

HOUSE BILL No. 4691

May 15, 2003, Introduced by Rep. Ruth Johnson and referred to the Committee on Land Use and Environment.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 11526, 11533, 11538, and 11550 (MCL 324.11526, 324.11533, 324.11538, and 324.11550), section 11550 as added by 1996 PA 358.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 11526. (1) The department, a health officer, or a law
2 enforcement officer of competent jurisdiction may inspect a solid
3 waste transporting unit that is being used to transport solid
4 waste along a public road to determine if the solid waste
5 transporting unit is designed, maintained, and operated in a
6 manner to prevent littering or to determine if the owner or
7 operator of the solid waste transporting unit is performing in
8 compliance with this part and the rules promulgated under this
9 part.

1 (2) In order to protect the public health, safety, and
2 welfare and the environment of this state from items and
3 substances being illegally disposed of in landfills in this
4 state, the department, in conjunction with the department of
5 state police, shall establish a statewide inspection program that
6 does all of the following:

7 (a) Assures that all disposal areas are in full compliance
8 with this part and the rules promulgated under this part.

9 (b) Provides for the inspection of each solid waste disposal
10 area for compliance with this part and the rules promulgated
11 under this part at least annually.

12 (c) Assures that all persons disposing of solid waste are
13 doing so in compliance with this part and the rules promulgated
14 under this part.

15 (3) As part of this inspection program under subsection (2),
16 the department and the department of state police shall conduct
17 regular, random inspections of waste being transported for
18 disposal at disposal areas in this state.

19 Sec. 11533. (1) Each solid waste management plan shall
20 include an enforceable program and process to assure that the
21 nonhazardous solid waste generated or to be generated in the
22 planning area for a period of 10 years or more is collected and
23 recovered, processed, or disposed of at disposal areas ~~which~~
24 **that** comply with state law and rules promulgated by the
25 department governing location, design, and operation of the
26 disposal areas. **Each solid waste management plan shall include**
27 **an enforceable program and process to assure that only items**

1 authorized for disposal in a disposal area under this part and
2 the rules promulgated under this part are disposed of in the
3 disposal area.

4 (2) An initial solid waste management plan shall be prepared
5 and approved under this section and shall be submitted to the
6 director not later than January 5, 1984. Following submittal of
7 the initial plan, the solid waste management plan shall be
8 reviewed and updated every 5 years. An updated **solid waste**
9 **management** plan and an amendment to a **solid waste management** plan
10 shall be prepared and approved as provided in **this section and**
11 sections ~~11533,~~ 11534, 11535, 11536, 11537, and 11537a. The
12 solid waste management plan shall encompass all municipalities
13 within the county. The solid waste management plan shall at a
14 minimum comply with the requirements of sections 11537a and
15 11538. The solid waste management plan shall take into
16 consideration solid waste management plans in contiguous counties
17 and existing local approved solid waste management plans as they
18 relate to the county's needs. At a minimum, a county preparing a
19 solid waste management plan shall consult with the regional
20 planning agency from the beginning to the completion of the
21 plan.

22 (3) Not later than July 1, 1981, each county shall file with
23 the department and with each municipality within the county on a
24 form provided by the department, a notice of intent, indicating
25 the county's intent to prepare a ~~county~~ solid waste management
26 plan or to upgrade an existing **solid waste management** plan. The
27 notice shall identify the designated agency which shall be

1 responsible for preparing the ~~county~~ solid waste management
2 plan.

3 (4) If the county fails to file a notice of intent with the
4 department within the prescribed time, the department immediately
5 shall notify each municipality within the county and shall
6 request those municipalities to prepare ~~the county~~ a solid
7 waste management plan **for the county** and shall convene a meeting
8 to discuss the plan preparation. Within 4 months following
9 notification by the department, the municipalities shall decide
10 by a majority vote of the municipalities in the county whether or
11 not to file a notice of intent to prepare the ~~county~~ solid
12 waste management plan. Each municipality in the county shall
13 have 1 vote. If a majority does not agree, then a notice of
14 intent shall not be filed. The notice shall identify the
15 designated agency which is responsible for preparing the ~~county~~
16 solid waste management plan.

17 (5) If the municipalities fail to file a notice of intent to
18 prepare a ~~county~~ solid waste management plan with the
19 department within the prescribed time, the department shall
20 request the appropriate regional solid waste management planning
21 agency to prepare the ~~county~~ solid waste management plan. The
22 regional solid waste management planning agency shall respond
23 within 90 days after the date of the request.

24 (6) If the regional solid waste management planning agency
25 declines to prepare a ~~county~~ solid waste management plan, the
26 department shall prepare ~~the~~ a solid waste management plan for
27 the county and that plan shall be final.

1 (7) A solid waste management planning agency, upon request of
2 the department, shall submit a progress report in preparing its
3 solid waste management plan.

4 Sec. 11538. (1) Not later than September 11, 1979, the
5 director shall promulgate rules for the development, form, and
6 submission of initial solid waste management plans. The rules
7 shall require all of the following:

8 (a) The establishment of goals and objectives for prevention
9 of adverse effects on the public health and on the environment
10 resulting from improper solid waste collection, processing, or
11 disposal including protection of surface and groundwater quality,
12 air quality, and the land.

13 (b) An evaluation of waste problems by type and volume,
14 including residential and commercial solid waste, hazardous
15 waste, industrial sludges, pretreatment residues, municipal
16 sewage sludge, air pollution control residue, and other wastes
17 from industrial or municipal sources.

18 (c) An evaluation and selection of technically and
19 economically feasible solid waste management options, which may
20 include sanitary landfill, resource recovery systems, resource
21 conservation, or a combination of options.

22 (d) An inventory and description of all existing facilities
23 where solid waste is being treated, processed, or disposed of,
24 including a summary of the deficiencies, if any, of the
25 facilities in meeting current solid waste management needs.

26 (e) The encouragement and documentation as part of the **solid**
27 **waste management** plan, of all opportunities for participation and

1 involvement of the public, all affected agencies and parties, and
2 the private sector.

3 (f) That the **solid waste management** plan contain enforceable
4 mechanisms for implementing the plan, including identification of
5 the municipalities within the county responsible for the
6 enforcement. **The county and the municipalities within the county**
7 **responsible for enforcing the solid waste management plan shall**
8 **assist the department and the department of state police in**
9 **implementing the inspection program under section 11526.** This
10 subdivision does not preclude the private sector's participation
11 in providing solid waste management services consistent with the
12 ~~county~~ **solid waste management plan for the county.**

13 (g) Current and projected population densities of each county
14 and identification of population centers and centers of solid
15 waste generation, including industrial wastes.

16 (h) That the **solid waste management** plan area has, and will
17 have during the plan period, access to a sufficient amount of
18 available and suitable land, accessible to transportation media,
19 to accommodate the development and operation of solid waste
20 disposal areas, or resource recovery facilities provided for in
21 the plan.

22 (i) That the solid waste disposal areas or resource recovery
23 facilities provided for in the **solid waste management** plan are
24 capable of being developed and operated in compliance with state
25 law and rules of the department pertaining to protection of the
26 public health and the environment, considering the available land
27 in the plan area, and the technical feasibility of, and economic

1 costs associated with, the facilities.

2 (j) A timetable or schedule for implementing the ~~county~~
3 solid waste management plan.

4 (2) Each solid waste management plan shall identify specific
5 sites for solid waste disposal areas for a 5-year period after
6 approval of a plan or plan update. In calculating disposal need
7 requirements to measure compliance with this section, only those
8 existing waste stream volume reduction levels achieved through
9 source reduction, reuse, composting, recycling, or incineration,
10 or any combination of these reduction devices, that can currently
11 be demonstrated or that can be reasonably expected to be achieved
12 through currently active implementation efforts for proposed
13 volume reduction projects, may be assumed by the planning
14 entity. In addition, if the solid waste management plan does not
15 also identify specific sites for solid waste disposal areas for
16 the remaining portion of the entire planning period required by
17 this part after approval of a plan or plan update, the solid
18 waste management plan shall include an interim siting mechanism
19 and an annual certification process as described in subsections
20 (3) and (4). In calculating the capacity of identified disposal
21 areas to determine if disposal needs are met for the entire
22 required planning period, full achievement of the solid waste
23 management plan's volume reduction goals may be assumed by the
24 planning entity if the plan identifies a detailed programmatic
25 approach to achieving these goals. If a siting mechanism is not
26 included, and disposal capacity falls to less than 5 years of
27 capacity, a county shall amend ~~its~~ **the solid waste management**

1 plan **for that county** to resolve the shortfall.

2 (3) An interim siting mechanism shall include both a process
3 and a set of minimum siting criteria, both of which are not
4 subject to interpretation or discretionary acts by the planning
5 entity, and which if met by an applicant submitting a disposal
6 area proposal, will guarantee a finding of consistency with the
7 plan. The interim siting mechanism shall be operative upon the
8 call of the board of commissioners or shall automatically be
9 operative whenever the annual certification process shows that
10 available disposal capacity will provide for less than 66 months
11 of disposal needs. In the latter event, applications for a
12 finding of consistency from the proposers of disposal area
13 capacity will be received by the planning agency commencing on
14 January 1 following completion of the annual certification
15 process. Once operative, an interim siting mechanism will remain
16 operative for at least 90 days or until more than 66 months of
17 disposal capacity is once again available, either by the approval
18 of a request for consistency or by the adoption of a new annual
19 certification process which concludes that more than 66 months of
20 disposal capacity is available.

21 (4) An annual certification process shall be concluded by
22 June 30 of each year, commencing on the first June 30 which is
23 more than 12 months after the department's approval of the **solid**
24 **waste management** plan or plan update. The certification process
25 will examine the remaining disposal area capacity available for
26 solid wastes generated within the planning area. In calculating
27 disposal need requirements to measure compliance with this

1 section, only those existing waste stream volume reduction levels
2 achieved through source reduction, reuse, composting, recycling,
3 or incineration, or any combination of these reduction devices,
4 that can currently be demonstrated or that can be reasonably
5 expected to be achieved through currently active implementation
6 efforts for proposed volume reduction projects, may be assumed.
7 The annual certification of disposal capacity shall be approved
8 by the board of commissioners. Failure to approve an annual
9 certification by June 30 is equivalent to a finding that less
10 than a sufficient amount of capacity is available and the interim
11 siting mechanism will then be operative on the first day of the
12 following January. As part of the department's responsibility to
13 act on construction permit applications, the department has final
14 decision authority to approve or disapprove capacity
15 certifications and to determine consistency of a proposed
16 disposal area with the solid waste management plan.

17 (5) A board of commissioners may adopt a new certification of
18 disposal capacity at any time. A new certification of disposal
19 capacity shall supersede all previous certifications, and become
20 effective 30 days after adoption by the board of commissioners
21 and remain in effect until subsequent certifications are
22 adopted.

23 (6) In order for a disposal area to serve the disposal needs
24 of another county, state, or country, the service, including the
25 disposal of municipal solid waste incinerator ash, must be
26 explicitly authorized in the approved solid waste management plan
27 of the receiving county. With regard to intercounty service

1 within Michigan, the service must also be explicitly authorized
2 in the ~~exporting county's~~ solid waste management plan **of the**
3 **exporting county.**

4 (7) A person shall not dispose of, store, or transport solid
5 waste in this state unless the person complies with the
6 requirements of this part.

7 (8) ~~Following approval by the director of a county solid~~
8 ~~waste management plan and after July 1, 1981, an~~ **An** ordinance,
9 law, rule, regulation, policy, or practice of a municipality,
10 county, or governmental authority created by statute, which
11 prohibits or regulates the location or development of a solid
12 waste disposal area, and which is not part of or not consistent
13 with the approved solid waste management plan for the county,
14 shall be considered in conflict with this part and shall not be
15 enforceable.

16 Sec. 11550. (1) The solid waste management fund is created
17 within the state treasury. The state treasurer may receive money
18 from any source for deposit into the fund. The state treasurer
19 shall direct the investment of the fund. The state treasurer
20 shall credit to the fund interest and earnings from fund
21 investments.

22 (2) Money in the solid waste management fund at the close of
23 the fiscal year shall remain in the fund and shall not lapse to
24 the general fund.

25 (3) The state treasurer shall establish, within the solid
26 waste management fund, a solid waste staff account and a
27 perpetual care account.

1 (4) Money shall be expended from the solid waste staff
2 account, upon appropriation, ~~only for the following purposes~~ as
3 follows:

4 **(a) Fifty percent of the money appropriated shall be expended**
5 **for conducting the inspections provided for in section 11526.**

6 **(b) Fifty percent of the money appropriated shall be expended**
7 **for the following purposes:**

8 **(i) ~~(a)~~** Preparing generally applicable guidance regarding
9 the solid waste permit and license program or its implementation
10 or enforcement.

11 **(ii) ~~(b)~~** Reviewing and acting on any application for a
12 permit or license, permit or license revision, or permit or
13 license renewal, including the cost of public notice and public
14 hearings.

15 **(iii) ~~(c)~~** Performing an advisory analysis under section
16 11510(1).

17 **(iv) ~~(d)~~** General administrative costs of running the permit
18 and license program, including permit and license tracking and
19 data entry.

20 **(v) ~~(e)~~** Inspection of licensed disposal areas and open
21 dumps.

22 **(vi) ~~(f)~~** Implementing and enforcing the conditions of any
23 permit or license.

24 **(vii) ~~(g)~~** Groundwater monitoring audits at disposal areas
25 which are or have been licensed under this part.

26 **(viii) ~~(h)~~** Reviewing and acting upon corrective action
27 plans for disposal areas which are or have been licensed under

1 this part.

2 ~~(ix) -(i)-~~ Review of certifications of closure.

3 ~~(x) -(j)-~~ Postclosure maintenance and monitoring inspections
4 and review.

5 ~~(xi) -(k)-~~ Review of bonds and financial assurance
6 documentation at disposal areas which are or have been licensed
7 under this part.

8 (5) Money shall be expended from the perpetual care account
9 only for the purpose of conducting the following activities at
10 disposal areas which are or have been licensed under this part:

11 (a) Postclosure maintenance and monitoring at a disposal area
12 where the owner or operator is no longer required to do so.

13 (b) To conduct closure, or postclosure maintenance and
14 monitoring and corrective action if necessary, at a disposal area
15 where the owner or operator has failed to do so. Money shall be
16 expended from the account only after funds from any perpetual
17 care fund or other financial assurance mechanisms held by the
18 owner or operator have been expended and the department has used
19 reasonable efforts to obtain funding from other sources.

20 Enacting section 1. This amendatory act does not take
21 effect unless all of the following bills of the 92nd Legislature
22 are enacted into law:

23 (a) Senate Bill No. _____ or House Bill No. 4692
24 (request no. 01157'03).

25 (b) Senate Bill No. _____ or House Bill No. 4690
26 (request no. 03687'03).

27 (c) Senate Bill No. _____ or House Bill No. 4689

1 (request no. 03688'03).