

WEST VIRGINIA LEGISLATURE

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Introduced

Senate Bill 688

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[Introduced February 22, 2016;

Referred to the Committee on Government

Organization.]

1 A BILL to amend and reenact §22C-4-24 and §22C-4-25 of the Code of West Virginia, 1931, as
 2 amended, all relating to county and regional solid waste facility siting plans; including
 3 consideration of the waste reduction benefits of recycling and composting facilities as part
 4 of facility siting plans; recognizing benefits from composting certain wastes into useful
 5 agricultural products; providing for inclusion in siting plans of composting facilities that are
 6 owned or operated by municipalities and other local governments; and specifying that net
 7 economic impact of composting facilities be included in siting plan determinations.

Be it enacted by the Legislature of West Virginia:

1 That §22C-4-24 and §22C-4-25 of the Code of West Virginia, 1931, as amended, be
 2 amended and reenacted, all to read as follows:

ARTICLE 4. COUNTY AND REGIONAL SOLID WASTE AUTHORITIES.

§22C-4-24. Commercial solid waste facility siting plan; facilities subject to plan; criteria; approval by Solid Waste Management Board; effect on facility siting; public hearings; rules.

3 (a) On or before July 1, 1991, each county or regional solid waste authority shall prepare
 4 and complete a commercial solid waste facilities siting plan for the county or counties within its
 5 jurisdiction: *Provided*, That the Solid Waste Management Board may authorize any reasonable
 6 extension of up to one year for the completion of the said siting plan by any county or regional
 7 solid waste authority. The siting plan shall identify zones within each county where siting of the
 8 following facilities is authorized or prohibited:

9 (1) Commercial solid waste facilities which may accept an aggregate of more than ten
 10 thousand tons of solid waste per month.

11 (2) Commercial solid waste facilities which shall accept only less than an aggregate of ten
 12 thousand tons of solid waste per month.

13 (3) Commercial solid waste transfer stations or commercial facilities for the processing or
 14 recycling of solid waste.

15 The siting plan shall include an explanation of the rationale for the zones established
16 therein based on the criteria established in subsection (b) of this section.

17 (b) The county or regional solid waste authority shall develop the siting plan authorized by
18 this section based upon the consideration of one or more of the following criteria: The efficient
19 disposal of solid waste, including, but not limited to, all solid waste which is disposed of within the
20 county or region regardless of its origin, economic development, transportation infrastructure, use
21 of recycling and composting facilities to reduce the volume of wastes disposed through other
22 means, property values, groundwater and surface waters, geological and hydrological conditions,
23 aesthetic and environmental quality, historic and cultural resources, the present or potential land
24 uses for residential, commercial, recreational, environmental conservation or industrial purposes
25 and the public health, welfare and convenience. The initial plan shall be developed based upon
26 information readily available. Due to the limited funds and time available, the initial plan need not
27 be an exhaustive and technically detailed analysis of the criteria set forth above. Unless the
28 information readily available clearly establishes that an area is suitable for the location of a
29 commercial solid waste facility or not suitable for such a facility, the area shall be designated as
30 an area in which the location of a commercial solid waste facility is tentatively prohibited. Any
31 person making an application for the redesignation of a tentatively prohibited area shall make
32 whatever examination is necessary and submit specific detailed information in order to meet the
33 provision established in subsection (g) of this section.

34 (c) Prior to completion of the siting plan, the county or regional solid waste authority shall
35 complete a draft siting plan and hold at least one public hearing in each county encompassed in
36 said draft siting plan for the purpose of receiving public comment thereon. The authority shall
37 provide notice of such public hearings and encourage and solicit other public participation in the
38 preparation of the siting plan as required by the rules promulgated by the Solid Waste
39 Management Board for this purpose. Upon completion of the siting plan, the county or regional
40 solid waste authority shall file said plan with the Solid Waste Management Board.

41 (d) The siting plan takes effect upon approval by the Solid Waste Management Board
42 pursuant to the rules promulgated for this purpose. Upon approval of the plan, the Solid Waste
43 Management Board shall transmit a copy thereof to the Secretary of the Department of
44 Environmental Protection and to the clerk of the county commission of the county encompassed
45 by said plan which county clerk shall file the plan in an appropriate manner and shall make the
46 plan available for inspection by the public.

47 (e) Effective upon approval of the siting plan by the Solid Waste Management Board, it is
48 unlawful for any person to establish, construct, install or operate a commercial solid waste facility
49 at a site not authorized by the siting plan: *Provided*, That an existing commercial solid waste
50 facility which, on April 8, 1989, held a valid solid waste permit or compliance order issued by the
51 Division of Natural Resources pursuant to the former provisions of article five-f, chapter twenty of
52 this code may continue to operate, but may not expand the spatial land area of the said facility
53 beyond that authorized by said solid waste permit or compliance order and may not increase the
54 aggregate monthly solid waste capacity in excess of ten thousand tons monthly unless such a
55 facility is authorized by the siting plan.

56 (f) The county or regional solid waste authority may, from time to time, amend the siting
57 plan in a manner consistent with the requirements of this section for completing the initial siting
58 plan and the rules promulgated by the Solid Waste Management Board for the purpose of such
59 amendments.

60 (g) Notwithstanding any provision of this code to the contrary, upon application from a
61 person who has filed a presiting notice pursuant to section thirteen, article fifteen, chapter twenty-
62 two of this code, the county or regional solid waste authority or county commission, as
63 appropriate, may amend the siting plan by redesignating a zone that has been designated as an
64 area where a commercial solid waste facility is tentatively prohibited to an area where one is
65 authorized. In such case, the person seeking the change has the burden to affirmatively and
66 clearly demonstrate, based on the criteria set forth in subsection (b) of this section, that a solid

67 waste facility could be appropriately operated in the public interest at such location. The Solid
68 Waste Management Board shall provide, within available resources, technical support to a county
69 or regional solid waste authority, or county commission as appropriate, when requested by such
70 authority or commission to assist it in reviewing an application for any such amendment.

71 (h) The Solid Waste Management Board shall prepare and adopt a siting plan for any
72 county or regional solid waste authority which does not complete and file with the said state
73 authority a siting plan in compliance with the provisions of this section and the rules promulgated
74 thereunder. Any siting plan adopted by the Solid Waste Management Board pursuant to this
75 subsection shall comply with the provisions of this section, and the rules promulgated thereunder,
76 and has the same effect as a siting plan prepared by a county or regional solid waste authority
77 and approved by the Solid Waste Management Board.

78 (i) The siting plan adopted pursuant to this section shall incorporate the provisions of the
79 litter and solid waste control plan, as approved by the Solid Waste Management Board pursuant
80 to section eight of this article, regarding collection and disposal of solid waste and the
81 requirements, if any, for additional commercial solid waste facility capacity.

82 (j) The Solid Waste Management Board is authorized and directed to promulgate rules
83 specifying the public participation process, content, format, amendment, review and approval of
84 siting plans for the purposes of this section.

85 (k) To the extent that current solid waste plans approved by the board are approved as
86 provided for in this section, and in place on the effective date of this article, provisions which limit
87 approval for new or expanded solid waste facilities based solely on local solid waste disposal
88 needs without consideration for national waste disposal needs are disallowed as being in conflict
89 with the public policy of this article: *Provided*, That all other portions of the solid waste
90 management plans as established in the litter and solid waste control plan as provided for in this
91 section and the comprehensive recycling plan as provided for in section seventeen, article fifteen-
92 a, chapter twenty-two of this code are continued in full force and effect to the extent that those

93 provisions do not conflict with the provisions of this article.

§22C-4-25. Siting approval for solid waste facilities; effect on facilities with prior approval.

1 (a) It is the intent of the Legislature that all commercial solid waste facilities operating in
2 this state must receive site approval at the local level, except for recycling facilities, as defined in
3 section twenty-three, article fifteen-a, chapter twenty-two of this code, that are specifically
4 exempted by section twelve, article eleven, chapter twenty of this code. Notwithstanding said
5 intent, facilities which obtained such approval from either a county or regional solid waste
6 authority, or from a county commission, under any prior enactment of this code, and facilities
7 which were otherwise exempted from local site approval under any prior enactment of this code,
8 shall be deemed to have satisfied such requirement. All other facilities, including facilities which
9 received such local approval but which seek to expand spatial area or to convert from a Class B
10 facility to a Class A facility, shall obtain such approval only in the manner specified in sections
11 twenty-six, twenty-seven and twenty-eight of this article.

12 (b) In considering whether to issue or deny the certificate of site approval as specified in
13 sections twenty-six, twenty-seven and twenty-eight of this article, the county or regional solid
14 waste authority shall base its determination upon the following criteria: The efficient disposal of
15 solid waste anticipated to be received or processed at the facility, including solid waste generated
16 within the county or region, economic development, transportation infrastructure, property values,
17 beneficial impacts of converting compostable materials into agricultural supplies, groundwater
18 and surface waters, geological and hydrological conditions, aesthetic and environmental quality,
19 historic or cultural resources, the present or potential land uses for residential, commercial,
20 recreational, industrial or environmental conservation purposes and the public health, welfare and
21 convenience.

22 (c) The county or regional solid waste authority shall complete findings of fact and
23 conclusions relating to the criteria authorized in subsection (b) of this section which support its
24 decision to issue or deny a certificate of site approval.

25 (d) The siting approval requirements for composting facilities, materials recovery facilities
26 and mixed waste processing facilities shall be the same as those for other solid waste facilities.

27 (e) Composting facilities or mixed waste facilities owned or operated by, or under contract
28 with, a municipality or other local government entity to produce nutritive supplies for agricultural
29 uses from nontoxic organic wastes shall also be considered within any siting plan or revision to a
30 siting plan to the same extent as a commercial solid waste disposal facility, except that the siting
31 plan or revision shall also consider the net economic impact of diverting biodegradable wastes
32 from other disposal requirements, receiving waste solids from liquid waste facilities, income from
33 sales of mulch, humus or other agricultural supplies, and the benefit to the local agricultural
34 economy.

NOTE: The purpose of this bill is to allow for local government operation of waste composting facilities which can produce valuable products for the stimulation of agriculture and to specify additional criteria to be considered in local facility siting plans.

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