

1 State of Arkansas
2 88th General Assembly
3 Regular Session, 2011
4

As Engrossed: H1/24/11

A Bill

HOUSE BILL 1060

5 By: Representatives Lindsey, D. Altes, Carnine, Fielding, Leding, B. Overbey, Summers, Woods
6 By: Senators M. Lamoureux, Madison
7

For An Act To Be Entitled

9 *AN ACT TO CLARIFY THE POWER OF REGIONAL SOLID WASTE*
10 *MANAGEMENT BOARDS TO CHARGE AND COLLECT A FEE FOR*
11 *MANAGEMENT OF SOLID WASTE; TO DECLARE AN EMERGENCY;*
12 *AND FOR OTHER PURPOSES.*
13
14

Subtitle

15 *TO CLARIFY THE POWER OF REGIONAL SOLID*
16 *WASTE MANAGEMENT BOARDS TO CHARGE AND*
17 *COLLECT A FEE FOR MANAGEMENT OF SOLID WASTE*
18 *AND TO DECLARE AN EMERGENCY.*
19
20
21

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
23

SECTION 1. The General Assembly finds that:

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

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

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



1 management boards to charge certain fees and charges;

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

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

11
12 SECTION 2. Arkansas Code § 8-6-714(a), regarding rents, fees, and
13 charges authorized for regional solid waste management boards, is amended to
14 read as follows:

15 8-6-714. Rents, fees, and charges.

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

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

23 (ii) That support the district's management of the
24 solid waste needs of the district.

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

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

29 (a) Enforce all statutes and rules regarding
30 solid waste, including without limitation, the Arkansas Privatization Act, §
31 8-5-601 et seq.;

32 (b) Seek to prevent and to identify and
33 eliminate illegal dump sites;

34 (ii) Has a program for household hazardous waste
35 collection and disposal; and

36 (iii) Has a program for recycling that includes

1 rural areas of the district and the recycling of bulky waste.

2 (2) The board may fix, charge, and collect fees or charges for
3 solid waste generated:

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

7 (B) Within the district but delivered to a location
8 outside the district.

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

12 (C)(i) Solid waste generated within one (1) district and
13 delivered to another district for disposal may be assessed a fee as follows:

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

17 (b) The fee may be assessed against the
18 generator, transporter, or disposal facility; and

19 (c) Each ton or cubic yard of waste may be
20 assessed only one (1) fee.

21 (ii) The fee created in subdivision (a)(3)(C)(i) of
22 this section does not apply to:

23 (a) Solid waste generated by private industry
24 if the private industry bears the expense of operating and maintaining the
25 disposal facility for the waste;

26 (b) Recyclable materials that are processed
27 and marketed for recycling;

28 (c) Organic materials that are delivered to a
29 permitted composting facility;

30 (d) Materials that are removed from solid
31 waste and processed for recycling;

32 (e) Waste tires processed through a district's
33 waste tire program; or

34 (f) Household hazardous waste collected
35 through a district's household hazardous waste program.

36 (iii)(a) The fee created in subdivision (a)(3)(C)(i)

1 of this section shall not exceed two dollars (\$2.00) per ton of solid waste.
2 (b) However, if weight tickets are not
3 available, the fee shall be calculated on a volume basis at twenty-five cents
4 (25¢) per uncompactd cubic yard or forty-five cents (45¢) per compactd
5 cubic yard .

6 (iv) Districts shall determine by interlocal
7 agreement how the districts shall:

8 (a) Assess and administer the fee; and

9 (b) Divide the fees.

10
11 SECTION 3. EMERGENCY CLAUSE. It is found and determined by the
12 General Assembly of the State of Arkansas that unintended consequences of
13 court action regarding the wording of Arkansas Code § 8-6-714, have been
14 curtailed or discontinued a main source of funding for many of the programs
15 of the solid waste management districts; that reinstatement of these funding
16 sources and the immediate collection of these fees will put the Solid Waste
17 Management District's budgets back on track; and that this act is immediately
18 necessary because no other funding source in state government currently
19 exists to continue these programs of the Solid Waste Management Districts to
20 provide services necessary to the health and welfare of Arkansas citizens and
21 to safeguard the state's fragile ecological health and well being.
22 Therefore, an emergency is declared to exist and this act being immediately
23 necessary for the preservation of the public peace, health, and safety shall
24 become effective on:

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

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

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

31
32 /s/Lindsey
33
34
35
36