

1 HB181
2 147833-3
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 Boyd, Merrill, Wood, Fincher, Morrow, Beech and Hall
7 RFD: Commerce and Small Business
8 First Read: 06-FEB-13

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8 SYNOPSIS: Current law provides for a schedule of fees
9 that are paid by operators of commercial sites for
10 the disposal of hazardous waste. Generally, the
11 existing state base fee is \$21.60 per ton of
12 disposed hazardous waste.

13 This bill would provide for a lower fee of
14 \$10 per ton in combined state and local fees for
15 the disposal of hazardous waste identified under
16 federal law.

17
18 A BILL
19 TO BE ENTITLED
20 AN ACT

21
22 To amend Sections 22-30-4, 22-30B-2, 22-30B-2.1,
23 22-30B-4, and 22-30B-4.1, Code of Alabama 1975, relating to
24 fees paid by operators of commercial sites for the disposal of
25 hazardous waste or hazardous substances; to provide further
26 for a lower state and local combined fee for the disposal of

1 hazardous waste and substances; and to repeal 22-30B-20, Code
2 of Alabama 1975.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Sections 22-30-4, 22-30B-2, 22-30B-2.1,
5 22-30B-4, and 22-30B-4.1, Code of Alabama 1975, are amended to
6 read as follows:

7 "§22-30-4.

8 "(a) The department has exclusive regulatory
9 authority over all hazardous waste generation, transportation,
10 storage, treatment and disposal and other management practices
11 in the state, and shall, from time to time, investigate and
12 monitor sources of generation, transportation, storage,
13 treatment and disposal of hazardous waste. However, nothing in
14 this chapter shall be construed to limit the authority of the
15 Alabama Department of Public Health to regulate wastes
16 containing radioactive materials under Chapter 14 of this
17 title.

18 "(b) In exercising such exclusive authority, the
19 department shall provide sufficient personnel with training in
20 hazardous waste management and a minimum of a bachelor's
21 degree in the sciences or engineering to comprehensively
22 monitor all commercial sites for the disposal of hazardous
23 wastes. Such personnel shall be hired by the director and
24 shall be members of the department's staff.

25 "(1) For the purposes of this section, a commercial
26 site for the disposal of hazardous waste is defined as one

1 receiving hazardous waste not generated on site for disposal
2 and to which a fee is paid for such disposal.

3 "(2) Said personnel shall primarily be responsible
4 for the monitoring of landfill and disposal programs at such
5 sites, but their responsibilities shall include the monitoring
6 and inspection of all activities related to such on site
7 programs whether on site or off site. These responsibilities
8 shall include but not be limited to monitoring of
9 transportation near the site, monitoring of testing
10 procedures, monitoring of the unloading of wastes, monitoring
11 of waste storage, monitoring of waste disposal and monitoring
12 of on site and off site areas of known or suspected
13 contamination.

14 "(3) To finance such monitoring operations, there is
15 hereby levied on the operators of such sites a fee of \$1.00
16 per ton on all waste received for disposal at such sites which
17 fee shall be payable to the department by certified or cashier
18 check or via electronic transfer each month. Notwithstanding
19 the foregoing, no fee set forth in Section 22-27-17 shall be
20 applicable to such sites. Any proceeds from such fees over and
21 above those necessary to adequately provide for such
22 monitoring operations may be used by the department for
23 general operation.

24 "(c) The director, or any employee of the department
25 designated by the director, may administer oaths to witnesses
26 and may conduct hearings and investigations, and the director
27 may sign and issue subpoenas requiring persons to appear

1 before him, the department or any employee of the department
2 designated by the director to give testimony or produce
3 papers, books, accounts, payrolls, documents (including
4 writings, drawings, graphs, charts, photographs, electronic
5 readings and other data compilations from which information
6 can be obtained, translated, if necessary, by the person
7 subpoenaed, through detection devices into reasonably usable
8 form), records or tangible things and the department through
9 its designated employees, shall have the power to serve said
10 subpoenas upon such person either personally or by sending a
11 copy of such subpoena through the United States mail, postage
12 prepaid, which said mail shall be registered or certified with
13 return receipt attached, such service being complete when said
14 registered or certified mail shall be delivered to said person
15 and such receipt returned to the department, or its designated
16 employee, signed by the person sought to be subpoenaed.

17 Obedience to a subpoena issued by the director may be enforced
18 by application to any judge of the circuit court of the county
19 in which said subpoena was issued or to the judge of any
20 circuit court in which such person subpoenaed resides in the
21 same manner as is provided by law for the grand jury of a
22 county to enforce its subpoenas and with the same penalty as
23 provided therefor for the failure of any person failing or
24 refusing to comply with such subpoena. The fees of witnesses
25 for attendance and travel shall be the same as fees of
26 witnesses before courts of record and shall be paid from the
27 funds of the board.

1 "§22-30B-2.

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

8 "~~(b) The fee provided by subsection (a) shall apply~~
9 ~~to all waste and substances which were generated inside of~~
10 ~~Alabama and disposed of at a commercial site for the disposal~~
11 ~~of hazardous waste or hazardous substances in Alabama~~
12 ~~effective from July 15, 1990, to April 30, 1992, and shall be~~
13 ~~paid to the Department of Revenue at the next applicable~~
14 ~~monthly reporting and remittance date following adoption of~~
15 ~~this section.~~

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

21 "(1) A base fee of ~~forty-one dollars sixty cents~~
22 ~~(\$41.60) five dollars fifty cents (\$5.50) per ton in any~~
23 ~~commercial facility, except for the facility located at~~
24 ~~Emelle, Alabama, and a base fee of twenty-one dollars sixty~~
25 ~~cents (\$21.60) per ton for the commercial facility located at~~
26 ~~Emelle, Alabama, on all hazardous waste that is identified or~~
27 listed under Section 3001 of the Resource Conservation and

1 Recovery Act of 1976 as amended (RCRA), and on polychlorinated
2 biphenyl (PCB) wastes received for disposal which is required
3 to be disposed of in a chemical waste landfill approved under
4 the federal Toxic Substance Control Act (TSCA). ~~After May 1,~~
5 ~~2006, emission control dust/sludge from the primary production~~
6 ~~of steel in electric arc furnaces (K061) and any hazardous~~
7 ~~waste that is de-characterized and thereby rendered~~
8 ~~nonhazardous shall be exempt from the base fee levied by this~~
9 ~~subdivision.~~

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

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

20 ~~"(4) (2) A fee of ~~eleven dollars sixty cents~~~~
21 ~~~~(\$11.60) five dollars fifty cents (\$5.50) per ton on all other~~~~
22 ~~waste not subject to taxation in ~~subdivisions~~ subdivision (1)~~
23 ~~through (3) and disposed of at a commercial site for the~~
24 ~~disposal of hazardous waste and hazardous substances.~~

25 "Beginning on August 31, 1993, any hazardous waste
26 or hazardous substance collected or removed from within the
27 State of Alabama by any governmental entity or agency or any

1 party performing those collection or removal activities
2 pursuant to a contract with any governmental entity or agency,
3 and any hazardous waste or hazardous substances collected or
4 removed during an amnesty program authorized by the Alabama
5 Department of Environmental Management, shall be exempt from
6 the payment of the fees levied by this subsection. Provided,
7 however, nothing in this subsection shall exempt the payment
8 of fees levied on any hazardous waste or hazardous substances
9 collected or removed from any site or location which is listed
10 on the federal National Priorities List of Superfund Sites.

11 ~~"(d) Fees assessed herein against the operators of~~
12 ~~commercial sites for the disposal of hazardous waste or~~
13 ~~hazardous substances shall not be applied until after October~~
14 ~~1, 1992, to waste disposed of at such sites by secondary lead~~
15 ~~smelters to the extent that those fees exceed the fees in~~
16 ~~effect on April 17, 1990; provided, however, that any business~~
17 ~~or industry which is exempt from the payment of any fees or~~
18 ~~taxes levied by this section that fails to develop and~~
19 ~~implement the technology to eliminate the generation of~~
20 ~~hazardous wastes and substances by October 1, 1992, shall pay~~
21 ~~to the General Fund of the State of Alabama an amount equal to~~
22 ~~the additional fees and taxes levied by this section that~~
23 ~~would have been due and payable at that time by this section.~~
24 ~~Provided, further, that in order for any taxpayer to qualify~~
25 ~~for such exemption, a petition on a form provided by the~~
26 ~~Department of Revenue must be submitted to the department not~~
27 ~~later than September 30, 1991. The petition shall provide that~~

1 ~~the exempted taxpayer acknowledge awareness of the provisions~~
2 ~~of this section.~~

3 "§22-30B-2.1.

4 "(a) There is hereby provided to all counties having
5 less than 25,000 population and wherein on April 17, 1990, a
6 commercial site for the disposal of hazardous waste or
7 hazardous substances is located, an annual payment of two and
8 one-half percent of the gross receipts generated by Section
9 22-30B-2(a) ~~and the receipts generated from the increase in~~
10 ~~fees under Section 22-30B-2(c)~~ as provided herein over those
11 fees in existence on October 1, 1989.

12 "(b) Any county identified in subsection (a) is
13 hereby guaranteed an amount not to exceed the lesser of
14 \$4,200,000.00 or 100 percent of the receipts to the state paid
15 on wastes or substances disposed of in the county. In
16 determining whether a county is entitled to receive benefit of
17 all or any portion of the guarantee herein made, there shall
18 be charged against such county all receipts which it receives
19 pursuant to this chapter and Alabama Act 83-480, 1983 Regular
20 Session, or other applicable local act.

21 "(c) Determination of entitlement to the guarantee
22 shall be made quarterly by the Governor or his or her designee
23 not later than 45 days following the end of each quarter of
24 the state's fiscal year. Such a determination shall be the
25 difference in those fees payable to the county under this
26 chapter and Alabama Act 83-480 and any other applicable local
27 act for the three-month period ending the previous quarter as

1 compared to the applicable guarantee amount of \$1,050,000.00
2 per quarter.

3 "(d) In the event the guarantee provided in
4 subsection (b) is required to be exercised, the Department of
5 Revenue shall, within 10 days of notification from the
6 Governor or his or her designee, certify to the State Finance
7 Director that an appropriate amount as determined in
8 subsection (c) from the first receipts generated by Act 90-326
9 in each quarter of the fiscal year shall be paid to the
10 appropriate county commission. The State Finance Director is
11 hereby authorized to cause to be paid from current state
12 revenues generated by Act 90-326, an amount which shall be
13 paid as a reduction of current fiscal year revenues to the
14 state, which payment shall not in any event exceed an amount
15 equal to the total current fiscal year revenues generated by
16 Act 90-326 and paid into the State Treasury. The county
17 commission shall, within 10 days of receipt of the funds,
18 disburse the funds according to Alabama Act 83-480 or other
19 applicable general or local laws.

20 "(e) In the event that, receipts to any county do
21 not reach \$4,200,000.00 and such receipts are supplemented by
22 revenue which would have accrued to the State General Fund in
23 order to reach the guaranteed level of \$4,200,000.00, the
24 county, beginning October 1, 1992, shall reimburse the State
25 General Fund for any such revenue received by the county in
26 those fiscal years in which the receipts to that county exceed
27 \$4,200,000.00 by the amount that such receipts exceed

1 \$4,200,000.00 until the State General Fund shall have been
2 reimbursed in full.

3 ~~"(f) Notwithstanding any provision of law to the
4 contrary, revenues generated pursuant to Section
5 22-30B-2(c)(4) after May 1, 2006, from the state fees on the
6 disposal of emission control dust/sludge from the primary
7 production of steel in electric arc furnaces (K061) and any
8 hazardous waste that is de-characterized and rendered
9 non-hazardous at commercial hazardous waste disposal
10 facilities shall be distributed as follows:~~

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

14 ~~"(2) One-half shall be distributed to the State
15 General Fund with the first four hundred thousand dollars
16 (\$400,000) each year earmarked for appropriation to the
17 Department of Environmental Management. It is the intent of
18 the Legislature that funding for the department provided in
19 this subdivision be additional funding and shall not reduce
20 any other appropriations from the State General Fund.~~

21 ~~"§22-30B-4.~~

22 ~~"(a) In addition to all From any fees levied
23 heretofore or from the funds guaranteed to any county as set
24 forth in Section 22-30B-2.1, hereafter, expressly including
25 the tax levied in Section 22-30B-2, there is also hereby
26 levied a fee to be paid by the operators of each commercial
27 site for the disposal of hazardous waste in the amount of~~

1 ~~\$1.90 per ton to be collected by the county and deposited to~~
2 ~~credit of the general fund of the county wherein such~~
3 ~~commercial hazardous waste disposal site is located;~~ of this
4 ~~fee such fees or funds, \$.40 shall be expended for health~~
5 ~~purposes and the remainder for such purposes as may be~~
6 ~~appropriated by local act.~~

7 ~~"(b) In addition to all other fees, there is also~~
8 ~~hereby levied a fee to be paid by the operators of each~~
9 ~~commercial site for the disposal of hazardous waste in the~~
10 ~~amount of \$.50 per ton effective October 1, 1991, to be~~
11 ~~collected by the county and deposited to the credit of the~~
12 ~~county wherein such commercial hazardous waste disposal site~~
13 ~~is located, and all such proceeds shall be expended for such~~
14 ~~purposes as may be appropriated by local act.~~

15 ~~"(c) (b) It is further provided that all provisions~~
16 ~~relating to the state fee including date of payment, required~~
17 ~~reporting, penalties, interest, property liens, record~~
18 ~~keeping, recovery of overpayment, and prosecution for~~
19 ~~violations shall also apply to the county fees levied by this~~
20 ~~section.~~

21 ~~"§22-30B-4.1.~~

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

1 Section 2. Section 22-30B-20, Code of Alabama 1975,
2 is repealed.

3 Section 3. This act shall become effective on the
4 first day of the first month following its passage and
5 approval by the Governor, or its otherwise becoming law.