

HOUSE BILL No. 4141

January 28, 1997, Introduced by Rep. Middaugh and referred to the Committee on Conservation, Environment and Recreation.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 11537a and 11538 (MCL 324.11537a and 324.11538) and by adding section 11531a; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 11531A. (1) EXCEPT AS PROVIDED IN SUBSECTION (2), A
2 COUNTY OR A MUNICIPALITY SHALL NOT ENACT AN ORDINANCE, RULE, REG-
3 ULATION, OR LAW THAT DIRECTS OR RESTRICTS THE FLOW OF THE SOLID
4 WASTE. EXCEPT AS PROVIDED IN SUBSECTION (2), THE PORTION OF AN
5 ORDINANCE, RULE, REGULATION, OR LAW THAT VIOLATES THIS SUBSECTION
6 IS VOID.

7 (2) AN ORDINANCE ENACTED PRIOR TO JANUARY 1, 1996 BY A
8 COUNTY OR MUNICIPALITY INCIDENTAL TO THE ISSUANCE OF BONDS BY THE
9 COUNTY OR MUNICIPALITY OR PUBLIC SERVICE AUTHORITY SERVING A

1 COUNTY OR MUNICIPALITY TO FINANCE SOLID WASTE MANAGEMENT
2 FACILITIES OF THAT COUNTY OR MUNICIPALITY, OR THE EXECUTION,
3 DELIVERY, OR PERFORMANCE OF A WASTE CONTRACT, MAY REMAIN IN
4 EFFECT TO THE EXTENT NECESSARY FOR THE SHORTER OF THE FOLLOWING
5 PERIODS:

6 (A) UNTIL THE BONDS HAVE BEEN PAID IN FULL OR THE TERM OF
7 THE WASTE CONTRACT HAS EXPIRED.

8 (B) FOR THE REMAINING USEFUL LIFE OF THE FACILITY AS THAT
9 REMAINING LIFE MAY BE EXTENDED BY THE FOLLOWING:

10 (i) RETROFITTING OF EQUIPMENT OR THE MAKING OF OTHER SIGNIF-
11 ICANT MODIFICATIONS TO MEET APPLICABLE ENVIRONMENTAL REQUIREMENTS
12 OR SAFETY REQUIREMENTS.

13 (ii) REPAIR OR REPLACEMENT OF EQUIPMENT OR COMPONENTS THAT
14 DOES NOT ADD TO THE CAPACITY OF A WASTE MANAGEMENT FACILITY.

15 (3) AS USED IN THIS SECTION, "WASTE CONTRACT" MEANS A CON-
16 TRACT BETWEEN A COUNTY OR MUNICIPALITY AND A PUBLIC SERVICE
17 AUTHORITY CONCERNING THE MOVEMENT OR DELIVERY OF SOLID WASTE GEN-
18 ERATED WITHIN THE JURISDICTIONAL BOUNDARIES OF SUCH COUNTY,
19 MUNICIPALITY, OR PUBLIC SERVICE AUTHORITY.

20 Sec. 11537a. Beginning on June 9, 1994, a county that has a
21 solid waste management plan that provides for siting of disposal
22 areas to fulfill a 20-year capacity need through use of a siting
23 mechanism, is only required to use its siting mechanisms to site
24 capacity to meet a 10-year capacity need. If any county is able
25 to demonstrate to the department that it has at least 66 months
26 of available capacity, that county may refuse to utilize its
27 siting mechanism until the county is no longer able to

1 demonstrate 66 months of AVAILABLE capacity or until the county
2 amends its plan in accordance with this part to provide for the
3 annual certification process described in section 11538. AS USED
4 IN THIS SECTION AND SECTION 11538(2) AND (4), AVAILABLE CAPACITY
5 INCLUDES SOLID WASTE DISPOSAL CAPACITY WHICH IS BOTH AVAILABLE TO
6 THE COUNTY AND IS LOCATED AT A DISPOSAL AREA EITHER WITHIN OR
7 OUTSIDE OF THE PLANNING AREA. IF DISPOSAL CAPACITY BEING UTI-
8 LIZED IS AT A DISPOSAL AREA LOCATED OUTSIDE OF THE PLANNING AREA,
9 IT IS CONSIDERED AVAILABLE IF THE COUNTY OBTAINS A CERTIFICATION
10 FROM THE DISPOSAL AREA OPERATOR THAT DISPOSAL CAPACITY WILL BE
11 MADE AVAILABLE FOR THE BENEFIT OF THE COUNTY ON A NONEXCLUSIVE
12 BASIS.

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

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

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

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

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

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

13 (f) That the plan contain enforceable mechanisms for imple-
14 menting the plan, including identification of the municipalities
15 within the county responsible for the enforcement. This subdivi-
16 sion does not preclude the private sector's participation in pro-
17 viding solid waste management services consistent with the county
18 plan.

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

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

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

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

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

1 required planning period, full achievement of the solid waste
2 management plan's volume reduction goals may be assumed by the
3 planning entity if the plan identifies a detailed programmatic
4 approach to achieving these goals. If a siting mechanism is not
5 included, and disposal capacity falls to less than 5 years of
6 capacity, a county shall amend its plan to resolve the
7 shortfall. FOR PURPOSES OF THIS SUBSECTION, CAPACITY AND DIS-
8 POSAL CAPACITY SHALL BE DETERMINED IN ACCORDANCE WITH SECTION
9 11537A.

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

1 process which concludes that more than 66 months of disposal
2 capacity is available.

3 (4) An annual certification process shall be concluded by
4 June 30 of each year, commencing on the first June 30 which is
5 more than 12 months after the department's approval of the plan
6 or plan update. The certification process will examine the
7 remaining disposal area capacity available for solid wastes gen-
8 erated within the planning area. In calculating disposal need
9 requirements to measure compliance with this section, only those
10 existing waste stream volume reduction levels achieved through
11 source reduction, reuse, composting, recycling, or incineration,
12 or any combination of these reduction devices, that can currently
13 be demonstrated or that can be reasonably expected to be achieved
14 through currently active implementation efforts for proposed
15 volume reduction projects, may be assumed. The annual certifica-
16 tion of disposal capacity shall be approved by the board of
17 commissioners. Failure to approve an annual certification by
18 June 30 is equivalent to a finding that less than a sufficient
19 amount of capacity is available and the interim siting mechanism
20 will then be operative on the first day of the following
21 January. As part of the department's responsibility to act on
22 construction permit applications, the department has final deci-
23 sion authority to approve or disapprove capacity certifications
24 and to determine consistency of a proposed disposal area with the
25 solid waste management plan. REMAINING DISPOSAL AREA CAPACITY,
26 DISPOSAL CAPACITY, AND CAPACITY SHALL BE DETERMINED IN ACCORDANCE
27 WITH SECTION 11537A.

01124'97

1 (5) A board of commissioners may adopt a new certification
2 of disposal capacity at any time. A new certification of dis-
3 posal capacity shall supersede all previous certifications, and
4 become effective 30 days after adoption by the board of commis-
5 sioners and remain in effect until subsequent certifications are
6 adopted.

7 ~~(6) In order for a disposal area to serve the disposal~~
8 ~~needs of another county, state, or country, the service, includ-~~
9 ~~ing the disposal of municipal solid waste incinerator ash, must~~
10 ~~be explicitly authorized in the approved solid waste management~~
11 ~~plan of the receiving county. With regard to intercounty service~~
12 ~~within Michigan, the service must also be explicitly authorized~~
13 ~~in the exporting county's solid waste management plan. THE~~
14 STATE, A LOCAL UNIT OF GOVERNMENT, OR GOVERNMENTAL AUTHORITY CRE-
15 ATED BY STATUTE SHALL NOT DIRECT OR OTHERWISE CONTROL THE MOVE-
16 MENT OF SOLID WASTE THROUGH A COUNTY SOLID WASTE MANAGEMENT PLAN
17 OR OTHER MECHANISM OR LEGAL AUTHORITY.

18 (7) A person shall not dispose of, store, or transport solid
19 waste in this state unless the person complies with the require-
20 ments of this part.

21 (8) Following approval by the director of a county solid
22 waste management plan and after July 1, 1981, an ordinance, law,
23 rule, regulation, policy, or practice of a municipality, county,
24 or governmental authority created by statute, which prohibits or
25 regulates the location or development of a solid waste disposal
26 area, and which is not part of or not consistent with the
27 approved solid waste management plan for the county, shall be

1 considered in conflict with this part and shall not be
2 enforceable.

3 Enacting section 1. Section 11513 of part 115 (solid waste
4 management) of the natural resources and environmental protection
5 act, 1994 PA 451, MCL 324.11513, is repealed.