

GENERAL ASSEMBLY OF NORTH CAROLINA
1989 SESSION

CHAPTER 1009
SENATE BILL 113

AN ACT TO CLARIFY THE AUTHORITY OF COUNTIES AND CITIES TO ADOPT ORDINANCES REGULATING LOCAL SOLID WASTE MANAGEMENT, TO CLARIFY A LIMITATION ON THE AUTHORITY OF COUNTIES TO LEVY SOLID WASTE DISPOSAL FEES, AND TO CLARIFY THE DEFINITION OF MUNICIPAL SOLID WASTE AS IT APPLIES TO MUNICIPAL SOLID WASTE REDUCTION GOALS.

The General Assembly of North Carolina enacts:

Section 1. G.S.153A-136 reads as rewritten:

"§ 153A-136. Regulation of solid wastes.

(a) A county may by ordinance regulate the storage, collection, transportation, use, disposal, and other disposition of solid wastes. Such an ordinance may:

- (1) Regulate the activities of persons, firms, and corporations, both public and private.
- (2) Require each person wishing to commercially collect or dispose of solid wastes to secure a license from the county and prohibit any person from commercially collecting or disposing of solid wastes without a license. A fee may be charged for a license.
- (3) Grant a franchise to one or more persons for the exclusive right to commercially collect or dispose of solid wastes within all or a defined portion of the county and prohibit any other person from commercially collecting or disposing of solid wastes in that area. The board of commissioners may set the terms of any franchise, except that no franchise may be granted for a period exceeding seven years, nor may any franchise by its terms impair the authority of the board of commissioners to regulate fees as authorized by this section.
- (4) Regulate the fees, if any, that may be charged by licensed or franchised persons for collecting or disposing of solid wastes.
- (5) Require the source separation of materials from solid waste prior to collection of the solid waste for disposal.
- (6) Require participation in a recycling program which has been approved by the board of commissioners.
- ~~(5)~~(7) Include any other proper matter.

(b) Any ordinance adopted pursuant to this section shall be consistent with and supplementary to any ~~regulations—rules~~ adopted by the ~~Department of Human~~

Resources-Commission for Health Services or the Department of Environment, Health, and Natural Resources."

Sec. 2. G.S. 160A-192 reads as rewritten:

"§ 160A-192. Regulation of trash and garbage.

(a) ~~A city may by ordinance regulate the disposal of solid wastes within the city, and may require the owners or occupants of houses and other buildings to place solid waste in specified places or receptacles for the convenience of city collection and disposal, and may impose charges for such collection and disposal. A city may by ordinance regulate the collection and disposal of solid waste within the city. An ordinance may:~~

- (1) Require the owners or occupants of houses and other buildings to place solid waste in specified places or receptacles for the convenience of city collection and disposal.
- (2) Impose charges for such collection and disposal.
- (3) Require the source separation of materials from solid waste prior to collection of the solid waste for disposal.
- (4) Require participation in a recycling program which has been approved by the governing board.
- (5) Include any other proper matter.

(b) Any two or more cities, counties, sanitary districts, or any combination thereof, are authorized to enter into contracts and agreements for the joint ownership, construction, operation and maintenance of solid waste collection and disposal systems and facilities. In operating such systems and facilities, the participating units may exercise jointly any power that they might exercise individually with respect to solid waste collection and disposal systems and facilities."

Sec. 3. G.S. 153A-292 reads as rewritten:

"§ 153A-292. County collection and disposal; tax levy.

(a) The board of county commissioners of any county is hereby empowered to establish and operate garbage, refuse, and solid waste collection and disposal facilities, or either, in areas outside of incorporated cities and towns where, in its opinion, the need for such facilities exists. The board may by ordinance regulate the use of such garbage, refuse, and solid waste disposal facilities; the nature of the solid wastes disposed of therein; and the method of disposal. Ordinances so adopted may be enforced by any law-enforcement officer having jurisdiction, which shall include, but not be limited to, officers of the county sheriff's department, county police department and the State Highway Patrol. The board may contract with any municipality, individual, or privately owned corporation to collect and dispose, or collect or dispose, of garbage, refuse, and solid waste in any such area. ~~area provided no county shall be authorized by this Article to levy a disposal fee upon any municipality located in that county if the board of commissioners levy a countywide tax on property which provides in part for financing such disposal facilities. No county shall levy a fee for the disposal of solid waste upon any municipality located in that county or upon any contractor or resident of any such municipality unless such disposal fee is based on a schedule which applies uniformly throughout the county.~~ In the disposal of garbage, refuse, and solid waste, the

board may use any vacant land owned by the county, or it may acquire suitable sites for such purpose. The board may make appropriations to carry out the activities herein authorized. The board may impose fees for the use of disposal facilities, and in the event it shall provide for the collection of garbage, refuse, and solid waste, it may charge fees for such collection service sufficient in its opinion to defray the expense of collection. Counties and municipalities therein are authorized to establish and operate joint collection and disposal facilities, or either of these, upon such terms as the governing bodies may determine. Such agreement shall be in writing and executed by the governing body of the participating units of local government.

(b) The board of commissioners of each county is hereby authorized to levy taxes for the special purpose of carrying out the authority conferred by this section, in addition to the rate of tax allowed by the Constitution for general purposes, and the General Assembly hereby gives its special approval for such tax levies.

(c) The board of county commissioners may use any vacant land owned by the county, and it may acquire by purchase or condemnation suitable land for the disposal sites, and in the event condemnation of said lands is necessary, the procedure used shall be that set forth in Chapter 40A of the North Carolina General Statutes.

(d) The board may impose fees for the use of the disposal site, and if the county provides for collection services, it shall charge fees sufficient to defray the expense of collection.

(e) The board of commissioners of each county is authorized to levy taxes for the special purpose of carrying out the authority conferred by this section, in addition to the rate of tax allowed by the Constitution for general purposes, and the General Assembly hereby gives its special approval for such tax levies. The board of commissioners is authorized to make appropriations from these tax funds, and from nonrevenue funds which may be available. Provided that the county board of commissioners may authorize the erection of a gate across a ~~state or county maintained~~ State or county maintained highway leading directly to a sanitary landfill or garbage disposal site which is operated by the county. The gate may be erected at or in close proximity to the boundary of the landfill or garbage disposal site. The cost of the erection of the gate and its maintenance is to be borne by the county, and the gate shall be closed upon authority of the county commissioners."

Sec. 4. G.S. 130A-309.09(e) is rewritten to read:

"(e) As used in this section, 'municipal solid waste' includes any solid waste, except for sludge, resulting from the operation of residential, commercial, industrial, governmental, or institutional establishments that would normally be collected, processed, and disposed of through a public or private solid waste management service. The term includes yard trash, but does not include solid waste from ~~industrial, mining,~~ mining or agricultural operations."

Sec. 5. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 26th day of July, 1990.