AMENDED

March 31, 2009

**S. 324**

Introduced by Senators Malloy, Leventis, Lourie, Bryant, Courson, Scott, Williams, Davis and Cleary

S. Printed 3/31/09--S.

Read the first time January 27, 2009.

**A** **JOINT RESOLUTION**

TO IMPOSE A MORATORIUM ON THE CONSIDERATION OF PERMIT APPLICATIONS, REQUESTS TO EXPAND OR REPLACE EXISTING LANDFILLS, AND THE ISSUANCE OF PERMITS FOR THE CONSTRUCTION OF NEW LANDFILLS IN THE STATE UNTIL DECEMBER 31, 2010.

Amend Title To Conform

Whereas, currently in South Carolina annual tonnage rates of intake for municipal solid waste have been established for the state’s existing municipal solid waste landfills, which allow for combined intake of more than double the amount of municipal solid waste produced in the State each year; and

Whereas, currently in South Carolina annual tonnage rates of intake for construction and demolition waste have been established for South Carolina’s existing construction and demolition landfills, which allow for combined intake of vastly more than the amount of waste produced in the State each year; and

Whereas, the current demonstration of need regulation would potentially allow more than eight times the tonnage of municipal solid waste produced in the State annually, if the landfills currently permitted in the State were to maximize available tonnage; and

Whereas, a pending proposed demonstration of need regulation, to be considered by the General Assembly in 2009, would potentially allow approximately six times the tonnage of municipal solid waste produced in the State annually; and

Whereas, the Board of the South Carolina Department of Health and Environmental Control, at its regular meeting on August 14, 2008, directed the department’s staff to consider new methods of determining need for waste intake into South Carolina’s landfills, and to report proposals and recommendations by August 2009, and to consider the amount of waste produced in the State; and

Whereas, the board at its regular meeting on August 14, 2008, also specifically instructed its staff to add into existing regulations more specific notice provisions to persons and entities likely affected by the issuance of new waste permits and waste disposal activities, which must be drafted and finally approved; and

Whereas, any new proposals and recommendations for determination of need presented to the board by August 2009, would not likely be considered by the General Assembly until the 2010 session; and

Whereas, it is important to the state’s economy and environment to have sufficient but not excessive landfill capacity and intake; and

Whereas, it is critical to economic development and to the protection of public health and the environment to adequately plan for appropriate disposal of waste in the State; and

Whereas, there is currently an important need for public debate and legislative consideration of regulations concerning landfill siting and permitting in this State, including methodology and development of an appropriate determination of need regulation; and

Whereas, excessive waste intake into the state’s landfills has significant potential for detriment to the state’s economic development, public health, and environment; and

Whereas, excessive or inappropriate siting of landfills has significant potential for detriment to the state’s economic development, public health, and environment; and

Whereas, economic and other factors may cause landfills to be concentrated in minority and low‑income communities in the State; and

Whereas, it must be the policy of the State to better promote alternative methods of solid waste management in addition to disposal in landfills. Now, therefore,

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. (A) The definitions set forth in Section 44‑96‑250 and Regulation 61-107.19 of the 1976 Code apply throughout this resolution.

(B) There is hereby established, unless otherwise provided in Sections (C), (D), and (E) below, a moratorium on the issuance of a permit for new Class 3 Municipal Solid Waste landfills that are not onsite landfills and for the expansion or replacement of existing Class 3 Municipal Solid Waste landfills that are not onsite landfills in the State. The moratorium remains in effect until Regulation 61-107.17 is revised to include the recommendation of the Landfill Capacity Work Group established by the Board of the Department of Health and Environmental Control on August 14, 2008, regarding the annual disposal rate at municipal solid waste landfills; and the regulation is approved by the General Assembly and published in the State Register or until December 31, 2010, whichever is earlier.

(C) The moratorium established in Section (B) does not apply to any administratively complete permit application for an expansion of an existing Class 3 landfill which is pending at the Department of Health and Environmental Control and which does not include a request to increase the permitted annual disposal rate of the landfill.

(D) The moratorium established in Section (B) does not apply to permit applications for expansions of existing Class 3 Municipal Solid Waste landfills in this State.

(E) No approval for increasing the permitted annual disposal rate at a Class 3 Municipal Solid Waste landfill that is not an onsite landfill may be issued until after the expiration date of this moratorium.

(F) The moratorium established in Section (B) does not apply to a county under order by the Department of Health and Environmental Control to close an existing unlined landfill. A county under order to close an existing landfill is allowed to receive a landfill permit from the department for the purpose of disposing waste generated in the county or waste generated as a result of a joint venture between two or more counties within the State.

SECTION 2. This joint resolution takes effect upon approval of the Governor.

‑‑‑‑XX‑‑‑‑