

1 INTERIM STUDY PROPOSAL 2021-077

2 State of Arkansas

3 93rd General Assembly

4 Regular Session, 2021

A Bill

SENATE BILL 517

5
6 By: Senator B. Ballinger

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.

17 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.

25
26
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.

34
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.

6
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9 Waste Management Act, is repealed.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.

21
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.

19
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.

3
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.

26
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.

7
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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Referred requested by the Arkansas Senate

Prepared by: MBM/KFW