

By the Committee on Environmental Preservation and Conservation;
and Senator Altman

592-01733-12

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1 A bill to be entitled
2 An act relating to solid waste management facilities;
3 amending s. 403.707, F.S.; specifying a permit term
4 for a solid waste management facility that is designed
5 with a leachate control system meeting the
6 requirements of the Department of Environmental
7 Protection; requiring that existing permit fees be
8 adjusted to the permit term; providing applicability;
9 specifying a permit term for a solid waste management
10 facility that does not have a leachate control system
11 meeting the requirements of the department under
12 certain conditions; authorizing the department to
13 adopt rules; providing that the department is not
14 required to submit the rules to the Environmental
15 Regulation Commission for approval; requiring that
16 permit fee caps for solid waste management facilities
17 be prorated to reflect the extended permit term;
18 amending s. 403.709, F.S.; creating a solid waste
19 landfill closure account within the Solid Waste
20 Management Trust Fund to fund the closing and long-
21 term care of solid waste facilities under certain
22 circumstances; requiring that the department deposit
23 funds that are reimbursed into the solid waste
24 landfill closure account; amending s. 403.7125, F.S.;
25 requiring that the department require by rule that the
26 owner or operator of a solid waste management facility
27 receiving waste after a specified date provide
28 financial assurance for the cost of completing
29 corrective action for violations of water quality

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standards; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (3) of section 403.707, Florida Statutes, is amended to read:

403.707 Permits.—

(3) (a) All applicable provisions of ss. 403.087 and 403.088, relating to permits, apply to the control of solid waste management facilities.

(b) A permit, including a general permit, issued to a solid waste management facility that is designed with a leachate control system meeting department requirements shall be issued for a term of 20 years unless the applicant requests a shorter permit term. Notwithstanding the limitations of s.

403.087(6) (a), existing permit fees for a qualifying solid waste management facility shall be adjusted to the permit term authorized by this section. This paragraph applies to a qualifying solid waste management facility that applies for an operating or construction permit or renews an existing operating or construction permit on or after October 1, 2012.

(c) A permit, including a general permit, but not including a registration, issued to a solid waste management facility that does not have a leachate control system meeting department requirements shall be renewed for a term of 10 years, unless the applicant requests a shorter term, if the following conditions are met:

1. The applicant has conducted the regulated activity at the same site for which the renewal is sought for at least 4

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59 years and 6 months before the date that the permit application
60 is received by the department; and

61 2. At the time of applying for the renewal permit:

62 a. The applicant is not subject to a notice of violation,
63 consent order, or administrative order issued by the department
64 for violation of an applicable law or rule;

65 b. The department has not notified the applicant that it is
66 required to implement assessment or evaluation monitoring as a
67 result of exceedances of applicable groundwater standards or
68 criteria or, if applicable, the applicant is completing
69 corrective actions in accordance with applicable department
70 rules; and

71 c. The applicant is in compliance with the applicable
72 financial assurance requirements.

73 (d) The department may adopt rules to administer this
74 subsection; however, the provisions of chapter 120 which require
75 a statement of estimated regulatory cost and legislative
76 ratification do not apply to such rulemaking and the department
77 is not required to submit such rules to the Environmental
78 Regulation Commission for approval. Notwithstanding the
79 limitations of s. 403.087(6)(a), permit fee caps for solid waste
80 management facilities shall be prorated to reflect the extended
81 permit term authorized by this subsection.

82 Section 2. Subsection (5) is added to section 403.709,
83 Florida Statutes, to read:

84 403.709 Solid Waste Management Trust Fund; use of waste
85 tire fees.—There is created the Solid Waste Management Trust
86 Fund, to be administered by the department.

87 (5) A solid waste landfill closure account is created

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88 within the Solid Waste Management Trust Fund to provide funding
89 for the closing and long-term care of solid waste management
90 facilities, if:

91 (a) The facility had or has a department permit to operate
92 the facility;

93 (b) The permittee provided proof of financial assurance for
94 closure in the form of an insurance certificate;

95 (c) The facility has been deemed to be abandoned or has
96 been ordered to close by the department; and

97 (d) Closure will be accomplished in substantial accordance
98 with a closure plan approved by the department.

99

100 The department has a reasonable expectation that the insurance
101 company issuing the closure insurance policy will provide or
102 reimburse most or all of the funds required to complete closing
103 and long-term care of the facility. If the insurance company
104 reimburses the department for the costs of closing or long-term
105 care of the facility, the department shall deposit the funds
106 into the solid waste landfill closure account.

107 Section 3. Section 403.7125, Florida Statutes, is amended
108 to read:

109 403.7125 Financial assurance ~~for closure.~~

110 (1) Every owner or operator of a landfill is jointly and
111 severally liable for the improper operation and closure of the
112 landfill, as provided by law. As used in this section, the term
113 "owner or operator" means any owner of record of any interest in
114 land wherein a landfill is or has been located and any person or
115 corporation that owns a majority interest in any other
116 corporation that is the owner or operator of a landfill.

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117 (2) The owner or operator of a landfill owned or operated
118 by a local or state government or the Federal Government shall
119 establish a fee, or a surcharge on existing fees or other
120 appropriate revenue-producing mechanism, to ensure the
121 availability of financial resources for the proper closure of
122 the landfill. However, the disposal of solid waste by persons on
123 their own property, as described in s. 403.707(2), is exempt
124 from this section.

125 (a) The revenue-producing mechanism must produce revenue at
126 a rate sufficient to generate funds to meet state and federal
127 landfill closure requirements.

128 (b) The revenue shall be deposited in an interest-bearing
129 escrow account to be held and administered by the owner or
130 operator. The owner or operator shall file with the department
131 an annual audit of the account. The audit shall be conducted by
132 an independent certified public accountant. Failure to collect
133 or report such revenue, except as allowed in subsection (3), is
134 a noncriminal violation punishable by a fine of not more than
135 \$5,000 for each offense. The owner or operator may make
136 expenditures from the account and its accumulated interest only
137 for the purpose of landfill closure and, if such expenditures do
138 not deplete the fund to the detriment of eventual closure, for
139 planning and construction of resource recovery or landfill
140 facilities. Any moneys remaining in the account after paying for
141 proper and complete closure, as determined by the department,
142 shall, if the owner or operator does not operate a landfill, be
143 deposited by the owner or operator into the general fund or the
144 appropriate solid waste fund of the local government of
145 jurisdiction.

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146 (c) The revenue generated under this subsection and any
147 accumulated interest thereon may be applied to the payment of,
148 or pledged as security for, the payment of revenue bonds issued
149 in whole or in part for the purpose of complying with state and
150 federal landfill closure requirements. Such application or
151 pledge may be made directly in the proceedings authorizing such
152 bonds or in an agreement with an insurer of bonds to assure such
153 insurer of additional security therefor.

154 (d) The provisions of s. 212.055 which relate to raising of
155 revenues for landfill closure or long-term maintenance do not
156 relieve a landfill owner or operator from the obligations of
157 this section.

158 (e) The owner or operator of any landfill that had
159 established an escrow account in accordance with this section
160 and the conditions of its permit prior to January 1, 2007, may
161 continue to use that escrow account to provide financial
162 assurance for closure of that landfill, even if that landfill is
163 not owned or operated by a local or state government or the
164 Federal Government.

165 (3) An owner or operator of a landfill owned or operated by
166 a local or state government or by the Federal Government may
167 provide financial assurance to the department in lieu of the
168 requirements of subsection (2). An owner or operator of any
169 other landfill, or any other solid waste management facility
170 designated by department rule, shall provide financial assurance
171 to the department for the closure of the facility. Such
172 financial assurance may include surety bonds, certificates of
173 deposit, securities, letters of credit, or other documents
174 showing that the owner or operator has sufficient financial

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175 resources to cover, at a minimum, the costs of complying with
176 applicable closure requirements. The owner or operator shall
177 estimate such costs to the satisfaction of the department.

178 (4) This section does not repeal, limit, or abrogate any
179 other law authorizing local governments to fix, levy, or charge
180 rates, fees, or charges for the purpose of complying with state
181 and federal landfill closure requirements.

182 (5) The department shall by rule require that the owner or
183 operator of a solid waste management facility that receives
184 waste after October 9, 1993, and that is required by department
185 rule to undertake corrective actions for violations of water
186 quality standards provide financial assurance for the cost of
187 completing such corrective actions. The same financial assurance
188 mechanisms that are available for closure costs shall be
189 available for costs associated with undertaking corrective
190 actions.

191 (6)~~(5)~~ The department shall adopt rules to implement this
192 section.

193 Section 4. This act shall take effect July 1, 2012.