

1 State of Arkansas As Engrossed: H1/24/11 S2/15/11 S2/17/11

2 88th General Assembly

A Bill

3 Regular Session, 2011

HOUSE BILL 1060

4

5 By: Representatives Lindsey, D. Altes, Carnine, Fielding, Leding, B. Overbey, Summers, Woods

6 By: Senators M. Lamoureux, Madison

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For An Act To Be Entitled

9 *AN ACT TO CLARIFY THE POWER OF REGIONAL SOLID WASTE*
10 *MANAGEMENT BOARDS TO CHARGE AND COLLECT A FEE FOR*
11 *MANAGEMENT OF SOLID WASTE; TO DECLARE AN EMERGENCY;*
12 *AND FOR OTHER PURPOSES.*

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Subtitle

15 *TO CLARIFY THE POWER OF REGIONAL SOLID*
16 *WASTE MANAGEMENT BOARDS TO CHARGE AND*
17 *COLLECT A FEE FOR MANAGEMENT OF SOLID WASTE*
18 *AND TO DECLARE AN EMERGENCY.*

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

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23 SECTION 1. The General Assembly finds that:

24 (1) In 1989, the General Assembly recognized the need to create
25 regional boards to address the disposal of solid waste and encourage programs
26 to conserve landfill capacity in the State of Arkansas that was deemed
27 inadequate and at or near the critical point;

28 (2) In 1991, as an effort to aid in the establishment of
29 regional boards and to provide economic viability, the General Assembly
30 granted to regional solid waste management boards certain powers to collect
31 fees and charges and to allow the boards to carry out the mandate of the
32 enabling legislation;

33 (3) There now appears to be an economic crisis affecting a
34 number of the regional solid waste management boards in the state because a
35 legal challenge has been made regarding the authority of regional solid waste
36 management boards to charge certain fees and charges;



1 (4) Adequate solid waste management planning that affects the
2 ability to charge fees and charges on solid waste generated within a district
3 is in question because of the lack of clear direction within the existing
4 statutes; and

5 (5) The important steps the state has taken to encourage
6 recycling and to address the state's solid waste management needs will be
7 greatly hampered unless clear authority is given to regional solid waste
8 management boards to charge fees and charges that will support the programs
9 mandated by statute, but for which no other means of funding exists.

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11 *SECTION 2. Arkansas Code § 8-6-714 is amended to read as follows:*
12 *8-6-714. Rents, fees, and charges.*

13 *(a)(1)(A) A regional solid waste management board may fix, charge, and*
14 *collect rents, fees, and charges ~~for the disposal, treatment, or other~~*
15 *~~handling of solid waste by the district~~ of no more than two dollars (\$2.00)*
16 *per ton of solid waste related to the movement or disposal of solid waste*
17 *within the district, including without limitation fees and charges:*

18 *(i) Related to the district's direct involvement*
19 *with the district's disposal or treatment; or*

20 *(ii) That support the district's management of the*
21 *solid waste needs of the district.*

22 *(B) The board may fix, charge, and collect fees or charges*
23 *under subdivision (a)(1)(A)(ii) of this section only if the board:*

24 *(i) Employs or otherwise makes available from*
25 *another agency an enforcement officer to:*

26 *(a) Enforce all statutes and rules regarding*
27 *solid waste including without limitation the Illegal Dump Eradication and*
28 *Corrective Action Program Act, § 8-6-501 et seq.; and*

29 *(b) Seek to prevent and to identify and*
30 *eliminate illegal dump sites;*

31 *(ii) Has a program for household hazardous waste*
32 *collection and disposal; and*

33 *(iii) Has a program for recycling that includes*
34 *rural areas of the district and the recycling of bulky waste.*

35 *(2) The board may fix, charge, and collect fees or charges for*
36 *solid waste generated:*

1 (A) Within or without the district delivered to a landfill
2 or transfer station within the district, regardless of whether the disposal
3 facilities are owned or operated by the district; or

4 (B) Within the district but delivered to a location
5 outside the district.

6 (3) The board may fix, charge, and collect penalties from
7 entities that fail to timely remit rents, fees, and charges under this
8 section.

9 (4) Solid waste generated within one district and delivered to
10 another district for disposal may be assessed a fee as follows:

11 (A) Either the district in which the solid waste was
12 generated or a district in which the same solid waste is transported, stored,
13 managed, or disposed may assess the fee;

14 (B) The fee may be assessed against the generator,
15 transporter, or disposal facility; and

16 (C) Each ton or cubic yard of waste may be assessed only
17 one (1) fee.

18 (b) The fees created in this section do not apply to:

19 (1)(A) Solid waste generated by private industry if the private
20 industry bears the expense of operating and maintaining the disposal facility
21 for the waste; or

22 (B) Non-municipal solid waste generated by private
23 industry and shipped to another state for recycling, treatment, or disposal;

24 (2) Solid waste recycled, used, or generated by steel mills or
25 related facilities classified within Subsector 331 of the 2007 North American
26 Industrial Classification System, as it existed on January 1, 2011;

27 (3) Recyclable materials that are transported, processed, or
28 marketed for recycling;

29 (4) Organic materials that are delivered to a permitted
30 composting facility;

31 (5) Materials that are removed from solid waste and processed
32 for recycling;

33 (6) Waste tires processed through a district's waste tire
34 program; or

35 (7) Household hazardous waste collected through a district's
36 household hazardous waste program.

1 (c)(1) The fee created in subsection (b) of this section shall not
2 exceed two dollars (\$2.00) per ton of solid waste.

3 (2) However, if weight tickets are not available, the fee shall
4 be calculated on a volume basis at twenty-five cents (25¢) per uncompacted
5 cubic yard or forty-five cents (45¢) per compacted cubic yard.

6 (3) Districts shall determine by interlocal agreement how the
7 districts shall:

8 (A) Assess and administer the fee; and

9 (B) Divide the fees.

10 ~~(b)(d)~~ The board may levy a service fee on each residence or business
11 for which the board makes solid waste collection or disposal services
12 available.

13 ~~(e)(1)(A)~~ (e)(1)(A) The board may, by majority vote, require fees or
14 delinquent fees to be collected with the real and personal property taxes of
15 any county within the district.

16 (B) If the board elects to collect such fees in this
17 manner, it shall so notify the county tax collector, who shall enter such
18 fees on tax notices to be collected with the real and personal property taxes
19 of the county.

20 (C) No county tax collector shall accept payment of any
21 property taxes where the taxpayer has been billed for solid waste collection
22 services unless the service fee is also receipted.

23 (2) If a property owner fails to pay the service fee, it shall
24 become a lien on the property.

25 (f) If the district that generates the solid waste cannot agree with
26 the district where disposal is to take place on an equitable splitting of the
27 waste assessment fee, either district may initiate binding arbitration of the
28 dispute under § 16-7-203 before:

29 (1) A person certified by the Arkansas Alternative Dispute
30 Resolution Commission; or

31 (2) Another recognized voluntary or nonprofit program of dispute
32 resolution, including without limitation, the American Arbitration
33 Association.

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35 SECTION 3. EMERGENCY CLAUSE. It is found and determined by the
36 General Assembly of the State of Arkansas that unintended consequences of

1 court action regarding the wording of Arkansas Code § 8-6-714, have been
2 curtailed or discontinued a main source of funding for many of the programs
3 of the solid waste management districts; that reinstatement of these funding
4 sources and the immediate collection of these fees will put the Solid Waste
5 Management District's budgets back on track; and that this act is immediately
6 necessary because no other funding source in state government currently
7 exists to continue these programs of the Solid Waste Management Districts to
8 provide services necessary to the health and welfare of Arkansas citizens and
9 to safeguard the state's fragile ecological health and well being.
10 Therefore, an emergency is declared to exist and this act being immediately
11 necessary for the preservation of the public peace, health, and safety shall
12 become effective on:

13 (1) The date of its approval by the Governor;

14 (2) If the bill is neither approved nor vetoed by the Governor,
15 the expiration of the period of time during which the Governor may veto the
16 bill; or

17 (3) If the bill is vetoed by the Governor and the veto is
18 overridden, the date the last house overrides the veto.

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20 */s/Lindsey*
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