

1 HB556
2 139137-2
3 By Representatives Baker, Shiver, Brown, Faust, Lee, Chesteen,
4 Drake, Vance, Jones, Merrill, Gaston, Fincher, Collins,
5 Nordgren, Harper, McMillan, Thomas, Oden, Wren and Beech
6 RFD: Commerce and Small Business
7 First Read: 15-MAR-12

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8 SYNOPSIS: Current law provides that from May 31, 2011,
9 through May 31, 2013, the Alabama Department of
10 Environmental Management and other state and local
11 agencies are prohibited from granting any new
12 permits to new solid waste facility intended to
13 receive waste not generated by the prospective
14 permittee.

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16 A BILL
17 TO BE ENTITLED
18 AN ACT

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20 To amend Act 2011-297, now appearing as Section
21 22-27-5.2, Code of Alabama 1975, to extend the prohibition
22 against the permitting of certain new solid waste facilities
23 from May 31, 2013, to May 31, 2014.

24 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

25 Section 1. Act 2011-297, now appearing as Section
26 22-27-5.2 of the Code of Alabama 1975, is amended to read as
27 follows:

1 "§22-27-5.2.

2 "(a) (1) Notwithstanding any provision of law, ~~for a~~
3 ~~period of 24 months after May 31, 2011~~ until May 31, 2014,
4 neither the department nor any state or local agency may grant
5 any new permits to a new public solid waste landfill facility
6 which is intended to receive waste not generated by the
7 permittee.

8 "(2) The ~~24-month~~ moratorium period is necessary in
9 order to allow the department and the Alabama Department of
10 Public Health to review their duties and responsibilities
11 pursuant to the Solid Wastes and Recyclable Materials
12 Management Act. As appropriate, following this review, the
13 department, with input from the Alabama Department of Public
14 Health, shall make recommendations for necessary legislation
15 or undertake rulemaking to implement enhancement identified
16 during the review period.

17 "(3) For the purpose of evaluating solid waste
18 landfill management issues facing the state and to allow for
19 the update of the state's comprehensive solid waste management
20 plan to identify and provide for the state's solid waste
21 management needs, there is imposed a moratorium on the
22 issuance by the department of any new permits for new public
23 solid waste landfills which are intended to receive wastes not
24 generated by the permittee as further qualified in subsection
25 (b). The moratorium shall not apply to industrial landfills
26 receiving waste generated in-state only by the permittee.

1 "(b) The moratorium restriction provided in
2 subsection (a) applies only to any proposed public solid waste
3 landfill facility that has not received its final approval
4 within the department solid waste landfill permitting process
5 and shall include proposed facilities which will meet, upon
6 completion, any of the following criteria regarding capacity,
7 site acreage, or location.

8 "(1) A proposed capacity in excess of 1,500 tons per
9 day.

10 "(2) A proposed capacity of 2,000 cubic yards per
11 day or more.

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

13 "(4) When combined with existing or proposed public
14 solid waste landfill facilities located within the same county
15 or counties or within 20 miles thereof, a capacity or site
16 which exceeds the minimum amounts set forth in subdivision
17 (1), (2), or (3).

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

24 "(c) The director may waive the limitation imposed
25 by this moratorium for a particular facility upon a finding
26 based upon a joint recommendation by the State Health Officer
27 and the respective host government. The request for waiver

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

17 Section 2. This act shall become effective
18 immediately following its passage and approval by the
19 Governor, or its otherwise becoming law.