

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 appropriation; providing effective dates.

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) Notwithstanding subsection (1), a solid waste landfill  
 78 closure account is created within the Solid Waste Management  
 79 Trust Fund to provide funding for the closing and long-term care  
 80 of solid waste management facilities. The department may use  
 81 funds from the account to contract with a third party for the  
 82 closing and long-term care of a solid waste management facility,  
 83 if:

84 (a) The facility had or has a department permit to operate

85 the facility;

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

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

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

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

96  
 97 The department shall deposit the funds received from the  
 98 insurance company as reimbursement for the costs of closing or  
 99 long-term care of the facility into the solid waste landfill  
 100 closure account.

101 Section 3. Section 403.7125, Florida Statutes, is amended  
 102 to read:

103 403.7125 Financial assurance ~~for closure.~~-

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

111 (2) The owner or operator of a landfill owned or operated  
 112 by a local or state government or the Federal Government shall

113 establish a fee, or a surcharge on existing fees or other  
114 appropriate revenue-producing mechanism, to ensure the  
115 availability of financial resources for the proper closure of  
116 the landfill. However, the disposal of solid waste by persons on  
117 their own property, as described in s. 403.707(2), is exempt  
118 from this section.

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

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

140 (c) The revenue generated under this subsection and any

141 accumulated interest thereon may be applied to the payment of,  
142 or pledged as security for, the payment of revenue bonds issued  
143 in whole or in part for the purpose of complying with state and  
144 federal landfill closure requirements. Such application or  
145 pledge may be made directly in the proceedings authorizing such  
146 bonds or in an agreement with an insurer of bonds to assure such  
147 insurer of additional security therefor.

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

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

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

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

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

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

185 (6)~~(5)~~ The department shall adopt rules to implement this  
186 section.

187 Section 4. The sum of \$2,888,460 in nonrecurring funds is  
188 appropriated to the Department of Environmental Protection from  
189 the Solid Waste Management Trust Fund in the Fixed Capital  
190 Outlay-Agency Managed-Closing and Long-Term Care of Solid Waste  
191 Management Facilities appropriation category pursuant to s.  
192 403.709(5), Florida Statutes. This section shall take effect  
193 upon this act becoming a law.

194 Section 5. Except as otherwise expressly provided in this  
195 act, this act shall take effect July 1, 2012.