

JAN 21 2011

A BILL FOR AN ACT

RELATING TO LANDFILLS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 342H, Hawaii Revised Statutes, is
2 amended by adding three new sections to part I to be
3 appropriately designated and to read as follows:

4 "§342H-A Notice of public hearing. (a) Upon receipt of
5 any application for a permit to construct a new landfill or make
6 a lateral expansion of an existing landfill, the director shall
7 fix a date and give notice for a public hearing of the permit
8 application at least once in each of two consecutive weeks in
9 the county where the proposed or existing landfill is located.
10 The date of the hearing shall be not less than forty-five days
11 after the first notice. The notice shall require that all
12 protests or objections against the issuance of the permit
13 applied for shall be filed with the director before the date of
14 the hearing.

15 Before giving notice, the director shall collect from the
16 applicant reimbursement for the cost of giving the public
17 notice.



1 (b) Immediately upon the director's fixing a date for the
2 public hearing, the applicant shall mail a notice setting forth,
3 the time and place of the hearing to each of the following:

4 (1) Not fewer than two-thirds of the owners and lessees of
5 record of real estate located within a distance of one
6 mile from the nearest point of the parcel of land
7 where the new landfill is proposed to be located or
8 from the location of the existing landfill proposed to
9 be expanded. Notice by mail may be addressed to the
10 last known address of the person concerned or to the
11 address as shown in the current real property tax
12 record of the person or the person's agent or
13 representative;

14 (2) Each condominium project or cooperative apartment
15 located within a distance of one mile from the nearest
16 point of the parcel of land where the new landfill is
17 proposed to be located or from the location of the
18 existing landfill proposed to be expanded; provided
19 that one notice of the hearing shall be sent by mail
20 addressed "To the Residents, In Care of the Manager",
21 followed by the name and address of the condominium or
22 cooperative apartment involved;



1 (3) The park manager of any public park located within a
2 distance of one mile from the nearest point of the
3 parcel of land where the new landfill is proposed to
4 be located or from the location of the existing
5 landfill proposed to be expanded; and

6 (4) The principal of any school located within a distance
7 of one mile from the nearest point of the parcel of
8 land where the new landfill is proposed to be located
9 or from the location of the existing landfill proposed
10 to be expanded.

11 The notices required under this subsection shall be mailed at
12 least forty-five days prior to the date set for the hearing.
13 Before the hearing and within seven business days of having
14 mailed the notices, the applicant shall file with the director
15 an affidavit that the notices have been mailed in accordance
16 with this subsection. In addition to the affidavit, the
17 applicant shall include both a master list of all the addressees
18 and addresses required by paragraphs (1) through (4) and another
19 mailing list consisting of the portion of addressees and their
20 respective addresses who were mailed the notice to meet the
21 requirements of paragraphs (1) and (2). The director shall make
22 the affidavit, master list, and mailing list available for



1 public review upon request. For purposes of this section,
2 "master list" means every owner and lessee or person who would
3 otherwise be required to receive notice of the public hearing
4 according to the requirement of paragraphs (1) through (4), even
5 if they were not actually included in the two-thirds requirement
6 of paragraph (1).

7 If the requirements of this subsection are not met, the
8 director may cancel the hearing or continue the public hearing
9 subject to this section.

10 (c) For purposes of this section:

11 (1) Notice to one co-owner and one co-lessee of real
12 estate shall be sufficient notice to all co-owners and
13 all co-lessees of the affected real estate; and

14 (2) One notice shall be sufficient for an owner or lessee
15 of affected multiple properties; provided that one
16 notice shall be sent to each individual unit of a
17 condominium project or a cooperative apartment as
18 provided in this section.

19 §342H-B Protests. Protests against granting of a permit
20 to construct a new landfill or make an expansion of an existing
21 landfill may be filed with the director by:

1 (1) Any owner or lessee of real estate situated within a
2 distance of one mile;

3 (2) Any person who resides within a distance of one mile;

4 (3) The park manager of any public park located within a
5 distance of one mile; or

6 (4) The principal of any school located within a distance
7 of one mile,

8 from the nearest point of the parcel of land where the new
9 landfill is proposed to be located or from the location of the
10 existing landfill proposed to be expanded. A protest shall
11 include written statements submitted to the director prior to
12 the hearing and written or oral testimony submitted at the
13 hearing.

14 §342H-C Hearing; consideration of application. (a) On
15 the date of the hearing pursuant to section 342H-A, the director
16 shall consider the permit application and any protests and
17 objections to the granting of the permit and hear the interested
18 parties. The director shall accept all written or oral
19 testimony for or against the application whether the application
20 is denied, refused, or withdrawn. Within ninety days after the
21 hearing, the director shall grant or refuse the application;
22 provided that if a majority of the:



- 1 (1) Owners and lessees of record of real estate situated
2 within a distance of one mile from the nearest point
3 of the parcel of land where the new landfill is
4 proposed to be located or from the location of the
5 existing landfill proposed to be expanded;
- 6 (2) Persons who reside within a distance of one mile from
7 the nearest point of the parcel of land where the new
8 landfill is proposed to be located or from the
9 location of the existing landfill proposed to be
10 expanded;
- 11 (3) Park managers of any public parks located within a
12 distance of one mile;
- 13 (4) Principals of any public schools located within a
14 distance of one mile; or
- 15 (5) Any combination of the above,
16 have duly filed or caused to be filed protests against the
17 granting of the permit, or if there appears to be any other
18 disqualification under this chapter, the permit application
19 shall be denied. Otherwise, the director, in the director's
20 discretion and in accordance with this chapter, may grant or
21 refuse the permit application.



1 For the purposes of this section, a protest submitted by a
2 majority of the co-owners or the majority of co-lessees of a
3 property shall constitute a protest by all the owners or lessees
4 of record of that property. A protest filed by an owner or
5 lessee who owns more than one property shall be counted
6 separately as a protest for each property.

7 (b) The director shall make available to the applicant and
8 any protestor for review before the public hearing the list of
9 those persons who filed a protest or objection to the
10 application. All applicants and protestors may submit
11 corrections, additions, or deletions to the master list and the
12 list of protestors at the public hearing. The director shall
13 rule on proposed corrections, additions, and deletions and give
14 reasons for the ruling."

15 SECTION 2. Section 342H-1, Hawaii Revised Statutes, is
16 amended by adding a new definition to be appropriately inserted
17 and to read as follows:

18 "Landfill" means a land area used for the disposal of
19 solid waste."

20 SECTION 3. In codifying the new sections added by section
21 1 of this Act, the revisor of statutes shall substitute



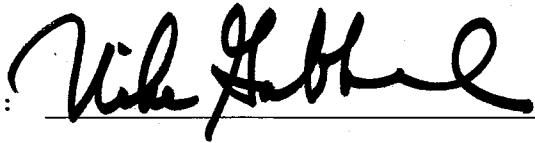
1 appropriate section numbers for the letters used in designating
2 the new sections in this Act.

3 SECTION 4. New statutory material is underscored.

4 SECTION 5. This Act shall take effect upon its approval.

5

INTRODUCED BY:

A handwritten signature in black ink, appearing to read "Mike Gable", is written over a horizontal line. The signature is cursive and somewhat stylized.



Report Title:

Landfills; Public Approval

Description:

Requires public approval from residents within a 1-mile radius for the permitting of a new landfill or the expansion of an existing landfill.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

