

INTERIM STUDY PROPOSAL 2021-077

1 State of Arkansas  
2 93rd General Assembly  
3 Regular Session, 2021

**A Bill**

SENATE BILL 517

4 By: Senator B. Ballinger

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6  
7 Filed with: Arkansas Legislative Council  
8 pursuant to A.C.A. §10-3-217.

9 **For An Act To Be Entitled**

10 AN ACT TO TRANSFER OVERSIGHT OF CERTAIN DUTIES OF THE  
11 REGIONAL SOLID WASTE MANAGEMENT DISTRICTS FROM THE  
12 DIVISION OF ENVIRONMENTAL QUALITY TO THE ARKANSAS  
13 POLLUTION CONTROL AND ECOLOGY COMMISSION; TO AMEND  
14 THE REQUIRED EXPERTISE OF MEMBERS OF ARKANSAS  
15 POLLUTION CONTROL AND ECOLOGY COMMISSION; AND FOR  
16 OTHER PURPOSES.

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18  
19 **Subtitle**

20 TO TRANSFER OVERSIGHT OF CERTAIN DUTIES  
21 OF THE REGIONAL SOLID WASTE MANAGEMENT  
22 DISTRICTS; AND TO AMEND THE REQUIRED  
23 EXPERTISE OF MEMBERS OF ARKANSAS  
24 POLLUTION CONTROL AND ECOLOGY COMMISSION.

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

28  
29 SECTION 1. Arkansas Code § 8-1-203(b), concerning the powers and  
30 duties of the Arkansas Pollution Control and Ecology Commission, is amended  
31 to add an additional subdivision to read as follows:

32 (9) Provide oversight of the regional solid waste management  
33 districts.

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35 SECTION 2. Arkansas Code § 8-4-104(b)(1)(C), concerning the expertise  
36 of members of the Arkansas Pollution Control and Ecology Commission who are

1 appointed by the Governor, is amended to add an additional subdivision to  
2 read as follows:

3 (iii) At least one (1) member appointed by the  
4 Governor shall be an individual with knowledge or expertise in solid waste  
5 management.

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7 SECTION 3. Arkansas Code § 8-6-207(a)(4), concerning the powers and  
8 duties of the Division of Environmental Quality under the Arkansas Solid  
9 Waste Management Act, is repealed.

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

13  
14 SECTION 4. Arkansas Code § 8-6-207(b), concerning the powers and  
15 duties of the Arkansas Pollution Control and Ecology Commission under the  
16 Arkansas Solid Waste Management Act, is amended to add an additional  
17 subdivision to read as follows:

18 (11) To develop a statewide solid waste management plan in  
19 cooperation with municipal and county governments and solid waste boards,  
20 which gives emphasis to regional planning when feasible.

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22 SECTION 5. Arkansas Code § 8-6-704(a)(13)(B), concerning the notice by  
23 a regional solid waste management board of an agreement with another  
24 district, is amended to read as follows:

25 (B) However, notice of all such authorizations shall be  
26 submitted to the Division of Environmental Quality and the Arkansas Pollution  
27 Control and Ecology Commission within thirty (30) days and shall be  
28 incorporated into the regional needs assessment in its next regular update;  
29 and

30  
31 SECTION 6. Arkansas Code § 8-6-704(a)(14)(B), concerning the notice by  
32 a regional solid waste management district of an authorization for a disposal  
33 facility to accept receipt of solid waste from an adjoining district, is  
34 amended to read as follows:

35 (B) However, notice of all such authorizations shall be  
36 submitted to the division and the commission within thirty (30) days and

1 shall be incorporated into the regional needs assessment in its next regular  
2 update.

3  
4 SECTION 7. Arkansas Code § 8-6-704(d)(4), concerning the filing of  
5 copies of each audit report by a regional solid waste management board, is  
6 amended to read as follows:

7 (4) Copies of each audit report of a district shall be filed  
8 with the ~~division~~ commission and with Arkansas Legislative Audit. In  
9 addition, one (1) copy of the audit report shall be kept for public  
10 inspection with the books and records of the district.

11  
12 SECTION 8. Arkansas Code § 8-6-704(d)(6)(C), concerning the report of  
13 the random district reviews conducted by Arkansas Legislative Audit, is  
14 amended to read as follows:

15 (C) A report of the reviews under subdivision (d)(6)(A) of  
16 this section shall be compiled and presented to:

- 17 (i) The Legislative Joint Auditing Committee; and  
18 (ii) The ~~division~~ commission.

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20 SECTION 9. Arkansas Code § 8-6-705 is amended to read as follows:  
21 8-6-705. Needs assessments.

22 (a) All needs assessments required by this subchapter are subject to  
23 review and approval for completeness by the ~~Division of Environmental Quality~~  
24 Arkansas Pollution Control and Ecology Commission.

25 (b) Failure to provide complete assessments as required by this  
26 subchapter may provide the ~~division~~ commission with grounds to initiate  
27 enforcement actions against the regional solid waste management boards or  
28 their component governmental entities. Pursuant to established administrative  
29 procedures, sanctions may be imposed, including, ~~but not limited to,~~ without  
30 limitation denial, discontinuation, or reimbursement of any grant funding  
31 administered by the ~~division~~ commission to a regional solid waste management  
32 district or any of its component governmental entities.

33 ~~(c) The division may award grants to the districts for the development~~  
34 ~~of the initial regional needs assessments, for the biennial updates, and for~~  
35 ~~any other update required by the law.~~

1 SECTION 10. Arkansas Code § 8-6-712(a)(3)(B), concerning the  
2 regulation of solid waste disposal, is amended to read as follows:

3 (B) Provided, however, that notice of all such  
4 authorizations shall be submitted to the ~~Division of Environmental Quality~~  
5 Arkansas Pollution Control and Ecology Commission within thirty (30) days and  
6 shall be incorporated into the district needs assessment in its next regular  
7 update;

8  
9 SECTION 11. Arkansas Code § 8-6-716(a)(1)(A)-(C), concerning regional  
10 needs assessments prepared by a regional solid waste management board, are  
11 amended to read as follows:

12 (a)(1)(A)(i) Each regional solid waste management board created  
13 pursuant to this subchapter shall prepare a regional needs assessment  
14 evaluating the solid waste management needs within its regional solid waste  
15 management district. ~~Provided, however, that such~~ However, the regional needs  
16 assessments ~~need not~~ do not need to include an evaluation of the need for  
17 landfills where a private industry bears the expense of operating and  
18 maintaining the landfill solely for the disposal of wastes generated by the  
19 industry or wastes of a similar kind or character.

20 (ii) ~~Such~~ The regional needs assessment shall be  
21 submitted for ~~Division of Environmental Quality~~ Arkansas Pollution Control  
22 and Ecology Commission review, and the ~~Director of the Division of~~  
23 ~~Environmental Quality~~ commission shall approve or disapprove it within ninety  
24 (90) days after submission.

25 (iii) If the commission does not approve or  
26 disapprove the regional needs assessment within ninety (90) days of  
27 submission, the regional needs assessment is automatically approved on the  
28 ninety-first day following submission to the commission.

29 (B)(i) The regional needs assessments for boards created  
30 pursuant to § 8-6-703 shall be due every four (4) years.

31 (ii) The ~~division~~ commission may, at its discretion,  
32 stagger the due dates by random selection so that approximately one-fourth  
33 ( $\frac{1}{4}$ ) of the districts will submit a regional needs assessment each year.

34 (C)(i) The ~~division~~ commission will notify in writing the  
35 districts of the date on which their regional needs assessments are due.

1 (ii) The board may obtain an extension of that  
2 deadline from the ~~director~~ commission.

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4 SECTION 12. Arkansas Code § 8-6-720(b), concerning the rule to  
5 determine the adequacy of facilities and the number and type of recyclable  
6 materials, is amended to read as follows:

7 (b) The ~~Division of Environmental Quality~~ commission shall determine  
8 by rule the adequacy of the facilities and the number and type of recyclable  
9 materials for which the services in this section ~~must~~ shall be provided.

10  
11 SECTION 13. Arkansas Code § 8-6-723(a)(2), concerning the alternative  
12 formation of original districts by interlocal agreement, is amended to read  
13 as follows:

14 (2) The creation of the district shall be effective upon the  
15 ~~Director of the Division of Environmental Quality's~~ Arkansas Pollution  
16 Control and Ecology Commission's receipt of written notice in the form of a  
17 joint resolution by the local governments.

18  
19 SECTION 14. Arkansas Code § 8-6-723(c), concerning the lack of  
20 authority of the Arkansas Pollution Control and Ecology Commission to add or  
21 change the boundaries of a regional solid waste management district created  
22 by alternative formation, is amended to read as follows:

23 (c) The ~~Arkansas Pollution Control and Ecology Commission~~ commission  
24 shall have no authority to add to or otherwise change the boundaries of a  
25 district created under this section.

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27 SECTION 15. Arkansas Code § 8-6-1902 is amended to read as follows:  
28 8-6-1902. Findings.

29 The General Assembly ~~makes the following findings~~ finds that:

30 (1) The ~~Division of Environmental Quality~~ Arkansas Pollution  
31 Control and Ecology Commission has been charged by the General Assembly with  
32 the responsibility of developing the Statewide Solid Waste Management Plan  
33 which, when feasible, gives emphasis to regional planning;

34 (2) The difficult task of addressing the complex solid waste  
35 needs of the state on a regional basis has been accomplished by creating  
36 regional solid waste management boards;

1           (3) The need for a Statewide Solid Waste Management Plan  
2 remains; and

3           (4) The development and implementation of a Statewide Solid  
4 Waste Management Plan is necessary to protect the public's health and the  
5 state's environmental quality and to maximize the efficiency of regional  
6 solid waste management systems.

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8           SECTION 16. Arkansas Code § 8-6-1904 is amended to read as follows:  
9           8-6-1904. Development and implementation.

10          (a) The ~~Division of Environmental Quality~~ Arkansas Pollution Control  
11 and Ecology Commission shall develop the Statewide Solid Waste Management  
12 Plan to establish minimum requirements for all regional solid waste  
13 management plans, including requirements for:

- 14           (1) Strategic planning;
- 15           (2) Reporting;
- 16           (3) Public notice and participation;
- 17           (4) Services; and
- 18           (5) Solutions to problems and issues.

19          (b) Within one (1) year after the Statewide Solid Waste Management  
20 Plan becomes final, each regional solid waste management board shall develop  
21 a regional solid waste management plan for ~~division~~ commission review and  
22 approval, which includes the minimum requirements contained in the Statewide  
23 Solid Waste Management Plan. This new regional solid waste management plan  
24 shall replace any existing regional solid waste management plan previously  
25 developed.

26          (c) Failure of any board to develop or implement any requirement  
27 contained in the Statewide Solid Waste Management Plan shall subject the  
28 board to:

- 29           (1) The penalty and enforcement provisions contained in § 8-6-  
30 204; or
- 31           (2) Denial, discontinuation, or reimbursement of any funding  
32 administered by the ~~division~~ commission to the board.

33          (d) The ~~Arkansas Pollution Control and Ecology Commission~~ commission  
34 may adopt reasonable rules necessary to implement or effectuate the purposes  
35 and intent of this subchapter.

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2 Referred requested by the Arkansas Senate  
3 Prepared by: MBM/KFW  
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