

**THE ROLE  
OF THE  
REGIONAL MUNICIPAL SOLID WASTE BOARD  
IN TENNESSEE**

**A HANDBOOK FOR BOARD MEMBERS**

**AUTHORED BY LARRY CHRISTLEY**

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**STATE OF TENNESSEE  
TENNESSEE DEPARTMENT OF ENVIRONMENT AND CONSERVATION  
DIVISION OF SOLID WASTE AND HAZARDOUS WASTE MANAGEMENT  
PLANNING, REPORTING, AND WASTE REDUCTION SECTION**

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# INTRODUCTION

The municipal solid waste regions were established by local government resolutions in 1992 after each development district prepared and considered needs assessments identifying solid waste infrastructure needs. This was done in response to passage of the Solid Waste Management Act of 1991 (SWMA), which directed the development of solid waste regions to provide information on the generation, collection and disposal of solid waste and planning for a ten-year period with updates annually.

Each municipal solid waste region has a board to administer the activities of the region. The board consists of an odd number of individuals who represent the municipalities and counties within the region and has between five and fifteen members.

Over the last two decades some boards have functioned as designed while others have been dysfunctional. The original preference for the solid waste regions was to be multi-county regions. Early on several multi-county regions were formed. However, in recent years, there has been a movement towards single county regions. In some cases, the regional municipal solid waste board has been used as a government alliance to assist its members in political matters relating to solid waste. In the best cases, the region and its board provide for integrated services among local governments.

This handbook is written to assist the regional solid waste planning board members in understanding the purpose of the board, the members' role, and serve as a reference guide for the boards' work. The municipal solid waste board is important and impacts the citizens of their communities. When the board fails to do its job effectively, the citizens suffer the consequences.

## ***The Municipal Solid Waste Board***

### **REPRESENTATION**

The membership of a region's municipal solid waste board is designed to provide participation and representation of all local governments within the region whether it is a single county or multi-county region. The establishment of this board is to administer the activities of the solid waste planning region which are described later in this document. This representation is achieved through an odd number (not less than five, nor more than fifteen) member solid waste board.

The law requires that each county within the region be represented by at least one board member. The municipalities that have solid waste collection or disposal services (either directly or through contract) must be represented on the board also. This is to insure all local governments that have solid waste services are represented and have a voice on the board.

The municipalities entitled to representation on the board may agree to joint or multiple representations by a board member. A county representative on the board may represent one or more municipalities upon the agreement of all local governments who would share representation by that board member. According to Managing Our Waste: Solid Waste Planning for Tennessee (see References p. 40), the board should have a variety of representation that reflects the diversity of interests in solid waste management. This would include private industry, agricultural interests, and at-large citizen representation.

Representatives are appointed by the county mayor or municipal mayor depending on the local government the board member represents. If a member represents multiple local governments, the method for making the appointment is specified in an agreement of those local governments. The members of county and municipal governing bodies, county mayors, municipal mayors, county and municipal officers and department heads may be appointed to the solid waste board. The appointments must be approved by the legislative or governing bodies of the respective counties and eligible municipalities within the solid waste planning region.

In counties with populations less than 200,000 according to the federal census, at least 30% of the solid waste board membership must own at least 50% equitable or fee simple interest in land that is eligible for classification as agricultural, forest or open space land under the terms of the Agricultural, Forest and Open Space Land Act of 1976, as amended. This insures that agricultural interests are adequately represented on rural solid waste boards.

Municipalities that fall within the boundaries of two or more solid waste regions must select by resolution the region in which they will participate. This decision not only affects representation on the board, it also impacts how grants are awarded to the region and how progress toward the waste reduction goal is measured.

If a single county solid waste region had a solid waste authority prior to July 1, 1991 and it is not a Part 9 Authority, the region may designate this authority to fulfill the responsibilities of the

solid waste board. This action is accomplished by resolution and a vote of the legislative body of the county and each municipality that provides solid waste collection or disposal services within the region.

## **TERMS**

Board members' terms are for six years or until successors are elected and take an oath of office. Initially, these terms were staggered to allow 1/3 of the board to have two year terms and another 1/3 to have four year terms. Over the span of six years the term of each board member should expire. The board members may serve more than one term if they are reappointed and desire to serve additional terms.

If for some reason a board member cannot fulfill his term on the board, the appointing authority may appoint an interim member to fulfill the remainder of that member's term.

**REFERENCE: T.C.A. §68-211-813**

## **Municipal Solid Waste Regions**

The SWMA required that solid waste regions be formed and develop plans to manage solid waste within the regions for a ten year planning period. This materials management approach was to insure that each region had adequate collection and disposal capacity for municipal solid waste into the future. Pursuant to this concept, each region was to develop a ten-year plan to govern progress towards this goal.

The solid waste board is further responsible for overseeing, directing and implementing waste reduction efforts that lead the region toward meeting the state mandated 25 % waste reduction and diversion goal. As of 2010, this goal is still the original twenty-five percent per capita base year reduction in disposal going to Class I municipal solid waste landfills. An amendment to the SWMA in 2007 now allows the Tennessee Solid Waste Disposal Control Board to promulgate rules to establish new waste reduction goals due to the dynamic, changing nature of technology and needs in waste management.

Currently, there are sixty-eight municipal solid waste regions. The majority of these regions are single county regions. Single county regions are solid waste regions made up of one county and the municipal governments within that county providing solid waste collection and disposal services. To become a single county region, the county had to pass a resolution stating the reason for acting alone because the preferred organization is a multi-county region.

Multi-county solid waste regions must be contiguous and are made up of two or more counties and their municipal governments. At present, there are nine multi-county solid waste regions. These regions range from two to ten counties in size.

After twenty years, the effectiveness of municipal solid waste regions varies greatly. At a minimum, the region should meet once yearly to review updates to the ten year solid waste plan and Annual Progress Report that is submitted to the state for review and approval. After reviewing the Annual Progress Report, the solid waste planning region should vote whether to approve the plan update. Once approved, the solid waste board chairman should sign and submit the Annual Progress Report to the county(s) for final approval and mailing to the state. In best cases, the solid waste board should meet monthly or as often as the county's solid waste committee to hear issues related to solid waste management. However, quarterly meetings may be sufficient to hear and address solid waste issues arising within the solid waste planning region. The region should adopt and use Robert's Rules of Order (Appendix C) or an equivalent for conduct of an orderly business meeting. Types of issues to be heard and addressed by the solid waste planning board are discussed in the section titled "Responsibilities."

Once infrastructure and resources were identified in the needs assessments done in the early 90's, local governments within a solid waste planning region were to share resources to eliminate duplication and provide maximum utilization of funds and resources. This concept has been problematic because local governments prefer to have exclusive right and use of their own

equipment and staff. Also, relations across government boundaries are not always positive. The region's solid waste planning board can be a mechanism to bridge any differences among their local governments since they represent the entire region and should provide a consistent vision across the region. Solid waste regions that exercise resource sharing have benefited economically by not duplicating resources.

***REFERENCE: T.C.A. §68-211-813 through §68-211-815***

## **Region Dissolution, Reformation and Consolidation**

Once established, solid waste regions will continue to exist until they are dissolved or modified. The process to modify a region is very similar to the initial establishment of the solid waste planning region. The first step, as a matter of policy, is to review a current needs assessment from the solid waste district. The needs assessment would identify existing resources and future needs in a proposed region; would “count the costs” prior to dissolving or modifying the region and would identify infrastructure needed to function as a new solid waste planning region.

Next, the member counties of the existing region must pass a resolution to dissolve or reconfigure the solid waste planning region. This resolution must be passed by each county represented in the region. The law does not require municipal participation in this resolution as it appears that the county legislative body provides representation of the municipalities.

Last, each county within the solid waste planning region to be reconfigured must vote on a resolution that restructures and defines the new region. Again, there is no requirement for municipal governments to participate or vote on the resolution to recreate the new or reconfigured solid waste planning region.

The resolution to consolidate the new solid waste planning region must contain information about how board members will be appointed, the makeup of the board, the number of board members, and how the board member terms will be staggered to allow for one-third of the board rolling off every two years as discussed previously in the section, “The Municipal Solid Waste Board”, “Terms” and consistent with the SWMA.

Upon passage of the required resolutions, the reconfigured solid waste planning region must submit to the Tennessee Department of Environment and Conservation (Department) a list of new board members with their addresses, phone numbers, and terms of office. Also a new or revised solid waste plan for each of the new or reconfigured regions is required to be submitted to the Department for review and approval, after holding a public hearing.

Once the Department reviews and approves the solid waste plans for each region affected by the reconfiguration, the solid waste regions are officially created. The approval date of the solid waste plan becomes the creation date of the new regions. New solid waste board member terms will be associated with this date for future appointments. The process for dissolution or reconfiguration generally takes about one year to complete because of the complexity in coordinating local government efforts, resolutions, solid waste plans, and finding and appointing new board members to fill the required terms.

There are several resources available to the solid waste regions to assist in the dissolution and/or reconfiguration of the solid waste regions. The local development district can assist in the development or modification of solid waste plans required for the reconfigured regions. Also, the University of Tennessee, Institute for Public Service’s County Technical Assistance Service (CTAS) provides technical assistance to local governments in matters like this. CTAS can provide model resolutions and help coordinate efforts between the various local governments

involved. The Division of Solid Waste Management also provides technical assistance on request to answer questions and provide information as needed to help the newly organizing solid waste regions.

***REFERENCE: T.C.A. §68-211-813***

## **Responsibilities**

### **MUNICIPAL SOLID WASTE PLANNING**

The main function of the solid waste board is to provide direction and oversight to the region on matters of solid waste. Early on, it was noted that solid waste planning should be done at the local level. This responsibility was directed by the SWMA to the regional solid waste board as the best means of managing planning and oversight of solid waste within the region to include generation, collection and proper disposal.

Solid waste planning should be done from a materials management approach leveraging the integrated solid waste management systems of the region. The long term goal is to remove as much material from the waste stream as possible to lengthen the life spans of landfills and to leverage more sustainable methods of using the material collected. The long term plan should also remove potential toxic materials by diverting them to other programs. If effective, the region should have just the true waste going to the landfill with other materials being reused, composted, recycled, and used for energy production. Household hazardous wastes should be diverted to other disposal options away from the landfill.

To a large degree, nearly seventy-five percent (75%) of materials going to the landfill can be redirected to other material management options. Yard trimmings can go to composting facilities; construction and demolition materials can be reused or recycled. Commodities like fiber, plastic, metals and glass can be recycled at a material recovery facility (MRF). Batteries, oil, paint, antifreeze, and electronic scrap (BOPAE) can be managed through recycling and reuse. Household hazardous wastes (HHW) can be collected at permanent collection facilities or mobile HHW collection events sponsored by TDEC.

The solid waste planning region has the responsibility to review the various solid waste systems and options and make sound planning decisions on how the region needs to proceed. Many of these choices create or sustain local jobs in recycling and manufacturing. The lack of a well thought out plan costs taxpayers money in higher costs associated with disposal, repetitive systems, incompatible equipment, higher transportation costs, and potential lost revenues from the sale of commodities.

When solid waste planning is done from a regional level, the region will benefit from economy of size. Better contracts may be attracted due to the combined, larger population of a region. The increased knowledge base of a varied solid waste planning board helps to solve problems in favor of the solid waste planning region. Keeping equipment purchases to a minimum while maximizing utilization of existing resources within the region will further benefit the local governments by freeing funds and making them available for other services or programs.

The solid waste board is required to maintain a solid waste plan for the region. Originally, the SWMA specified this as a ten-year plan for adequate disposal capacity in the landfills used by the region and included a plan for waste reduction methods to extend the life of these landfills. The ten-year plan was designated to be updated every five years to adjust the ten-year plan for population changes and new challenges within the solid waste planning region. Yearly, the

information in the ten-year plan was updated through the annual progress report to indicate progress made toward the 25% waste reduction and diversion goal. TDEC has been receiving, reviewing and approving these reports over the last twenty years.

In 2005, the Annual Progress Report was designated as the primary document to yearly updating the ten-year solid waste plan, eliminating the need for a five-year update to the plan. Since that time, the Annual Progress Report has described changes in the ten-year solid waste plan while looking forward to the needs of the solid waste planning region identifying equipment and facilities needed to improve the region's infrastructure.

The solid waste plan may be completely or partially revised at anytime to address changes within the region. The solid waste board should determine if a completely new plan should be made to address major changes in the region or if a minor modification is sufficient. Most changes can be made through the Annual Progress Report submitted each March by the solid waste planning region. Before a new or revised solid waste plan is submitted to the Department, the solid waste planning region must hold a public hearing on the proposed new solid waste plan or plan revision.

## **SOLID WASTE FACILITY PERMIT REVIEW**

Before an applicant for a solid waste disposal facility or incinerator can be issued a solid waste permit by the Department, an application must be submitted to the solid waste planning region's board. The board is required to review the application against the solid waste plan and determine whether the application is in compliance with T.C.A. §68-211-814 and the region's solid waste plan. This must be done through a public hearing process after public notice is given in accordance with title 8, chapter 44.

The board's review should determine if the proposed construction or expansion of the solid waste facility or incinerator's application is inconsistent with the solid waste management plan adopted by the county or region and approved by the department. The region must document in writing the specific grounds to which any application is determined to be inconsistent with the plan.

The public hearing must give all interested persons an opportunity to submit written and oral comments. The proceedings must be recorded and transcribed. The region has ninety (90) days to complete this process. Once the public hearing process is complete, the solid waste planning region is to immediately notify the Commissioner of its acceptance or rejection of the application.

When a region rejects a landfill or incinerator application, the Department will review the solid waste planning region's record of the process followed and reasons for rejection of the application. The Department's review assures that the decision of the solid waste region is adequately supported and is not arbitrary or capricious. The solid waste planning region's rejection of an application must be because of inconsistency with the regional solid waste plan adopted by the region and approved by the Department. If the record does not support the application rejection made by the region, the Department may issue the facility a permit.

The final actions of the solid waste planning region relative to any permit application may be appealed by the aggrieved party within 30 days to the chancery court in Davidson County. An aggrieved party would be limited to the permit applicant, persons owning property within three miles radius of the proposed facility or site proposed for permitting, or the local government(s) where the facility is located.

This process illustrates the importance of a knowledgeable solid waste board in handling the solid waste matters in the region. Proper planning and administration of the region's solid waste systems assists the region in determining what the correct facilities for the region are.

## **FLOW CONTROL**

The subject of the control of the flow of solid waste is one that has many legal complexities. We recommend that the regional board obtain current legal advice before taking an action to restrict import or export of solid waste across the region's boundaries, or an action approving or disapproving a landfill application.

There have been a number of court decisions by state and federal courts regarding whether restrictions on the flow of solid waste are unconstitutional under "the dormant commerce clause." To determine whether a particular action is permissible, an attorney must review both what the SWMA says and what the courts have said. At the time of publication of this Handbook, two types of actions appear to be authorized by the law and the courts. The regions may approve or disapprove the siting of landfills in the region based on consistency with the plan. See *Eastern Kentucky Resources v. Fiscal Court of Magoffin County*, 127 F.3d 532, (6th Cir. 1997). Regional boards and local governments may also require that waste generated within the region go to certain publicly owned facilities. See *United Haulers Association v. Oneida-Herkimer Solid Waste Management Authority*, 550 U.S. 330, (2007).

Solid waste regions or solid waste authorities, if one has been established in accordance with Part 9, may also regulate the flow of collected municipal solid waste generated within the region. Prior to the adoption of any resolution declaring the necessity of requiring mandatory flow of municipal solid waste, the region or authority, following one or more public hearings, must demonstrate in writing to the Department that it has considered the utilization of any municipal solid waste management facility in existence within the region on July 1, 1991, which meets the federal Resource Conservation and Recovery Act (RCRA) Subtitle D regulations. The region or authority must show that its decision not to use the existing facility is based on the following:

- Such facility is environmentally unsound or inadequate to meet the region's ten year capacity assurance plan;
- Costs for the use of such facility are inconsistent with comparable facilities within the state; or
- The existing facility is operating in a manner that is inconsistent with the plan; and,
- The waste subject to flow control will be sent to a facility or facilities that meet all state and federal regulations.

The solid waste board cannot restrict the flow of recovered materials into, out of, or within the region. The board also may not interfere with contractual obligations entered into prior to the approval of the region's plan. This includes the original or subsequent plan that may be adopted by the solid waste planning region following any reconfiguration.

***REFERENCE: T.C.A. §68-211-814***

## **Solid Waste Planning**

### **TEN-YEAR PLAN**

When a solid waste region is formed, the SWMA requires a ten-year plan to be compiled that addresses at least certain items. Once the plan is received by the Department, and after careful review, the plan must be approved or rejected within ninety (90) days. If the plan adequately addresses each element required by the SWMA, the plan may be approved by the Department. If deficiencies exist, the Department will send a notice of rejection of the region's solid waste plan. In the notice of rejection, the Department must list deficiencies in detail to assist the region in preparing a revised plan for review. The region must review any disapproved plan, and resubmit a revised plan within sixty (60) days to the Department with the correction of all noted deficiencies.

At anytime, the region may update or revise the plan to reflect subsequent developments within the region. The revision or update must be submitted, reviewed, and either approved or rejected by the Department in the same manner as noted in the initial plan review and approval.

The ten-year plan must contain the information listed below and follow Guidelines for Preparation of a Municipal Solid Waste Regional Plan created in 1992 by Tennessee's State Planning Office. The following are minimum requirements, taken from the SWMA, for contents of the solid waste plan.

1. Demographic information;
2. A current system analysis of:
  - a. Waste streams, including data concerning types and amounts generated;
  - b. Collection capability, including data detailing the different types of collection systems and the populations and areas which receive and do not receive such services;
  - c. Disposal capability, including an analysis of the remaining life expectancy of landfills or other disposal facilities;
  - d. Costs, using a full-cost accounting model developed by the commissioner, including costs of collection, disposal, maintenance, contracts and other costs; and
  - e. Revenues, including costs reimbursement fees, appropriations and other revenue sources;
3. Adoption of the uniform financial accounting system required by §68-211-874;
4. Anticipated growth trends for the next ten-year period;
5. Anticipated waste capacity needs;
6. Planned capacity assurance, including descriptions of planned or needed facilities
7. A recycling plan, including a description of current public and private recycling efforts and planned efforts to enhance recycling within the county or region;
8. A plan for the disposal of household hazardous wastes;
9. Adoption of uniform reporting requirements as required by the SWMA;
10. A description of waste reduction and recycling activities designed to attain the goal required by the SWMA;

11. A description of education initiatives aimed at businesses, industries, schools, citizens and others, which addresses recycling, waste reduction collection and other goals of the SWMA;
12. An evaluation of multi-county solid waste disposal region options with an explanation of the reasons for adopting or failing to adopt a multi-county regional approach;
13. A timetable for implementation of the plan;
14. A description of the responsibilities of the various participating jurisdictions;
15. A certification from the region's part 9 solid waste authority, if such an authority has been formed, or if no such authority has been formed, the county legislative body of each county in the region that they have reviewed and approved the region's plan and/or revised plan;
16. A plan for managing solid waste generated as a result of disasters or emergencies; and
17. Any other information as the commissioner may deem relevant to the implementation of this plan.

Solid waste rules, Chapter 1200-1-7-9(3)(a)(1-4), state that incineration, un-marketed/stored compost and recyclable recovered materials, and illegal or unauthorized storage of solid waste do not count toward the waste reduction and diversion goal and cannot be used as a planned method of waste reduction in development of the ten-year solid waste plan.

A further consideration of the content and direction of each region's solid waste plan is that each plan must be consistent with the current state solid waste plan, provisions of the SWMA, and any rules or other applicable provisions related to solid waste planning.

Ultimately, any plan should detail the region's infrastructure needs, then define the end goal for the planning period and provide a timeline for accomplishment of the that goal. The plan should further define actions steps required to meet the goal.

## **FIVE-YEAR UPDATE**

The SWMA was amended effective May 28, 2004 to eliminate the need for regular five-year plan updates and reads as follows: "Each municipal solid waste region shall submit an annual progress report to the department covering the next ten (10) years that includes, at a minimum, the information..."described in the 17 points stated above.

The Annual Progress Report due March 31<sup>st</sup> of each year is currently accepted as an update to the region's solid waste plan.

## **ANNUAL PROGRESS REPORTS**

The annual progress reports are documents submitted to the Department yearly by March 31<sup>st</sup> from the solid waste regions describing activities and efforts toward meeting the region's waste reduction goal and other parts of the region's solid waste plan. The information contained in the report is similar in nature to the ten-year plan and must meet at a minimum, the requirements outlined in T.C.A. §68-211-815 as the annual progress report updates these documents. Thus the region will always have a plan in place covering the next ten years.

The solid waste region is responsible for collecting information on the progress made toward the 25% waste reduction and diversion goal and other requirements of their solid waste plan. Once the information is collected and the annual progress report is completed, the region must then submit the report in an approved format to the Department. Prior to submitting the information to the Department, the region is to conduct a public hearing, review the document, and certify the accuracy through adoption of the update. The regional solid waste board chairman then signs the document attesting that the annual progress report has been presented, reviewed, adopted and accurate according to statute.

The annual progress reports are to be completed for the immediately preceding calendar year's efforts. This sometimes creates a challenge to regions collecting data, completing the annual progress report forms and then trying to schedule the necessary public meetings prior to the March 31<sup>st</sup> submittal date.

The statute requires at a minimum that collection information, recycling, transportation, disposal, public costs and other required information is included in the annual progress reports. This is specifically outlined in T.C.A. §68-211-815.

The format approved by the Department is an internet based subscription service for data reporting. The Department posts information about how to access the reporting documents on its website by January 1<sup>st</sup> of each year. This service provides a large number of reports that help the region compare their progress with other regions, local governments and other states' benchmarking data.

When the region's annual progress report is complete and properly reviewed, the county mayors within the solid waste planning region and the solid waste board chairman may access the document and digitally sign it certifying its accuracy to the Department.

***REFERENCE: T.C.A. §68-211-814 thru 815***

## ***Funding***

Funding is one challenge that is handled by solid waste regions in different ways. Funding for the solid waste planning region should be addressed in the authorizing resolutions by the local governments and in the solid waste plan itself. The solid waste plan describes the participation of each local government and resources that are committed to the region to accomplish the solid waste plan. The SWMA does provide certain authority to local governments to establish fees. See §68-211-835. Additional information is included in Appendix A at the back of this document.

Solid waste regions operated by Part 9 Authorities have methods of raising revenue built into their charters. Solid waste boards that operate solid waste regions do not have this same luxury. This challenge must be addressed in the regional solid waste plan. A lead local government may take on the burden of managing the financial requirements of the region with other local governments paying their share to cover the expenses of the region.

Another example may be a “pay-as-you-go” method of dealing with expenses. As expenses arise, the costs are distributed throughout the region as decided by the solid waste board. There are many ways that regions approach this issue. The ultimate authority on how to handle funding issues would be in the solid waste plan for the region.

***REFERENCE: T.C.A. §68-211-835***

## ***Enforcement***

### **THE REGION'S POWERS OF ENFORCEMENT**

The SWMA places the burden of enforcement of the regional solid waste plan on the region. The solid waste planning region is charged with implementing its plan and the SWMA gives the region the authority to see that the plan can be effectuated. This authority extends to requiring each person actively and regularly engaged in the collection, transportation, and disposal of municipal solid waste or the recovery or recycling of materials in the county or counties that make up the region to participate in reporting their efforts to the solid waste planning region.

The region may bring an action for a mandatory injunction in chancery court against any person failing to properly report necessary information to the region for compliance with the region's reporting requirements to the Department. The solid waste planning region is entitled to recover all costs and attorney's fees from persons failing to comply with the reporting requirements.

***REFERENCE: T.C.A. §68-211-871 (c) and (d)***

### **ENFORCEMENT SANCTIONS AGAINST THE REGION**

While the region has authority to obtain information to complete the reporting requirements placed on the region by the SWMA, the region must also comply with the reporting requirements. Failing to comply with the SWMA may bring serious sanctions on the region by the Department.

When a region fails to submit an adequate solid waste plan in a timely fashion or if the Department does not approve the region's plan, sanctions may be imposed on the solid waste planning region by the Department. Not all sanctions are monetary, but in the end, the final penalty may result in a substantial financial penalty.

On the first instance of noncompliance, the Department issues a warning letter to the solid waste region or noncompliant local governments. This warning describes the reason for noncompliance and outlines graduated sanctions that may occur if the region or local governments remain in noncompliance. This initial warning will offer technical assistance to the noncompliant region or local government. The goal is to bring the region or local governments into compliance as quickly as possible to avoid future sanctions.

If noncompliance continues thirty days after the warning, the region and local governments will lose eligibility for grants from the solid waste management fund, unless the commissioner states in writing that a longer time period is appropriate. An extended period of time would depend upon the circumstances of the noncompliance. Loss of funds from the solid waste management fund would prevent the award of any funding for local programs with grant funds including all waste tire recycling grants, recycling equipment grants, recycling rebates, etc.

If the noncompliance continues for sixty days after the warning letter, the Department's commissioner may impose a civil penalty of up to \$5,000 per day for noncompliance beyond the sixty days. This can add up quickly and place a substantial burden on a region and their local government that fails to comply. Because of this, it is important for a region or local governments to quickly address deficiencies in their solid waste plans and updates when notice is given. The penalties collected from noncompliant regions and local governments are placed in the solid waste management fund and used for technical and financial assistance and statewide services addressed in the SWMA.

Individuals that violate the terms of the SWMA are also subject to similar sanctions as listed above. The SWMA refers penalties to these individuals to another section in T.C.A. §68-211-117. These penalties may be greater than \$5,000 per day if the individuals noncompliance involves waste being thrown into sinkholes.

***REFERENCE: T.C.A. §68-211-816***

## **Regional Municipal Solid Waste Advisory Committee**

One of the responsibilities of the solid waste board is to establish a regional municipal solid waste advisory committee within the region. This advisory committee's composition may be whatever the solid waste board deems necessary to accomplish its goals. This advisory committee will advise the solid waste board on matters relating to solid waste, waste reduction, and recycling. This committee meets at the discretion of the solid waste board to review and research issues for the board.

Because the regional municipal solid waste advisory committee is advisory in nature, membership comprised of diverse resources and views on solid waste matters is most helpful. Local government solid waste and public works staff would be an integral part of any advisory committee. The committee may further include technical assistance providers that are contracted by the Department to assist solid waste regions. These technical assistance providers include representatives from CTAS, development district planners, the Recycling Marketing Cooperative for Tennessee.

Other resources that should be considered for membership on the regional municipal solid waste advisory committee include local economic and community development planners, emergency management personnel, and community leaders and organizations knowledgeable of solid waste and waste reduction activities and issues or impacted by solid waste issues.

The regional municipal solid waste advisory committee is the panel of experts for the region's solid waste board. This committee researches solid waste issues that are presented to the solid waste board and advises the board of its finding at a solid waste board meeting. If the advisory committee has no pressing issues, they may review and research better solid waste and waste reduction activities for the solid waste board to consider in future meetings. It is up to the solid waste board to utilize the advisory committee and take advantage of the knowledgeable resources available to the board.

***REFERENCE: T.C.A. §68-211-813 (e)***

## ***Part 9 Authorities***

Solid waste authorities are entities having administrative, financial and technical power to implement to the maximum extent regional solid waste plans and programs outlined therein. As established under Part 9 of the SWMA, authorities are different from other solid waste commissions, boards, cooperatives, and committees, formed by county commissions as a result of inter-local agreements or private acts. They may also be different from authorities created under other legal authority. The legislature wanted counties in the newly formed solid waste regions to have complete authority and power, using Part 9 authorities as a tool to implement mandates under the SWMA.

These authorities created under Part 9, or the Solid Waste Authority Act, have autonomy and more powers in order that regional solid waste management systems and services are expedited, economized, and consolidated.

A major difference between a solid waste planning board and a Part 9 authority is that the solid waste board is mandated by law to develop a regional solid waste plan for disposal capacity assurance, 25% waste reduction, collection assurance, solid waste education and other aspects of integrated solid waste management. A Part 9 authority is an optional tool for consolidating, integrating, and administering these programs between various county and city jurisdictions.

Part 9 authorities have powers that are unavailable to solid waste boards. These additional powers include: (1) the right to sue and be sued; (2) right to acquire real and personal property, and exercise the power of eminent domain in order to achieve solid waste planning goals; (3) the right to enter into contracts for any projects undertaken and to make rules and regulations deemed necessary to manage the affairs of the authority; (4) power to issue revenue bonds on its own authority; (5) borrow money and incur debt; (6) employ agents and pay compensation to employees; and (7) set tipping fees and surcharges.

Part 9 authorities can operate very independently from the local governments they serve, especially if the authority and the planning board have the same board membership. Local governments that are uncomfortable with giving up control of day-to-day operational and funding control over their solid waste programs should not choose the Part 9 authority option.

***REFERENCE T.C.A. §68-211-901, et seq.***

## **Appendix A – Tennessee Code Annotated Citations**

The following are excerpts from the Tennessee Code Annotated that may be helpful to the solid waste board's members. These citations relate to the regional municipal solid waste board, its function, and other important topics that board members may need to fulfill their commitment to their solid waste planning region. For a complete guide to the Tennessee Code Annotated please visit: <http://www.lexisnexis.com/hottopics/tncode/>

***Tennessee Code Annotated §§68-211-700 et. seq., §68-211-117, §§68-211-813, 68-211-814, 68-211-815, 68-211-816, 68-211-817, & 68-211-871***

### **68-211-700 et seq. Local Approval of Solid Waste Facilities (*Jackson Law*)**

#### **68-211-701. Required approval.**

No construction shall be initiated for any new landfill for solid waste disposal or for solid waste processing until the plans for such new landfill have been submitted to and approved by:

- (1) The county legislative body in which the proposed landfill is located, if such new construction is located in an unincorporated area;
- (2) Both the county legislative body and the governing body of the municipality in which the proposed landfill is located, if such new construction is located in an incorporated area; or
- (3) Both the county legislative body of the county in which such proposed landfill is located and the governing body of any municipality which is located within one (1) mile of such proposed landfill.

[Acts 1989, ch. 515, § 3; T.C.A., § 68-31-701; Acts 1995, ch. 5, § 1.]

#### **68-211-702. Meaning of landfill or landfilling.**

For purposes of this part, "landfill or landfilling" means any land used for disposal of solid waste by filling and covering.

[Acts 1989, ch. 515, § 3; T.C.A., § 68-31-702.]

#### **68-211-703. Public notice - Comments - Public hearing.**

(a) In order to inform interested persons in the area of a proposed landfill, public notice shall be circulated by the county legislative body, the municipal governing body, or both such entities within the geographical area of the proposed landfill approval by any of the following means:

- (1) Posting in the post office and public places of the municipality nearest the landfill under consideration; or

(2) Publishing in local newspapers and periodicals, or, if appropriate, in a daily newspaper of general circulation.

(b) Public notice of a proposed landfill approval includes the following:

(1) Name, address and telephone number of the local city/county/official/department/agency reviewing the application;

(2) Name and address of the proposed landfill owner and/or operator;

(3) Location and size of the proposed landfill;

(4) Brief description of the type operation to be operated at the landfill, the location of the landfill and the type waste that will be accepted;

(5) A description of the time frame and procedures for making a final determination on the landfill application approval or disapproval; and

(6) Address and telephone number of the premises at which persons may obtain further information, request copies of data on the landfill, and inspect this data.

(c) A copy of the public notice and fact sheet shall be sent to any person who specifically requests one. A copy of each notice of application and fact sheet shall also be sent to those persons who have requested the addition of their names to a mailing list.

(d) Interested persons may submit written comments on the proposed landfill within thirty (30) days of the public notice or such greater period as is allowed. All written comments submitted shall be retained and made available to the department of environment and conservation in its final determination of registration of the proposed site.

(e) Interested persons may request in writing that the county legislative body, municipal governing body or both such entities hold a public hearing on any proposed new construction for solid waste disposal by landfilling or solid waste processing by landfilling prior to approval of such new construction. The request must be filed within the period allowed for public comment and must indicate the interest of the party filing it and the reason why a hearing is warranted. If there is a significant public interest in having a hearing, one (1) hearing shall be held in the geographical area of the proposed landfill. Instances of doubt should be resolved in favor of holding a hearing. The comments made at the hearing shall be transcribed or recorded to assist in the final determination of approval of the proposed new landfill.

(f) No less than fifteen (15) days in advance of the hearing, public notice of it shall be circulated at least as widely as was the notice of the proposed landfill approval. The procedure for circulation of public notice for the hearing shall include the following:

(1) Publication in a newspaper of general circulation within the geographical area of the landfill; and

(2) Sending notice to all persons who received a copy of the notice or fact sheet for the proposed landfill approval and any person who specifically requests a copy of the notice of the hearing.

(g) Each notice of a public hearing shall include at least the following contents:

(1) Name, address and telephone number of the city/county official/department/agency who/which was responsible for the review of the application;

(2) Name and address of each proposed landfill owner or operator who will be heard at the hearing;

(3) A description of the proposed landfill and the type of disposal methods to be used;

(4) A brief reference to the public notice issued for each proposed landfill;

(5) Information regarding the time and location for the hearing;

(6) The purpose of the hearing;

(7) A concise statement of the issues raised by the persons requesting the hearing;

(8) Address and telephone number of the premises at which interested persons may obtain further information, request a copy of each draft permit, request a copy of each fact sheet, and inspect and copy forms and related documents; and

(9) A brief description of the nature of the hearing, including the rules and procedures to be followed.

[Acts 1989, ch. 515, § 4; T.C.A., § 68-31-703.]

**68-211-704. Time limit for determination - Criteria considered.**

(a) Within thirty (30) days after notice and an opportunity for a public hearing as provided in §68-211-703, the county legislative body, the municipal governing body or both such entities shall approve or disapprove the proposed new construction for solid waste disposal by landfilling or solid waste processing by landfilling.

(b) The following criteria shall be considered in evaluating such construction:

(1) The type of waste to be disposed of at the landfill;

(2) The method of disposal to be used at the landfill;

(3) The projected impact on surrounding areas from noise and odor created by the proposed landfill;

(4) The projected impact on property values on surrounding areas created by the proposed landfill;

(5) The adequacy of existing roads and bridges to carry the increased traffic projected to result from the proposed landfill;

(6) The economic impact on the county, city or both;

(7) The compatibility with existing development or zoning plans; and

(8) Any other factor which may affect the public health, safety or welfare.

(c) Judicial review of the legislative body's determination shall be a de novo review before the chancery court for the county in which the landfill is proposed to be located.

[Acts 1989, ch. 515, § 5; T.C.A., § 68-31-704.]

**68-211-705. [Repealed.]**

**68-211-706. Applicability - Private, municipal or county landfills.**

(a) The provisions of this part shall not apply to any private landfill which accepts solid waste solely generated by its owner and does not accept county or municipal solid waste or ordinary household garbage.

(b) The provisions of this part shall not apply to any municipal or county owned and/or operated landfill.

[Acts 1989, ch. 515, §§ 10, 12; T.C.A., § 68-31-706.]

**68-211-707. Applicability - Requirement of local approval.**

(a) The provisions of §§ 68-211-701 - 68-211-705 and this section shall only apply in any county or municipality in which it is approved by a two-thirds (2/3) vote of the appropriate legislative body. The provisions of §§ 68-211-701 - 68-211-705 and this section are for local review and approval and shall be conducted prior to issuance of a permit by the department of environment and conservation or the commissioner.

(b) Any county or municipality which has approved this part by a two-thirds (2/3) vote of the appropriate legislative body pursuant to subsection (a) shall have the authority to later reject the provisions of this part by a two-thirds (2/3) vote of the appropriate legislative body. If the appropriate legislative body votes by two-thirds (2/3) to reject the provisions of this part after

having previously voted to approve this part, then the provisions of this part shall no longer apply to such county or municipality.

[Acts 1989, ch. 515, § 7; T.C.A., § 68-31-707; Acts 1995, ch. 5, § 3.]

**68-211-708. [Repealed.]**

**68-211-117. Civil penalties. —**

(a) (1) Any person who violates or fails to comply with any provision of this part or any rule, regulation, or standard adopted pursuant to this part shall be subject to a civil penalty of not less than one hundred dollars (\$100) nor more than five thousand dollars (\$5,000) per day for each day of violation; provided, however, that if the violation involves the disposal of solid waste in a sinkhole, it shall be subject to a civil penalty of not less than seven hundred dollars (\$700) nor more than seven thousand dollars (\$7,000) per day for each day of violation because of the increased likelihood of harm to the environment and the public.

(2) Each day such violation continues constitutes a separate violation. In addition, such person shall also be liable for any damages to the state resulting therefrom, without regard to whether any civil penalty is assessed.

(b) Any civil penalty or damages shall be assessed in the following manner:

(1) The commissioner may issue an assessment against any person responsible for the violation or damages. Such person shall receive notice of the assessment by certified mail, return receipt requested;

(2) Any person against whom an assessment has been issued may secure a review of the assessment by filing with the commissioner a written petition setting forth the grounds and reasons for such person's objections and asking for a hearing in the matter involved before the solid waste disposal control board. Such a hearing shall be a contested case and the provisions of the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, shall apply. The solid waste disposal control board has the power to enter such orders as in its opinion will best further the purposes of this part;

(3) If a petition for review of the assessment is not filed within thirty (30) days after the date the assessment is served, the violator is deemed to have consented to the assessment and it shall become final;

(4) Whenever any assessment has become final because of a person's failure to appeal either the commissioner's assessment or the board's order, the commissioner may apply to the appropriate court for a judgment and seek execution on such judgment. The court, in such proceedings, shall treat the failure to appeal such assessment as a confession of judgment in the amount of the assessment; and

(5) The commissioner may institute proceedings for assessment in the chancery court of Davidson County or in the chancery court of the county in which all or part of the violation or

failure to comply occurred. Such court shall have venue over such actions, notwithstanding the provisions of § 20-4-101 to the contrary.

(c) In assessing a civil penalty, the following factors may be considered:

- (1) The harm done to public health or the environment;
- (2) The economic benefit gained by the violators;
- (3) The amount of effort put forth by the violator to attain compliance; and
- (4) Any unusual or extraordinary enforcement costs incurred by the commissioner.

(d) Damages to the state may include any reasonable expenses incurred in investigating and enforcing violations of this part, and in restoring the air, water, land and other property, including animal, plant and aquatic life, of the state to their former condition.

[Acts 1980, ch. 662, § 6; T.C.A., §§ 53-4344, 68-31-117; Acts 2004, ch. 848, § 2.]

**68-211-813. Municipal solid waste regions — Board — Plan for disposal capacity and waste reduction — Regional municipal solid waste advisory committee. —**

(a) (1) After consideration of the needs assessment is completed, municipal solid waste regions shall be established by resolutions of the respective county legislative bodies by December 12, 1992. A municipal solid waste region shall consist of one (1) county or two (2) or more contiguous counties. If the region consists of more than one (1) county, an agreement establishing the region shall be approved by the legislative body of each county that is a party to the agreement.

(2) Once established, municipal solid waste regions shall continue to exist until dissolved, a successor region or regions established and the requirements of this section are met. A municipal solid waste region may be dissolved and a new region or reconfigured region established upon completion of the following procedure:

(A) The approval of the dissolution of the existing region by resolution of the county legislative body of each county in the existing region;

(B) The approval of the proposed new or reconfigured region by resolution of the county legislative body of each county that is to be a part of the new or reconfigured region;

(C) The submittal to the department of environment and conservation of a list of the new board members, their addresses, phone numbers, terms of office and a new or revised plan for any new or reconfigured region that complies with the requirements of this part; and

(D) The approval of the department of environment and conservation of all of the new or revised plans for all of the new or reconfigured regions.

(3) Each county and region shall continue to follow the existing approved plan until new or revised plans are approved by the department of environment and conservation for each new or reconfigured region.

(4) The preferred organization of the regions shall be multi-county. Any county adopting a resolution establishing a single-county region shall state the reasons for acting alone in the resolution.

(b) (1) The resolution establishing a region for a county or approving an agreement to establish a region with other counties shall provide for the establishment of a board to administer the activities of the region. This board shall consist of an odd number, not less than five (5) nor more than fifteen (15). Each county that is a member of a region shall be represented by at least one (1) member on the board. Municipalities that provide solid waste collection services or provide solid waste disposal services, directly or by contract, shall be represented on the board. The members of the board shall be appointed by the county mayors and municipal mayors, respectively, of the counties and eligible municipalities within the region. Municipalities entitled to representation on the board may agree to joint or multiple representation by a board member or for a county member to represent one (1) or more municipalities upon agreement of all local governments who share representation by a board member. Any such agreement shall specify the method of making the appointment for a member representing more than one (1) local governmental entity. Members of county and municipal governing bodies, county mayors, municipal mayors, county and municipal officers and department heads may be appointed to the board. Appointments must be approved by the legislative or governing bodies of the respective counties and eligible municipalities within the region. The members of the board shall serve for terms of six (6) years or until their successors are elected and are qualified by taking an oath of office, except that the initial board shall have approximately one-third (1/3) of the members with terms of two (2) years, and approximately one-third (1/3) of the members with terms of four (4) years, so as to stagger the terms of office.

(2) Any county that has a solid waste authority, not organized pursuant to part 9 of this chapter and in existence on July 1, 1991, may designate such authority as the board to administer the activities of the region, if such county chooses to be a region unto itself. The legislative body of the county and of each municipality that provides solid waste collection services or solid waste disposal services in the region shall approve such designation by the passage of an appropriate resolution.

(3) Appointments made after July 1, 1994, to the board for a municipal solid waste region consisting of counties having a population less than two hundred thousand (200,000), according to the 1990 federal census or any subsequent federal census, shall be made so that rural landowners shall have representation on the board, and by December 31, 1998, at least thirty percent (30%) of the membership shall consist of members who own at least a fifty percent (50%) equitable or fee simple interest in land that is eligible for classification as agricultural, forest or open space land under the terms of the Agricultural, Forest and Open Space Land Act of

1976, as amended.

(c) Each region shall develop a plan for a ten-year disposal capacity, and for achieving compliance with the waste reduction and recycling goal required by § 68-211-861.

(d) The legislative body of any municipality which lies within the boundaries of two (2) or more regions shall select by resolution in which region it shall participate.

(e) Within each municipal solid waste region, the board of the region shall establish a regional municipal solid waste advisory committee whose composition shall be determined by the board.

[Acts 1991, ch. 451, § 12; T.C.A., § 68-31-813; Acts 1994, ch. 735, § 1; 1996, ch. 846, §§ 11-13; 2003, ch. 90, § 2; 2007, ch. 462, § 1.]

**68-211-814. Municipal solid waste region plans — Authority of region or solid waste authority after approval. —**

(a) (1) Each region shall submit its plan to the department of environment and conservation by July 1, 1994. The plan shall be formulated in strict compliance with § 68-211-815. After receiving a plan, the department shall approve or disapprove the plan within ninety (90) days. The department shall approve the plan if it adequately addresses each element required by § 68-211-815. If a plan is disapproved, the department shall state in detail the reasons for such disapproval. The region shall review any disapproved plan and shall resubmit a plan which corrects all deficiencies to the department within sixty (60) days of receiving the letter of disapproval.

(2) The plan may be revised at any time to reflect subsequent developments in the region. Each revised plan shall be submitted to, reviewed by and approved or disapproved by the department of environment and conservation in the same manner as the initial plan.

(3) Each municipal solid waste region shall submit an annual progress report to the department covering the next ten (10) years that includes, at a minimum, the information contained in § 68-211-815(b).

(b) (1) (A) If the commissioner approves the plan, the region or solid waste authority, if one has been formed pursuant to part 9 of this chapter, by resolution and subsequent adoption of ordinances by counties and municipalities in the region, may also regulate the flow of collected municipal solid waste generated within the region. Prior to the adoption of any resolution declaring the necessity of requiring mandatory flow of municipal solid waste, the region or authority, following one (1) or more public hearings, shall demonstrate in writing to the commissioner that it has considered the utilization of any municipal solid waste management facility in existence within the region on July 1, 1991, which meets the proposed or final federal Resource Conservation and Recovery Act (RCRA) Subtitle D regulations. The region or authority must show that its decision not to use the existing facility is based on the fact that:

- (i) Such facility is environmentally unsound or inadequate to meet the region's ten-year capacity assurance plan;
- (ii) (a) Costs for the use of such facility are inconsistent with comparable facilities within the state; or  
  
(b) The existing facility is operating in a manner that is inconsistent with the plan; and
- (iii) The waste subject to flow control will be sent only to a facility or facilities that meet all state and federal regulations.

(B) The region or authority may restrict access to any landfills and incinerators which dispose of municipal solid waste by excluding waste originating with persons or entities outside the region in order to effectuate the plan. If a facility within a region has accepted waste from a specific source outside the region prior to July 1, 1991, the region may not prohibit that facility from continuing to accept waste from that source, unless the facility's acceptance of that waste significantly impairs the region's ability to effectuate its plan.

(C) Appeal of final actions of the region or authority, including any determinations under subdivision (b)(1), shall be taken by an aggrieved person within thirty (30) days to any chancery court in the region or authority which took such final action.

(D) After the plan is approved, the region must approve any application for a permit for a solid waste disposal facility or incinerator within the region as is consistent with the region's disposal needs before any permit is issued by the commissioner pursuant to this chapter.

(2) (A) An applicant for a permit for construction or expansion of a solid waste disposal facility or incinerator shall submit a copy of the application to the region at or before the time the application is submitted to the commissioner. The region shall review the application for compliance with the provisions of this section, and shall conduct a public hearing after public notice has been given in accordance with title 8, chapter 44, prior to making the determination provided for in this subdivision. The hearing shall afford all interested persons an opportunity to submit written and oral comments, and the proceeding shall be recorded and transcribed. The region shall render a decision on the application within ninety (90) days after receipt of a complete application. The region shall immediately notify the commissioner of its acceptance or rejection of an application.

(B) The region may reject an application for a new solid waste disposal facility or incinerator or expansion of an existing solid waste disposal facility or incinerator within the region only upon determining that the application is inconsistent with the solid waste management plan adopted by the county or region and approved by the department, and the region shall document in writing the specific grounds on which the application is inconsistent with such plan.

(C) Where a region rejects an application, the commissioner shall not issue the permit unless the commissioner finds that the decision of the region is arbitrary and capricious and unsupported in the record developed before the region.

(D) Appeal of final actions of the region, including any determination under subdivision (b)(2)(B), shall be taken by an aggrieved person within thirty (30) days to the chancery court of Davidson County. The court shall exercise the same review as it would in a case arising under the Uniform Administrative Procedures Act, compiled in title 4, chapter 5. For the purposes of this section, an “aggrieved person” is limited to persons applying for permits, persons who own property or live within a three-mile radius of the facility or site that is proposed for permitting, or cities and counties in which the proposed facility is located.

(E) The region shall provide for reasonable public notice of meetings. The region shall be subject to title 10, chapter 7, part 5. The region shall act in accordance with title 8, chapter 44.

(3) If the region has formed a solid waste authority pursuant to part 9 of this chapter, then the authority shall approve any permit applications as provided for in this section instead of the region.

(4) A region or solid waste authority may not impair the obligations of contracts entered into before the date of approval of the region's plan in violation of the Tennessee Constitution, art. I, § 20.

(5) A region or solid waste authority may not restrict the movement of recovered materials into, out of, or within the region.

(6) Before submitting a plan required by this part, each municipal solid waste region shall hold a public hearing on the proposed plan or revised plan.

[Acts 1991, ch. 451, § 13; T.C.A., § 68-31-814; Acts 1993, ch. 523, § 4; 1996, ch. 846, §§ 14-18; 2004, ch. 783, § 2.]

**68-211-815. Municipal solid waste region plans — Contents. —**

(a) Each plan and revised plan submitted by a municipal solid waste region pursuant to this part shall be consistent with the state solid waste plan, with the provisions of this part, with all other applicable provisions of law and with any regulation promulgated by the department.

(b) At a minimum, each plan and revised plan submitted by a municipal solid waste region shall include the following:

- (1) Demographic information;
- (2) A current system analysis of:

- (A) Waste streams, including data concerning types and amounts generated;
  - (B) Collection capability, including data detailing the different types of collection systems and the populations and areas which receive and do not receive such services;
  - (C) Disposal capability, including an analysis of the remaining life expectancy of landfills or other disposal facilities;
  - (D) Costs, using a full-cost accounting model developed by the commissioner, including costs of collection, disposal, maintenance, contracts and other costs; and
  - (E) Revenues, including cost reimbursement fees, appropriations and other revenue sources;
- (3) Adoption of the uniform financial accounting system required by § 68-211-874;
  - (4) Anticipated growth trends for the next ten-year period;
  - (5) Anticipated waste capacity needs;
  - (6) Planned capacity assurance, including descriptions of planned or needed facilities;
  - (7) A recycling plan, including a description of current public and private recycling efforts and planned efforts to enhance recycling within the county or region;
  - (8) A plan for the disposal of household hazardous wastes;
  - (9) Adoption of uniform reporting requirements as required by this part;
  - (10) A description of waste reduction and recycling activities designed to attain the goal required by § 68-211-861;
  - (11) A description of education initiatives aimed at businesses, industries, schools, citizens and others, which addresses recycling, waste reduction, collection and other goals of this part;
  - (12) An evaluation of multi-county solid waste disposal region options with an explanation of the reasons for adopting or failing to adopt a multi-county regional approach;
  - (13) A timetable for implementation of the plan;
  - (14) A description of the responsibilities of the various participating jurisdictions;
  - (15) A certification from the region's part 9 solid waste authority, if such an authority has been formed, or if no such authority has been formed, the county legislative body of each county in the region that they have reviewed and approved of the region's plan and/or revised plan;

(16) A plan for managing solid waste generated as a result of disasters or emergencies; and

(17) Any other information as the commissioner may deem relevant to the implementation of this part.

[Acts 1991, ch. 451, § 14; T.C.A., § 68-31-815; Acts 1995, ch. 501, § 3; 1996, ch. 846, §§ 19-22; 2007, ch. 462, §§ 2, 3.]

**68-211-816. Municipal solid waste regions — Failure to submit adequate plan — Noncompliance with part — Sanctions and penalties. —**

(a) If a municipal solid waste region fails to submit an adequate plan in a timely fashion or if the commissioner does not approve any plan submitted to it, or for any other noncompliance with a provision of this part, then the commissioner shall impose the following sanctions, as appropriate, on the noncompliant county or region:

(1) On the first instance of noncompliance, the commissioner shall issue a letter of warning to the noncompliant county or region indicating the reasons for noncompliance, setting forth the sequence of graduated sanctions for noncompliance and offering technical assistance to remedy the causes of noncompliance.

(2) Any noncompliance shall be resolved as soon as possible. If noncompliance continues for thirty (30) days after receipt of the warning letter, the non-complying county or region shall lose eligibility for funds from the solid waste management fund, unless the commissioner states in writing that, due to particular circumstances, a longer time is appropriate.

(3) If noncompliance continues for sixty (60) days after receipt of the warning letter, then, in addition to any other penalty imposed by law, the commissioner may impose a civil penalty of not more than five thousand dollars (\$5,000) for each day of noncompliance beyond the sixty-day period.

(b) Any civil penalty shall be assessed in the same manner as provided in § 68-211-117(b). Any penalty collected pursuant to this section shall be deposited in the solid waste management fund.

(c) Any person who violates § 68-211-608, § 68-211-866(a) or § 68-211-867(d) shall be subject to the penalties provided for in § 68-211-117.

[Acts 1991, ch. 451, § 16; T.C.A., § 68-31-816; Acts 1995, ch. 501, § 3; 2007, ch. 462, §§ 4-6.]

**68-211-817. Publicly owned landfills or incinerators — Exclusion of certain solid waste. —**

A publicly owned landfill or incinerator for disposal of municipal solid waste may exclude solid waste originating outside of the region if such exclusion is consistent with the region's plan submitted pursuant to § 68-211-814.

**68-211-835. Tipping fee -- Amount -- Collection -- Expenditure of revenues -- Joint ventures -- Surcharges -- Solid waste disposal fees -- Collection -- Penalty for nonpayment.**

(a) Each county, municipality, or solid waste authority which owns a municipal solid waste disposal facility or incinerator may impose a tipping fee upon each ton of municipal solid waste or its volume equivalent received at such solid waste disposal facility or incinerator. Such a tipping fee shall be set by the governing body of the county or municipality, or by the board of directors of the solid waste authority. This tipping fee shall be collected by the operator of the publicly owned municipal solid waste disposal facility or incinerator and remitted to the owner. The fee imposed may be equal to, or a portion of, the estimated cost of providing solid waste management services on a per ton or volume equivalent. Such full cost shall be determined pursuant to the uniform solid waste accounting system developed by the comptroller of the treasury.

(b) Revenue from tipping fees at publicly owned solid waste disposal facilities and incinerators received by counties, municipalities and solid waste authorities shall be expended only for solid waste management purposes.

(c) When a municipal solid waste disposal facility is operated as a joint venture by more than one (1) city or county, or combination thereof, or by an authority, the tipping fee authorized under this section shall be imposed by the joint operators or authority, and the tipping fee received shall be remitted to the participating local governments or authorities for expenditure for solid waste management purposes only.

(d) (1) In addition to any tipping fee imposed by any local government under this section, there shall also be imposed a surcharge of ninety cents (\$0.90) on each ton of municipal solid waste received at all Class I solid waste disposal facilities or incinerators.

(2) The operator of the municipal solid waste disposal facility or incinerator shall collect this surcharge and remit it to the state treasury, except that the operator shall be allowed a deduction of the surcharge due, reported and paid to the department in the amount of one percent (1%) of the amount due on the report. No deduction from the fee shall be allowed if the report or payment of the surcharge is delinquent. Of the funds received from this surcharge, for a period of three (3) years starting July 1, 2009, the state shall credit an amount not to exceed two million six hundred thousand dollars (\$2,600,000) to the general fund annually, if the annual general appropriations act so provides, and the remainder shall be credited to the solid waste management fund. On July 1, 2012, and thereafter, all of the funds received from this surcharge shall be credited to the solid waste management fund.

(e) In order to encourage regional use of solid waste disposal facilities or incinerators, a county that is host to a solid waste disposal facility or incinerator used by other counties in the same region formed pursuant to this part may impose a surcharge on municipal solid waste received at any such solid waste disposal facility or incinerator by resolution of its county legislative bodies in the region. The surcharge shall be imposed on each ton or volume equivalent of municipal solid waste so received. The revenue received by a county from the surcharge authorized by this subsection (e) shall be expended for solid waste management purposes, or for purposes related to

offsetting costs incurred and other impacts resulting from the county being host to the solid waste disposal facility or incinerator. If any municipality in the host county incurs costs as a result of such a municipal solid waste facility or incinerator, then the county shall appropriate funds derived from the surcharge revenue to the municipality which shall be used by the municipality to offset such costs.

(f) (1) In addition to any fee authorized by title 5, and to any tipping fee imposed by any local government under this section, a county, municipality or solid waste authority is authorized to impose:

(A) A surcharge on each ton of municipal solid waste received at a solid waste disposal facility or incinerator for expenditure for solid waste collection or disposal purposes consistent with this part; and/or

(B) A solid waste disposal fee authorized by subsection (g).

(2) The surcharge authorized to be imposed by a county by subdivision (f)(1)(A) shall not take effect until a regional solid waste plan is approved for such county.

(g) (1) In addition to any power authorized by title 5, a county, municipality or solid waste authority is authorized to impose and collect a solid waste disposal fee. Funds generated from such fees may only be used to establish and maintain solid waste collection and disposal services, including, but not limited to, convenience centers. All residents of the county shall have access to these services. The amount of the fee shall bear a reasonable relationship to the cost of providing the solid waste disposal services. Such fees shall be segregated from the general fund and shall be used only for the purposes for which they were collected.

(2) Subject to any other requirement of law, a county, municipality or solid waste authority may enter into an agreement with an electric utility to collect the solid waste disposal fee as a part of the utility's billing process. The agreement shall be approved by the governing body of the county or municipality entering into the agreement, or, in the case of a solid waste authority, the agreement shall be approved by the authority's board of directors.

(3) A solid waste disposal fee shall not be imposed on any generator of solid waste when the generator's solid waste is managed in a privately owned solid waste disposal system or resource recovery facility owned by the generator.

(4) In any county having a population of not less than nineteen thousand three hundred (19,300) nor more than nineteen thousand six hundred (19,600) or not less than twenty-two thousand two hundred (22,200) nor more than twenty-two thousand five hundred (22,500) or not less than twenty-three thousand three hundred (23,300) nor more than twenty-three thousand four hundred (23,400), according to the 1990 federal census or any subsequent federal census, the solid waste disposal fee authorized by this subsection (g) shall be subject to the same penalty and interest as delinquent property taxes if not paid within thirty (30) days after notice of such fee is mailed. The unpaid fees, penalty, interest and cost shall be a lien on the real estate and improvements thereon upon filing of a notice with the office of the register of deeds of the

county in which the property lies. Such lien shall be in favor of the jurisdiction, second only to liens of the state, county and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. The notice shall identify the debtor, owner of record of the real property, contain the property address, describe the property sufficiently to identify it and recite the amount of the obligation secured by the lien. No sale or transfer, including, but not limited to, a transfer to an heir-at-law, assignee or legatee of such real property may be legally closed and recorded until the lien has been satisfied. The same shall apply if the property is to be made the subject of a contract of sale. Upon the sale or transfer of the real property, the successor, successors or assigns shall be required to withhold a sufficient amount of the purchase money to cover the amount of the fees, interest, penalty and cost. The jurisdiction may collect the delinquent fees, penalty, interest and cost through an action for debt filed in any court of competent jurisdiction.

HISTORY: Acts 1991, ch. 451, § 54; T.C.A., § 68-31-835; Acts 1996, ch. 846, § 31; 1997, ch. 343, § 1; 1998, ch. 817, §§ 1-3; 1999, ch. 384, §§ 1, 2; 2002, ch. 720, §§ 1, 2; 2004, ch. 783, § 1; 2007, ch. 462, § 12; 2009, ch. 531, § 5.

[Acts 1991, ch. 451, § 15; T.C.A., § 68-31-817.]

**68-211-871. Annual report - Contents - Annual progress report - Sanctions for noncompliance - Annual reports by recovered materials facilities. -**

(a) The department shall make available on its web site, by January 1 of each year, the forms and information to be used by the regions to file an annual progress report. Each region shall submit the annual report to the commissioner by March 31 for the immediately preceding calendar year, in a format to be determined by the commissioner, which will include data on the following:

(1) Collection;

(2) Recycling;

(3) Transportation;

(4) Disposal;

(5) Public costs; and

(6) Any other information that the board, by rule, deems relevant to solid waste planning and management.

(b) After approval of the plan required by § 68-211-814, the commissioner shall require that a region submit an annual progress report on implementation of such plan in conjunction with the annual report required by this section.

(c) The region may require each person actively and regularly engaged in the collection, transportation and disposal of municipal solid waste, or the recovery or recycling of materials, in the county or counties constituting the region to provide any information necessary for the region to comply with the reporting requirements of this section.

(d) The region may bring an action for mandatory injunction in the chancery court against any person failing to properly report in accordance with the provisions of this section in order to compel compliance. The region shall be entitled to recover all costs and attorney's fees from any person failing to comply with the reporting requirements of this section.

(e) Any person operating a recovered materials processing facility shall report annually the quantities of recovered materials processed at that facility, by type of material, directly to the department or its designee, in a manner approved by the department. The department may enter into agreements with private recycling organizations to facilitate the gathering of such information. Such information shall be treated as proprietary information but may be compiled and reported in cumulative statewide totals, by type of recovered material. Such information may not be released to the public in such a manner as to identify it with an individual recovered materials processing facility. A recovered materials processing facility which fully complies with the reporting requirements of this subsection (e) shall not be subject to the reporting requirements of subsection (c), for information solely related to the operation of the recovered materials processing facility.

[Acts 1991, ch. 451, § 49; T.C.A., § 68-31-871; Acts 1995, ch. 501, § 3; 1996, ch. 846, § 41; 2007, ch. 462, § 18.]

## **Appendix B – Helpful Definitions**

- Annual Progress Report** – Document submitted annually by solid waste regions detailing efforts towards their waste reduction and diversion goal. This document serves as an update to the region’s ten-year solid waste plan.
- Appointment** – The act of choosing an individual for a position on the region’s solid waste board.
- Certify** – Attesting to the accuracy of information submitted in the annual progress report, five-year update, or ten-year plan to the Department.
- Collection** – The process of aggregating materials from the source, either rubbish for disposal or commodities for recycling, and transporting to the appropriate processing site.
- Construction and Demolition Waste** – Wastes, other than special wastes, resulting from construction, remodeling, repair and demolition of structures and from road building. Such wastes include but are not limited to bricks, concrete and other masonry materials, soil, rock and lumber, road spoils, rebar, paving material.
- Convenience Centers** – Any area which is staffed and fenced that has waste receptacles on site that are open to the public, when an attendant is present, to receive domestic waste, municipal solid waste and recyclable materials.
- County Technical Assistance Service** – An agency within the University of Tennessee’s Institute for Public Service that provides technical assistance to county and local governments on issues relating to government and especially solid waste.
- Department** – Tennessee Department of Environment and Conservation.
- Development Districts** – A planning organization comprised of specific counties and their local governments that works with other planning agencies to prepare joint-comprehensive plans for local governments in development of the broader area or region. This organization compiles, prepare and publishes information about economic, infrastructure, and planning. These agencies are governed by a board with representation of counties and cities within the district.
- Disposal** – The process of permanently or indefinitely placing, confining, compacting, or covering solid waste.
- Disaster Debris Plan** – A plan created by local governments within the solid waste planning region that determines how debris generated from disasters will be collected, handled, disposed or recycled based on resources available. The plan may include previously executed contracts or methods of executing new contracts to handle disasters.
- Division of Solid and Hazardous Waste Management** – An agency within the Department of Environment and Conservation providing regulatory oversight to generated solid, hazardous, toxic wastes and material recovery.
- Dual Stream Collection** – Recovered materials are received in two streams, typically fiber (newspaper, magazines and catalogs, mixed paper, cardboard, etc.) and commingled containers (plastic, glass, metal, and sometimes aseptic containers). Separation of materials is accomplished by a combination of automated equipment and manual sorting.
- Farming Wastes** - The wastes from the customary and generally accepted activities, practices, and procedures that farmers adopt, use, or engage in during the production and preparation for market of poultry, livestock, and associated farm products; and in the production and harvesting of agricultural crops which include agronomic, horticultural,

and silvicultural crops and wastes resulting from aquaculture activities. However, the term does not include special wastes such as waste oils or other lubricants, unused fertilizers, or pesticide containers or residues

**Five-Year Update** – A report required under the Solid Waste Management Act of 1991 to provide an update to the ten-year solid waste plan for the region every five years after a need assessment was completed for the region. This document was discontinued in 2004 when the annual progress report became the tool for updating the plan on a yearly basis.

**Grant** – Money collected from the State’s tipping fee surcharge and tire pre-disposal fee that is allocated, contracted, and given to regions, local governments and non-profits from the Solid Waste Management Fund to assist in providing specific services, equipment, infrastructure needs, and technical assistance.

**Green Boxes** – Unmanned county public solid waste collection containers.

**Incinerators** - An enclosed device using controlled flame combustion, the primary purpose of which is to thermally break down solid waste. Examples of incinerators are rotary kiln, fluidized bed, and liquid injection incinerators.

**Jackson Law** – Statute passed by the Tennessee legislature, that if adopted by local governments, allows that them to review, accept or reject the construction or expansion of any landfill in the area that meet the criteria within that law. The law further describes the required notification to the public of any pending landfill application.

**Landfills** - A facility, other than a land application unit, where solid wastes are disposed of by burial in excavated pits or trenches or by placement on land and covering with soil or other approved material.

**Local Government** - Any county, municipality, city or other political subdivision of this state, including any school districts or school systems created thereby

**Materials Recovery Facility** – A facility designed to consolidate, prepare and market recovered and recycled materials for mills, end users, and processors.

**Part 9 Authority** – An incorporated government body with taxing autonomy designed to implement and manage solid waste programs as a business in a single or multi-county region.

**Penalty** – A punishment established by law or authority, usually monetary used to provide negative consequences and that is forfeited for an offense or failure to meet an obligation.

**Permit** - The written authorization granted to a person by the Commissioner, to operate a solid waste processing and/or disposal facility.

**Person** – Any and all persons, natural or artificial, including any individual, firm or association, and municipal or private corporation organized or existing under the laws of this state or any other state, and any governmental agency or county of this state and any department, agency, or instrumentality of the executive, legislative, and judicial branches of the federal government.

**Planning, Reporting, and Waste Reduction** – The section in the Division of Solid and Hazardous Waste Management that provides regulatory oversight over solid waste planning, technical assistance, and the collection of information related to solid waste planning.

**Recycling (also reclaim, or recover)** – Any method, technique, or process utilized to separate, process, modify, convert, treat, or otherwise prepare solid waste so that component materials or substances may be beneficially used or re-used as products, raw materials, or

energy sources, except that any use or reuse of a solid waste may not be used in a manner that would constitute solid waste disposal.

**Recycling Marketing Cooperative for Tennessee** – A technical assistance provider contracted by the Department to fulfill the statutory requirement for an Office of Cooperative Marketing and to assist local governments in marketing commodities.

**Region** – Any municipal solid waste body organized under the Solid Waste Management Act of 1991. A region may be single or multi-county in nature including all local governments within those counties.

**Regional Municipal Solid Waste Advisory Committee** – A committee created by the region’s solid waste board to assist and advise the board in matters relating to solid waste within the region.

**Resolution** – An expression of policy or position by a governing body on a specific issue that is voted on and adopted.

**Rule** – A document that clarifies, implements, further defines a law that has been through a promulgation process. A rule has the same weight as law as it details implementation of the legislated act.

**Sanction** – A penalty, specified or in the form of moral pressure, that acts to ensure compliance or conformity.

**Single Stream Collection (fully comingled)** – Recovered materials are received in a single stream, with fiber and comingled containers combined. The first stages of processing typically utilize equipment that separates the material into two streams (fiber and containers), which are further sorted using equipment similar to that used in dual stream MRFs.

**Solid Waste** - means garbage, trash, refuse, abandoned material, spent material, byproducts, scrap, ash, sludge, and all discarded material including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, and agricultural operations, and from community activities. Solid waste includes, without limitation, recyclable material when it is discarded or when it is used in a manner constituting disposal. Solid waste does not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges that are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act (compiled at 33 U.S.C. Section 1342).

**Solid Waste Authority Act** – The law that gives autonomous authority to solid waste organizations created under this law by local governments within a solid waste planning region to implement parts of the Solid Waste Management Act of 1991.

**Solid Waste Board** – Boards that represent local governments within a solid waste planning region that are charged with providing and implementing a unified solid waste plan for that region on all matters relating to solid waste, waste reduction, and disaster debris management.

**Solid Waste District** – Development district under the Solid Waste Management Act of 1991.

**Solid Waste Management Act** – The law was passed in 1991 that addressed the need for solid waste planning, education, grants, problem wastes, technical assistance, collection and disposal assurance for the State of Tennessee.

**Solid Waste Management Fund** – An account in the State accounting system established under the Solid Waste Management Act of 1991 to receive tipping fee surcharges and tire pre-disposal fees used to fund initiatives of the Act.

**Solid Waste Processing** - Any process that modifies the characteristics or properties of solid waste, including, but not limited to, treatment, incineration, composting, separation, grinding, shredding, and volume reduction; provided, that it does not include the grinding or shredding of landscaping or land clearing wastes or unpainted, unstained, and untreated wood into mulch or other useful products.

**Solid Waste Plan** – A plan established by each region’s solid waste planning board to describe how the region will implement the Solid Waste Management Act of 1991 at the regional level.

**Statute** – A law enacted by the legislature.

**Ten-Year Plan** – A document established and approved by the region’s solid waste board that describes how the region will implement the provisions of the Solid Waste Management Act of 1991 for a ten year planning period.

**Transfer Station** - A combination of structures, machinery or devices at a place or facility that receives solid waste taken from public and/or private collection vehicles and is placed in other transportation units for movement to another solid waste management facility.

**Waste Reduction Goal** – The statewide goal established by the Solid Waste Management Act of 1991 that challenges regions to reduce waste going to landfills by 25% on a per capita basis compared to the disposal rate of the 1995 base year.

**Waste Reduction Plan** – The part of the region’s solid waste plan that directs how the region and its local governments will reduce waste going to the landfill. This plan includes all recycling, reuse, waste reduction efforts within the region.

## Appendix C - Robert's Rules

### **Robert's Rules of Order - Summary Version (Excerpted from Website)**

For Fair and Orderly Meetings & Conventions

Robert's Rules of Order provides common rules and procedures for deliberation and debate in order to place the whole membership on the same footing and speaking the same language. The conduct of ALL business is controlled by the general will of the whole membership - the right of the deliberate majority to decide. Complementary is the right of at least a strong minority to require the majority to be deliberate - to act according to its considered judgment AFTER a full and fair "working through" of the issues involved. Robert's Rules provides for constructive and democratic meetings, to help, not hinder, the business of the assembly. Under no circumstances should "undue strictness" be allowed to intimidate members or limit full participation.

The fundamental right of deliberative assemblies require all questions to be thoroughly discussed before taking action!

The assembly rules - they have the final say on everything!

Silence means consent!

- Obtain the floor (the right to speak) by being the first to stand when the person speaking has finished; state Mr./Madam Chairman. Raising your hand means nothing, and standing while another has the floor is out of order! Must be recognized by the Chair before speaking!
- Debate cannot begin until the Chair has stated the motion or resolution and asked "are you ready for the question?" If no one rises, the chair calls for the vote!
- Before the motion is stated by the Chair (the question) members may suggest modification of the motion; the mover can modify as he pleases, or even withdraw the motion without consent of the seconder; if mover modifies, the seconder can withdraw the second.
- The "immediately pending question" is the last question stated by the Chair!  
Motion/Resolution - Amendment - Motion to Postpone
- The member moving the "immediately pending question" is entitled to preference to the floor!
- No member can speak twice to the same issue until everyone else wishing to speak has spoken to it once!
- All remarks must be directed to the Chair. Remarks must be courteous in language and deportment - avoid all personalities, never allude to others by name or to motives!
- The agenda and all committee reports are merely recommendations! When presented to the assembly and the question is stated, debate begins and changes occur!

#### **The Rules**

- **Point of Privilege:** Pertains to noise, personal comfort, etc. - may interrupt only if necessary!
- **Parliamentary Inquiry:** Inquire as to the correct motion - to accomplish a desired result, or raise a point of order

- **Point of Information:** Generally applies to information desired from the speaker: "I should like to ask the (speaker) a question."
- **Orders of the Day (Agenda):** A call to adhere to the agenda (a deviation from the agenda requires Suspending the Rules)
- **Point of Order:** Infraction of the rules, or improper decorum in speaking. Must be raised immediately after the error is made
- **Main Motion:** Brings new business (the next item on the agenda) before the assembly
- **Divide the Question:** Divides a motion into two or more separate motions (must be able to stand on their own)
- **Consider by Paragraph:** Adoption of paper is held until all paragraphs are debated and amended and entire paper is satisfactory; after all paragraphs are considered, the entire paper is then open to amendment, and paragraphs may be further amended. Any Preamble can not be considered until debate on the body of the paper has ceased.
- **Amend:** Inserting or striking out words or paragraphs, or substituting whole paragraphs or resolutions
- **Withdraw/Modify Motion:** Applies only after question is stated; mover can accept an amendment without obtaining the floor
- **Commit /Refer/Recommit to Committee:** State the committee to receive the question or resolution; if no committee exists include size of committee desired and method of selecting the members (election or appointment).
- **Extend Debate:** Applies only to the immediately pending question; extends until a certain time or for a certain period of time
- **Limit Debate:** Closing debate at a certain time, or limiting to a certain period of time
- **Postpone to a Certain Time:** State the time the motion or agenda item will be resumed
- **Object to Consideration:** Objection must be stated before discussion or another motion is stated
- **Lay on the Table:** Temporarily suspends further consideration/action on pending question; may be made after motion to close debate has carried or is pending
- **Take from the Table:** Resumes consideration of item previously "laid on the table" - state the motion to take from the table
- **Reconsider:** Can be made only by one on the prevailing side who has changed position or view
- **Postpone Indefinitely:** Kills the question/resolution for this session - exception: the motion to reconsider can be made this session
- **Previous Question:** Closes debate if successful - may be moved to "Close Debate" if preferred
- **Informal Consideration:** Move that the assembly go into "Committee of the Whole" - informal debate as if in committee; this committee may limit number or length of speeches or close debate by other means by a 2/3 vote. All votes, however, are formal.
- **Appeal Decision of the Chair:** Appeal for the assembly to decide - must be made before other business is resumed; NOT debatable if relates to decorum, violation of rules or order of business
- **Suspend the Rules:** Allows a violation of the assembly's own rules (except Constitution); the object of the suspension must be specified

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# Robert's Rules of Order Motions Chart

Based on *Robert's Rules of Order Newly Revised (10th Edition)*

**Part 1, Main Motions.** These motions are listed in order of precedence. A motion can be introduced if it is higher on the chart than the pending motion. § indicates the section from Robert's Rules.

§	PURPOSE:	YOU SAY:	INTERRUPT?	2ND?	DEBATE?	AMEND?	VOTE?
§21	Close meeting	I move to adjourn	No	Yes	No	No	Majority
§20	Take break	I move to recess for ...	No	Yes	No	Yes	Majority
§19	Register complaint	I rise to a question of privilege	Yes	No	No	No	None
§18	Make follow agenda	I call for the orders of the day	Yes	No	No	No	None
§17	Lay aside temporarily	I move to lay the question on the table	No	Yes	No	No	Majority
§16	Close debate	I move the previous question	No	Yes	No	No	2/3
§15	Limit or extend debate	I move that debate be limited to ...	No	Yes	No	Yes	2/3
§14	Postpone to a certain time	I move to postpone the motion to ...	No	Yes	Yes	Yes	Majority
§13	Refer to committee	I move to refer the motion to ...	No	Yes	Yes	Yes	Majority
§12	Modify wording of motion	I move to amend the motion by ...	No	Yes	Yes	Yes	Majority

§11	Kill main motion	I move that the motion be postponed indefinitely	No	Yes	Yes	No	Majority
§10	Bring business before assembly (a main motion)	I move that [or "to"] ...	No	Yes	Yes	Yes	Majority

**Part 2, Incidental Motions.** No order of precedence. These motions arise incidentally and are decided immediately.

§	PURPOSE:	YOU SAY:	INTERRUPT?	2ND?	DEBATE?	AMEND?	VOTE?
§23	Enforce rules	Point of Order	Yes	No	No	No	None
§24	Submit matter to assembly	I appeal from the decision of the chair	Yes	Yes	Varies	No	Majority
§25	Suspend rules	I move to suspend the rules	No	Yes	No	No	2/3
§26	Avoid main motion altogether	I object to the consideration of the question	Yes	No	No	No	2/3
§27	Divide motion	I move to divide the question	No	Yes	No	Yes	Majority
§29	Demand a rising vote	I move for a rising vote	Yes	No	No	No	None
§33	Parliamentary law question	Parliamentary inquiry	Yes	No	No	No	None
§33	Request for information	Point of information	Yes	No	No	No	None

**Part 3, Motions That Bring a Question Again Before the Assembly.**

No order of precedence. Introduce only when nothing else is pending.

<b>§</b>	<b>PURPOSE:</b>	<b>YOU SAY:</b>	<b>INTERRUPT?</b>	<b>2ND?</b>	<b>DEBATE?</b>	<b>AMEND?</b>	<b>VOTE?</b>
§34	Take matter from table	I move to take from the table ...	No	Yes	No	No	Majority
§35	Cancel previous action	I move to rescind ...	No	Yes	Yes	Yes	2/3 or Majority with notice
§37	Reconsider motion	I move to reconsider ...	No	Yes	Varies	No	Majority

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## **Acknowledgements**

**(In alphabetical order)**

**R. Ashby Barnes**, Environmental Specialist, Division of Solid and Hazardous Waste Management, Planning, Reporting and Waste Reduction Section, Tennessee Department of Environment and Conservation

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**Alan Leiserson**, Attorney, Office of General Counsel, Tennessee Department of Environment and Conservation

**Nick Lytle**, Environmental Specialist, Division of Solid and Hazardous Waste Management, Planning, Reporting and Waste Reduction Section, Tennessee Department of Environment and Conservation

**Matt Maynard**, Environmental Specialist, Division of Solid and Hazardous Waste Management, Planning, Reporting and Waste Reduction Section, Tennessee Department of Environment and Conservation



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