

1 HB292
2 154962-3
3 By Representatives Baker, Davis, Faust, Jackson, Baughn,
4 Shiver, McMillan, Drake, Harper, Weaver, Collins, Nordgren,
5 Wallace, Jones, Lee, Chesteen and Merrill
6 RFD: County and Municipal Government
7 First Read: 16-JAN-14

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8 SYNOPSIS: This bill would amend Section 22-27-48, Code
9 of Alabama 1975, relating to the process of
10 obtaining a permit for solid waste disposal
11 facilities, to require the local governing body to
12 affirmatively approve an application for a new or
13 modified permit for such a facility, and to require
14 an applicant for a permit to submit a written
15 document addressing specific criteria for
16 consideration by the governing body.

17
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 local governing body review of a proposal related
24 to solid waste disposal management plans; to require a local
25 governing body to affirmatively approve a new or modified
26 permit application for a solid waste disposal facility within
27 a certain period of time, or the proposal or application would

1 be deemed denied; and to provide that an applicant provide
2 specific written criteria to be considered by the local
3 governing body.

4 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

7 "§22-27-48.

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

25 ~~"In determining whether to recommend approval of the~~
26 ~~proposed issuance of or modification of a new or existing~~

1 ~~solid waste management site, the governing body shall consider~~
2 ~~each of the following:~~

3 "The local governing body shall determine whether to
4 recommend approval of the proposed issuance of a new or
5 modification of an existing solid waste management site. To
6 officially begin the application process with the local
7 governing body while simultaneously allowing for public review
8 thereof, the applicant shall submit a written document
9 addressing each of the following six criteria for the
10 governing body to consider:

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

14 "(2) The relationship of the proposal to local
15 planned or existing development or the absence thereof, to
16 major transportation arteries and to existing state primary
17 and secondary roads;

18 "(3) The location of a proposed facility in
19 relationship to existing industries in the state that generate
20 large volumes of solid waste, or the relationship to the areas
21 projected for development of industries that will generate
22 solid waste;

23 "(4) Costs and availability of public services,
24 facilities and improvements required to support a proposed
25 facility and protect public health, safety and the
26 environment;

1 "(5) The impact of a proposed facility on public
2 safety and provisions made to minimize the impact on public
3 health and safety; and

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

7 "The application of the plan for local approval
8 shall be accompanied by an application fee payable to the
9 local governing body in an amount equal to 20 percent of the
10 application or permit fee required by the department, but
11 local approval shall not apply to simple renewals of a permit
12 which is to be otherwise unchanged. Further, there shall be no
13 requirement for local review and approval of permit
14 modifications for the limited purposes of changing liner and
15 leachate collection design, changes in waste streams from
16 within the facility's designated service area, changes in
17 sequence of fill, changes to incorporate new technology and
18 changes intended to bring a facility into compliance with
19 statutes and regulations. A renewed application for local
20 approval submitted within 18 months of an application being
21 denied or rejected by the local governing body shall be
22 accompanied by an application fee payable to the local
23 governing body in an amount equal to 50 percent of the
24 application or permit fee required by the department.

25 "Any determination by the local governing body of
26 the proposed issuance of or modification of a permit for a new
27 or existing solid waste management site or the proposal to

1 contract for any services described in the solid waste
2 management plan, shall be made in a public meeting only after
3 public notice of such application or proposal and an
4 opportunity for public comment is provided.

5 "In providing public notice of any application or
6 proposal regarding any services described in the solid waste
7 management plan, the local government shall at a minimum hold
8 at least one public hearing thereon, notice of the time and
9 place of which shall be given by one publication in a
10 newspaper of general circulation in the municipality and in
11 the official gazette, if any, of the jurisdiction.

12 Furthermore, such notice shall be given at least 30 days but
13 not more than 45 days prior to the proposed date of the
14 hearing. Each notice published in compliance with this section
15 shall contain at a minimum a description of the proposed
16 action to be considered, its relevance to and consistency with
17 the local solid waste management plan and shall identify a
18 contact person from whom interested persons can obtain
19 additional information and can review copies of both the local
20 plan and the application or proposal to be considered. All
21 pertinent documents shall be available for inspection during
22 normal business hours at a location readily accessible to the
23 public. Within ~~90~~ 180 days of receiving an application or
24 proposal, the local governing body shall either approve the
25 application or deny the application setting forth the reasons
26 therefor. The failure of the local governing body to ~~act on~~
27 the approve an application or proposal within ~~90~~ 180 days of

1 receiving the application or proposal shall constitute
2 ~~approval~~ denial by the local governing body.

3 "(b) Following local review and approval of any
4 proposal regarding services or activities described in the
5 local solid waste management plan, the applicant shall obtain
6 a statement of consistency from the regional planning and
7 development commission. Therein, the commission shall evaluate
8 the proposal using the provisions of the current regional
9 solid waste management needs assessment. In particular, the
10 regional commission shall evaluate the proposal as it relates
11 to available existing capacity within the region and the
12 projected lifetime of such capacity. The evaluation shall also
13 identify any proposed capacity which is in excess of expected
14 regional needs. No statement of consistency shall be required
15 for contracts exclusively for the collection or transportation
16 of solid wastes.

17 "(c) Plans or local approval required by this
18 section shall not apply to industrial landfills receiving
19 wastes generated on site only or by the permittee."

20 Section 2. This act shall become effective
21 immediately following its passage and approval by the
22 Governor, or its otherwise becoming law.