

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 84th General Assembly
3 Regular Session, 2003
4

As Engrossed: S3/12/03

A Bill

SENATE BILL 967

5 By: Senator Holt
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For An Act To Be Entitled

9 AN ACT TO REQUIRE THE DEPARTMENT OF ENVIRONMENTAL
10 QUALITY TO DENY A SOLID WASTE LANDFILL OR
11 TRANSFER STATION PERMIT IF THE REGIONAL BOARD
12 DENIES A CERTIFICATE OF NEED; TO REPEAL THE
13 PROVISION ALLOWING ANY PARTY TO APPEAL THE
14 DEPARTMENT'S ACTION AND ALLOWING THE DIRECTOR THE
15 DISCRETION TO ISSUE A PERMIT DESPITE DENIALS OF
16 CERTIFICATES OF NEED; AND FOR OTHER PURPOSES.
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Subtitle

18 AN ACT TO REQUIRE THE DEPARTMENT OF
19 ENVIRONMENTAL QUALITY TO DENY A SOLID
20 WASTE LANDFILL OR TRANSFER STATION
21 PERMIT IF THE REGIONAL BOARD DENIES A
22 CERTIFICATE OF NEED.
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26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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28 *SECTION 1. Arkansas Code § 8-6-706 is amended to read as follows:*

29 *8-6-706. Solid waste landfill and transfer station permits.*

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

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

36 *(B) Transfer station permits issued prior to January 1,*



1 1999, must obtain a certificate of need from the regional solid waste
2 management board with jurisdiction over the proposed site prior to submitting
3 the application to the Arkansas Department of Environmental Quality.

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

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

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

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

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

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

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

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

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

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

1 ~~(e) Any interested party to a certificate of need determination by a~~
2 ~~regional board may appeal the decision to the Director of the Arkansas~~
3 ~~Department of Environmental Quality pursuant to procedures adopted by the~~
4 ~~Arkansas Pollution Control and Ecology Commission. The director may issue a~~
5 ~~permit despite the denial of a certificate of need if the director finds upon~~
6 ~~appeal that the decision of the regional board was not supported by~~
7 ~~substantial evidence.~~

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

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

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

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

19 (4) For landfill permits, the regional board shall consider the
20 need for the landfill based upon the district's excess projected capacity
21 which is currently permitted for operation, but in no event shall the
22 district's excess permitted projected capacity exceed thirty (30) years;

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

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

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

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

34 ~~(f)~~(e) All transfer station permit applications shall specify the
35 service areas which the transfer station shall serve under the permit and
36 shall also specify the facility to which waste from the transfer station will

1 *be transferred.*

2 */s/ Holt*

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