

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

H

3

HOUSE BILL 86
Committee Substitute Favorable 6/12/91
Third Edition Engrossed 6/19/91

Short Title: Solid Waste Fees.

(Public)

Sponsors:

Referred to:

February 18, 1991

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE CITIES AND COUNTIES TO IMPOSE AN AVAILABILITY FEE FOR SOLID WASTE DISPOSAL FACILITIES AND TO BILL AND COLLECT THE FEE IN THE SAME MANNER AS PROPERTY TAXES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 153A-292 reads as rewritten:

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

(a) The board of county commissioners of any county is hereby empowered to may establish and operate garbage, refuse, and solid waste collection and disposal facilities, or either, facilities in areas outside of incorporated cities and towns where, in its opinion, the need for such facilities exists. the corporate limits of a city. The board may by ordinance regulate the use of such garbage, refuse, and solid waste a disposal facilities; facility, the nature of the solid wastes disposed of therein; in a facility, 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, city, individual, or privately owned corporation to collect and dispose, or collect or dispose, of garbage, refuse, and solid waste in any such area. to collect and dispose of garbage, refuse, and solid waste in the area. 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

1 of any such municipality unless such disposal fee is based on a schedule which applies
2 uniformly throughout the county. In the disposal of garbage, refuse, and solid waste, the board
3 may use any vacant land owned by the county, or it may acquire suitable sites for such purpose.
4 The board may make appropriations to carry out the activities herein authorized. The board
5 may impose fees for the use of disposal facilities, and in the event it shall provide for the
6 collection of garbage, refuse, and solid waste, it may charge fees for such collection service
7 sufficient in its opinion to defray the expense of collection. Counties and municipalities
8 therein are authorized to ~~cities may~~ establish and operate joint collection and disposal
9 facilities, or either of these, upon such terms as the governing bodies may determine. ~~facilities.~~
10 Such ~~A~~ joint agreement shall be in writing and executed by the governing ~~body~~ bodies of
11 the participating units of local government.

12 (b) ~~The board of commissioners of each county is hereby authorized to levy taxes~~
13 ~~for the special purpose of carrying out the authority conferred by this section, in~~
14 ~~addition to the rate of tax allowed by the Constitution for general purposes, and the~~
15 ~~General Assembly hereby gives its special approval for such tax levies. The board of~~
16 county commissioners may impose a fee for the collection of garbage, refuse, and solid
17 waste. The fee may not exceed the costs of collection. The board of county
18 commissioners may impose a fee for the use of a disposal facility. The fee for use may
19 not exceed the cost of operating the facility and may be imposed only on those who use
20 the facility. A county may not impose a fee for the use of a disposal facility on a city
21 located in the county or a contractor or resident of the city unless the fee is based on a
22 schedule that applies uniformly throughout the county. The board of county
23 commissioners may impose a fee for the availability of a disposal facility. A fee for
24 availability may not exceed the cost of providing the facility and may be imposed on all
25 improved property in the county that benefits from the availability of the facility.
26 Improved residential property that has received utility services, such as water service or
27 electric service, but no longer receives any utility services because the property is
28 unoccupied and the owner of the property has terminated the services is not considered
29 to benefit from the availability of a disposal facility provided by the county and is not
30 subject to an availability fee imposed by the county for providing a disposal facility.
31 Property served by a private contractor who disposes of garbage, refuse, and solid waste
32 collected from the property in a disposal facility provided by the contractor is not
33 considered to benefit from a disposal facility provided by the county and is not subject
34 to a fee imposed by the county for the availability of a disposal facility provided by the
35 county.

36 (c) ~~The board of county commissioners may use any vacant land owned by the~~
37 ~~county, and county for the site of a disposal facility. If the county does not own suitable~~
38 vacant land for a disposal facility, it may acquire suitable land by purchase or
39 condemnation suitable land for the disposal sites, and in the event condemnation of said lands
40 is necessary, the procedure used shall be that set forth in Chapter 40A of the North Carolina
41 General Statutes. condemnation. The board may erect a gate across a highway that leads
42 directly to a disposal facility operated by the county. The gate may be erected at or in
43 close proximity to the boundary of the disposal facility. The county shall pay the cost
44 of erecting and maintaining the gate.

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

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

16 Sec. 2. G.S. 153A-293 reads as rewritten:

17 "**§ 153A-293. Collection of fees in certain counties for solid waste disposal facilities**
18 **and solid waste collection services.**

19 (a) A county may provide that adopt an ordinance providing that any fee imposed
20 under G.S. 153A-292 may be billed with the ad valorem property taxes, may be payable
21 in the same manner as ad valorem property taxes, and, in the case of nonpayment, may
22 result in the imposition of a lien on the property owner's real property in the same manner as ad
23 valorem taxes. be collected in any manner by which delinquent personal or real property
24 taxes can be collected. If an ordinance states that delinquent fees can be collected in the
25 same manner as delinquent real property taxes, the fees are a lien on the real property
26 described on the bill that includes the fee.

27 (b) ~~This section applies to Alleghany, Anson, Ashe, Burke, Caswell, Cleveland,~~
28 ~~Duplin, Gaston, Lee, Lenoir, Montgomery, Polk, Richmond, Robeson, Transylvania,~~
29 ~~Washington, Watauga, and Wayne Counties only."~~

30 Sec. 3. G.S. 160A-314(c) reads as rewritten:

31 "(c) Except as provided in subsection ~~(d)~~, (d) and G.S. 160A-314.1, rents, rates,
32 fees, charges, and penalties for enterprisory services shall be legal obligations of the
33 person contracting for them, and shall in no case be a lien upon the property or premises
34 served."

35 Sec. 4. Chapter 160A of the General Statutes is amended by adding a new
36 section to read:

37 "**§ 160A-314.1. Availability fees for solid waste disposal facilities; collection of any**
38 **solid waste fees.**

39 (a) In addition to a fee that a city may impose for collecting solid waste or for
40 using a disposal facility, a city may impose a fee for the availability of a disposal
41 facility. A fee for availability may not exceed the cost of providing the facility and may
42 be imposed on all improved property in the city that benefits from the availability of the
43 facility. Improved residential property that has received utility services, such as water
44 service or electric service, but no longer receives any utility services because the

1 property is unoccupied and the owner of the property has terminated the services is not
2 considered to benefit from the availability of a disposal facility provided by the city and
3 is not subject to an availability fee imposed by the city for providing a disposal facility.
4 Property served by a private contractor who disposes of solid waste collected from the
5 property in a disposal facility provided by the contractor is not considered to benefit
6 from a disposal facility provided by the city and is not subject to a fee imposed by the
7 city for the availability of a disposal facility provided by the city.

8 (b) A city may adopt an ordinance providing that any fee imposed under
9 subsection (a) or under G.S. 160A-314 for collecting or disposing of solid waste may be
10 billed with property taxes, may be payable in the same manner as property taxes, and, in
11 the case of nonpayment, may be collected in any manner by which delinquent personal
12 or real property taxes can be collected. If an ordinance states that delinquent fees can be
13 collected in the same manner as delinquent real property taxes, the fees are a lien on the
14 real property described on the bill that includes the fee."

15 Sec. 5. Chapters 591, 905, 938, 940, 974, 1007, and 1017 of the 1989
16 Session Laws are repealed. An ordinance adopted under a local act that is repealed by
17 this act is considered to have been adopted under G.S. 153A-293, as amended by this
18 act.

19 Sec. 6. This act is effective upon ratification.