

HOUSE BILL No. 4688

May 15, 2003, Introduced by Reps. Ruth Johnson, LaJoy, DeRossett, Brandenburg, Milosch, Ward, Farrah, Amos, Acciavatti, Stahl, Palmer, Meyer, Rocca, Caul, Vander Veen and Gielegem and referred to the Committee on Land Use and Environment.

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

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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,

1 including residential and commercial solid waste, hazardous
2 waste, industrial sludges, pretreatment residues, municipal
3 sewage sludge, air pollution control residue, and other wastes
4 from industrial or municipal sources.

5 (c) An evaluation and selection of technically and
6 economically feasible solid waste management options, which may
7 include ~~sanitary~~ landfill, resource recovery systems, resource
8 conservation, or a combination of options.

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

13 (e) The encouragement and documentation as part of the plan,
14 of all opportunities for participation and involvement of the
15 public, all affected agencies and parties, and the private
16 sector.

17 (f) That the plan contain enforceable mechanisms for
18 implementing the plan, including identification of the
19 municipalities within the county responsible for the
20 enforcement. This subdivision does not preclude the private
21 sector's participation in providing solid waste management
22 services consistent with the county plan.

23 (g) Current and projected population densities of each county
24 and identification of population centers and centers of solid
25 waste generation, including industrial wastes.

26 (h) That the plan area has, and will have during the plan
27 period, access to a sufficient amount of available and suitable

1 land, accessible to transportation media, to accommodate the
2 development and operation of solid waste disposal areas, or
3 resource recovery facilities provided for in the plan.

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

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

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

1 and an annual certification process as described in subsections
2 (3) and (4). In calculating the capacity of identified disposal
3 areas to determine if disposal needs are met for the entire
4 required planning period, full achievement of the solid waste
5 management plan's volume reduction goals may be assumed by the
6 planning entity if the plan identifies a detailed programmatic
7 approach to achieving these goals. If a siting mechanism is not
8 included, and disposal capacity falls to less than 5 years of
9 capacity, a county shall amend its plan to resolve the
10 shortfall.

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

1 certification process which concludes that more than 66 months of
2 disposal 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
8 generated 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
16 certification of disposal capacity shall be approved by the board
17 of 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
23 decision authority to approve or disapprove capacity
24 certifications and to determine consistency of a proposed
25 disposal area with the solid waste management plan.

26 (5) A board of commissioners may adopt a new certification of
27 disposal capacity at any time. A new certification of disposal

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

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

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

24 Enacting section 1. Section 11513 of the natural resources
25 and environmental protection act, 1994 PA 451, MCL 324.11513, is
26 repealed.