



SENATE BILL No. 1135

May 3, 1994, Introduced by Senators DUNASKISS, BOUCHARD and
GOUGEON and referred to the Committee on Natural Resources
and Environmental Affairs

A bill to amend sections 25, 26, and 30 of Act No 641 of
the Public Acts of 1978, entitled as amended
"Solid waste management act,"
sections 25 and 26 as amended by Act No 209 of the Public Acts
of 1987 and section 30 as amended by Act No 52 of the Public
Acts of 1989, being sections 299 425, 299 426, and 299 430 of the
Michigan Compiled Laws and to add section 29a

THE PEOPLE OF THE STATE OF MICHIGAN ENACT

1 Section 1 Sections 25 26 and 30 of Act No 641 of the
2 Public Acts of 1978, sections 25 and 26 as amended by Act No 209
3 of the Public Acts of 1987 and section 30 as amended by Act
4 No 52 of the Public Acts of 1989, being sections 299 425,
5 299 426, and 299 430 of the Michigan Compiled Laws, are amended
6 and section 29a is added to read as follows

1 Sec 25 (1) Each solid waste management plan shall include
2 an enforceable program and process to assure that the
3 nonhazardous solid waste generated or to be generated in the
4 planning area for a ~~20-year~~ period OF 10 YEARS OR MORE is col-
5 lected and recovered, processed, or disposed of at disposal areas
6 which comply with state law and rules promulgated by the depart-
7 ment governing location, design, and operation of the disposal
8 areas

9 (2) An initial solid waste management plan shall be prepared
10 and approved under this section and shall be submitted to the
11 director not later than January 5, 1984 ~~The~~ FOLLOWING SUBMIT-
12 TAL OF THE initial plan, ~~shall be prepared for a 20-year period~~
13 ~~and~~ THE SOLID WASTE MANAGEMENT PLAN shall be reviewed and
14 updated every 5 years An updated plan and an amendment to a
15 plan shall be prepared and approved as provided in sections 25,
16 26, 27, 28, ~~and~~ 29 AND 29A The solid waste management plan
17 shall encompass all municipalities within the county The SOLID
18 WASTE MANAGEMENT plan shall at a minimum comply with the require-
19 ments of ~~section~~ SECTIONS 29A AND 30 The solid waste manage-
20 ment plan shall take into consideration solid waste management
21 plans in contiguous counties and existing local approved solid
22 waste management plans as they relate to the county's needs At
23 a minimum, a county preparing a solid waste management plan shall
24 consult with the regional planning agency from the beginning to
25 the completion of the plan

26 (3) Not later than July 1, 1981, each county shall file with
27 the ~~director~~ DEPARTMENT and with each municipality within the

1 county on a form provided by the ~~director~~ DEPARTMENT, a notice
2 of intent, indicating the county's intent to prepare a county
3 solid waste management plan or to upgrade an existing plan The
4 notice shall identify the designated agency which shall be
5 responsible for preparing the county SOLID WASTE MANAGEMENT
6 plan

7 (4) If the county fails to file a notice of intent with the
8 ~~director~~ DEPARTMENT within the prescribed time, the ~~director~~
9 DEPARTMENT immediately shall notify each municipality within the
10 county and shall request those municipalities to prepare the
11 county solid waste management plan and shall convene a meeting to
12 discuss the plan preparation Within 4 months following notifi-
13 cation by the ~~director~~ DEPARTMENT, the municipalities shall
14 decide by a majority vote of the municipalities in the county
15 whether or not to file a notice of intent to prepare the county
16 solid waste management plan Each municipality in the county
17 shall have 1 vote If a majority does not agree, then a notice
18 of intent shall not be filed The notice shall identify the des-
19 ignated agency which ~~shall be~~ IS responsible for preparing the
20 county SOLID WASTE MANAGEMENT plan

21 (5) If the municipalities fail to file a notice of intent to
22 prepare a county solid waste management plan with the ~~director~~
23 DEPARTMENT within the prescribed time, the ~~director~~ DEPARTMENT
24 shall request the appropriate regional solid waste management
25 planning agency to prepare the county solid waste management
26 plan The regional solid waste management planning agency shall
27 respond within 90 days after the date of the request

1 (6) If the regional solid waste management planning agency
2 declines to prepare a county SOLID WASTE MANAGEMENT plan, the
3 ~~director~~ DEPARTMENT shall prepare the SOLID WASTE MANAGEMENT
4 plan for the county and that plan shall be final

5 (7) A solid waste management planning agency, upon request
6 of the ~~director~~ DEPARTMENT, shall submit a progress report in
7 preparing its solid waste management plan

8 Sec 26 (1) The county executive of a charter county that
9 elects a county executive and that chooses to prepare a solid
10 waste management plan under section 25 or the county board of
11 commissioners in all other counties choosing to prepare an ini-
12 tial ~~-20-year~~ solid waste management plan under section 25, or
13 the municipalities preparing an initial ~~-20-year~~ SOLID WASTE
14 MANAGEMENT plan under section 25(4), shall appoint a planning
15 committee to assist the agency designated to prepare the plan
16 under section 25 If the county charter provides procedures for
17 approval by the county board of commissioners of appointments by
18 the county executive, an appointment under this subsection shall
19 be subject to that approval A planning committee appointed pur-
20 suant to this subsection shall be appointed for terms of 2
21 years A planning committee appointed pursuant to this subsec-
22 tion may be reappointed for the purpose of completing the prepa-
23 ration of the initial SOLID WASTE MANAGEMENT plan or overseeing
24 the implementation of the initial plan Reappointed members of a
25 planning committee shall serve for terms not to exceed 2 years as
26 determined by the appointing authority An initial ~~-20-year~~

1 solid waste management plan shall only be approved by a majority
2 of the members appointed and serving

3 (2) A planning committee appointed pursuant to this section
4 shall consist of 14 members Of the members appointed, 4 shall
5 represent the solid waste management industry, 2 shall represent
6 environmental interest groups, 1 shall represent county govern-
7 ment, 1 shall represent city government, 1 shall represent town-
8 ship government, 1 shall represent the regional solid waste plan-
9 ning agency, 1 shall represent industrial waste generators, and 3
10 shall represent the general public A member appointed to repre-
11 sent a county, city, or township government shall be an elected
12 official of that government or the designee of that elected
13 official Vacancies shall be filled in the same manner as the
14 original appointments A member may be removed for nonperform-
15 ance of duty

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

20 SEC 29A BEGINNING ON THE EFFECTIVE DATE OF THE AMENDATORY
21 ACT THAT ADDED THIS SECTION A COUNTY THAT HAS A SOLID WASTE MAN-
22 AGEMENT PLAN THAT PROVIDES FOR SITING OF DISPOSAL AREAS TO FUL-
23 FILL A 20-YEAR CAPACITY NEED THROUGH USE OF A SITING MECHANISM,
24 IS ONLY REQUIRED TO USE ITS SITING MECHANISMS TO SITE CAPACITY TO
25 MEET A 10-YEAR CAPACITY NEED IF ANY COUNTY IS ABLE TO DEMON-
26 STRATE TO THE SATISFACTION OF THE DEPARTMENT THAT IT HAS AT LEAST
27 66 MONTHS OF AVAILABLE CAPACITY, THAT COUNTY MAY REFUSE TO

1 UTILIZE ITS SITING MECHANISM UNTIL THE COUNTY IS NO LONGER ABLE
2 TO DEMONSTRATE 66 MONTHS OF CAPACITY OR UNTIL THE COUNTY AMENDS
3 ITS PLAN IN ACCORDANCE WITH THIS ACT TO PROVIDE FOR THE ANNUAL
4 CERTIFICATION PROCESS DESCRIBED IN SECTION 30

5 Sec 30 (1) Not later than September 11, 1979, the direc-
6 tor shall promulgate rules for the development, form, and submis-
7 sion of initial solid waste management plans The rules shall
8 require all of the following

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

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

19 (c) An evaluation and selection of technically and economi-
20 cally feasible solid waste management options, which may include
21 sanitary landfill, resource recovery systems, resource conserva-
22 tion, or a combination of options

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

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

5 (f) That the plan contain enforceable mechanisms for imple-
6 menting the plan, including identification of the municipalities
7 within the county responsible for the enforcement This subdivi-
8 sion does not preclude the private sector's participation in pro-
9 viding solid waste management services consistent with the county
10 plan

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

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

19 (i) That the solid waste disposal areas or resource recovery
20 facilities provided for in the plan are capable of being devel-
21 oped and operated in compliance with state law and rules of the
22 department pertaining to protection of the public health and the
23 environment, considering the available land in the plan area, and
24 the technical feasibility of and economic costs associated with,
25 the facilities

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

1 (2) EACH SOLID WASTE MANAGEMENT PLAN SHALL IDENTIFY SPECIFIC
2 SITES FOR SOLID WASTE DISPOSAL AREAS FOR THE 5-YEAR PLANNING
3 PERIOD AFTER APPROVAL OF A PLAN OR PLAN UPDATE IN CALCULATING
4 DISPOSAL NEED REQUIREMENTS TO MEASURE COMPLIANCE WITH THIS SEC-
5 TION, ONLY THOSE EXISTING WASTE STREAM VOLUME REDUCTION LEVELS
6 ACHIEVED THROUGH SOURCE REDUCTION REUSE, COMPOSTING, RECYCLING,
7 OR INCINERATION, OR ANY COMBINATION OF THESE REDUCTION DEVICES,
8 THAT CAN CURRENTLY BE DEMONSTRATED OR THAT CAN BE REASONABLY
9 EXPECTED TO BE ACHIEVED THROUGH CURRENTLY ACTIVE IMPLEMENTATION
10 EFFORTS FOR PROPOSED VOLUME REDUCTION PROJECTS, MAY BE ASSUMED BY
11 THE PLANNING ENTITY IN ADDITION, IF THE SOLID WASTE MANAGEMENT
12 PLAN DOES NOT ALSO IDENTIFY SPECIFIC SITES FOR SOLID WASTE DIS-
13 POSAL AREAS FOR THE REMAINING PORTION OF THE ENTIRE PLANNING
14 PERIOD REQUIRED BY THIS ACT AFTER APPROVAL OF A PLAN OR PLAN
15 UPDATE, THE SOLID WASTE MANAGEMENT PLAN SHALL INCLUDE AN INTERIM
16 SITING MECHANISM AND AN ANNUAL CERTIFICATION PROCESS AS DESCRIBED
17 IN SUBSECTIONS (3) AND (4) IN CALCULATING THE CAPACITY OF THE
18 IDENTIFIED DISPOSAL AREAS TO DETERMINE IF DISPOSAL NEEDS ARE MET
19 FOR THE ENTIRE REQUIRED PLANNING PERIOD, FULL ACHIEVEMENT OF THE
20 SOLID WASTE MANAGEMENT PLAN'S VOLUME REDUCTION GOALS MAY BE
21 ASSUMED BY THE PLANNING ENTITY

22 (3) AN INTERIM SITING MECHANISM SHALL INCLUDE BOTH A PROCESS
23 AND A SET OF MINIMUM SITING CRITERIA, BOTH OF WHICH ARE NOT
24 SUBJECT TO INTERPRETATION OR DISCRETIONARY ACTS BY THE PLANNING
25 ENTITY, AND WHICH IF MET BY AN APPLICANT SUBMITTING A DISPOSAL
26 AREA PROPOSAL, WILL GUARANTEE A FINDING OF CONSISTENCY WITH THE
27 PLAN THE INTERIM SITING MECHANISM SHALL BE OPERATIVE UPON THE

1 CALL OF THE BOARD OF COMMISSIONERS OR SHALL AUTOMATICALLY BE
2 OPERATIVE WHENEVER THE ANNUAL CERTIFICATION PROCESS SHOWS THAT
3 AVAILABLE DISPOSAL CAPACITY WILL PROVIDE FOR LESS THAN 66 MONTHS
4 OF DISPOSAL NEEDS IN THE LATTER EVENT, APPLICATIONS FOR A FIND-
5 ING OF CONSISTENCY FROM THE PROPOSERS OF DISPOSAL AREA CAPACITY
6 WILL BE RECEIVED BY THE PLANNING AGENCY COMMENCING ON JANUARY 1
7 FOLLOWING COMPLETION OF THE ANNUAL CERTIFICATION PROCESS ONCE
8 OPERATIVE, AN INTERIM SITING MECHANISM WILL REMAIN OPERATIVE FOR
9 AT LEAST 90 DAYS OR UNTIL MORE THAN 66 MONTHS OF DISPOSAL CAPAC-
10 ITY IS ONCE AGAIN AVAILABLE, EITHER BY THE APPROVAL OF A REQUEST
11 FOR CONSISTENCY OR BY THE ADOPTION OF A NEW ANNUAL CERTIFICATION
12 PROCESS WHICH CONCLUDES THAT MORE THAN 66 MONTHS OF DISPOSAL
13 CAPACITY IS AVAILABLE

14 (4) AN ANNUAL CERTIFICATION PROCESS SHALL BE CONCLUDED BY
15 JUNE 30 OF EACH YEAR, COMMENCING ON THE FIRST JUNE 30 WHICH IS
16 MORE THAN 12 MONTHS DISTANT FROM THE DEPARTMENT'S APPROVAL OF THE
17 PLAN OR PLAN UPDATE THE CERTIFICATION PROCESS WILL EXAMINE THE
18 REMAINING DISPOSAL AREA CAPACITY AVAILABLE FOR SOLID WASTES GEN-
19 ERATED WITHIN THE PLANNING AREA IN CALCULATING DISPOSAL NEED
20 REQUIREMENTS TO MEASURE COMPLIANCE WITH THIS SECTION ONLY THOSE
21 EXISTING WASTE STREAM VOLUME REDUCTION LEVELS ACHIEVED THROUGH
22 SOURCE REDUCTION, REUSE, COMPOSTING, RECYCLING OR INCINERATION,
23 OR ANY COMBINATION OF THESE REDUCTION DEVICES, THAT CAN CURRENTLY
24 BE DEMONSTRATED OR THAT CAN BE REASONABLY EXPECTED TO BE ACHIEVED
25 THROUGH CURRENTLY ACTIVE IMPLEMENTATION EFFORTS FOR PROPOSED
26 VOLUME REDUCTION PROJECTS, MAY BE ASSUMED THE ANNUAL
27 CERTIFICATION OF DISPOSAL CAPACITY SHALL BE APPROVED BY THE BOARD

1 OF COMMISSIONERS FAILURE TO APPROVE AN ANNUAL CERTIFICATION BY
2 JUNE 30 IS EQUIVALENT TO A FINDING THAT LESS THAN A SUFFICIENT
3 AMOUNT OF CAPACITY IS AVAILABLE AND THE INTERIM SITING MECHANISM
4 WILL THEN BE OPERATIVE ON THE FIRST DAY OF THE FOLLOWING
5 JANUARY AS PART OF THE DEPARTMENT'S RESPONSIBILITY TO ACT ON
6 CONSTRUCTION PERMIT APPLICATIONS, THE DEPARTMENT HAS FINAL DECI-
7 SION AUTHORITY TO APPROVE OR DISAPPROVE CAPACITY CERTIFICATIONS
8 AND TO DETERMINE CONSISTENCY OF A PROPOSED DISPOSAL AREA WITH THE
9 SOLID WASTE MANAGEMENT PLAN

10 (5) A BOARD OF COMMISSIONERS MAY ADOPT A NEW CERTIFICATION
11 OF DISPOSAL CAPACITY AT ANY TIME SUCH CERTIFICATIONS SHALL
12 SUPERSEDE ALL PREVIOUS CERTIFICATIONS, AND BECOME EFFECTIVE 30
13 DAYS AFTER ADOPTION BY THE BOARD OF COMMISSIONERS AND REMAIN IN
14 EFFECT UNTIL SUBSEQUENT CERTIFICATIONS ARE ADOPTED

15 (6) ~~-(2)-~~ In order for a disposal area to serve the disposal
16 needs of another county, state, or country, the service, includ-
17 ing the disposal of municipal solid waste incinerator ash, must
18 be explicitly authorized in the approved solid waste management
19 plan of the receiving county With regard to intercounty service
20 within Michigan, the service must also be explicitly authorized
21 in the exporting county's solid waste management plan

22 (7) ~~-(3)-~~ A person shall not dispose of, store, or transport
23 solid waste in this state unless the person complies with the
24 requirements of this act

25 (8) ~~-(4)-~~ Following approval by the director of a county
26 solid waste management plan and after July 1, 1981, an ordinance,
27 law, rule, regulation, policy, or practice of a municipality,

1 county, or governmental authority created by statute, which
2 prohibits or regulates the location or development of a solid
3 waste disposal area, and which is not part of or not consistent
4 with the approved solid waste management plan for the county,
5 shall be considered in conflict with this act and shall not be
6 enforceable