



# County Technical Assistance Service

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## Landfill Approval by County - "Jackson Law"

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Dear Reader:

The following document was created from the CTAS electronic library known as e-Li. This online library is maintained daily by CTAS staff and seeks to represent the most current information regarding issues relative to Tennessee county government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other e-Li material.

Sincerely,

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## Landfill Approval by County - "Jackson Law"

**Reference Number:** CTAS-542

The so-called "Jackson Law" is an optional general law that may be adopted by a county or municipal legislative body by a two-thirds (2/3) majority vote. If adopted, it provides that no new construction will be initiated for a landfill without the approval of the county legislative body unless the landfill only accepts waste generated by its owner and all such waste is generated in the same county as the landfill. Additionally, if such proposed construction is in an incorporated area or within one mile of an incorporated area, the governing body of the municipality must also approve before construction can be initiated. T.C.A. § 68-211-701. Public notice and public hearings are required before the vote of the legislative body. T.C.A. § 68-211-703. This law states criteria that must be considered by the legislative body in determining whether or not to approve the construction. Judicial review of the legislative body's determination may be had before the chancery court for the county in which the landfill is to be located. T.C.A. § 68-211-704. The Tennessee Court of Appeals upheld a decision by the Davidson County Chancery Court that exclusion of county and municipal landfills from application of the Jackson Law as provided in T.C.A. § 68-211-706(b) is unconstitutional as a violation of the equal protection clause since there is no rational basis for this discrimination against private landfills. However, the Court applied the doctrine of elision (removal of offending provision, exemption of public landfills) and upheld the remainder of the act. *Profill Development, Inc. v. Dills*, 960 S.W.2d 17 (Tenn. App. 1977).

In 2013, the Jackson Law was amended to increase the scope of the law to include a change in classification of a landfill to a classification with higher standards. However, this amendment provides that it only applies if independently approved by a two-thirds vote of the county legislative body if the county adopted the Jackson Law prior to May 13, 2013.

In a statute separate from the "Jackson Law," municipalities must obtain the approval of the county legislative body at two consecutive regularly scheduled meetings before the municipality may exercise the power of eminent domain to obtain property to be used as a landfill for solid waste disposal outside of the corporate limits of the municipality. T.C.A. § 68-211-122.

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