

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

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HOUSE DRH60012-RI-4 (12/14)

Short Title: Amend SW Financial Assurance Rqmts.

(Public)

Sponsors: Representatives Ingle and Gillespie (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED

AN ACT TO AMEND CERTAIN FINANCIAL ASSURANCE REQUIREMENTS APPLICABLE TO OWNERS AND OPERATORS OF SANITARY LANDFILLS TO (1) DECREASE THE MINIMUM AMOUNT OF FINANCIAL ASSURANCE THAT MUST BE ESTABLISHED TO COVER COSTS FOR POTENTIAL ASSESSMENT AND CORRECTIVE ACTION AT A FACILITY; AND (2) AUTHORIZE THE USE OF A TRUST FUND PAY-IN PERIOD AS AN ALLOWABLE MECHANISM TO ESTABLISH THE FINANCIAL ASSURANCE NECESSARY FOR POTENTIAL ASSESSMENT AND CORRECTIVE ACTION AT A FACILITY.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 130A-295.2 reads as rewritten:

**"§ 130A-295.2. Financial responsibility requirements for applicants and permit holders for solid waste management facilities.**

...

(h) To meet the financial assurance requirements of this section, the owner or operator of a sanitary landfill shall establish financial assurance sufficient to cover a minimum of three million dollars (~~three million dollars~~ ~~(\$3,000,000)~~ ~~(\$2,000,000)~~) in costs for potential assessment and corrective action at the facility. The Department may require financial assurance in a higher amount and may increase the amount of financial assurance required of a permit holder at any time based upon the types of waste disposed in the landfill, the projected amount of waste to be disposed in the landfill, the location of the landfill, potential receptors of releases from the landfill, and inflation. The financial assurance requirements of this subsection are in addition to the other financial responsibility requirements set out in this section.

(i) The Commission may adopt rules under which a unit of local government and a solid waste management authority created pursuant to Article 22 of Chapter 153A of the General Statutes may meet the financial responsibility requirements of this section by either a local government financial test or a capital reserve fund requirement.

(j) In addition to the other methods by which financial assurance may be established as set forth in subsection (f) of this section, the Department may allow the owner or operator of a sanitary landfill permitted on or before August 1, 2009, to meet the financial assurance requirement set forth in subsection (h) of this section by establishing a trust fund which conforms to the following minimum requirements:



- 1           (1)   The trustee shall be an entity which has the authority to act as a trustee and  
2                   whose trust operations are regulated and examined by a State or federal  
3                   agency.
- 4           (2)   A copy of the trust agreement shall be placed in the facility's operating  
5                   record.
- 6           (3)   Payments into the trust fund shall be made annually by the owner or operator  
7                   over a period not to exceed five years. This period is referred to as the  
8                   pay-in period.
- 9           (4)   Payments into the fund shall be made in equal annual installments in  
10                   amounts calculated by dividing the current cost estimate for potential  
11                   assessment and corrective action at the facility, which shall not be less than  
12                   two million dollars (\$2,000,000) in accordance with subsection (h) of this  
13                   section, by the number of years in the pay-in period.
- 14           (5)   The trust fund may be terminated by the owner or operator only if the owner  
15                   or operator establishes financial assurance by another method or  
16                   combination of methods allowed under subsection (f) of this section.
- 17           (6)   The trust agreement shall be accompanied by a formal certification of  
18                   acknowledgement."

19           **SECTION 2.** This act is effective when it becomes law.