



HOUSE BILL No. 4501

March 16, 1993, Introduced by Rep. Kukuk and referred to the Committee on Conservation, Environment and Great Lakes.

A bill to amend sections 10, 11, 12, 13, 15, and 24a of Act No. 641 of the Public Acts of 1978, entitled as amended "Solid waste management act," section 10 as amended by Act No. 103 of the Public Acts of 1990, sections 11 and 13 as amended by Act No. 52 of the Public Acts of 1989, sections 12 and 15 as amended by Act No. 209 of the Public Acts of 1987, and section 24a as added by Act No. 66 of the Public Acts of 1990, being sections 299.410, 299.411, 299.412, 299.413, 299.415, and 299.424a of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 10, 11, 12, 13, 15, and 24a of Act
2 No. 641 of the Public Acts of 1978, section 10 as amended by Act
3 No. 103 of the Public Acts of 1990, sections 11 and 13 as amended
4 by Act No. 52 of the Public Acts of 1989, sections 12 and 15 as
5 amended by Act No. 209 of the Public Acts of 1987, and section

1 24a as added by Act No. 66 of the Public Acts of 1990, being
2 sections 299.410, 299.411, 299.412, 299.413, 299.415, and
3 299.424a of the Michigan Compiled Laws, are amended to read as
4 follows:

5 Sec. 10. (1) Except as otherwise provided in section 22a, a
6 person otherwise allowed under this act to own or operate a solid
7 waste disposal area shall not establish a disposal area without a
8 construction permit from the director, contrary to an approved
9 solid waste management plan, ~~or~~ contrary to a permit, license,
10 or final order issued pursuant to this act, OR CONTRARY TO A RES-
11 OLUTION OF THE GOVERNING BODY OF THE MUNICIPALITY IN WHICH THE
12 DISPOSAL AREA IS PROPOSED. A person proposing the establishment
13 of a disposal area shall make application for a construction
14 permit to the director through the health officer on a form pro-
15 vided by the director. If the disposal area is located in a
16 county or city that does not have a certified health department,
17 the application shall be made directly to the director.

18 (2) The application for a construction permit shall contain
19 the name and residence of the applicant, the location of the pro-
20 posed disposal area, and other information considered necessary
21 by the director. The application shall be accompanied by an
22 engineering plan, ~~and~~ a construction permit application fee,
23 AND A RESOLUTION BY THE GOVERNING BODY OF THE MUNICIPALITY IN
24 WHICH THE DISPOSAL AREA IS PROPOSED WHICH GIVES PRELIMINARY
25 APPROVAL TO THE SITING OF THE PROPOSED DISPOSAL AREA. A construc-
26 tion application permit fee for a landfill shall be accompanied

1 by a fee in an amount that is the sum of all of the applicable
2 fees in this subsection:

3 (a) For a permitted site size of the following:

4 (i) Less than 5 acres:

5 (A) \$100.00 for a new permit application.

6 (B) \$25.00 for a renewal permit application.

7 (ii) 5 to 19 acres:

8 (A) \$170.00 for a new permit application.

9 (B) \$100.00 for a renewal permit application.

10 (iii) 20 to 79 acres:

11 (A) \$240.00 for a new permit application.

12 (B) \$150.00 for a renewal permit application.

13 (iv) 80 acres or more:

14 (A) \$320.00 for a new permit application.

15 (B) \$230.00 for a renewal permit application.

16 (b) For the estimated solid waste volume per day:

17 (i) Less than 50 cubic yards:

18 (A) \$60.00 for a new permit application.

19 (B) \$15.00 for a renewal permit application.

20 (ii) 50 to 100 cubic yards:

21 (A) \$80.00 for a new permit application.

22 (B) \$30.00 for a renewal permit application.

23 (iii) 101 to 700 cubic yards:

24 (A) \$100.00 for a new permit application.

25 (B) \$50.00 for a renewal permit application.

26 (iv) More than 700 cubic yards:

- 1 (A) \$130.00 for a new permit application.
- 2 (B) \$100.00 for a renewal permit application.
- 3 (c) For the nature of the solid waste:
- 4 (i) Residential:
- 5 (A) \$100.00 for a new permit application.
- 6 (B) \$50.00 for a renewal permit application.
- 7 (ii) Industrial or combination residential and industrial:
- 8 (A) \$125.00 for a new permit application.
- 9 (B) \$75.00 for a renewal permit application.
- 10 (d) For hydrogeological characteristics:
- 11 (i) Natural soil:
- 12 (A) \$40.00 for a new permit application.
- 13 (B) \$10.00 for a renewal permit application.
- 14 (ii) Compacted clay:
- 15 (A) \$70.00 for a new permit application.
- 16 (B) \$30.00 for a renewal permit application.
- 17 (iii) Synthetic liner:
- 18 (A) \$100.00 for a new permit application.
- 19 (B) \$70.00 for a renewal permit application.
- 20 (3) The application for a construction permit for a solid
- 21 waste transfer facility or a solid waste processing plant shall
- 22 be accompanied by a fee in an amount that is the sum of all of
- 23 the applicable fees in this subsection:
- 24 (a) For a permitted site size of the following:
- 25 (i) Less than 5 acres:
- 26 (A) \$50.00 for a new permit application.

1 (B) \$15.00 for a renewal permit application.

2 (ii) 5 acres or more:

3 (A) \$100.00 for a new permit application.

4 (B) \$75.00 for a renewal permit application.

5 (b) For a building size of the following:

6 (i) Less than 500 square feet:

7 (A) \$50.00 for a new permit application.

8 (B) \$20.00 for a renewal permit application.

9 (ii) 500 to 1,000 square feet:

10 (A) \$100.00 for a new permit application.

11 (B) \$60.00 for a renewal permit application.

12 (iii) More than 1,000 square feet:

13 (A) \$150.00 for a new permit application.

14 (B) \$100.00 for a renewal permit application.

15 (c) For the nature of the solid waste:

16 (i) Residential:

17 (A) \$100.00 for a new permit application.

18 (B) \$30.00 for a renewal permit application.

19 (ii) Industrial or combination residential and industrial:

20 (A) \$150.00 for a new permit application.

21 (B) \$90.00 for a renewal permit application.

22 (d) For site characteristics:

23 (i) High site that is dry which has no groundwater or sur-

24 face water problems:

25 (A) \$50.00 for a new permit application.

26 (B) \$10.00 for a renewal permit application.

1 (ii) Surface water on site:

2 (A) \$75.00 for a new permit application.

3 (B) \$30.00 for a renewal permit application.

4 (e) For the estimated solid waste volume per day:

5 (i) Less than 50 cubic yards:

6 (A) \$50.00 for a new permit application.

7 (B) \$25.00 for a renewal permit application.

8 (ii) 50 to 500 cubic yards:

9 (A) \$100.00 for a new permit application.

10 (B) \$75.00 for a renewal permit application.

11 (iii) More than 500 cubic yards:

12 (A) \$150.00 for a new permit application.

13 (B) \$125.00 for a renewal permit application.

14 (4) An applicant for a construction permit, within 6 months
15 after a permit denial, may resubmit the application, together
16 with the additional information as needed to address the reasons
17 for denial, without being required to pay an additional applica-
18 tion fee.

19 Sec. 11. (1) Before the submission of a construction permit
20 application for a new disposal area, the applicant shall request
21 a health officer or the director to provide an advisory analysis
22 of the proposed disposal area. However, the applicant, not less
23 than 15 days after the request, and notwithstanding an analysis
24 result, may file an application for a construction permit. IN
25 ADDITION, BEFORE THE SUBMISSION OF A CONSTRUCTION PERMIT APPLICA-
26 TION FOR A NEW DISPOSAL AREA, THE APPLICANT SHALL OBTAIN A
27 RESOLUTION BY THE GOVERNING BODY OF THE MUNICIPALITY IN WHICH THE

1 DISPOSAL AREA IS PROPOSED WHICH GIVES PRELIMINARY APPROVAL TO THE
2 SITING OF THE PROPOSED DISPOSAL AREA.

3 (2) Upon receipt of a construction permit application, the
4 director or an authorized representative of the director shall:

5 (a) Immediately notify the clerk of the municipality in
6 which the disposal area is located or proposed to be located, the
7 local soil erosion and sedimentation control agency, each divi-
8 sion within the department that has responsibilities in land,
9 air, or water management, and the designated regional solid waste
10 management planning agency.

11 (b) Publish a notice in a newspaper having major circulation
12 in the vicinity of the proposed disposal area. The required pub-
13 lished notice shall contain a map indicating the location of the
14 proposed disposal area and shall contain a description of the
15 proposed disposal area and the location where the complete appli-
16 cation package may be reviewed and where copies may be obtained.

17 (c) Indicate in the public, departmental, and municipality
18 notice that the department shall hold a public hearing in the
19 area of the proposed disposal area if a written request is sub-
20 mitted by the applicant or a municipality within 30 days after
21 the date of publication of the notice, or by a petition submitted
22 to the department containing a number of signatures which is
23 equal to not less than 10% of the number of registered voters of
24 the municipality where the proposed disposal area is to be
25 located who voted in the last gubernatorial election. The peti-
26 tion shall be validated by the clerk of the municipality. The
27 public hearing shall be held after the director makes a

1 preliminary review of the application and all pertinent data and
2 before a construction permit is issued or denied.

3 (d) Review the plans of the proposed disposal area to deter-
4 mine if it complies with this act and the rules promulgated under
5 this act. The review shall be made by persons qualified in
6 hydrogeology and sanitary landfill engineering. A written
7 approval by the persons qualified in hydrogeology and sanitary
8 landfill engineering shall be received before a construction
9 permit is issued. If the site review, plan review, and the
10 application meet the requirements of this act and the rules
11 promulgated under this act AND THE GOVERNING BODY OF THE MUNICI-
12 PALITY PASSES A RESOLUTION APPROVING THE ISSUANCE OF A CONSTRUC-
13 TION PERMIT, the director shall issue a construction permit which
14 may contain a stipulation specifically applicable to the site and
15 operation. Except as otherwise provided in section 32a, an
16 expansion of the area of a disposal area, an enlargement in
17 capacity of a disposal area, or an alteration of a disposal area
18 to a different type of disposal area than had been specified in
19 the previous construction permit application shall constitute a
20 new proposal for which a new construction permit is required.
21 The upgrading of a disposal area type required by the director to
22 comply with this act or the rules promulgated under this act or
23 to comply with a consent order shall not require a new construc-
24 tion permit.

25 (e) Notify the Michigan aeronautics commission if the dis-
26 posal area is a sanitary landfill proposed to be located within
27 10,000 feet of a runway or a proposed runway extension contained

1 in a plan approved by the Michigan aeronautics commission of an
2 airport licensed and regulated by the Michigan aeronautics
3 commission. The director shall make a copy of the application
4 available to the Michigan aeronautics commission. If, after a
5 period of time for review and comment not to exceed 60 days, the
6 Michigan aeronautics commission informs the director that it
7 finds that operation of the proposed disposal area would present
8 a potential hazard to air navigation and presents the basis for
9 its findings, the director may either recommend appropriate
10 changes in the location, construction, or operation of the pro-
11 posed disposal area or deny the application for a construction
12 permit. The director shall give an applicant an opportunity to
13 rebut a finding of the Michigan aeronautics commission that the
14 operation of a proposed disposal area would present a potential
15 hazard to air navigation.

16 Sec. 12. (1) The director shall make a final decision as to
17 whether to issue a construction permit within 120 days after the
18 director receives an administratively complete application. The
19 decision of the director and the reasons for the decision shall
20 be in writing and shall be sent by first class mail to the clerk
21 of the municipality in which the disposal area is proposed to be
22 located and to the applicant within 10 days after the final deci-
23 sion is made. If the director fails to make a final decision
24 within 120 days, the permit shall be considered issued IF THE
25 MUNICIPALITY IN WHICH THE DISPOSAL FACILITY IS PROPOSED DOES NOT
26 OBJECT.

1 (2) A construction permit shall expire 1 year after the date
2 of issuance, unless development under the construction permit is
3 initiated within that year. A construction permit that has
4 expired may be renewed upon payment of a permit renewal fee and
5 submission of any additional information the director may
6 require. The permit renewal application fee shall be established
7 on a graduated scale from \$100.00 to \$500.00. The director shall
8 establish the criteria by rule for determining the construction
9 permit renewal application fee. The criteria for determining a
10 renewal application fee for a construction permit for a disposal
11 area that is a sanitary landfill shall include, at a minimum,
12 site size, projected waste volume, nature of the waste, and
13 hydrogeological characteristics. The criteria for determining a
14 renewal application fee for a construction permit for a disposal
15 area that is a solid waste transfer facility or processing plant
16 shall include, at a minimum, the projected waste volume and the
17 nature of the waste.

18 (3) Beginning on the effective date of the amendatory act
19 which adds this subsection and except as otherwise provided in
20 this subsection, the director shall not issue a construction
21 permit for a disposal area within a planning area unless a solid
22 waste management plan for that planning area has been approved
23 pursuant to sections 28 and 29 and unless the disposal area com-
24 plies with and is consistent with the approved solid waste man-
25 agement plan. The director may issue a construction permit for a
26 disposal area designed to receive ashes produced in connection
27 with the combustion of fossil fuels for electrical power

1 generation in the absence of an approved county solid waste
2 management plan, upon receipt of a letter of approval from which-
3 ever county or counties, group of municipalities, or regional
4 planning agency has prepared or is preparing the county solid
5 waste management plan for that planning area under section 25 and
6 from the municipality in which the disposal area is to be
7 located.

8 Sec. 13. (1) A person shall dispose of solid waste at a
9 disposal area licensed under this act unless a person is permit-
10 ted by state law or rules promulgated by the department to dis-
11 pose of the solid waste at the site of generation.

12 (2) Except as otherwise provided in this section or in sec-
13 tion 22a, a person otherwise allowed under this act to own or
14 operate a solid waste disposal area shall not conduct, manage,
15 maintain, or operate a disposal area within this state without a
16 license from the director, contrary to an approved solid waste
17 management plan, ~~or~~ contrary to a permit, license, or final
18 order issued under this act, OR CONTRARY TO A RESOLUTION OF THE
19 GOVERNING BODY OF THE MUNICIPALITY IN WHICH THE DISPOSAL AREA IS
20 PROPOSED. A person who intends to conduct, manage, maintain, or
21 operate a disposal area shall make a prior license application to
22 the director through a certified health department on a form pro-
23 vided by the director. If the disposal area is located in a
24 county or city that does not have a certified health department,
25 the application shall be made directly to the director.

26 (3) The application for a license shall contain the name and
27 residence of the applicant, the location of the proposed or

1 existing disposal area, and other information the director
2 considers necessary. The application shall be accompanied by a
3 fee of \$100.00 AND A RESOLUTION BY THE GOVERNING BODY OF THE
4 MUNICIPALITY IN WHICH THE DISPOSAL AREA IS PROPOSED STATING THAT
5 THE DISPOSAL AREA IS APPROVED BY THE GOVERNING BODY.

6 (4) At the time of application for a license for a disposal
7 area, the applicant shall submit to a health officer or the
8 director a certification under the seal of a licensed profes-
9 sional engineer verifying that the construction of the disposal
10 area has proceeded according to the approved plans. The director
11 shall require additional certification during intermediate pro-
12 gression of the operation, or to verify proper closure of the
13 site.

14 (5) An applicant for an operating license, within 3 months
15 after a license denial, may resubmit the application, together
16 with additional information or corrections as are necessary to
17 address the reason for denial, without being required to pay an
18 additional application fee.

19 (6) In order to conduct tests and assess operational capa-
20 bilities, the owner or operator of a municipal solid waste incin-
21 erator that is designed to burn at a temperature in excess of
22 2500 degrees Fahrenheit may operate the incinerator without an
23 operating license, upon notice to the director, for a period not
24 to exceed 60 days.

25 Sec. 15. (1) Subject to subsection (4), the director shall
26 make a final decision on a license application within 90 days
27 after the director receives the application. The decision of the

1 director and the reasons for the decision shall be in writing and
2 shall be sent by first class mail to the clerk of the municipal-
3 ity in which the disposal area is located and to the applicant
4 within 10 days after the final decision is made. If the director
5 fails to make a final decision within 90 days, the license shall
6 be considered issued IF THE MUNICIPALITY IN WHICH THE DISPOSAL
7 FACILITY IS PROPOSED DOES NOT OBJECT.

8 (2) An operating license shall expire 2 years after the date
9 of issuance. An operating license may be renewed before expira-
10 tion upon payment of a renewal application fee of \$100.00 if the
11 licensee is in compliance with this act and the rules promulgated
12 under this act.

13 (3) The issuance of a license shall empower the director or
14 a health officer or an authorized representative of the director
15 or health officer to enter at any reasonable time, pursuant to
16 law, in or upon private or public property licensed under this
17 act for the purpose of inspecting or investigating conditions
18 relating to the storage, processing, or disposal of any
19 material.

20 (4) Beginning on the effective date of the amendatory act
21 which adds this subsection and except as otherwise provided in
22 this subsection, the director shall not issue an operating
23 license for a new disposal area within a planning area unless a
24 solid waste management plan for that planning area has been
25 approved pursuant to sections 28 and 29 and unless the disposal
26 area complies with and is consistent with the approved solid
27 waste management plan. The director may issue an operating

1 license for a disposal area designed to receive ashes produced in
2 connection with the combustion of fossil fuels for electrical
3 power generation in the absence of an approved county solid waste
4 management plan, upon receipt of a letter of approval from which-
5 ever county or counties, group of municipalities, or regional
6 planning agency has prepared or is preparing the county solid
7 waste management plan for that planning area under section 25 and
8 from the municipality in which the disposal area is to be
9 located.

10 Sec. 24a. (1) ~~Except as provided in subsection (3), a~~ A
11 municipality may impose an impact fee ~~of not more than 10 cents~~
12 ~~per~~ IN AN AMOUNT THAT IS NEGOTIATED AND AGREED UPON BETWEEN THE
13 MUNICIPALITY AND THE OWNER OR OPERATOR OF THE LANDFILL OR INCIN-
14 ERATOR ON EACH cubic yard on solid waste that is disposed of ~~in~~
15 ~~a landfill located~~ OR INCINERATED within the municipality that
16 is utilized by the public and utilized to dispose of OR
17 INCINERATE solid waste collected from 2 or more persons.
18 However, if the landfill OR INCINERATOR is located within a vil-
19 lage, the impact fee provided for in this subsection shall be
20 imposed by the township in agreement with the village. The
21 impact fee shall be assessed uniformly on all wastes accepted for
22 disposal OR INCINERATION.

23 ~~(2) Except as provided in subsection (3), a municipality~~
24 ~~may impose an impact fee of not more than 10 cents per cubic yard~~
25 ~~on municipal solid waste incinerator ash that is disposed of in a~~
26 ~~landfill located within the municipality that is utilized to~~
27 ~~dispose of municipal solid waste incinerator ash. However, if~~

~~1 the landfill is located within a village, the impact fee provided~~
~~2 for in this subsection shall be imposed by the township in agree-~~
~~3 ment with the village.~~

~~4 (3) A municipality may enter into an agreement with the~~
~~5 owner or operator of a landfill to establish a higher impact fee~~
~~6 than that provided for in subsections (1) and (2).~~

7 (2) ~~(4)~~ The impact ~~fees~~ FEE imposed under this section
8 shall be collected by the owner or operator of a landfill OR
9 INCINERATOR and shall be paid to the municipality quarterly by
10 the thirtieth day after the end of each calendar quarter.
11 However, the impact ~~fees~~ FEE allowed to be assessed to each
12 landfill OR INCINERATOR under this section shall be reduced by
13 any amount of revenue paid to or available to the municipality
14 from the landfill OR INCINERATOR under the terms of any preexist-
15 ing agreements, including, but not limited to, contracts, special
16 use permit conditions, court settlement agreement conditions, and
17 trusts.

18 (3) ~~(5)~~ Unless a trust fund is established by a municipal-
19 ity pursuant to subsection ~~(6)~~ (4), the revenue collected by a
20 municipality under ~~subsections (1) and (2)~~ SUBSECTION (1) shall
21 be deposited in its general fund to be used for any purpose that
22 promotes the public health, safety, or welfare of the citizens of
23 the municipality. ~~However, revenue collected pursuant to this~~
24 ~~section shall not be used to bring or support a lawsuit or other~~
25 ~~legal action against the owner or operator of the landfill who is~~
26 ~~collecting an impact fee pursuant to subsection (4) unless the~~

~~1 owner or operator of the landfill has instituted a lawsuit or
2 other legal action against the municipality.~~

3 (4) ~~(6)~~ The municipality may establish a trust fund to
4 receive revenue collected pursuant to this section. The trust
5 fund shall be administered by a board of trustees. The board of
6 trustees shall consist of the following members:

7 (a) The chief elected official of the municipality creating
8 the trust fund.

9 (b) An individual from the municipality appointed by the
10 governing board of the municipality.

11 (c) An individual approved by the owners or operators of
12 ~~the~~ landfills OR INCINERATORS within the municipality and
13 appointed by the governing board of the municipality.

14 (5) ~~(7)~~ Individuals appointed to serve on the board of
15 trustees under subsection ~~(6)(b)~~ (4)(B) and (c) shall serve for
16 terms of 2 years.

17 (6) ~~(8)~~ Money in the trust fund may be expended, pursuant
18 to a majority vote of the board of trustees, for any purpose that
19 promotes the public health, safety, or welfare of the citizens of
20 the municipality. ~~However, revenue collected pursuant to this
21 section shall not be used to bring or support a lawsuit or other
22 legal action against the owner or operator of a landfill who is
23 collecting an impact fee pursuant to subsection (4) unless the
24 owner or operator of the landfill has instituted a lawsuit or
25 other legal action against the municipality.~~

26 (7) IF A MUNICIPALITY AND AN OWNER OR OPERATOR OF A LANDFILL
27 OR INCINERATOR CANNOT REACH AN AGREEMENT ON THE AMOUNT OF AN

1 IMPACT FEE THAT IS SUFFICIENT TO ENABLE A MUNICIPALITY TO ADDRESS
2 IMPACTS CAUSED BY THE DISPOSAL FACILITY WITHIN ITS BOUNDARIES AND
3 IS REASONABLE IN LIGHT OF THE OPERATIONAL EXPENSES OF THE FACILI-
4 TY, THE PARTIES SHALL SUBMIT THE UNRESOLVED MATTER TO BINDING
5 ARBITRATION UNDER THE RULES AND PROCEDURES OF THE AMERICAN ARBI-
6 TRATION ASSOCIATION.