

1 SB355
2 158969-3
3 By Senator Ward
4 RFD: Energy and Natural Resources
5 First Read: 13-FEB-14

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3
4 ENGROSSED

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6
7 A BILL
8 TO BE ENTITLED
9 AN ACT

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

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

1 and/or operated by commission non-jurisdictional electric
2 suppliers, as defined by Section 37-4-140, Code of Alabama
3 1975, by one or more entities under the jurisdiction and
4 supervision of the Alabama Public Service Commission, or such
5 entities' affiliates, from regulation under any local storm
6 water management program and declare that such discharges
7 shall be regulated exclusively by ADEM.

8 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

12 "§11-89C-1.

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

23 "(b) It is the intention of the Legislature by
24 passage of this chapter to assist the state in its
25 implementation of the storm water laws, and to supplement the
26 authority of the governing bodies of all counties and

1 municipalities in the state to enable them to implement the
2 storm water laws.

3 "(c) It is further the intention of the Legislature
4 to authorize and promote the intercooperation of the governing
5 bodies in implementing the storm water laws and the purposes
6 of this chapter.

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

1 and collection capabilities and authority of the respective
2 county tax assessors and tax collectors for that purpose. It
3 is the intention of the Legislature that any public
4 corporations created pursuant to this chapter implement an
5 efficient and effective storm water program that promotes the
6 fullest public participation feasible.

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

24 "(f) It is further the intention of the Legislature
25 for an individual governing body or public corporation to
26 primarily rely upon ADEM, to the fullest extent allowed by
27 applicable state and federal laws, for the permitting and

1 enforcement of all ADEM NPDES sites rather than subjecting
2 such sites to double regulation.

3 "§11-89C-2.

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

6 "~~(1) GOVERNING BODY. The governing bodies of all~~
7 ~~Class 1 municipalities within the state and the county~~
8 ~~governing bodies in which the Class 1 municipalities are~~
9 ~~located and the governing bodies of all municipalities located~~
10 ~~within those counties, and where any such municipality is also~~
11 ~~located partially within an adjoining county, then the~~
12 ~~governing body of such adjoining county, and which governing~~
13 ~~bodies are specifically designated in 40 C.F.R. Part 122,~~
14 ~~Appendices F, G, H, or I or by ADEM pursuant to the authority~~
15 ~~delegated to it under the Clean Water Act, 33 U.S.C. Section~~
16 ~~1251 et seq., as of August 8, 1995.~~

17 "(1) AGRICULTURAL LAND. Any real property classified
18 or assessed as agricultural or forest land for property tax
19 purposes.

20 "(2) COMMERCIAL PROPERTY. Any real property that is
21 not residential property, as defined in this section, or has
22 not specifically been exempted from the fee provisions set out
23 in Section 11-89C-9(d) (1).

24 "(3) GOVERNING BODY. The governing body of a county
25 or municipality in the state which is now or may hereafter be
26 specifically designated in 40 C.F.R. Part 122, including, but
27 not limited to, any appendices or revisions promulgated by EPA

1 in conjunction with any expansion of the agency's municipal
2 separate storm sewer system program (e.g. Phase III, Phase IV,
3 and/or equivalent expansions), or by ADEM pursuant to the
4 authority delegated to it under the Clean Water Act, 33 U.S.C.
5 §1251 et seq.

6 "(4) GREENFIELD. Any real property not previously
7 developed.

8 "~~(2)~~ (5) ILLICIT DISCHARGE. Any discharge to a
9 municipal separate storm sewer that is not composed entirely
10 of storm water, except discharges pursuant to an NPDES permit
11 (other than the NPDES permit for discharges from the municipal
12 separate storm sewer) and discharges resulting from fire
13 fighting and emergency management activities.

14 "~~(3)~~ (6) MEMBER GOVERNING BODY. A governing body
15 that joins a public corporation established pursuant to this
16 chapter.

17 "~~(4)~~ (7) MUNICIPAL SEPARATE STORM SEWER. A
18 conveyance or system of conveyances, including roads with
19 drainage systems, municipal streets, catch basins, curbs,
20 gutters, ditches, manmade channels, or storm drains:

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

23 "(ii) Designed or used for collecting or conveying
24 storm water;

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

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

1 "~~(5)~~ (8) PUBLIC CORPORATION. Any public corporation
2 created pursuant to this chapter.

3 "(9) RESIDENTIAL PROPERTY. Any single-family
4 owner-occupied residential property, historic buildings, or
5 sites classified or assessed as Class III property, pursuant
6 to Section 217 of Article XI of the Constitution of Alabama of
7 1901.

8 "~~(6)~~ (10) RULE. Any public corporation regulation or
9 standard of general applicability that prescribes or
10 recommends law, procedure or policy for its member governing
11 bodies specifically including all pro forma ordinances,
12 regulations, resolutions, rules, procedures or remedies
13 adopted and recommended by a public corporation.

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

1 "~~(8)~~ (12) STORM WATER LAWS. Those provisions of the
2 Clean Water Act, 33 U.S.C. §1251 et seq., together with all
3 other and subsequent applicable federal and state laws, rules,
4 and regulations, as set out in applicable permits, and
5 ~~municipal permits~~ relating specifically to the control of ~~the~~
6 ~~pollution of storm water~~ discharges to into and from municipal
7 separate storm sewers, but specifically excluding any EPA
8 guidance and/or interpretations of said laws, rules, and/or
9 regulations not promulgated in accordance with the Alabama
10 Administrative Procedure Act or Administrative Procedure Act,
11 5 U.S.C. §500 et seq.

12 "§11-89C-4.

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

16 "(1) To establish, maintain, and operate an
17 organizational structure pursuant to this chapter, its
18 original or amended certification, and its bylaws or other
19 rules of procedure, that will enable it to implement the storm
20 water laws for and on behalf of any governing body that
21 exercises the option to participate in or with a public
22 corporation, ~~however, except~~ provided that no new or greater
23 authorities or powers other than those specifically granted to
24 the governing bodies are conferred upon any public corporation
25 formed pursuant to this chapter. Except for the authority
26 provided in subdivision (20), authority to enforce the storm
27 water laws is retained wholly and exclusively to the governing

1 bodies and may not be further delegated to or assumed by the
2 public corporation, its agents or employees.

3 "(2) To establish the procedure by which a ~~member~~
4 governing body may elect to join the public corporation and by
5 which a member governing body may elect to withdraw from the
6 public corporation.

7 "(3) To establish a board of directors to serve as
8 the governing body of the corporation to establish policy and
9 procedure for the corporation. The board shall consist of one
10 representative from each member governing body. The
11 representative shall be the mayor, if the member governing
12 body is a governing body of a municipality, or a county
13 commissioner, if the member governing body is a governing body
14 of a county. The board shall designate at least three members,
15 and no more than five members, to serve as an executive
16 committee to perform the executive and administrative
17 functions of the corporation. The executive committee shall
18 include one county commissioner from the largest county member
19 governing body, if there is one, and at least two mayors. If
20 there is no county member governing body, there shall be at
21 least three mayors; or if there are no participating
22 municipalities, there shall be at least three county
23 commissioners, representing different counties. The board
24 shall elect one executive committee member as chair, one as
25 co-chair, and one as secretary. Individual board and executive
26 committee members shall serve without compensation, but shall
27 be entitled to reasonable actual expenses that are properly

1 documented and authorized. All other needed organizational
2 matters, bylaws, rules of procedure, and officers shall be
3 determined by the board of directors.

4 "(4) To employ individuals directly or indirectly
5 through loaned, detailed, or assigned employees from the
6 member governing bodies or other entities. Employees directly
7 employed by the public corporation shall be eligible to
8 participate in the employee benefit programs of any member
9 governing body, including insurance and pension programs, upon
10 approval of the executive committee and the subject member
11 governing body.

12 "(5) To enter into contracts with individuals,
13 governing bodies, member governing bodies, governmental
14 agencies, professional associations, corporations,
15 partnerships, and other legal entities to implement the
16 functions of this chapter.

17 "(6) To purchase, lease, license, own, or otherwise
18 acquire real and personal property, including easements,
19 rights of way, and all other interests in land, including
20 municipal separate storm sewers, buildings, and other
21 facilities and equipment.

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

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

1 "(9) To purchase or obtain insurance and other
2 appropriate tangibles and intangibles.

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

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

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

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

15 "(14) To adopt necessary and appropriate policies,
16 procedures, rules, and regulations applicable to the member
17 governing bodies ~~in accordance with EPA and/or ADEM permits~~
18 ~~and rules and regulations~~ to implement the storm water laws
19 ~~and the functions of~~ in accordance with this chapter.

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

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

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

4 "(18) To establish the cost, charges, fees, or
5 assessments as required of the member governing bodies for
6 participation in the public corporation, necessary to fund the
7 operation, activities, projects, and facilities of the
8 corporation.

9 "(19) ~~To~~ In accordance with the provisions of
10 Section 11-89C-10, to establish the procedure for the
11 assessment and collection by the tax assessor and tax
12 collector of the respective counties or other public official
13 performing those functions, of any fees, charges, or
14 assessments levied by a member governing body.

15 "(20) To authorize any officer, employee, or other
16 agent of the public corporation to enter upon private or
17 public property under the regulatory jurisdiction of one or
18 more of its member governing bodies during normal business
19 hours and upon the presentation of appropriate credentials for
20 the purpose of performing investigations regarding the
21 existence and source of contamination, and determining from
22 the owner or other appropriate individual the methods they
23 will employ to stop, neutralize, remove, or otherwise remedy
24 the contamination. Any officer, employee, or other authorized
25 agent who performs the duties authorized under this section in
26 accordance with provisions hereof shall be immune from arrest
27 and prosecution for trespass in performing any legal duty

1 pursuant to this chapter by presenting identification issued
2 or authorized by the public corporation.

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

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

8 "(1) Set a date and time for a public hearing and
9 afford the public and interested parties an opportunity to
10 offer written comments, and to present testimony and evidence
11 in support of their respective positions as to the proposed
12 resolutions, ordinances, remedies, or procedures and may have
13 counsel to represent them at their own expense. The board of
14 the corporation shall consider fully all written and oral
15 submissions presented. At the conclusion of this hearing and
16 any continuation thereof, the board of the corporation may
17 modify or withdraw such proposals or may adopt such pro forma
18 resolutions, ordinances, remedies, or procedures which are
19 reasonable and supported by evidence from the proposal itself,
20 the public comments submitted thereupon and the public hearing
21 record and which shall be thereafter presented to the member
22 municipal or county governing bodies, or both, for their
23 consideration. Adoption of any rule shall require an
24 affirmative vote of at least two-thirds (2/3) of the members
25 of the board of the corporation. ~~Upon~~ No later than 30 days
26 following the adoption of a rule, the public corporation shall
27 issue a statement reflecting the reasoning and evidence

1 supporting adoption of the rule and an explanation for
2 rejecting the evidence or assertions made urging modification
3 or withdrawal of the rule.

4 "(2) Give notice of the hearing by publishing in a
5 newspaper of general circulation published within the county
6 in which the corporation members exist at least ~~30~~ 45 days
7 prior to the date of the hearing stating the date, time, and
8 location of the hearing, and including either the terms or the
9 substance of the proposals to be considered or a description
10 of the subjects and issues involved, the address of the
11 location where copies of the proposed resolution, ordinances,
12 remedies and procedures may be inspected or copies thereof
13 obtained, and the manner in which interested persons may
14 present their views thereon. Every proposed rule shall be
15 accompanied by a thorough statement identifying and explaining
16 the purpose and support for its adoption. The notice shall
17 also be timely delivered by electronic means (i.e., email
18 notification) to all persons who have made timely request of
19 the corporation in advance for advance electronic notice of
20 any such hearings and timely mailed to all persons who pay the
21 cost of the mailing and who have made timely request of the
22 corporation in advance for advance notice by mail of any such
23 hearings.

24 "(3) Make available for public inspection and
25 copying, at cost, any such proposed resolutions, ordinances,
26 remedies, and procedures at least thirty (30) days prior to
27 the hearing.

1 "(c) The governing bodies shall satisfy all
2 statutory requirements applicable to the respective governing
3 bodies for adoption of ordinances, including notice and public
4 hearing, before adopting any such pro forma resolutions,
5 ordinances, remedies, and procedure, however, adoption by a
6 member governing body of any ordinance or resolution
7 recommended by the board of the public corporation or
8 authorized by this statute shall require an affirmative vote
9 of at least a majority of the members of the council or
10 commission authorized to adopt such ordinances or resolutions
11 in the governing body.

12 "§11-89C-9.

13 "(a) A governing body ~~may~~ shall proceed under this
14 chapter as a participant in the public corporation or
15 individually, to adopt upon reasonable public notice and
16 following public hearing all necessary rules and regulations
17 by resolution or ordinance to implement this chapter and to
18 specifically regulate and control storm water discharges and
19 eliminate the discharge of pollutants to its municipal
20 separate storm sewers. Provided, however, that all discharges
21 originating from any lands and/or facilities owned and/or
22 operated by one or more entities under the jurisdiction and
23 supervision of the Alabama Public Service Commission are
24 exempted from regulation under any local storm water
25 management program and shall be regulated exclusively by ADEM.
26 Further, any commission non-jurisdictional electric supplier,
27 as defined by Section 37-4-140, whose service area extends

1 beyond the boundaries of a single municipal or county
2 jurisdiction shall be exempted from the regulation of
3 electrical transmission-related construction activities under
4 any local storm water management program and shall be
5 regulated exclusively by ADEM. The rules and regulations
6 adopted pursuant to this chapter shall be ~~in accordance with~~
7 ~~those contained in the EPA NPDES program; however, the rules~~
8 ~~and regulations shall not impose any additional requirements~~
9 ~~than those mandated by the EPA.~~ In limited to include only
10 those rules, regulations, and/or aspects that are absolutely
11 required to satisfy the storm water laws. In establishing
12 these rules and regulations, an individual governing body or
13 public corporation shall, to the fullest extent allowed by
14 applicable storm water laws, primarily rely upon ADEM for the
15 enforcement and permitting of discharges to its municipal
16 separate storm sewers from sites required to have an ADEM
17 NPDES permit, rather than subjecting these sites to double
18 enforcement or permitting. Consistent with and in furtherance
19 of these objectives, the governing bodies may do all of the
20 following:

21 " (1) Control by resolution, ordinance, contract,
22 order, or similar means the discharge of pollutants to its
23 municipal separate storm sewers by storm water discharges
24 associated with industrial activity and the quality of storm
25 water discharged from sites of industrial activity.

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

4 "(3) Control by resolution, ordinance, order, or
5 similar means the discharge to its municipal separate storm
6 sewers of spills, dumping, or disposal of materials other than
7 storm water.

8 "(4) Control by interagency or intercooperation
9 agreements among the governing bodies and other entities the
10 discharge of pollutants from one portion of its municipal
11 storm water system to another portion.

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

14 "(6) Enter upon private property under its
15 regulatory jurisdiction upon reasonable notice to the owner
16 and the person in possession thereof and during normal
17 business hours and upon the presentation of appropriate
18 credentials for the purpose of performing investigations
19 regarding the existence and source of contamination and
20 determining from the owner or other appropriate individual the
21 methods which they will employ to stop, neutralize, remove, or
22 otherwise remedy the contamination, and as needed to determine
23 compliance or non-compliance with permit conditions, including
24 any prohibition of illicit discharges to its municipal
25 separate storm sewers. Any officer, employee, or other
26 authorized agent who performs the duties authorized under this
27 section in accordance with provisions hereof shall be immune

1 from arrest and prosecution for trespass while performing any
2 legal duty pursuant to this chapter by presenting
3 identification issued from the county or municipality
4 authorized by the governing bodies.

5 "(b) The governing bodies may develop and adopt
6 common and uniform or partly common and partly uniform
7 resolutions, ordinances, contracts, orders, or similar means
8 in their respective actions and procedures to implement this
9 chapter.

10 "(c) Any governing body may join with any other
11 governing body to establish or participate in or with a public
12 corporation, or with any other public corporation, authority,
13 or district authorized by the Legislature to implement this
14 chapter. In furtherance of this objective, any governing body
15 may perform any of the functions and powers provided in
16 Section 11-89C-4 for public corporations, and any function or
17 eligibility requirement provided or required for joining and
18 participating, and to transfer and convey to the public
19 corporation, with or without consideration, any facilities,
20 real or personal property, money, or thing of value, including
21 the services of employees through loan, detail, or assignment.

22 "(d) Any governing body may establish, levy, and
23 impose by resolution or ordinance, any revenue-raising measure
24 within its jurisdiction, including, but not limited to, fees,
25 charges, or assessments, without any referendum unless
26 required by the Constitution of Alabama of 1901, deemed

1 necessary to implement this chapter or to comply with all
2 provisions of storm water laws~~-,~~ subject to the following:

3 "(1) A governing body shall not establish, levy, or
4 impose fees, charges, or assessments from or against owners
5 and/or operators of lands and/or facilities exempted from
6 regulation under any local storm water management program, as
7 set out in Section 11-89C-9(a), owners of greenfields, and/or
8 owners of agricultural land, pursuant to this subpart;

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

13 "(3) A governing body may only establish, levy, or
14 impose an annual fee, charge, or assessment from or against
15 owners of commercial property of no more than one-half of one
16 cent (\$0.005) per square foot of commercial space on or within
17 the property, pursuant to this subpart, provided that,
18 regardless of actual square footage of commercial space on or
19 within the property, no such annual fee, charge, or assessment
20 shall exceed three thousand dollars (\$3,000). Any such fee,
21 charge, or assessment may be levied and collected in any
22 manner permissible by law. In addition, any such measure may
23 include incentive provisions including reductions of waiver of
24 all or part of such fee, charge, or assessment where the
25 responsible entity constructs, installs, or otherwise employs
26 or utilizes any structure, service, equipment, or system to
27 reduce or eliminate storm water pollution. Any governing body

1 may call upon and enter into agreements with the respective
2 tax assessor and tax collector or other public official
3 performing the function of the tax assessor and tax collector
4 to assess and collect any such fees, charges, or assessments.

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

11 "(f) Any governing body may institute a civil suit
12 for damages or injunctive relief, except as limited by Section
13 11-89C-11 and Section 11-89C-12, in any district or circuit
14 court having jurisdiction for a violation of this chapter.
15 Damages may include all costs, expenses, or other losses
16 resulting directly or indirectly from a violation of any rule,
17 regulation, resolution, ordinance, order, or other provision
18 authorized by this chapter, and may include attorney's fees,
19 court costs, and trial expenses.

20 "(g) A governing body may do any and all things,
21 whether or not specifically or expressly authorized in this
22 section or chapter, not otherwise prohibited by law, that are
23 necessary and convenient to do individually, and to aid and
24 cooperate with the public corporation or other entity in
25 carrying out the storm water laws and the purposes and intent
26 of this chapter.

27 "§11-89C-10.

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

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

16 "(c) On a quarterly basis not later than the 20th
17 day of January, April, July, and October, every governing body
18 shall remit five percent (5%) of all fees collected pursuant
19 to Section 11-89C-9(d) to the Department of Revenue. The
20 Department of Revenue shall timely transfer ninety-five
21 percent (95%) of the fees it receives to the State Treasury to
22 the credit of ADEM to be used exclusively to pay the costs of
23 performing its duties to carry out applicable programs
24 pursuant to the storm water laws. The Department of Revenue
25 shall retain the remaining five percent (5%) of the fees it
26 receives as an administrative collection allowance."

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

3 §11-89C-15.

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

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

23 Section 3. The provisions of this act are declared
24 to be severable and if any chapter, part, section, paragraph,
25 subparagraph, subdivision, clause, or phrase of this act shall
26 be adjudged to be invalid or unconstitutional by any court of
27 competent jurisdiction, the judgement shall not affect,

1 impair, or invalidate the remainder of this act, but shall be
2 confined in its operation to the chapter, part, section,
3 paragraph, subparagraph, subdivision, clause or phrase of this
4 act that shall be directly involved in the controversy in
5 which such judgment shall have been rendered.

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

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Senate

Read for the first time and referred to the Senate
committee on Energy and Natural Resources 13-FEB-14

Read for the second time and placed on the calen-
dar with 1 substitute and..... 05-MAR-14

Read for the third time and passed as amended 19-MAR-14

Yeas 26
Nays 0

Patrick Harris
Secretary