

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 solid waste management facilities designed with  
5           leachate control systems that meet department  
6           requirements; providing applicability; specifying a  
7           permit term for solid waste management facilities that  
8           do not have leachate control systems meeting  
9           department requirements under certain conditions;  
10          authorizing the department to adopt rules; providing  
11          that the department is not required to submit the  
12          rules to the Environmental Regulation Commission for  
13          approval; requiring permit fee caps to be prorated;  
14          amending s. 403.709, F.S.; creating a solid waste  
15          landfill closure account within the Solid Waste  
16          Management Trust Fund to fund the closing and long-  
17          term care of solid waste facilities under certain  
18          circumstances; requiring the department to deposit  
19          certain funds into the solid waste landfill closure  
20          account; amending s. 403.7125, F.S.; requiring the  
21          department to require by rule that owners or operators  
22          of solid waste management facilities receiving waste  
23          after October 9, 1993, provide financial assurance for  
24          the cost of completing certain corrective actions;  
25          providing an effective date.

26  
27   Be It Enacted by the Legislature of the State of Florida:  
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29 Section 1. Subsection (3) of section 403.707, Florida  
30 Statutes, is amended to read:

31 403.707 Permits.—

32 (3)(a) All applicable provisions of ss. 403.087 and  
33 403.088, relating to permits, apply to the control of solid  
34 waste management facilities.

35 (b) A permit, including a general permit, issued to a  
36 solid waste management facility that is designed with a leachate  
37 control system that meets department requirements shall be  
38 issued for a term of 20 years unless the applicant requests a  
39 shorter permit term. This paragraph applies to a qualifying  
40 solid waste management facility that applies for an operating or  
41 construction permit or renews an existing operating or  
42 construction permit on or after October 1, 2012.

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

49 1. The applicant has conducted the regulated activity at  
50 the same site for which the renewal is sought for at least 4  
51 years and 6 months before the date that the permit application  
52 is received by the department; and

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

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

57 b. The department has not notified the applicant that it  
 58 is required to implement assessment or evaluation monitoring as  
 59 a result of exceedances of applicable groundwater standards or  
 60 criteria or, if applicable, the applicant is completing  
 61 corrective actions in accordance with applicable department  
 62 rules; and

63 c. The applicant is in compliance with the applicable  
 64 financial assurance requirements.

65 (d) The department may adopt rules to administer this  
 66 subsection. However, the department is not required to submit  
 67 such rules to the Environmental Regulation Commission for  
 68 approval. Notwithstanding the limitations of s. 403.087(6)(a),  
 69 permit fee caps for solid waste management facilities shall be  
 70 prorated to reflect the permit terms authorized by this  
 71 subsection.

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

74 403.709 Solid Waste Management Trust Fund; use of waste  
 75 tire fees.—There is created the Solid Waste Management Trust  
 76 Fund, to be administered by the department.

77 (5) A solid waste landfill closure account is created  
 78 within the Solid Waste Management Trust Fund to provide funding  
 79 for the closing and long-term care of solid waste management  
 80 facilities, if:

81 (a) The facility had or has a department permit to operate  
 82 the facility;

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

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

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

89  
 90 The department has a reasonable expectation that the insurance  
 91 company issuing the closure insurance policy will provide or  
 92 reimburse most or all of the funds required to complete closing  
 93 and long-term care of the facility. If the insurance company  
 94 reimburses the department for the costs of closing or long-term  
 95 care of the facility, the department shall deposit the funds  
 96 into the solid waste landfill closure account.

97           Section 3. Section 403.7125, Florida Statutes, is amended  
 98 to read:

99           403.7125 Financial assurance ~~for closure.~~-

100           (1) Every owner or operator of a landfill is jointly and  
 101 severally liable for the improper operation and closure of the  
 102 landfill, as provided by law. As used in this section, the term  
 103 "owner or operator" means any owner of record of any interest in  
 104 land wherein a landfill is or has been located and any person or  
 105 corporation that owns a majority interest in any other  
 106 corporation that is the owner or operator of a landfill.

107           (2) The owner or operator of a landfill owned or operated  
 108 by a local or state government or the Federal Government shall  
 109 establish a fee, or a surcharge on existing fees or other  
 110 appropriate revenue-producing mechanism, to ensure the  
 111 availability of financial resources for the proper closure of  
 112 the landfill. However, the disposal of solid waste by persons on

113 their own property, as described in s. 403.707(2), is exempt  
114 from this section.

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

118 (b) The revenue shall be deposited in an interest-bearing  
119 escrow account to be held and administered by the owner or  
120 operator. The owner or operator shall file with the department  
121 an annual audit of the account. The audit shall be conducted by  
122 an independent certified public accountant. Failure to collect  
123 or report such revenue, except as allowed in subsection (3), is  
124 a noncriminal violation punishable by a fine of not more than  
125 \$5,000 for each offense. The owner or operator may make  
126 expenditures from the account and its accumulated interest only  
127 for the purpose of landfill closure and, if such expenditures do  
128 not deplete the fund to the detriment of eventual closure, for  
129 planning and construction of resource recovery or landfill  
130 facilities. Any moneys remaining in the account after paying for  
131 proper and complete closure, as determined by the department,  
132 shall, if the owner or operator does not operate a landfill, be  
133 deposited by the owner or operator into the general fund or the  
134 appropriate solid waste fund of the local government of  
135 jurisdiction.

136 (c) The revenue generated under this subsection and any  
137 accumulated interest thereon may be applied to the payment of,  
138 or pledged as security for, the payment of revenue bonds issued  
139 in whole or in part for the purpose of complying with state and  
140 federal landfill closure requirements. Such application or

141 | pledge may be made directly in the proceedings authorizing such  
142 | bonds or in an agreement with an insurer of bonds to assure such  
143 | insurer of additional security therefor.

144 |       (d) The provisions of s. 212.055 which relate to raising  
145 | of revenues for landfill closure or long-term maintenance do not  
146 | relieve a landfill owner or operator from the obligations of  
147 | this section.

148 |       (e) The owner or operator of any landfill that had  
149 | established an escrow account in accordance with this section  
150 | and the conditions of its permit prior to January 1, 2007, may  
151 | continue to use that escrow account to provide financial  
152 | assurance for closure of that landfill, even if that landfill is  
153 | not owned or operated by a local or state government or the  
154 | Federal Government.

155 |       (3) An owner or operator of a landfill owned or operated  
156 | by a local or state government or by the Federal Government may  
157 | provide financial assurance to the department in lieu of the  
158 | requirements of subsection (2). An owner or operator of any  
159 | other landfill, or any other solid waste management facility  
160 | designated by department rule, shall provide financial assurance  
161 | to the department for the closure of the facility. Such  
162 | financial assurance may include surety bonds, certificates of  
163 | deposit, securities, letters of credit, or other documents  
164 | showing that the owner or operator has sufficient financial  
165 | resources to cover, at a minimum, the costs of complying with  
166 | applicable closure requirements. The owner or operator shall  
167 | estimate such costs to the satisfaction of the department.

168 |       (4) This section does not repeal, limit, or abrogate any

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169 other law authorizing local governments to fix, levy, or charge  
170 rates, fees, or charges for the purpose of complying with state  
171 and federal landfill closure requirements.

172 (5) The department shall by rule require that the owner or  
173 operator of a solid waste management facility that receives  
174 waste after October 9, 1993, and that is required by department  
175 rule to undertake corrective actions for violations of water  
176 quality standards provide financial assurance for the cost of  
177 completing such corrective actions. The same financial assurance  
178 mechanisms that are available for closure costs shall be  
179 available for costs associated with undertaking corrective  
180 actions.

181 (6)-(5) The department shall adopt rules to implement this  
182 section.

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