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State poised to restart brownfields program

By **Dave Williams**

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Georgia soon could take another crack at launching a brownfields cleanup program that faltered last year for lack of funding.

A bill now before the General Assembly would solve a problem by escrowing the \$5,000 fees owners of polluted properties would pay to participate in the state's Voluntary Remediation Program.

At the same time, the Georgia Environmental Protection Division, which would oversee the program, has announced a streamlined application process aimed at attracting more businesses to the effort.

"We're excited," said Doug Cloud, a partner with Mowrey Meezan Coddington Cloud LLP, an Atlanta-based law firm formed this year to focus on energy and environmental issues. "I really believe they're dedicated to making this work."

The legislature created the program last year to try to accelerate cleaning up contaminated properties, mostly former manufacturing operations or commercial businesses, that have languished for years on the state's hazardous sites list.

Site owners willing to pay the \$5,000 application fee and give the EPD a cleanup plan prepared by a registered engineer or geologist were to be given more flexibility completing a cleanup project than they were allowed under the old law.

Last year's bill passed in March and was signed by Gov. Sonny Perdue in May.

But by June, the EPD had stopped accepting applications, citing the effects of the recession on the state budget.

"EPD thought they had the funding to

move forward," said Rep. Terry Barnard, R-Glenville, the chief sponsor of the 2009 legislation. "[But] they got cut and cut. They had no room to work, so they set the program aside because they didn't have the funding."

Barnard said the problem was that the bill lacked a mechanism for keeping the money raised by the application fees from being diverted into the state's general fund.

Environmental advocates have lodged similar complaints for years about the revenue raised for Georgia's hazardous waste and solid waste trust funds.

This year's bill, which cleared a House of Representatives subcommittee on April 13, would resolve that concern by setting up an escrow account to receive funds raised by the application fees.

Barnard said the measure is modeled after the statute that created a state fund dedicated to cleaning up contamination from underground fuel storage tanks.

"This is an organized way to make sure those dollars go to this cleanup program," he said.

Jill Johnson, program director for Georgia Conservation Voters, said the escrow account would ensure that a long-term source of funding is available to clean up contaminated commercial and industrial sites.

Since cleanup projects tend to be multi-year undertakings, a source of carry-over funds is critical, according to a summary of the bill distributed by the group.

"We want to make sure this is a way for good actors to come in and clean up

properties, so they can be made available for redevelopment," Johnson said.

Cloud said he began working with EPD officials last fall to try to resurrect the program.

That resulted in an announcement by the agency in January that it would begin accepting applications.

But Cloud said the process the EPD established got a cool reception from site owners because it was cumbersome.

"They had interpreted the [program] in a way that ... you had to do all of your investigation and planning before you got in the program," he said. "We told them at the time it wasn't going to work."

After hearing those complaints, the EPD came back this month with a streamlined application process that does away with provisional acceptance of applicants and gives interested site owners more time to complete the forms.

Cloud said the relative trickle of applications the EPD has received since January should pick up substantially because the new process will be much less expensive.

He said the revamped program should be good both for site owners and the financially strapped EPD's bottom line.

"If they're able to get a number of these sites into this program, that frees them up for other things," he said.

If the bill creating the escrow account passes the House, it still must be considered by the Senate before it could reach the governor's desk for his signature.

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