

1 HB143
2 123074-3
3 By Representatives Baker, McMillan, Shiver, Jackson, Faust,
4 Jones, Beech, Davis, Harper and Lee
5 RFD: County and Municipal Government
6 First Read: 03-MAR-11

SYNOPSIS: Under existing law, if a local governing body fails to act on a proposal related to its local solid waste disposal management plan within 90 days of receiving the application, the application is considered approved.

This bill would require a local governing body to affirmatively approve a proposal or an application for a new facility within 90 days of receiving the application, or the proposal or application would be deemed denied.

A BILL
TO BE ENTITLED
AN ACT

To amend Section 22-27-48, Code of Alabama 1975, relating to local governing body review of a proposal related to solid waste disposal management plans; to require a local governing body to affirmatively approve a proposal or an

1 application for a new facility within a certain period of
2 time, or the proposal or application would be deemed denied.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

6 "§22-27-48.

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

24 "In determining whether to recommend approval of the
25 proposed issuance of or modification of a new or existing
26 solid waste management site, the governing body shall consider
27 each of the following:

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

4 "(2) The relationship of the proposal to local
5 planned or existing development or the absence thereof, to
6 major transportation arteries and to existing state primary
7 and secondary roads;

8 "(3) The location of a proposed facility in
9 relationship to existing industries in the state that generate
10 large volumes of solid waste, or the relationship to the areas
11 projected for development of industries that will generate
12 solid waste;

13 "(4) Costs and availability of public services,
14 facilities and improvements required to support a proposed
15 facility and protect public health, safety and the
16 environment;

17 "(5) The impact of a proposed facility on public
18 safety and provisions made to minimize the impact on public
19 health and safety; and

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

23 "The application of the plan for local approval
24 shall be accompanied by an application fee payable to the
25 local governing body in an amount equal to 20 percent of the
26 application or permit fee required by the department, but
27 local approval shall not apply to simple renewals of a permit

1 which is to be otherwise unchanged. Further, there shall be no
2 requirement for local review and approval of permit
3 modifications for the limited purposes of changing liner and
4 leachate collection design, changes in waste streams from
5 within the facility's designated service area, changes in
6 sequence of fill, changes to incorporate new technology and
7 changes intended to bring a facility into compliance with
8 statutes and regulations. A renewed application for local
9 approval submitted within 18 months of an application being
10 denied or rejected by the local governing body shall be
11 accompanied by an application fee payable to the local
12 governing body in an amount equal to 50 percent of the
13 application or permit fee required by the department.

14 "Any determination by the local governing body of
15 the proposed issuance of or modification of a permit for a new
16 or existing solid waste management site or the proposal to
17 contract for any services described in the solid waste
18 management plan, shall be made in a public meeting only after
19 public notice of such application or proposal and an
20 opportunity for public comment is provided.

21 "In providing public notice of any application or
22 proposal regarding any services described in the solid waste
23 management plan, the local government shall at a minimum hold
24 at least one public hearing thereon, notice of the time and
25 place of which shall be given by one publication in a
26 newspaper of general circulation in the municipality and in
27 the official gazette, if any, of the jurisdiction.

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

26 "(b) Following local review and approval of any
27 proposal regarding services or activities described in the

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

13 "(c) Plans required by this section shall not apply
14 to industrial landfills receiving wastes generated on site
15 only or by the permittee."

16 Section 2. This act shall become effective
17 immediately following its passage and approval by the
18 Governor, or its otherwise becoming law.