

1 HB181  
2 148951-5  
3 By Representatives McCampbell, Barton, Clouse, Johnson (K),  
4 Patterson, Davis, Greer, Williams (J), Boothe, Faust, Warren,  
5 Carns, Long, McMillan, Vance, Tuggle, Jackson, McClurkin,  
6 Beckman, Merrill, Wood, Fincher, Morrow, Beech and Hall  
7 RFD: Commerce and Small Business  
8 First Read: 06-FEB-13

1 ENGROSSED

2  
3  
4 A BILL  
5 TO BE ENTITLED  
6 AN ACT  
7

8 To amend Sections 22-30-4, 22-30B-2, 22-30B-2.1,  
9 22-30B-4, and 22-30B-4.1, Code of Alabama 1975, relating to  
10 fees paid by operators of commercial sites for the disposal of  
11 hazardous waste or hazardous substances; to provide further  
12 for a lower state and local combined fee for the disposal of  
13 hazardous waste and substances.

14 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

15 Section 1. Sections 22-30-4, 22-30B-2, 22-30B-2.1,  
16 22-30B-4, and 22-30B-4.1, Code of Alabama 1975, are amended to  
17 read as follows:

18 "§22-30-4.

19 "(a) The department has exclusive regulatory  
20 authority over all hazardous waste generation, transportation,  
21 storage, treatment and disposal and other management practices  
22 in the state, and shall, from time to time, investigate and  
23 monitor sources of generation, transportation, storage,  
24 treatment and disposal of hazardous waste. However, nothing in  
25 this chapter shall be construed to limit the authority of the  
26 Alabama Department of Public Health to regulate wastes

1 containing radioactive materials under Chapter 14 of this  
2 title.

3 "(b) In exercising such exclusive authority, the  
4 department shall provide sufficient personnel with training in  
5 hazardous waste management and a minimum of a bachelor's  
6 degree in the sciences or engineering to comprehensively  
7 monitor all commercial sites for the disposal of hazardous  
8 wastes. Such personnel shall be hired by the director and  
9 shall be members of the department's staff.

10 "(1) For the purposes of this section, a commercial  
11 site for the disposal of hazardous waste is defined as one  
12 receiving hazardous waste not generated on site for disposal  
13 and to which a fee is paid for such disposal.

14 "(2) Said personnel shall primarily be responsible  
15 for the monitoring of landfill and disposal programs at such  
16 sites, but their responsibilities shall include the monitoring  
17 and inspection of all activities related to such on site  
18 programs whether on site or off site. These responsibilities  
19 shall include but not be limited to monitoring of  
20 transportation near the site, monitoring of testing  
21 procedures, monitoring of the unloading of wastes, monitoring  
22 of waste storage, monitoring of waste disposal and monitoring  
23 of on site and off site areas of known or suspected  
24 contamination.

25 "(3) To finance such monitoring operations, there is  
26 hereby levied on the operators of such sites a fee of \$1.00  
27 per ton on all waste received for disposal at such sites which

1 fee shall be payable to the department by certified or cashier  
2 check or via electronic transfer each month. Notwithstanding  
3 the foregoing, no fee set forth in Section 22-27-17 shall be  
4 applicable to such sites. Any proceeds from such fees over and  
5 above those necessary to adequately provide for such  
6 monitoring operations may be used by the department for  
7 general operation.

8 "(c) The director, or any employee of the department  
9 designated by the director, may administer oaths to witnesses  
10 and may conduct hearings and investigations, and the director  
11 may sign and issue subpoenas requiring persons to appear  
12 before him, the department or any employee of the department  
13 designated by the director to give testimony or produce  
14 papers, books, accounts, payrolls, documents (including  
15 writings, drawings, graphs, charts, photographs, electronic  
16 readings and other data compilations from which information  
17 can be obtained, translated, if necessary, by the person  
18 subpoenaed, through detection devices into reasonably usable  
19 form), records or tangible things and the department through  
20 its designated employees, shall have the power to serve said  
21 subpoenas upon such person either personally or by sending a  
22 copy of such subpoena through the United States mail, postage  
23 prepaid, which said mail shall be registered or certified with  
24 return receipt attached, such service being complete when said  
25 registered or certified mail shall be delivered to said person  
26 and such receipt returned to the department, or its designated  
27 employee, signed by the person sought to be subpoenaed.

1 Obedience to a subpoena issued by the director may be enforced  
2 by application to any judge of the circuit court of the county  
3 in which said subpoena was issued or to the judge of any  
4 circuit court in which such person subpoenaed resides in the  
5 same manner as is provided by law for the grand jury of a  
6 county to enforce its subpoenas and with the same penalty as  
7 provided therefor for the failure of any person failing or  
8 refusing to comply with such subpoena. The fees of witnesses  
9 for attendance and travel shall be the same as fees of  
10 witnesses before courts of record and shall be paid from the  
11 funds of the board.

12 "§22-30B-2.

13 "(a) In addition to all other fees levied and  
14 collected prior to September 30, 1992, ~~there is hereby levied~~  
15 ~~a fee to be paid by the operators of each commercial site for~~  
16 ~~the disposal of hazardous waste or hazardous substances in the~~  
17 ~~amount of seventy-two dollars (\$72) per ton for certain waste~~  
18 ~~or substances disposed of at such site.~~

19 ~~"(b) The fee provided by subsection (a) shall apply~~  
20 ~~to all waste and substances which were generated inside of~~  
21 ~~Alabama and disposed of at a commercial site for the disposal~~  
22 ~~of hazardous waste or hazardous substances in Alabama~~  
23 ~~effective from July 15, 1990, to April 30, 1992, and shall be~~  
24 ~~paid to the Department of Revenue at the next applicable~~  
25 ~~monthly reporting and remittance date following adoption of~~  
26 ~~this section.~~

1           "~~(c) Beginning beginning on September 30, 1992, the~~  
2           ~~effective date of the act amending this subsection,~~ there is  
3           hereby levied fees on waste received for disposal to be paid  
4           by the operators of each commercial site for the disposal of  
5           hazardous waste or hazardous substances as follows:

6           "(1) A base fee of ~~forty-one dollars sixty cents~~  
7           ~~(\$41.60)~~ five dollars fifty cents (\$5.50) per ton in any  
8           commercial facility, ~~except for the facility located at~~  
9           ~~Emelle, Alabama,~~ and a base fee of ~~twenty-one dollars sixty~~  
10          ~~cents (\$21.60) per ton for the commercial facility located at~~  
11          ~~Emelle, Alabama,~~ on all hazardous waste that is identified or  
12          listed under Section 3001 of the Resource Conservation and  
13          Recovery Act of 1976 as amended (RCRA), and on polychlorinated  
14          biphenyl (PCB) wastes received for disposal which is required  
15          to be disposed of in a chemical waste landfill approved under  
16          the federal Toxic Substance Control Act (TSCA). ~~After May 1,~~  
17          ~~2006, emission control dust/sludge from the primary production~~  
18          ~~of steel in electric arc furnaces (K061) and any hazardous~~  
19          ~~waste that is de-characterized and thereby rendered~~  
20          ~~nonhazardous shall be exempt from the base fee levied by this~~  
21          ~~subdivision.~~

22          "~~(2) In addition to the base fee imposed in~~  
23          ~~subdivision (1), a fee of sixty-two dollars (\$62) per ton on~~  
24          ~~acute hazardous waste listed in 40 CFR 261.33(e) and having an~~  
25          ~~EPA Hazardous Waste Number designation beginning with the~~  
26          ~~letter "P", except residuals from incineration of such waste.~~

1           "~~(3) In addition to the base fee imposed in~~  
2           ~~subdivision (1), a fee of twenty-five dollars (\$25) per ton on~~  
3           ~~toxic hazardous waste listed in 40 CFR 261.33(f) and having an~~  
4           ~~EPA Hazardous Waste Number designation beginning with the~~  
5           ~~letter "U", except residuals from incineration of such waste.~~

6           "~~(4) (2) A fee of eleven dollars sixty cents~~  
7           ~~(\$11.60) five dollars fifty cents (\$5.50) per ton on all other~~  
8           ~~waste not subject to taxation in ~~subdivisions~~ subdivision (1)~~  
9           ~~through (3) and disposed of at a commercial site for the~~  
10           ~~disposal of hazardous waste and hazardous substances.~~

11           "Beginning on August 31, 1993, any hazardous waste  
12           or hazardous substance collected or removed from within the  
13           State of Alabama by any governmental entity or agency or any  
14           party performing those collection or removal activities  
15           pursuant to a contract with any governmental entity or agency,  
16           and any hazardous waste or hazardous substances collected or  
17           removed during an amnesty program authorized by the Alabama  
18           Department of Environmental Management, shall be exempt from  
19           the payment of the fees levied by this subsection. Provided,  
20           however, nothing in this subsection shall exempt the payment  
21           of fees levied on any hazardous waste or hazardous substances  
22           collected or removed from any site or location which is listed  
23           on the federal National Priorities List of Superfund Sites.

24           "~~(d) Fees assessed herein against the operators of~~  
25           ~~commercial sites for the disposal of hazardous waste or~~  
26           ~~hazardous substances shall not be applied until after October~~  
27           ~~1, 1992, to waste disposed of at such sites by secondary lead~~

1 ~~smelters to the extent that those fees exceed the fees in~~  
2 ~~effect on April 17, 1990; provided, however, that any business~~  
3 ~~or industry which is exempt from the payment of any fees or~~  
4 ~~taxes levied by this section that fails to develop and~~  
5 ~~implement the technology to eliminate the generation of~~  
6 ~~hazardous wastes and substances by October 1, 1992, shall pay~~  
7 ~~to the General Fund of the State of Alabama an amount equal to~~  
8 ~~the additional fees and taxes levied by this section that~~  
9 ~~would have been due and payable at that time by this section.~~  
10 ~~Provided, further, that in order for any taxpayer to qualify~~  
11 ~~for such exemption, a petition on a form provided by the~~  
12 ~~Department of Revenue must be submitted to the department not~~  
13 ~~later than September 30, 1991. The petition shall provide that~~  
14 ~~the exempted taxpayer acknowledge awareness of the provisions~~  
15 ~~of this section.~~

16           "§22-30B-2.1.

17           "(a) There is hereby provided to all counties having  
18 less than 25,000 population and wherein on April 17, 1990, a  
19 commercial site for the disposal of hazardous waste or  
20 hazardous substances is located, an annual payment of two and  
21 one-half percent of the gross receipts generated by Section  
22 22-30B-2(a) ~~and the receipts generated from the increase in~~  
23 ~~fees under Section 22-30B-2(c)~~ as provided herein over those  
24 fees in existence on October 1, 1989.

25           "(b) Any county identified in subsection (a) is  
26 hereby guaranteed an amount not to exceed the lesser of  
27 \$4,200,000.00 or 100 percent of the receipts to the state paid



1 on wastes or substances disposed of in the county. In  
2 determining whether a county is entitled to receive benefit of  
3 all or any portion of the guarantee herein made, there shall  
4 be charged against such county all receipts which it receives  
5 pursuant to this chapter and Alabama Act 83-480, 1983 Regular  
6 Session, or other applicable local act.

7 "(c) Determination of entitlement to the guarantee  
8 shall be made quarterly by the Governor or his or her designee  
9 not later than 45 days following the end of each quarter of  
10 the state's fiscal year. Such a determination shall be the  
11 difference in those fees payable to the county under this  
12 chapter and Alabama Act 83-480 and any other applicable local  
13 act for the three-month period ending the previous quarter as  
14 compared to the applicable guarantee amount of \$1,050,000.00  
15 per quarter.

16 "(d) In the event the guarantee provided in  
17 subsection (b) is required to be exercised, the Department of  
18 Revenue shall, within 10 days of notification from the  
19 Governor or his or her designee, certify to the State Finance  
20 Director that an appropriate amount as determined in  
21 subsection (c) from the first receipts generated by Act 90-326  
22 in each quarter of the fiscal year shall be paid to the  
23 appropriate county commission. The State Finance Director is  
24 hereby authorized to cause to be paid from current state  
25 revenues generated by Act 90-326, an amount which shall be  
26 paid as a reduction of current fiscal year revenues to the  
27 state, which payment shall not in any event exceed an amount

1 equal to the total current fiscal year revenues generated by  
2 Act 90-326 and paid into the State Treasury. The county  
3 commission shall, within 10 days of receipt of the funds,  
4 disburse the funds according to Alabama Act 83-480 or other  
5 applicable general or local laws.

6 "(e) In the event that, receipts to any county do  
7 not reach \$4,200,000.00 and such receipts are supplemented by  
8 revenue which would have accrued to the State General Fund in  
9 order to reach the guaranteed level of \$4,200,000.00, the  
10 county, beginning October 1, 1992, shall reimburse the State  
11 General Fund for any such revenue received by the county in  
12 those fiscal years in which the receipts to that county exceed  
13 \$4,200,000.00 by the amount that such receipts exceed  
14 \$4,200,000.00 until the State General Fund shall have been  
15 reimbursed in full.

16 "(f) Notwithstanding any provision of law to the  
17 contrary, revenues generated pursuant to Section  
18 ~~22-30B-2(a)(1) and (2) (c)(4) after May 1, 2006, from the~~  
19 ~~state fees on the disposal of emission control dust/sludge~~  
20 ~~from the primary production of steel in electric arc furnaces~~  
21 ~~(K061) and any hazardous waste that is de-characterized and~~  
22 ~~rendered non-hazardous at commercial hazardous waste disposal~~  
23 ~~facilities shall be distributed as follows:~~

24 ~~"(1) One-half to all counties having a commercial~~  
25 ~~site for the disposal of hazardous waste or hazardous~~  
26 ~~substances on or after May 1, 2006.~~

1           "~~(2) One-half~~ shall be distributed to the State  
2 General Fund with the first four hundred thousand dollars  
3 (\$400,000) each year earmarked for appropriation to the  
4 Department of Environmental Management. It is the intent of  
5 the Legislature that funding for the department provided in  
6 this subdivision be additional funding and shall not reduce  
7 any other appropriations from the State General Fund.

8           "\$22-30B-4.

9           "(a) ~~In addition to all~~ From any fees levied  
10 heretofore or from the funds guaranteed to any county as set  
11 forth in Section 22-30B-2.1, hereafter, expressly including  
12 ~~the tax levied in Section 22-30B-2, there is also hereby~~  
13 ~~levied a fee to be paid by the operators of each commercial~~  
14 ~~site for the disposal of hazardous waste in the amount of~~  
15 ~~\$1.90 per ton to be collected by the county and deposited to~~  
16 ~~credit of the general fund of the county wherein such~~  
17 ~~commercial hazardous waste disposal site is located; of this~~  
18 ~~fee~~ such fees or funds, \$.40 shall be expended for health  
19 purposes and the remainder for such purposes as may be  
20 appropriated by local act.

21           "~~(b) In addition to all other fees, there is also~~  
22 ~~hereby levied a fee to be paid by the operators of each~~  
23 ~~commercial site for the disposal of hazardous waste in the~~  
24 ~~amount of \$.50 per ton effective October 1, 1991, to be~~  
25 ~~collected by the county and deposited to the credit of the~~  
26 ~~county wherein such commercial hazardous waste disposal site~~

1 ~~is located, and all such proceeds shall be expended for such~~  
2 ~~purposes as may be appropriated by local act.~~

3           "~~(c)~~ (b) It is further provided that all provisions  
4 relating to the state fee including date of payment, required  
5 reporting, penalties, interest, property liens, record  
6 keeping, recovery of overpayment, and prosecution for  
7 violations shall also apply to the county fees levied by this  
8 section.

9           "§22-30B-4.1.

10           "~~Nothing in this amendatory act or any other law~~  
11 ~~shall prohibit the enactment of No county benefitting from the~~  
12 ~~funds set forth in Section 22-30B-2.1 shall enact any local~~  
13 ~~law levying an additional fee to be paid by the operators of~~  
14 ~~commercial sites for the disposal of hazardous waste or~~  
15 ~~hazardous substances."~~

16           Section 2. This act shall become effective on the  
17 first day of the first month following its passage and  
18 approval by the Governor, or its otherwise becoming law.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
  
16  
17  
18  
19

House of Representatives

Read for the first time and re-ferred to the House of Representa-tives committee on Commerce and Small Business..... . . . . . 06-FEB-13

Read for the second time and placed on the calendar with 1 substitute and..... . . . . . 21-FEB-13

Read for the third time and passed as amended..... . . . . . 19-MAR-13

Yeas 84, Nays 8, Abstains 4

Jeff Woodard  
Clerk