

OHIO'S SOLID WASTE LAW TWENTY YEARS OF SUCCESS KEY LEGISLATIVE PRIORITIES

This paper and the companion pamphlet provide background information on solid waste management issues under evaluation by solid waste professionals in Ohio. This paper provides context to several of the major areas of law that were identified by the Ohio Environmental Protection Agency (Ohio EPA) process to outline issues for consideration by the Ohio General Assembly in 2013.

Trash "solid waste" management is one of the most important functions of local government. Managing our waste is a critical service that protects the health, safety and welfare of all Ohio residents. Managing trash is a legitimate public sector responsibility and has been for more than a century.

Why Did the General Assembly Pass Solid Waste Legislation in 1988?

- Limited landfill capacity
- High volumes of out-of-state waste
- Technology for landfill construction and environmental protection had changed
- To establish new goals and requirements for waste minimization, reduction and recycling
- To establish solid waste management districts to implement state and local goals
- Required background checks for owners and operators

Has Ohio Government Achieved the Solid Waste Goals Set Out In the Original Law?

- ✓ Established 52 operating solid waste districts to provide local planning and programming
- ✓ Planned for ample future landfill capacity
- ✓ Developed recycling infrastructure
- ✓ Best available technology innovations for environmental protection at landfills
- ✓ Provides the public with input into solid waste decision making to influence decisions on cost, debt, facilities, new technology, operations, environmental protection and programming
- ✓ Created programming for recycling, household hazardous waste, scrap tires, organics, and electronics

What is the Future for Solid Waste Management in Ohio?

- New technology using solid waste as a raw material for fuel and products
- Creating efficiencies in processing, collecting, programming and planning for the management of solid waste;
- Building on the success of past public/private sector partnership opportunities
- Increasing environmental responsibility to manage solid waste materials for the highest and best use
- Preparing plans for districts, political subdivisions, and institutions (universities, schools, hospitals, transportation facilities) that are focused on waste reduction, elimination of waste, treating waste as a commodity and returning this raw material to commerce and energy production

KEY ISSUES FOR SOLID WASTE DISTRICTS/AUTHORITIES

CCAO strongly supports keeping flow control as a necessary management tool for solid waste districts/authorities.

1. FLOW CONTROL AND DESIGNATION

- Flow control is a power authorized by Ohio law that allows solid waste districts to designate, or direct, where solid wastes generated within or transported into the district or jurisdiction must be taken for disposal, transfer, resource recovery or recycling.
- Flow control has been an option for local government for more than two decades.
- A district utilizing flow control is required to provide service to the public and publish rates and charges in a public process. Allowing flow control provides assurance to the public that, when it makes sense and when public dollars are invested in solid waste facilities, the designation of a facility receives both economic and environmental impact scrutiny by the District to ensure the facility has the ability to provide services, operate safely and pay back the public debt.
- The General Assembly determined that designation and the competitive market place requires balance and the decision to designate is based on many local factors. The local policy committees established in Ohio law must weigh the advantages and disadvantages of designating a facility.

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CCAO strongly supports preserving the rule-making authority for solid waste districts/authorities.

2. SOLID WASTE RULEMAKING

- There are four categories of rules that the board of county commissioners of a county district, board of directors of a joint district or board of trustees of an authority may adopt, publish, and enforce. These include rules to: (1) manage, prohibit or limit the waste stream; (2) maintain and protect collection and other facilities and their operation; (3) implement inspection programs for waste generated outside the state; and (4) exempt owners and operators from township zoning when the zoning was adopted within two years prior to the filing of an application.
- Local government needs the rulemaking tools to effectively operate and run their solid waste management program. Districts/Authorities cannot adopt rules without the approval of local government. The safeguards for indiscriminate use of these rules are in place and have been shown to be effective in governing the use, maintenance and protection of solid waste facilities.

CCAO recommends that fee structures remain unchanged and that funding decisions are made at the local level.

3. SOLID WASTE FEES

Allowable fees include:

- Collection of fees on the disposal of solid waste.
- Collection of fees on the generation of solid waste.
- Rates and charges.
- Disposal fee to fund solid waste management plan.
- Ohio solid waste districts/authorities are diverse depending upon their geographic location, population and available resources. Funding decisions are made locally by policy committees that include local elected officials and endorsed by a super majority of political jurisdictions. The General Assembly that crafted Ohio law recognized that an urban district with a high population density would have different service needs and funding requirements from a rural district in southeastern or northwestern Ohio.

CCAO strongly urges the General Assembly to leave the formation and joining of districts up to local decision-makers.

4. SOLID WASTE DISTRICTS AND AUTHORITIES

- There are 52 solid waste districts and authorities in Ohio. Ohio law required that these districts were charged with the responsibility that, "they could acquire by purchase or lease, construct improve, enlarge, replace, maintain and operate solid waste collection systems and solid waste facilities within or outside their respective districts as are necessary for protection of the public health."
- Solid waste districts/authorities that continue to meet the mandates of the state and Ohio solid waste law should not be forced to combine with other districts where their interests and philosophy may be different. Rural Ohio solid waste management needs differ greatly from Cuyahoga, Franklin, Hamilton, Lucas, Mahoning, Montgomery, Summit and Stark counties.
- We strongly urge the General Assembly to leave the formation and joining of districts up to local decision-makers. However, if larger population districts are a long term goal of the state, the state should consider encouraging districts to work together and perhaps join together through financial and other incentives. Economic and financial management should drive the decision-making process.

SUMMARY

- The four main issues of flow control, rules, fees and district formation are the key building blocks for the local management of solid waste and protection of public health. Solid waste would be difficult to manage if the public and local decision-makers are not a direct part of the planning, management and in many cases owners and operators of the system.
- The critical question is not what should be removed from Ohio law. The question is how we improve upon the existing law to provide everyone opportunities to be more effective and efficient while also protecting the public's interest in health, safety and welfare. The current law ensures the public has a say in all aspects of solid waste management in Ohio and they have a voice when determining how much they are willing to pay for it. These are all important factors to ensure a more efficient solid waste management system.