

1 HB406
2 126736-2
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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8 SYNOPSIS: Currently, the Department of Environmental
9 Management may issue permits to qualified solid
10 waste management facilities.

11 This bill would place a moratorium of
12 24-months on the issuance of permits by the Alabama
13 Department of Environmental Management (ADEM) and
14 any other state or local agency to certain
15 qualified solid waste management facilities which
16 receive or are intended to receive waste not
17 generated by the permittee. The purpose of the
18 moratorium would be to allow adequate time for the
19 Alabama Department of Environmental Management, the
20 Solid Waste Management Advisory Committee, and the
21 Alabama Department of Public Health to review their
22 responsibilities pursuant to Executive Order 8,
23 issued by Governor Bentley on February 23, 2011,
24 and to develop a comprehensive state solid waste
25 management plan.

26 The bill would authorize the Director of
27 ADEM to issue waivers from the moratorium based on

1 a joint recommendation of the State Health Officer,
2 the Governor, and the local host government
3 accompanied by a resolution of the host government.
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5 A BILL
6 TO BE ENTITLED
7 AN ACT
8

9 Relating to the permitting of solid waste landfills
10 in Alabama, to place a 24-month moratorium on the issuance of
11 permits by the Alabama Department of Environmental Management
12 and any state and local governmental agency to certain solid
13 waste management facilities which receive or are intended to
14 receive waste not generated by the permittee in order to allow
15 adequate time for the Alabama Department of Environmental
16 Management, the Solid Waste Management Advisory Committee, and
17 the Alabama Department of Public Health to perform their
18 responsibilities pursuant to Executive Order 8, and for the
19 development of a comprehensive plan to identify the state's
20 solid waste management needs; and to provide a procedure to
21 allow for a waiver to allow the issuance or modification of
22 permits on a limited basis during the moratorium.

23 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

24 Section 1. (a) Notwithstanding any provision of law,
25 for a period of 24 months after the effective date of this
26 act, neither the Alabama Department of Environmental
27 Management (ADEM) nor any state or local agency may grant any

1 new or modified permits to a solid waste management facility
2 which receives or is intended to receive waste not generated
3 by the permittee.

4 (b) (1) The 24-month moratorium period is necessary
5 in order to allow the Alabama Department of Environmental
6 Management (ADEM), with input from the Solid Waste Management
7 Advisory Committee, and the Alabama Department of Public
8 Health, to comply with its duties and responsibilities
9 pursuant to Executive Order 8, issued by Governor Bentley on
10 February 23, 2011. Executive Order 8 requires ADEM to
11 promulgate rules and requirements for the permitting of solid
12 waste management facilities and landfills described in the
13 order and in Section 2 of this act.

14 (2) For the purpose of evaluating solid waste
15 management problems facing the state and to allow for the
16 development of a comprehensive plan to identify and provide
17 for the state's solid waste management needs, there is imposed
18 a moratorium on the issuance by the Alabama Department on
19 Environmental Management (ADEM) of any new or modified permits
20 or transfers of existing permits for solid waste management
21 facilities which receive or are intended to receive wastes not
22 generated by the permittee. The moratorium shall not apply to
23 industrial landfills receiving waste generated in-state only
24 by the permittee.

25 Section 2. The moratorium restriction provided in
26 Section 1 applies to any proposed facility that has not
27 received its final approval within the permitting process and

1 shall include proposed facilities which will meet, upon
2 completion, any of the following criteria regarding capacity,
3 site acreage, or location:

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

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

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

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

13 (5) A proposed capacity whether new or by expansion
14 which will be more than that reasonably anticipated in the
15 foreseeable future for the communities located within the
16 county in which the facility is to be located or within 20
17 miles of the facility.

18 Section 3. The Director of ADEM is authorized to
19 waive the limitation imposed by this moratorium for a
20 particular facility upon a finding based upon a joint
21 recommendation by the State Health Officer, the Governor, and
22 the respective host government. The request for waiver shall
23 be initiated by resolution of the governing body of the
24 jurisdiction which recognizes a potential crisis in solid
25 waste management in the jurisdiction. The resolution shall be
26 adopted at a public meeting of the governing body following
27 publication of at least one notice in a newspaper of general

1 circulation in the area at least 10 days prior to the meeting.
2 The resolution shall request the State Health Officer, the
3 Governor, and the respective host government to determine if
4 the situation poses a threat to human health or the
5 environment within the jurisdiction based upon substantive
6 criteria to be established jointly by the State Health
7 Officer, the Governor, and the respective host government. In
8 the event the State Health Officer, the Governor, and the host
9 government so certify, the moratorium may be waived and the
10 ADEM director may issue a permit or modification for the
11 limited purpose of serving the jurisdiction or jurisdiction
12 identified.

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

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