

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 85th General Assembly  
3 Regular Session, 2005  
4  
5 By: Senator Madison  
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7

# A Bill

SENATE BILL 1023

## For An Act To Be Entitled

9 AN ACT TO PROVIDE THAT APPEALS OF DECISIONS  
10 CONCERNING CERTIFICATES OF NEED FOR A LANDFILL  
11 PERMIT SHALL BE TO THE CIRCUIT COURT OF THE  
12 COUNTY WHERE THE LANDFILL WOULD BE LOCATED; AND  
13 FOR OTHER PURPOSES.  
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## Subtitle

15 TO PROVIDE THAT APPEALS OF DECISIONS  
16 CONCERNING CERTIFICATES OF NEED FOR A  
17 LANDFILL PERMIT SHALL BE TO THE CIRCUIT  
18 COURT OF THE COUNTY WHERE THE LANDFILL  
19 WOULD BE LOCATED.  
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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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25 SECTION 1. Arkansas Code § 8-6-706 is amended to read as follows:

26 8-6-706. Solid waste landfill and transfer station permits.

27 (a)(1) Any applicant for a solid waste landfill or transfer station  
28 permit, with the exception of:

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

33 (B) Transfer station permits issued prior to January 1,  
34 1999, must obtain a certificate of need from the regional solid waste  
35 management board with jurisdiction over the proposed site prior to submitting  
36 the application to the Arkansas Department of Environmental Quality.



1           (2) The department ~~may~~ shall deny any permit based upon the  
2 denial of a certificate of need by any regional board.

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

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

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

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

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

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

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

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

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

34           (c) Any interested party to a certificate of need determination by a  
35 regional board may appeal the decision to the ~~Director of the Arkansas~~  
36 ~~Department of Environmental Quality pursuant to procedures adopted by the~~

1 ~~Arkansas Pollution Control and Ecology Commission, circuit court in the~~  
2 county where the proposed facility would be located. The ~~director~~ court may  
3 ~~issue a permit despite the denial of a certificate of need if the director~~  
4 overturn the decision of the regional board if it finds upon appeal that the  
5 decision of the regional board was not supported by substantial evidence.

6 (d) After notice and a public hearing to be held by the regional board  
7 in the county where the proposed landfill or transfer station is to be  
8 located, a certificate of need shall be issued or denied by the regional  
9 board based upon an evaluation of:

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

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

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

17 (4) For landfill permits, the regional board shall consider the  
18 need for the landfill based upon the district's excess projected capacity  
19 which is currently permitted for operation, but in no event shall the  
20 district's excess permitted projected capacity exceed thirty (30) years,  
21 unless the city or county government within whose jurisdiction the proposed  
22 landfill is located authorizes through adoption of a resolution approval of  
23 the excess capacity;

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

27 (6) A detailed history of the applicant's record and that of the  
28 stockholders and officers with respect to violations of environmental laws  
29 and regulations of the United States or any state or any political  
30 subdivision of any state; and

31 (7) Any procedures adopted by the regional board for issuance of  
32 a certificate of need.

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

35 (f) All transfer station permit applications shall specify the service  
36 areas which the transfer station shall serve under the permit and shall also

1 specify the facility to which waste from the transfer station will be  
2 transferred.

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