

By the Committees on Budget Subcommittee on General Government Appropriations; and Environmental Preservation and Conservation; and Senator Altman

601-04264-12

2012738c2

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

601-04264-12

2012738c2

standards; providing an appropriation; providing
effective dates.

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

601-04264-12

2012738c2

59 the same site for which the renewal is sought for at least 4
60 years and 6 months before the date that the permit application
61 is received by the department; and

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

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

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

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

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

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

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

601-04264-12

2012738c2

88 (5) Notwithstanding the provisions of subsection (1), a
89 solid waste landfill closure account is created within the Solid
90 Waste Management Trust Fund to provide funding for the closing
91 and long-term care of solid waste management facilities. The
92 department may use funds from the account to contract with a
93 third party for the closing and long-term care of solid waste
94 management facilities, if:

95 (a) The facility had or has a department permit to operate
96 the facility;

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

99 (c) The facility has been deemed to be abandoned or has
100 been ordered to close by the department;

101 (d) Closure will be accomplished in substantial accordance
102 with a closure plan approved by the department; and

103 (e) The department has written documentation that the
104 insurance company issuing the closure insurance policy will
105 provide or reimburse most or all of the funds required to
106 complete closing and long-term care of the facility.

107
108 The department shall deposit the funds received from the
109 insurance company as reimbursement for the costs of closing or
110 long-term care of the facility into the solid waste landfill
111 closure account.

112 Section 3. Section 403.7125, Florida Statutes, is amended
113 to read:

114 403.7125 Financial assurance ~~for closure.~~

115 (1) Every owner or operator of a landfill is jointly and
116 severally liable for the improper operation and closure of the

601-04264-12

2012738c2

117 landfill, as provided by law. As used in this section, the term
118 "owner or operator" means any owner of record of any interest in
119 land wherein a landfill is or has been located and any person or
120 corporation that owns a majority interest in any other
121 corporation that is the owner or operator of a landfill.

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

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

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

601-04264-12

2012738c2

146 proper and complete closure, as determined by the department,
147 shall, if the owner or operator does not operate a landfill, be
148 deposited by the owner or operator into the general fund or the
149 appropriate solid waste fund of the local government of
150 jurisdiction.

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

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

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

170 (3) An owner or operator of a landfill owned or operated by
171 a local or state government or by the Federal Government may
172 provide financial assurance to the department in lieu of the
173 requirements of subsection (2). An owner or operator of any
174 other landfill, or any other solid waste management facility

601-04264-12

2012738c2

175 designated by department rule, shall provide financial assurance
176 to the department for the closure of the facility. Such
177 financial assurance may include surety bonds, certificates of
178 deposit, securities, letters of credit, or other documents
179 showing that the owner or operator has sufficient financial
180 resources to cover, at a minimum, the costs of complying with
181 applicable closure requirements. The owner or operator shall
182 estimate such costs to the satisfaction of the department.

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

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

196 ~~(6)-(5)~~ The department shall adopt rules to implement this
197 section.

198 Section 4. Effective upon this act becoming a law, the sum
199 of \$2,888,460 in nonrecurring funds is appropriated to the
200 Department of Environmental Protection from the Solid Waste
201 Management Trust Fund in the Fixed Capital Outlay-Agency
202 Managed-Closing and Long-Term Care of Solid Waste Management
203 Facilities appropriation category pursuant to s. 403.709(5),

601-04264-12

2012738c2

204 Florida Statutes.

205 Section 5. Except as otherwise expressly provided in this
206 act and except for this section, which shall take effect upon
207 this act becoming a law, this act shall take effect July 1,
208 2012.