

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
93rd General Assembly
Regular Session, 2021

A Bill

SENATE BILL 517

By: Senator B. Ballinger

For An Act To Be Entitled

AN ACT TO TRANSFER OVERSIGHT OF CERTAIN DUTIES OF THE REGIONAL SOLID WASTE MANAGEMENT DISTRICTS FROM THE DIVISION OF ENVIRONMENTAL QUALITY TO THE ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION; TO AMEND THE REQUIRED EXPERTISE OF MEMBERS OF ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION; AND FOR OTHER PURPOSES.

Subtitle

TO TRANSFER OVERSIGHT OF CERTAIN DUTIES OF THE REGIONAL SOLID WASTE MANAGEMENT DISTRICTS; AND TO AMEND THE REQUIRED EXPERTISE OF MEMBERS OF ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION.

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

SECTION 1. Arkansas Code § 8-1-203(b), concerning the powers and duties of the Arkansas Pollution Control and Ecology Commission, is amended to add an additional subdivision to read as follows:

(9) Provide oversight of the regional solid waste management districts.

SECTION 2. Arkansas Code § 8-4-104(b)(1)(C), concerning the expertise of members of the Arkansas Pollution Control and Ecology Commission who are appointed by the Governor, is amended to add an additional subdivision to read as follows:



(iii) At least one (1) member appointed by the Governor shall be an individual with knowledge or expertise in solid waste management.

SECTION 3. Arkansas Code § 8-6-207(a)(4), concerning the powers and duties of the Division of Environmental Quality under the Arkansas Solid Waste Management Act, is repealed.

~~(4) To develop a statewide solid waste management plan in cooperation with municipal and county governments and solid waste boards which gives emphasis to regional planning, where feasible;~~

SECTION 4. Arkansas Code § 8-6-207(b), concerning the powers and duties of the Arkansas Pollution Control and Ecology Commission under the Arkansas Solid Waste Management Act, is amended to add an additional subdivision to read as follows:

(11) To develop a statewide solid waste management plan in cooperation with municipal and county governments and solid waste boards, which gives emphasis to regional planning when feasible.

SECTION 5. Arkansas Code § 8-6-704(a)(13)(B), concerning the notice by a regional solid waste management board of an agreement with another district, is amended to read as follows:

(B) However, notice of all such authorizations shall be submitted to the Division of Environmental Quality and the Arkansas Pollution Control and Ecology Commission within thirty (30) days and shall be incorporated into the regional needs assessment in its next regular update; and

SECTION 6. Arkansas Code § 8-6-704(a)(14)(B), concerning the notice by a regional solid waste management district of an authorization for a disposal facility to accept receipt of solid waste from an adjoining district, is amended to read as follows:

(B) However, notice of all such authorizations shall be submitted to the division and the commission within thirty (30) days and shall be incorporated into the regional needs assessment in its next regular update.

SECTION 7. Arkansas Code § 8-6-704(d)(4), concerning the filing of copies of each audit report by a regional solid waste management board, is amended to read as follows:

(4) Copies of each audit report of a district shall be filed with the ~~division~~ commission and with Arkansas Legislative Audit. In addition, one (1) copy of the audit report shall be kept for public inspection with the books and records of the district.

SECTION 8. Arkansas Code § 8-6-704(d)(6)(C), concerning the report of the random district reviews conducted by Arkansas Legislative Audit, is amended to read as follows:

(C) A report of the reviews under subdivision (d)(6)(A) of this section shall be compiled and presented to:

- (i) The Legislative Joint Auditing Committee; and
- (ii) The ~~division~~ commission.

SECTION 9. Arkansas Code § 8-6-705 is amended to read as follows:

8-6-705. Needs assessments.

(a) All needs assessments required by this subchapter are subject to review and approval for completeness by the ~~Division of Environmental Quality~~ Arkansas Pollution Control and Ecology Commission.

(b) Failure to provide complete assessments as required by this subchapter may provide the ~~division~~ commission with grounds to initiate enforcement actions against the regional solid waste management boards or their component governmental entities. Pursuant to established administrative procedures, sanctions may be imposed, including, ~~but not limited to,~~ without limitation denial, discontinuation, or reimbursement of any grant funding administered by the ~~division~~ commission to a regional solid waste management district or any of its component governmental entities.

~~(c) The division may award grants to the districts for the development of the initial regional needs assessments, for the biennial updates, and for any other update required by the law.~~

SECTION 10. Arkansas Code § 8-6-712(a)(3)(B), concerning the regulation of solid waste disposal, is amended to read as follows:

(B) Provided, however, that notice of all such authorizations shall be submitted to the ~~Division of Environmental Quality~~ Arkansas Pollution Control and Ecology Commission within thirty (30) days and shall be incorporated into the district needs assessment in its next regular update;

SECTION 11. Arkansas Code § 8-6-716(a)(1)(A)-(C), concerning regional needs assessments prepared by a regional solid waste management board, are amended to read as follows:

(a)(1)(A)(i) Each regional solid waste management board created pursuant to this subchapter shall prepare a regional needs assessment evaluating the solid waste management needs within its regional solid waste management district. ~~Provided, however, that such~~ However, the regional needs assessments ~~need not~~ do not need to include an evaluation of the need for landfills where a private industry bears the expense of operating and maintaining the landfill solely for the disposal of wastes generated by the industry or wastes of a similar kind or character.

(ii) ~~Such~~ The regional needs assessment shall be submitted for ~~Division of Environmental Quality~~ Arkansas Pollution Control and Ecology Commission review, and the ~~Director of the Division of Environmental Quality~~ commission shall approve or disapprove it within ninety (90) days after submission.

(iii) If the commission does not approve or disapprove the regional needs assessment within ninety (90) days of submission, the regional needs assessment is automatically approved on the ninety-first day following submission to the commission.

(B)(i) The regional needs assessments for boards created pursuant to § 8-6-703 shall be due every four (4) years.

(ii) The ~~division~~ commission may, at its discretion, stagger the due dates by random selection so that approximately one-fourth ($\frac{1}{4}$) of the districts will submit a regional needs assessment each year.

(C)(i) The ~~division~~ commission will notify in writing the districts of the date on which their regional needs assessments are due.

(ii) The board may obtain an extension of that deadline from the ~~director~~ commission.

SECTION 12. Arkansas Code § 8-6-720(b), concerning the rule to determine the adequacy of facilities and the number and type of recyclable materials, is amended to read as follows:

(b) The ~~Division of Environmental Quality~~ commission shall determine by rule the adequacy of the facilities and the number and type of recyclable materials for which the services in this section ~~must~~ shall be provided.

SECTION 13. Arkansas Code § 8-6-723(a)(2), concerning the alternative formation of original districts by interlocal agreement, is amended to read as follows:

(2) The creation of the district shall be effective upon the ~~Director of the Division of Environmental Quality's~~ Arkansas Pollution Control and Ecology Commission's receipt of written notice in the form of a joint resolution by the local governments.

SECTION 14. Arkansas Code § 8-6-723(c), concerning the lack of authority of the Arkansas Pollution Control and Ecology Commission to add or change the boundaries of a regional solid waste management district created by alternative formation, is amended to read as follows:

(c) The ~~Arkansas Pollution Control and Ecology Commission~~ commission shall have no authority to add to or otherwise change the boundaries of a district created under this section.

SECTION 15. Arkansas Code § 8-6-1902 is amended to read as follows:
8-6-1902. Findings.

The General Assembly ~~makes the following findings~~ finds that:

(1) The ~~Division of Environmental Quality~~ Arkansas Pollution Control and Ecology Commission has been charged by the General Assembly with the responsibility of developing the Statewide Solid Waste Management Plan which, when feasible, gives emphasis to regional planning;

(2) The difficult task of addressing the complex solid waste needs of the state on a regional basis has been accomplished by creating regional solid waste management boards;

(3) The need for a Statewide Solid Waste Management Plan remains; and

(4) The development and implementation of a Statewide Solid

Waste Management Plan is necessary to protect the public's health and the state's environmental quality and to maximize the efficiency of regional solid waste management systems.

SECTION 16. Arkansas Code § 8-6-1904 is amended to read as follows:
8-6-1904. Development and implementation.

(a) The ~~Division of Environmental Quality~~ Arkansas Pollution Control and Ecology Commission shall develop the Statewide Solid Waste Management Plan to establish minimum requirements for all regional solid waste management plans, including requirements for:

- (1) Strategic planning;
- (2) Reporting;
- (3) Public notice and participation;
- (4) Services; and
- (5) Solutions to problems and issues.

(b) Within one (1) year after the Statewide Solid Waste Management Plan becomes final, each regional solid waste management board shall develop a regional solid waste management plan for ~~division~~ commission review and approval, which includes the minimum requirements contained in the Statewide Solid Waste Management Plan. This new regional solid waste management plan shall replace any existing regional solid waste management plan previously developed.

(c) Failure of any board to develop or implement any requirement contained in the Statewide Solid Waste Management Plan shall subject the board to:

- (1) The penalty and enforcement provisions contained in § 8-6-204; or
- (2) Denial, discontinuation, or reimbursement of any funding administered by the ~~division~~ commission to the board.

(d) The ~~Arkansas Pollution Control and Ecology Commission~~ commission may adopt reasonable rules necessary to implement or effectuate the purposes and intent of this subchapter.