition must establish, at a minimum, that~~
18 ~~the proposed disposal facility:~~

19 ~~(A) Is consistent with the regional planning strategy~~
20 ~~adopted by the board in the regional needs assessment or the regional solid~~
21 ~~waste management plan;~~

22 ~~(B) Does not conflict with existing comprehensive land use~~
23 ~~plans of any local governmental entities;~~

24 ~~(C) Does not disturb an archaeological site as recognized~~
25 ~~by the Arkansas Archaeological Survey, or a rare and endangered species~~
26 ~~habitat as recognized by the Arkansas State Game and Fish Commission or~~
27 ~~the United States Fish and Wildlife Service;~~

28 ~~(D) Will not adversely affect the public use of any local,~~
29 ~~state, or federal facility, including, but not limited to, parks and wildlife~~
30 ~~management areas;~~

31 ~~(E) Does not conflict with the requirements of state or~~
32 ~~federal laws and regulations on the location of disposal facilities; and~~

33 ~~(F) If located in the 100-year floodplain, does not~~
34 ~~restrict the flow of the 100-year flood, reduce the temporary water storage~~
35 ~~capacity of the floodplain, or result in washout of solid waste so as to pose~~
36 ~~a hazard to human health or the environment.~~

1 ~~(c) Any interested party to a certificate of need determination by a~~
2 ~~board may appeal the decision to the director of the department pursuant to~~
3 ~~procedures adopted by the commission. The director may issue a permit despite~~
4 ~~the denial of a certificate of need if the director finds upon appeal that~~
5 ~~the decision of the board was not supported by substantial evidence.~~

6 ~~(d) After notice and a public hearing to be held by the board in the~~
7 ~~county where the proposed landfill is to be located, certificates of need~~
8 ~~shall be issued or denied by the boards based upon an evaluation of:~~

9 ~~(1) The information provided by the applicant in the petition~~
10 ~~for a certificate of need;~~

11 ~~(2) The requirements and considerations of any needs assessments~~
12 ~~prepared pursuant to this section;~~

13 ~~(3) The location of the applicant's proposed landfill based on~~
14 ~~the district's needs and its highway and road system;~~

15 ~~(4) The need for the landfill based upon the district's excess~~
16 ~~projected capacity which is currently permitted for operation, but in no~~
17 ~~event shall the district's excess permitted projected capacity exceed thirty~~
18 ~~(30) years;~~

19 ~~(5) Any solid waste management system plans, promulgated and~~
20 ~~approved pursuant to §§ 8-6-211 and 8-6-212 to the extent these plans conform~~
21 ~~to an overall regional planning strategy;~~

22 ~~(6) A detailed history of the applicant's record and that of the~~
23 ~~stockholders and officers with respect to violations of environmental laws~~
24 ~~and regulations of the United States or any state or any political~~
25 ~~subdivision of any state; and~~

26 ~~(7) Any procedures adopted by the board for issuance of~~
27 ~~certificates of need.~~

28 ~~(e) All landfill permit applications shall specify the service areas~~
29 ~~which the landfill will serve under the permit.~~

30
31 ~~8-6-707. Creation of new regional districts.~~

32 ~~(a)(1) After notification of the appropriate regional board or boards,~~
33 ~~the commission may designate a county or counties within each district, or~~
34 ~~counties within two (2) or more districts, as a new regional solid waste~~
35 ~~management district pursuant to the limitations of this section.~~

36 ~~(A) New regional solid waste management districts shall be~~

1 ~~designated for purposes which address local exigencies, needs, and other~~
2 ~~requirements of this subchapter.~~

3 ~~(B) A regional solid waste management district shall only~~
4 ~~be composed of whole county jurisdictions, and each district shall contain~~
5 ~~more than one (1) county unless that county has a population of at least~~
6 ~~fifty thousand (50,000) according to the latest decennial census.~~

7 ~~(2) Commission approval of regional solid waste management~~
8 ~~district boundaries shall be sought and obtained pursuant to administrative~~
9 ~~procedures promulgated by the commission.~~

10 ~~(b) Counties and municipalities included in a new or revised district~~
11 ~~shall cease to be members of any other district. The term of a regional~~
12 ~~board member representing a county or municipality shall immediately expire~~
13 ~~upon the inclusion of the county or municipality within a new regional solid~~
14 ~~waste management district.~~

15 ~~(c) After notification of the appropriate regional boards, the~~
16 ~~commission, upon the request of a county or district, may transfer a county~~
17 ~~into an existing district.~~

18
19 ~~§ 6-708. Procedures and regulations.~~

20 ~~The Arkansas Pollution Control and Ecology Commission is authorized to~~
21 ~~prescribe procedures and regulations:~~

22 ~~(1) To guide the initial and continued organization and~~
23 ~~operation of the respective boards in accordance with the purposes of this~~
24 ~~subchapter and § 6-801 et seq.;~~

25 ~~(2) To assure public notice and participation prior to adoption~~
26 ~~of regional needs assessments, findings, or reports made by the boards;~~

27 ~~(3) To defray some of the costs of the administration of this~~
28 ~~subchapter, including, but not limited to, inspections and technical review~~
29 ~~of submissions required by this subchapter by setting graduated surcharges~~
30 ~~upon any waste stream increase in excess of ten percent (10%) as a result of~~
31 ~~receipt of solid waste from outside the district; and~~

32 ~~(4) To require prompt compliance with the requirements of this~~
33 ~~subchapter and § 6-801 et seq.~~

34
35 ~~§ 6-709. Agreements implementing subchapter.~~

36 ~~Any regional solid waste management board may enter into agreements for~~

1 ~~the specific purpose of implementing this subchapter. Any such agreement~~
2 ~~shall specify the following:~~

3 ~~(1) Its duration;~~

4 ~~(2) The precise organization, composition, and nature of any~~
5 ~~separate legal or administrative entity created thereby, together with the~~
6 ~~powers delegated thereto, provided such entity may be legally created;~~

7 ~~(3) Its purpose or purposes;~~

8 ~~(4) The manner of financing the joint or cooperative undertaking~~
9 ~~and of establishing and maintaining a budget therefor, provided that such~~
10 ~~legal entity may incur indebtedness for the lease or purchase of land,~~
11 ~~equipment, and other expenses necessary to the operation of a solid~~
12 ~~waste management system or any part thereof;~~

13 ~~(5) The permissible method or methods to be employed in~~
14 ~~accomplishing the partial or complete termination of the agreement and for~~
15 ~~disposing of property upon such partial or complete termination;~~

16 ~~(6) The degree to which the joint or individual plans are drawn~~
17 ~~in accordance with the regional needs assessments required by this~~
18 ~~subchapter; and~~

19 ~~(7) Any other necessary and proper matters.~~

20
21 ~~§ 6-710. Solid waste management responsibility.~~

22 ~~(a)(1) Each regional solid waste management board shall be the~~
23 ~~governmental entity primarily responsible for providing a solid waste~~
24 ~~management system for the district.~~

25 ~~(2) The counties and municipalities shall continue to be~~
26 ~~responsible for solid waste management services within their corporate~~
27 ~~boundaries until the regional solid waste management board determines in~~
28 ~~writing that the district is able to assume the solid waste management~~
29 ~~responsibilities of the municipality or county.~~

30 ~~(b) Counties and municipalities in a district may provide a portion of~~
31 ~~the solid waste management services, such as solid waste pickup, while the~~
32 ~~board provides other services and has assumed responsibility therefor, such~~
33 ~~as disposal facilities; in which event, the counties and municipalities shall~~
34 ~~retain only the responsibility for the system related to the services~~
35 ~~provided. In performing those retained responsibilities, or assisting the~~
36 ~~board in performing its responsibilities, counties and municipalities shall~~

1 ~~retain all present legal powers and authority related to those~~
2 ~~responsibilities, including, but not limited to, power and authority to levy~~
3 ~~and collect fees and charges. Counties and municipalities may provide~~
4 ~~additional solid waste management services in excess of those provided by the~~
5 ~~district at their own expense so long as such services conform to the~~
6 ~~district solid waste management plan.~~

7
8 ~~§ 6-711. District solid waste management system.~~

9 ~~(a) A district is authorized to own, acquire, construct, reconstruct,~~
10 ~~extend, equip, improve, operate, maintain, sell, lease, contract concerning,~~
11 ~~or otherwise deal in facilities of any nature necessary or desirable for the~~
12 ~~control, collection, removal, reduction, disposal, treatment, or other~~
13 ~~handling of solid waste.~~

14 ~~(b)(1) A district may elect to acquire the ownership or use of~~
15 ~~elements of solid waste management systems owned or controlled by~~
16 ~~municipalities, counties, improvement districts, or sanitation authorities~~
17 ~~within the district by contract on such terms as are mutually agreed to be~~
18 ~~necessary, convenient, or desirable.~~

19 ~~(2)(A) If the district has elected such acquisition of ownership~~
20 ~~or use, it shall also have assumed the responsibility associated with that~~
21 ~~project or element, as contemplated by § 8-6-714.~~

22 ~~(B) If the district and the other entity or entities which~~
23 ~~are parties to the acquisition cannot mutually agree on the fair value to be~~
24 ~~paid and the method of compensation for the acquired asset, then either party~~
25 ~~may have that value and method adjudicated as to fairness by the chancery~~
26 ~~court having jurisdiction of the district's principal office, in the manner~~
27 ~~of a declaratory judgment and not in the nature of eminent domain.~~

28 ~~(C) The district shall have the discretion to proceed or~~
29 ~~not to proceed with the acquisition after the declaration is obtained.~~

30 ~~(e)(1) A district may elect to seek a permit for a Class I landfill to~~
31 ~~be owned by the State of Arkansas; provided, however, that only one (1) such~~
32 ~~landfill shall be sited in each of the eight (8) planning and development~~
33 ~~districts established pursuant to § 14-166-202.~~

34 ~~(2) Upon the district's obtaining a permit to operate, ownership~~
35 ~~interest in said landfill shall be vested with the State of Arkansas through~~
36 ~~deed or other conveyance.~~

1 ~~(d) Existing and operating solid waste facilities within the district~~
2 ~~shall be incorporated into the district solid waste management plan, or the~~
3 ~~district shall acquire ownership of that facility in the manner set forth in~~
4 ~~subsection (b) of this section.~~

5 ~~(e) Nothing in this section shall be construed to give a district the~~
6 ~~power to make an acquisition described herein without the consent of the~~
7 ~~municipalities, counties, improvement districts, or sanitation authorities~~
8 ~~involved.~~

9
10 ~~§ 6-712. Regulation of solid waste disposal.~~

11 ~~(a) A district which has an approved solid waste management plan may:~~

12 ~~(1) Require, by regulation or other legal means, that solid~~
13 ~~waste generated or collected within the boundaries of the district be~~
14 ~~delivered to a particular project for disposal, treatment, or other handling;~~
15 ~~provided, however, that nothing in this section shall be construed as~~
16 ~~impairing legal and proper contracts existing on March 26, 1991, under the~~
17 ~~Arkansas Constitution, or the notes or other evidences of indebtedness~~
18 ~~incurred pursuant to a revenue bond issued or reissued dependent upon a~~
19 ~~project involving a stated waste stream which is a contractual condition of~~
20 ~~said indebtedness;~~

21 ~~(2) Prohibit, by regulation or other legal means, the collection~~
22 ~~of solid waste within the boundaries of the district by persons not properly~~
23 ~~licensed by the district;~~

24 ~~(3) Authorize that a city, county, or any person in an adjoining~~
25 ~~district may deliver solid waste to a designated landfill within the district~~
26 ~~for disposal, treatment, or other handling; provided, however, that notice of~~
27 ~~all such authorizations shall be submitted to the department within thirty~~
28 ~~(30) days and shall be incorporated into the district needs assessment in its~~
29 ~~next regular update;~~

30 ~~(4) Provide, by regulation or other legal means, that no person,~~
31 ~~other than as may be designated by the district, shall engage in the~~
32 ~~collection or utilization of solid waste within the district which would be~~
33 ~~competitive with the purposes or activities of the district; and~~

34 ~~(5) Covenant in connection with the issuance of bonds, notes, or~~
35 ~~other evidence of indebtedness to adopt any regulation described in~~
36 ~~subdivisions (1), (2), and (4) of this subsection and that any regulation so~~

1 ~~adopted shall remain in full force and effect and shall be enforced so long~~
2 ~~as any bonds, notes, or other evidences of indebtedness remain outstanding.~~

3 ~~(b) The districts shall issue rules or regulations which are~~
4 ~~consistent with and in accordance with, but no more restrictive than, all~~
5 ~~applicable environmental protection performance standards adopted by state~~
6 ~~law or incorporated by reference from federal law.~~

7 ~~(c)(1) Nothing in this section shall prohibit the disposal of solid~~
8 ~~waste generated by a private industry in a permitted landfill where the~~
9 ~~private industry bears the expense of operating and maintaining the landfill~~
10 ~~solely for the disposal of waste generated by the industry or wastes of a~~
11 ~~similar kind or character.~~

12 ~~(2) Nothing in this section shall prohibit the collection or~~
13 ~~disposal of solid waste by a municipality with an existing permitted landfill~~
14 ~~with a twenty-five year capacity as of January 1, 1991, where the city bears~~
15 ~~the expense of operating and maintaining the landfill and the landfill~~
16 ~~complies with Environmental Protection Agency and Department of Pollution~~
17 ~~Control and Ecology regulations.~~

18 ~~(3) Nothing in this section shall prohibit a municipality or~~
19 ~~county from constructing or operating a facility or project to process and~~
20 ~~market recyclable materials for use as fuel.~~

21 ~~(d) Furthermore, nothing in this subchapter shall prohibit the~~
22 ~~disposal of dead animal carcasses through means which are otherwise permitted~~
23 ~~by state law or regulation.~~

24
25 ~~§ 6-713. Restriction on local government bonds and pledges.~~

26 ~~(a) Unless approved by the board, no municipality, county, improvement~~
27 ~~district, or sanitation authority within the regional solid waste management~~
28 ~~district shall:~~

29 ~~(1) Issue any bonds for solid waste management purposes; or~~

30 ~~(2) Pledge any revenues derived from solid waste management~~
31 ~~services for any bond issue.~~

32 ~~(b) Notwithstanding the provisions of subsection (a) of this section,~~
33 ~~no board shall prohibit a municipality or county from issuing revenue bonds~~
34 ~~or using general obligation bonds when the purpose of such issuance or usage~~
35 ~~is the funding of a facility or project to process and market~~
36 ~~recycled materials for use as fuel.~~

1 ~~(c) The board shall not impair any existing bond issue or other~~
2 ~~financial obligation of a municipality, county, improvement district, or~~
3 ~~sanitation authority.~~

4
5 ~~8-6-714. Rents, fees, and charges.~~

6 ~~(a) A regional solid waste management board may fix, charge, and~~
7 ~~collect rents, fees, and charges for the disposal, treatment, or other~~
8 ~~handling of solid waste by the district.~~

9 ~~_____ (b) The board may levy a service fee on each residence or business for~~
10 ~~which the board makes solid waste collection or disposal services available.~~

11 ~~_____ (c)(1) The board may, by majority vote, require fees or delinquent~~
12 ~~fees to be collected with the real and personal property taxes of any county~~
13 ~~within the district.~~

14 ~~(A) If the board elects to collect such fees in this~~
15 ~~manner, it shall so notify the county tax collector, who shall enter such~~
16 ~~fees on tax notices to be collected with the real and personal property taxes~~
17 ~~of the county.~~

18 ~~(B) No county tax collector shall accept payment of any~~
19 ~~property taxes where the taxpayer has been billed for solid waste collection~~
20 ~~services unless the service fee is also receipted.~~

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

23
24 ~~8-6-715. Eminent domain.~~

25 ~~(a) In the event that necessary lands needed for the accomplishment of~~
26 ~~the purposes authorized by this chapter cannot be acquired by negotiation,~~
27 ~~any district is authorized to acquire the needed lands by condemnation~~
28 ~~proceedings under the power of eminent domain.~~

29 ~~(b)(1) The proceedings may be exercised in the manner now provided for~~
30 ~~taking private property for rights-of-way for railroads as set forth in §§~~
31 ~~18-15-1202—18-15-1207.~~

32 ~~(2) As a part of the proceedings, the district shall file an~~
33 ~~environmental impact statement with the court.~~

34 ~~(c) Nothing herein shall allow a district to appropriate by eminent~~
35 ~~domain any property upon which is located a permitted landfill, recycling~~
36 ~~facility, or incinerator or for which a permit for a landfill, recycling~~

1 ~~facility, or incinerator is pending.~~

2
3 ~~§ 6-716. Regional needs assessment.~~

4 ~~(a)(1)(A) Each board created pursuant to this subchapter shall prepare~~
5 ~~a regional needs assessment evaluating the solid waste management needs~~
6 ~~within its district; provided, however, that such assessments need not~~
7 ~~include an evaluation of the need for landfills where a private industry~~
8 ~~bears the expense of operating and maintaining the landfill solely for the~~
9 ~~disposal of wastes generated by the industry or wastes of a similar kind or~~
10 ~~character. Such assessment shall be submitted for department review, and the~~
11 ~~director shall approve or disapprove it within ninety (90) days after~~
12 ~~submission.~~

13 ~~(B)(i) The assessments for boards created pursuant to § 8-~~
14 ~~6-703 shall be due every four (4) years.~~

15 ~~(ii) The department may, at its discretion, stagger~~
16 ~~the due dates, by random selection, so that approximately one fourth (1/4) of~~
17 ~~the districts will submit a needs assessment each year.~~

18 ~~(C)(i) The department will notify in writing the regional~~
19 ~~solid waste management districts of the date on which their needs assessments~~
20 ~~are due.~~

21 ~~(ii) The board may obtain an extension of that~~
22 ~~deadline from the commission.~~

23 ~~(D) A board created pursuant to § 8-6-703 in a region~~
24 ~~having a projected solid waste disposal capacity of less than five (5) years~~
25 ~~or in a region having no landfill for solid waste disposal shall prepare and~~
26 ~~submit a regional needs assessment annually, with the first needs assessment~~
27 ~~due on June 30, 1995, and with updated assessments due on June 30 of each~~
28 ~~year thereafter.~~

29 ~~(E) Any board which submitted the biennial needs~~
30 ~~assessment due on January 31, 1995, under prior law, shall prepare and submit~~
31 ~~its next needs assessment on June 30, 1996, with updated assessments due on~~
32 ~~June 30 of each year thereafter.~~

33 ~~(2) The assessment shall include, at the minimum, the following:~~

34 ~~(A) An evaluation of the amount of solid waste generated~~
35 ~~within the district and the amount of remaining disposal capacity, expressed~~
36 ~~in years, at the solid waste disposal facilities within the district that are~~

1 ~~permitted under the Arkansas Solid Waste Management Act, § 8-6-201 et seq.;~~

2 ~~(B) An evaluation of the solid waste collection,~~
3 ~~transportation, and disposal needs of all localities within the district; and~~

4 ~~(C) An evaluation and balancing of the environmental,~~
5 ~~economic, and other relevant factors which would be implicated by acceptance~~
6 ~~of solid waste from beyond the boundaries of the district.~~

7 ~~(b) Each board shall update its regional needs assessment, at the~~
8 ~~minimum, every four (4) years.~~

9 ~~(c) At a time not later than five (5) years before the disposal~~
10 ~~capacity in a region reaches its projected capacity, the board shall develop~~
11 ~~a request for proposals to increase the district's projected capacity for~~
12 ~~solid waste disposal within the district in accordance with its regional~~
13 ~~needs assessment.~~

14 ~~(d) No landfill shall receive solid waste from beyond the district~~
15 ~~boundaries when projected solid waste disposal capacity within the district~~
16 ~~is less than five (5) years, except as may be otherwise specified pursuant to~~
17 ~~this subchapter.~~

18 ~~(e) No owner or operator of a landfill serving a limited area of a~~
19 ~~district shall be required to increase the landfill's service area to~~
20 ~~accommodate the needs of the district.~~

21
22 ~~8-6-717. Solid waste management plan.~~

23 ~~(a) Each board shall develop a plan to provide a solid waste management~~
24 ~~system. The plan shall be submitted to the department for approval. The plan~~
25 ~~shall include such information as the commission may require by regulation.~~

26 ~~(b) The solid waste management plan of each board shall include a~~
27 ~~regional plan for establishing a recycling program and an educational program~~
28 ~~to provide the public information concerning solid waste and recycling.~~

29 ~~(c) The solid waste management plan of each board shall include a plan~~
30 ~~to dispose of or recycle waste tires within the district. The plan shall~~
31 ~~provide a schedule for the identification and cleanup of illegal tire dump~~
32 ~~sites.~~

33
34 ~~8-6-718. Waste tire collection center.~~

35 ~~Beginning July 1, 1993, each board shall establish a waste tire~~
36 ~~collection center at which residents of the district may dispose of their~~

1 ~~waste motor vehicle tires at no cost except as provided by regulation of the~~
2 ~~commission or the board.~~

3
4 ~~8-6-719. Regional composting program.~~

5 ~~(a) Each board shall establish a program for the composting of yard~~
6 ~~waste.~~

7 ~~(b) Each board shall establish a pilot program for the composting of~~
8 ~~yard waste collected in an area with a population of at least five thousand~~
9 ~~(5,000) persons. The pilot program shall be established in each district by~~
10 ~~July 1, 1992.~~

11
12 ~~8-6-720. Opportunity to recycle — Recyclable materials collection~~
13 ~~centers.~~

14 ~~(a)(1) Beginning July 1, 1992, each board shall ensure that its~~
15 ~~residents have an opportunity to recycle. 'Opportunity to recycle' means~~
16 ~~availability of curbside pickup or collection centers for recyclable~~
17 ~~materials at sites that are convenient for persons to use.~~

18 ~~(2) Beginning July 1, 1993, at least one (1) recyclable~~
19 ~~materials collection center shall be available in each county of a district~~
20 ~~unless the commission grants the district an exemption. An exemption may be~~
21 ~~granted if a county is adequately served by a recyclable materials collection~~
22 ~~center in another county.~~

23 ~~(3) Boards shall assess the operation of existing and proposed~~
24 ~~recycling centers and materials recovery facilities to determine the adequacy~~
25 ~~of these facilities for the collection and recovery of recyclable materials.~~
26 ~~Boards shall give due consideration to existing recycling facilities in~~
27 ~~ensuring the opportunity to recycle and are encouraged to use, to the extent~~
28 ~~practicable, persons engaged in the business of recycling on March 26, 1991,~~
29 ~~whether or not the persons were operating for profit.~~

30 ~~(b) The department shall determine by regulation the adequacy of the~~
31 ~~facilities and the number and type of recyclable materials for which the~~
32 ~~services in this section must be provided.~~

33 ~~(c) Each board shall provide information on how, when, and where~~
34 ~~materials may be recycled, including a promotional program that encourages~~
35 ~~source separation of residential, commercial, industrial, and institutional~~
36 ~~materials.~~

1 ~~(d) Each board should ensure, alone or in conjunction with other~~
2 ~~boards, that materials separated for recycling are taken to markets for sale~~
3 ~~or to materials recovery facilities.~~

4 ~~(e) A board shall not prevent a person generating or collecting~~
5 ~~recyclable materials from delivering the recyclable materials to a recycling~~
6 ~~facility of the generator's or collector's choice.~~

7 ~~(f) Each board shall incorporate into its solid waste management plan~~
8 ~~its proposal for fulfilling the obligations of this section.~~

9 ~~(g) Nothing in this section shall be construed to prohibit the~~
10 ~~planning or implementation of any regional recycling program prior to~~
11 ~~compliance with the requirements of subsection (f) of this section.~~

12
13 ~~§ 6-721. Licensing haulers of solid waste.~~

14 ~~(a) A person who engages in the business of hauling solid waste must~~
15 ~~obtain a license from the regional solid waste management board if:~~

16 ~~(1) The person is engaged in the collection of solid waste~~
17 ~~within the district; or~~

18 ~~(2) The person is engaged in the transportation of solid waste~~
19 ~~for disposal or storage in the district.~~

20 ~~(b)(1) A license shall be issued only to a person, partnership,~~
21 ~~corporation, association, the State of Arkansas, a political subdivision of~~
22 ~~the state, an improvement district, a sanitation authority, or another~~
23 ~~regional solid waste management district.~~

24 ~~(2) The district may engage in the hauling of solid waste within~~
25 ~~its own district without licensure but shall comply with all applicable~~
26 ~~standards required under this section.~~

27 ~~(c) The commission shall establish classifications of haulers, which~~
28 ~~shall be used by districts in licensing haulers. The classifications shall~~
29 ~~be based on the nature and size of the loads transported.~~

30 ~~(d)(1) The commission shall promulgate minimum standards for a license~~
31 ~~to haul solid waste.~~

32 ~~(2) One of the criteria for obtaining such a license shall be~~
33 ~~the financial responsibility of the hauler.~~

34 ~~(e) The board may impose more stringent standards than the minimum~~
35 ~~standards established by the commission.~~

36 ~~(f) The board may set a reasonable licensing fee for each class of~~

1 ~~haulers.~~

2
3 ~~§ 6-722. Penalties.~~

4 ~~Any person who violates this subchapter or any regulation of the~~
5 ~~commission or of a board shall be deemed guilty of a misdemeanor. Upon~~
6 ~~conviction the person shall be subject to imprisonment for not more than~~
7 ~~thirty (30) days or a fine of not more than one thousand dollars (\$1,000), or~~
8 ~~both imprisonment and fine.~~

9
10 ~~§ 6-723. Alternative formation of original districts.~~

11 ~~(a)(1) In lieu of forming a regional solid waste management district~~
12 ~~under any other provision of this subchapter, a regional solid waste~~
13 ~~management district may be created by interlocal agreement of the local~~
14 ~~governments in any county with a population of at least ninety thousand~~
15 ~~(90,000) persons and in which there is a permitted landfill on January~~
16 ~~1, 1991. The regional solid waste management board of the district shall be~~
17 ~~established by interlocal agreement.~~

18 ~~(2) The creation of the district shall be effective upon the~~
19 ~~director's receipt of written notice in the form of a joint resolution by~~
20 ~~the local governments.~~

21 ~~(b)(1) In lieu of forming a regional solid waste management district~~
22 ~~under any other provision of this subchapter, a regional solid waste~~
23 ~~management district may be created by a resolution of the governing body of~~
24 ~~any authority created under the Joint County and Municipal Solid Waste~~
25 ~~Disposal Act, § 14-233-101 et seq., which includes a county having a~~
26 ~~population of at least sixty thousand (60,000) persons and which has made~~
27 ~~application to the department for a solid waste disposal permit on or before~~
28 ~~January 1, 1991.~~

29 ~~(2) The creation of a district shall be effective upon the~~
30 ~~governing body of the authority notifying the director in writing. The~~
31 ~~governing body of a district created under this subsection shall be~~
32 ~~determined by the authority creating the district. The provisions of § 8-6-~~
33 ~~703 or any other section of this subchapter which provides for the method of~~
34 ~~selection of the governing body of a district shall not apply to districts~~
35 ~~formed under this subsection.~~

36 ~~(c) The commission shall have no authority to add to or otherwise~~

1 ~~change the boundaries of a district created under this section.~~

2
3 ~~8-6-724. Regional standards.~~

4 ~~Regional solid waste management boards may adopt more restrictive~~
5 ~~standards for the location, design, construction, and maintenance of solid~~
6 ~~waste disposal sites and facilities than the state or federal governments,~~
7 ~~provided such standards are based upon generally accepted scientific~~
8 ~~knowledge or engineering practices and are consistent with the purposes of~~
9 ~~this subchapter.”~~

10
11 SECTION 16. Subchapter 8 of Chapter 6 of Title 8 of the Arkansas Code
12 is hereby repealed.

13
14 ~~Subchapter 8 — Bonds by Regional Solid Waste Management Districts~~

15 ~~8-6-801. Definitions.~~

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

17 ~~(1) ‘Authority’ means the Arkansas Development Finance Authority;~~

18 ~~(2) ‘Board’ means a regional solid waste management board created~~
19 ~~under § 8-6-701 et seq.;~~

20 ~~(3) ‘Bonds’ means bonds and any series of bonds authorized by and~~
21 ~~issued pursuant to the provisions of this subchapter and comprehends ‘revenue~~
22 ~~bonds’, as defined in Arkansas Constitution, Amendment 65, Section 3;~~

23 ~~(4) ‘Costs’ or ‘project costs’ means, but shall not be limited to:~~

24 ~~(A) All costs of acquisition, construction, reconstruction,~~
25 ~~improvement, enlargement, betterment, or extension of any project, including~~
26 ~~the cost of studies, plans, specifications, surveys, and estimates of costs~~
27 ~~and revenues relating thereto;~~

28 ~~(B) All costs of land, land rights, rights of way and easements,~~
29 ~~water rights, fees, permits, approvals, licenses, certificates, franchises,~~
30 ~~and the preparation of applications for and securing them;~~

31 ~~(C) Administrative, organizational, legal, engineering, and~~
32 ~~inspection expenses;~~

33 ~~(D) Financing fees, expenses, and costs, including, but not~~
34 ~~limited to, costs of credit enhancement or guaranties, trustees’ fees, paying~~
35 ~~agents’ fees or similar fees, and fees to financial advisors and other~~
36 ~~entities assisting in the issuance of bonds;~~

1 ~~(E) Working capital;~~

2 ~~(F) All machinery and equipment including construction~~
3 ~~equipment;~~

4 ~~(G) Interest on the bonds during the period of construction and~~
5 ~~for such reasonable period thereafter as may be determined by the issuing or~~
6 ~~borrowing district;~~

7 ~~(H) Establishment of reserves; and~~

8 ~~(I) All other expenditures of the issuing or borrowing district~~
9 ~~incidental, necessary, or convenient to the acquisition, construction,~~
10 ~~reconstruction, improvement, enlargement, betterment, or extension of any~~
11 ~~project and the placing of it in operation;~~

12 ~~(5) 'District' means a regional solid waste management district~~
13 ~~created under § 8-6-701 et seq.;~~

14 ~~(6) 'Project' means any real property, personal property, or mixed~~
15 ~~property of any and every kind that can be used or will be useful in~~
16 ~~controlling, collecting, storing, removing, handling, reducing, disposing of,~~
17 ~~treating, and otherwise dealing in and concerning solid waste, including,~~
18 ~~without limitation, property that can be used or that will be useful in~~
19 ~~extracting, converting to steam, including the acquisition, handling,~~
20 ~~storage, and utilization of coal, lignite, or other — fuel of any kind, or~~
21 ~~water that can be used or that will be useful in converting solid waste to~~
22 ~~steam, and distributing the steam to users thereof, or otherwise separating~~
23 ~~and preparing solid waste for reuse, or that can be used or will be useful in~~
24 ~~generating electric energy by the use of solid waste as a source of~~
25 ~~generating power and distributing the electric energy to purchasers or users~~
26 ~~thereof in accordance with the general laws of the state. However, for the~~
27 ~~purposes of this subchapter, not more than twenty five percent (25%) of the~~
28 ~~fuel used to produce steam or electricity from any project shall consist of~~
29 ~~materials other than solid waste; and~~

30 ~~(7) 'Solid waste' shall have the same meaning as provided in § 8-6-~~
31 ~~702.~~

32
33 ~~8-6-802. Construction.~~

34 ~~(a) The powers provided by this subchapter shall be supplemental to~~
35 ~~all other powers conferred on regional solid waste management boards.~~

36 ~~(b) Except as expressly provided in this subchapter, the acquisition,~~

1 ~~construction, reconstruction, enlargement, equipment, or operation and~~
2 ~~maintenance of projects under the provisions of this subchapter need not~~
3 ~~comply with the requirements of any other law applicable to the acquisition,~~
4 ~~construction, reconstruction, enlargement, equipment, and operation and~~
5 ~~maintenance of public works or facilities including, without limitation, laws~~
6 ~~pertaining to public bidding, paying prevailing wages, transfer or exchange~~
7 ~~of title to real or personal property, or any other aspect of the acquiring,~~
8 ~~constructing, reconstructing, enlarging, equipping, or operation or~~
9 ~~maintenance of public works or public projects, or transfer or exchange of~~
10 ~~title to real or personal property, none of which laws shall be applicable to~~
11 ~~projects under this subchapter.~~

12 ~~(c) This subchapter, being necessary for the welfare of the state and~~
13 ~~its inhabitants, shall be liberally construed to effect the purposes hereof.~~

14
15 ~~§ 6-803. Pledge of rents, fees, and charges.~~

16 ~~A regional solid waste management board may pledge any rents, fees, and~~
17 ~~charges imposed by the board to secure the repayment of bonds issued to~~
18 ~~finance projects, as provided for in this subchapter.~~

19
20 ~~§ 6-804. Bonds — Issuance, execution, and sale.~~

21 ~~(a) Regional solid waste management boards are authorized to use any~~
22 ~~available funds and revenues for the accomplishment of projects and may issue~~
23 ~~bonds, as authorized by this subchapter, for the purpose of paying project~~
24 ~~costs and accomplishing projects, either alone or together with other~~
25 ~~available funds and revenues.~~

26 ~~(b)(1) The issuance of bonds shall be by resolution of the board.~~

27 ~~(2) The bonds may be coupon bonds payable to bearer, subject to~~
28 ~~registration as to principal or as to principal and interest, or fully~~
29 ~~registered bonds without coupons, may contain exchange privileges, may be~~
30 ~~issued in one (1) or more series, may bear such date or dates, may mature at~~
31 ~~such time or times, not exceeding forty (40) years from their respective~~
32 ~~dates, may bear interest at such rate or rates, may be in such form, may be~~
33 ~~executed in such manner, may be payable in such medium of payment, at such~~
34 ~~place or places, may be subject to such terms of redemption in advance of~~
35 ~~maturity at such prices, and may contain such terms, covenants, and~~
36 ~~conditions as the resolution may provide, including, without limitation,~~

1 ~~those pertaining to the custody and application of the proceeds of the bonds,~~
2 ~~the collection and disposition of revenues, the maintenance of various funds~~
3 ~~and reserves, the investing and reinvesting of any moneys during periods not~~
4 ~~needed for authorized purposes, the nature and extent of the security, the~~
5 ~~rights, duties, and obligations of the district and the trustee for the~~
6 ~~holders or registered owners of the bonds, and the rights of the holders or~~
7 ~~registered owners of the bonds.~~

8 ~~(c) There may be successive bond issues for the purpose of financing~~
9 ~~the same project, and there may be successive bond issues for financing the~~
10 ~~cost of reconstructing, replacing, constructing additions to, extending,~~
11 ~~improving, and equipping projects already in existence, whether or not~~
12 ~~originally financed by bonds issued under this subchapter, with each~~
13 ~~successive issue to be authorized as provided by this subchapter. Priority~~
14 ~~between and among issues and successive issues as to security of the pledge~~
15 ~~of revenues and lien on the project involved may be controlled by the~~
16 ~~resolution authorizing the issuance of the bonds.~~

17 ~~(d) Subject to the provisions of this subchapter pertaining to~~
18 ~~registration, the bonds shall have all the qualities of negotiable~~
19 ~~instruments under the laws of the State of Arkansas.~~

20 ~~(e) The bonds may be sold at public or private sale for such price,~~
21 ~~including, without limitation, sale at a discount, and in such manner the~~
22 ~~board may determine by resolution.~~

23 ~~(f) Bonds issued under this subchapter shall be executed by the manual~~
24 ~~or facsimile signatures of the chairman and secretary of the board, but one~~

25 ~~(1) of such signatures must be manual. The coupons attached to~~
26 ~~the bonds may be executed by the facsimile signature of the chairman of the~~
27 ~~board. In case any of the officers whose signatures appear on the bonds or~~
28 ~~coupons shall cease to be officers before the delivery of the bonds or~~
29 ~~coupons, their signatures shall nevertheless be valid and sufficient for all~~
30 ~~purposes. The seal of the board shall be placed or printed on each bond in~~
31 ~~such manner as the board shall determine.~~

32 ~~(g)(1)(A) Prior to the issuance of any bonds pursuant to this~~
33 ~~subchapter, the district may seek the advice of the Arkansas Development~~
34 ~~Finance Authority as to the financial feasibility of the project to be~~
35 ~~financed, and, if so, shall provide the authority with such information and~~
36 ~~documentation as it may reasonably request in order to render that advice.~~

1 ~~(B) In the event the district seeks the advice of the~~
2 ~~Arkansas Development Finance Authority, the authority shall be entitled to~~
3 ~~reasonable compensation for its services as determined by the district and~~
4 ~~the authority.~~

5 ~~(2) The district may request the authority to designate it as a~~
6 ~~developer, as contemplated by § 15-5-403, and, hence, to guarantee the bonds,~~
7 ~~on such terms and conditions as may be mutually agreed upon by the district~~
8 ~~and the authority, consistent with the program delineated in § 15-5-401 et~~
9 ~~seq.~~

10 ~~(3) The district may also request that the authority be the~~
11 ~~issuer of the bonds and loan the proceeds thereof to the district, secured~~
12 ~~by a pledge of revenues from the project on such terms as may be necessary~~
13 ~~to permit the sale of the bonds, consistent with the provisions hereof~~
14 ~~applicable to the issuance of bonds directly by districts.~~

15 ~~(h) Regional solid waste management boards are specifically authorized~~
16 ~~to apply for and receive loans from the Arkansas Soil and Water Conservation~~
17 ~~Commission to finance projects from the proceeds of the commission's bonds~~
18 ~~issued pursuant to § 15-22-701 et seq., on terms mutually acceptable to the~~
19 ~~borrowing board and the commission, including, but not limited to, provisions~~
20 ~~for a pledge of revenues to secure such loans, as set forth in § 8-6-803.~~
21 ~~The Arkansas Soil and Water Conservation Commission is authorized but not~~
22 ~~required to require, as a prerequisite to approving any such loan, that the~~
23 ~~borrowing board comply with some or all of the requirements of subsections~~
24 ~~(a) and (f) and subdivisions (b)(1) and (g)(1) of this section. The Arkansas~~
25 ~~Soil and Water Conservation Commission is further authorized to enter into~~
26 ~~agreements with the authority for such services to the commission or to the~~
27 ~~borrowing boards as the commission deems necessary or desirable in~~
28 ~~furtherance of the commission's powers and duties under §15-22-701 et seq.,~~
29 ~~the authority granted hereby being in addition to those powers and not in~~
30 ~~derogation or restriction thereof.~~

31
32 ~~8-6-805. Bonds — Trust indenture.~~

33 ~~(a) The resolution authorizing the bonds may provide for the execution~~
34 ~~by the district with a bank or trust company within or without this state of~~
35 ~~a trust indenture which defines the rights of the holders and registered~~
36 ~~owners of the bonds.~~

1 ~~(b) The indenture may control the priority between and among~~
2 ~~successive issues and may contain any other terms, covenants, and conditions~~
3 ~~that are deemed desirable including, without limitation, those pertaining to~~
4 ~~the custody and application of proceeds of the bonds, the maintaining of~~
5 ~~rates and charges, the collection and disposition of revenues, the~~
6 ~~maintenance of various funds and reserves, the nature and extent of the~~
7 ~~security and pledging of revenues, the rights, duties, and obligations of the~~
8 ~~district and the trustee for the holders or registered owners of the bonds,~~
9 ~~and the rights of the holders and registered owners of the bonds.~~

10 ~~(c) The resolution or trust indenture authorizing or securing any~~
11 ~~bonds issued under this subchapter may, or may not, impose a foreclosable~~
12 ~~mortgage lien upon, or security interest in, the project financed in whole or~~
13 ~~in part with the proceeds of the bonds, and the nature and extent of the~~
14 ~~mortgage lien or security interest may be controlled by the resolution or~~
15 ~~trust indenture, including, without limitation, provisions pertaining to the~~
16 ~~release of all or part of the project properties from the mortgage lien or~~
17 ~~security interest and the priority of the mortgage lien or security interest~~
18 ~~in the event of the issuance of additional bonds.~~

19 ~~(d) Subject to the terms, conditions, and restrictions which may be~~
20 ~~contained in the resolution or trust indenture, any holder or registered~~
21 ~~owner of bonds issued under this subchapter, or of any coupon attached~~
22 ~~thereto, may, either at law or in equity, enforce the mortgage lien or~~
23 ~~security interest and may, by proper suit, compel the performance of the~~
24 ~~duties of the members and employees of the board as set forth in the~~
25 ~~resolution or trust indenture authorizing or securing the bonds.~~

26
27 ~~§ 6-806. Bonds — Default.~~

28 ~~(a)(1) In the event of a default in the payment of the principal of,~~
29 ~~premium on, if any, or interest on any bonds issued under this subchapter,~~
30 ~~any court having jurisdiction may appoint a receiver to take charge of all or~~
31 ~~any part of the project in which there is a mortgage lien or security~~
32 ~~interest securing the bonds in default.~~

33 ~~(2) The receiver shall have the power and authority to operate~~
34 ~~and maintain the project, to charge and collect rates, payments, rents, and~~
35 ~~charges sufficient to provide for the payment of the principal of, premium~~
36 ~~on, if any, and interest on the bonds, after providing for the payment of any~~

1 ~~costs of receivership and operating expenses of the project, and to apply the~~
2 ~~revenues derived from the project in conformity with this subchapter and the~~
3 ~~resolution or trust indenture~~
4 ~~authorizing or securing the bonds.~~

5 ~~(3) When the default has been cured, the receivership shall be~~
6 ~~ended and the project returned to the district.~~

7 ~~(b) The relief afforded by this section shall be construed to be in~~
8 ~~addition and supplemental to the remedies that may be afforded the trustee~~
9 ~~for the bondholders and the bondholders in the resolution or trust indenture~~
10 ~~authorizing or securing the bonds and shall be so granted and administered as~~
11 ~~to accord full recognition to priority rights of bondholders as to the pledge~~
12 ~~of revenues from, and the mortgage lien on and security interest in, the~~
13 ~~project as specified in and fixed by the resolutions or trust indentures~~
14 ~~authorizing or securing successive bond issues.~~

15
16 ~~§ 6-807. Bonds — Liability — Payment and security.~~

17 ~~(a) It shall be plainly stated on the face of each bond that it has~~
18 ~~been issued under the provisions of this subchapter and that the bonds are~~
19 ~~obligations only of the district.~~

20 ~~(b) No member of the board shall be personally liable on the bonds or~~
21 ~~for any damages sustained by anyone in connection with any contracts entered~~
22 ~~into in carrying out the purpose and intent of this subchapter unless he~~
23 ~~shall have acted with corrupt intent.~~

24 ~~(c) The principal of and interest on the bonds shall be payable from~~
25 ~~and may be secured by a pledge of revenues derived from the project acquired,~~
26 ~~constructed, reconstructed, equipped, extended, or improved, in whole or in~~
27 ~~part, with the proceeds of the bonds or obligations of the owners of~~
28 ~~projects.~~

29
30 ~~§ 6-808. Refunding bonds — Issuance.~~

31 ~~(a) Bonds may be issued for the purpose of refunding any bonds issued~~
32 ~~under this subchapter. Refunding bonds may be combined with bonds issued~~
33 ~~under the provisions of § 14-233-109 into a single issue.~~

34 ~~(b) When refunding bonds are issued, they may either be sold or~~
35 ~~delivered in exchange for the bonds being refunded. If sold, the proceeds~~
36 ~~may either be applied to the payment of the bonds being refunded or deposited~~

1 ~~in escrow for the retirement thereof.~~

2 ~~(c) All refunding bonds shall in all respects be issued and secured in~~
3 ~~the manner provided for other bonds issued under this subchapter and shall~~
4 ~~have all the attributes of those bonds.~~

5 ~~(d) The resolution under which refunding bonds are issued may provide~~
6 ~~that any of the refunding bonds shall have the same priority of lien on and~~
7 ~~security interest in project revenues and the project as was enjoyed by the~~
8 ~~bonds refunded by them.~~

9
10 ~~8-6-809. Pledge of rates, fees, and charges.~~

11 ~~(a) If the board pledges rates, fees, and charges, then for as long as~~
12 ~~any bonds are outstanding and unpaid, the rates, fees, and charges shall be~~
13 ~~so fixed by the district as to provide revenues sufficient:~~

14 ~~(1) To pay all costs of and charges and expenses in connection~~
15 ~~with the proper operation and maintenance of its projects, and all~~
16 ~~necessary repairs, replacements, or renewals thereof;~~

17 ~~(2) To pay when due the principal of, premium, if any, and~~
18 ~~interest on all bonds, including bonds subsequently issued for additional~~
19 ~~projects, payable from the revenues;~~

20 ~~(3) To create and maintain reserves as may be required by any~~
21 ~~resolution or trust indenture authorizing or securing bonds; and~~

22 ~~(4) To pay any and all amounts which the district may be~~
23 ~~obligated to pay from project revenues by law or contract.~~

24 ~~(b)(1) Any pledge made by a district pursuant to this subchapter shall~~
25 ~~be valid and binding from the date the pledge is made.~~

26 ~~(2)(A) The revenues so pledged and then held or thereafter~~
27 ~~received by the district or any fiduciary on its behalf shall immediately be~~
28 ~~subject to the lien of the pledge without any physical delivery thereof or~~
29 ~~further act.~~

30 ~~(B) The lien of the pledge shall be valid and binding as~~
31 ~~against all parties having claims of any kind in tort, contract, or otherwise~~
32 ~~against the district without regard to whether such parties have notice~~
33 ~~thereof.~~

34 ~~(c) The resolution, trust indenture, or other instrument by which a~~
35 ~~pledge is created need not be filed or recorded in any manner.~~

36

~~§ 6-810. Rights of bondholders.~~

~~Any holder or registered owner of bonds or coupons pertaining to the bonds, except to the extent the rights given in this subchapter may be restricted by the resolution or trust indenture authorizing or securing the bonds and coupons, may, either at law or in equity, by suit, action, mandamus, or other proceeding protect and enforce any and all rights under the laws of the state or granted under this subchapter or, to the extent permitted by law, under the resolution or trust indenture authorizing or securing the bonds or under any agreement or other contract executed by a district pursuant to this subchapter, and may enforce and compel the performance of all duties required by this subchapter or by the resolution or trust indenture to be performed by any district, or by any officer of the foregoing, including the fixing, charging, and collecting of rates, fees, and charges.~~

~~§ 6-811. Bonds — Tax exemption.~~

~~Bonds issued under the provisions of this subchapter, and the interest thereon, shall be exempt from all state, county, and municipal taxes, including property, income, inheritance, and estate taxes; provided, however, that nothing herein shall preclude a district from requesting the Arkansas Development Finance Authority to issue taxable bonds in furtherance of the purposes hereof, on such terms as the district and the authority deem advisable and in conformity with the authority's statutory authority for issuance of such bonds.~~

~~§ 6-812. Tax exempt status of property and income of district.~~

~~All properties at any time owned by the district and the income therefrom shall be exempt from all taxation in the State of Arkansas.~~

~~§ 6-813. Investment of public funds in bonds.~~

~~(a) Any municipality, any board, commission, or other authority established by ordinance of any municipality, or the boards of trustees, respectively, of the firemen's relief and pension fund and the policemen's pension and relief fund of any municipality, or the board of trustees of any retirement system created by the General Assembly of the State of Arkansas, may in its discretion invest any of its funds not immediately needed for its~~

1 ~~purposes in bonds issued under the provisions of this subchapter.~~

2 ~~(b) Bonds issued under the provisions of this subchapter shall be~~
3 ~~eligible to secure the deposit of public funds.~~

4
5 ~~8-6-814. Transfer of facilities to district by county or municipality.~~
6 ~~Any municipality or county may acquire facilities for a project, or any~~
7 ~~portion thereof, including a project site, by gift, purchase, lease, or~~
8 ~~condemnation, and may transfer the facilities to the district by sale, lease,~~
9 ~~or gift. The transfer may be authorized by ordinance of the governing body~~
10 ~~without regard to the requirements, restrictions, limitations, or other~~
11 ~~provisions contained in any other law.²~~

12
13 SECTION 17. Arkansas Code 8-6-904 [As amended by Acts 1997, No. 250]
14 is hereby repealed.

15 ~~8-6-904. Licensing Committee Members Compensation Restrictions.~~
16 ~~[As amended by Acts 1997, No. 250.]~~

17 ~~(a) There is created and established a licensing committee, to advise~~
18 ~~and assist the commission and the department in the administration of the~~
19 ~~licensing program, which shall be composed of ten (10) members:~~

20 ~~(1) Three (3) members, to be appointed by the commission, shall~~
21 ~~be sanitary landfill operators licensed by the department;~~

22 ~~(2) One (1) member, to be appointed by the commission, shall be~~
23 ~~an employee of a county operating a sanitary landfill who holds the position~~
24 ~~of landfill on-site operator or supervisor;~~

25 ~~(3) One (1) member, to be appointed by the commission, shall be~~
26 ~~an employee of a municipality operating a sanitary landfill who holds the~~
27 ~~position of landfill on-site operator or supervisor;~~

28 ~~(4) One (1) member, to be appointed by the commission, shall be~~
29 ~~a representative of one (1) of the duly constituted regional solid waste~~
30 ~~management boards;~~

31 ~~(5) One (1) member, to be appointed by the commission, shall be~~
32 ~~an on-site operator or supervisor of a waste tire processing facility;~~

33 ~~(6) One (1) member, to be appointed by the commission, shall be~~
34 ~~an on-site operator or supervisor of a non-segregated materials recovery,~~
35 ~~transfer, or composting facility;~~

36 ~~(7) One (1) member, to be appointed by the commission and to~~

1 ~~serve ex officio with no vote, shall be a faculty member of, or other~~
 2 ~~qualified person associated with, an accredited college, university, or~~
 3 ~~professional school in this state whose major field is related to~~
 4 ~~environmental education;~~

5 ~~(8) One (1) member, to be appointed by the director, shall be a~~
 6 ~~qualified member of his staff who shall serve ex officio with no vote as~~
 7 ~~executive secretary of the licensing committee.~~

8 ~~(b)(1) The committee members who do not serve ex officio shall serve~~
 9 ~~five year terms and until their successors have been appointed.~~

10 ~~(2) In the event of a vacancy, a new member shall be appointed~~
 11 ~~by the commission to serve out the unexpired term.~~

12 ~~(3) No voting member shall serve more than two (2) consecutive~~
 13 ~~five year terms.~~

14 ~~(c) The committee shall select a member to serve as chairman each year~~
 15 ~~and shall meet as necessary to carry out its duties under this subchapter and~~
 16 ~~at the call of the chair.~~

17 ~~(d) Members of the licensing committee shall receive no additional~~
 18 ~~salary or per diem for their services as members of the committee, but may~~
 19 ~~receive expense reimbursement and stipends in accordance with § 25-16-901 et~~
 20 ~~seq.~~

21 ~~(e) No member of the committee shall participate in any licensing~~
 22 ~~decision involving the firm or organization by which that member is employed~~
 23 ~~or in which that member has a direct or indirect financial interest.'~~
 24

25 SECTION 18. Arkansas Code 8-6-904, as amended by Act 1254 of 1997, is
 26 hereby amended to read as follows:

27 "8-6-904. Licensing Committee - Members - Compensation - Restrictions.
 28 ~~[As amended by Acts 1997, No. 1254.]~~

29 (a) There is created and established a licensing committee, to advise
 30 and assist the commission and the department in the administration of the
 31 licensing program, which shall be composed of nine (9) ~~ten (10)~~ members:

32 (1) Three (3) members, to be appointed by the commission, shall
 33 be solid waste management facility operators licensed by the department;

34 (2) One (1) member, to be appointed by the commission, shall be
 35 an employee of a county operating a sanitary landfill who holds the position
 36 of landfill on-site operator or supervisor;

1 (3) One (1) member, to be appointed by the commission, shall be
2 an employee of a municipality operating a sanitary landfill who holds the
3 position of landfill on-site operator or supervisor;

4 ~~(4) One (1) member, to be appointed by the commission, shall be~~
5 ~~a representative of one (1) of the duly constituted regional solid waste~~
6 ~~management boards;~~

7 ~~(5)~~(4) One (1) member, to be appointed by the commission, shall
8 be an on-site operator or supervisor of a waste tire processing facility;

9 ~~(6)~~(5) One (1) member, to be appointed by the commission, shall
10 be an on-site operator or supervisor of a non-segregated materials recovery,
11 transfer, or composting facility;

12 ~~(7)~~(6) One (1) member, to be appointed by the commission and to
13 serve ex officio with no vote, shall be a faculty member of, or other
14 qualified person associated with, an accredited college, university, or
15 professional school in this state whose major field is related to
16 environmental education;

17 ~~(8)~~(7) One (1) member, to be appointed by the director, shall be
18 a qualified member of his staff who shall serve ex officio with no vote as
19 executive secretary of the licensing committee.

20 (b)(1) The committee members who do not serve ex officio shall serve
21 five-year terms and until their successors have been appointed.

22 (2) In the event of a vacancy, a new member shall be appointed
23 by the commission to serve out the unexpired term.

24 (3) No voting member shall serve more than two (2) consecutive
25 five-year terms.

26 (c) The committee shall select a member to serve as chairman each year
27 and shall meet as necessary to carry out its duties under this subchapter and
28 at the call of the chair.

29 (d) Members of the licensing committee shall receive no additional
30 salary or per diem for their services as members of the committee, but they
31 shall be allowed their travel and maintenance expenses while attending
32 meetings away from Little Rock.

33 (e) No member of the committee shall participate in any licensing
34 decision involving the firm or organization by which that member is employed
35 or in which that member has a direct or indirect financial interest.”

36

1 SECTION 19. Subchapter 11 of Chapter 6 of Title 8 of the Arkansas Code
2 is hereby repealed.

3 ~~Subchapter 11 Landfill Service Areas~~

4 ~~§ 6-1101. Findings.~~

5 ~~The Arkansas General Assembly makes the following findings:~~

6 ~~(1) As of July 30, 1990, the landfill capacity in Arkansas stood at~~
7 ~~about four and three tenths (4.3) years of landfill life for sixty three (63)~~
8 ~~municipal solid waste landfills;~~

9 ~~(2) The present landfill capacity in the State of Arkansas is~~
10 ~~inadequate and a landfill capacity of at least ten (10) years should be~~
11 ~~developed for solid waste generated in this state in order to provide~~
12 ~~sufficient protection for the public health, welfare, and safety and to~~
13 ~~provide for the future development of the state;~~

14 ~~(3) Adequate solid waste management planning has not been possible~~
15 ~~because of the lack of accurate statistics on industrial waste generation,~~
16 ~~and landfill capacity, and use;~~

17 ~~(4) Legislation has been introduced in this session of the General~~
18 ~~Assembly to:~~

19 ~~(A) Require better reporting by industries using landfills;~~

20 ~~(B) Assist the development of adequate landfill capacity through~~
21 ~~regional funding and grants; and~~

22 ~~(C) Lengthen the usable life of existing landfills through~~
23 ~~recycling;~~

24 ~~(5) Temporary restrictions on the disposal of out of district~~
25 ~~solid waste should be imposed for the purpose of:~~

26 ~~(A) Providing additional time for districts to obtain~~
27 ~~information necessary for regional planning;~~

28 ~~(B) Encouraging districts to develop regional solid waste~~
29 ~~management solutions; and~~

30 ~~(C) Developing a statewide and district landfill capacity of at~~
31 ~~least ten (10) years.~~

32
33 ~~§ 6-1102. Purpose — Construction.~~

34 ~~(a) As directed by Act 870 of 1989, the Arkansas Solid Waste Fact~~
35 ~~Finding Task Force has presented its findings and proposals. The task force~~
36 ~~report identifies serious and chronic deficiencies in how solid waste is~~

1 ~~managed in this state. The report is accompanied by legislative proposals~~
2 ~~which reaffirm the state's commitment to regional solid waste management~~
3 ~~embodied in Act 870 of 1989, and aim, through extensive revision of current~~
4 ~~law, to make regionalization a reality. The report and the task force's~~
5 ~~legislative proposals demonstrate that the state does not have sufficient~~
6 ~~understanding or control of the overall solid waste stream to realize its~~
7 ~~goal of regional solid waste management, much less a responsible recycling~~
8 ~~and source reduction program. These goals cannot be attained if the waste~~
9 ~~streams assigned to the respective regional planning districts continue to~~
10 ~~change during the crucial planning and development stages.~~

11 ~~(b) Federal law, 42 U.S.C. § 6941 et seq., has placed the burden of~~
12 ~~implementing regional solid waste management strategies upon the states. To~~
13 ~~this end, the Arkansas General Assembly has embarked upon the difficult task~~
14 ~~of addressing the complex solid waste needs of the state on a regional basis.~~
15 ~~After giving due regard to all of the contingencies and exigencies inherent~~
16 ~~in planning a regional solid waste strategy, and after accommodating existing~~
17 ~~business expectations based upon waste streams originating from outside the~~
18 ~~Act 870 of 1989 solid waste planning districts, the General Assembly hereby~~
19 ~~enacts the following emergency measure as an essential component of its~~
20 ~~efforts to reform solid waste management in Arkansas.~~

21 ~~(c) This subchapter should be given a liberal construction so as to~~
22 ~~effectuate its remedial intent.~~

23
24 ~~§ 6-1103. Definitions.~~

25 ~~As used in this subchapter:~~

26 ~~(1) 'Board' means a regional solid waste management board established~~
27 ~~pursuant to § 8-6-701 et seq., or a successor board to the powers of either~~
28 ~~type of board;~~

29 ~~(2) 'Director' means the Director of the Department of Pollution~~
30 ~~Control and Ecology;~~

31 ~~(3) 'District' means a regional solid waste planning district or a~~
32 ~~solid waste services area as established by § 8-6-701 et seq., or a successor~~
33 ~~district of a regional solid waste planning district or solid waste service~~
34 ~~area;~~

35 ~~(4) 'Commission' means the Arkansas Pollution Control and Ecology~~
36 ~~Commission;~~

1 ~~(5) 'Landfill' means a permitted landfill under the Arkansas Solid~~
2 ~~Waste Management Act, § 8-6-201 et seq.; and~~

3 ~~(6) 'Solid waste' shall have the same meaning as provided by § 8-6-~~
4 ~~702.~~

5
6 ~~8-6-1104. Transportation of solid waste outside district.~~

7 ~~In any instance where a landfill has a useful life of less than one and~~
8 ~~one half (1 1/2) years, the Director of the Department of Pollution Control~~
9 ~~and Ecology may authorize any city utilizing that landfill to transport solid~~
10 ~~waste outside the boundaries of the district. Provided, however, in no~~
11 ~~instance shall that authority be extended after a landfill with a useful life~~
12 ~~in excess of one and one half (1 1/2) years becomes available within the~~
13 ~~district for accepting the solid waste of the city.~~

14
15 ~~8-6-1105. Expansion outside district — Exemption.~~

16 ~~(a) This section shall apply until the later of:~~

17 ~~(1) July 1, 1992; or~~

18 ~~(2) Until the capacity of landfills in both the district and the~~
19 ~~state reaches a ten-year capacity.~~

20 ~~(b) Landfill capacity shall be determined by the Director of the~~
21 ~~Department of Pollution Control and Ecology.~~

22 ~~(c)(1) No existing landfill shall expand its service area outside the~~
23 ~~district in which it is located, except that existing landfills that on~~
24 ~~March 1, 1989, do not serve areas outside their respective districts shall not~~
25 ~~accept more than fifty (50) tons per day of solid waste originating from~~
26 ~~outside their districts.~~

27 ~~(2) Existing landfills that on March 1, 1989, serve areas~~
28 ~~outside of their respective districts shall not increase the total amount of~~
29 ~~solid waste originating from outside their districts by more than twenty~~
30 ~~percent (20%) annually of the total volume of solid waste received at the~~
31 ~~facility from outside their districts. The amount of solid waste shall be~~
32 ~~determined by volume, except that the amount of incinerator ash shall be~~
33 ~~determined by weight.~~

34 ~~(3) No new landfill shall be allowed to receive solid waste~~
35 ~~outside the boundaries of the district in which it is located, unless it is a~~
36 ~~landfill where a private industry bears the expense of operating and~~

1 ~~maintaining the landfill solely for the disposal of wastes generated by the~~
 2 ~~industry or of wastes of a similar kind or character, and such industry has~~
 3 ~~commenced, prior to March 1, 1991, the process for obtaining a permit by~~
 4 ~~issuing notice to the local government having jurisdiction, as required under~~
 5 ~~the rules and regulations of the Department of Pollution Control and Ecology.~~

6 ~~(4)(A) No new applications for landfill permits seeking to~~
 7 ~~dispose of solid waste originating outside of a district or that propose to~~
 8 ~~dispose of solid waste originating from outside such district shall be~~
 9 ~~accepted or processed by the commission or a board, unless such applications~~
 10 ~~—were pending before the Department of Pollution Control and Ecology on~~
 11 ~~March 1, 1989.~~

12 ~~(B) Provided, the prohibition contained in this subsection~~
 13 ~~shall not apply to new applications for landfill permits if the landfill is~~
 14 ~~one where a private industry bears the expense of operating and maintaining~~
 15 ~~the landfill solely for the disposal of wastes generated by the industry, or~~
 16 ~~of wastes of a similar kind or character, and such industry has commenced,~~
 17 ~~prior to March 1, 1991, the process for obtaining a permit by issuing notice~~
 18 ~~to the local government having jurisdiction, as required under the rules and~~
 19 ~~regulations of the Department of Pollution Control and Ecology.~~

20 ~~(d) The Director of the Department of Pollution Control and Ecology may~~
 21 ~~grant an exemption from this section for solid waste brought into a district~~
 22 ~~for the purpose of recycling or because the district where solid waste is~~
 23 ~~generated does not have a landfill that meets applicable state or federal~~
 24 ~~regulations. Exemption shall be subject to such terms and conditions as the~~
 25 ~~director may deem appropriate.~~

26 ~~(e) A successor district may transport solid waste to any one of the~~
 27 ~~original districts of which the members of the successor district were a~~
 28 ~~part.²~~

29
 30 SECTION 20. Arkansas Code 8-6-1501 is amended to read as follows:

31 "8-6-1501. Legislative intent.

32 ~~(a) Through extensive legislation since 1989, the State of Arkansas~~
 33 ~~has made significant strides toward a comprehensive and regionalized approach~~
 34 ~~to solid waste management.—The General Assembly recognizes the need to~~
 35 ~~develop viable facilities for managing and disposing of the state's solid~~
 36 ~~waste.—This subchapter should be construed as a complement to the state's~~

1 ~~overall regionalization strategy by encouraging an equitable and efficient~~
 2 ~~dispersal of solid waste management facilities to serve the needs of all~~
 3 ~~citizens.~~

4 ~~(b) The General Assembly also acknowledges that, while solid waste~~
 5 ~~management facilities are essential, certain types of facilities impose~~
 6 ~~specific burdens on the host community. National trends indicate a tendency~~
 7 ~~to concentrate high impact solid waste disposal facilities in lower-income or~~
 8 ~~minority communities. Such facilities may place an onus on the host~~
 9 ~~community without any reciprocal benefits to local residents. The purpose of~~
 10 ~~this subchapter is to prevent communities from becoming involuntary hosts to~~
 11 ~~a proliferation of high impact solid waste management facilities.”~~

12
 13 SECTION 21. Arkansas Code 8-6-1504 is amended to read as follows:

14 “8-6-1504. Presumption against certain sites.

15 (a)(1) There shall be a rebuttable presumption against permitting the
 16 construction or operation of any high impact solid waste management facility
 17 as defined in this subchapter within twelve (12) miles of any existing high
 18 impact solid waste management facility.

19 (2) This presumption shall be honored by the Arkansas Department
 20 of Environmental Quality Pollution Control and Ecology, ~~the regional solid~~
 21 ~~waste management board with jurisdiction over the site~~, and any other
 22 governmental entity with permitting or zoning authority concerning any
 23 facility.

24 (b) The presumption in subsection (a) of this section can be rebutted
 25 if any of the following is shown:

26 (1) No other suitable site for such a facility is available
 27 within the county ~~regional solid waste management district~~ because of the
 28 restraints of geology or any other factors listed at § 8-6-706(b)(2); or

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

31 (A) Increased employment opportunities;

32 (B) Reasonable host fees not to exceed the prevailing
 33 state average;

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

36 (D) Compensation to adjacent individual landowners for any

1 *assessed decrease in property values; or*
2 *(E) Subsidization of community services.”*

3
4 *SECTION 22. All provisions of this act of a general and permanent*
5 *nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas*
6 *Code Revision Commission shall incorporate the same in the Code.*

7
8 *SECTION 23. If any provision of this act or the application thereof to*
9 *any person or circumstance is held invalid, such invalidity shall not affect*
10 *other provisions or applications of the act which can be given effect without*
11 *the invalid provision or application, and to this end the provisions of this*
12 *act are declared to be severable.*

13
14 *SECTION 24. All laws and parts of laws in conflict with this act are*
15 *hereby repealed.*

16
17 */s/ Gwatney*
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14