

IN THE SENATE

SENATE BILL NO. 1420

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO SOLID WASTE DISPOSAL SITES; AMENDING SECTION 31-4401A, IDAHO
2 CODE, TO DEFINE A TERM AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SEC-
3 TION 31-4402, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE AUTHORITY
4 OF COUNTY COMMISSIONERS AND TO MAKE A TECHNICAL CORRECTION; AMENDING
5 SECTION 31-4403, IDAHO CODE, TO REVISE PROVISIONS REGARDING OPERATION
6 AND MAINTENANCE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION
7 31-4407, IDAHO CODE, TO PROVIDE A CODE REFERENCE AND TO MAKE TECHNICAL
8 CORRECTIONS; AMENDING SECTION 31-4407A, IDAHO CODE, TO REVISE PROVI-
9 SIONS REGARDING PROCEDURES ASSOCIATED WITH CHANGES IN STATUS OF MAJOR
10 WASTE GENERATORS AND MUNICIPALITIES AND TO MAKE TECHNICAL CORRECTIONS;
11 AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.
12

13 Be It Enacted by the Legislature of the State of Idaho:

14 SECTION 1. That Section 31-4401A, Idaho Code, be, and the same is hereby
15 amended to read as follows:

16 31-4401A. DEFINITIONS. In this chapter:

17 (1) "Flow control" means any method or system under which a governmen-
18 tal entity, by ordinance, regulation, or other official directive, compels
19 solid waste haulers to process or dispose of waste at a designated facility.

20 ~~(1)~~ (2) "Major solid waste generator" means any person who generates
21 two percent percent (2%) or more of the total solid waste originating in any
22 county.

23 ~~(2)~~ (3) "Person" means any natural person, firm, corporation, or other
24 entity, but does not include a municipality, a state agency or a state educa-
25 tional institution.

26 ~~(3)~~ (4) "Significant effect" means any change in the amount of solid
27 waste to be sent to any waste disposal site which that exceeds either five per
28 cent percent (5%) of the total monthly amount of waste disposal at any par-
29 ticular solid waste disposal site during the most recent calendar year, or
30 five percent percent (5%) of the projected processing capacity of any new
31 solid waste disposal site.

32 ~~(4)~~ (5) "State agency" means each state board, commission, department
33 or officer authorized by law to make rules or to determine contested cases.

34 ~~(5)~~ (6) "State educational institution" means a public educational fa-
35 ility or institution regulated by the state board of education or the board
36 of regents of the university of Idaho.

37 ~~(6)~~ (7) "System" means lands, sites, facilities, equipment and man-
38 power necessary for collection, transportation, storage, treatment, pro-
39 cessing, reuse, recycling or other means necessary for the disposal of solid
40 waste.

41 ~~(7)~~ (8) "Waste processing facility" means any waste disposal site or
42 any public work at which solid waste is compacted, incinerated, or otherwise

1 treated prior to disposal. It shall not include the placement of portable
2 collection facilities or similar equipment used solely to facilitate col-
3 lection of solid waste.

4 SECTION 2. That Section 31-4402, Idaho Code, be, and the same is hereby
5 amended to read as follows:

6 31-4402. AUTHORITY OF COUNTY COMMISSIONERS. The board of county com-
7 missioners in each of the several counties is hereby authorized to acquire,
8 establish, maintain and operate such solid waste disposal systems as are
9 necessary and to provide reasonable and convenient access to such disposal
10 systems by all the citizens of the county. For the purpose of establishing
11 systems for solid waste disposal, the board of county commissioners may
12 purchase, lease, condemn or receive as gifts such areas as are suitable,
13 or the board may exchange land with any other unit or units of government
14 under such terms as are mutually advantageous. In order that a county may
15 acquire sites or systems as expeditiously and advantageously as possible,
16 a county may use funds from current revenues, may use funds made available
17 through the issuance of bonds, or may use funds made available from county
18 building construction funds, and the provisions of chapter 10, title 31,
19 Idaho Code, are hereby made applicable for the acquisition of solid waste
20 disposal systems ~~and a.~~ A solid waste disposal system is declared to be a
21 public building within the definition of chapter 10, title 31, Idaho Code,
22 except that notwithstanding any other provisions of law, no board of county
23 commissioners or other public authority shall be required to contract out
24 the establishment, acquisition, operation or maintenance of a solid waste
25 disposal system, but if it should elect to do so, it may waive the giving of
26 a bond or other security in connection with such contract upon such terms
27 and conditions as it deems appropriate, and provided further that any county
28 may itself, without contracting out to any other party, establish, acquire,
29 operate and maintain a solid waste disposal system. Provided, however,
30 that no board of county commissioners or other public authority shall use
31 compulsory means, including flow control, to limit the private sector from
32 competing pursuant to paragraph 3, section 8, article I of the constitution
33 of the United States.

34 SECTION 3. That Section 31-4403, Idaho Code, be, and the same is hereby
35 amended to read as follows:

36 31-4403. OPERATION AND MAINTENANCE. It shall be the duty of the board
37 of county commissioners in each of the several counties to acquire sites or
38 facilities, ~~and to~~ maintain and operate solid waste disposal systems. Such
39 maintenance and operation may, by exclusive or nonexclusive means, be per-
40 formed through or by:

41 (1) Employees, facilities, equipment and supplies hired by or acquired
42 by the board of county commissioners;

43 (2) Contracts, franchises or otherwise, entered into by the board to
44 have the maintenance and operation performed by private persons;

45 (3) Contracts entered into by the board to have the maintenance and op-
46 eration performed by another unit of government;

1 (4) Contracts, franchises or otherwise, granted pursuant to law by the
2 board, for all or any part or parts of the county;

3 (5) Any combination of subsections (1), (2), (3) and (4) of this sec-
4 tion;

5 (6) Notwithstanding any other provision of law to the contrary, in or-
6 der to provide for the public health, safety, and well-being, the board of
7 county commissioners ~~and/or or~~ another unit of state government, ~~may~~ shall
8 determine whether solid waste disposal systems services are to be provided
9 by means of a contract, franchise or otherwise, provided for under subsec-
10 tion (2) of this section, or any contract, franchise or otherwise, awarded
11 under subsection (4) of this section, ~~with or without~~ through compulsory
12 competitive bidding;

13 (7) The board of county commissioners before entering into such con-
14 tracts, franchises or otherwise, may require such security for the perfor-
15 mance thereof as it deems appropriate or may waive such undertaking.

16 SECTION 4. That Section 31-4407, Idaho Code, be, and the same is hereby
17 amended to read as follows:

18 31-4407. EXISTING AND FUTURE MUNICIPAL FACILITIES TO CONFORM TO CHAP-
19 TER. Solid waste disposal facilities now in existence or hereafter estab-
20 lished and maintained ~~and/or or~~ operated by any city shall conform in the
21 same manner as county solid waste disposal facilities ~~as provided in section~~
22 pursuant to sections 34-4402 and 31-4405, Idaho Code.

23 SECTION 5. That Section 31-4407A, Idaho Code, be, and the same is hereby
24 amended to read as follows:

25 31-4407A. CHANGES IN STATUS OF MAJOR WASTE GENERATORS AND MUNICIPALI-
26 TIES -- PROCEDURES. (1) Major solid waste generators and municipalities op-
27 erating solid waste collection or disposal systems pursuant to the authority
28 conferred by law or desiring to initiate or abandon such systems shall con-
29 form to the procedures and standards set forth in this section before tak-
30 ing any action ~~which~~ that would significantly affect the amount or distribu-
31 tion of solid waste within any county. The board of county commissioners of
32 any county may waive operation of the procedure called for in this section by
33 passage of a resolution indicating ~~their~~ its intent to do so. Provided, how-
34 ever, that no board of county commissioners or other public authority shall
35 use compulsory means, including flow control, to limit the private sector
36 from competing pursuant to paragraph 3, section 8, article I of the constitu-
37 tion of the United States.

38 (2) Whenever a county ~~shall propose~~ proposes the establishment of a new
39 solid waste processing facility within the boundaries of the county or in
40 conjunction with adjoining counties, it shall give notice to the public and
41 all municipalities within its boundaries that it intends to establish a pro-
42 cessing facility. In conjunction with the notice, the county shall provide
43 a copy of a feasibility study prepared by a licensed professional engineer
44 concerning the proposed processing facility ~~which~~ that shall address the es-
45 timated capital cost of the facility, the estimated costs of operation of the
46 facility, and the estimated life span of the facility. The notice shall be
47 provided to potentially affected municipalities at least one hundred eighty

1 (180) days prior to the scheduled initiation of construction of any solid
2 waste processing facility.

3 (3) Within ninety (90) days of receipt of the notice, each affected mu-
4 nicipality shall respond to the notice provided by the county, indicating in
5 its response the intention of the municipality to participate in the use of
6 the proposed facility or to develop or continue operation of an independent
7 solid waste processing facility of its own for the projected duration of the
8 proposed county project.

9 (4) Pursuant to the responses received from affected municipalities,
10 the county proposing development of the solid waste processing facility may
11 tender contracts to participating municipalities assuring the availabil-
12 ity of waste disposal capacity at the proposed facility for any duration
13 promised by contract and securing commitments from the municipalities to
14 participate in use of the facility for the duration of its projected life.
15 The contracts shall not constitute guarantees of costs or duration of ser-
16 viceability of the proposed facility. The contracts may provide for annual
17 adjustments to reflect changes in the relative contribution rates of mu-
18 nicipalities to the waste stream feeding the disposal facility. No capital
19 contribution obligation shall extend beyond fifteen (15) years. Additional
20 contracts for capital participation may be proposed and entered into after
21 the expiration of the initial agreement.

22 (5) Any municipality ~~which~~ that indicates its intent not to participate
23 in a proposed facility shall be barred from later participation without the
24 consent of the board of county commissioners and without payment of a capital
25 contribution adequate to finance the cost of additional capacity adequate to
26 accommodate the waste stream generated within the municipality. The amount
27 and method of payment of the capital contribution shall be established by the
28 board of county commissioners.

29 (6) Any municipality ~~which~~ that elects to participate in a given solid
30 waste processing facility, but later elects to withdraw from said project,
31 may do so, but shall remain obligated for any capital costs incurred in its
32 behalf, but may receive partial credit for operational economies created by
33 its withdrawal. The burden of proof of the extent of operational economies
34 shall rest upon the withdrawing municipality.

35 (7) Major solid waste generators located outside participating munic-
36 ipalities shall be treated in the same manner as municipalities concerning
37 commitments to waste facility capacity. Boards of county commissioners are
38 authorized to enter into contracts with major solid waste generators for the
39 expected duration of operation of any solid waste processing facility.

40 SECTION 6. An emergency existing therefor, which emergency is hereby
41 declared to exist, this act shall be in full force and effect on and after
42 July 1, 2024.