

**SUBSTITUTE FOR
HOUSE BILL NO. 4688**

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 11526a and 11538 (MCL 324.11526a and
324.11538), section 11526a as added by 2004 PA 40, and section
11538 as amended by 2004 PA 44.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 11526a. ~~—(1)—~~ Beginning October 1, 2004, in order to
2 protect the public health, safety, and welfare and the
3 environment of this state from the improper disposal of waste
4 that is prohibited from disposal in a landfill, and in
5 recognition that the nature of solid waste collection and
6 transport limits the ability of the state to conduct cost
7 effective inspections to ensure compliance with state law, the
8 owner or operator of a landfill shall not accept for disposal in
9 this state solid waste, including, but not limited to, municipal

1 solid waste incinerator ash, that was generated outside of this
2 state unless 1 or more of the following **requirements** are met:

3 (a) The solid waste is composed of a uniform type of item,
4 material, or substance, other than municipal solid waste
5 incinerator ash, that meets the requirements for disposal in a
6 landfill under this part and the rules promulgated under this
7 part.

8 (b) The solid waste was received through a material recovery
9 facility, a transfer station, or other facility that has
10 documented that it has removed from the solid waste being
11 delivered to the landfill those items that are prohibited from
12 disposal in a landfill.

13 (c) The country, state, province, or local jurisdiction in
14 which the solid waste was generated is approved by the department
15 for inclusion on the list compiled by the department under
16 section 11526b.

17 ~~(2) Notwithstanding section 11538 or any other provision of~~
18 ~~this part, if there is sufficient disposal capacity for a~~
19 ~~county's disposal needs in or within 150 miles of the county, all~~
20 ~~of the following apply:~~

21 ~~—— (a) The county is not required to identify a site for a new~~
22 ~~landfill in its solid waste management plan.~~

23 ~~—— (b) An interim siting mechanism shall not become operative in~~
24 ~~the county unless the county board of commissioners determines~~
25 ~~otherwise.~~

26 ~~—— (c) The department is not required to issue a construction~~
27 ~~permit for a new landfill in the county.~~

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

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

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

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

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

23 (e) The encouragement and documentation as part of the solid
24 waste management plan, of all opportunities for participation and
25 involvement of the public, all affected agencies and parties, and
26 the private sector.

27 (f) That the solid waste management plan contain enforceable

1 mechanisms for implementing the plan, including identification of
2 the municipalities within the county responsible for the
3 enforcement and may contain a mechanism for the county and those
4 municipalities to assist the department and the state police in
5 implementing and conducting the inspection program established in
6 section 11526(2) and (3). This subdivision does not preclude the
7 private sector's participation in providing solid waste
8 management services consistent with the solid waste management
9 plan for the county.

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

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

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

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

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

26 **(3) Notwithstanding subsection (2) or any other provision of**
27 **this part, if there is sufficient disposal capacity for a**

1 county's disposal needs in or within 160 miles of the county, all
2 of the following apply:

3 (a) The county is not required to identify a site for a new
4 landfill in its solid waste management plan.

5 (b) An interim siting mechanism shall not become operative in
6 the county unless the county board of commissioners determines
7 otherwise.

8 (c) The department is not required to issue a construction
9 permit for a new landfill in the county.

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

1 that more than 66 months of disposal capacity is available.

2 (5) ~~—(4)—~~ An annual certification process shall be concluded
3 by June 30 of each year, commencing on the first June 30 which is
4 more than 12 months after the department's approval of the solid
5 waste management plan or plan update. The certification process
6 will examine the remaining disposal area capacity available for
7 solid wastes generated within the planning area. In calculating
8 disposal need requirements to measure compliance with this
9 section, only those existing waste stream volume reduction levels
10 achieved through source reduction, reuse, composting, recycling,
11 or incineration, or any combination of these reduction devices,
12 that can currently be demonstrated or that can be reasonably
13 expected to be achieved through currently active implementation
14 efforts for proposed volume reduction projects, may be assumed.
15 The annual certification of disposal capacity shall be approved
16 by the board of commissioners. Failure to approve an annual
17 certification by June 30 is equivalent to a finding that less
18 than a sufficient amount of capacity is available and the interim
19 siting mechanism will then be operative on the first day of the
20 following January. As part of the department's responsibility to
21 act on construction permit applications, the department has final
22 decision authority to approve or disapprove capacity
23 certifications and to determine consistency of a proposed
24 disposal area with the solid waste management plan.

25 (6) ~~—(5)—~~ A board of commissioners may adopt a new
26 certification of disposal capacity at any time. A new
27 certification of disposal capacity shall supersede all previous

1 certifications, and become effective 30 days after adoption by
2 the board of commissioners and remain in effect until subsequent
3 certifications are adopted.

4 (7) ~~—(6)—~~ In order for a disposal area to serve the disposal
5 needs of another county, state, or country, the service,
6 including the disposal of municipal solid waste incinerator ash,
7 must be explicitly authorized in the approved solid waste
8 management plan of the receiving county. With regard to
9 intercounty service within Michigan, the service must also be
10 explicitly authorized in the solid waste management plan of the
11 exporting county.

12 (8) ~~—(7)—~~ A person shall not dispose of, store, or transport
13 solid waste in this state unless the person complies with the
14 requirements of this part.

15 (9) ~~—(8)—~~ An ordinance, law, rule, regulation, policy, or
16 practice of a municipality, county, or governmental authority
17 created by statute, which prohibits or regulates the location or
18 development of a solid waste disposal area, and which is not part
19 of or not consistent with the approved solid waste management
20 plan for the county, ~~—shall be considered—~~ **is** in conflict with
21 this part and ~~—shall not be—~~ **is not** enforceable.