

Act No. 153
Public Acts of 1994
Approved by the Governor
June 9, 1994
Filed with the Secretary of State
June 9, 1994

**STATE OF MICHIGAN
87TH LEGISLATURE
REGULAR SESSION OF 1994**

Introduced by Senators Dunaskiss Bouchard and Gougeon

ENROLLED SENATE BILL No. 1135

AN ACT to amend sections 25 26 30 and 30a of Act No 641 of the Public Acts of 1978 entitled as amended An act to protect the public health and the environment to provide for the regulation and management of solid wastes including ash resulting from the combustion of certain solid wastes to prescribe the powers and duties of certain state and local agencies and officials to impose certain charges on the disposal of solid waste in certain disposal areas to provide for certain fees to prescribe penalties to make an appropriation and to repeal certain acts and parts of acts sections 25 and 26 as amended by Act No 209 of the Public Acts of 1987 and sections 30 and 30a as amended by Act No 52 of the Public Acts of 1989 being sections 299 425 299 426 299 430 and 299 430a of the Michigan Compiled Laws and to add sections 29a and 30b

The People of the State of Michigan enact

Section 1 Sections 25 26 30 and 30a of Act No 641 of the Public Acts of 1978 sections 25 and 26 as amended by Act No 209 of the Public Acts of 1987 and sections 30 and 30a as amended by Act No 52 of the Public Acts of 1989 being sections 299 425 299 426 299 430 and 299 430a of the Michigan Compiled Laws are amended and sections 29a and 30b are added to read as follows

Sec 25 (1) Each solid waste management plan shall include an enforceable program and process to assure that the nonhazardous solid waste generated or to be generated in the planning area for a period of 10 years or more is collected and recovered processed or disposed of at disposal areas which comply with state law and rules promulgated by the department governing location design and operation of the disposal areas

(2) An initial solid waste management plan shall be prepared and approved under this section and shall be submitted to the director not later than January 5 1984 Following submittal of the initial plan the solid waste management plan shall be reviewed and updated every 5 years An updated plan and an amendment to a plan shall be prepared and approved as provided in sections 25 26 27 28 29 and 29a The solid waste management plan shall encompass all municipalities within the county The solid waste management plan shall at a minimum comply with the requirements of sections 29a and 30 The solid waste management plan shall take into consideration solid waste management plans in contiguous counties and existing local approved solid waste management plans as they relate to the county's needs At a minimum a county preparing a solid waste management plan shall consult with the regional planning agency from the beginning to the completion of the plan

(3) Not later than July 1 1981 each county shall file with the department and with each municipality within the county on a form provided by the department a notice of intent indicating the county's intent to prepare a county solid waste management plan or to upgrade an existing plan The notice shall identify the designated agency which shall be responsible for preparing the county solid waste management plan

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

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

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

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

Sec 26 (1) The county executive of a charter county that elects a county executive and that chooses to prepare a solid waste management plan under section 25 or the county board of commissioners in all other counties choosing to prepare an initial solid waste management plan under section 25 or the municipalities preparing an initial solid waste management plan under section 25(4) shall appoint a planning committee to assist the agency designated to prepare the plan under section 25. If the county charter provides procedures for approval by the county board of commissioners of appointments by the county executive an appointment under this subsection shall be subject to that approval. A planning committee appointed pursuant to this subsection shall be appointed for terms of 2 years. A planning committee appointed pursuant to this subsection may be reappointed for the purpose of completing the preparation of the initial solid waste management plan or overseeing the implementation of the initial plan. Reappointed members of a planning committee shall serve for terms not to exceed 2 years as determined by the appointing authority. An initial solid waste management plan shall only be approved by a majority of the members appointed and serving.

(2) A planning committee appointed pursuant to this section shall consist of 14 members. Of the members appointed 4 shall represent the solid waste management industry, 2 shall represent environmental interest groups, 1 shall represent county government, 1 shall represent city government, 1 shall represent township government, 1 shall represent the regional solid waste planning agency, 1 shall represent industrial waste generators, and 3 shall represent the general public. A member appointed to represent a county, city, or township government shall be an elected official of that government or the designee of that elected official. Vacancies shall be filled in the same manner as the original appointments. A member may be removed for nonperformance of duty.

(3) A planning committee appointed pursuant to this section shall annually elect a chairperson and shall establish procedures for conducting the committee's activities and for reviewing the matters to be considered by the committee.

Sec 29a Beginning on the effective date of this section a county that has a solid waste management plan that provides for siting of disposal areas to fulfill a 20 year capacity need through use of a siting mechanism is only required to use its siting mechanisms to site capacity to meet a 10 year capacity need. If any county is able to demonstrate to the department that it has at least 66 months of available capacity that county may refuse to utilize its siting mechanism until the county is no longer able to demonstrate 66 months of capacity or until the county amends its plan in accordance with this act to provide for the annual certification process described in section 30.

Sec 30 (1) Not later than September 11, 1979, the director shall promulgate rules for the development, form, and submission of initial solid waste management plans. The rules shall require all of the following:

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

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

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

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

(e) The encouragement and documentation as part of the plan of all opportunities for participation and involvement of the public, all affected agencies and parties, and the private sector.

(f) That the plan contain enforceable mechanisms for implementing the plan including identification of the municipalities within the county responsible for the enforcement. This subdivision does not preclude the private sector's participation in providing solid waste management services consistent with the county plan.

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

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

(i) That the solid waste disposal areas or resource recovery facilities provided for in the plan are capable of being developed and operated in compliance with state law and rules of the department pertaining to protection of the public health and the environment considering the available land in the plan area and the technical feasibility of and economic costs associated with the facilities.

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

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

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

(4) An annual certification process shall be concluded by June 30 of each year, commencing on the first June 30 which is more than 12 months after the department's approval of the plan or plan update. The certification process will examine the remaining disposal area capacity available for solid wastes generated within the planning area. In calculating disposal need requirements to measure compliance with this section, only those existing waste stream volume reduction levels achieved through source reduction, reuse, composting, recycling, or incineration, or any combination of these reduction devices that can currently be demonstrated or that can be reasonably expected to be achieved through currently active implementation efforts for proposed volume reduction projects, may be assumed. The annual certification of disposal capacity shall be approved by the board of commissioners. Failure to approve an annual certification by June 30 is equivalent to a finding that less than a sufficient amount of capacity is available and the interim siting mechanism will then be operative on the first day of the following January. As part of the department's responsibility to act on construction permit applications, the department has final decision authority to approve or disapprove capacity certifications and to determine consistency of a proposed disposal area with the solid waste management plan.

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

(6) In order for a disposal area to serve the disposal needs of another county, state, or country, the service, including the disposal of municipal solid waste incinerator ash, must be explicitly authorized in the approved solid waste management plan of the receiving county. With regard to intercounty service within Michigan, the service must also be explicitly authorized in the exporting county's solid waste management plan.

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

(8) Following approval by the director of a county solid waste management plan and after July 1 1981 an ordinance law rule regulation policy or practice of a municipality county or governmental authority created by statute which prohibits or regulates the location or development of a solid waste disposal area and which is not part of or not consistent with the approved solid waste management plan for the county shall be considered in conflict with this act and shall not be enforceable

Sec 30a (1) The director shall not approve a plan update unless

(a) The plan contains an analysis or evaluation of the best available information applicable to the plan area in regard to recyclable materials and all of the following

(i) The kind and volume of material in the plan area s waste stream that may be recycled or composted

(ii) How various factors do or may affect a recycling and composting program in the plan area Factors shall include an evaluation of the existing solid waste collection system materials market transportation networks local composting and recycling support groups or both institutional arrangements the population in the plan area and other pertinent factors

(iii) An identification of impediments to implementing a recycling and composting program and recommended strategies for removing or minimizing impediments

(iv) How recycling and composting and other processing or disposal methods could complement each other and an examination of the feasibility of excluding site separated material and source separated material from other processing or disposal methods

(v) Identification and quantification of environmental economic and other benefits that could result from the implementation of a recycling and composting program

(vi) The feasibility of source separation of materials that contain potentially hazardous components at disposal areas This subparagraph applies only to plan updates that are due after January 31 1989

(b) The plan either provides for recycling and composting recyclable materials from the plan area s waste stream or establishes that recycling and composting is not necessary or feasible or is only necessary or feasible to a limited extent

(c) A plan that proposes a recycling or composting program or both details the major features of that program including all of the following

(i) The kinds and volumes of recyclable materials that will be recycled or composted

(ii) Collection methods

(iii) Measures that will ensure collection such as ordinances or cooperative arrangements or both

(iv) Ordinances or regulations affecting the program

(v) The role of counties and municipalities in implementing the plan

(vi) The involvement of existing recycling interests solid waste haulers and the community

(vii) Anticipated costs

(viii) On going program financing

(ix) Equipment selection

(x) Public and private sector involvement

(xi) Site availability and selection

(xii) Operating parameters such as pH and heat range

(d) The plan includes an evaluation of how the planning entity is meeting the state s waste reduction and recycling goals as established pursuant to section 32(4)

(2) The director may promulgate rules as may be necessary to implement this section

Sec 30b (1) The department shall prepare a proposed standard format for the submittal of updates to solid waste management plans This proposed standard format shall be submitted to the standing committees of the legislature that address issues primarily pertaining to natural resources and the environment by November 1 1994 for a 30 day review and comment period Following this 30 day period the department shall finalize the standard format and provide a copy of the standard format to each planning entity in the state that the department knows will be preparing an update to a solid waste management plan The standard format shall be submitted to planning entities by January 1 1995 Additionally the department shall provide the standard format to any other person upon request

(2) Notwithstanding any other provision of this act the department shall not require planning entities to begin the process for updating solid waste management plans prior to January 1 1995

This act is ordered to take immediate effect

Secretary of the Senate

Co Clerk of the House of Representatives

Approved

Governor