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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/11/2012	.	
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The Committee on Environmental Preservation and Conservation (Latvala) recommended the following:

Senate Amendment (with title amendment)

Delete lines 19 - 28
and insert:

(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



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13 qualifying solid waste management facility that applies for an
14 operating or construction permit or renews an existing operating
15 or construction permit on or after October 1, 2012.

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

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

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

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

30 b. The department has not notified the applicant that it is
31 required to implement assessment or evaluation monitoring as a
32 result of exceedances of applicable groundwater standards or
33 criteria or, if applicable, the applicant is completing
34 corrective actions in accordance with applicable department
35 rules; and

36 c. The applicant is in compliance with the applicable
37 financial assurance requirements.

38 (d) The department may adopt rules to administer this
39 subsection; however, the provisions of chapter 120 which require
40 a statement of estimated regulatory cost and legislative
41 ratification do not apply to such rulemaking and the department



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42 is not required to submit such rules to the Environmental
43 Regulation Commission for approval. Notwithstanding the
44 limitations of s. 403.087(6) (a), permit fee caps for solid waste
45 management facilities shall be prorated to reflect the extended
46 permit term authorized by this subsection.

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

49 403.709 Solid Waste Management Trust Fund; use of waste
50 tire fees.—There is created the Solid Waste Management Trust
51 Fund, to be administered by the department.

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

56 (a) The facility had or has a department permit to operate
57 the facility;

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

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

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

64
65 The department has a reasonable expectation that the insurance
66 company issuing the closure insurance policy will provide or
67 reimburse most or all of the funds required to complete closing
68 and long-term care of the facility. If the insurance company
69 reimburses the department for the costs of closing or long-term
70 care of the facility, the department shall deposit the funds



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71 into the solid waste landfill closure account.

72 Section 3. Section 403.7125, Florida Statutes, is amended
73 to read:

74 403.7125 Financial assurance ~~for closure.~~-

75 (1) Every owner or operator of a landfill is jointly and
76 severally liable for the improper operation and closure of the
77 landfill, as provided by law. As used in this section, the term
78 "owner or operator" means any owner of record of any interest in
79 land wherein a landfill is or has been located and any person or
80 corporation that owns a majority interest in any other
81 corporation that is the owner or operator of a landfill.

82 (2) The owner or operator of a landfill owned or operated
83 by a local or state government or the Federal Government shall
84 establish a fee, or a surcharge on existing fees or other
85 appropriate revenue-producing mechanism, to ensure the
86 availability of financial resources for the proper closure of
87 the landfill. However, the disposal of solid waste by persons on
88 their own property, as described in s. 403.707(2), is exempt
89 from this section.

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

93 (b) The revenue shall be deposited in an interest-bearing
94 escrow account to be held and administered by the owner or
95 operator. The owner or operator shall file with the department
96 an annual audit of the account. The audit shall be conducted by
97 an independent certified public accountant. Failure to collect
98 or report such revenue, except as allowed in subsection (3), is
99 a noncriminal violation punishable by a fine of not more than



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100 \$5,000 for each offense. The owner or operator may make
101 expenditures from the account and its accumulated interest only
102 for the purpose of landfill closure and, if such expenditures do
103 not deplete the fund to the detriment of eventual closure, for
104 planning and construction of resource recovery or landfill
105 facilities. Any moneys remaining in the account after paying for
106 proper and complete closure, as determined by the department,
107 shall, if the owner or operator does not operate a landfill, be
108 deposited by the owner or operator into the general fund or the
109 appropriate solid waste fund of the local government of
110 jurisdiction.

111 (c) The revenue generated under this subsection and any
112 accumulated interest thereon may be applied to the payment of,
113 or pledged as security for, the payment of revenue bonds issued
114 in whole or in part for the purpose of complying with state and
115 federal landfill closure requirements. Such application or
116 pledge may be made directly in the proceedings authorizing such
117 bonds or in an agreement with an insurer of bonds to assure such
118 insurer of additional security therefor.

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

123 (e) The owner or operator of any landfill that had
124 established an escrow account in accordance with this section
125 and the conditions of its permit prior to January 1, 2007, may
126 continue to use that escrow account to provide financial
127 assurance for closure of that landfill, even if that landfill is
128 not owned or operated by a local or state government or the



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129 Federal Government.

130 (3) An owner or operator of a landfill owned or operated by
131 a local or state government or by the Federal Government may
132 provide financial assurance to the department in lieu of the
133 requirements of subsection (2). An owner or operator of any
134 other landfill, or any other solid waste management facility
135 designated by department rule, shall provide financial assurance
136 to the department for the closure of the facility. Such
137 financial assurance may include surety bonds, certificates of
138 deposit, securities, letters of credit, or other documents
139 showing that the owner or operator has sufficient financial
140 resources to cover, at a minimum, the costs of complying with
141 applicable closure requirements. The owner or operator shall
142 estimate such costs to the satisfaction of the department.

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

147 (5) The department shall by rule require that the owner or
148 operator of a solid waste management facility that receives
149 waste after October 9, 1993, and that is required by department
150 rule to undertake corrective actions for violations of water
151 quality standards provide financial assurance for the cost of
152 completing such corrective actions. The same financial assurance
153 mechanisms that are available for closure costs shall be
154 available for costs associated with undertaking corrective
155 actions.

156 (6)~~(5)~~ The department shall adopt rules to implement this
157 section.



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===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete lines 7 - 8

and insert:

Protection; requiring that existing permit fees be adjusted to the permit term; providing applicability; specifying a permit term for a solid waste management facility that does not have a leachate control system meeting the requirements of the department under certain conditions; authorizing the department to adopt rules; providing that the department is not required to submit the rules to the Environmental Regulation Commission for approval; requiring that permit fee caps for solid waste management facilities be prorated to reflect the extended permit term; amending s. 403.709, F.S.; creating a solid waste landfill closure account within the Solid Waste Management Trust Fund to fund the closing and long-term care of solid waste facilities under certain circumstances; requiring that the department deposit funds that are reimbursed into the solid waste landfill closure account; amending s. 403.7125, F.S.; requiring that the department require by rule that the owner or operator of a solid waste management facility receiving waste after a specified date provide financial assurance for the cost of completing corrective action for violations of water quality standards;