



Ohio Revised Code

Section 3734.52 Establishing county or joint solid waste management districts.

Effective: April 16, 1993

Legislation: House Bill 723 - 119th General Assembly

(A) In order to prepare, adopt, submit, and implement a solid waste management plan that complies with section 3734.55 of the Revised Code, the board of county commissioners of each county either shall establish and maintain a solid waste management district under Chapter 343. of the Revised Code, or shall participate in establishing and maintaining a joint solid waste management district with one or more other such boards under that chapter, in compliance with division (B) of this section. Except as otherwise provided in this division, all of the incorporated and unincorporated territory of the county shall be under the jurisdiction of the county or joint solid waste management district for the purposes of preparing, adopting, submitting, and implementing the solid waste management plan for the county or joint district and for the purposes of providing for, or causing to be provided for, the safe and sanitary management of solid wastes within all of the incorporated and unincorporated territory of the county or joint solid waste management district.

If a municipal corporation is located in more than one solid waste management district, the entire municipal corporation shall be considered to be included in and shall be under the jurisdiction of the district in which a majority of the population of the municipal corporation resides.

(B) Not later than March 24, 1989, the board of county commissioners of each county shall do one of the following:

- (1) Establish a county solid waste management district under Chapter 343. of the Revised Code;
- (2) With the boards of county commissioners of one or more other counties, establish a joint solid waste management district under that chapter.

Upon adoption of the resolution establishing a county district, or upon entering into an agreement with one or more other such boards to establish a joint district, the board of county commissioners shall mail a copy of the resolution or agreement to the director of environmental protection. Each county and joint solid waste management district established to comply with this division shall have



a population of not less than one hundred twenty thousand unless an exemption has been granted under division (C)(1) or (2) of this section.

(C)(1) The board of county commissioners of a county with a population of fewer than one hundred twenty thousand in which one or more solid waste facilities are located that have sufficient remaining capacity to dispose of all solid wastes generated within the county, or that has entered into a firm agreement that provides for the disposal of all solid wastes generated within the county whether within or outside the county or state, for a period of not less than ten years after June 24, 1988, may apply to the director for an exemption from the requirement under division (B) of this section that each district have a population of at least one hundred twenty thousand. The exemption application shall be accompanied by the board's certification and demonstration of access to sufficient solid waste management facility capacity to provide for the disposal of the solid wastes generated in the county during that ten-year period.

If the director finds that the board has made the demonstration required by this division, he shall issue an order under division (G) of section 3734.02 of the Revised Code exempting the board from that requirement of division (B) of this section.

(2) The board of county commissioners of a county with a population of less than one hundred twenty thousand that does not have sufficient solid waste management facility capacity within the county or access to sufficient capacity by contract to make the demonstrations required by division (C)(1) of this section may submit to the director, not later than December 24, 1988, a statement of how the board will provide for sufficient solid waste facility capacity within the county or for access to sufficient solid waste management facility capacity to dispose of all solid wastes generated within the county during the subsequent ten-year period. The statement shall be accompanied by a study of the financial feasibility of the measures proposed in the statement that shall contain an inventory of all existing solid waste disposal, transfer, and resource recovery facilities and recycling activities in the county and estimates of the remaining capacity available at each such facility; estimates of the amounts of solid wastes that will be generated within the county during each year of the subsequent ten-year period; an identification of the additional solid waste management facilities and capacity the county intends to provide to dispose of those estimated amounts of solid wastes; and a schedule for implementation of the measures proposed in the statement and estimates of the capital and operating costs, and rates that will be charged to meet those costs, for those additional facilities, or contracts



for access to solid waste management facility capacity, identified in the study. Within sixty days after receiving the statement and financial feasibility study from any such board of county commissioners, the director shall approve or disapprove the statement and study. The director shall approve such a statement and financial feasibility study only if they demonstrate a technically and economically feasible means of providing for the environmentally sound management of solid wastes generated in the county during the subsequent ten-year period. If the director approves the statement and financial feasibility study of a county, he shall issue an order under division (G) of section 3734.02 of the Revised Code exempting the board from the requirement of division (B) of this section that each county or joint district have a population of at least one hundred twenty thousand.

(D) Upon expiration of the nine-month period under division (B) of this section, the director shall determine which counties failed to submit a copy of the resolution or agreement required by that division or, for those that filed a resolution or agreement, which of them failed either to establish a county or joint solid waste management district having a population of at least one hundred twenty thousand or to obtain an exemption order under division (C)(1) or (2) of this section. Within twelve months after June 24, 1988, the director shall issue to the board of county commissioners of each county having a population of at least one hundred twenty thousand that failed to comply with division (B) of this section or that obtained an exemption order under division (C)(1) or (2) of this section an order in accordance with Chapter 3745. of the Revised Code directing the board to submit a copy of the resolution or agreement or to establish a county or joint solid waste management district within thirty days after issuance of the order and, upon adoption of the resolution, to mail a copy of it to the director.

With respect to those counties having a population of fewer than one hundred twenty thousand that either failed to comply with division (B) of this section or submitted a resolution or agreement for establishment of a county or joint solid waste management district and failed to obtain an exemption under division (C)(1) or (2) of this section, the director shall make a determination as to how one or more of those counties should be combined with one another, with the county solid waste management district of a county that complied with division (B) of this section regardless of whether the complying county obtained an exemption under division (C)(1) or (2) of this section, or with a joint district formed by counties that complied with division (B) of this section, to form a joint district with a population of at least one hundred twenty thousand that, in the director's judgment,



will be most conducive to achievement of the objectives of the state solid waste management plan adopted under section 3734.50 of the Revised Code and of this chapter. After making any such determination, the director shall mail notice of the determination to the board of county commissioners of each county named in it. Within thirty days after mailing notice of the determination, the director shall hold a public meeting in each of the counties named in the determination. Thereafter, the director shall issue an order in accordance with Chapter 3745. of the Revised Code to each board of county commissioners named in the determination directing the boards to enter into an agreement to establish a joint solid waste management district under Chapter 343. of the Revised Code within a specified reasonable period of time and to mail a copy of the agreement to the director.

Notwithstanding section 119.06 of the Revised Code, the director may issue orders under this division without the necessity for holding an adjudication hearing in connection with the order and without first issuing a proposed action under section 3745.07 of the Revised Code.

(E) Sections 3734.52 to 3734.57 and Chapter 343. of the Revised Code do not prohibit any person, municipal corporation, or township from providing solid waste collection services; establishing, enlarging, modifying, or replacing a solid waste facility; or establishing and collecting rates or charges for the use of those facilities or services that are in compliance with sections 3734.01 to 3734.13 of the Revised Code, rules adopted under those sections, the solid waste management plan of the county or joint solid waste management district having territorial jurisdiction over the facility or service area approved or ordered under section 3734.521 or 3734.55 of the Revised Code, amendments to the plan approved or ordered under section 3734.521 or 3734.56 of the Revised Code, and rules adopted under division (G) of section 343.01 of the Revised Code. In the instance of a solid waste facility for or on behalf of which general obligation or revenue bonds were issued or a loan was made under Chapter 133., 343., or 6123. of the Revised Code on or before the effective date of the solid waste management plan of the county or joint district in which the facility is located, nothing in this section, in Chapter 343. of the Revised Code, or in the plan or amended plan of the district prohibits or limits the construction, operation, use, repair, or maintenance of the facility or the establishment and collection of rates or charges for use of the facility, regardless of whether the facility complies with the district's plan or amended plan, until such time as the principal of and interest on any such bonds or loan have been paid in full or until the owner abandons the facility.



The solid waste management plan or amended plan of each county or joint district shall provide for the maximum feasible utilization of solid waste facilities that were in operation within the district, or for which permits were issued under section 3734.05 of the Revised Code, on or before the effective date of the plan or amended plan and that are in compliance with sections 3734.01 to 3734.13 of the Revised Code and rules adopted under those sections. The plan or amended plan shall incorporate all solid waste recycling activities that were in operation within the district on the effective date of the plan or amended plan.