

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

# A Bill

Act 631 of 1999  
HOUSE BILL 1670

5 By: Representatives Bookout, Allison, Trammell, Luker, Biggs, Gipson  
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## For An Act To Be Entitled

9 "AN ACT TO REQUIRE APPLICANTS FOR A TRANSFER STATION  
10 TO OBTAIN A CERTIFICATE OF NEED FROM THE REGIONAL  
11 SOLID WASTE MANAGEMENT BOARD IN WHICH THE TRANSFER  
12 STATION WILL BE LOCATED AND TO REQUIRE NOTIFICATION  
13 AND APPROVAL OF THE REGIONAL SOLID WASTE MANAGEMENT  
14 BOARD INTO WHICH THE SOLID WASTE WILL BE TRANSFERRED;  
15 AND FOR OTHER PURPOSES. "  
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## Subtitle

17 "TO REQUIRE APPLICANTS FOR A TRANSFER  
18 STATION TO OBTAIN A CERTIFICATE OF NEED  
19 FROM THE REGIONAL SOLID WASTE MANAGEMENT  
20 BOARD IN WHICH THE TRANSFER STATION WILL  
21 BE LOCATED. "  
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25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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27 SECTION 1. Arkansas Code 8-6-706 is amended to read as follows:

28 "8-6-706. Solid waste landfill and transfer station permits.

29 (a) Any applicant for a solid waste landfill or transfer station  
30 permit, with the exception of:

31 (1) permits for landfills when a private industry bears the  
32 expense of operating and maintaining the landfill solely for the disposal of  
33 waste generated by the industry or wastes of a similar kind or character,  
34 under the Arkansas Solid Waste Management Act, § 8-6-201 et seq. or

35 (2) transfer station permits issued prior to January 1, 1999,  
36 must obtain a certificate of need from the board with jurisdiction over the

1 proposed site prior to submitting the application to the Department of  
 2 Pollution Control and Ecology. The department may deny any permit based upon  
 3 the denial of a certificate of need by any regional board.

4 (b)(1) Applicants for a solid waste landfill permit or transfer station  
 5 permit must petition the board with jurisdiction over a the proposed solid  
 6 waste disposal site for a certificate of need in accordance with procedures  
 7 adopted by the board.

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

10 (A) Is consistent with the regional planning strategy  
 11 adopted by the board in the regional needs assessment or the regional solid  
 12 waste management plan;

13 (B) Does not conflict with existing comprehensive land use  
 14 plans of any local governmental entities;

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

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

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

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

28 (G) If the transfer station proposes to transfer waste  
 29 outside of the district in which it is located, the petition shall also  
 30 contain documentation that the district to which the waste will be transferred  
 31 has been notified and that the board of that district has approved the receipt  
 32 of such waste. This provision shall not apply if the waste is being  
 33 transported for disposal outside the geographical limits of this state.

34 (c) Any interested party to a certificate of need determination by a  
 35 board may appeal the decision to the director of the department pursuant to  
 36 procedures adopted by the commission. The director may issue a permit despite

1 the denial of a certificate of need if the director finds upon appeal that the  
 2 decision of the board was not supported by substantial evidence.

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

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

9 (2) The requirements and considerations of any needs assessments  
 10 prepared pursuant to this section;

11 (3) The location of the applicant's proposed landfill or transfer  
 12 station based on the district's needs and its highway and road system;

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

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

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

24 (7) Any procedures adopted by the board for issuance of  
 25 certificates of need.

26 (e) All landfill permit applications shall specify the service areas  
 27 which the landfill will serve under the permit.

28 (f) All transfer station permit applications shall specify the service  
 29 areas which the transfer station shall serve under the permit, and shall also  
 30 specify the facility to which waste from the transfer station will be  
 31 transferred."

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 33 SECTION 2. All provisions of this act of a general and permanent nature  
 34 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
 35 Revision Commission shall incorporate the same in the Code.

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1 SECTION 3. If any provision of this act or the application thereof to  
2 any person or circumstance is held invalid, such invalidity shall not affect  
3 other provisions or applications of the act which can be given effect without  
4 the invalid provision or application, and to this end the provisions of this  
5 act are declared to be severable.

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7 SECTION 4. All laws and parts of laws in conflict with this act are  
8 hereby repealed.

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10 SECTION 5. EMERGENCY CLAUSE. It is hereby found and determined by the  
11 Eighty-second General Assembly that the proper siting of transfer stations is  
12 essential to achieve the goals of efficient, effective, and environmentally  
13 sound regional solid waste management and planning. It is found that the  
14 regional solid waste management districts and boards must have the authority  
15 to evaluate, manage and coordinate the siting, location, and operation of  
16 transfer stations in order that the health and welfare of the citizens of  
17 Arkansas be ensured and the state's environment be protected. Therefore, an  
18 emergency is declared to exist and this act being immediately necessary for  
19 the preservation of the public peace, health and safety shall become effective  
20 on the date of its approval by the Governor. If the bill is neither approved  
21 nor vetoed by the Governor, it shall become effective on the expiration of the  
22 period of time during which the Governor may veto the bill. If the bill is  
23 vetoed by the Governor and the veto is overridden, it shall become effective  
24 on the date the last house overrides the veto.

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27 APPROVED: 3/16/1999  
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