

1 **State of Arkansas**
2 **78th General Assembly**
3 **Regular Session, 1991**
4 **By: Representative Mahony**

A Bill

HOUSE BILL 1724

For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE SECTIONS 8-6-211, 8-6-212,
9 AND 14-233-114 TO PERMIT MUNICIPALITIES, COUNTIES, AND
10 SOLID WASTE AUTHORITIES TO COLLECT FEES AND CHARGES FOR
11 SOLID WASTE MANAGEMENT SERVICES BY ALLOWING THE COUNTY
12 COLLECTOR TO NOT ACCEPT PAYMENT OF COUNTY PROPERTY TAXES
13 UNLESS THE SOLID WASTE FEE OR CHARGE IS ALSO COLLECTED AND
14 BY MAKING THE FEE OR CHARGE A LIEN ON THE TAXPAYER'S REAL
15 AND PERSONAL PROPERTY; TO DECLARE AN EMERGENCY; AND FOR
16 OTHER PURPOSES."

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

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20 SECTION 1. Arkansas Code § 8-6-211 is hereby amended to read as
21 follows:

22 "8-6-211. Municipal solid waste management systems.

23 (a) All municipalities shall develop a plan to provide a solid waste
24 management system and shall adequately provide for the disposal of solid
25 wastes generated or existing within the incorporated limits of the
26 municipality or in the area to be served and in accordance with the rules,
27 regulations, and orders of the Arkansas Pollution Control and Ecology
28 Commission. The governing body of the municipality may enter into agreements
29 with counties, with one (1) or more other municipalities, with private persons
30 or trusts, or with any combination thereof, to provide a solid waste
31 management system, or any part of a system, for the municipality, but the
32 agreement shall not relieve the parties of their responsibilities under this
33 subchapter.

34 (b) (1) The governing body of the municipality shall have the authority
35 to levy and collect such fees and charges and require such licenses as may be

1 appropriate to discharge its responsibility under this subchapter, and the
2 fees, charges, and licenses shall be based on a fee schedule as set forth in
3 an ordinance.

4 (2) Without limitation on otherwise appropriate collection
5 procedures, a municipality may collect their fees and service charges through
6 either their own system of periodic billing or by entering the fees and
7 service charges on the tax records of the county and then collecting the fees
8 and service charges with the personal property taxes on an annual basis.
9 Further, any fees and service charges billed periodically by the cities which
10 are more than ninety (90) days delinquent on November 1 of each year may be
11 entered on the tax records of the county as a delinquent periodic fee or
12 service charge and may be collected by the county with personal property
13 taxes.

14 (3) In counties where the fees are entered on the tax records for
15 yearly collection or if the periodic fees and service charges are more than
16 ninety (90) days delinquent as of November 1, the fees and service charges
17 shall be entered on the tax records of the county by the county clerk and
18 shall be collected by the county collector with the personal property taxes.
19 The fees and service charges to be collected shall be certified to the *county*
20 *clerk* by December 1 each year by an appropriate municipal official or the
21 mayor. No county collector of taxes shall accept payment of any property
22 taxes where annual fees and service charges or delinquent periodic fees and
23 service charges appear on the county tax records of a taxpayer unless the fees
24 and service charges due are also receipted. These funds shall be receipted
25 and deposited into an official account of the county collector who shall
26 settle the account at least quarterly. The amount of any fees and service
27 charges collected shall then be paid to the municipality by the collector,
28 less four percent (4%) to be retained by the collector. In addition, where
29 the collector maintains a separate tax book for these fees and charges, the
30 collector may charge an additional two dollars and fifty cents (\$2.50) for
31 collection. Annual fees and service charges or the delinquent periodic fees
32 and service charges which remain unpaid after the time other property taxes
33 are due shall constitute a lien on the real and personal property of the
34 taxpayer which may be enforced against such property by an action in chancery
35 court.

1 (c) Municipalities may accept and disburse funds derived from grants
2 from the federal or state governments, from private sources, or from moneys
3 that may be appropriated from any available funds for the installation and
4 operation of a solid waste management system or any part of a system.

5 (d) Municipalities are authorized to contract for the purchase of land,
6 facilities, vehicles, and machinery necessary to the installation and
7 operation of a solid waste management system either individually or as a party
8 to a regional or county solid wastes authority.

9 (e) The governing body of a municipality shall have the right to
10 establish policies for and enact laws concerning all phases of the operation
11 of a solid waste management system including hours of operation, character and
12 kind of wastes accepted at the disposal site, the separation of waste
13 according to type by those generating them prior to collection, type of
14 container for storage of wastes, prohibition of burning of wastes,
15 pretreatment of wastes, and such other rules as may be necessary or
16 appropriate, so long as the laws, policies, and rules are not inconsistent
17 with this subchapter or any rules, regulations, or orders of the commission."
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19 SECTION 2. Arkansas Code § 8-6-212 is hereby amended to read as
20 follows:

21 "8-6-212. County solid waste management systems.

22 (a) (1) Each county of the state is authorized to provide, and shall
23 provide, if required to meet the purposes of this subchapter, a solid waste
24 management system adequate to handle solid wastes generated or existing within
25 the boundaries of the county and outside the corporate limits of any
26 municipality in the county.

27 (2) By agreement or contractual arrangement the county may assume
28 responsibility for solid wastes generated within municipalities whether within
29 their counties or other counties.

30 (3) A county may enter into agreements with other counties, one
31 (1) or more municipalities, governmental agencies, with private persons,
32 trusts, or with any combination thereof to provide a solid waste management
33 system for the county or any portion thereof, but the agreement shall not
34 relieve the parties to the agreement of their responsibilities under this
35 subchapter.

1 (b) (1) A county government shall have the authority to levy and collect
2 such fees and charges and require such licenses as may be appropriate to
3 discharge the county's responsibility for a solid waste management system or
4 any portion thereof. The fees, charges, and licenses shall be based on a fee
5 schedule contained in a duly adopted ordinance.

6 (2) A county government may collect their fees and service
7 charges through either their own system of periodic billing or by entering the
8 fees and service charges on the tax records of the county and then collecting
9 the fees and service charges with the personal property taxes on an annual
10 basis. Further, any fees and service charges billed periodically by the
11 counties which are more than ninety (90) days delinquent on November 1 of each
12 year may be entered on the tax records of the county as a delinquent periodic
13 fee or service charge and may be collected by the county with personal
14 property taxes.

15 (3) In counties where the fees are entered on the tax records for
16 yearly collection or if the periodic fees and service charges are more than
17 ninety (90) days delinquent as of November 1, the fees and service charges
18 shall be entered on the tax records of the county by the county clerk and
19 shall be collected by the county collector with the personal property taxes.
20 The fees and service charges to be collected shall be certified to the county
21 clerk by December 1 each year by an appropriate municipal official or the
22 mayor. No county collector of taxes shall accept payment of any property
23 taxes where annual fees and service charges or delinquent periodic fees and
24 service charges appear on the county tax records of a taxpayer unless the fees
25 and service charges due are also receipted. These funds shall be receipted
26 and deposited into an official account of the county collector who shall
27 settle the account at least quarterly. The amount of any fees and service
28 charges collected shall then be paid to the county treasurer by the collector,
29 less four percent (4%) to be retained by the collector. In addition, where
30 the collector maintains a separate tax book for these fees and charges, the
31 collector may charge an additional two dollars and fifty cents (\$2.50) for
32 collection. Annual fees and service charges or the delinquent periodic fees
33 and service charges which remain unpaid after the time other property taxes
34 are due shall constitute a lien on the real and personal property of the
35 taxpayer which may be enforced against such property by an action in chancery

1 court.

2 (c) A county may accept and disburse funds derived from federal or
3 state grants, from private sources, or from moneys that may be appropriated
4 from any available funds for the installation and operation of a solid waste
5 management system or any part thereof.

6 (d) A county is authorized to contract for the lease or purchase of
7 land, facilities, and vehicles for the operation of a solid waste management
8 system either for the county or as a party to regional solid wastes authority.

9 (e) A county shall have the right to issue orders, to establish
10 policies for, and to enact ordinances concerning all phases of the operation
11 of a solid waste management system including hours of operation, character and
12 kind of wastes accepted at the disposal site, the separation of wastes
13 according to type by those generating them prior to collection, type of
14 container for storage of wastes, prohibition of burning of wastes,
15 pretreatment of wastes, and such other rules as may be necessary or
16 appropriate, so long as such orders, policies, and ordinances are not
17 inconsistent with this subchapter or any rules, regulations, or orders of the
18 commission."

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20 SECTION 3. Subsection (c) of Arkansas Code § 14-233-114 is hereby
21 amended to read as follows:

22 "(c) A sanitation authority is authorized to fix, charge, and collect
23 rates, fees, and charges for disposal, treatment, or other handling of solid
24 waste at a project. If duly authorized by the municipal or county members of
25 a sanitation authority, the sanitation authority may implement the collection
26 procedures through the personal property tax system provided for by Arkansas
27 Code §§ 8-6-211 or 8-6-212. For as long as any bonds are outstanding and
28 unpaid, the rates, fees, and charges shall be so fixed by the authority as to
29 provide revenues sufficient:

30 (1) To pay all costs of and charges and expenses in connection
31 with the proper operation and maintenance of its projects, and all necessary
32 repairs, replacements, or renewals thereof;

33 (2) To pay when due the principal of, premium, if any, and
34 interest on all bonds including bonds subsequently issued for additional
35 projects, payable from the revenues;

1 (3) To create and maintain reserves as may be required by any
2 resolution or trust indenture authorizing or securing bonds; and

3 (4) To pay any and all amounts which the authority may be
4 obligated to pay from project revenues by law or contract."

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6 SECTION 4. All provisions of this act of a general and permanent nature
7 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
8 Revision Commission shall incorporate the same in the Code.

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10 SECTION 5. If any provisions of this act or the application thereof to
11 any person or circumstance is held invalid, the invalidity shall not affect
12 other provisions or applications of the act which can be given effect without
13 the invalid provisions or application, and to this end the provisions of this
14 act are declared to be severable.

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

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19 SECTION 7. Emergency. It is hereby found and determined by the
20 Seventy-Eighth General Assembly of the State of Arkansas that city and county
21 governments and solid waste authorities are not permitted to collect
22 delinquent solid waste management system fees and service charges under the
23 county property tax collection system which county subordinate service
24 districts are currently authorized to use; that the use of the county property
25 tax collection system will improve fee collection and increase revenues for
26 county solid waste management; and that, at this time, there is an
27 increasingly critical need to collect all necessary revenues to support the
28 operation of city and county solid waste management systems and solid waste
29 authorities. Therefore, in order to promote the effective collection of
30 delinquent solid waste fees or service charges at this critical time, an
31 emergency is hereby declared to exist and this act being necessary for the
32 immediate preservation of the public peace, health and safety, shall be in
33 full force and effect from and after its passage and approval.

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/s/Jody Mahony

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