

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:
28

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.