

State of Arkansas

77th General Assembly

Regular Session, 1989

A Bill

HOUSE BILL

1277

By: Representatives Gibson, Schexnayder, Northcutt, Landers, Maddox,  
and Jordan

For An Act To Be Entitled

"AN ACT TO PREVENT THE ISSUANCE OR MODIFICATION OF PERMITS,  
OR FAVORABLE ACTION UPON APPLICATIONS BY PRIVATE PERSONS,  
FIRMS OR CORPORATIONS FOR THE PURPOSE OF DEPOSITING GARBAGE  
OR TRASH ORIGINATING OR COLLECTED OUT OF STATE UNTIL  
JANUARY 30, 1991; TO PROVIDE FOR A TASK FORCE OR COMMISSION TO  
CONDUCT A STUDY OF THE STATEWIDE IMPACT OF THE ESTABLISHMENT  
OF SUCH FACILITIES FOR THE DISPOSAL OF GARBAGE OR TRASH  
ORIGINATING FROM OUT OF STATE; AND TO PROVIDE FOR A REPORT OF  
SUCH STUDY BY JULY 30, 1990; AND FOR OTHER PURPOSES."

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

SECTION 1. Legislative findings and intent. (a) The General Assembly finds that a comprehensive approach to solid waste management is required to meet health, safety and environmental and economic needs of the state in the immediate and distant future. Currently, no overall strategy corresponds to the state's solid waste disposal capacity with current and future needs. Also, few counties have adopted comprehensive land use plans which regulate the impact of solid waste and the remaining counties need time in which to do this.

(b) The General Assembly finds that the state is faced with an influx of solid waste beyond its border which threatens to exacerbate existing solid waste management crisis in portions of the state. Further, the General Assembly finds that insufficient safeguards are in place which will protect public health and welfare from essentially an unregulated influx of garbage or trash originating from or being collected outside this state. The General Assembly finds that the unregulated influx of such garbage or trash collected or originating from out of state into the state will irreparably effect the

state's ability to responsibly meet its own solid waste needs in the future.

(c) The General Assembly finds that there is sufficient evidence to believe because of the immense profit in the solid waste industry, that said industry is vulnerable to corrupt influence. The Attorney General's Office and other appropriate law enforcement departments and agencies should be consulted in the drafting of appropriate legislation to allow an investigation into the background of a company or the owner's or officers thereof, which would disclose any record of conviction for certain crimes and assess the reliability of the information contained in the disclosure statement.

(d) The General Assembly finds that the importation of out of state garbage or waste may have an adverse or negative impact upon the positive image of Arkansas as a "natural state" and a state of unspoiled resources. The Department of Tourism and other appropriate tourist related industries should be given ample opportunity, not heretofore afforded, to study and report any possible adverse effect that the importation or dumping of out of state garbage or trash may have upon the tourist industry - the second largest industry of the state. No such studies or reports heretofore have been made.

(e) The General Assembly finds that this state has made substantial progress in areas of public education. The General Assembly further finds that the several school districts in many cases have raised their local millages by substantial margins in order to meet newly imposed and positive school standards. That because of any possible negative impact that the location of such landfills in which out of state garbage or trash may be deposited could have upon the land values in surrounding school districts, the commission created hereunder should study and report the possible negative impact of the location of such landfills upon the local school districts in the vicinity, regardless of county or city boundaries. No such studies or reports have heretofore been made.

(f) The General Assembly hereby finds that currently there is no state fund with adequate resources that would pay for the cost of any "clean up" or damage that may be caused to the environment of this state as result of any possible pollution or contamination in years to come which may be caused by the massive dumping of out of state garbage by private companies within the borders of this state. Current state law places financial responsibility of such clean ups and remedial action upon private landfill owners or operators. The General Assembly finds and concludes that studies need to be conducted and

a report made respecting the best possible method to ensure that the citizens themselves of particular local areas should be adequately protected from bearing the clean up cost for landfills essentially permitted by the State of Arkansas. The General Assembly further finds that the present state of law in this respect does not afford such protection. The General Assembly further finds that a needs assessment study should be conducted by the commission appointed pursuant to this act to determine the needs of our state with respect to the location of landfills to accommodate our garbage or trash and that such a study has not been attempted or completed and that time is needed in order for the commission appointed pursuant to this act to conduct such a study so that those needs may be accounted for and protected before this state accepts garbage or trash originating from out of state in large quantities.

(g) The General Assembly finds that Arkansas is a habitat for an abundance of wildlife; that Arkansas is located in the Mississippi Flyway; that there are rare species of fish, duck and other wildlife that need to be identified as to species, location, and habitat; that said species deserve protection from the possibility of annihilation by polluted waters and rivers and streams. That any interested sportsman's organization should be asked to study and report the study results to the commission created hereunder of matters pertinent thereto.

(h) That the General Assembly finds that Arkansas is a state with many archaeological artifacts, monuments, Indian burial grounds and matters of historical significance that this state has an interest in preserving. That the commission enacted hereunder should make appropriate inquiry to determine the location, size and significance of these sites and monuments and make a report relative thereto.

(i) Through this act, the General Assembly intends to impose a moratorium from January 1, 1989 until January 30, 1991, upon any action upon applications seeking permits by private firms, persons, or corporations to bring garbage or trash originating or collected from out of state into this state for the purpose of depositing the same here in any landfill so as to allow a commission appointed by the Governor sufficient time to conduct a comprehensive statewide solid waste management study.

SECTION 2. Arkansas Code Annotated Section 8-6-213 is hereby amended by adding the following language:

"(e) (1) Notwithstanding the preceding, until January 30, 1991, no application by private persons, firms or corporations for the purpose of transporting and depositing garbage or trash originating or collected from out of state shall be given favorable action nor shall any permit for such be granted by the Department of Pollution Control and Ecology which will allow the disposal of out of state garbage or trash in any location in the state. Any applications to do so filed by such private persons, firms or corporations with any city, county or state government or agency shall be effected by this moratorium. This restriction or moratorium does not apply to existing permits for facilities receiving garbage or trash originating or being collected from out of state, but only to the extent that no significant increase in the volume of out of state waste received from such facilities shall be allowed by a new or modified permit. This purpose of this moratorium is to allow the study mandated by the previous sections herein and to allow city and county governments to take the steps contemplated by the law with respect to establishing land use management codes and county ordinances in order to protect certain areas of the several counties of this state from such landfills.

(2) The Governor shall, within sixty (60) days of the effective date of this act, appoint a task force or commission to conduct a thorough study to determine the solid waste needs of the entire State of Arkansas and to determine the overall impact on the entire state of the establishment of disposal facilities for the purpose of disposing of garbage and trash by private persons, firms or corporations. This task force or commission shall be composed of representatives of business, industry, environmental interests, tourism interests, sportsman's and wildlife interests, and citizens groups. This task force or commission shall report its findings and recommendations, together with any proposed legislation, to the Governor by July 30, 1990.

(3) Any application pending on the effective date of this moratorium may be withdrawn by the applicant or shall be reviewed under the law in effect immediately after termination of the moratorium. No new applications subject to the moratorium shall be accepted by the department during the period of the moratorium."

SECTION 3. Emergency. It is hereby found and determined by the General Assembly that due to the potential health hazards, possible adverse economic

impact and the possible effect that the disposal of out of state garbage and trash may have upon the wildlife and environment of the citizens of this state, a study of the impact upon the entire state of the establishment of such facilities should be conducted and no permits should be issued to any private persons, firms or corporations for the purpose of depositing garbage or trash collected originating from out of state into any landfills in this state nor should any such applications be acted upon favorably by any state agencies or local governments or agencies until such study is complete, and this act is designed to require such a study and the moratorium on such applications and permits and should be given effect immediately. Therefore, an emergency is declared to exist and this act, being necessary for the preservation of the public health, and safety, shall be in full force and effect from and after its passage and approval.