

State of Arkansas

77th General Assembly

Regular Session, 1989

A Bill

SENATE BILL

399

By: Senator Chaffin

For An Act To Be Entitled

"AN ACT FOR THE PURPOSE OF REGULATING THE DEPOSIT OF WASTE MATERIALS THAT ORIGINATED OUTSIDE THE BOUNDARIES OF THE STATE OF ARKANSAS IN LANDFILLS LOCATED WITHIN THE BOUNDARIES OF THE STATE OF ARKANSAS; AND FOR OTHER PURPOSES."

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

WHEREAS, the Supreme Court of the United States of America has declared that solid waste materials are, in fact, commodities; and

WHEREAS, "commodities" are defined as items that are bought and sold; and

WHEREAS, commodities are procured, or bargained for, only at those times when such a commodity is needed; and

WHEREAS, it is an established fact that the State of Arkansas has a surplus of waste materials (commodity) that are, and have been, accumulating within the boundaries of the State of Arkansas; and

WHEREAS, there are not enough landfills located within the boundaries of the State of Arkansas to meet the needs of the State of Arkansas; and

WHEREAS, most of the landfills located within the State of Arkansas do not meet present and future regulations of the Federal Environmental Protection Agency and the present and future regulations of the Arkansas Department of Pollution Control and Ecology;

NOW THEREFORE,

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

SECTION 1. LEGISLATIVE FINDING AND DECLARATION OF POLICY. It is hereby found and determined by the Seventy-Seventh Arkansas General Assembly that since improper disposal of waste materials creates public health hazards, environmental pollution hazards and creates an economic loss, it is the

purpose of this Act to regulate such practices.

SECTION 2. INTENT. It is the intent of this Act to regulate only the depositing of waste materials originating outside the boundaries of the State of Arkansas that are referenced in this Act. The State of Arkansas reserves the right to regulate, through laws and regulations, waste materials not referenced in this Act.

SECTION 3. (a) A moratorium is hereby placed on the building of any new solid waste landfills and any enlargement of operations at existing solid waste landfills within the State of Arkansas for the purpose of depositing out-of-state waste materials in any landfill located within the State of Arkansas.

(b) Any new lateral solid waste landfill or increasing the permitted capacity of an existing solid waste landfill shall be deemed to be "new solid waste landfills" as used in subsection (a) of this section.

(c) The Arkansas Department of Pollution Control and Ecology shall not issue permits for the building of any new solid waste landfills or for the enlargement of any existing solid waste landfill for the purpose of depositing out-of-state waste materials during the time period of the moratorium.

(d) Any solid waste landfill in operation within the State of Arkansas on the effective date of this act shall comply with the following provisions:

(1) They shall not accept out-of-state waste materials for deposit in an Arkansas landfill other than the sources they were accepting from as of the effective date of this act;

(2) They shall not accept larger quantities of out-of-state waste materials than were accepted during the month of January, 1989 from the same source; and

(3) They shall furnish to the Arkansas Department of Pollution Control and Ecology, prior to May 1, 1989, information regarding the amount of waste materials received from out-of-state sources during the month of January, 1989, a complete description of the out-of-state waste materials received, and the state and location within that state where the waste materials originated.

(e) The moratorium shall take effect upon the enactment of this act and shall continue in effect until May 1, 1991.

SECTION 4. (a) There is hereby created the Arkansas Fact Finding Committee for Solid Waste Materials for the purpose of researching the transfer, deposit, and storing of solid waste materials in the State of Arkansas. The Committee shall research the transporting of solid waste materials over the roads and highways of Arkansas, all aspects of solid waste material landfills located within the State of Arkansas, the closure and future maintenance of landfills located within Arkansas, and the location, present and future, of landfills within the State of Arkansas.

(b) The Committee shall have twelve (12) voting members and three (3) ex-officio members. The composition of the Committee shall be as follows:

(1) Four (4) members shall be appointed by the Governor to represent each of the Arkansas congressional districts;

(2) Four (4) members shall be appointed by the President Pro Tempore of the Arkansas Senate;

(3) Four (4) members shall be appointed by the Speaker of the House of Representatives of the Arkansas General Assembly;

(4) The Director of the Department of Pollution Control and Ecology shall serve as an ex-officio member, the Director of the Arkansas Geological Commission shall serve as an ex-officio member, and the Arkansas Legislative Council shall appoint one (1) member to serve as an ex-officio member of the Committee.

(c) The four (4) members appointed by the President Pro Tempore of the Arkansas Senate and the four (4) members appointed by the Speaker of the Arkansas House of Representatives shall represent each of the following segments of the citizenry of Arkansas:

(1) the labor force of Arkansas;

(2) the senior citizens of Arkansas,

(3) the Arkansas environmental community; and

(4) the business and industrial community of Arkansas.

(d) Members of the Committee shall serve without compensation and shall receive their actual and necessary traveling expenses and meals incurred in the performance of their duties as members of the Committee. All disbursements of funds for Committee expenses shall be at the rate and under the same guidelines as those expenses for State employees. The Director of the Department of Pollution Control and Ecology is authorized to pay the expenses

of the Committee from funds appropriated to his department for conference fees and travel or from other funds appropriated specifically for the purpose of paying the expenses of the Committee.

(e) The initial meeting of the Committee shall take place before May 1, 1989. The initial meeting shall be called at a time and place of the choosing of and shall be chaired by the Director of Department of Pollution Control and Ecology. At the initial meeting, the Committee shall elect one (1) of its members to serve as chairperson. The appointments and duties of the Committee shall expire on May 1, 1991.

SECTION 5. All provisions of this act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 6. All laws and parts of laws in conflict with this act are hereby repealed.

SECTION 7. Severability Clause. The provisions of this Act are severable and if any provision or part thereof shall be held invalid or unconstitutional or inapplicable to any person or circumstances, such invalidity, unconstitutionality or inapplicability shall not affect or impair the remaining provisions of the Act.

SECTION 8. Emergency. It is hereby found and determined by the Seventy-Seventh Arkansas General Assembly that the disposal of waste materials within the boundaries of the State of Arkansas and its counties and municipalities has a possible effect upon the health, welfare and good image of the citizens of the State of Arkansas. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of public peace, health and safety shall be in full force and effect from and after its passage and approval.