

1 HB447
2 134580-4
3 By Representatives Johnson (R) and Coleman
4 RFD: Commerce and Small Business
5 First Read: 01-MAR-12

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8 SYNOPSIS: Under existing law, a centralized waste
9 treatment facility applying for a wastewater and/or
10 industrial stormwater permit (hereinafter "permit")
11 or modification of a permit from the Alabama
12 Department of Environmental Management (ADEM) for
13 the processing or treatment of industrial wastes,
14 industrial wastewater, and/or used material is not
15 required, prior to the issuance of the permit, to
16 post a performance bond or other financial
17 assurance in an amount sufficient to close the
18 facility if the owner or operator abandons the
19 facility, ceases operation, or fails to properly
20 maintain the facility to ensure compliance with
21 state environmental regulations.

22 This bill would require certain centralized
23 waste treatment facilities seeking a permit from
24 the Alabama Department of Environmental Management
25 (ADEM) for the processing or treatment of
26 industrial wastes, industrial wastewater, and/or
27 used material to post a performance bond or other

1 financial assurance in an amount sufficient to
2 close the facility if the facility owner or
3 operator abandons the facility, ceases proper
4 operation, or fails to properly maintain the
5 facility to ensure compliance with state
6 environmental regulations.

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8 A BILL
9 TO BE ENTITLED
10 AN ACT

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12 To require certain centralized waste treatment
13 facilities seeking a permit or modification of a permit from
14 the Alabama Department of Environmental Management (ADEM) to
15 operate a facility that processes or treats industrial wastes,
16 industrial wastewater, and/or used material to post a
17 performance bond or other financial assurance in an amount
18 sufficient to close the facility if the facility owner or
19 operator ceases operation, abandons the facility, or fails to
20 properly maintain the facility to ensure compliance with state
21 environmental regulations.

22 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

23 Section 1. (a) Notwithstanding any provision of law,
24 the Alabama Department of Environmental Management (ADEM),
25 prior to the issuance of a permit or prior to a modification
26 of an existing permit, shall require certain centralized waste
27 treatment facilities, as defined by federal effluent

1 guidelines set forth at 40 CFR Part 437, when applying for or
2 modifying a permit for the operation of a facility that
3 processes or treats industrial wastes, industrial wastewater,
4 and/or used material to post a performance bond or other
5 financial assurance in an amount sufficient to close the
6 facility if the owner or operator ceases proper operation of
7 the facility, abandons the facility, or fails to properly
8 maintain the facility to ensure compliance with state
9 environmental regulations.

10 (b) The bond or other financial assurance may be
11 declared forfeited if required by ADEM when the owner or
12 operator abandons the facility, ceases operation of the
13 facility, or fails to properly maintain the facility to ensure
14 compliance with state environmental regulations.

15 (c) (1) The owner or operator shall have a minimum of
16 two detailed written estimates, in current dollars, of the
17 cost of hiring a third party to close a facility prior to
18 issuance of a permit or modification of a permit. The owner or
19 operator shall submit the closure cost estimates with the
20 permit application and submit a copy of the estimates with the
21 permit application.

22 (2) The owner or operator shall re-evaluate the
23 closure cost estimate and the amount of financial assurance
24 required if changes to the closure plan or facility conditions
25 significantly increase the maximum cost of closure at any time
26 during the active life of the facility. The owner or operator
27 shall submit any updated cost estimates and documentation of

1 the increase in financial assurances prior to initiating
2 changes at the facility which would insignificantly increase
3 the maximum cost of closure at any time during the active life
4 of the facility.

5 (d) Failure of the obligor of the bond or financial
6 assurance to provide service satisfactory to the department
7 shall constitute a cause of action for recovery in a civil
8 action at the instance of the department.

9 (e) ADEM shall promulgate rules necessary to
10 implement and administer the provisions of this section.

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