

1 HB231  
2 127071-1  
3 By Representatives Baker, Faust, Mask, McCutcheon, Chesteen,  
4 Shiver, Davis, Collins and McMillan  
5 RFD: Commerce and Small Business  
6 First Read: 10-MAR-11

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8 SYNOPSIS: Under existing law, a regional planning  
9 commission is requested to adopt a statement of  
10 consistency concerning an application related to  
11 its local solid waste disposal management plan.

12 This bill would require the regional  
13 planning commission to affirmatively adopt a  
14 statement of consistency within 180 days of  
15 receiving the application, or the application would  
16 be deemed denied.

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18 A BILL  
19 TO BE ENTITLED  
20 AN ACT

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22 To amend Section 22-27-48, Code of Alabama 1975,  
23 relating to review by a regional planning commission of an  
24 application related to solid waste disposal management plans;  
25 to require a regional planning commission to affirmatively  
26 adopt a statement of consistency on a proposal or an

1 application within a certain period of time, or the  
2 application would be deemed denied.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Section 22-27-48, Code of Alabama 1975,  
5 is amended to read as follows:

6 "§22-27-48.

7 "(a) In addition to any regulatory bodies, the  
8 governing body of a county or municipality has a  
9 responsibility for and the authority to assure the proper  
10 management of solid wastes generated within its jurisdiction  
11 in accord with its solid waste management plan. A governing  
12 body may assign territories and approve or disapprove disposal  
13 sites in its jurisdiction in accord with the plan approved for  
14 its jurisdiction. Such approval or disapproval of services or  
15 activities described in the local plan shall be in addition to  
16 any other approvals required from other regulatory authorities  
17 and shall be made prior to any other approvals necessary for  
18 the provision of such services, the development of a proposed  
19 facility or the modification of permits for existing  
20 facilities. The department may not consider an application for  
21 a new or modified permit for a facility unless such  
22 application has received approval by the affected unit of  
23 local government having an approved plan.

24 "In determining whether to recommend approval of the  
25 proposed issuance of or modification of a new or existing  
26 solid waste management site, the governing body shall consider  
27 each of the following:

1           "(1) The consistency of the proposal with the  
2 jurisdiction's solid waste management need as identified in  
3 its plan;

4           "(2) The relationship of the proposal to local  
5 planned or existing development or the absence thereof, to  
6 major transportation arteries and to existing state primary  
7 and secondary roads;

8           "(3) The location of a proposed facility in  
9 relationship to existing industries in the state that generate  
10 large volumes of solid waste, or the relationship to the areas  
11 projected for development of industries that will generate  
12 solid waste;

13           "(4) Costs and availability of public services,  
14 facilities and improvements required to support a proposed  
15 facility and protect public health, safety and the  
16 environment;

17           "(5) The impact of a proposed facility on public  
18 safety and provisions made to minimize the impact on public  
19 health and safety; and

20           "(6) The social and economic impacts of a proposed  
21 facility on the affected community, including changes in  
22 property values, and social or community perception.

23           "The application of the plan for local approval  
24 shall be accompanied by an application fee payable to the  
25 local governing body in an amount equal to 20 percent of the  
26 application or permit fee required by the department, but  
27 local approval shall not apply to simple renewals of a permit

1 which is to be otherwise unchanged. Further, there shall be no  
2 requirement for local review and approval of permit  
3 modifications for the limited purposes of changing liner and  
4 leachate collection design, changes in waste streams from  
5 within the facility's designated service area, changes in  
6 sequence of fill, changes to incorporate new technology and  
7 changes intended to bring a facility into compliance with  
8 statutes and regulations. A renewed application for local  
9 approval submitted within 18 months of an application being  
10 denied or rejected by the local governing body shall be  
11 accompanied by an application fee payable to the local  
12 governing body in an amount equal to 50 percent of the  
13 application or permit fee required by the department.

14 "Any determination by the local governing body of  
15 the proposed issuance of or modification of a permit for a new  
16 or existing solid waste management site or the proposal to  
17 contract for any services described in the solid waste  
18 management plan, shall be made in a public meeting only after  
19 public notice of such application or proposal and an  
20 opportunity for public comment is provided.

21 "In providing public notice of any application or  
22 proposal regarding any services described in the solid waste  
23 management plan, the local government shall at a minimum hold  
24 at least one public hearing thereon, notice of the time and  
25 place of which shall be given by one publication in a  
26 newspaper of general circulation in the municipality and in  
27 the official gazette, if any, of the jurisdiction.

1 Furthermore, such notice shall be given at least 30 days but  
2 not more than 45 days prior to the proposed date of the  
3 hearing. Each notice published in compliance with this section  
4 shall contain at a minimum a description of the proposed  
5 action to be considered, its relevance to and consistency with  
6 the local solid waste management plan and shall identify a  
7 contact person from whom interested persons can obtain  
8 additional information and can review copies of both the local  
9 plan and the application or proposal to be considered. All  
10 pertinent documents shall be available for inspection during  
11 normal business hours at a location readily accessible to the  
12 public. Within 90 days of receiving an application or  
13 proposal, the local governing body shall either approve the  
14 application or deny the application setting forth the reasons  
15 therefor. The failure of the local governing body to act on  
16 the proposal within 90 days of receiving the application shall  
17 constitute approval by the local governing body.

18 "(b) Following local review and approval of any  
19 proposal regarding services or activities described in the  
20 local solid waste management plan, the applicant shall obtain  
21 a statement of consistency from the regional planning and  
22 development commission. ~~Therein~~ Within 180 days of receiving  
23 the application, the commission shall evaluate the proposal  
24 using the provisions of the current regional solid waste  
25 management needs assessment. In particular, the regional  
26 commission shall evaluate the proposal as it relates to  
27 available existing capacity within the region and the

1 projected lifetime of such capacity. The evaluation shall also  
2 identify any proposed capacity which is in excess of expected  
3 regional needs. If the regional planning commission fails to  
4 affirmatively adopt a statement of consistency, the  
5 application shall be deemed denied. No statement of  
6 consistency shall be required for contracts exclusively for  
7 the collection or transportation of solid wastes.

8 "(c) Plans required by this section shall not apply  
9 to industrial landfills receiving wastes generated on site  
10 only or by the permittee."

11 Section 2. This act shall become effective  
12 immediately following its passage and approval by the  
13 Governor, or its otherwise becoming law.