

1 HB395
2 96468-4
3 By Representatives McDaniel and Sanderford
4 RFD: Government Appropriations
5 First Read: 12-FEB-08

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8 SYNOPSIS: Under current law, counties and
9 municipalities may make available collection and
10 disposal facilities for solid wastes, with certain
11 exceptions. In certain instances, counties may
12 provide for the collection of fees for solid waste
13 collection or disposal, with certain exceptions,
14 and authorize civil proceedings for delinquent
15 fees. However, there is no statewide fee on solid
16 waste disposal in Alabama and no unified statewide
17 regulatory control on the management of solid
18 wastes and recyclable materials, which has the
19 potential to create a number of problems for the
20 state. Specifically, insufficient and improper
21 methods of managing solid waste such as the
22 formation of unauthorized dumps can pose hazards to
23 public health, cause pollution of air, land and
24 water resources, constitute a waste of natural
25 resources, and create public nuisances. The
26 economic growth and population growth in the state
27 have required increased industrial production

1 which, together with related commercial and
2 agricultural operations, have resulted in increased
3 amounts of discarded materials. Similarly, the
4 continuing technological progress and improvements
5 in methods of manufacturing, packaging, and
6 marketing of consumer products have resulted in an
7 increased amount of material discarded by the
8 purchasers of these products, necessitating a
9 statewide approach to assist local governments in
10 improving solid waste management practices and
11 promoting more efficient methods of solid waste
12 management. The failure or inability to
13 economically recover material and energy resources
14 from solid waste results in the unnecessary waste
15 and depletion of natural resources; therefore,
16 maximum resource recovery from solid waste and
17 maximum recycling and reuse of these resources must
18 be considered goals of the state, and a coordinated
19 statewide solid waste and recyclable materials
20 management program is needed to protect public
21 health and safety, protect and preserve the quality
22 of the environment, and conserve and efficiently
23 utilize natural resources.

24 This bill would: Designate the Alabama
25 Department of Environmental Management as the
26 primary regulatory agency in solid waste management
27 except for the collection and transportation of

1 nonhazardous and nonmedical solid waste; authorize
2 the state to collect fees for solid waste disposal
3 in the state; require the department to adopt
4 minimum statewide recycling and waste minimization
5 standards for solid waste generated in Alabama;
6 create a four-year statute of limitations for
7 violations; require local governments to plan for
8 source separation, resource recovery, or recycling
9 programs, or all of the above, or to plan for the
10 enhancement of existing programs so that valuable
11 materials may be returned to productive use, energy
12 and natural resources conserved, and the useful
13 life of solid waste management facilities extended;
14 clarify provisions for approval of solid waste
15 management facilities; clarify the duties of
16 landowners to avoid and correct unauthorized dumps;
17 prohibit unlawful activities; clarify certain
18 ambiguities by defining the term "solid waste
19 management." This bill would establish a trust fund
20 to pay the cost of investigation, required cleanup,
21 and closure of unauthorized dumps by innocent
22 landowners.

23 This bill would also establish a trust fund
24 for a recyclable materials management grants
25 program to assist local governments or nonprofit
26 organizations in the development and implementation

1 of new, or enhancement of existing, recycling
2 programs.

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

8 To establish a statewide program for solid waste
9 management to be coordinated by the Department of
10 Environmental Management; to amend Sections 22-27-1, 22-27-2,
11 22-27-4, and 22-27-47, Code of Alabama 1975, and to add
12 Sections 22-27-9, 22-27-10, 22-27-11, 22-27-12, 22-27-13,
13 22-27-14, 22-27-15, 22-27-16, 22-27-17, 22-27-18 and 22-27-19
14 to the Code of Alabama 1975, relating to solid waste
15 management; to specify certain duties of the Alabama
16 Department of Environmental Management as the primary agency
17 regulating solid waste management facilities and the
18 Department of Health as the primary agency for the collection
19 and transportation of solid waste; to provide for local
20 programs of solid waste and recyclable materials management
21 and to control unauthorized dumping; to establish a trust fund
22 to pay the cost of investigation, required cleanup, and
23 closure of unauthorized dumps; to authorize fees for disposal
24 of solid waste within the state the proceeds of which shall be
25 used to adequately fund the solid waste management program of
26 the Alabama Department of Environmental Management; to
27 establish a trust fund to provide for a grant program for

1 local governments to develop, implement, and enhance recycling
2 and waste minimization efforts; to establish minimum standards
3 for solid waste reduction, minimization, and recycling; to
4 provide for penalties and other enforcement remedies for
5 violations; to provide confidentiality for certain
6 information; and to clarify requirements of local approval.

7 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

8 Section 1. Sections 22-27-1, 22-27-2, 22-27-4, and
9 22-27-47, Code of Alabama 1975, are amended to read as
10 follows:

11 "§22-27-1.

12 "This article shall be known as the "Solid Wastes
13 ~~Disposal~~ and Recyclable Materials Management Act."

14 "§22-27-2.

15 For the purpose of this article, the following terms
16 shall have the meanings respectively ascribed to them by this
17 section:

18 "(1) AGENCY. Any controlling agency, public or
19 private, elected, appointed, or volunteer utilizing methods
20 approved by the health department or the department for the
21 purpose of controlling and supervising the collection or
22 ~~disposal, or both,~~ management of solid wastes or recyclable
23 materials.

24 "(2) ASHES. The solid residue from burning of wood,
25 coal, coke, or other combustible material used for heating or
26 from incineration of solid wastes, but excepting solid

1 residue, the storage or disposition of which is controlled by
2 other agencies.

3 "(3) COMPOSTING OR COMPOST PLANT. An officially
4 controlled method or operation whereby putrescible solid
5 wastes are broken down through microbic action to a material
6 offering no hazard or nuisance factors to public health or
7 well-being.

8 "(4) DEPARTMENT. The Alabama Department of
9 Environmental Management.

10 "(5) DIRECTOR. The Director of the Alabama
11 Department of Environmental Management or his or her designee.

12 "(6) DISCHARGE. The accidental or intentional
13 spilling, leaking, pumping, emitting, emptying, or dumping of
14 solid waste, including leachate, into or on any land or water.

15 "(7) DISPOSAL. The discharge, deposit, injection,
16 dumping, spilling, leaking, or placing of any solid waste into
17 or on any land or water so that the waste or any constituent
18 thereof may enter the environment or be emitted into the air
19 or discharged into any waters, including, but not limited to,
20 ground waters.

21 "(8) FACILITY. All contiguous land, structures, and
22 other appurtenances used for the processing, treatment,
23 storage, or disposal of solid waste, or the recovery of
24 recyclable materials from solid waste, whether or not
25 authorized or permitted, including, but not limited to, waste
26 disposal areas and waste disposed therein.

1 "~~(6)~~(9) FINANCIAL ASSURANCE. A financial arrangement
2 by the owner or operator of a municipal solid waste landfill
3 which guarantees the availability of funds which may be used
4 to close, provide post-closure care, or conduct corrective
5 action at that facility if the owner or operator fails to
6 properly execute his or her responsibilities under this
7 article and any ~~regulations~~ rules promulgated by the
8 department for closure, post-closure care, or corrective
9 action and the terms of any permit issued for operation of
10 that facility.

11 "~~(7)~~(10) GARBAGE. Putrescible animal and vegetable
12 wastes resulting from the handling, preparation, cooking, and
13 consumption of food, including wastes from markets, storage
14 facilities, handling and sale of produce and other food
15 products and excepting such materials that may be serviced by
16 garbage grinders and handled as household sewage.

17 "(11) GENERATION. The act or process of producing
18 solid waste. Solid waste shall be considered to be generated
19 at the point that waste materials are first discarded or
20 collected, regardless of any subsequent materials recovery or
21 recycling.

22 "~~(8)~~(12) HAZARDOUS WASTES. Those wastes defined in,
23 and regulated under, the Alabama Hazardous Waste Management
24 and Minimization Act of 1978, as amended (~~Section 22-30-21 et~~
25 ~~seq.~~).

26 "~~(9)~~(13) HEALTH DEPARTMENT. An approved county or
27 district health department, including the Alabama State

1 Department of Public Health and the affected state and county
2 ~~boards of health department.~~

3 "~~(10)~~(14) HEALTH OFFICER. The state or affected
4 county health officer or his or her designee.

5 "(15) HOUSEHOLD WASTE. Any solid waste, including,
6 but not limited to, garbage, trash, and sanitary waste in
7 septic tanks derived from households, including single and
8 multiple residences, hotels and motels, bunkhouses, ranger
9 stations, crew quarters, campgrounds, picnic grounds, and
10 day-use recreational areas. Sanitary waste in septic tanks
11 shall be considered as household waste only when it is
12 disposed in a landfill or unauthorized dump and its inclusion
13 as a household waste shall in no way prohibit or supersede the
14 authority of the board or the department to regulate onsite
15 sewage systems or the management of sanitary waste in septic
16 tanks.

17 "~~(11)~~(16) INCINERATOR. A device designed to burn
18 that portion of garbage and rubbish which will be consumed at
19 temperatures generally ranging 1600 degrees Fahrenheit or
20 over. The unburned residue from an incinerator, including
21 metal, glass, and the like shall be called ashes.

22 "(17) INDUSTRIAL SOLID WASTE. Solid waste generated
23 by manufacturing or industrial processes that is not a
24 hazardous waste regulated under Chapters 22 to 30, inclusive,
25 of Title 22.

1 "(18) INNOCENT LANDOWNER. An owner of real property
2 upon which there is located an unauthorized dump and who meets
3 all of the following conditions:

4 "a. The solid waste was disposed of on the property
5 after the owner acquired title to the property or the waste
6 was disposed of before the owner acquired title to the
7 property and title was acquired by bequest or devise.

8 "b. The owner did not have knowledge that the waste
9 was being disposed of on the property or the owner took steps,
10 including, but not limited to, posting signs to prevent
11 disposal on the property.

12 "c. The owner did not participate in or consent to
13 the disposal of solid waste on the property.

14 "d. The owner did not receive any financial benefit
15 from the disposal of solid waste on the property.

16 "e. Title to the property was not transferred to the
17 owner for the purpose of evading liability for operating an
18 unauthorized dump.

19 "f. The person or persons responsible for disposing
20 of the solid waste on the property, in doing so, was not
21 acting as an agent for the owner.

22 "~~(12)~~(19) LANDFILL. A method of compaction and earth
23 cover of solid wastes other than those containing garbage or
24 other putrescible wastes, including, but not limited to, tree
25 limbs and stumps, demolition materials, incinerator residues,
26 and like materials not constituting a health or nuisance

1 hazard, where cover need not be applied on a per day used
2 basis.

3 "(20) MATERIALS RECOVERY FACILITY. A solid waste
4 management facility that provides for the extraction from
5 solid waste of recyclable materials, materials suitable for
6 use as a fuel or soil amendment, or any combination of those
7 materials. A materials recovery facility shall be deemed to be
8 a solid waste treatment facility.

9 "(21) MEDICAL WASTE. A solid waste or combination of
10 solid wastes which because of its infectious characteristics
11 may either:

12 "a. Cause, or significantly contribute to, an
13 increase in mortality or an increase in serious irreversible
14 or incapacitating reversible illness.

15 "b. Pose a substantial present hazard or potential
16 hazard to human health or the environment when improperly
17 treated, stored, transported, disposed, or otherwise managed.

18 "~~(13)~~(22) MUNICIPAL SOLID WASTE LANDFILL. A discrete
19 area of land or an excavation that receives household waste
20 and that is not a land application unit, surface impoundment,
21 injection well, or waste pile. A municipal solid waste
22 landfill may also receive other types of solid wastes, such as
23 commercial solid waste, nonhazardous sludge, conditionally
24 exempt small quantity generator waste, industrial solid waste,
25 construction/demolition waste, and rubbish. A municipal solid
26 waste landfill is a sanitary landfill.

1 ~~"(14) OPEN DUMP. Any officially recognized place,~~
2 ~~land, or building which serves as a final depository for solid~~
3 ~~wastes, whether or not burned or buried, which does not meet~~
4 ~~the minimum requirements for a sanitary landfill, except~~
5 ~~approved incinerators, compost plants, and salvage yards.~~

6 ~~"(15)(23) PERSON. An individual, trust, firm, joint~~
7 ~~stock company, corporation (including a government~~
8 ~~corporation), partnership, agent, agency, association, state,~~
9 ~~municipality, commission, political subdivision of a state, an~~
10 ~~interstate body, or other private or public legal entity.~~

11 "(24) PRIVATE SOLID WASTE MANAGEMENT FACILITY. A
12 solid waste management facility that is operated exclusively
13 by and for a private solid waste generator for the purpose of
14 accepting solid waste generated onsite or by the permittee.

15 "(25) PUBLIC SOLID WASTE MANAGEMENT FACILITY. A
16 solid waste management facility that accepts solid waste from
17 the public generally or for a fee or any solid waste
18 management facility that is not a private solid waste
19 management facility.

20 "(26) RECOVERED MATERIALS. Those materials which
21 have known recycling potential; which can be feasibly
22 recycled; which have been diverted or removed from the solid
23 waste stream for recycling, whether or not requiring
24 subsequent separation and processing; and which have a
25 substantial portion that are consistently used in the
26 manufacture of products which may otherwise be produced from
27 raw or virgin materials. Recovered materials shall not include

1 solvents or materials, except sawdust, bark, and paper
2 materials that are destined for incineration, energy recovery,
3 or any use which constitutes disposal. Recovered materials
4 shall only be those materials for which during the calendar
5 year (commencing on January 1), the amount of material
6 recycled or diverted from the solid waste stream for recycling
7 and transferred to a different site for recycling equals at
8 least 75 percent by weight or volume of the amount of that
9 material accumulated at the beginning of the period.

10 (27) RECOVERED MATERIALS PROCESSING FACILITY. A
11 facility primarily engaged in the storage, processing, and
12 resale or reuse of recovered materials. A recovered materials
13 processing facility is not a solid waste management facility;
14 however, any solid waste resulting from the operation of a
15 facility shall be subject to all applicable laws and
16 regulations relating to solid waste and shall be deemed to be
17 generated for purposes of reporting pursuant to solid waste
18 reduction goals, at the point of collection of the recovered
19 materials from which the solid waste resulted. A recovered
20 material processing facility shall provide notification to the
21 department according to rules adopted by the department.

22 "(28) RECYCLABLE MATERIALS. Those materials which
23 are capable of being recycled, whether or not the materials
24 have been diverted or removed from the solid waste stream.

25 "(29) RECYCLING. Any process by which materials are
26 collected, separated, stored, recovered, or processed and
27 reused or returned to use in the form of raw materials or

1 products, but does not include the use of materials as a fuel,
2 or for any use which constitutes disposal.

3 ~~"(16)~~ (30) RUBBISH. Nonputrescible solid wastes,
4 excluding ashes, consisting of both combustible and
5 noncombustible wastes. Combustible rubbish includes paper,
6 rags, cartons, wood, furniture, rubber, plastics, yard
7 trimmings, leaves, and similar materials. Noncombustible
8 rubbish includes glass, crockery, metal cans, metal furniture,
9 and like materials which will not burn at ordinary incinerator
10 temperatures, not less than 1600 degrees Fahrenheit.

11 ~~"(17)~~ (31) SANITARY LANDFILL. A controlled area of
12 land upon which solid waste is deposited and is compacted and
13 covered with compacted earth each day as deposited, with no
14 on-site burning of wastes, and so located, contoured, and
15 drained that it will not constitute a source of water
16 pollution as determined by the Alabama Department of
17 Environmental Management.

18 ~~"(18)~~ (32) SOLID WASTES. ~~All putrescible and~~
19 ~~nonputrescible discarded materials, except household sewage~~
20 ~~and livestock and poultry wastes, including, but not limited~~
21 ~~to, garbage, rubbish, ashes, street and highway cleanings,~~
22 ~~dead animals, including offal, abandoned automobiles, and such~~
23 ~~industrial wastes as are not controlled by other agencies. Any~~
24 ~~garbage, rubbish, construction or demolition debris, ash, or~~
25 ~~sludge from a waste treatment facility, water supply plant, or~~
26 ~~air pollution control facility, and any other discarded~~
27 ~~materials, including solid, liquid, semisolid, or contained~~

1 gaseous material resulting from industrial, commercial,
2 mining, or agricultural operations or community activities, or
3 materials intended for or capable of recycling, but which have
4 not been diverted or removed from the solid waste stream. The
5 term "solid waste" does not include recovered materials, solid
6 or dissolved materials in domestic sewage, solid or dissolved
7 material in irrigation return flows, or industrial discharges
8 which are point sources subject to the National Pollutant
9 Discharge Elimination System permits under the Federal Water
10 Pollution Control Act, as amended, or the Alabama Waste
11 Pollution Control Act, as amended; or source, special,
12 nuclear, or by-product materials as defined by the Atomic
13 Energy Act of 1954, as amended. Also excluded from this
14 definition are land applications of crop residues, animal
15 manure, and ash resulting exclusively from the combustion of
16 fossil fuels or wood during accepted agricultural operations,
17 waste from silvicultural operations, or mining refuse as
18 defined and regulated pursuant to the Alabama Mining Act.

19 "(33) SOLID WASTE DISPOSAL FACILITY. Any landfill or
20 part of a facility where final deposition of solid waste
21 occurs and at which waste may remain after closure.

22 "(34) SOLID WASTE MANAGEMENT. The systematic control
23 of solid waste including its storage, processing, treatment,
24 recovery of materials from solid waste, or disposal.

25 "(35) SOLID WASTE MANAGEMENT FACILITY. Any solid
26 waste volume reduction plant, transfer station, material
27 recovery facility, or other facility, the purpose of which is

1 the storage, treatment, utilization, processing, disposal, or
2 recovery of materials from solid waste, or any combination
3 thereof.

4 ~~"(19)(36) UNAUTHORIZED DUMP. Any collection of solid~~
5 ~~wastes either dumped or caused to be dumped or placed on any~~
6 ~~public or private property either public or private, whether~~
7 ~~or not regularly used, and not under the control and~~
8 ~~supervision of any person or agency. An abandoned automobile,~~
9 ~~large appliance, or similar large item of solid waste shall be~~
10 ~~considered as forming an unauthorized dump within the meaning~~
11 ~~of this article, but not the careless littering of smaller~~
12 ~~individual items as tires, bottles, cans, and the like. having~~
13 ~~a permit from the department. Abandoned automobiles, large~~
14 ~~appliances, or similar large items of solid waste shall be~~
15 ~~considered an unauthorized dump within the meaning of this~~
16 ~~article. The careless littering of a relatively few, smaller~~
17 ~~individual items such as tires, bottles, cans, and the like~~
18 ~~shall not be considered an unauthorized dump, unless the~~
19 ~~accumulation of solid waste poses a threat to human health or~~
20 ~~the environment. An unauthorized dump shall also mean any~~
21 ~~solid waste disposal site which does not meet the regulatory~~
22 ~~provisions of this article.~~

23 "§22-27-4.

24 "(a) Hazardous wastes. Hazardous wastes shall be
25 ~~handled~~ managed in accordance with the provisions of Sections
26 22-30-1 through 22-30-24, and the ~~regulations~~ rules
27 promulgated thereunder.

1 "(b) Unauthorized dumps. The ~~formation~~ creation,
2 contribution to, or operation of unauthorized dumps ~~is hereby~~
3 ~~declared to be a public nuisance per se, a menace to public~~
4 ~~health, and a violation of this article and in addition to~~
5 ~~other remedies which are available may be enjoined through an~~
6 ~~action by the department in the circuit court of the state~~
7 ~~having jurisdiction over the property on which the violation~~
8 ~~occurred shall be prohibited, removed, enjoined, and enforced~~
9 ~~upon and regulated as provided in this article generally, and~~
10 Section 22-27-11, specifically.

11 "(c) Vermin controls. Rodents and insects of public
12 health importance, ~~as~~ including, but not limited to, rats,
13 flies, mosquitoes ~~and the like,~~ shall be controlled in a
14 manner ~~satisfactory to the health department~~ consistent with
15 the administrative rules of the Board of Health and the
16 department, and the ~~closing out or conversion to sanitary~~
17 ~~landfill operations of existing open dumps shall, where deemed~~
18 ~~necessary by the health officer, be accompanied by an adequate~~
19 ~~rat eradication program to prevent the spread of rodents to~~
20 ~~nearby properties~~ closure of any unauthorized dump where
21 deemed necessary by the health officer and the department,
22 shall be accompanied by an adequate vermin eradication program
23 to prevent the spread of vermin to nearby properties.

24 "§22-27-47.

25 "(a) ~~Each~~ No later than three years after the
26 effective date of this amendatory act, each county and any
27 municipality as described below shall submit to the

1 department, ~~within one and one-half years of May 16, 1989,~~ a
2 revised plan for the management of solid waste generated
3 within its boundaries. A county's plan shall include the
4 municipal jurisdictions within its boundaries except that any
5 municipality may choose to submit its own solid waste
6 management plan intended for implementation within its city
7 limits and thereby be excluded from its county plan. Cities
8 which do not choose to exclude themselves from their county's
9 plan shall be responsible to share in the county's costs
10 proportionately on a per capita basis. The content of all
11 plans shall be consistent with the requirements of this
12 article and ~~every~~ no plan shall ~~not~~ become final until it has
13 been officially adopted and approved pursuant to the
14 requirements of this article. In the event a county or ~~city~~
15 municipality does not submit a ~~required~~ revised plan or if
16 ~~said the~~ plan does not meet the minimum requirements set out
17 in this article, ~~the department shall prepare the plan which~~
18 ~~shall serve as the official county or city plan~~ the county or
19 municipality shall be prohibited from entering into or
20 revising contracts or agreements for solid waste and
21 recyclable materials management services.

22 "(b) Each plan shall at a minimum:

23 "(1) Describe and explain the general origin, and
24 weight or volume of solid waste currently generated within the
25 jurisdiction's boundaries. For purposes of this estimate the
26 jurisdiction may use such information as is reasonably

1 available, or may use accepted methods of estimation
2 recommended by the department.

3 "(2) Identify current methods of collection and
4 haulage of solid waste within the jurisdiction.

5 "(3) Identify and describe the facilities where
6 solid waste is currently being disposed or processed and the
7 remaining available permitted capacity of such facilities and
8 the capacity which could be made available through the
9 reasonable expansion of such facilities. The plan shall also
10 explain the extent to which existing facilities will be used
11 during the life of the plan and shall not substantially impair
12 the use of their remaining permitted capacity.

13 "(4) Provide a description of current or planned
14 recycling programs and an analysis of their impact on waste
15 generated within the jurisdiction. Particularly regarding
16 recycling, the plan shall describe and evaluate:

17 "a. Potential benefits of recycling, including the
18 potential solid waste reduction and the avoided cost of
19 municipal waste processing or disposal.

20 "b. Existing materials recovery operations and the
21 kind and weight or volume of materials recycled by the
22 operations, whether public or private.

23 "c. The compatibility of recycling with other waste
24 processing or disposal methods used in the jurisdiction
25 including methods of collecting recyclables.

1 "d. Options for cooperation or agreement with other
2 jurisdictions for the collection, processing and sale of
3 recyclable materials.

4 ~~"(5) Address the requirements proposed under~~
5 ~~Subtitle D of the federal Resource Conservation and Recovery~~
6 ~~Act, 42 U.S.C. Section 6941 as amended and identify and~~
7 ~~explain those actions the jurisdiction should take to assure~~
8 ~~proper management of its wastes under these requirements;~~

9 ~~"(6)(5) Propose procedures for the identification~~
10 ~~and elimination of unauthorized dumps in the jurisdiction;~~

11 ~~"(7)(6) Describe and explain the general origin and~~
12 ~~weight or volume of solid waste and recyclable materials~~
13 ~~reasonably expected to be generated within the jurisdiction~~
14 ~~annually during the next 10 years. The assessment shall~~
15 ~~describe the primary variables affecting this estimate and the~~
16 ~~extent to which they can reasonably be expected to affect the~~
17 ~~estimate;~~

18 ~~"(8)(7) Provide for the development or expansion of~~
19 ~~solid waste and recyclable materials management systems in a~~
20 ~~manner that is consistent with the needs of the area, taking~~
21 ~~into account planning, zoning, population and development~~
22 ~~estimates, and economics of the jurisdiction and the~~
23 ~~protection of air, water, land and other natural resources;~~

24 ~~"(9)(8) Identify any current agreements between the~~
25 ~~jurisdiction and other units of local government or public~~
26 ~~authorities for the joint use of solid waste ~~processing or~~~~
27 ~~disposal and recyclable materials management facilities and~~

1 evaluate the need for and feasibility of entering joint
2 agreements in the future.7.

3 ~~"(10)(9)~~ Identify any current contractual agreements
4 with private entities for the ~~collection, processing or~~
5 ~~disposal~~ management of solid waste and recyclable materials
6 and evaluate the need for and feasibility of entering into
7 such agreements in the future.7.

8 ~~"(11)(10)~~ Identify the general location within a
9 county where solid waste ~~processing or disposal~~ and recyclable
10 materials management facilities ~~and recycling programs~~ may be
11 located, and identify the site of each facility if a site has
12 already been chosen. In identifying general locations for
13 facilities in the plan, each jurisdiction shall consider at
14 least the following:

15 "a. The jurisdiction's solid waste and recyclable
16 materials management needs as identified in its plan.7.

17 "b. The relationship of the proposed location or
18 locations to planned or existing development, to major
19 transportation arteries and to existing state primary and
20 secondary roads.7.

21 "c. The relationship of the proposed location or
22 locations to existing industries in the jurisdiction or state
23 that generate large volumes of solid waste and recyclable
24 materials and to the areas projected by the state or ~~local~~ the
25 appropriate regional planning and development commission for
26 development of industries that will generate solid waste and
27 recyclable materials.7

1 "d. The costs and availability of public services,
2 facilities and improvements which would be required to support
3 a facility in this location and protect public health, safety
4 and the environment~~7.~~

5 "e. The potential impact a facility in the proposed
6 location or locations would have on public health and safety,
7 and the potential that such locations can be utilized in a
8 manner so as to minimize the impact on public health and
9 safety~~7~~~~and.~~

10 "f. The social and economic impacts that a facility
11 at the proposed location would have on the affected community,
12 including changes in property values, community perception and
13 other costs~~7.~~

14 "~~(12)~~(11) For any facility expected to serve the
15 jurisdiction's future needs that is located or is proposed to
16 be located outside the jurisdiction, the plan shall explain in
17 detail the reasons for selecting such a facility~~7.~~

18 "~~(13)~~(12) The plan shall include such other
19 information as the department may require by regulation,
20 including a description of the recycling, source separation,
21 resource recovery, and waste minimization efforts undertaken
22 by the jurisdiction to meet the state's household and
23 commercial solid waste reduction goal.

24 "(c) Counties may, by agreement with other counties,
25 combine in the development of a joint solid waste management
26 plan.

1 "(d) The department and the ~~local~~ appropriate
2 regional planning and development commission ~~shall~~, upon
3 request, shall provide assistance to any county or
4 municipality in the development of their local plan.

5 "(e) The plan shall be completed ~~on forms provided~~
6 ~~by the department~~ and in accordance with the provisions of
7 this act and any ~~regulations~~ rules promulgated by the
8 department.

9 "(f) Prior to final adoption or amendment of a plan,
10 the jurisdiction shall afford the public an opportunity to
11 present data, views and arguments thereon, orally or in
12 writing. The public comment period shall be no less than 30
13 days in length and shall include at least one public hearing.
14 Notice of the public comment period shall be published at
15 least once in a newspaper of general circulation in the
16 jurisdiction and in the official gazette, if any, in the
17 jurisdiction. Notice of the inclusive dates of the public
18 comment period and the date of the public hearing may be
19 combined in the same publication. Notice of the time and place
20 of the public hearing shall be published at least 30 days, but
21 not more than 45 days prior to the date of said hearing. Any
22 published notice shall contain a brief description of the
23 proposed plan, and shall identify a location where copies of
24 the plan shall be available for inspection during normal
25 business hours, and shall also identify a contact person from
26 whom interested persons can obtain additional information or
27 copies of the proposed plan. The plan, including any

1 revisions, subsequently submitted for adoption shall be
2 accompanied by a document containing written responses to
3 comments made during the comment period.

4 "(g) The governing body of the jurisdiction shall
5 adopt the final plan within 60 days from the end of the public
6 comment period at an official business meeting open to the
7 public.

8 "(h) Upon completion and adoption of the local plan,
9 it shall be submitted to the department for review ~~and~~
10 ~~approval. Within 30 days after~~ After receiving a complete
11 plan, the department shall approve, conditionally approve, or
12 disapprove it, ~~unless the department gives written notice that~~
13 ~~additional time is necessary to complete its review. If the~~
14 ~~department gives such notice, it shall have 30 additional days~~
15 ~~to render a decision.~~ The department shall approve any local
16 plan that demonstrates to the satisfaction of the department
17 that:

18 "(1) The plan is complete and accurate and
19 consistent with this article and ~~regulations~~ rules promulgated
20 hereunder.

21 "(2) The plan provides for the ~~processing and~~
22 ~~disposal~~ management of ~~municipal~~ solid waste and recyclable
23 materials in a manner that is consistent with the requirements
24 of the solid waste management act and the ~~regulations~~ rules
25 promulgated pursuant thereto.

1 "(3) The plan provides for the ~~processing and~~
2 ~~disposal~~ management of local solid waste and recyclable
3 materials for at least 10 years.

4 "(i) Each county and municipality with an approved
5 solid waste management plan required pursuant to subsection
6 (a) shall thereafter submit ~~a revised~~ any proposed revisions
7 to the plan to the department in accordance with the
8 requirements of this article:

9 "(1) At least three years prior to the time all
10 remaining available permitted capacity for the jurisdiction
11 will be exhausted, or

12 "(2) When otherwise required by the department."

13 Section 2. Sections 22-27-9, 22-27-10, 22-27-11,
14 22-27-12, 22-27-13, 22-27-14, 22-27-15, 22-27-16, 22-27-17,
15 22-27-18, and 22-27-19, are added to Article 1 of Chapter 27,
16 Title 22, Code of Alabama 1975, to read as follows:

17 §22-27-9.

18 (a) The Legislature finds that:

19 (1) Insufficient and improper methods of managing
20 solid waste, such as the formation of unauthorized dumps, can
21 create hazards to public health, cause pollution of air, land
22 and water resources, constitute a waste of natural resources,
23 and create public nuisances.

24 (2) The economic growth and population growth in the
25 state have required increased industrial production which,
26 together with related commercial and agricultural operations

1 to meet our needs, have resulted in increased amounts of
2 discarded materials.

3 (3) The continuing technological progress and
4 improvements in methods of manufacturing, packaging, and
5 marketing of consumer products have resulted in an increasing
6 amount of material discarded by the purchasers of these
7 products, necessitating a statewide approach to assist local
8 governments in improving solid waste management practices and
9 to promote more efficient methods of solid waste management.

10 (4) The failure or inability to economically recover
11 material and energy resources from solid waste results in the
12 unnecessary waste and depletion of our natural resources, such
13 that maximum resource recovery from solid waste and maximum
14 recycling and reuse of these resources must be considered
15 goals of the state.

16 (5) A coordinated statewide solid waste and
17 recyclable materials management program is needed to protect
18 public health and safety, protect and preserve the quality of
19 the environment, and conserve and efficiently utilize natural
20 resources.

21 (b) In response to these findings, it is the purpose
22 of this act to accomplish each of the following:

23 (1) To establish and maintain a cooperative state
24 and local program of planning and coordination for
25 comprehensive solid waste management and to delineate the
26 respective roles of state and local agencies to approve sites
27 and permit changes.

1 (2) To establish a program of education, regulation,
2 planning, assistance, and other incentives to promote the
3 reduction, reuse, and treatment of solid waste, and the
4 recycling of materials that would otherwise be disposed of as
5 solid waste.

6 (3) To encourage the development of materials and
7 energy recovery as a means of managing solid waste, conserving
8 resources, and supplying energy after assuring that to the
9 maximum extent possible, recyclable materials are recycled
10 considering recycling costs and markets, and that all solid
11 waste, recyclables, and other materials are managed in ways
12 which prohibit the creation of public nuisances.

13 (4) To assure that adequate resources are provided
14 for the state's regulatory control and oversight of solid
15 waste and recyclable materials management programs.

16 (5) To assure that adequate capacity for energy
17 recovery, materials recovery, and solid waste disposal will be
18 available to meet the state's future solid waste requirements.

19 (6) To protect public health and the environment
20 from the short- and long-term dangers of improper collection,
21 transportation, processing, treatment, storage, and disposal
22 of solid wastes, and from the mismanagement of any material
23 which may pose a threat to public health and safety and the
24 environment.

25 (7) To provide additional and cumulative remedies to
26 control the management of solid wastes with the state.

1 (c) In furtherance of its responsibility to protect
2 the public health, safety, and welfare of its citizens, and to
3 protect and enhance the quality of the environment, it is the
4 policy of the state that a comprehensive statewide solid waste
5 management program should be instituted and maintained, which
6 would assure that solid waste management facilities, whether
7 publicly or privately operated, do not adversely affect the
8 health, safety, and well-being of the public and do not
9 degrade the quality of the environment by reason of their
10 location, design, construction, method of operation, or
11 closure, and, to the extent feasible and practical, make
12 maximum utilization of the resources contained in solid waste.

13 (d) It is further declared to be in the policy of
14 this state to do all of the following:

15 (1) To encourage generators of solid waste to reduce
16 or minimize the amount of solid waste which requires
17 collection, treatment, or disposal through source reduction,
18 reuse, composting, recycling, and other methods, and to
19 promote markets for and engage in the purchase of goods made
20 from recovered materials and goods which are designed for
21 recycling.

22 (2) To establish and implement a comprehensive
23 unified program of solid waste management between state and
24 local governments to achieve a unified and effective solid
25 waste management program as outlined in this article.

26 (3) To utilize to every reasonable extent, the
27 existing private recycling infrastructure in the state to

1 prevent the unnecessary duplication of processing and
2 marketing capacity at taxpayer expense.

3 §22-27-10.

4 (a) The Department of Environmental Management shall
5 be the agency with primary regulatory authority over the
6 management of solid waste in the state, except for the
7 collection and transportation of nonhazardous and nonmedical
8 solid waste. The department may exercise the regulatory
9 authority over the permitting and operation of solid waste
10 management facilities necessary to enforce the requirement and
11 purposes of this article.

12 (b) The Alabama Department of Public Health shall
13 have primary regulatory authority over the collection and
14 transportation of solid waste, excluding medical waste and
15 hazardous waste, the management of sanitary waste in septic
16 tanks, excluding landfill disposal, and the management of
17 collection activities including, but not limited to, the
18 provision of collection services by county and municipal
19 governing bodies, participation in local collection systems,
20 the temporary retainment of solid waste on the generator's own
21 property, not constituting storage, and any containers, or
22 container systems used in the collection of solid waste, such
23 as bulk refuse receptacles, dumpsters, roll-off containers and
24 household collection carts. The State Board of Health may
25 adopt rules and rules necessary to enforce the requirements of
26 this article.

1 (c) The State Health Officer and the Director of the
2 Alabama Department of Environmental Management shall ensure
3 that their responsibilities under Article 1 are consistently
4 and equitably applied.

5 §22-27-11.

6 (a) Solid waste shall be collected, transported,
7 disposed, managed, or any combination thereof, according to
8 the requirements of this article, and the rules of the
9 department or the health department, as authorized by this
10 article, and if disposed of in this state, shall be disposed
11 in a permitted landfill or permitted incineration, or reduced
12 in volume through composting, materials recovery, or other
13 existing or future means approved by and according to the
14 requirements of the department, under authorities granted by
15 this article.

16 (b) The creation, contribution to, or operation of
17 an unauthorized dump is declared to be a public nuisance per
18 se, a menace to public health, and a violation of this
19 article. In addition to other remedies which are available, an
20 unauthorized dump may be enjoined through an action in the
21 circuit court having jurisdiction over the property in which
22 the violation occurred. In addition to any fines, penalties,
23 and other remedies set forth herein, any person who
24 participates in the creation or operation of an unauthorized
25 dump, or contributed to an unauthorized dump, shall be
26 responsible for the removal of the waste or otherwise the
27 closure of the unauthorized dump in accordance with this

1 article and rules of the department. If those who created,
2 operated, or contributed to an unauthorized dump do not remove
3 or close the unauthorized dump, the landowner shall also be
4 responsible for the removal or otherwise the closure of the
5 unauthorized dump; an innocent landowner, as further detailed
6 by department rules, shall have access to the Solid Waste Fund
7 to pay for reasonable or actual costs of investigation,
8 required cleanup, and closure of the dump, subject to a
9 ranking system established by the department through rules.
10 Landowners shall cooperate with local governments and/or the
11 department in stopping unauthorized dumping and removing the
12 waste or otherwise closing an unauthorized dump in accordance
13 with this article, and where applicable, the rules of the
14 department. Innocent landowners who do not participate in the
15 creation or operation of an unauthorized dump, and who have
16 not contributed to the unauthorized dump shall not be liable
17 for any fines, costs, actions, punishments, sanctions, or
18 penalties under this article if they are part of the site
19 ranking system established in accordance with department rules
20 to use the Solid Waste Fund to remove the waste or otherwise
21 close the unauthorized dump in accordance with this article
22 and rules of the department with reasonable diligence after
23 written notice. Unless excepted, each landowner shall be
24 liable for applicable fines, penalties, and sanctions under
25 this article if they fail to remove the waste or otherwise
26 close the unauthorized dump with reasonable diligence after
27 written notice. It shall be unlawful for any person to fail to

1 comply with an administrative order from the department or,
2 unless excepted, to knowingly or intentionally abandon an
3 unauthorized dump without either removing the waste or
4 otherwise closing the unauthorized dump in accordance with
5 this article and the rules of the department. The sale or
6 lease of land does not constitute an abandonment within the
7 meaning of this section, however, the purchaser or lessee
8 shall not be considered an innocent landowner.

9 (c) Open burning at a solid waste management
10 facility is prohibited except as necessary to respond to
11 emergencies and pursuant to a restricted burning approval
12 issued by the department. Approved open burning operations
13 must also comply with all applicable federal, state, and local
14 air pollution control laws and regulations.

15 (d) The permittee shall be responsible for the
16 compliance of a permitted facility with all applicable rules
17 notwithstanding the performance of compliance-related duties
18 by independent contractors or agents.

19 (e) No provision of this article and no rule
20 promulgated under the authority of this article shall be
21 construed to be a limitation on any of the following:

22 (1) The power of a municipality or county to
23 declare, prohibit, or abate public nuisances; provided no
24 municipality, county, or solid waste authority utilizes or
25 adopts definitions related to any of the subjects or
26 activities contained within Article 1 that are not consistent

1 with the definitions contained in Section 22-27-2, as may be
2 amended from time to time.

3 (2) The power of the Attorney General to bring an
4 action in the name of the State of Alabama to enforce this
5 article, including, but limited to, enjoin any public
6 nuisance.

7 (3) The power of any state agency in the enforcement
8 or administration of any law it is specifically permitted or
9 required to enforce or administer.

10 (4) The right of any person to maintain at any time
11 any appropriate action for relief against any private
12 nuisance.

13 (f) Nothing contained in this article shall be
14 construed in any way to abridge or alter civil or criminal
15 rights of action or remedies now or hereafter existing. No
16 provision of this article, or the granting of any permit under
17 this article, or any act done by virtue of this article, shall
18 be construed as prohibiting the state, counties,
19 municipalities, or its citizens in the exercise of their
20 rights from proceeding to suppress public nuisances, to abate
21 any pollution now or hereafter existing, or to enforce any
22 law.

23 §22-27-12.

24 (a) Any violation of this article, any rule
25 promulgated under the authority of this article, any order
26 issued under the authority, or any term or condition of any
27 permit issued under the authority of this article is unlawful.

1 In addition to any penalties lawfully assessed, any person
2 committing a violation shall be liable for all costs of
3 abatement of any pollution and correction of any public
4 nuisance caused by the violation.

5 (b) The department may issue administrative orders
6 under Section 22-22A-5 or initiate civil actions, or both, as
7 it deems necessary against any person in the enforcement of
8 this article, or any regulation promulgated or permit issued
9 under the authority of this article.

10 (c) In addition to any other remedies provided in
11 this article, the department or the health department may
12 institute suit against any person for a violation of law or,
13 whenever a public nuisance is threatened or exists, for an
14 injunction to restrain a violation of this article, or the
15 rules, standards, or orders adopted or issued under this
16 article.

17 (d) In addition to any other remedies provided in
18 this article, upon relation of the Attorney General or any
19 district attorney, an action may be brought in a court of
20 competent jurisdiction for an injunction to restrain any and
21 all violations of this article, or the rules promulgated under
22 this article, or to restrain any public nuisance or detriment
23 to public health.

24 (e) Any person, who intentionally or knowingly,
25 recklessly, or with criminal negligence violates this article,
26 or any rule, regulation, or order promulgated or issued under
27 this article, or any term or condition of any permit or

1 license under such circumstances as to endanger human health
2 or the environment shall, upon conviction, be guilty of a
3 misdemeanor and shall pay a fine of not less than one hundred
4 dollars (\$100) nor more than twenty-five thousand dollars
5 (\$25,000) for each violation, or imprisonment for not more
6 than one year, or both. Any person convicted of a second
7 violation of this article within two years after the first
8 conviction shall be sentenced to pay a fine of not less than
9 two thousand five hundred dollars (\$2,500) nor more than fifty
10 thousand dollars (\$50,000) for each violation, or to
11 imprisonment for not more than two years, or both. If the
12 violation, failure, or refusal to obey or comply with this
13 article or a rule is a continuing one, each day the violation
14 continues shall constitute a separate offense and shall be
15 punished accordingly.

16 (f) Other than administrative orders and notices
17 issued by the department or the health department to enforce
18 this article, all citations to violators of this article shall
19 be served by any law enforcement officer or by the solid waste
20 officer.

21 §22-27-13.

22 The department may do the following:

23 (1) Adopt rules to implement this article.

24 (2) Adopt rules establishing requirements and
25 restrictions for the management of solid waste, excluding the
26 collection and transportation of nonhazardous and nonmedical
27 solid waste. The rules may include factors such as the

1 characteristics of the solid waste, the potential for
2 contamination of soils, or ground and surface waters, the
3 design and operation of management facilities, the financial
4 capabilities of the applicant, soil and geological
5 considerations, human health, and other environmental
6 considerations. With respect to solid waste disposal or
7 materials recovery facilities, the rules may also include
8 factors such as the quantity, nature, and origin of solid
9 wastes and recovered materials to be managed. The department
10 may condition the issuance of a permit for any solid waste
11 management or materials recovery facility upon the facility
12 being consistent with applicable rules as are necessary to
13 carry out the intent of this article and the department's
14 responsibilities under this article. Permits shall be issued
15 for a period of time based on design life of the facility and
16 may include renewal periods as determined by rules and not
17 inconsistent with federal law.

18 (3) Issue permits, notices, and orders to specify
19 the terms and conditions of permits or notices, to conduct
20 inspections, to require that records be established and
21 maintained, to direct the abatement of unauthorized dumps or
22 other public nuisances involving solid waste, and to implement
23 the rules and standards adopted pursuant to this article.

24 (4) Require postclosure activities be conducted in
25 accordance with the Alabama Uniform Covenants Act and the
26 corresponding rules developed by the department.

1 (5) Require that solid waste management facilities
2 identify the volumes and types of solid waste to be managed
3 and the counties and state where such solid waste will be
4 generated.

5 (6) Enter upon, during reasonable hours, all solid
6 waste management and materials recovery facilities owned and
7 operated by persons subject to this chapter to inspect,
8 investigate, obtain samples, monitor, or observe the transfer,
9 treatment, storage, or disposal of solid waste and recovered
10 materials, and to examine or copy records to determine
11 compliance with this article and the rules promulgated under
12 this article.

13 (7) No later than two years after the effective date
14 of this article, require that operators of all public solid
15 waste management facilities be certified. The department
16 shall, by rule or regulation, establish qualifications for
17 certification programs, to include variance procedures for
18 existing programs which meet the qualifications and taking
19 into account the types of solid waste management facilities.

20 (8) Promote, initiate, conduct and support research,
21 demonstration projects, and investigations and participate in
22 all state agency research programs pertaining to solid waste
23 handling, disposal, materials recovery, and energy recovery
24 systems.

25 (9) Promulgate rules, if necessary, to ban certain
26 wastes from landfilling or incineration in order to protect
27 the public health and environment and to promote recycling.

1 (10) Regulate the management, including collection
2 and transportation of all medical waste, until such time as
3 the United States Environmental Protection Agency may
4 establish specific rules which are applicable within the state
5 for infectious waste under Subtitle C of the federal Resource
6 Conservation and Recovery Act of 1976, 42 U.S.C. §6901, et
7 seq., as amended.

8 (11) Do any and all other actions not inconsistent
9 with this article or other state law which it deems necessary
10 and proper for the effective enforcement of this article and
11 the rules promulgated pursuant to it.

12 §22-27-14.

13 The department or any appropriate law enforcement
14 agency may apply for, and any judge of a court of record may
15 issue, an appropriate search warrant necessary to achieve the
16 purposes of this article within the court's territorial
17 jurisdiction. The warrant shall be issued upon probable cause.

18 §22-27-15.

19 Notwithstanding any other law to the contrary,
20 actions to correct any violations of this article, the rules
21 promulgated under this article, or for civil or criminal
22 penalties under this article shall be commenced within a
23 period of four years from the date the offense is discovered,
24 by the department or other enforcing agency or person.

25 §22-27-16.

26 (a) No later than 18 months after the effective date
27 of the act adding this section, the department shall

1 establish, by rule, the percentage of the household and
2 commercial solid waste stream that shall be reduced and the
3 time frames for that reduction. Reduction, by means including,
4 but not limited to, recycling, source reduction, waste
5 minimization, reuse, and composting shall be determined at
6 public solid waste disposal or incineration facilities on a
7 statewide, per capita basis. The department shall adopt rules
8 for the determination of base year data, and reporting
9 requirements by local governing bodies and public solid waste
10 disposal or incineration facilities, to include both the
11 quantity and origin of the solid waste disposed or incinerated
12 at such facilities. Notwithstanding anything herein to the
13 contrary, the required reduction shall take place prior to
14 delivery to public solid waste disposal or incineration
15 facilities, unless reduction activities are provided on the
16 site of the solid waste disposal or incineration facility
17 agreement between the generator or collector of the solid
18 waste and the solid waste disposal facility.

19 (b) Every three years after the implementation of
20 subsection (a), the director shall review the solid waste
21 reduction activities of the state and determine whether the
22 reduction goal established pursuant to this section should be
23 modified by future rulemaking.

24 (c) In determining the minimum solid waste reduction
25 goals, the department may consider factors such as local
26 collection and disposal costs, solid waste composition, the

1 population density of counties or municipalities, and the
2 distance to available markets for recovered materials.

3 §22-27-17.

4 Notwithstanding any other law or any provision of
5 Article 1 to the contrary, a generator of recovered materials
6 owns those materials until such time as the generator may
7 voluntarily relinquish ownership of those materials. The
8 generator may not be prohibited from selling, conveying, or
9 arranging for the transportation of recovered materials to a
10 recycler or recovered materials processing facility for reuse
11 or recycling, nor preventing a recycling company, recovered
12 materials processing facility, or nonprofit entity from
13 buying, accepting, collecting, or transporting recovered
14 materials from a buy-back center, drop-box, or from any
15 generator of recovered materials.

16 §22-27-18.

17 (a) Beginning on October 1, 2008, the following
18 disposal fees are levied upon generators of solid waste who
19 dispose of solid waste at solid waste management facilities
20 permitted by the department subject to this chapter, which
21 shall be collected in accordance with subsection (b):

22 (1) One dollar (\$1) per ton for all waste disposed
23 of in a municipal solid waste landfill.

24 (2) One dollar (\$1) per ton or twenty-five cents
25 (\$0.25) per cubic yard for all waste disposed of in public
26 industrial landfills, construction and demolition landfills,

1 incinerators, or composting facilities, which receive waste
2 not generated by the permittee.

3 (3) Twenty-five cents (\$0.25) per cubic yard for all
4 waste disposed of in a private solid waste management
5 facility, not to exceed one thousand dollars (\$1,000) per
6 calendar year.

7 (4) Regulated solid waste that may be approved by
8 the department as alternate cover materials in landfills shall
9 be assessed the disposal fees applicable in subdivisions (1)
10 and (2) above.

11 (5) Regulated solid waste received from out-of-state
12 for disposal at public solid waste facilities permitted by the
13 department shall be assessed the same disposal fees applicable
14 in subdivisions (1) and (2) above, to be collected by the
15 operator of the solid waste facility and remitted in
16 accordance with subsection (b).

17 (b) Unless exempted under subsection (e), operators
18 of permitted solid waste disposal facilities shall assess the
19 disposal fees levied in subsection (a) on generators of all
20 waste as the waste is delivered to solid waste facilities and
21 shall collect and remit the disposal fees on all wastes
22 received at the facility to the Department of Revenue on a
23 quarterly basis not later than the 20th day of January, April,
24 July, and October. Any sums collected from a generator that
25 purports to be collected due to this section shall be paid to
26 the Department of Revenue. The owner or operator shall certify
27 to the Department of Revenue the volumes of solid waste

1 received for disposal. The Department of Revenue may retain
2 one percent of the solid waste fees collected as an
3 administrative collection allowance. All owners and operators
4 collecting the solid waste fee established in this section may
5 retain four percent of the total solid waste fees collected at
6 their facility as an administrative collection allowance.

7 (c) The Department of Revenue shall transfer each
8 month all funds collected from this section less its
9 administrative collection allowance as follows:

10 (1) Twenty-five percent of the fee to the Alabama
11 Recycling Fund (ARF) to be used by the department exclusively
12 to provide grants to local governments, authorities, and
13 nonprofit organizations for use in developing, implementing,
14 and enhancing local recycling, reuse and waste minimization
15 projects and programs. Such grants shall be awarded annually
16 by the department in accordance with rules adopted pursuant to
17 this article. The ARF is authorized to receive funding from
18 other sources including interest generated by the fund,
19 grants, allotments, and contributions whether public or
20 private.

21 (2) Twenty-five percent of the fee to the Solid
22 Waste Fund (SWF) to be used by the department to pay the costs
23 of remediation, abatement, removal, or other actions related
24 to the closure of unauthorized dumps and landfills, including,
25 but not limited to, equipment, labor, supplies, materials, and
26 professional services. The funds shall be disbursed according
27 to rules adopted by the department and shall be carried out in

1 accordance with any applicable state contracting requirements.
2 The SWF is authorized to receive funding from other sources
3 including interest generated by the fund, grants, allotments,
4 and contributions, whether public or private.

5 (3) Forty-five percent of the fee to the Alabama
6 Department of Environmental Management to be used exclusively
7 to pay the costs of performing its duties under this article
8 and to fund educational programs administered by the
9 department on solid waste management, waste minimization, and
10 recycling.

11 (d) Where operators of solid waste facilities have
12 entered into fixed-price contracts for disposal of solid waste
13 prior to the effective date of the act adding this article,
14 the disposal fee collected by the solid waste facilities
15 pursuant to subsection (b) shall not be considered part of the
16 contract price for disposal.

17 (e) For fixed-price contracts entered into by waste
18 haulers prior to the effective date of the act adding this
19 section for transportation and disposal of solid waste, the
20 waste haulers may increase their contract prices for
21 transportation and disposal in an amount equal to the disposal
22 fee imposed in subsection (a) and paid by the waste hauler.

23 (f) The following persons are exempt from payment of
24 fees required by this article:

25 (1) Operators of industrial boilers, furnaces, and
26 other processing equipment that burn solid waste generated on
27 site for the purpose of fuel replacement or energy recovery

1 and which are permitted by the department or by a local air
2 pollution control agency.

3 (2) Operators of composting facilities which are
4 owned by the Alabama Department of Corrections and which
5 receive only wastes generated by Alabama Department of
6 Corrections facilities and institutions or those composting
7 facilities otherwise exempt from permitting as provided in
8 rules promulgated by the department.

9 (3) Operators of industrial boilers, furnaces, and
10 other processing equipment that burn scrap tires for the
11 purpose of fuel replacement or energy recovery and are
12 registered with the department as provided in rules
13 promulgated by the department.

14 (4) Scrap tire processors who receive and process
15 scrap tires and who are permitted by or registered with the
16 department as provided in rules promulgated by the department,
17 except that a solid waste disposal facility permitted as a
18 scrap tire processor shall collect the fee on all waste
19 disposed of in its landfill.

20 (g) The department may adjust the fees provided for
21 in subsection (a) through the adoption of appropriate rules.
22 Regulatory adjustments shall be limited to no more frequently
23 than once every three years and shall reflect the cumulative
24 change in the Consumer Price Index for All Urban Consumers
25 (CPI-U), for the South Region, as published by the U.S.
26 Department of Labor, Bureau of Labor Statistics. The base
27 reference period for the CPI-U shall be the annual average for

1 2008. Any fees established through regulatory adjustment shall
2 not be less than those provided for in subsection (a). Any
3 fees established through the adoption of rules shall become
4 effective no earlier than 60 days after the effective date of
5 adoption of the rule. The department shall notify the
6 Department of Revenue in advance of any proposed change in
7 fees and upon completion of the rulemaking process.

8 (h) The department or the Department of Revenue may
9 review or audit all records of wastes received for disposal at
10 each solid waste disposal facility to determine compliance
11 with this article. Further, the Department of Revenue shall
12 perform the following duties:

13 (1) Collect and administer the fees imposed in this
14 chapter in accordance with Chapter 2A, commencing with Section
15 40-2A-1, of Title 40.

16 (2) Impose appropriate interest on any disposal fees
17 paid after the due date in accordance with Section 40-1-44.

18 (3) Promulgate and enforce rules to effectuate the
19 reporting, collection, and payment of disposal fees
20 established by this article. All rules promulgated shall have
21 the same force and effect of law.

22 (4) Share information, data, reports, or
23 documentation related to the collection and administration of
24 the disposal fees imposed by this article with the department
25 for the purpose of administering the provisions of this
26 article, notwithstanding any provisions of law requiring
27 confidentiality.

1 (i) All fees, interest, or other income distributed
2 under this section shall only be used for the purposes
3 specified in this chapter. Any unexpended funds during a
4 budget year shall be carried over to the subsequent budget
5 year and added to the subsequent year's distribution.

6 (j) The department shall, on or before January 20,
7 2011, and biennially thereafter, transmit a report to the
8 Alabama Environmental Management Commission, the Legislature,
9 and the Governor concerning the implementation of this article
10 for the preceding two fiscal years. Each biennial report shall
11 include the following information:

12 (1) The amount of solid waste disposed of at solid
13 waste facilities in the state.

14 (2) The amount of disposal fees collected under this
15 article.

16 (3) How funds generated by this article were
17 expended for the previous fiscal years.

18 (4) The activities and accomplishments of the
19 department in implementing this article.

20 §22-27-19.

21 (a) There are established separate special revenue
22 trust funds in the State Treasury to be known as the Solid
23 Waste Fund (SWF) and the Alabama Recycling Fund (ARF). These
24 funds shall be used for the purposes set forth in this article
25 and for no other governmental purposes, nor shall any portion
26 hereof ever be available to borrow from by any branch of
27 government, it being the intent of the Legislature that these

1 funds and their increments shall remain intact and inviolate
2 for the purposes set out in this article. Any interest or
3 earnings on the funds shall be credited only to the funds.

4 (b) The funds shall be audited annually by the
5 Department of Examiners of Public Accounts.

6 Section 3. There is appropriated from the solid
7 waste fee imposed on the disposal of solid waste at solid
8 waste disposal, composting, and incineration facilities
9 pursuant to the newly created Section 22-27-18 for the fiscal
10 year ending September 30, 2009, the following sums:

11 (1) Twenty-five percent of the solid waste fee
12 collected to the Alabama Recycling Fund.

13 (2) Twenty-five percent of the solid waste fee
14 collected the Solid Waste Fund.

15 (3) Forty-five percent of the solid waste fee
16 collected to the Alabama Department of Environmental
17 Management.

18 Section 4. All laws or parts of laws which conflict
19 with this act are repealed.

20 Section 5. This act shall become effective
21 immediately following its passage and approval by the
22 Governor, or its otherwise becoming law.