

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

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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 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

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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.

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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

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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

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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

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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),

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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.