

## LEGISLATIVE BILL 67

Approved by the Governor June 7, 1991

Introduced by Schmit, 23

AN ACT relating to nonhazardous solid waste disposal systems; to amend section 81-1528, Reissue Revised Statutes of Nebraska, 1943; to provide for applicability and require the adoption of rules and regulations; to limit an exemption from certain licensing and control provisions for cities of the second class and villages; to require certain plans; to provide a duty for the Revisor of Statutes; and to repeal the original section.

Be it enacted by the people of the State of Nebraska,

Section 1. Rules and regulations adopted by the Environmental Control Council pursuant to subdivision (7) of section 81-1528 shall apply to disposal sites permitted pursuant to sections 19-4101 to 19-4121 and regulated pursuant to subdivision (13)(d) of section 81-1505.

Sec. 2. That section 81-1528, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-1528. (1) The Environmental Protection Act shall not apply in any political subdivision which provides for the control of air, water, or land pollution by resolution, ordinance, or regulation not inconsistent with the substantive provisions of the Environmental Protection Act or any rule or regulation adopted pursuant to such act, except that no such resolution, ordinance, or regulation shall become effective until a certificate of exemption has been issued by the director. Such certificate of exemption shall be available for inspection in the office of the county, city, or village clerk as the case may be.

(2) If the director ~~shall determine~~ determines at any time after the issuance of such a certificate that a resolution, ordinance, or regulation is being enforced in a manner inconsistent with the Environmental Protection Act or any rule or regulation adopted pursuant to such act in any political subdivision holding a certificate of exemption, the director may suspend the certificate of exemption and the Environmental Protection Act shall apply in such

political subdivision until such standards are met and a new certificate is issued.

(3) Any political subdivision desiring a certificate of exemption shall make application for such certificate by filing a petition for certificate of exemption with the director. The director or his or her designated representative shall promptly investigate such petition. If the recommendation of the director or his or her designated representative is against the granting of a certificate of exemption and he or she, in his or her discretion, concludes that a hearing would be advisable, a hearing shall be held as provided in section 81-1507 on the questions of whether the resolution, ordinance, or regulation is consistent with the substantive provisions of the Environmental Protection Act or any rule or regulation adopted pursuant to such act, and whether adequate provisions have been made for enforcement. The burden of proof shall be upon the political subdivision. A like hearing shall be held upon any proposed suspension of a certificate of exemption.

(4) If the director finds that the location, character, or extent of particular concentrations of population, air, water, or land contaminant sources, the geographic, topographic, or meteorological considerations, or any combination thereof, are such as to make impracticable the maintenance of appropriate levels of air, water, or land quality without an areawide air, water, or land pollution control program, the director may determine the boundaries within which such program is necessary and require it as the only acceptable alternative to direct state administration.

(5) Nothing in the Environmental Protection Act shall be construed to supersede or oust the jurisdiction of any local air, water, or land pollution control program in operation on May 26, 1971. ~~Within one year from such date any such~~ Such program shall meet all requirements of the Environmental Protection Act for a local air, water, or land pollution control program. Any approval required from the department shall be deemed granted unless the department takes specific action to the contrary.

(6) Until March 1, 1995, cities ~~Cities~~ of the second class and villages shall be exempt from the provisions of sections 19-4101 to 19-4121 and the Environmental Protection Act pertaining to licensing and control of nonhazardous solid waste disposal systems if such cities and villages provide solid waste disposal systems which do not result in the pollution of waters

of the state. The department shall act in an advisory capacity to such cities and villages and shall have the right to inspect solid waste disposal sites and evaluate them according to the site evaluation criteria promulgated pursuant to the Resource Recovery and Conservation Conservation and Recovery Act, as amended, 42 U.S.C. 6901 et seq. The department shall notify the community of the results of its evaluation. Cities of the second class and villages shall prepare a plan by December 15, 1993, that will bring landfills previously exempted under this section into compliance with licensure requirements or provide for closure of such landfills. The plan shall be approved by the department and shall address the threat of air, water, and land pollution.

(7) The council shall, by July 1, 1992, adopt and promulgate rules and regulations which provide standards for the closure and postclosure care of all landfills, including landfills previously exempted under this section.

Sec. 3. The Revisor of Statutes shall assign section 1 of this act within sections 19-4101 to 19-4121 and any reference to sections 19-4101 to 19-4121 shall be construed to include section 1 of this act.

Sec. 4. That original section 81-1528, Reissue Revised Statutes of Nebraska, 1943, is repealed.