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H. R. 963

To amend the Solid Waste Disposal Act to authorize local governments and Governors to restrict receipt of out-of-State municipal solid waste.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 18, 1993

Mr. BOUCHER (for himself, Mr. UPTON, Mr. BONIOR, Mr. TAUZIN, Mr. SLATTERY, Mr. BARTON of Texas, Mr. COLEMAN, Ms. NORTON, Mr. SARPALIUS, Mr. SPRATT, Mr. SANDERS, and Mr. GILCHREST) introduced the following bill; which was referred to the Committee on Energy and Commerce

SEPTEMBER 8, 1993

Additional sponsors: Mr. COOPER, Mr. HENRY, Mr. ZELIFF, Mr. HOBSON, Mr. MOLLOHAN, Mr. MCCLOSKEY, Mr. BLILEY, Mr. NEAL of North Carolina, Mr. WISE, Mr. KILDEE, Mr. LEVIN, Ms. FURSE, Ms. MCKINNEY, Ms. DANNER, Mr. COSTELLO, Mr. BROWN of California, and Mr. STUPAK

A BILL

To amend the Solid Waste Disposal Act to authorize local governments and Governors to restrict receipt of out-of-State municipal solid waste.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Local Government
5 Interstate Waste Control Act”.

1 **SEC. 2. INTERSTATE TRANSPORTATION AND DISPOSAL OF**
2 **MUNICIPAL SOLID WASTE.**

3 (a) IN GENERAL.—Subtitle D of the Solid Waste Dis-
4 posal Act (42 U.S.C. 6941 et seq.) is amended by adding
5 at the end the following new section:

6 **“SEC. 4011. INTERSTATE TRANSPORTATION AND DISPOSAL**
7 **OF MUNICIPAL SOLID WASTE.**

8 “(a) RESTRICTION ON RECEIPT OF OUT-OF-STATE
9 WASTE.—(1) Subject to subsection (f), the owner or oper-
10 ator of a landfill, incinerator, or other waste disposal facil-
11 ity in a State may not receive for disposal or incineration
12 any municipal solid waste generated outside the State un-
13 less the owner or operator obtains authorization to receive
14 such waste from the affected local government. Any such
15 authorization shall be granted by formal action at a meet-
16 ing and shall be recorded in writing in the official record
17 of the meeting. The local government shall notify the Gov-
18 ernor, adjoining local governments, and any adjoining In-
19 dian tribes of any authorization granted under this sub-
20 section. Subject to subsection (c), only 1 authorization per
21 facility is required under this subsection.

22 “(2) Prior to formal action with respect to authoriza-
23 tion to receive municipal solid waste generated outside the
24 State, the affected local government shall require and
25 make readily available to the Governor, adjoining local
26 governments, any adjoining Indian tribes, and other inter-

1 ested persons for inspection and copying the following in-
2 formation from the owner or operator of the facility seek-
3 ing such authorization:

4 “(A) A brief description of the planned facility,
5 including facility size, ultimate waste capacity, and
6 anticipated monthly and yearly waste volumes to be
7 handled.

8 “(B) A map of the facility site indicating loca-
9 tion in relation to the local road system and topog-
10 raphy and hydrological features. This map shall in-
11 dicate any buffer zones to be acquired by the owner
12 or operator as well as all facility units.

13 “(C) A description of the current environmental
14 characteristics of the site, including information re-
15 garding ground water resources, and discussion of
16 alterations that may be necessitated by or occur as
17 a result of the facility.

18 “(D) A description of appropriate environ-
19 mental controls to be utilized on the site, including
20 runoff/runoff management, air pollution control de-
21 vices, source separation procedures, methane mon-
22 itoring and control, landfill covers, liners or leachate
23 collection systems, and monitoring programs. This
24 description also shall include a discussion of any
25 waste residuals generated by the facility, including

1 leachate or ash, and the planned management of
2 such residuals.

3 “(E) A description of site access controls to be
4 employed, roadway improvements to be made by the
5 owner or operator, and an estimate of the timing
6 and extent of increased local truck traffic.

7 “(F) A list of all required Federal, State, and
8 local permits.

9 “(G) Estimates of the personnel requirements
10 of the facility, including information regarding the
11 probable skill and education levels required for jobs
12 at the facility. This information should distinguish
13 between employment statistics for pre- and post-
14 operational levels.

15 “(H) Such information as is required by State
16 law to be provided with respect to any violations of
17 environmental laws or regulations by the owner, the
18 operator, and their subsidiaries, the disposition of
19 enforcement proceedings taken with respect to such
20 violations, and corrective action and rehabilitation
21 measures taken as a result of such proceedings.

22 “(I) Such information as is required by State
23 law to be provided with respect to gifts and con-
24 tributions by the owner and operator.

1 “(J) Such information as is required by State
2 law to be provided by the owner or operator with re-
3 spect to compliance by the owner or operator with
4 the State solid waste management plan in effect pur-
5 suant to section 4007.

6 “(3) Prior to formal action with respect to authoriza-
7 tion to receive municipal solid waste generated outside the
8 State, the affected local government shall notify the Gov-
9 ernor, adjoining local governments, and any adjoining In-
10 dian tribes, and publish notice of the action in a news-
11 paper of general circulation at least 30 days before the
12 hearing and again at least 15 days before the hearing, and
13 provide an opportunity for public comment, including at
14 least 1 public hearing, in accordance with State law.

15 “(b) LIMITATIONS ON APPLICABILITY.—

16 “(1) LANDFILLS IN OPERATION.—Subsection
17 (a) does not apply to an owner or operator of a land-
18 fill that—

19 “(A) on the date of the enactment of this
20 section, was in compliance with all applicable
21 State laws and regulations relating to design
22 and location standards, leachate collection,
23 ground water monitoring, and financial assur-
24 ance for closure and post-closure care and cor-
25 rective action; and

1 “(B) during calendar year 1991, accepted,
2 in accordance with State law as in effect during
3 such calendar year, documented shipments of
4 municipal solid waste generated outside the
5 State, or, before the date of the enactment of
6 this section, entered into a host agreement or
7 otherwise obtained authorization to accept such
8 waste from the affected local government.

9 “(2) LANDFILLS UNDER CONSTRUCTION OR IN
10 PLANNING PROCESS.—(A) Subject to subparagraph
11 (B), subsection (a) does not apply to a person who—

12 “(i) is planning to own or operate a land-
13 fill; and

14 “(ii) before the date of the enactment of
15 this section, entered into a host agreement or
16 otherwise obtained authorization from the af-
17 fected local government to accept at such land-
18 fill municipal solid waste generated outside the
19 county or the State in which the landfill is
20 located.

21 “(B) The limitation on applicability contained
22 in subparagraph (A) shall terminate if the landfill,
23 before or after construction, fails to meet all State
24 laws and regulations relating to design and location
25 standards, leachate collection, ground water monitor-

1 ing, or financial assurance for closure and post clo-
2 sure care and corrective action.

3 “(3) INCINERATORS AND OTHER FACILITIES.—
4 Subsection (a) does not apply to either of the follow-
5 ing:

6 “(A) An owner or operator of an inciner-
7 ator or other waste disposal facility (other than
8 a landfill) that, during calendar year 1991, ac-
9 cepted documented shipments of municipal solid
10 waste generated outside the State or, before the
11 date of the enactment of this section, entered
12 into a host agreement or otherwise obtained au-
13 thorization to accept such waste from the af-
14 fected local government.

15 “(B) A person who is planning to own or
16 operate an incinerator or other waste disposal
17 facility (other than a landfill) and who, before
18 the date of the enactment of this section, en-
19 tered into a host agreement or otherwise ob-
20 tained authorization from the affected local gov-
21 ernment to accept municipal solid waste gen-
22 erated outside the State at such incinerator or
23 facility.

24 “(c) TREATMENT OF EXPANSIONS OF FACILITIES.—

1 “(1) IN GENERAL.—Except as provided in para-
2 graph (2), the expansion of a landfill, incinerator, or
3 other waste disposal facility shall be considered, for
4 purposes of subsection (a), to be a separate facility
5 requiring authorization in order to accept waste gen-
6 erated outside the State.

7 “(2) EXCEPTION.—A landfill, incinerator, or
8 other waste disposal facility may be expanded for
9 purposes of receiving waste generated outside the
10 State without an authorization under subsection (a)
11 to accept such waste at the expansion only if—

12 “(A) with respect to a facility for which
13 the owner or operator has obtained authoriza-
14 tion as described in subsection (a) or in para-
15 graph (1), (2), or (3) of subsection (b), at the
16 time the owner or operator obtained such au-
17 thorization—

18 “(i) the owner or operator owned or
19 possessed an option to purchase the land
20 on which the expansion of the facility is
21 proposed to occur; and

22 “(ii) the area of expansion of the fa-
23 cility was indicated in documents filed with
24 the affected local government before ob-
25 taining such authorization; or

1 “(B) with respect to a facility described in
2 paragraph (1) or (3) of subsection (b) for which
3 the owner or operator is not required to obtain
4 authorization, the owner or operator, during
5 calendar year 1991, owned or possessed an op-
6 tion to purchase the land on which the expan-
7 sion of the facility is proposed to occur.

8 “(d) RESTRICTION ON LOCAL GOVERNMENT CON-
9 TROL BY GOVERNOR.—In any case in which an affected
10 local government is considering granting an authorization
11 to receive municipal solid waste generated outside the
12 State, and the disposal or incineration of such waste pre-
13 cludes the use of solid waste management capacity that
14 is identified under the State plan to be used for disposal
15 or incineration of municipal solid waste generated within
16 the region (identified under section 4006(a)) in which the
17 local government is located, the Governor may prohibit the
18 affected local government from granting the authorization.

19 “(e) AUTHORITY OF GOVERNOR TO RESTRICT OUT-
20 OF-STATE MUNICIPAL SOLID WASTE.—

21 “(1)(A) Except as provided in paragraph (5), if
22 requested in writing by both an affected local gov-
23 ernment, and an affected local solid waste planning
24 unit (if such a local solid waste planning unit exists
25 under State law), a Governor may, with respect to

1 landfills to which subsection (a) does not apply (as
2 set forth in paragraphs (1) and (2) of subsection
3 (b)), limit the amount of out-of-State municipal solid
4 waste received for disposal at each such landfill in
5 the State to an amount equal to the amount of out-
6 of-State municipal solid waste received for disposal
7 at the landfill during calendar year 1991 or any 12
8 consecutive months between January 1, 1991, and
9 June 30, 1992, whichever is less, as determined by
10 the Governor in submitting information under para-
11 graph (4).

12 “(B) Prior to submitting a request under this
13 section to limit the disposal of out-of-State munici-
14 pal solid waste, the affected local government and
15 the affected local solid waste planning unit, if any,
16 shall—

17 “(i) provide notice and opportunity for
18 public comment concerning any such proposed
19 request; and

20 “(ii) following notice and comment, take
21 formal action upon any such proposed request
22 at a public meeting.

23 “(3) In responding to requests by affected local
24 governments under paragraph (1)(A), the Governor
25 shall respond in a consistent manner that does not

1 discriminate against any particular landfill within
2 the State and does not discriminate against any
3 shipments of out-of-State municipal solid waste on
4 the basis of State of origin.

5 “(4)(A) Any Governor who intends to exercise
6 the authority provided in this subsection shall, with-
7 in 60 days after the date of enactment of this sec-
8 tion, submit to the Administrator information docu-
9 menting the amount of out-of-State municipal solid
10 waste received for disposal in the Governor’s State
11 during calendar year 1991 and the first six months
12 of calendar year 1992.

13 “(B) Upon receipt of such information, the Ad-
14 ministrator shall notify the Governor of each State
15 and the public and shall provide a comment period
16 of not less than 30 days.

17 “(C) Not later than 120 days after the date of
18 enactment of this section, the Administrator shall
19 publish a list of the amount of out-of-State munici-
20 pal solid waste that was received at each landfill to
21 which subsection (a) does not apply (as set forth in
22 paragraphs (1) and (2) of subsection (b)) for dis-
23 posal in the State during calendar year 1991 and
24 the first six months of calendar year 1992, as deter-

1 mined by the Governor in submitting information
2 under subparagraph (A).

3 “(5) A Governor may not exercise the authority
4 granted under this subsection if such action would
5 be inconsistent with State law or would result in the
6 violation of or failure to perform any provision of—

7 “(i) a written, legally binding contract, in-
8 cluding a host agreement, that was lawfully en-
9 tered into by the owner or operator of a landfill
10 and the affected local government and which
11 authorizes the landfill to receive municipal solid
12 waste generated outside the jurisdiction of the
13 affected local government; or

14 “(ii) a written, legally binding contract for
15 disposal at a landfill of municipal solid waste
16 generated outside the State in which the landfill
17 is located that was in effect on May 31, 1992.

18 “(f) CONTINUED APPLICABILITY OF SECTION CONDI-
19 TIONED ON CERTAIN LANDFILL REQUIREMENTS.—Sub-
20 sections (a) through (e) of this section shall not apply
21 after January 1, 1997, in a State unless each operating
22 municipal solid waste landfill in the State—

23 “(1) meets the design and location standards
24 that are applicable to landfills constructed on and
25 after October 1993; or

1 “(2) is on an enforceable schedule—

2 “(A) to stop receiving waste by January 1,
3 2000; and

4 “(B) to implement a closure plan.

5 “(g) DEFINITIONS.—As used in this section:

6 “(1) The term ‘affected local government’, with
7 respect to a landfill, incinerator, or other waste dis-
8 posal facility, means the elected officials of the city,
9 town, borough, county, or parish in which the facil-
10 ity is located. Within 90 days after enactment of this
11 section, the Governor of each State shall designate
12 and publish notice of which entity listed in the pre-
13 ceding sentence shall serve as the affected local gov-
14 ernment for purposes of actions taken under this
15 section after the date of publication of such notice.
16 No such designation shall affect host agreements
17 concluded before the date of publication of such no-
18 tice. If the Governor fails to make such designation,
19 the affected local government shall be the city, town,
20 borough, county, parish, or other public body created
21 by or pursuant to State law with primary jurisdic-
22 tion over the use of the land on which the facility
23 is located or proposed to be located.

24 “(2) The term ‘affected local solid waste plan-
25 ning unit’ means a political subdivision of a State

1 with authority relating to solid waste management
2 planning in accordance with state law.

3 “(3) The term ‘out-of-State municipal solid
4 waste’, with respect to a State, means municipal
5 solid waste generated outside of the State.

6 “(4) The term ‘municipal solid waste’ means
7 solid waste that is refuse (and refuse-derived fuel)
8 generated by the general public and from residential,
9 commercial, institutional, and industrial sources con-
10 sisting of paper, wood, yard wastes, food wastes,
11 plastics, leather, rubber, and other combustible ma-
12 terials and noncombustible materials such as metal,
13 glass, and rock. The term does not include—

14 “(A) hazardous waste or waste containing
15 polychlorinated biphenyls;

16 “(B) industrial waste;

17 “(C) medical waste;

18 “(D) recyclable materials that have been
19 separated from waste otherwise destined for
20 disposal (either at the source of the waste or at
21 processing facilities) or that have been managed
22 separately from waste destined for disposal; and

23 “(E) materials and products returned from
24 a dispenser or distributor to the manufacturer

1 or its agent for credit, evaluation, and possible
2 reuse.

3 “(5) The term ‘host agreement’ means a writ-
4 ten, legally binding agreement, lawfully entered into
5 between an owner or operator of a landfill or incin-
6 erator and an affected local government that author-
7 izes the landfill or incinerator to receive municipal
8 solid waste generated outside the jurisdiction of the
9 affected local government.”.

10 (b) TABLE OF CONTENTS AMENDMENT.—The table
11 of contents of the Solid Waste Disposal Act is amended
12 by adding at the end of the items relating to subtitle D
13 the following new item:

“Sec. 4011. Interstate transportation and disposal of municipal solid waste.”.

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