

State of Arkansas

82nd General Assembly

Regular Session, 1999

A Bill

HOUSE BILL 1670

By: Representatives Bookout, Allison, Trammell, Luker, Biggs, Gipson

For An Act To Be Entitled

"AN ACT TO REQUIRE APPLICANTS FOR A TRANSFER STATION TO OBTAIN A CERTIFICATE OF NEED FROM THE REGIONAL SOLID WASTE MANAGEMENT BOARD IN WHICH THE TRANSFER STATION WILL BE LOCATED AND TO REQUIRE NOTIFICATION AND APPROVAL OF THE REGIONAL SOLID WASTE MANAGEMENT BOARD INTO WHICH THE SOLID WASTE WILL BE TRANSFERRED; AND FOR OTHER PURPOSES. "

Subtitle

"TO REQUIRE APPLICANTS FOR A TRANSFER STATION TO OBTAIN A CERTIFICATE OF NEED FROM THE REGIONAL SOLID WASTE MANAGEMENT BOARD IN WHICH THE TRANSFER STATION WILL BE LOCATED. "

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

SECTION 1. Arkansas Code 8-6-706 is amended to read as follows:

"8-6-706. Solid waste landfill and transfer station permits.

(a) Any applicant for a solid waste landfill or transfer station permit, with the exception of:

(1) permits for landfills when a private industry bears the expense of operating and maintaining the landfill solely for the disposal of waste generated by the industry or wastes of a similar kind or character, under the Arkansas Solid Waste Management Act, § 8-6-201 et seq.; or

(2) transfer station permits issued prior to January 1, 1999, must obtain a certificate of need from the board with jurisdiction over the

1 proposed site prior to submitting the application to the Department of
2 Pollution Control and Ecology. The department may deny any permit based upon
3 the denial of a certificate of need by any regional board.

4 (b)(1) Applicants for a solid waste landfill permit or transfer station
5 permit must petition the board with jurisdiction over ~~a~~ the proposed solid
6 ~~waste disposal~~ site for a certificate of need in accordance with procedures
7 adopted by the board.

8 (2) The applicant's petition must establish, at a minimum, that
9 the proposed disposal facility:

10 (A) Is consistent with the regional planning strategy
11 adopted by the board in the regional needs assessment or the regional solid
12 waste management plan;

13 (B) Does not conflict with existing comprehensive land use
14 plans of any local governmental entities;

15 (C) Does not disturb an archaeological site as recognized
16 by the Arkansas Archaeological Survey, or a rare and endangered species
17 habitat as recognized by the Arkansas State Game and Fish Commission or the
18 United States Fish and Wildlife Service;

19 (D) Will not adversely affect the public use of any local,
20 state, or federal facility, including, but not limited to, parks and wildlife
21 management areas;

22 (E) Does not conflict with the requirements of state or
23 federal laws and regulations on the location of disposal facilities; and

24 (F) If located in the 100-year floodplain, does not
25 restrict the flow of the 100-year flood, reduce the temporary water storage
26 capacity of the floodplain, or result in washout of solid waste so as to pose
27 a hazard to human health or the environment.

28 (G) If the transfer station proposes to transfer waste
29 outside of the district in which it is located, the petition shall also
30 contain documentation that the district to which the waste will be transferred
31 has been notified and that the board of that district has approved the receipt
32 of such waste. This provision shall not apply if the waste is being
33 transported for disposal outside the geographical limits of this state.

34 (c) Any interested party to a certificate of need determination by a
35 board may appeal the decision to the director of the department pursuant to
36 procedures adopted by the commission. The director may issue a permit despite

1 the denial of a certificate of need if the director finds upon appeal that the
2 decision of the board was not supported by substantial evidence.

3 (d) After notice and a public hearing to be held by the board in the
4 county where the proposed landfill or transfer station is to be located,
5 certificates of need shall be issued or denied by the boards based upon an
6 evaluation of:

7 (1) The information provided by the applicant in the petition for
8 a certificate of need;

9 (2) The requirements and considerations of any needs assessments
10 prepared pursuant to this section;

11 (3) The location of the applicant's proposed landfill or transfer
12 station based on the district's needs and its highway and road system;

13 (4) For landfill permits, the board shall consider, the ~~The~~ need
14 for the landfill based upon the district's excess projected capacity which is
15 currently permitted for operation, but in no event shall the district's excess
16 permitted projected capacity exceed thirty (30) years;

17 (5) Any solid waste management system plans, promulgated and
18 approved pursuant to §§ 8-6-211 and 8-6-212 to the extent these plans conform
19 to an overall regional planning strategy;

20 (6) A detailed history of the applicant's record and that of the
21 stockholders and officers with respect to violations of environmental laws and
22 regulations of the United States or any state or any political subdivision of
23 any state; and

24 (7) Any procedures adopted by the board for issuance of
25 certificates of need.

26 (e) All landfill permit applications shall specify the service areas
27 which the landfill will serve under the permit.

28 (f) All transfer station permit applications shall specify the service
29 areas which the transfer station shall serve under the permit, and shall also
30 specify the facility to which waste from the transfer station will be
31 transferred."

32
33 SECTION 2. All provisions of this act of a general and permanent nature
34 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
35 Revision Commission shall incorporate the same in the Code.

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

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

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10 SECTION 5. EMERGENCY CLAUSE. It is hereby found and determined by the
11 Eighty-second General Assembly that the proper siting of transfer stations is
12 essential to achieve the goals of efficient, effective, and environmentally
13 sound regional solid waste management and planning. It is found that the
14 regional solid waste management districts and boards must have the authority
15 to evaluate, manage and coordinate the siting, location, and operation of
16 transfer stations in order that the health and welfare of the citizens of
17 Arkansas be ensured and the state's environment be protected. Therefore, an
18 emergency is declared to exist and this act being immediately necessary for
19 the preservation of the public peace, health and safety shall become effective
20 on the date of its approval by the Governor. If the bill is neither approved
21 nor vetoed by the Governor, it shall become effective on the expiration of the
22 period of time during which the Governor may veto the bill. If the bill is
23 vetoed by the Governor and the veto is overridden, it shall become effective
24 on the date the last house overrides the veto.