

# **WEST VIRGINIA LEGISLATURE**

**2020 REGULAR SESSION**

**Introduced**

## **Senate Bill 773**

BY SENATOR MAYNARD

[Introduced February 13, 2020; referred  
to the Committee on Government Organization]

1 A BILL to amend and reenact §22C-4-8 and §22C-4-10 of the Code of West Virginia, 1931, as  
2 amended, all relating to requiring county or regional solid waste authorities to provide a  
3 roll-off dumpster for residents to use, free of charge, for litter and solid waste disposal  
4 according to any litter or solid waste control plan.

*Be it enacted by the Legislature of West Virginia:*

#### **ARTICLE 4. COUNTY AND REGIONAL SOLID WASTE AUTHORITIES.**

##### **§22C-4-8. Authority to develop litter and solid waste control plan; approval by solid waste management board; development of plan by director; advisory rules.**

5 (a) Each county and regional solid waste authority is required to develop a comprehensive  
6 litter and solid waste control plan for its geographic area and to submit said plan to the solid waste  
7 management board on or before July 1, 1991. Each authority shall submit a draft litter and solid  
8 waste control plan to the solid waste management board by March 31, 1991. The comments  
9 received by the county or regional solid waste authority at public hearings, two of which are  
10 required, shall be considered in developing the final plan.

11 (b) Each litter and solid waste control plan shall include provisions for:

12 (1) An assessment of litter and solid waste problems in the county;

13 (2) The establishment of solid waste collection and disposal services for all county  
14 residents at their residences, where practicable, or the use of refuse collection stations at disposal  
15 access points in areas where residential collection is not practicable. In developing such collection  
16 services, primacy shall be given to private collection services currently operating with a certificate  
17 of convenience and necessity from the motor carrier division of the Public Service Commission;

18 (3) The evaluation of the feasibility of requiring or encouraging the separation of residential  
19 or commercial solid waste at its source prior to collection for the purpose of facilitating the efficient  
20 and effective recycling of such wastes and the reduction of those wastes which must be disposed  
21 of in landfills or by other nonrecycling means;

22 (4) The establishment of an appropriate mandatory garbage disposal program which shall

23 include methods whereby residents must prove either: (i) Payment of garbage collection fee; or  
24 (ii) proper disposal at an approved solid waste facility or in an otherwise lawful manner, including,  
25 but not limited to, through the use, free of charge, of a roll-off dumpster located at an approved  
26 solid waste facility or other geographic location;

27 (5) A recommendation for the siting of one or more properly permitted public or private  
28 solid waste facilities, whether existing or proposed, to serve the solid waste needs of the county  
29 or the region, as the case may be, consistent with the comprehensive county plan prepared by  
30 the county planning commission and the anticipated volumes of solid waste originating within or  
31 without the county or region which are likely to be disposed of within the county or region;

32 (6) A timetable for the implementation of said plan;

33 (7) A program for the cleanup, reclamation and stabilization of any open and unpermitted  
34 dumps;

35 (8) The coordination of the plan with the related solid waste collection and disposal  
36 services of municipalities and, if applicable, other counties;

37 (9) A program to enlist the voluntary assistance of private industry and civic groups in  
38 volunteer cleanup efforts to the maximum practicable extent;

39 (10) Innovative incentives to promote recycling efforts;

40 (11) A program to identify the anticipated quantities of solid wastes which are disposed of,  
41 but are not generated by sources situated, within the boundaries of the county or the region  
42 established pursuant to this section;

43 (12) Coordination with the Division of Highways and other local, state and federal agencies  
44 in the control and removal of litter and the cleanup of open and unpermitted dumps;

45 (13) Establishment of a program to encourage and utilize those individuals incarcerated  
46 in the regional jail and those adults and juveniles sentenced to probation for the purposes of litter  
47 pickup; and

48 (14) Provision for the safe and sanitary disposal of all refuse from commercial and

49 industrial sources within the county or region, as the case may be, including refuse from  
50 commercial and industrial sources, but excluding refuse from sources owned or operated by the  
51 state or federal governments.

52 (c) The solid waste management board shall establish advisory rules to guide and assist  
53 the counties in the development of the plans required by this section.

54 (d) Each plan prepared under this section is subject to approval by the solid waste  
55 management board. Any plan rejected by the solid waste management board shall be returned  
56 to the regional or county solid waste authority with a statement of the insufficiencies in such plan.  
57 The authority shall revise the plan to eliminate the insufficiencies and submit it to the director  
58 within 90 days.

59 (e) The solid waste management board shall develop a litter and solid waste control plan  
60 for any county or regional solid waste authority which fails to submit such a plan on or before July  
61 1, 1992: *Provided*, That in preparing such plans the director may determine whether to prepare a  
62 regional or county based plan for those counties which fail to complete such a plan.

**§22C-4-10. Mandatory disposal; proof required; penalty imposed; requiring solid waste  
management board and the Public Service Commission to file report.**

1 (a) Each person occupying a residence or operating a business establishment in this state  
2 shall either:

3 (1) Subscribe to and use a solid waste collection service and pay the fees established  
4 therefor; or

5 (2) Provide proper proof that said person properly disposes of solid waste at least once  
6 within every 30-day period at approved solid waste facilities or in any other lawful manner. The  
7 Secretary of the Department of Environmental Protection shall promulgate rules pursuant to  
8 chapter 29-a of this code regarding an approved method or methods of supplying such proper  
9 proof. A civil penalty of \$150 may be assessed to the person not receiving solid waste collection  
10 services in addition to the unpaid fees for every year that a fee is not paid. Any person who violates

11 the provisions of this section by not lawfully disposing of his or her solid waste or failing to provide  
12 proper proof that he or she lawfully disposes of his or her solid waste at least once a month is  
13 guilty of a misdemeanor. Upon conviction, he or she is subject to a fine of not less than \$50 nor  
14 more than \$1,000 or sentenced to perform not less than 10 nor more than 40 hours of community  
15 service, such as picking up litter, or both fined and sentenced to community service.

16 (3) Notwithstanding any other provision of this code to the contrary, each county or  
17 regional solid waste authority shall provide, at an approved solid waste facility or other geographic  
18 location approved by the Solid Waste Management Board, a roll-off dumpster for use by residents  
19 of each county, free of charge, for solid waste disposal according to any litter and solid waste  
20 control plan developed pursuant to §22C-4-8 of this code.

21 (b) The Solid Waste Management Board, in consultation and collaboration with the Public  
22 Service Commission, shall prepare and submit, no later than October 1, 1992, a report concerning  
23 the feasibility of implementing a mandatory fee for the collection and disposal of solid waste in  
24 West Virginia: *Provided*, That such plan shall consider such factors as affordability, impact on  
25 open dumping and other relevant matters. The report shall be submitted to the Governor, the  
26 President of the Senate and the Speaker of the House of Delegates.

27 (c) The Public Service Commission, in consultation and collaboration with the Division of  
28 Human Services, shall prepare and submit, no later than October 1, 1992, a report concerning  
29 the feasibility of reducing solid waste collection fees to individuals who directly pay such fees and  
30 who receive public assistance from state or federal government agencies and are therefore limited  
31 in their ability to afford to pay for solid waste disposal. This report shall consider the individual's  
32 health and income maintenance and other relevant matters. This report shall also include  
33 recommended procedures for individuals or households to qualify for and avail themselves of a  
34 reduction in fees. This report shall be submitted to the Governor, the President of the Senate and  
35 the Speaker of the House of Delegates.

NOTE: The purpose of this bill is to require county or regional solid waste authorities to provide, free of charge, a roll-off dumpster for residents to use for litter and solid waste disposal according to any litter or solid waste control plan.

Strike-throughs indicate language that would be stricken from a heading or the present law, and underscoring indicates new language that would be added.