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2005 MAY -4 P 10: 10

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 2005



# ENROLLED

## House Bill No. 3356

(By Delegates Michael, Doyle, Cann,  
Kominar, Browning and Williams)



Passed April <sup>9</sup> 8, 2005

In Effect Ninety Days from Passage

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**E N R O L L E D**

**H. B. 3356**

(BY DELEGATES MICHAEL, DOYLE, CANN,  
KOMINAR, BROWNING AND WILLIAMS)

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h.n. h.*

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[Passed April 8, 2005; in effect ninety days from passage.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §22C-3-26; and to amend said code by adding thereto a new section, designated §22C-4-9a, all relating generally to the powers and duties of the solid waste management board; providing for performance reviews of authorities and performance measures; requiring proposal of legislative rules for implementation of review process and system; authorizing solid waste management board to intervene under certain circumstances; providing intervention process; requiring state auditor to establish certain accounting procedures to be adopted by all county and regional solid waste authorities; and requiring audits of authorities.

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

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §22C-3-26; and that said code be amended by adding thereto a new section, designated §22C-4-9a, all to read as follows:

**ARTICLE 3. SOLID WASTE MANAGEMENT BOARD.**

**§22C-3-26. Supersedure over county and regional solid waste authorities.**

1 For purposes of exercising the authority provided under  
2 section nine-a, article four of this chapter, the Board may by  
3 resolution supersede and exercise, in part or whole, the powers  
4 granted to only county or regional solid waste authorities that  
5 operate solid waste facilities as provided in chapters seven,  
6 twenty two, twenty two-c and twenty-four of this code. Actions  
7 of the Board supersede those powers granted to only county or  
8 regional solid waste authorities that operate solid waste  
9 facilities.

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

**§22C-4-9a. Findings, Solid Waste Management Board performance reviews and measures, legislative rules, intervention of impaired authorities, establishment of uniform chart of accounts, financial examination requirements.**

1 (a) The Legislature finds that performance review and  
2 performance measurement are valuable tools for identifying  
3 serious impairments of commercial solid waste facilities  
4 operated by county or regional solid waste authorities and  
5 fostering accountability and effective and efficient facility  
6 operations.

7 (b) The Solid Waste Management Board shall conduct a  
8 biennial performance review of each county and regional solid  
9 waste authority that operates a commercial solid waste facility.  
10 *Provided,* That the Solid Waste Management Board may  
11 conduct a performance review at any time it determines a  
12 performance review to be necessary.

13 (c) The Solid Waste Management Board shall develop and  
14 maintain a system of annual and quarterly or more frequent  
15 performance measures useful in gauging the productivity and  
16 operational health of county and regional solid waste authorities  
17 operating commercial solid waste facilities. The authorities  
18 shall provide the performance measurement data in accordance  
19 with the legislative rule required under subsection (d) of this  
20 section.

21 (d) No later than the first day of August, two-thousand six,  
22 the Solid Waste Management Board in consultation and  
23 collaboration with the Public Service Commission, shall  
24 propose legislative rules for promulgation in accordance with  
25 the provisions of article three, chapter twenty-nine-a of this  
26 code, to implement a performance review process and system  
27 of quarterly performance measures designed pursuant to  
28 subsections (b) and (c) of this section.

29 (e) For the purposes of this section, “performance review”  
30 means an accountability system which establishes benchmarks  
31 to evaluate and determine the effective and efficient perfor-  
32 mance of a county solid waste authority operating a commercial  
33 solid waste facility or regional solid waste authority operating  
34 a commercial solid waste facility.

35 (f) For the purposes of this section, “performance mea-  
36 sures” means outcome and output measures. “Outcomes”  
37 represent effects or results of programs. “Outputs” represent the  
38 units of services or activities produced.

39 (g) In promulgating the rules required by subsection (d) of  
40 this section, the Solid Waste Management Board shall establish  
41 criteria to be considered in conducting performance reviews,  
42 establish benchmarks to identify serious impairments, establish  
43 a recommendation process for correcting impairments and  
44 establish penalties for failure to comply, including a process for

45 temporary intervention by the Solid Waste Management Board  
46 to correct impairments.

47 (h) When the Solid Waste Management Board determines  
48 through a performance review or regular monitoring of perfor-  
49 mance measures that an authority's commercial solid waste  
50 facility is seriously impaired and the authority does not correct  
51 the impairments, the intervention process may include, but is  
52 not limited to, the following methods:

53 (1) Appointing a team of improvement consultants to  
54 conduct on-site reviews and make strategic recommendations  
55 toward remedy of the serious impairments;

56 (2) Directing the authority's board of directors to prioritize  
57 and target its funds strategically toward alleviating the serious  
58 impairments;

59 (3) Recommending to the agencies that appoint the mem-  
60 bers of the authority's board of directors, as provided by  
61 subsection (b), section three, and subsection (b), section four of  
62 this article, that one or more members of the authority's board  
63 of directors be replaced;

64 (4) The Director of the Solid Waste Management Board, or  
65 his or her designee, may temporarily during intervention,  
66 preside as chair of the county or regional solid waste authority  
67 board meetings; and

68 (5) Exercising powers of supersedure provided under  
69 section twenty-six, article three of this chapter.

70 (i) The State Auditor in consultation and collaboration with  
71 the Solid Waste Management Board and the Public Service  
72 Commission shall establish a uniform chart of accounts  
73 delineating common revenue and expense account naming  
74 conventions to be adopted by all county and regional solid

75 waste authorities, beginning no later than the first day of July,  
76 two-thousand six.

77 (j) The chief inspector and supervisor of local government  
78 offices shall conduct an annual examination on the financial  
79 report of county and regional solid waste authorities with an  
80 audit occurring every third year. Additionally, the chief  
81 inspector, upon request by the Solid Waste Management Board,  
82 shall conduct an audit of any county or regional solid waste  
83 authority that operates a commercial solid waste facility as a  
84 part of the performance review required by this section. The  
85 definitions of “examination”, “audit” and “review” provided in  
86 section one-a, article nine, chapter six of this code apply to this  
87 subsection.

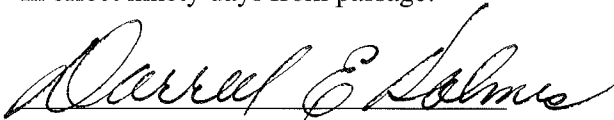
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

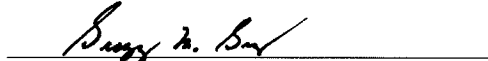
  
Chairman Senate Committee

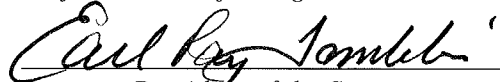
  
Chairman House Committee

Originating in the House.

In effect ninety days from passage.

  
Clerk of the Senate

  
Clerk of the House of Delegates

  
President of the Senate

  
Speaker of the House of Delegates

The within is approved this the 4<sup>th</sup>  
day of May, 2005.

  
Governor

PRESENTED TO THE  
GOVERNOR

MAY 2 2005

Time 10:10 am