

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas
2 81st General Assembly
3 Regular Session, 1997

As Engrossed: H3/20/97

A Bill

HOUSE BILL 2071

4
5 By: Representative Stalnaker

For An Act To Be Entitled

9 "AN ACT TO AMEND SUBCHAPTER 2 OF CHAPTER 6 OF TITLE 8 OF
10 THE ARKANSAS CODE TO PROHIBIT LANDFILL CONSTRUCTION IN THE
11 FLOODWAY AND TO RESTRICT LANDFILL CONSTRUCTION IN THE
12 FLOODWAY FRINGE AREA; AND FOR OTHER PURPOSES."

Subtitle

15 "TO PROHIBIT LANDFILL CONSTRUCTION IN
16 THE FLOODWAY AND TO RESTRICT LANDFILL
17 CONSTRUCTION IN THE FLOODWAY FRINGE
18 AREA."

19
20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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22 SECTION 1. Subchapter 2 of Chapter 6 of Title 8 of the Arkansas Code is
23 amended by adding the following new section:

24 "8-6-223. Prohibiting Landfills in Floodways.

25 (a) The purpose of this subsection is to prohibit future construction
26 of landfills within floodway areas and to place limitations on construction of
27 landfills in floodway fringe areas. It has been determined that floodplains
28 along the waterways of the state serve important natural functions not only in
29 transporting floodwater with minimal impact to properties within or affected
30 by floodplains, but in providing aquatic and wildlife habitat. The
31 construction of solid waste landfills and related improvements in floodplains
32 can cause substantial impacts to surrounding property by increasing flood
33 heights, increasing floodwater velocity, reducing the temporary water storage
34 capacity of the floodplain, and impacts to aquatic and wildlife habitat.

35 (b) For purposes of this section,

36 (1) Floodplain means the lowland and relatively flat areas

1 adjoining inland and coastal waters, including flood-prone areas of offshore
2 islands, that are inundated by a one hundred (100) year flood;

3 (2) Floodway means the channel of a stream, plus any adjacent
4 floodplain areas, that must be kept free of encroachment so that a one hundred
5 (100) year flood can be carried without any increases in flood heights;

6 (3) Floodway fringe means those areas of the floodplain in which
7 encroachments will not cause more than one foot increases in flood heights;

8 (4) Landfill or landfill unit means a discreet area of land or
9 an excavation that is permitted by the Department of Pollution Control and
10 Ecology to receive solid waste for disposal, and that is not a land
11 application unit, surface impoundment, injection well or waste pile, as those
12 terms are defined under federal regulations;

13 (5) Lateral expansion means a horizontal expansion of the waste
14 boundaries of an existing landfill unit permitted after the effective date of
15 this act;

16 (6) New landfill unit means any solid waste landfill unit
17 permitted after the effective date of this act; and

18 (7) New landfill means a landfill site not permitted for solid
19 waste disposal as of the effective date of this act; and

20 (8) One hundred (100-year) flood means a flood that has a one
21 percent (1%) or greater chance of recurring in any given year or a flood of a
22 magnitude equaled or exceeded once in one hundred (100) years on the average
23 over a significantly long period.

24 (c) New landfills, new landfill units at existing landfills, and
25 lateral expansions of existing landfill units shall not be located within
26 floodway areas.

27 (d) No landfill construction activities of any kind, including the
28 construction of necessary access roads shall be located within the floodway
29 without mitigating their effect on flood heights to assure no increase in the
30 level of the one hundred (100) year flood.

31 (e) New landfills, new landfill units at existing landfills, lateral
32 expansions of existing landfill units, and landfill construction of any kind
33 shall not be located in the floodway fringe if such construction would result
34 in increases in the one hundred (100) year flood elevation of more than one
35 foot or any increase in flood height which may damage adjacent property
36 improvements or in which a hazardous velocity is created at that location."

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SECTION 2. 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 3. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

SECTION 4. All laws and parts of laws in conflict with this act are hereby repealed.

SECTION 5. EMERGENCY. It is hereby found and determined by the General Assembly that flood plains are of critical importance to the preservation of the natural resources of this state; that the location of solid waste landfills in or near floodplains results in a detrimental impact to the environment damaging the states natural resources and harming the health and safety of its citizens; and that this act can prevent further damage to the state by prohibiting solid waste landfills in or near floodplains. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto.

/s/Rep. Stalnaker