



**House
Legislative
Analysis
Section**

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COUNTY SOLID WASTE MANAGEMENT DEPARTMENT

Senate Bills 363 and 364 as passed by the
Senate

Sponsor: Sen. Rudy J. Nichols

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JUN 08 1989

Senate Committee: Local Government and Veterans Library

House Committee: Conservation, Recreation and

Environment

First Analysis (5-18-89)

THE APPARENT PROBLEM:

Michigan has two counties — Oakland and Bay — that are organized under the optional unified form of government act (Public Act 139 of 1973), and therefore do not have the authority to finance large infrastructures such as solid waste systems. Oakland County at present has only three to five years of landfill space left. It plans to build a 40-year waste facility landfill, and suggests that legislation be enacted that would permit it to finance the project.

THE CONTENT OF THE BILLS:

Senate Bills 363 and 364 would create the County Department of Solid Waste Management Act, and exempt solid waste facilities from the requirements of the Disposal Plants Act, respectively.

Senate Bill 363 would create the County Department of Solid Waste Management Act, which would allow a board of commissioners of a county organized under P.A. 139 of 1973 to establish a department of solid waste management. The act would, among other things:

- Permit counties to establish departments of solid waste management.
- Permit a county to contract with a public corporation for the acquisition, improvement, enlargement, or extension of a solid waste system.
- Provide for the issuance of revenue bonds to finance the acquisition, improvement, enlargement, or extension of a solid waste system.
- Authorize townships and public corporations with taxing powers to levy a tax to pay obligations under a contract for the acquisition or improvement of a solid waste system.
- Permit a public corporation to establish special assessment districts to pay the costs of the solid waste system.
- Allow a county or public corporation to contract for solid waste services.
- Permit a county treasurer to notify the state treasurer when a public corporation failed to make a contract payment. The state treasurer would be required to deduct the amount from the public corporation's money in the treasurer's possession that was not pledged to pay debts.
- Permit a county to take private property when necessary to carry out the provisions of the bill, and to require that condemnation proceedings be instituted under the Uniform Condemnation Proceedings Act.

County Solid Waste Management Departments. Under the bill, a county that established a solid waste management department would have the authority to:

- Acquire, construct, improve, enlarge, or extend a solid waste system within one or more areas of the county, and operate and maintain the system. A county and a public corporation (defined under the bill as any county, city, village, township, charter township, district, or authority) or private corporation could also contract for the construction, operation, and maintenance of a solid waste system by the corporation on behalf of the county.
- Acquire outside its corporate boundaries any part of a solid waste system that was determined by the county board of commissioners to be necessary for collecting, transporting, recycling, processing, storing or disposing — by treatment, incineration, or otherwise — the county's solid waste.
- Acquire, in order to provide solid waste disposal services, any part of a solid waste system in one or more public corporations outside its corporate boundaries.
- Merge two or more systems by resolution of the county board.

Under the bill, a county would be required to obtain a public corporation's consent in order to furnish solid waste service to individual users within the corporation.

Financing of Solid Waste Systems. Under the bill, the acquisition, improvement, enlargement, or extension of a solid waste system could be financed by one or more of the following methods:

- The issuance of revenue bonds.
- The issuance of bonds in anticipation of payments to become due under contracts with public corporations for the system's repayment.
- Through money advanced by a county under agreements with one or more public corporations for its repayment.
- Through money advanced before or during construction of a system by a public or private entity, and reimbursed by the county.

The bill would require that bonds issued under the act be authorized by a resolution or ordinance adopted by county boards of commissioners.

Taking of Property. Under the bill, a county could acquire tangible or intangible property, rights, or processes for a solid waste system, within or outside its corporate limits, by purchase, grant, assignment, construction, lease, gift, devise or condemnation, and could hold, manage, control, sell, grant, assign, exchange, or lease the property, rights, or processes. The bill would also allow a county to take private property and to institute proceedings for that purpose.

Senate Bill 364 would exempt from the requirements of the Disposal Plants Act the construction, acquisition, improvement, extension, enlargement, operation, or maintenance of a facility established under the County

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Department of Solid Waste Management Act. The bill is tie-barred to Senate Bill 363.

MCL 123.271 et al.

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, the bills would incur no cost to the state. (5-17-89)

ARGUMENTS:

For:

Although the optional unified form of government act grants counties the authority to "construct, maintain, and operate county solid waste systems," it does not provide the authority to finance such structures. The bills would provide Oakland County with this authority, would permit it to establish a department of solid waste management to meet the needs of an integrated disposal system, and would exempt it from the requirement to obtain approval of the local government of the area in which the system was located.

Against:

Under the Disposal Plants Act, it is unlawful for a municipal or public corporation to build a garbage disposal plant or sewage disposal plant within the corporate limits of another city or village without first obtaining a permit from that city or village. It would appear, then, that the bills are attempting to circumvent local control regarding the construction of solid waste systems.

POSITIONS:

The Board of Commissioners of Oakland County unanimously adopted a resolution in support of the bills. (5-16-89)

The Michigan Association of Counties supports the bills. (5-17-89)

The Department of Natural Resources has not yet taken a position on the bills. (5-17-89)