

1 HB475
2 157805-2
3 By Representative Carns
4 RFD: Commerce and Small Business
5 First Read: 13-FEB-14

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8 SYNOPSIS: This bill would allow the governing bodies
9 of all counties and municipalities in the state
10 which are now or may hereafter be specifically
11 designated in 40 C.F.R. Part 122, including but not
12 limited to, any revisions promulgated by the
13 Environmental Protection Agency (EPA) in
14 conjunction with any expansion of the agency's
15 municipal separate storm sewer system program or by
16 the Alabama Department of Environmental Management
17 (ADEM) pursuant to the authority delegated to it
18 under the Clean Water Act, 33 U.S.C. Section 1251
19 et seq., the authority to carry out the
20 requirements of the municipal separate storm sewer
21 system program.

22 This bill would provide the governing bodies
23 with the option to establish intercooperative
24 public corporations for efficient compliance with
25 applicable federal and state laws, rules, and
26 regulations relating to storm water discharges into
27 municipal separate storm sewers.

1 This bill would expressly limit the
2 jurisdictional scope of certain local storm water
3 management programs.

4 This bill would permit regulation of only
5 those sites discharging storm water into a
6 program's municipal separate storm sewer system.

7 This bill would acknowledge EPA's "maximum
8 extent practicable" standard applicable to its
9 municipal separate storm sewer system program.

10 This bill would require adherence by each
11 county of the tenets of Section 111.05 of Article
12 IV of the Constitution of Alabama of 1901, and the
13 limited authorities of self-governance conferred
14 upon counties pursuant to Chapters 3 and 3A of
15 Title 11 of the Code of Alabama 1975.

16 This bill would expressly limit the
17 substantive scope of certain local storm water
18 management programs.

19 This bill would clearly delineate the type
20 of fees, charges, or assessments a governing body
21 and/or certain public corporations levy and from
22 whom such fees, charges, or assessments shall be
23 levied.

24 This bill would exempt discharges
25 originating from any lands and/or facilities owned
26 and/or operated by one or more entities under the
27 jurisdiction and supervision of the Alabama Public

1 Service Commission from regulation under any local
2 storm water management program and declare that
3 such discharges shall be regulated exclusively by
4 ADEM.

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6 A BILL
7 TO BE ENTITLED
8 AN ACT
9

10 To amend Sections 11-89C-1, 11-89C-2, 11-89C-4,
11 11-89C-9, and 11-89C-10 of the Code of Alabama 1975, to
12 provide the governing bodies of all counties or municipalities
13 in the state which are now or may hereafter be subject to
14 regulation pursuant to the Environmental Protection Agency
15 (EPA) municipal separate storm sewer system program the
16 authority to carry out the requirements of the municipal
17 separate storm sewer system program and to provide such
18 governing bodies with the option to establish intercooperative
19 public corporations for efficient compliance with applicable
20 federal and state laws, rules, and regulations relating to
21 discharges into and from municipal separate storm sewers; to
22 codify the Legislature's express intent in enacting Chapter
23 89C of Title 11 of the Code of Alabama 1975; to limit the
24 jurisdictional scope of local storm water management programs
25 created pursuant to Chapter 89C of Title 11 to include only
26 those sites discharging into municipal separate storm sewer
27 systems; to acknowledge EPA's "maximum extent practicable"

1 standard applicable to its municipal separate storm sewer
2 system program; to adhere to the tenets of Section 111.05 of
3 Article IV of the Constitution of Alabama of 1901, and the
4 limited authorities of self-governance conferred upon counties
5 pursuant to Chapters 3 and 3A of Title 11 of the Code of
6 Alabama 1975; to enact as enforceable law the proclamations of
7 the Legislature enumerated in House Joint Resolution 144
8 (1997), Act 97-931, by expressly limiting the substantive
9 scope of local storm water management programs created and
10 carried out pursuant to Chapter 89C of Title 11 to include
11 only those rules, regulations, and/or aspects that are
12 absolutely required to satisfy the Clean Water Act, as
13 specifically set out in the Code of Federal Regulations,
14 because the federal initiative upon which this regulatory
15 scheme is based is an unfunded mandate; to clarify that the
16 Alabama Department of Environmental Management (ADEM) shall
17 maintain primary permitting and enforcement responsibility for
18 all ADEM NPDES sites and that local storm water management
19 programs shall primarily rely upon ADEM for these functions,
20 to the fullest extent allowed by applicable state and federal
21 laws, rather than subjecting such sites to double regulation;
22 to establish the type of fees, charges, or assessments a
23 governing body and/or a public corporation established
24 pursuant to Chapter 89C shall levy and from whom such fees,
25 charges, or assessments shall be levied; and to exempt
26 discharges originating from any lands and/or facilities owned
27 and/or operated by one or more entities under the jurisdiction

1 and supervision of the Alabama Public Service Commission from
2 regulation under any local storm water management program and
3 declare that such discharges shall be regulated exclusively by
4 ADEM.

5 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

6 Section 1. Sections 11-89C-1, 11-89C-2, 11-89C-4,
7 11-89C-9, and 11-89C-10 of the Code of Alabama 1975, are
8 amended to read as follows:

9 "§11-89C-1.

10 "(a) The Legislature finds and declares that it is
11 in the public interest and the health, safety, and welfare of
12 the citizens of this state and within the police power of the
13 state, county, and municipal governments to promote effective
14 and efficient compliance with federal and state laws, rules,
15 regulations, and ~~municipal~~ permits relating to ~~storm water~~
16 discharges into and from municipal separate storm sewers, and
17 to promote and authorize the discovery, control, and
18 elimination, wherever practicable, of that discharge at the
19 local government level.

20 "(b) It is the intention of the Legislature by
21 passage of this chapter to assist the state in its
22 implementation of the storm water laws, and to supplement the
23 authority of the governing bodies of all counties and
24 municipalities in the state to enable them to implement the
25 storm water laws.

26 "(c) It is further the intention of the Legislature
27 to authorize and promote the intercooperation of the governing

1 bodies in implementing the storm water laws and the purposes
2 of this chapter.

3 "(d) It is further the intention of the Legislature
4 to authorize governing bodies to determine the methods and
5 procedures they shall use to carry out the storm water laws
6 and this chapter, to make their respective participation in a
7 public corporation intercooperation program optional, and to
8 adopt policies and procedures pertaining to their
9 responsibilities in the program and the procedure for entry
10 into and exit from the program. It is the intention of the
11 Legislature to grant the governing bodies, whether in the
12 program or acting individually, the enforcement authority
13 needed in order to satisfy the requirements of storm water
14 laws, further, to act by resolution or ordinance enforceable
15 in their respective municipal courts or the district courts
16 and by civil procedures in district and circuit courts,
17 including fines, penalties, damages, and injunction as
18 authorized and appropriate. It is the intention of the
19 Legislature to grant governing bodies the authority to
20 determine their financial needs to fund the administration,
21 operations, and projects of the program, their individual
22 needs, and the methods to generate and collect the necessary
23 revenue and to authorize the use of the assessment, billing,
24 and collection capabilities and authority of the respective
25 county tax assessors and tax collectors for that purpose. It
26 is the intention of the Legislature that any public
27 corporations created pursuant to this chapter implement an

1 efficient and effective storm water program that promotes the
2 fullest public participation feasible.

3 "(e) It is further the intention of the Legislature
4 to limit the jurisdictional scope of local storm water
5 management programs to include only those sites discharging
6 into the municipal separate storm sewer system and, because
7 this federal initiative is an unfunded mandate, to limit the
8 substantive scope of such local programs to include only those
9 rules, regulations, and/or aspects that are absolutely
10 required to satisfy the Clean Water Act, as specifically set
11 out in the Code of Federal Regulations. It is the intention of
12 the Legislature to provide a funding mechanism to aid local
13 storm water management programs in meeting the financial
14 obligations imposed by this unfunded federal mandate provided
15 that the expenses of such programs are restrained by the
16 strict limitations on the scope of the programs to include
17 only those rules, regulations, and/or aspects that are
18 absolutely required to satisfy the Clean Water Act, as
19 specifically set out in the Code of Federal Regulations.

20 "(f) It is further the intention of the Legislature
21 for an individual governing body or public corporation to
22 primarily rely upon ADEM, to the fullest extent allowed by
23 applicable state and federal laws, for the permitting and
24 enforcement of all ADEM NPDES sites rather than subjecting
25 such sites to double regulation.

26 "§11-89C-2.

1 "As used in this chapter, the following words and
2 phrases shall have the following meanings:

3 ~~"(1) GOVERNING BODY. The governing bodies of all
4 Class 1 municipalities within the state and the county
5 governing bodies in which the Class 1 municipalities are
6 located and the governing bodies of all municipalities located
7 within those counties, and where any such municipality is also
8 located partially within an adjoining county, then the
9 governing body of such adjoining county, and which governing
10 bodies are specifically designated in 40 C.F.R. Part 122,
11 Appendices F, G, H, or I or by ADEM pursuant to the authority
12 delegated to it under the Clean Water Act, 33 U.S.C. Section
13 1251 et seq., as of August 8, 1995.~~

14 "(1) AGRICULTURAL LAND. Any real property classified
15 or assessed as agricultural or forest land for property tax
16 purposes.

17 "(2) GOVERNING BODY. The governing body of a county
18 or municipality in the state which is now or may hereafter be
19 specifically designated in 40 C.F.R. Part 122, including, but
20 not limited to, any appendices or revisions promulgated by EPA
21 in conjunction with any expansion of the agency's municipal
22 separate storm sewer system program (e.g. Phase III, Phase IV,
23 and/or equivalent expansions), or by ADEM pursuant to the
24 authority delegated to it under the Clean Water Act, 33 U.S.C.
25 §1251 et seq.

26 "(3) GREENFIELD. Any real property not previously
27 developed.

1 "~~(2)~~ (4) ILLICIT DISCHARGE. Any discharge to a
2 municipal separate storm sewer that is not composed entirely
3 of storm water, except discharges pursuant to an NPDES permit
4 (other than the NPDES permit for discharges from the municipal
5 separate storm sewer) and discharges resulting from fire
6 fighting and emergency management activities.

7 "~~(3)~~ (5) MEMBER GOVERNING BODY. A governing body
8 that joins a public corporation established pursuant to this
9 chapter.

10 "~~(4)~~ (6) MUNICIPAL SEPARATE STORM SEWER. A
11 conveyance or system of conveyances, including roads with
12 drainage systems, municipal streets, catch basins, curbs,
13 gutters, ditches, manmade channels, or storm drains:

14 "(i) Owned or operated by a city, town, county,
15 association, or other public body;

16 "(ii) Designed or used for collecting or conveying
17 storm water;

18 "(iii) Which is not a combined sewer; and

19 "(iv) Which is not part of a publicly owned
20 treatment works as defined in 40 C.F.R. §122.2.

21 "~~(5)~~ (7) PUBLIC CORPORATION. Any public corporation
22 created pursuant to this chapter.

23 "~~(6)~~ (8) RULE. Any public corporation regulation or
24 standard of general applicability that prescribes or
25 recommends law, procedure or policy for its member governing
26 bodies specifically including all pro forma ordinances,

1 regulations, resolutions, rules, procedures or remedies
2 adopted and recommended by a public corporation.

3 ~~"(7)~~ (9) STORM WATER DISCHARGE ASSOCIATED WITH
4 INDUSTRIAL ACTIVITY. The discharge from any conveyance which
5 is used for collecting and conveying storm water and which is
6 directly related to manufacturing, processing, or raw
7 materials storage areas at an industrial plant. The term does
8 not include discharges from facilities or activities excluded
9 from the NPDES program under 40 C.F.R. Part 122, but shall
10 include discharges from facilities which are included in the
11 categories of industries listed in 40 C.F.R. §122.26(b) (14) (i)
12 through (xi), inclusive, together with all subsequent
13 categories of industries which may be so designated in 40
14 C.F.R. §122.26(b) (14) by ~~the Environmental Protection Agency~~
15 ~~(EPA)~~ EPA.

16 ~~"(8)~~ (10) STORM WATER LAWS. Those provisions of the
17 Clean Water Act, 33 U.S.C. §1251 et seq., together with all
18 other and subsequent applicable federal and state laws, rules,
19 and regulations, as set out in applicable permits, and
20 ~~municipal permits~~ relating specifically to the control of ~~the~~
21 ~~pollution of storm water discharges to~~ into and from municipal
22 separate storm sewers, but specifically excluding any guidance
23 and/or interpretations of said laws, rules, and/or regulations
24 not promulgated in accordance with the Alabama Administrative
25 Procedure Act or Administrative Procedure Act, 5 U.S.C. §500
26 et seq.

27 "§11-89C-4.

1 "(a) Any When expressly required to comply with
2 storm water laws, any public corporation created pursuant to
3 this chapter shall have the following powers:

4 "(1) To establish, maintain, and operate an
5 organizational structure pursuant to this chapter, its
6 original or amended certification, and its bylaws or other
7 rules of procedure, that will enable it to implement the storm
8 water laws for and on behalf of any governing body that
9 exercises the option to participate in or with a public
10 corporation, ~~however, except~~ provided that no new or greater
11 authorities or powers other than those specifically granted to
12 the governing bodies are conferred upon any public corporation
13 formed pursuant to this chapter. Except for the authority
14 provided in subdivision (20), authority to enforce the storm
15 water laws is retained wholly and exclusively to the governing
16 bodies and may not be further delegated to or assumed by the
17 public corporation, its agents or employees.

18 "(2) To establish the procedure by which a ~~member~~
19 governing body may elect to join the public corporation and by
20 which a member governing body may elect to withdraw from the
21 public corporation.

22 "(3) To establish a board of directors to serve as
23 the governing body of the corporation to establish policy and
24 procedure for the corporation. The board shall consist of one
25 representative from each member governing body. The
26 representative shall be the mayor, if the member governing
27 body is a governing body of a municipality, or a county

1 commissioner, if the member governing body is a governing body
2 of a county. The board shall designate at least three members,
3 and no more than five members, to serve as an executive
4 committee to perform the executive and administrative
5 functions of the corporation. The executive committee shall
6 include one county commissioner from the largest county member
7 governing body, if there is one, and at least two mayors. If
8 there is no county member governing body, there shall be at
9 least three mayors; or if there are no participating
10 municipalities, there shall be at least three county
11 commissioners, representing different counties. The board
12 shall elect one executive committee member as chair, one as
13 co-chair, and one as secretary. Individual board and executive
14 committee members shall serve without compensation, but shall
15 be entitled to reasonable actual expenses that are properly
16 documented and authorized. All other needed organizational
17 matters, bylaws, rules of procedure, and officers shall be
18 determined by the board of directors.

19 "(4) To employ individuals directly or indirectly
20 through loaned, detailed, or assigned employees from the
21 member governing bodies or other entities. Employees directly
22 employed by the public corporation shall be eligible to
23 participate in the employee benefit programs of any member
24 governing body, including insurance and pension programs, upon
25 approval of the executive committee and the subject member
26 governing body.

1 "(5) To enter into contracts with individuals,
2 governing bodies, member governing bodies, governmental
3 agencies, professional associations, corporations,
4 partnerships, and other legal entities to implement the
5 functions of this chapter.

6 "(6) To purchase, lease, license, own, or otherwise
7 acquire real and personal property, including easements,
8 rights of way, and all other interests in land, including
9 municipal separate storm sewers, buildings, and other
10 facilities and equipment.

11 "(7) To construct, operate, maintain, repair, and
12 replace facilities for storm water functions.

13 "(8) To contract with member governing bodies for
14 the construction, improvement, renovation, management, or
15 operation of their municipal separate storm sewer systems.

16 "(9) To purchase or obtain insurance and other
17 appropriate tangibles and intangibles.

18 "(10) To apply for, solicit, and otherwise obtain
19 and receive from any governmental, public, or private source,
20 grants, contributions, and donations, of money, all forms of
21 property, equipment, supplies, services, and labor.

22 "(11) To hold and invest its moneys in all legal
23 forms of investment for fiduciaries.

24 "(12) To salvage, lend, lease, or sell by cash or
25 installment, with or without interest, its lands, interest in
26 land, facilities, equipment, and other property.

1 "(13) To undertake or participate in studies,
2 surveys, analyses, or investigations of storm water runoff and
3 other functions of the storm water laws and this chapter.

4 "(14) To adopt necessary and appropriate policies,
5 procedures, rules, and regulations applicable to the member
6 governing bodies ~~in accordance with EPA and/or ADEM permits~~
7 ~~and rules and regulations~~ to implement the storm water laws
8 ~~and the functions of~~ in accordance with this chapter.

9 "(15) To develop and hold public hearings on pro
10 forma resolutions or ordinances, or both, which may be adopted
11 by any member governing body to implement this chapter.

12 "(16) To develop pro forma remedies and procedures
13 for the enforcement of resolutions or ordinances, or both,
14 adopted to implement this chapter.

15 "(17) To sue and be sued, except as immunized
16 hereby, in its own name and to appear in all administrative
17 forums.

18 "(18) To establish the cost, charges, fees, or
19 assessments as required of the member governing bodies for
20 participation in the public corporation, necessary to fund the
21 operation, activities, projects, and facilities of the
22 corporation.

23 "(19) ~~To~~ In accordance with the provisions of
24 Section 11-89C-10, to establish the procedure for the
25 assessment and collection by the tax assessor and tax
26 collector of the respective counties or other public official

1 performing those functions, of any fees, charges, or
2 assessments levied by a member governing body.

3 "(20) To authorize any officer, employee, or other
4 agent of the public corporation to enter upon private or
5 public property under the regulatory jurisdiction of one or
6 more of its member governing bodies during normal business
7 hours and upon the presentation of appropriate credentials for
8 the purpose of performing investigations regarding the
9 existence and source of contamination, and determining from
10 the owner or other appropriate individual the methods they
11 will employ to stop, neutralize, remove, or otherwise remedy
12 the contamination. Any officer, employee, or other authorized
13 agent who performs the duties authorized under this section in
14 accordance with provisions hereof shall be immune from arrest
15 and prosecution for trespass in performing any legal duty
16 pursuant to this chapter by presenting identification issued
17 or authorized by the public corporation.

18 "(21) To do any and all things necessary or
19 convenient to implement and administer this chapter.

20 "(b) In the development of any rule or procedures
21 for the enforcement of such, any public corporation created
22 pursuant to this chapter shall do all of the following:

23 "(1) Set a date and time for a public hearing and
24 afford the public and interested parties an opportunity to
25 offer written comments, and to present testimony and evidence
26 in support of their respective positions as to the proposed
27 resolutions, ordinances, remedies, or procedures and may have

1 counsel to represent them at their own expense. The board of
2 the corporation shall consider fully all written and oral
3 submissions presented. At the conclusion of this hearing and
4 any continuation thereof, the board of the corporation may
5 modify or withdraw such proposals or may adopt such pro forma
6 resolutions, ordinances, remedies, or procedures which are
7 reasonable and supported by evidence from the proposal itself,
8 the public comments submitted thereupon and the public hearing
9 record and which shall be thereafter presented to the member
10 municipal or county governing bodies, or both, for their
11 consideration. Adoption of any rule shall require an
12 affirmative vote of at least two-thirds (2/3) of the members
13 of the board of the corporation. ~~Upon~~ No later than 30 days
14 following the adoption of a rule, the public corporation shall
15 issue a statement reflecting the reasoning and evidence
16 supporting adoption of the rule and an explanation for
17 rejecting the evidence or assertions made urging modification
18 or withdrawal of the rule.

19 "(2) Give notice of the hearing by publishing in a
20 newspaper of general circulation published within the county
21 in which the corporation members exist at least ~~30~~ 45 days
22 prior to the date of the hearing stating the date, time, and
23 location of the hearing, and including either the terms or the
24 substance of the proposals to be considered or a description
25 of the subjects and issues involved, the address of the
26 location where copies of the proposed resolution, ordinances,
27 remedies and procedures may be inspected or copies thereof

1 obtained, and the manner in which interested persons may
2 present their views thereon. Every proposed rule shall be
3 accompanied by a thorough statement identifying and explaining
4 the purpose and support for its adoption. The notice shall
5 also be timely delivered by electronic means (i.e., email
6 notification) to all persons who have made timely request of
7 the corporation in advance for advance electronic notice of
8 any such hearings and timely mailed to all persons who pay the
9 cost of the mailing and who have made timely request of the
10 corporation in advance for advance notice by mail of any such
11 hearings.

12 "(3) Make available for public inspection and
13 copying, at cost, any such proposed resolutions, ordinances,
14 remedies, and procedures at least thirty (30) days prior to
15 the hearing.

16 "(c) The governing bodies shall satisfy all
17 statutory requirements applicable to the respective governing
18 bodies for adoption of ordinances, including notice and public
19 hearing, before adopting any such pro forma resolutions,
20 ordinances, remedies, and procedure, however, adoption by a
21 member governing body of any ordinance or resolution
22 recommended by the board of the public corporation or
23 authorized by this statute shall require an affirmative vote
24 of at least a majority of the members of the council or
25 commission authorized to adopt such ordinances or resolutions
26 in the governing body.

27 "§11-89C-9.

1 "(a) A governing body ~~may~~ shall proceed under this
2 chapter as a participant in the public corporation or
3 individually, to adopt upon reasonable public notice and
4 following public hearing all necessary rules and regulations
5 by resolution or ordinance to implement this chapter and to
6 specifically regulate and control storm water discharges and
7 eliminate the discharge of pollutants to its municipal
8 separate storm sewers, except that all discharges originating
9 from any lands and/or facilities owned and/or operated by one
10 or more entities under the jurisdiction and supervision of the
11 Alabama Public Service Commission are exempted from regulation
12 under any local storm water management program and shall be
13 regulated exclusively by ADEM. The rules and regulations
14 adopted pursuant to this chapter shall be ~~in accordance with~~
15 ~~those contained in the EPA NPDES program; however, the rules~~
16 ~~and regulations shall not impose any additional requirements~~
17 ~~than those mandated by the EPA.~~ In limited to include only
18 those rules, regulations, and/or aspects that are absolutely
19 required to satisfy the storm water laws. In establishing
20 these rules and regulations, an individual governing body or
21 public corporation shall, to the fullest extent allowed by
22 applicable storm water laws, primarily rely upon ADEM for the
23 enforcement and permitting of discharges to its municipal
24 separate storm sewers from sites required to have an ADEM
25 NPDES permit, rather than subjecting these sites to double
26 enforcement or permitting. Consistent with and in furtherance

1 of these objectives, the governing bodies may do all of the
2 following:

3 "(1) Control by resolution, ordinance, contract,
4 order, or similar means the discharge of pollutants to its
5 municipal separate storm sewers by storm water discharges
6 associated with industrial activity and the quality of storm
7 water discharged from sites of industrial activity.

8 "(2) Prohibit by resolution, ordinance, order, or
9 similar means illicit discharges to its municipal separate
10 storm sewers.

11 "(3) Control by resolution, ordinance, order, or
12 similar means the discharge to its municipal separate storm
13 sewers of spills, dumping, or disposal of materials other than
14 storm water.

15 "(4) Control by interagency or intercooperation
16 agreements among the governing bodies and other entities the
17 discharge of pollutants from one portion of its municipal
18 storm water system to another portion.

19 "(5) Require compliance with conditions in
20 resolutions, ordinances, contracts, or orders.

21 "(6) Enter upon private property under its
22 regulatory jurisdiction upon reasonable notice to the owner
23 and the person in possession thereof and during normal
24 business hours and upon the presentation of appropriate
25 credentials for the purpose of performing investigations
26 regarding the existence and source of contamination and
27 determining from the owner or other appropriate individual the

1 methods which they will employ to stop, neutralize, remove, or
2 otherwise remedy the contamination, and as needed to determine
3 compliance or non-compliance with permit conditions, including
4 any prohibition of illicit discharges to its municipal
5 separate storm sewers. Any officer, employee, or other
6 authorized agent who performs the duties authorized under this
7 section in accordance with provisions hereof shall be immune
8 from arrest and prosecution for trespass while performing any
9 legal duty pursuant to this chapter by presenting
10 identification issued from the county or municipality
11 authorized by the governing bodies.

12 "(b) The governing bodies may develop and adopt
13 common and uniform or partly common and partly uniform
14 resolutions, ordinances, contracts, orders, or similar means
15 in their respective actions and procedures to implement this
16 chapter.

17 "(c) Any governing body may join with any other
18 governing body to establish or participate in or with a public
19 corporation, or with any other public corporation, authority,
20 or district authorized by the Legislature to implement this
21 chapter. In furtherance of this objective, any governing body
22 may perform any of the functions and powers provided in
23 Section 11-89C-4 for public corporations, and any function or
24 eligibility requirement provided or required for joining and
25 participating, and to transfer and convey to the public
26 corporation, with or without consideration, any facilities,

1 real or personal property, money, or thing of value, including
2 the services of employees through loan, detail, or assignment.

3 "(d) Any governing body may establish, levy, and
4 impose by resolution or ordinance, any revenue-raising measure
5 within its jurisdiction, including, but not limited to, fees,
6 charges, or assessments, without any referendum unless
7 required by the Constitution of Alabama of 1901, deemed
8 necessary to implement this chapter or to comply with all
9 provisions of storm water laws, subject to the following:

10 "(1) A governing body shall not establish, levy, or
11 impose fees, charges, or assessments from or against entities
12 regulated by the Alabama Public Service Commission, owners of
13 greenfields, and/or owners of agricultural land, pursuant to
14 this subpart;

15 "(2) A governing body may only establish, levy, or
16 impose an annual flat fee, charge, or assessment or no more
17 than ten dollars (\$10) from or against owners of residential
18 property, pursuant to this subpart;

19 "(3) A governing body may only establish, levy, or
20 impose an annual fee, charge, or assessment from or against
21 owners of commercial property of no more than one-half of one
22 cent (\$0.0005) per square foot of commercial space on or
23 within the property, pursuant to this subpart, provided that,
24 regardless of actual square footage of commercial space on or
25 within the property, no such annual fee, charge, or assessment
26 shall exceed three thousand dollars (\$3,000). Any such fee,
27 charge, or assessment may be levied and collected in any

1 manner permissible by law. ~~In addition, any such measure may~~
2 ~~include incentive provisions including reductions of waiver of~~
3 ~~all or part of such fee, charge, or assessment where the~~
4 ~~responsible entity constructs, installs, or otherwise employs~~
5 ~~or utilizes any structure, service, equipment, or system to~~
6 ~~reduce or eliminate storm water pollution.~~ Any governing body
7 may call upon and enter into agreements with the respective
8 tax assessor and tax collector or other public official
9 performing the function of the tax assessor and tax collector
10 to assess and collect any such fees, charges, or assessments.

11 "(e) Any governing body may establish by resolution
12 or ordinance necessary enforcement measures and procedures for
13 the enforcement of rules, regulations, resolutions,
14 ordinances, or orders through actions before a municipal,
15 district or circuit court of competent jurisdiction, including
16 penalties for violations in accordance with Section 11-45-9.

17 "(f) Any governing body may institute a civil suit
18 for damages or injunctive relief, except as limited by Section
19 11-89C-11 and Section 11-89C-12, in any district or circuit
20 court having jurisdiction for a violation of this chapter.
21 Damages may include all costs, expenses, or other losses
22 resulting directly or indirectly from a violation of any rule,
23 regulation, resolution, ordinance, order, or other provision
24 authorized by this chapter, and may include attorney's fees,
25 court costs, and trial expenses.

26 "(g) A governing body may do any and all things,
27 whether or not specifically or expressly authorized in this

1 section or chapter, not otherwise prohibited by law, that are
2 necessary and convenient to do individually, and to aid and
3 cooperate with the public corporation or other entity in
4 carrying out the storm water laws and the purposes and intent
5 of this chapter.

6 "§11-89C-10.

7 "(a) The tax assessor and the tax collector, or
8 other public official performing the functions of the tax
9 assessor and tax collector, of every county in this state
10 shall, upon request, implement procedures necessary and
11 appropriate in order to assess and collect the fees, charges,
12 or assessments levied in accordance with Section 11-89C-9(d)
13 ~~by any governing body or member governing body, whether or not~~
14 ~~related to the value of any land.~~

15 "(b) The fees, charges, or assessments shall be a
16 lien upon any land to which it may be levied, and shall be
17 assessed, collected, and enforced as are other ad valorem
18 taxes. Each county collecting such fee, charge, or assessment
19 shall receive a ~~two~~ one percent commission on all amounts
20 ~~levied and~~ collected which shall be deposited to the county
21 general fund.

22 "(c) On a quarterly basis not later than the 20th
23 day of January, April, July, and October, every governing body
24 shall remit five percent (5%) of all fees collected pursuant
25 to Section 11-89C-9(d) to the Department of Revenue. The
26 Department of Revenue shall timely transfer ninety-five
27 percent (95%) of the fees it receives to the State Treasury to

1 the credit of ADEM to be used exclusively to pay the costs of
2 performing its duties to carry out applicable programs
3 pursuant to the storm water laws. The Department of Revenue
4 shall retain the remaining five percent (5%) of the fees it
5 receives as an administrative collection allowance."

6 Section 2. Section 11-89C-15 is added to the Code of
7 Alabama 1975, to read as follows:

8 §11-89C-15.

9 (a) No later than 365 days after the effective date
10 of the 2014 amendments to this chapter, ADEM shall initiate
11 all actions necessary to revise its applicable regulations to
12 comply with and/or adhere to the 2014 amendments. As soon as
13 practicable following the promulgation of any necessary
14 revisions to its applicable regulations, ADEM shall bring its
15 NPDES permits into conformity with the revised regulation
16 provisions. ADEM shall timely notify the governing bodies and
17 any existing public corporations formed pursuant to this
18 chapter of the date upon which the agency completed its
19 obligations pursuant to this subpart.

20 (b) All governing bodies and any existing public
21 corporations formed pursuant to the provisions of this chapter
22 shall complete all actions necessary to comply with and/or
23 adhere to the 2014 amendments no later than 90 days after the
24 date upon which ADEM fulfilled its obligations pursuant to
25 subpart (a), regardless of when the notice required by subpart
26 (a) is actually received by any governing body or existing
27 public corporation.

1 Section 3. The provisions of this act are severable.
2 If any part of this act is declared invalid or
3 unconstitutional, that declaration shall not affect the part
4 which remains.

5 Section 4. This act shall become effective
6 immediately following its passage and approval by the
7 Governor, or its otherwise becoming law.