

1 HB390
2 128035-1
3 By Representatives Beech, Boyd, Forte, Grimsley, Thomas,
4 Greeson, Baker, Harper, Melton, Newton (C), Millican, Johnson
5 (K), Warren, Johnson (W), Boman, Oden, Bridges, Wood, Laird,
6 Patterson, Colston, Long, Baughn, Roberts, Robinson (J),
7 Davis, McClendon, Henry, Hill, Scott, Morrow, Wallace,
8 McMillan, Shiver, Faust, Brown, Boothe, Greer and Sanderford
9 RFD: County and Municipal Government
10 First Read: 31-MAR-11

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8 SYNOPSIS: Existing law gives a county commission the
9 authority to adopt rules to require mandatory
10 public participation in and subscription to solid
11 waste disposal service by the county.

12 This bill would exempt any volunteer fire
13 department in this state from the payment of any
14 fees required for solid waste disposal service by
15 the county.

16
17 A BILL
18 TO BE ENTITLED
19 AN ACT
20

21 To amend Section 22-27-3 of the Code of Alabama
22 1975, relating to the authority given to a county commission
23 to require mandatory public participation in and subscription
24 to solid waste disposal service by the county; to exempt any
25 volunteer fire department in this state from the payment of
26 any fees required for solid waste disposal service by the
27 county.

1 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

2 Section 1. Section 22-27-3 of the Code of Alabama
3 1975, is amended to read as follows:

4 "§22-27-3.

5 "(a) Generally. (1) The county commission or
6 municipal governing body may, and is hereby authorized to,
7 make available to the general public collection and disposal
8 facilities for solid wastes in a manner acceptable to the
9 department. The county commission or municipal governing body
10 may provide such collection or disposal services by contract
11 with private or other controlling agencies and may include
12 house-to-house service or the placement of regularly serviced
13 and controlled bulk refuse receptacles within reasonable
14 (generally less than eight miles) distance from the farthest
15 affected household and the wastes managed in a manner
16 acceptable to the department.

17 "(2) Any county commission or municipal governing
18 body providing services to the public under this article shall
19 have the power and authority by resolution or ordinance to
20 adopt rules and regulations providing for mandatory public
21 participation in and subscription to such system of services.
22 Such governing body may, in its discretion, submit the
23 question of requiring such mandatory public participation to a
24 vote of the qualified electors of the county or municipality
25 as the case may be. If such governing body submits the
26 question to the voters, then the governing body shall also
27 provide for holding and canvassing the returns of the election

1 and for the giving notice thereof for two consecutive weeks in
2 a paper of general circulation in the county. Every person,
3 household, business, industry, or property generating solid
4 wastes, garbage, or ash as defined in this section shall
5 participate in and subscribe to such system of service unless
6 granted a certificate of exception as provided in subsection
7 (g). Provided, however, any individual, household, business,
8 industry, or property generating solid wastes that were
9 sharing service for a period of at least 6 months may continue
10 to share service without filing for a certificate of
11 exception. In the event such person, household, business,
12 industry, or property owner who has not been granted a
13 certificate of exception refuses to participate in and
14 subscribe to such system of service, the county commission or
15 municipal governing body may in addition to any other remedy
16 provided in this article bring an appropriate civil action in
17 circuit court to compel such participation and subscription.
18 Except as provided in subsection (g), any person, firm, or
19 corporation violating such rules and regulations shall be in
20 violation of this article and shall be punished as provided in
21 Section 22-27-7.

22 "(3)a. Any household whose sole source of income is
23 Social Security benefits shall be granted an exemption from
24 the payment of any fees required under this article, provided
25 the household seeking to claim the exemption shall present
26 proof of income to the county health officer no later than the
27 first billing date of any year in which the exemption is

1 desired. The county health officer or his designee shall
2 forward the exemption request and proof of income to the solid
3 waste officer or municipal governing body upon receipt. The
4 exemption shall apply only so long as the household's sole
5 source of income is social security and shall be requested
6 each year in which the exemption is desired. Additionally, the
7 Legislature may, by local law, authorize the county commission
8 to grant additional exemptions to households whose total
9 income does not exceed 75% of the federal poverty level. Any
10 person who knowingly provides false or misleading information
11 in order to obtain an exemption shall be subject to the
12 provisions of Section 22-27-7.

13 "b. Notwithstanding any other provision of this
14 section, any volunteer fire department in this state shall be
15 exempt from the payment of any fees required under this
16 article.

17 "(4) No county commission shall provide solid waste
18 collection and disposal services within the corporate limits
19 of a municipality without the express consent of the municipal
20 governing body of such municipality nor shall any municipality
21 provide solid waste collection and disposal services outside
22 its corporate limits without the express consent of the county
23 commission of the county in which it is situated.

24 "(5) Any county providing door-to-door solid waste
25 collection shall not reduce such service unless and until a
26 letter has been sent to each resident or property or business
27 owner receiving door to door service stating that such service

1 will be reduced or changed and allowing at least 60 days for
2 any resident, business owner, or property owner to call for a
3 public hearing and for the county or municipality to hold such
4 public hearing upon request.

5 "(6) Any provision of this article to the contrary
6 notwithstanding, no person, household, business, industry, or
7 property owner shall be required to pay any solid waste
8 collection exemption or disposal fee chargeable under this
9 article unless solid waste collection and disposal services
10 for which such charge was made were actually made available to
11 such person, household, business, industry, or property owner.

12 "(b) Solid waste officer. As used in this article,
13 solid waste officer shall mean any county official or county
14 employee or any official or employee of a solid waste disposal
15 authority authorized under Section 11-89A-1 et seq. designated
16 by the county commission to exercise the authority and perform
17 the duties delegated by this article to such official and such
18 officer shall have the same powers of enforcement against
19 persons violating this article as do license inspectors with
20 regard to persons violating revenue laws as provided under
21 Section 40-12-10 (i), (j), (k), and (n).

22 "(c) Fly ash, etc. As used in this article, the
23 terms "solid wastes", "garbage", and "ash" do not include fly
24 ash waste, bottom ash waste, boiler slag waste, or flue gas
25 emission control waste which result primarily from the
26 combustion of coal or other fossil fuels at electric

1 generating plants, nor shall such terms include any drilling
2 discharges from oil or natural gas operations.

3 "(d) Garbage disposal. Garbage and rubbish
4 containing garbage shall be disposed of by sanitary landfill,
5 approved incineration, composting, or by other means now
6 available or which may later become available as approved by
7 the department. The method chosen and used shall also meet the
8 requirements of the health department for sanitation and the
9 protection of public health.

10 "(e) Burning. No garbage or rubbish containing
11 garbage or other putrescible materials or hazardous wastes
12 shall be burned except in approved incinerators meeting the
13 necessary temperature requirements and air pollution controls
14 as now established or as may later be established. The open
15 burning of rubbish shall be permitted only under sharply
16 controlled circumstances where sanitary landfill or landfill
17 is not feasible and not in proximity to sanitary landfill or
18 landfill operations where spread of fire to these operations
19 may be a hazard in the opinion of the department.

20 "(f) Haulage. Trucks or other vehicles engaged in
21 the business of hauling garbage and rubbish shall be so
22 covered, secured, or sealed that there will be no loss during
23 haulage to cause littering of streets and highways, or cause a
24 nuisance or hazard to the public health.

25 "(g) Exception. (1) A person, household, business,
26 industry, or any property owner may store, haul, and dispose
27 of his or her own solid wastes on his or her land or

1 otherwise, provided such storage, haulage, or disposal is
2 accomplished pursuant to a certificate of exception as
3 provided in this subsection. In order to obtain a certificate
4 of exception, an application, an application fee, and plan
5 must be filed with the county health officer or his or her
6 designee in the case of household solid waste or with the
7 department in the case of solid waste from business or
8 industry, setting out the proposed method of storing, hauling,
9 and disposing of solid waste so as to comply with rules and
10 regulations adopted by the state or county boards of health or
11 the department as appropriate and not create a public nuisance
12 or hazard to the public health. The certification of exception
13 application fee shall be established by the State Board of
14 Health or the department, as the case may be, except that with
15 regard to an individual household such fee shall be ten
16 dollars (\$10). The proceeds from such application fees are
17 hereby appropriated to the State Board of Health or the
18 department, as the case may be, to be used for the
19 administration of this article. The county health officer or
20 his or her designee or the department as appropriate shall
21 investigate such application and plan and issue a certificate
22 of exception within the time set by the State Board of Health
23 or the department, as the case may be (not to exceed sixty
24 days in the case of an individual household), if such proposal
25 will, in such officer's or designee's or the department's
26 judgment, comply with such rules and regulations and
27 adequately prevent a public nuisance or hazard to public

1 health. A certificate of exception granted under authority of
2 this section shall be valid for the period established by the
3 department, except that in the case of an individual household
4 such period shall not exceed one year. The county health
5 officer or his or her designee or the department shall notify
6 the county commission or municipal governing body in writing
7 of the intention to grant a certificate of exception and no
8 such certificate of exception shall be granted for an
9 individual household without prior written approval of the
10 county commission or municipal governing body as the case may
11 be.

12 "(2) Notwithstanding any other provision of this
13 chapter to the contrary, no exception, exception fee, or any
14 other review, approval, or payment shall be required of any
15 generator for the collection, handling, or disposal of its own
16 solid waste using facilities or equipment owned by the
17 generator, its corporate parent, affiliate, or subsidiary and
18 duly permitted for such use by the Alabama Department of
19 Environmental Management or its successor in function."

20 Section 2. This act shall become effective on the
21 first day of the third month following its passage and
22 approval by the Governor, or its otherwise becoming law.