

SUBSTITUTE FOR
SENATE BILL NO. 715
(As amended February 5, 2004)

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 11533 and 11538 (MCL 324.11533 and
324.11538).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 11533. (1) Each solid waste management plan shall
2 include 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 period of 10 years or more is collected and
5 recovered, processed, or disposed of at disposal areas ~~which~~
6 **that** comply with state law and rules promulgated by the
7 department governing location, design, and operation of the
8 disposal areas. **Each solid waste management plan [may] include**
9 **an enforceable program and process to assure that only items**
10 **authorized for disposal in a disposal area under this part and**

1 the rules promulgated under this part are disposed of in the
2 disposal area.

3 (2) An initial solid waste management plan shall be prepared
4 and approved under this section and shall be submitted to the
5 director not later than January 5, 1984. Following submittal of
6 the initial plan, the solid waste management plan shall be
7 reviewed and updated every 5 years. An updated **solid waste**
8 **management** plan and an amendment to a **solid waste management** plan
9 shall be prepared and approved as provided in **this section and**
10 sections ~~11533,~~ 11534, 11535, 11536, 11537, and 11537a. The
11 solid waste management plan shall encompass all municipalities
12 within the county. The solid waste management plan shall at a
13 minimum comply with the requirements of sections 11537a and
14 11538. The solid waste management plan shall take into
15 consideration solid waste management plans in contiguous counties
16 and existing local approved solid waste management plans as they
17 relate to the county's needs. At a minimum, a county preparing a
18 solid waste management plan shall consult with the regional
19 planning agency from the beginning to the completion of the
20 plan.

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

1 plan.

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

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

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

27 (7) A solid waste management planning agency, upon request of

1 the department, shall submit a progress report in preparing its
2 solid waste management plan.

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

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

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

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

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

25 (e) The encouragement and documentation as part of the **solid**
26 **waste management** plan, of all opportunities for participation and
27 involvement of the public, all affected agencies and parties, and

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1 the private sector.

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

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

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

21 (i) That the solid waste disposal areas or resource recovery
22 facilities provided for in the **solid waste management** plan are
23 capable of being developed and operated in compliance with state
24 law and rules of the department pertaining to protection of the
25 public health and the environment, considering the available land
26 in the plan area, and the technical feasibility of, and economic
27 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 part 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~~ **the solid waste management plan for that county** to resolve the shortfall.

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

20 (4) An annual certification process shall be concluded by
21 June 30 of each year, commencing on the first June 30 which is
22 more than 12 months after the department's approval of the **solid**
23 **waste management** plan or plan update. The certification process
24 will examine the remaining disposal area capacity available for
25 solid wastes generated within the planning area. In calculating
26 disposal need requirements to measure compliance with this
27 section, only those existing waste stream volume reduction levels

1 achieved through source reduction, reuse, composting, recycling,
2 or incineration, or any combination of these reduction devices,
3 that can currently be demonstrated or that can be reasonably
4 expected to be achieved through currently active implementation
5 efforts for proposed volume reduction projects, may be assumed.
6 The annual certification of disposal capacity shall be approved
7 by the board of commissioners. Failure to approve an annual
8 certification by June 30 is equivalent to a finding that less
9 than a sufficient amount of capacity is available and the interim
10 siting mechanism will then be operative on the first day of the
11 following January. As part of the department's responsibility to
12 act on construction permit applications, the department has final
13 decision authority to approve or disapprove capacity
14 certifications and to determine consistency of a proposed
15 disposal area with the solid waste management plan.

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

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

1 in the ~~exporting county's~~ solid waste management plan **of the**
2 **exporting county.**

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

6 (8) ~~Following approval by the director of a county solid~~
7 ~~waste management plan and after July 1, 1981, an~~ **An** ordinance,
8 law, rule, regulation, policy, or practice of a municipality,
9 county, or governmental authority created by statute, which
10 prohibits or regulates the location or development of a solid
11 waste disposal area, and which is not part of or not consistent
12 with the approved solid waste management plan for the county,
13 shall be considered in conflict with this part and shall not be
14 enforceable.

15 Enacting section 1. This amendatory act does not take
16 effect unless Senate Bill No. 499 of the 92nd Legislature is
17 enacted into law.