

1 HB406
2 128762-4
3 By Representatives Baker, Davis, Gaston, Faust, Williams (P),
4 Brown, Ball, McMillan, Beech, Wallace, Oden, Wren, Fincher,
5 Shiver and Lee
6 RFD: Commerce and Small Business
7 First Read: 31-MAR-11

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ENROLLED, An Act,

Relating to the permitting of solid waste landfills in Alabama, to place a 24-month moratorium on the issuance of permits by the Alabama Department of Environmental Management and any state and local governmental agency to new public solid waste landfills which would receive or are intended to receive waste not generated by the permittee in order to allow adequate time for the Alabama Department of Environmental Management and the Alabama Department of Public Health to review their responsibilities pursuant to the Solid Wastes and Recyclable Materials Management Act and for the update of the state's comprehensive solid waste management plan to identify the state's solid waste management needs; and to provide a procedure to allow for a waiver to allow the issuance for new such facilities of permits on a limited basis during the moratorium.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. (a) Notwithstanding any provision of law, for a period of 24 months after the effective date of this act, neither the Alabama Department of Environmental Management (ADEM) nor any state or local agency may grant any new permits to a new public solid waste landfill facility which is intended to receive waste not generated by the permittee.

1 (b) (1) The 24-month moratorium period is necessary
2 in order to allow ADEM and the Alabama Department of Public
3 Health to review their duties and responsibilities pursuant to
4 the Solid Wastes and Recyclable Materials Management Act. As
5 appropriate, following this review, ADEM, with input from the
6 Alabama Department of Public Health, shall make
7 recommendations for necessary legislation or undertake
8 rulemaking to implement enhancement identified during the
9 review period.

10 (2) For the purpose of evaluating solid waste
11 landfill management issues facing the state and to allow for
12 the update of the state's comprehensive solid waste management
13 plan to identify and provide for the state's solid waste
14 management needs, there is imposed a moratorium on the
15 issuance by ADEM of any new permits for new public solid waste
16 landfills which are intended to receive wastes not generated
17 by the permittee as further qualified in Section 2. The
18 moratorium shall not apply to industrial landfills receiving
19 waste generated in-state only by the permittee.

20 Section 2. The moratorium restriction provided in
21 Section 1 applies only to any proposed public solid waste
22 landfill facility that has not received its final approval
23 within the ADEM solid waste landfill permitting process and
24 shall include proposed facilities which will meet, upon

1 completion, any of the following criteria regarding capacity,
2 site acreage, or location:

3 (1) A proposed capacity in excess of 1,500 tons per
4 day.

5 (2) A proposed capacity of 2,000 cubic yards per day
6 or more.

7 (3) A site consisting of 500 acres or more.

8 (4) When combined with existing or proposed public
9 solid waste landfill facilities located within the same county
10 or counties or within 20 miles thereof, a capacity or site
11 which exceeds the minimum amounts set forth in subdivision
12 (1), (2), or (3).

13 (5) A proposed capacity by a new public solid waste
14 landfill which will be more than that reasonably anticipated
15 in the foreseeable future as identified in the local solid
16 waste management plan for the communities located within the
17 county in which the facility is to be located or within 20
18 miles of the facility.

19 Section 3. The Director of ADEM may waive the
20 limitation imposed by this moratorium for a particular
21 facility upon a finding based upon a joint recommendation by
22 the State Health Officer and the respective host government.
23 The request for waiver shall be initiated by resolution of the
24 governing body of the jurisdiction which recognizes a
25 potential crisis in solid waste management by public solid

1 waste landfills in the jurisdiction. The resolution shall be
2 adopted at a public meeting of the governing body following
3 publication of at least one notice in a newspaper of general
4 circulation in the area at least 10 days prior to the meeting.
5 The resolution shall request the State Health Officer and the
6 respective host government to determine if the situation poses
7 a threat to human health or the environment within the
8 jurisdiction based upon substantive criteria to be established
9 jointly by ADEM, the State Health Officer, and the respective
10 host government. In the event the State Health Officer and the
11 host government so certify, the moratorium may be waived and
12 the ADEM Director may issue a permit for the limited purpose
13 of serving the service area or jurisdiction identified.

14 Section 4. The provisions of this act are severable.
15 If any part of this act is declared invalid or
16 unconstitutional, that declaration shall not affect the part
17 which remains.

18 Section 5. This act shall become effective
19 immediately following its passage and approval by the
20 Governor, or its otherwise becoming law.

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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 21-APR-11, as amended.

Greg Pappas
Clerk

Senate

05-MAY-11

Passed