

Senate File 2276 - Enrolled

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SENATE FILE 2276

AN ACT

RELATING TO THE DISPOSAL OF SOLID WASTE BY CHANGING PERMITTING REQUIREMENTS AND UPDATING AND CLARIFYING EXISTING PROVISIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 455B.301, Code 2007, is amended to read as follows:

455B.301 DEFINITIONS.

As used in this part 1 of division IV, unless the context clearly indicates a contrary intent:

1. "Actual cost" means the operational, remedial and emergency action, closure, postclosure, and monitoring costs of a sanitary disposal project for the lifetime of the project.

2. "Beneficial use" means a specific utilization of a solid by-product as a resource that constitutes reuse rather than disposal, does not adversely affect human health or the environment, and is approved by the department.

3. "Beverage" means wine as defined in section 123.3, subsection 37, alcoholic liquor as defined in section 123.3, subsection 5, beer as defined in section 123.3, subsection 7, wine cooler or drink, tea, potable water, soda water and similar carbonated soft drinks, mineral water, fruit juice, vegetable juice, or fruit or vegetable drinks, which are intended for human consumption.

4. "Beverage container" means a sealed glass, plastic, or metal bottle, can, jar, or carton containing a beverage.

5. "Biodegradable" means degradable through a process by which fungi or bacteria secrete enzymes to convert a complex molecular structure to simple gasses and organic compounds.

6. "Closure" means actions that will prevent, mitigate, or minimize the threat to public health and the environment posed by a closed sanitary landfill, including but not limited to application of final cover, grading and seeding of final cover, installation of an adequate monitoring system, and construction of ground and surface water diversion structures, if necessary.

7. "Closure plan" means the plan which specifies the methods and schedule by which an operator will complete or cease disposal operations of a sanitary disposal project, prepare the area for long-term care, and make the area suitable for other uses.

8. "Degradable" means capable of decomposing by biodegradation, photodegradation, or chemical process into harmless component parts after exposure to natural elements for not more than three hundred sixty-five days.

9. "Financial assurance instrument" means an instrument submitted by an applicant to ensure the operator's financial capability to provide reasonable and necessary remedial responses.

a. The instrument shall be sufficient to ensure adequate response the lifetime of the project and for the thirty years following closure, and to provide for the closure of the facility and postclosure care required by rules adopted by the commission in the event that the operator fails to correctly perform closure and postclosure care requirements pursuant to section 455B.304, subsection 6.

b. The instrument shall be sufficient to ensure the proper closure and postclosure care of the project, and corrective action, if necessary, in the event the operator fails to correctly perform those requirements.

c. The instrument may include the provide for one or more of the following:

- (1) The establishment of a secured trust fund,
- (2) The use of a cash or surety bond, or the
- (3) The obtaining of insurance.
- (4) The satisfaction of a corporate financial test.
- (5) The satisfaction of a local government financial test.
- (6) The obtaining of a corporate guarantee.

3 4 (7) The obtaining of a local government guarantee.
3 5 (8) The use of a local government dedicated fund.
3 6 (9) The obtaining of an irrevocable letter of credit.
3 7 ~~8A- 10. "Incinerator" means any enclosed device using~~
3 8 ~~controlled flame combustion that does not meet the criteria~~
3 9 ~~for classification as a boiler and is not listed as an~~
3 10 ~~industrial furnace. "Incinerator" does not include thermal~~
3 11 ~~oxidizers used for the treatment of gas emissions.~~
3 12 ~~9- 11. "Leachate" means fluid that has percolated through~~
3 13 ~~solid waste and which contains contaminants consisting of~~
3 14 ~~dissolved or suspended materials, chemicals, or microbial~~
3 15 ~~waste products from the solid waste.~~
3 16 ~~10- 12. "Lifetime of the project" means the projected~~
3 17 ~~period of years that a landfill will receive waste, from the~~
3 18 ~~time of opening until closure, based on the volume of waste to~~
3 19 ~~be received projected at the time of submittal of the initial~~
3 20 ~~project plan and the calculated refuse capacity of the~~
3 21 ~~landfill based upon the design of the project.~~
3 22 ~~11- 13. "Manufacturer" means a person who by labor, art,~~
3 23 ~~or skill transforms raw material into a finished product or~~
3 24 ~~article of trade.~~
3 25 ~~12- 14. "Photodegradable" means degradable through a~~
3 26 ~~process in which ultraviolet radiation in sunlight causes a~~
3 27 ~~chemical change in a material.~~
3 28 ~~13- 15. "Postclosure" and "postclosure care" mean the time~~
3 29 ~~and actions taken for the care, maintenance, and monitoring of~~
3 30 ~~a sanitary disposal project after closure that will prevent,~~
3 31 ~~mitigate, or minimize the threat to public health, safety, and~~
3 32 ~~welfare and the threat to the environment posed by the closed~~
3 33 ~~facility.~~
3 34 ~~14- 16. "Postclosure plan" means the plan which specifies~~
3 35 ~~the methods and schedule by which the operator will perform~~
4 1 ~~the necessary monitoring and care for the area after closure~~
4 2 ~~of a sanitary disposal project.~~
4 3 ~~15- 17. "Private agency" means a private agency as defined~~
4 4 ~~in section 28E.2.~~
4 5 ~~16- 18. "Public agency" means a public agency as defined~~
4 6 ~~in section 28E.2.~~
4 7 ~~17- 19. "Resource recovery system" means the recovery and~~
4 8 ~~separation of ferrous metals and nonferrous metals and glass~~
4 9 ~~and aluminum and the preparation and burning of solid waste as~~
4 10 ~~fuel for the production of electricity.~~
4 11 ~~20. "Rubble" means dirt, stone, brick, or similar~~
4 12 ~~inorganic materials used for beneficial fill, landscaping,~~
4 13 ~~excavation, or grading at places other than a sanitary~~
4 14 ~~disposal project. "Rubble" includes asphalt waste only as~~
4 15 ~~long as it is not used in contact with water in a floodplain.~~
4 16 ~~For purposes of this chapter, "rubble" does not mean gypsum or~~
4 17 ~~gypsum wallboard, coal combustion residue, foundry sand, or~~
4 18 ~~other industrial process wastes unless those wastes are~~
4 19 ~~approved by the department.~~
4 20 ~~18- 21. "Sanitary disposal project" means all facilities~~
4 21 ~~and appurtenances including all real and personal property~~
4 22 ~~connected with such facilities, which are acquired, purchased,~~
4 23 ~~constructed, reconstructed, equipped, improved, extended,~~
4 24 ~~maintained, or operated to facilitate the final disposition of~~
4 25 ~~solid waste without creating a significant hazard to the~~
4 26 ~~public health or safety, and which are approved by the~~
4 27 ~~executive director.~~
4 28 ~~19- 22. "Sanitary landfill" means a sanitary disposal~~
4 29 ~~project where solid waste is buried between layers of earth.~~
4 30 ~~20- 23. "Solid waste" means garbage, refuse, rubbish, and~~
4 31 ~~other similar discarded solid or semisolid materials,~~
4 32 ~~including but not limited to such materials resulting from~~
4 33 ~~industrial, commercial, agricultural, and domestic activities.~~
4 34 ~~Solid waste may include vehicles, as defined by section 321.1,~~
4 35 ~~subsection 90. However, this division does not prohibit the~~
5 1 ~~use of dirt, stone, brick, or similar inorganic material for~~
5 2 ~~fill, landscaping, excavation or grading at places other than~~
5 3 ~~This definition does not prohibit the use of rubble at places~~
5 4 ~~other than a sanitary disposal project. Solid waste "Solid~~
5 5 ~~waste" does not include hazardous waste as defined in section~~
5 6 ~~455B.411 or source, any of the following:~~
5 7 ~~a. Hazardous waste regulated under the federal Resource~~
5 8 ~~Conservation and Recovery Act, 42 U.S.C. } 6921=6934.~~
5 9 ~~b. Hazardous waste as defined in section 455B.411, except~~
5 10 ~~to the extent that rules allowing for the disposal of specific~~
5 11 ~~wastes have been adopted by the commission.~~
5 12 ~~c. Source, special nuclear, or by-product material as~~
5 13 ~~defined in the Atomic Energy Act of 1954, as amended to~~
5 14 ~~January 1, 1979, or petroleum.~~

5 15 d. Petroleum contaminated soil ~~which that~~ has been
5 16 remediated to acceptable state or federal standards.
5 17 Sec. 2. Section 455B.304, subsections 2, 11, and 17, Code
5 18 2007, are amended to read as follows:

5 19 2. The commission shall adopt rules that allow the use of
5 20 wet or dry sludge from publicly owned treatment works for land
5 21 application. A sale of wet or dry sludge for the purpose of
5 22 land application shall be accompanied by a written agreement
5 23 signed by both parties which contains a general analysis of
5 24 the contents of the sludge. The heavy metal content of the
5 25 sludge shall not exceed that allowed by rules of the
5 26 commission. An owner of a publicly owned treatment works
5 27 which sells wet or dry sludge is not subject to any action by
5 28 the purchaser to recover damages for harm to person or
5 29 property caused by sludge that is delivered pursuant to a sale
5 30 unless it is a result of a violation of the written agreement
5 31 or if the heavy metal content of the sludge exceeds that
5 32 allowed by rules of the commission. Nothing in this section
5 33 shall provide immunity to any person from action by the
5 34 department pursuant to section 455B.307. ~~The rules adopted~~
~~5 35 under this subsection shall be generally consistent with those~~
~~6 1 rules of the department existing on January 1, 1982, regarding~~
~~6 2 the land application of municipal sewage sludge except that~~
~~6 3 they may provide for different methods of application for wet~~
~~6 4 sludge and dry sludge.~~

6 5 11. ~~By July 1, 1990, a~~ A sanitary landfill disposal
6 6 project operating with a permit shall have a trained, tested,
6 7 and certified operator. ~~A certification program shall be~~
~~6 8 devised or approved by rule of the department~~ The department
6 9 shall adopt by rule a certification program.

6 10 17. The commission shall adopt rules to establish a
6 11 special waste authorization program. For purposes of this
6 12 subsection, "special waste" means any industrial process
6 13 waste, pollution control waste, or toxic waste which presents
6 14 a threat to human health or the environment or a waste with
6 15 inherent properties which make the disposal of the waste in a
6 16 sanitary landfill difficult to manage. Special waste does not
6 17 include domestic, office, commercial, medical, or industrial
6 18 waste that does not require special handling or limitations on
6 19 its disposal. Special waste does not include hazardous wastes
6 20 which are regulated under the federal Resource Conservation
6 21 and Recovery Act, 42 U.S.C. } 6921-6934, ~~or hazardous wastes~~
~~6 22 as defined in section 455B.411, subsection 3 nor does it~~
6 23 include hazardous waste as defined in section 455B.411, except
6 24 to the extent that the commission has adopted rules allowing
6 25 the disposal of certain wastes.

6 26 Sec. 3. Section 455B.304, Code 2007, is amended by adding
6 27 the following new subsection:

6 28 NEW SUBSECTION. 19. The commission shall adopt rules for
6 29 determining when the utilization of a solid by-product,
6 30 including energy recovery, constitutes beneficial use rather
6 31 than the disposal of solid waste. Materials approved for
6 32 beneficial use at a sanitary landfill shall be exempt from the
6 33 tonnage fee imposed by section 455B.310 to the extent
6 34 authorized by rule or permit.

6 35 Sec. 4. Section 455B.305, Code 2007, is amended to read as
7 1 follows:

7 2 455B.305 ISSUANCE OR RENEWAL OF PERMITS BY DIRECTOR.

7 3 1. The director shall issue, revoke, suspend, modify, or
7 4 deny permits for the construction and operation of sanitary
7 5 disposal projects.

7 6 a. A permit shall be issued by the director or, at the
7 7 director's direction, by a local board of health, for each
7 8 sanitary disposal project operated in this state. The permit
7 9 shall be issued in the name of the city or county or, where
7 10 applicable, in the name of the public or private agency
7 11 operating the project. Permits issued pursuant to this
7 12 section are in addition to any other licenses, permits, or
7 13 variances authorized or required by law, including but not
7 14 limited to chapter 335.

7 15 b. Each sanitary disposal project shall be inspected
7 16 ~~annually periodically~~ by the department or a local board of
7 17 health. ~~The permits issued pursuant to this section are in~~
~~7 18 addition to any other licenses, permits or variances~~
~~7 19 authorized or required by law, including, but not limited to,~~
~~7 20 chapter 335.~~

7 21 c. A permit may be suspended or revoked by the director if
7 22 a sanitary disposal project is found not to meet the
7 23 requirements of part 1 or ~~the rules issued under adopted~~
7 24 pursuant to part 1. The suspension or revocation of a permit
7 25 may be appealed to the department.

7 26 2. Beginning July 1, 1988, the director shall not issue a
7 27 permit for the construction or operation of a new sanitary
7 28 disposal project unless the permit applicant, in conjunction
7 29 with all local governments using the sanitary disposal
7 30 project, has filed a plan as required by section 455B.306.
7 31 For those sections for which the department has not developed
7 32 rules, the permit shall contain conditions and a schedule for
7 33 meeting all applicable requirements of section 455B.306.

7 34 3. Beginning July 1, 1988, the director shall not renew or
7 35 reissue a permit which had been initially issued prior to that
8 1 date for a sanitary disposal project, unless the permit
8 2 applicant, in conjunction with all local governments using the
8 3 sanitary disposal project, has filed a plan as required by
8 4 section 455B.306. For those sections for which the department
8 5 has not developed rules, the permit shall contain conditions
8 6 and a schedule for meeting all applicable requirements of
8 7 section 455B.306.

8 8 4. Beginning July 1, 1994, the director shall not renew or
8 9 reissue a permit which had been initially issued or renewed
8 10 prior to that date for a sanitary disposal project, unless and
8 11 until the permit applicant, in conjunction with all local
8 12 governments using the sanitary disposal project, documents
8 13 that steps are being taken to begin implementing the plan
8 14 filed pursuant to section 455B.306. For those sections for
8 15 which the department has not developed rules, the permit shall
8 16 contain conditions and a schedule for meeting all applicable
8 17 requirements of section 455B.306. However, a permit may be
8 18 issued for the construction and operation of a new sanitary
8 19 disposal project in accordance with subsection 2.

8 20 5. Beginning July 1, 1997, the director shall not renew or
8 21 reissue a permit which had been renewed or reissued prior to
8 22 that date for a sanitary landfill, unless and until the permit
8 23 applicant, in conjunction with all local governments using the
8 24 landfill, documents that alternative methods of solid waste
8 25 disposal other than use of a sanitary landfill have been
8 26 implemented as set forth in the plan filed pursuant to section
8 27 455B.306. However, the director may issue a permit for the
8 28 construction and operation of a new sanitary landfill in
8 29 accordance with subsection 2 and a permit may be renewed or
8 30 reissued for a sanitary landfill which had received an initial
8 31 permit but the permit had not been previously renewed or
8 32 reissued prior to July 1, 1997 in accordance with subsection
8 33 3.

8 34 After July 1, 1997, however, no new landfill permits shall
8 35 be issued unless the applicant, in conjunction with all local
9 1 governments which will use the landfill, certifies that the
9 2 landfill is needed as a part of an alternative disposal
9 3 method, or unless the applicant provides documentation which
9 4 satisfies the director that alternatives have been studied and
9 5 are not either technically or economically feasible. The
9 6 decision of the director is subject to review by the
9 7 commission at its next meeting.

9 8 6. Beginning July 1, 1992, the director shall not issue a
9 9 permit for a sanitary landfill unless the sanitary landfill is
9 10 equipped with a leachate control system. Beginning July 1,
9 11 1994, the director shall not renew or reissue a permit for an
9 12 existing sanitary landfill unless the sanitary landfill is
9 13 equipped with a leachate control system. During the period
9 14 from July 1, 1992, through June 30, 1994, the director may
9 15 require an existing sanitary landfill to install a leachate
9 16 control system if leachate from the sanitary landfill is
9 17 adversely impacting the public health or safety or the
9 18 environment. During the period from July 1, 1992, through
9 19 June 30, 1994, the director shall require an existing sanitary
9 20 landfill to install a leachate control system if the sanitary
9 21 landfill has not submitted a completed hydrogeological plan to
9 22 the department. The director may exempt a permit applicant
9 23 from these requirements if the director determines that
9 24 certain conditions regarding, but not limited to, existing
9 25 physical conditions, topography, soil, geology, and climate,
9 26 are such that a leachate control system is unnecessary. The
9 27 director may exempt a permit applicant from the requirements
9 28 of this subsection if the permittee certifies that a risk
9 29 assessment of the site indicates that a current or potential
9 30 threat to environmental health does not exist such that an
9 31 exposed individual has no greater than a one in one million
9 32 risk of developing cancer and for noncarcinogens a hazard
9 33 index of less than one. The director shall use the United
9 34 States environmental protection agency's risk assessment
9 35 guidance for the superfund as a basis for determining whether
10 1 to grant the exemption. The exemption in this subsection

~~10 2 shall apply only to sanitary landfill cells in existence prior~~
~~10 3 to July 1, 1992, or the vertical expansion above a cell in~~
~~10 4 which waste was deposited prior to July 1, 1992. A sanitary~~
~~10 5 landfill permittee desiring an exemption shall apply to the~~
~~10 6 director and certify a completion date for a risk assessment~~
~~10 7 study by December 1, 1994. If an exemption is not granted, or~~
~~10 8 if the risk assessment study concludes that a leachate control~~
~~10 9 system is required, a permittee shall certify a completion~~
~~10 10 date and increments of progress for the installation of a~~
~~10 11 leachate control system. The department shall retain the~~
~~10 12 discretion to approve or disapprove a risk assessment study or~~
~~10 13 a proposed completion date under this subsection. If a~~
~~10 14 schedule for a risk assessment study or the installation of a~~
~~10 15 leachate control system is approved by the department and~~
~~10 16 satisfactory progress is being made toward completion of the~~
~~10 17 study or the installation of the leachate control system, the~~
~~10 18 permittee shall not be subject to penalties for failure to~~
~~10 19 meet the requirements of this subsection.~~

10 20 2. The director shall not issue or renew a permit for a
10 21 municipal solid waste landfill unless the permit applicant, in
10 22 conjunction with all local governments using the landfill, has
10 23 documented its implementation of solid waste disposal methods
10 24 other than final disposal in a sanitary landfill.

10 25 3. The director shall not issue or renew a permit for a
10 26 sanitary landfill unless the landfill is equipped with a
10 27 leachate control system.

10 28 ~~7- 4. The director shall not issue or renew a permit for~~
10 29 ~~a transfer station operating as part of an agreement between~~
10 30 ~~two planning areas pursuant to section 455B.306, subsection 2,~~
10 31 ~~until unless the applicant, in conjunction with all local~~
10 32 ~~governments using the transfer station, documents that~~
10 33 ~~alternative methods of solid waste disposal other than final~~
10 34 ~~disposal in a sanitary landfill have been implemented as set~~
10 35 ~~forth in the plan filed pursuant to section 455B.306 has~~
11 1 documented its implementation of solid waste disposal methods
11 2 other than final disposal in a sanitary landfill.

11 3 Sec. 5. Section 455B.306, subsections 1 and 2, Code
11 4 Supplement 2007, are amended to read as follows:

11 5 1. A city, county, ~~and a~~ or private agency operating, or
11 6 planning to operate, a municipal solid waste sanitary disposal
11 7 project shall file with the director one of two types of
11 8 comprehensive plans detailing the method by which the city,
11 9 county, or private agency will comply with this part 1. The
11 10 first type is a comprehensive plan in which solid waste is
11 11 disposed of in a sanitary landfill within the planning area.
11 12 The second type is a comprehensive plan in which all solid
11 13 waste is consolidated at, and transported from, a transfer
11 14 station for disposal at a sanitary landfill in another
11 15 comprehensive planning area or state.

11 16 a. All cities and counties shall also file with the
11 17 director a comprehensive plan detailing the method by which
11 18 the city or county will comply with the requirements of
11 19 section 455B.302 to establish and implement a comprehensive
11 20 solid waste reduction program for its residents.

11 21 b. For the purposes of this section, a ~~A~~ public agency
11 22 managing the waste stream for cities or counties pursuant to
11 23 chapter 28E, shall file one comprehensive plan on behalf of
11 24 its members, which, Filing of a comprehensive plan
11 25 constitutes full compliance by the public agency's members
11 26 with the filing requirements of this section.

11 27 c. If both a public agency managing the waste stream for a
11 28 city or county pursuant to chapter 28E, and one or more of the
11 29 public agency's member cities or counties file a comprehensive
11 30 plan under this subsection, the director shall, following
11 31 notice to the agency, make a determination that any plan filed
11 32 by a member city or county is compatible with the
11 33 comprehensive plan of the chapter 28E public agency. If the
11 34 director determines that the comprehensive plan of a city
11 35 city's or county county's comprehensive plan is not compatible
12 1 with the comprehensive plan of a ~~chapter 28E~~ public agency, as
12 2 defined in chapter 28E, the director shall require the city or
12 3 county to provide justification for the approval of the
12 4 comprehensive plan based upon the following factors: the
12 5 innovative nature of the comprehensive plan, the urgency of
12 6 the plan's implementation, or other any unique features of the
12 7 city's or county's comprehensive plan of the city or county,
12 8 and that, and whether the plan otherwise complies with the
12 9 provisions of this chapter.

12 10 d. This subsection does not prevent the director from
12 11 approving pilot projects which otherwise comply with the
12 12 provisions of this chapter.

12 13 e. The director shall review each comprehensive plan
12 14 submitted and may reject, suggest modification, or approve the
12 15 proposed plan. The director shall aid in the development of
12 16 comprehensive plans for compliance with this part. The
12 17 director shall make available to ~~a city, county, and private~~
~~12 18 agency appropriate cities, counties, and private agencies the~~
12 19 forms appropriate for the submission of comprehensive plans,
12 20 and the director may hold hearings for the purpose of
12 21 implementing this part.

12 22 f. The director, and any governmental agencies with
12 23 primary responsibility for the development and conservation of
12 24 energy resources, shall provide research and assistance, when
12 25 cities and counties operating, or planning to operate,
12 26 sanitary disposal projects request aid in planning and
12 27 implementing resource recovery systems.

12 28 g. A comprehensive plan filed by a private agency
12 29 operating, or planning to operate, a sanitary disposal project
12 30 required ~~pursuant to by~~ section 455B.302 shall be developed in
12 31 cooperation and consultation with the city or county
12 32 responsible ~~to provide for the establishment and operation of~~
12 33 for establishing and operating a sanitary disposal project.

12 34 h. ~~A The director shall review a completed plan for the~~
12 35 control and treatment of leachate, ~~submitted~~ to meet the
13 1 requirements of section ~~455B.305 455B.306~~, subsection 6, ~~shall~~
~~13 2 be reviewed by the director, and the director 7, paragraph~~
13 3 "b", and shall reject the plan, suggest modifications, or
13 4 approve the completed plan it within six months of submittal
13 5 of the plan the time the plan was submitted. If no action is
13 6 taken the director has not acted on the plan within the
13 7 six-month period those six months, the plan shall be
13 8 considered approved. However, the director, upon a request to
13 9 renew or reissue a previously issued permit may require
13 10 updating of the plan at the time of renewal or reissuance of a
13 11 previously issued permit that the plan be updated.

13 12 2. A planning area that closes all of the municipal solid
13 13 waste sanitary landfills located in the planning area and
13 14 chooses instead to use a municipal solid waste sanitary
13 15 landfill in another planning area that may choose to retain
13 16 its autonomy as long as the sanitary landfill in the other
13 17 planning area complies with all the requirements under
13 18 subtitle D of the federal Resource Conservation and Recovery
13 19 Act, with of this chapter, and all solid waste generated
13 20 within the planning area being closing its landfills is
13 21 consolidated, and transported from, a permitted transfer
13 22 station, may elect to retain autonomy as a planning area and,
13 23 For purposes of this subsection, a planning area closing its
13 24 own landfills that chooses to retain its autonomy shall not be
13 25 required to join the planning area where the that contains the
13 26 landfill being used it is using for final disposal of its
13 27 solid waste is located.

13 28 a. If a planning area ~~makes the election under~~ chooses to
13 29 retain autonomy pursuant to this subsection, the planning area
13 30 receiving the solid waste from the planning area making the
13 31 election sending it shall not be required to include the
13 32 planning area making the election in a sending planning area
13 33 in its comprehensive plan provided that no services other than
13 34 the acceptance of solid waste for disposal are shared between
13 35 the two planning areas other than the acceptance of solid
14 1 waste for disposal at a sanitary landfill. The A planning
14 2 area receiving the solid waste shall only be responsible for
14 3 the permitting, planning, and waste reduction and diversion
14 4 programs in the planning area receiving the solid waste within
14 5 that planning area.

14 6 b. If the department determines that solid waste cannot
14 7 reasonably be consolidated and transported from a particular
14 8 transfer station, the department may establish permit
14 9 conditions to address the transport and disposal of the solid
14 10 waste. ~~An election may be made~~ A planning area sending solid
14 11 waste for disposal in another planning area may retain
14 12 autonomy under this subsection only if the two both
14 13 comprehensive planning areas enter into an agreement pursuant
14 14 to chapter 28E that includes, at a minimum, all of the
14 15 following:

14 16 a. (1) A detailed methodology of the manner in which solid
14 17 waste will be tracked and reported between the two planning
14 18 areas.

14 19 b. (2) A detailed methodology of the manner in which the
14 20 receiving sanitary landfill will collect, remit, and report
14 21 tonnage fees, pursuant to section 455B.310, paid by the
14 22 planning area that is transporting the solid waste. The
14 23 methodology shall include both the remittances of tonnage fees

14 24 to the state and the retained tonnage fees.

14 25 Sec. 6. Section 455B.306, subsection 7, paragraph b, Code
14 26 Supplement 2007, is amended to read as follows:

14 27 b. A plan for the control and treatment of leachate,
14 28 including financial considerations proposed in meeting the
14 29 costs of control and treatment in order to meet the
14 30 requirements of section 455B.305, subsection 6 3.

14 31 Sec. 7. Section 455B.306, subsections 9 and 12, Code
14 32 Supplement 2007, are amended to read as follows:

14 33 9. In addition to the comprehensive plan filed pursuant to
14 34 subsection 1, a person operating, or proposing to operate, a
14 35 sanitary disposal project shall provide a financial assurance
15 1 instrument to the department prior to the initial approval of
15 2 a permit or prior to the renewal of a permit for an existing
15 3 or expanding facility beginning July 1, 1988.

15 4 a. The financial assurance instrument shall meet all
15 5 requirements adopted by rule by the commission, and shall not
15 6 be canceled, revoked, disbursed, released, or allowed to
15 7 terminate without the approval of the department. Following
15 8 the cessation of operation or the closure of a sanitary
15 9 disposal project, neither the guarantor nor the operator shall
15 10 cancel, revoke, or disburse the financial assurance instrument
15 11 or allow the instrument to terminate until the operator is
15 12 released from closure, postclosure, and monitoring
15 13 responsibilities.

15 14 b. The operator of a sanitary landfill shall maintain
15 15 closure and postclosure accounts. The commission shall adopt
15 16 by rule the amounts to be contributed to the accounts based
15 17 upon the amount of solid waste received by the facility. The
15 18 accounts established shall be specific to the facility.

15 19 (1) Money in the accounts shall not be assigned for the
15 20 benefit of creditors with the exception of the state.

15 21 (2) Money in an account shall not be used to pay any final
15 22 judgment against a licensee arising out of the ownership or
15 23 operation of the site during its active life or after closure.

15 24 (3) Conditions under which the department may gain access
15 25 to the accounts and circumstances under which the accounts may
15 26 be released to the operator after closure and postclosure
15 27 responsibilities have been met, shall be established by the
15 28 commission.

15 29 c. The commission shall adopt by rule the minimum amounts
15 30 of financial responsibility for sanitary disposal projects.

15 31 d. Financial assurance instruments may include instruments
~~15 32 such as cash or surety bond, a letter of credit, a secured~~
~~15 33 trust fund, or a corporate guarantee any of the instruments~~
15 34 described in section 455B.301, subsection 9.

15 35 e. The annual financial statement submitted to the
16 1 department pursuant to subsection 7, paragraph "c", shall
16 2 include the current amounts established in each of the
16 3 accounts and the projected amounts to be deposited in the
16 4 accounts in the following year.

16 5 12. This section shall not apply to a sanitary landfill
16 6 project owned by an electric generating facility and used
16 7 exclusively for the disposal of coal combustion residue.

~~16 8 Notwithstanding section 455B.301, subsection 8, a utility~~
~~16 9 under this subsection may demonstrate financial assurance~~
~~16 10 through the use of a secured trust fund, a cash or surety~~
~~16 11 bond, a corporate financial test as provided by the~~
~~16 12 department, the obtaining of an irrevocable letter of credit,~~

~~16 13 or an alternative method as provided by the department. A~~
~~16 14 utility under this subsection may demonstrate financial~~
~~16 15 assurance by any of the instruments described in section~~
~~16 16 455B.301, subsection 9, or by an alternative method acceptable~~
~~16 17 to the department.~~ The financial assurance instrument

16 18 submitted must ensure the facility's financial capability to
16 19 provide reasonable and necessary response during the lifetime
16 20 of the project and for a specified period of time following
16 21 closure as required by rules adopted by the commission.

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16 25 _____
16 26 JOHN P. KIBBIE
16 27 President of the Senate

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16 29 _____
16 30 PATRICK J. MURPHY
16 31 Speaker of the House
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16 33 I hereby certify that this bill originated in the Senate and
16 34 is known as Senate File 2276, Eighty-second General Assembly.

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MICHAEL E. MARSHALL
Secretary of the Senate

Approved _____, 2008

CHESTER J. CULVER
Governor