



# HOUSE BILL No. 5876

May 9, 1996, Introduced by Rep. Byl and referred to the Committee on Conservation, Environment and Great Lakes.

A bill to amend sections 11526, 11532, 11533, 11534, 11536, 11537a, and 11539 of Act No. 451 of the Public Acts of 1994, entitled

"Natural resources and environmental protection act,"

being sections 324.11526, 324.11532, 324.11533, 324.11534, 324.11536, 324.11537a, and 324.11539 of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 11526, 11532, 11533, 11534, 11536,  
2 11537a, and 11539 of Act No. 451 of the Public Acts of 1994,  
3 being sections 324.11526, 324.11532, 324.11533, 324.11534,  
4 324.11536, 324.11537a, and 324.11539 of the Michigan Compiled  
5 Laws, are amended to read as follows:

6 Sec. 11526. (1) The department, a health officer, or a law  
7 enforcement officer of competent jurisdiction may inspect a solid

1 waste transporting unit that is being used to transport solid  
2 waste along a public road to determine if the solid waste trans-  
3 porting unit is designed, maintained, and operated in a manner to  
4 prevent littering or to determine if the owner or operator of the  
5 solid waste transporting unit is performing in compliance with  
6 this part and the rules promulgated under this part.

7 (2) A LOCAL CERTIFIED HEALTH OFFICER, QUALIFIED COUNTY PER-  
8 SONNEL, OR QUALIFIED INDIVIDUAL CONTRACTED BY THE COUNTY MAY CON-  
9 DUCT REGULAR INSPECTIONS OF SOLID WASTE FACILITIES. COPIES OF  
10 INSPECTIONS CONDUCTED BY A COUNTY OR LOCAL HEALTH OFFICER SHALL  
11 BE FILED WITH THE DEPARTMENT.

12 Sec. 11532. (1) Except as provided in subsection (3), a  
13 municipality OR A COUNTY, OR BOTH, may impose an impact fee of  
14 not more than 10 cents per cubic yard on solid waste that is dis-  
15 posed of in a landfill located within the municipality AND COUNTY  
16 that is utilized by the public and utilized to dispose of solid  
17 waste collected from 2 or more persons. However, if the landfill  
18 is located within a village, the impact fee provided for in this  
19 subsection shall be imposed by the township in agreement with the  
20 village. The impact fee shall be assessed uniformly on all  
21 wastes accepted for disposal.

22 (2) Except as provided in subsection (3), a municipality OR  
23 A COUNTY, OR BOTH, may impose an impact fee of not more than  
24 10 cents per cubic yard on municipal solid waste incinerator ash  
25 that is disposed of in a landfill located within the municipality  
26 AND COUNTY that is utilized to dispose of municipal solid waste  
27 incinerator ash. However, if the landfill is located within a

1 village, the impact fee provided for in this subsection shall be  
2 imposed by the township in agreement with the village.

3 (3) A municipality OR COUNTY, OR BOTH, may enter into an  
4 agreement with the owner or operator of a landfill to establish a  
5 higher impact fee than those provided for in subsections (1) and  
6 (2).

7 (4) The impact fees imposed under this section shall be col-  
8 lected by the owner or operator of a landfill and shall be paid  
9 to the municipality quarterly by the thirtieth day after the end  
10 of each calendar quarter. However, the impact fees allowed to be  
11 assessed to each landfill under this section shall be reduced by  
12 any amount of revenue paid to or available to the municipality  
13 from the landfill under the terms of any preexisting agreements,  
14 including, but not limited to, contracts, special use permit con-  
15 ditions, court settlement agreement conditions, and trusts.

16 (5) Unless a trust fund is established by a municipality OR  
17 A COUNTY pursuant to subsection (6), the revenue collected by a  
18 municipality under subsections (1) and (2) shall be deposited in  
19 its general fund to be used for any purpose that promotes the  
20 public health, safety, or welfare of the citizens of the  
21 municipality. However, revenue collected pursuant to this sec-  
22 tion shall not be used to bring or support a lawsuit or other  
23 legal action against an owner or operator of a landfill who is  
24 collecting an impact fee pursuant to subsection (4) unless the  
25 owner or operator of the landfill has instituted a lawsuit or  
26 other legal action against the municipality.

1           (6) ~~The~~ A municipality OR A COUNTY may establish a trust  
2 fund to receive revenue collected pursuant to this section. The  
3 trust fund shall be administered by a board of trustees. The  
4 board of trustees shall consist of the following members:

5           (a) The chief elected official of the municipality OR COUNTY  
6 creating the trust fund.

7           (b) An individual from the municipality OR COUNTY appointed  
8 by the governing board of the municipality OR COUNTY.

9           (c) An individual approved by the owners or operators of the  
10 landfills within the municipality OR COUNTY and appointed by the  
11 governing board of the municipality OR COUNTY.

12          (7) Individuals appointed to serve on the board of trustees  
13 under subsection (6)(b) and (c) shall serve for terms of  
14 2 years.

15          (8) Money in the trust fund may be expended, pursuant to a  
16 majority vote of the board of trustees, for any purpose that pro-  
17 motes the public health, safety, or welfare of the citizens of  
18 the municipality OR COUNTY. However, revenue collected pursuant  
19 to this section shall not be used to bring or support a lawsuit  
20 or other legal action against an owner or operator of a landfill  
21 who is collecting an impact fee pursuant to subsection (4) unless  
22 the owner or operator of the landfill has instituted a lawsuit or  
23 other legal action against the municipality OR COUNTY.

24          Sec. 11533. (1) Each solid waste management plan shall  
25 include an enforceable program and process to assure that the  
26 nonhazardous solid waste generated or to be generated in the  
27 planning area for a period of 10 years or more is collected and

1 recovered, processed, or disposed of at disposal areas ~~which~~  
2 THAT comply with state law and rules promulgated by the depart-  
3 ment governing location, design, and operation of the disposal  
4 areas.

5 (2) An initial solid waste management plan shall be prepared  
6 and approved under this section and shall be submitted to the  
7 director not later than January 5, 1984. Following submittal of  
8 the initial plan, the solid waste management plan shall be  
9 reviewed and updated every 5 years. An updated plan ~~and an~~  
10 ~~amendment to a plan~~ shall be prepared and approved as provided  
11 in sections 11533, 11534, 11535, 11536, 11537, and 11537a. A  
12 SOLID WASTE MANAGEMENT PLAN MAY INCLUDE A PROCESS TO EXPEDITE  
13 AMENDMENTS TO THE SOLID WASTE MANAGEMENT PLAN TO EXECUTE ALL MOD-  
14 IFICATIONS, WITH THE EXCEPTION OF SITING NEW FACILITIES. NEW  
15 FACILITIES SHALL BE REVIEWED UNDER THE SITING PROCESSES CONTAINED  
16 IN THE APPROVED SOLID WASTE MANAGEMENT PLAN AND AS STIPULATED IN  
17 SECTION 11538(1)(D)(i) AND (ii). The solid waste management plan  
18 shall encompass all municipalities within the county. The solid  
19 waste management plan shall at a minimum comply with the require-  
20 ments of sections 11537a and 11538. The solid waste management  
21 plan shall take into consideration solid waste management plans  
22 in contiguous counties and existing local approved solid waste  
23 management plans as they relate to the county's needs. At a min-  
24 imum, a county preparing a solid waste management plan shall con-  
25 sult with the regional planning agency from the beginning to the  
26 completion of the plan.

1 (3) Not later than July 1, 1981, each county shall file with  
2 the department and with each municipality within the county on a  
3 form provided by the department, a notice of intent, indicating  
4 the county's intent to prepare a county solid waste management  
5 plan or to upgrade an existing plan. The notice shall identify  
6 the designated agency which shall be responsible for preparing  
7 the county solid waste management plan.

8 (4) If the county fails to file a notice of intent with the  
9 department within the prescribed time, the department immediately  
10 shall notify each municipality within the county and shall  
11 request those municipalities to prepare the county solid waste  
12 management plan and shall convene a meeting to discuss the plan  
13 preparation. Within 4 months following notification by the  
14 department, the municipalities shall decide by a majority vote of  
15 the municipalities in the county whether or not to file a notice  
16 of intent to prepare the county solid waste management plan.  
17 Each municipality in the county shall have 1 vote. If a majority  
18 does not agree, then a notice of intent shall not be filed. The  
19 notice shall identify the designated agency which is responsible  
20 for preparing the county solid waste management plan.

21 (5) If the municipalities fail to file a notice of intent to  
22 prepare a county solid waste management plan with the department  
23 within the prescribed time, the department shall request the  
24 appropriate regional solid waste management planning agency to  
25 prepare the county solid waste management plan. The regional  
26 solid waste management planning agency shall respond within  
27 90 days after the date of the request.

1 (6) If the regional solid waste management planning agency  
2 declines to prepare a county solid waste management plan, the  
3 department shall prepare the solid waste management plan for the  
4 county and that plan shall be final.

5 (7) A solid waste management planning agency, upon request  
6 of the department, shall submit a progress report in preparing  
7 its solid waste management plan.

8 Sec. 11534. (1) The county executive of a charter county  
9 that elects a county executive and that chooses to prepare a  
10 solid waste management plan under section 11533 or the county  
11 board of commissioners in all other counties choosing to prepare  
12 an initial solid waste management plan under section 11533, or  
13 the municipalities preparing an initial solid waste management  
14 plan under section 11533(4), shall appoint a planning committee  
15 to assist the agency designated to prepare the plan under  
16 section 11533. If the county charter provides procedures for  
17 approval by the county board of commissioners of appointments by  
18 the county executive, an appointment under this subsection shall  
19 be subject to that approval. A planning committee appointed pur-  
20 suant to this subsection shall be appointed for terms of 2  
21 years. A planning committee appointed pursuant to this subsec-  
22 tion may be reappointed for the purpose of completing the prepa-  
23 ration of the initial solid waste management plan or overseeing  
24 the implementation of the initial plan. Reappointed members of a  
25 planning committee shall serve for terms not to exceed 2 years as  
26 determined by the appointing authority. An initial solid waste

1 management plan shall only be approved by a majority of the  
2 members appointed and serving.

3 (2) ~~A~~ EXCEPT AS PROVIDED IN SUBSECTION (3), A planning  
4 committee appointed pursuant to this section shall consist of 14  
5 members. Of the members appointed, 4 shall represent the solid  
6 waste management industry, 2 shall represent environmental inter-  
7 est groups, 1 shall represent county government, 1 shall repre-  
8 sent city government, 1 shall represent township government, 1  
9 shall represent the regional solid waste planning agency, 1 shall  
10 represent industrial waste generators, and 3 shall represent the  
11 general public. A member appointed to represent a county, city,  
12 or township government shall be an elected official of that gov-  
13 ernment or the designee of that elected official. Vacancies  
14 shall be filled in the same manner as the original appointments.  
15 A member may be removed for nonperformance of duty.

16 (3) A PLANNING COMMITTEE APPOINTED PURSUANT TO THIS SECTION  
17 MAY CONSIST OF 7 MEMBERS IF A COUNTY IS PREPARING THE SOLID WASTE  
18 MANAGEMENT PLAN UPDATE AND HAS A TOTAL POPULATION NOT EXCEEDING  
19 100,000 PERSONS. OF THE MEMBERS APPOINTED UNDER THIS SUBSECTION,  
20 1 SHALL REPRESENT THE SOLID WASTE MANAGEMENT INDUSTRY, 1 SHALL  
21 REPRESENT THE SOLID WASTE INDUSTRY OR INDUSTRIAL GENERATORS, 2  
22 SHALL REPRESENT THE GENERAL PUBLIC OR ENVIRONMENTAL GROUPS, 1  
23 SHALL REPRESENT TOWNSHIP GOVERNMENT, 1 SHALL REPRESENT CITY OR  
24 VILLAGE GOVERNMENT, AND 1 SHALL REPRESENT COUNTY GOVERNMENT.  
25 VACANCIES SHALL BE FILLED IN THE SAME MANNER AS THE ORIGINAL  
26 APPOINTMENTS. A MEMBER MAY BE REMOVED FOR NONPERFORMANCE OF  
27 DUTY.



1       (4) ~~(3)~~ A planning committee appointed pursuant to this  
2 section shall annually elect a chairperson and shall establish  
3 procedures for conducting the committee's activities and for  
4 reviewing the matters to be considered by the committee.

5       Sec. 11536. (1) A municipality located in 2 counties or  
6 adjacent to a municipality located in another county may request  
7 to be included in the adjacent county's plan. Before the munici-  
8 pality may be included, the request shall be approved by a reso-  
9 lution of the county boards of commissioners of the counties  
10 involved. A municipality may appeal to the department a decision  
11 to exclude it from an adjacent county's plan. If there is an  
12 appeal, the department shall issue a decision within 45 days.  
13 The decision of the department is final.

14       (2) Except as provided in subsection (3), the county board  
15 of commissioners shall formally act on the plan following the  
16 public hearing required by section 11535(f).

17       (3) If a planning committee has been appointed by the county  
18 board of commissioners under section 11534(1), the county board  
19 of commissioners, or if a plan is prepared under section  
20 11533(4), the municipalities in the county who voted in favor of  
21 filing a notice of intent to prepare a county solid waste manage-  
22 ment plan, shall take formal action on the plan after the comple-  
23 tion of public hearings and only after the plan has been approved  
24 by a majority of the planning committee as provided in section  
25 11534(1). If the county board of commissioners, or, if a plan is  
26 prepared under section 11533(4), a majority of the municipalities  
27 in the county who voted in favor of filing a notice of intent to

1 prepare a county solid waste management plan, does or do not  
2 approve the plan as submitted, the plan shall be returned to the  
3 planning committee along with a statement of objections to the  
4 plan. Within 30 days after receipt, the planning committee shall  
5 review the objections and shall return the plan with its  
6 recommendations.

7 (4) Following approval the county plan shall be approved by  
8 the governing bodies of not less than ~~67%~~ 66% of the municipal-  
9 ities within each respective county before the plan may take  
10 effect. IF A MUNICIPALITY FAILS TO ACT WITHIN 60 DAYS OF RECEIV-  
11 ING THE PLAN, THE INACTION SHALL BE CONSTRUED AS APPROVAL.

12 (5) A county plan prepared by a regional solid waste manage-  
13 ment planning agency shall be approved by the governing bodies of  
14 not less than ~~67%~~ 66% of the municipalities within each respec-  
15 tive county before the plan may take effect. IF A MUNICIPALITY  
16 FAILS TO ACT WITHIN 60 DAYS OF RECEIVING THE PLAN, THE INACTION  
17 SHALL BE CONSTRUED AS APPROVAL.

18 (6) If, after the plan has been adopted, the governing  
19 bodies of not less than ~~67%~~ 66% of the municipalities have not  
20 approved the plan, the department shall prepare a plan for the  
21 county, including those municipalities that did not approve the  
22 county plan. A plan prepared by the department shall be final.

23 Sec. 11537a. (1) Beginning on June 9, 1994 a county that  
24 has a solid waste management plan that provides for siting of  
25 disposal areas to fulfill a 20-year capacity need through use of  
26 a siting mechanism, is only required to use its siting mechanisms  
27 to site capacity to meet a 10-year capacity need. If any county

1 is able to demonstrate to the department that it has at least 66  
2 months of available capacity, that county may refuse to utilize  
3 its siting mechanism until the county is no longer able to demon-  
4 strate 66 months of capacity or until the county amends its plan  
5 in accordance with this part to provide for the annual certifica-  
6 tion process described in section 11538.

7       (2) IN ADDITION TO THE SITING MECHANISM DESCRIBED IN THE  
8 SOLID WASTE MANAGEMENT PLAN, A NEW DISPOSAL AREA WHICH IS NOT  
9 CONTIGUOUS WITH ANY BOUNDARIES OF AN EXISTING FACILITY MAY BE  
10 SITED BY THE EXECUTION OF A HOST AGREEMENT BETWEEN THE DEVELOPER  
11 AND THE HOST MUNICIPALITY. THE HOST DEVELOPER AND MUNICIPALITY  
12 SHALL THEN SUBMIT A REQUEST TO THE COUNTY TO INCLUDE THE PROPOSED  
13 DISPOSAL AREA IN THE SOLID WASTE MANAGEMENT PLAN. THE HOST  
14 AGREEMENT SHALL BE SUBMITTED AS A PART OF THE PLAN. IF THE  
15 COUNTY DENIES THE REQUEST, THE MUNICIPALITY MAY APPEAL TO THE  
16 OTHER MUNICIPALITIES OF THE COUNTY. IF 66% OF ALL MUNICIPALITIES  
17 OF THE COUNTY AFFIRM THE INCLUSION OF THE NEW DISPOSAL AREA, IT  
18 SHALL BE CONSIDERED PART OF THE COUNTY PLAN.

19       Sec. 11539. (1) EXISTING SOLID WASTE MANAGEMENT PLANS MAY  
20 BE RECERTIFIED PROVIDED THE PLAN MEETS CRITERIA OF THIS PART AND  
21 IS ACCEPTABLE AND PERTINENT TO THE SITUATION OF THE COUNTY. A  
22 RECERTIFICATION PROCESS SHALL BE DEVELOPED BY THE DEPARTMENT, BUT  
23 SHALL MINIMALLY CONTAIN A PUBLIC HEARING PROCESS. LOCAL UNITS OF  
24 GOVERNMENT AND CITIZENS SHALL BE CLEARLY NOTIFIED OF PENDING  
25 RECERTIFICATION CONSIDERATIONS. FINAL APPROVAL WILL BE THE  
26 RESPONSIBILITY OF THE DEPARTMENT.

1 (2) EACH SOLID WASTE MANAGEMENT PLAN MAY CONTAIN ANY OF THE  
2 FOLLOWING COMPONENTS:

3 (A) A REQUIREMENT THAT SERVICE PROVIDERS PROVIDE A MINIMUM  
4 LEVEL OF SERVICE TO CITIZENS INCLUDING VOLUME-BASE WASTE COLLEC-  
5 TION, RECYCLING SERVICES, AND YARD WASTE COLLECTION.

6 (B) A REQUIREMENT THAT FACILITIES IN HOST COUNTIES CERTIFY  
7 THAT THEY ARE MEETING A SERVICE HIERARCHY THAT RECOGNIZES THIS  
8 ORDER OF SERVICE: THE HOST COUNTY FOR A MINIMUM OF 10 YEARS, THE  
9 REGION FOR A MINIMUM OF 10 YEARS, THE STATE, AND THEN OTHER  
10 STATES AND COUNTRIES. PLANS OR IMPLEMENTATION MECHANISMS MAY  
11 IMPOSE YEARLY CAPACITY LIMITATIONS ON MATERIAL COMING TO THE  
12 FACILITY WITHIN THEIR REGION.

13 (C) NEGOTIATED ESTABLISHMENT OF CAPACITY LIMITATIONS ON THE  
14 QUANTITY OF WASTE THAT MAY BE IMPORTED PER YEAR TO A DISPOSAL  
15 FACILITY LOCATED IN THE COUNTY.

16 (D) A PROVISION FOR PHASE-IN OF CERTAIN PLAN PROVISIONS, BY  
17 ALLOWING THE HONORING OF EXISTING CONTRACT ARRANGEMENTS, OR  
18 EXISTING STIPULATIONS FROM PREVIOUS PLAN PROVISIONS FOR UP TO 1  
19 YEAR DURING WHICH ADJUSTMENTS TO A NEW SYSTEM CAN BE MADE.

20 (E) A REQUIREMENT THAT HAULERS AND DISPOSAL AREAS SUBMIT  
21 DATA ON THE QUANTITY OF SOLID WASTE DISPOSED OF AT THE DISPOSAL  
22 AREA LOCATED IN THE COUNTY, AND RECYCLABLES PROCESSED IN THE  
23 COUNTY, BY COUNTY OF ORIGIN.

24 (F) A REQUIREMENT THAT A DISPOSAL AREA LOCATED IN A COUNTY  
25 RECEIVE WASTE FROM OTHER COUNTIES THAT HAVE AND ARE IMPLEMENTING  
26 A SOLID WASTE MANAGEMENT PLAN THAT INCLUDES RECYCLING AND  
27 HOUSEHOLD HAZARDOUS WASTE PROGRAMS.

1 (3) PLANS MAY INCLUDE MECHANISMS INCLUDING BUT NOT LIMITED  
2 TO LICENSING, ORDINANCES, AND CONTRACTS TO ENFORCE PLANS AND PRO-  
3 VIDE FUNDING MECHANISMS FOR PLAN IMPLEMENTATION AND ENFORCEMENT.

4 (4) IF A SOLID WASTE MANAGEMENT PLAN IS NOT BEING RECERTI-  
5 FIED, THE PLAN MUST BE UPDATED AND SUBMITTED TO THE DEPARTMENT.

6 The ~~director~~ DEPARTMENT shall not approve a plan update  
7 unless:

8 (a) The plan contains an analysis or evaluation of the best  
9 available information applicable to the plan area in regard to  
10 recyclable materials and all of the following:

11 (i) The kind and volume of material in the plan area's waste  
12 stream that may be recycled or composted.

13 (ii) How various factors do or may affect a recycling and  
14 composting program in the plan area. Factors shall include an  
15 evaluation of the existing solid waste collection system; materi-  
16 als market; transportation networks; local composting and recycl-  
17 ing support groups, or both; institutional arrangements; the pop-  
18 ulation in the plan area; and other pertinent factors.

19 (iii) An identification of impediments to implementing a  
20 recycling and composting program and recommended strategies for  
21 removing or minimizing impediments.

22 (iv) How recycling and composting and other processing or  
23 disposal methods could complement each other and an examination  
24 of the feasibility of excluding site separated material and  
25 source separated material from other processing or disposal  
26 methods.

1 (v) Identification and quantification of environmental,  
2 economic, and other benefits that could result from the  
3 implementation of a recycling and composting program.

4 (vi) The feasibility of source separation of materials that  
5 contain potentially hazardous components at disposal areas. This  
6 subparagraph applies only to plan updates that are due after  
7 January 31, 1989.

8 (b) The plan either provides for recycling and composting  
9 recyclable materials from the plan area's waste stream or estab-  
10 lishes that recycling and composting are not necessary or feasi-  
11 ble or is only necessary or feasible to a limited extent.

12 (c) A plan that proposes a recycling or composting program,  
13 or both, details the major features of that program, including  
14 all of the following:

15 (i) The kinds and volumes of recyclable materials that will  
16 be recycled or composted.

17 (ii) Collection methods.

18 (iii) Measures that will ensure collection such as ordi-  
19 nances or cooperative arrangements, or both.

20 (iv) Ordinances or regulations affecting the program.

21 (v) The role of counties and municipalities in implementing  
22 the plan.

23 (vi) The involvement of existing recycling interests, solid  
24 waste haulers, and the community.

25 (vii) Anticipated costs.

26 (viii) On-going program financing.

- 1 (ix) Equipment selection.
- 2 (x) Public and private sector involvement.
- 3 (xi) Site availability and selection.
- 4 (xii) Operating parameters such as pH and heat range.
- 5 (d) The plan includes an evaluation of how the planning  
6 entity is meeting the state's waste reduction and recycling goals  
7 as established pursuant to section 11541(4).
- 8 (3) ~~(2)~~ The ~~director~~ DEPARTMENT may promulgate rules as  
9 may be necessary to implement this section.