

State of Arkansas
85th General Assembly
Regular Session, 2005

A Bill

SENATE BILL 504

By: Senator Bisbee
By: Representative Anderson

For An Act To Be Entitled

AN ACT TO AMEND THE JOINT COUNTY AND MUNICIPAL
SOLID WASTE DISPOSAL ACT TO PROVIDE THAT OTHER
ENTITIES MAY JOIN A SANITATION AUTHORITY; AND FOR
OTHER PURPOSES.

Subtitle

AN ACT TO AMEND THE JOINT COUNTY AND
MUNICIPAL SOLID WASTE DISPOSAL ACT TO
PROVIDE THAT OTHER ENTITIES MAY JOIN A
SANITATION AUTHORITY.

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

SECTION 1. Arkansas Code § 14-233-102 is amended to read as follows:
14-233-102. Definitions.

As used in this chapter, unless the context otherwise requires:

(1) "Board of directors" or "board" means the board of directors
of a sanitation authority created under this chapter;

(2) "Bonds" means bonds and any series of bonds authorized by
and issued pursuant to the provisions of this chapter;

(3) "Clerk" means the county clerk of a county and the city
clerk, city recorder, or town recorder of a municipality, or other similar
office of a county or municipality hereafter created or established;

(4) "Costs" or "project costs" means, but shall not be limited
to:

(A) All costs of acquisition, construction,



1 reconstruction, improvement, enlargement, betterment, or extension of any
 2 project, including the cost of studies, plans, specifications, surveys, and
 3 estimates of costs and revenues relating thereto;

4 (B) All costs of land, land rights, rights-of-way and
 5 easements, water rights, fees, permits, approvals, licenses, certificates,
 6 franchises, and the preparation of applications for and securing them;

7 (C) Administrative, organizational, legal, engineering,
 8 and inspection expenses;

9 (D) Financing fees, expenses, and costs;

10 (E) Working capital;

11 (F) All machinery and equipment including construction
 12 equipment;

13 (G) Interest on the bonds during the period of
 14 construction and for such reasonable period thereafter as may be determined
 15 by the issuing sanitation authority;

16 (H) Establishment of reserves; and

17 (I) All other expenditures of the issuing sanitation
 18 authority incidental, necessary, or convenient to the acquisition,
 19 construction, reconstruction, improvement, enlargement, betterment, or
 20 extension of any project and the placing of it in operation;

21 (5) "County" means any county in this state;

22 (6) "Governing body" means the quorum court of a county and the
 23 council, board of directors, commission, or other governing body of a
 24 municipality or district;

25 (7) "Member" means a municipality ~~or~~, county, or district which
 26 participates, through a sanitation authority, jointly with other
 27 municipalities or counties in projects under this chapter;

28 (8) "Municipality" means a city of the first class or a city of
 29 the second class or an incorporated town;

30 (9) "Person" means any natural person, firm, corporation,
 31 nonprofit corporation, association, or improvement district;

32 (10) "Project" means any real property, personal property, or
 33 mixed property of any and every kind that can be used or will be useful in
 34 controlling, collecting, storing, removing, handling, reducing, disposing of,
 35 treating, and otherwise dealing in and concerning solid waste, including,
 36 without limitation, property that can be used or that will be useful in

1 extracting, converting to steam, including the acquisition, handling,
 2 storage, and utilization of coal, lignite, or other fuel of any kind, or
 3 water that can be used or that will be useful in converting solid waste to
 4 steam, and distributing the steam to users thereof, or otherwise separating
 5 and preparing solid waste for reuse, or that can be used or will be useful in
 6 generating electric energy by the use of solid waste as a source of
 7 generating power and distributing the electric energy to purchasers or users
 8 thereof in accordance with the general laws of the state. However, for
 9 purposes of this chapter not more than twenty-five percent (25%) of the fuel
 10 used to produce steam or generate electricity from any project shall consist
 11 of materials other than solid waste;

12 (11) "Sanitation authority" or "authority" means a public body
 13 and body corporate and politic organized in accordance with the provisions of
 14 this chapter;

15 (12) "State" means the State of Arkansas;

16 (13) "Solid waste" means any garbage, refuse, sludge from a
 17 waste treatment plant, water supply treatment plant, or air pollution control
 18 facility, and other discarded material including solid, liquid, semisolid, or
 19 contained gaseous material resulting from industrial, commercial, mining, and
 20 agricultural operations, and from community activities~~+~~; and

21 (14) "District" means an entity established pursuant to Title
 22 14, Subtitles 7, 11, or 15.

23
 24 SECTION 2. Arkansas Code § 14-233-104(a), concerning creation of a
 25 sanitation authority, is amended to read as follows:

26 (a)(1) Any two (2) or more municipalities, any two (2) or more
 27 counties, or any one (1) or more municipalities together with any one (1) or
 28 more counties are authorized to create and become members of a sanitation
 29 authority as prescribed in this chapter.

30 (2) Any first-class city, second-class city, or incorporated
 31 town may create a sanitation authority under this chapter, and such
 32 sanitation authority shall have the same powers as other sanitation
 33 authorities vested under this chapter.

34 (3) Any district may become a member of a sanitation authority
 35 if approved for membership unanimously by the other members.

SECTION 3. Arkansas Code § 14-233-105 is amended to read as follows:
 14-233-105. Contents of ordinance - Filing of application -
 Certificate of incorporation - Amendments.

(a)(1) The governing body of each municipality and county desiring to create and become a member of a sanitation authority may, by ordinance, determine that it is in the best interest of the municipality or county in accomplishing the purposes of this chapter to create and become a member of an authority.

(2) The governing body of each district desiring to become a member of a sanitation authority may determine by resolution that it is in the best interest of the district to become a member of an authority.

(b) The ordinance or resolution shall:

(1) Set forth the names of the municipalities, counties, or ~~both~~ districts which are proposed to be ~~initial~~ members of the authority;

(2) Specify the powers to be granted to the authority and any limitations on the exercise of the powers granted including limitations on the authority's area of operations, the use of projects by the authority, and the authority's power to issue bonds;

(3) Specify the number of directors of the authority and the voting rights of each director;

(4) Approve an application to be filed with the Secretary of State, setting forth:

(A) The names of all proposed ~~member municipalities~~ members;

(B) Copies of all ordinances or resolutions certified by the respective clerks or secretaries;

(C) The powers granted to the authority and any limitations on the exercise of the powers granted;

(D) The number of directors of the authority and the voting rights of each director;

(E) The desire that an authority be created as a public body and a body corporate and politic under this chapter; and

(F) The name which is proposed for the authority.

(c)(1) The application shall be signed by the mayor of each municipality ~~and~~, county judge of each county, and presiding officer of each district, attested by the respective clerks and secretaries, and subscribed

1 and sworn to before an officer or officers authorized by the laws of this
2 state to administer and certify oaths.

3 (2)(A) The Secretary of State shall examine the application.

4 (B) If he or she finds that the name proposed for the
5 authority is not identical with that of any other corporation of this state
6 or of any agency or instrumentality of this state, or so nearly similar as to
7 lead to confusion and uncertainty, he or she shall receive and file it and
8 shall record it in an appropriate book of record in his or her office.

9 (3) When the application has been made, filed, and recorded as
10 provided in this chapter, the authority shall constitute a public body and a
11 body corporate and politic under the name proposed in the application.

12 (d)(1) The Secretary of State shall make and issue a certificate of
13 incorporation pursuant to this chapter under the seal of the state and shall
14 record the certificate with the application.

15 (2) The certificate shall set forth the names of the ~~member~~
16 ~~municipalities and counties~~ members.

17 (e)(1) In any suit, action, or proceeding involving the validity or
18 enforcement of, or relating to, any contract of the authority, the authority,
19 in the absence of establishing fraud in the premises, shall be conclusively
20 deemed to have been established in accordance with the provisions of this
21 chapter upon proof of the issuance of the certificate by the Secretary of
22 State.

23 (2) A copy of the certificate, certified by the Secretary of
24 State shall be admissible in evidence in the suit, action, or proceeding and
25 shall be conclusive proof of the filing and contents of the certificate.

26 (f)(1) Any application filed with the Secretary of State pursuant to
27 the provisions of this chapter may be amended from time to time with the
28 unanimous consent of the members of the authority evidenced by ordinance or
29 resolution of their governing bodies.

30 (2) The amendment shall be signed and filed with the Secretary
31 of State in the manner provided in this section, whereupon the Secretary of
32 State shall make and issue an amendment to the certificate of incorporation.

33 (g)(1) The county quorum court may appoint one (1) additional director
34 to the authority upon the recommendation of the county industrial development
35 corporation.

36 (2) That additional director shall be a full voting director.

SECTION 4. Arkansas Code § 14-233-106 is amended to read as follows:

14-233-106. New members - Withdrawal of old members.

(a)(1) After the creation of a sanitation authority, any other municipality ~~or, county, or district~~ may become a member upon application to the authority, after adoption of an ordinance or resolution by its governing body making the determination prescribed in § 14-233-105 and authorizing the municipality ~~or, county, or district~~ to participate, and with the unanimous consent of the members of the authority evidenced by ordinance or resolution of their governing bodies.

(2) Copies of the ordinances or resolutions, certified by the respective clerks or secretaries of the member municipalities ~~and, counties, and districts~~, together with an amendment to the application signed by the county judge, mayor, or presiding officer of each member and prospective member ~~municipality and the county judge of each member and prospective member county~~ in the manner provided in § 14-233-105, shall be filed with the Secretary of State, whereupon the Secretary of State shall make and issue an amendment to the certificate of incorporation setting forth the then-current names of the member municipalities ~~and, counties, and districts~~.

(b)(1) Any municipality ~~or, county, or district~~ may withdraw from a sanitation authority at any time without the consent of the other ~~municipalities and counties which are~~ members of the authority. All contractual rights acquired and obligations incurred while the municipality ~~or, county, or district~~ was a member shall remain in full force and effect.

(2) The withdrawal shall become effective upon the adoption of an ordinance by the withdrawing municipality or county, or in the case of a district, the adoption of a resolution, and the filing of the ordinance or resolution with the Secretary of State together with an amendment signed by the mayor of the withdrawing municipality ~~or, the county judge of the withdrawing county, or the presiding officer of a district~~ in the manner provided in § 14-233-105, whereupon the Secretary of State shall make and issue an amendment to the certificate of incorporation setting forth the then-current names of the member municipalities ~~and, counties, and districts~~.

SECTION 5. Arkansas Code § 14-233-108(a) and (b), concerning a board of directors, are amended to read as follows:

1 (a) Each sanitation authority shall consist of a board of directors
2 appointed by the governing bodies of the ~~respective municipalities and~~
3 ~~counties which are~~ members of the authority.

4 (b) The number and voting rights of directors shall be determined as
5 set forth in § 14-233-105 and shall not thereafter be changed except by
6 unanimous consent of the ~~municipalities and counties which are~~ members of the
7 authority evidenced by ordinances or resolutions of their governing bodies.
8 Copies of all such ordinances or resolutions, certified by the respective
9 clerks of the member municipalities and counties, or secretaries of the
10 member districts, shall be filed with the Secretary of State.

11
12 SECTION 6. Arkansas Code § 14-233-112(a), concerning payment and
13 security of bonds, is amended to read as follows:

14 (a) It shall be plainly stated on the face of each bond that it has
15 been issued under the provisions of this chapter, that the bonds are
16 obligations only of the sanitation authority, and that in no event shall they
17 constitute an indebtedness for which the faith and credit of the member
18 municipalities ~~or~~, counties, or districts or any of its revenues are pledged.