

1 **State of Arkansas**  
2 **78th General Assembly**  
3 **Regular Session, 1991**

# A Bill

**HOUSE BILL**

4 **By: Representatives S. Miller and Lipton**

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## **For An Act To Be Entitled**

8 "AN ACT TO AMEND VARIOUS SECTIONS OF THE ARKANSAS  
9 PRIVATIZATION ACT TO EXPAND THE APPLICATION OF THE ACT TO  
10 INCLUDE SOLID WASTE DISPOSAL FACILITIES; AND FOR OTHER  
11 PURPOSES."

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

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15 SECTION 1. Arkansas Code 8-5-602 is hereby amended to read as follows:

16 "8-5-602. Legislative policy.

17 The General Assembly declares that the policy of this state is to assure  
18 its citizens adequate public services, particularly wastewater projects, and  
19 solid waste disposal projects, at reasonable cost, and that such services are  
20 essential to the maintenance and general welfare of the citizens of this state  
21 and to the continued expansion of the state's economy, job market, and  
22 industrial base. However, the cost of constructing, owning, and operating  
23 capital facilities to meet the demand for those public services is becoming  
24 increasingly burdensome to cities, counties, and improvement districts, and it  
25 is desirable that innovative financing mechanisms be made available to assist  
26 the communities of this state in developing wastewater projects and solid  
27 waste disposal projects at reasonable cost. Private sector ownership and  
28 operation of capital facilities providing public services can result in cost  
29 savings to communities contracting for those public services. It is,  
30 therefore, in the best public interest of the state and its citizens that  
31 cities, counties, and improvement districts be authorized to cause such  
32 service to be provided by private enterprise and to contract with private  
33 owners or operators for providing the services to the public."

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35 SECTION 2. Arkansas Code 8-5-603(4) is hereby amended to read as

1 follows:

2       "(4) 'Facility' means any structure, building, machinery, system,  
3 land, right, permit, or other property necessary or desirable for the  
4 ownership and operation of a wastewater project or solid waste disposal  
5 project including, without limitation, all related and appurtenant easements  
6 and rights-of-way, improvements, utilities, equipment, and furnishings;"

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8       SECTION 3. Arkansas Code 8-5-603(8) is hereby amended to read as  
9 follows:

10       "(8) 'Privatization' means any wastewater project or solid waste  
11 disposal project, including projects acquired from a local government, which  
12 is owned or operated by a private owner or operator and provides the related  
13 service to the public. This includes, but is not limited to:

14       (A) The acquisition, construction, reconstruction, repair, alteration,  
15 modernization, renovation, improvement, or extension of any such project,  
16 whether or not in existence or under construction, and financing the cost of  
17 those activities;

18       (B) The purchase, installation, or financing of equipment, machinery, and  
19 other personal property required by such project;

20       (C) The acquisition, improvement, or financing of real property and the  
21 extension or provision of utilities, access roads, and other appurtenant  
22 facilities, all of which are to be used or occupied by any person in providing  
23 wastewater projects or solid waste disposal projects;"

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25       SECTION 4. Arkansas Code 8-5-603 is hereby amended by adding two new  
26 subsections at the end thereof to read as follows:

27       "(10) 'Solid waste' means all putrescible and nonputrescible wastes in  
28 solid or semisolid form, including but not limited to yard or food waste,  
29 waste glass, waste metals, waste plastics, wastepaper, waste paperboard, and  
30 all other solid and semisolid wastes resulting from industrial, commercial,  
31 agricultural, community, and residential activities.

32       "(11) 'Solid waste disposal project' means any facility designed and  
33 operated for the disposition by landfilling, incinerating, composting or other  
34 method, of disposing of solid waste."

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1 SECTION 5. Arkansas Code 8-5-606(a) and (b)(1) are hereby amended to  
2 read as follows:

3 "(a) Any local government may enter into a privatization contract with  
4 a private owner or operator to accomplish the transfer of any local  
5 government-owned wastewater project or solid waste disposal project or the  
6 designing, construction, operation, maintenance, or financing of cost, or any  
7 combination thereof, of a wastewater project or solid waste disposal project,  
8 pursuant to the provisions of this subchapter.

9 (b)(1) A local government considering entering into a privatization  
10 contract pertaining to its municipally owned wastewater project or solid waste  
11 disposal project, or any portion thereof, shall publish notice of its  
12 intention to adopt an ordinance to accomplish the privatization."

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14 SECTION 6. Arkansas Code 8-5-607(a) is hereby amended to read as  
15 follows:

16 "(a)(1) In connection with a privatization contract, a local  
17 government, if authorized by ordinance of its governing body, may enter into  
18 one (1) or more service agreements with a private owner or operator pursuant  
19 to which the private owner or operator will provide one (1) or more sewer  
20 services or solid waste disposal services to or for the benefit of the local  
21 government.

22 (2) The service agreement may provide for the purchase by the local  
23 government of all or any part of the capacity, capability, or output of the  
24 facilities used to provide the applicable sewer service or solid waste  
25 disposal service and shall contain such other terms and conditions as the  
26 local government and the private owner or operator may provide including,  
27 without limitation, the charges or rates for the services and a covenant by  
28 the local government to maintain rates sufficient to pay debt service incurred  
29 in connection with the financing of construction of a wastewater or solid  
30 waste disposal project."

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32 SECTION 7. Arkansas Code 8-5-608 is hereby amended to read as follows:

33 "8-5-608. Privatization contracts and service agreements - Assignment.

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35 The privatization contract or the service agreement may be assigned by

1 either party to secure the performance of any obligation in connection with  
2 the financing of construction or operation of a wastewater or solid waste  
3 disposal project."

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5 SECTION 8. Arkansas Code 8-5-612 is hereby amended to read as follows:

6 "8-5-612. Wastewater projects and solid waste disposal projects are  
7 industrial facilities for other acts.

8 For purposes of any other law, including, without limitation, 14-164-201  
9 et seq., the term 'facilities' or a similar term shall include a wastewater  
10 project or solid waste disposal project as those terms are defined in this  
11 subchapter, so that any law adopted authorizing the issuance of industrial  
12 development bonds, industrial development revenue bonds, or similar evidences  
13 of indebtedness shall be available for utilization in connection with a  
14 privatization project.

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16 SECTION 9. All provisions of this act of a general and permanent nature  
17 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
18 Revision Commission shall incorporate the same in the Code.

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20 SECTION 10. If any provision of this act or the application thereof to  
21 any person or circumstance is held invalid, such invalidity shall not affect  
22 other provisions or applications of the act which can be given effect without  
23 the invalid provision or application, and to this end the provisions of this  
24 act are declared to be severable.

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26 SECTION 11. All laws and parts of laws in conflict with this act are  
27 hereby repealed.

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