

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 1159

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Short Title: Local Govt. Solid Waste Amends.

(Public)

Sponsors:

Referred to:

June 3, 1992

A BILL TO BE ENTITLED

1
2 AN ACT TO REPEAL THE REQUIREMENT THAT LONG-TERM CONTRACTS
3 ENTERED INTO BY LOCAL GOVERNMENTS FOR THE COLLECTION OR
4 DISPOSAL OF NONHAZARDOUS SOLID WASTE MUST BE APPROVED BY
5 THE DEPARTMENT OF ENVIRONMENT, HEALTH, AND NATURAL
6 RESOURCES, TO ESTABLISH A UNIFORM MAXIMUM DURATION OF
7 SUCH CONTRACTS, TO ALLOW ALL LOCAL GOVERNMENTS TO ENTER
8 INTO SUCH CONTRACTS, TO PROVIDE FOR PARTIAL CREDIT TOWARD
9 THE STATE NONHAZARDOUS MUNICIPAL SOLID WASTE REDUCTION
10 GOAL FOR NONHAZARDOUS MUNICIPAL SOLID WASTE THAT IS
11 CONVERTED INTO TIRE-DERIVED FUEL OR REFUSE-DERIVED FUEL,
12 AND TO REQUIRE THE DEPARTMENT TO ADOPT RULES TO INITIATE
13 PUBLIC PARTICIPATION PRIOR TO GRANTING A PERMIT FOR A SOLID
14 WASTE DISPOSAL FACILITY WITHIN ONE MILE OF AN EXISTING SITE
15 AND TO REQUIRE THE DEPARTMENT TO REVIEW LONG-TERM
16 CONTRACTS ENTERED INTO PRIOR TO THE EFFECTIVE DATE OF THIS
17 ACT.

18 The General Assembly of North Carolina enacts:

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

1 **"§ 153A-136. Regulation of solid wastes.**

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

- 4 (1) Regulate the activities of persons, firms, and corporations, both public
5 and private.
- 6 (2) Require each person wishing to commercially collect or dispose of
7 solid wastes to secure a license from the county and prohibit any
8 person from commercially collecting or disposing of solid wastes
9 without a license. A fee may be charged for a license.
- 10 (3) Grant a franchise to one or more persons for the exclusive right to
11 commercially collect or dispose of solid wastes within all or a defined
12 portion of the county and prohibit any other person from commercially
13 collecting or disposing of solid wastes in that area. The board of
14 commissioners may set the terms of any franchise, except that no
15 franchise may be granted for a period exceeding ~~seven~~30 years, nor
16 may any franchise by its terms impair the authority of the board of
17 commissioners to regulate fees as authorized by this section.
- 18 (4) Regulate the fees, if any, that may be charged by licensed or
19 franchised persons for collecting or disposing of solid wastes.
- 20 (5) Require the source separation of materials from solid waste prior to
21 collection of the solid waste for disposal.
- 22 (6) Require participation in a recycling program which has been approved
23 by the board of commissioners.
- 24 (7) Include any other proper matter.

25 (b) Any ordinance adopted pursuant to this section shall be consistent with and
26 supplementary to any rules adopted by the Commission for Health Services or the
27 Department of Environment, Health, and Natural Resources.

28 (c) As used in this section, 'solid waste' means nonhazardous solid waste, that is,
29 solid waste as defined in G.S. 130A-290 but not including hazardous waste."

30 Sec. 2. G.S. 160A-319 reads as rewritten:

31 **"§ 160A-319. Utility franchises.**

32 (a) A city shall have authority to grant upon reasonable terms franchises for the
33 operation within the city of any of the enterprises listed in G.S. 160A-311 and for the
34 operation of telephone systems. No franchise shall be granted for a period of more than
35 60 years, except that a franchise for solid waste collection or disposal systems and
36 facilities shall not be granted for a period of more than 30 years and cable television
37 franchises shall not be granted for a period of more than 20 years. Except as otherwise
38 provided by law, when a city operates an enterprise, or upon granting a franchise, a city
39 may by ordinance make it unlawful to operate an enterprise without a franchise.

40 (b) For the purposes of this section, 'cable television system' means any system
41 or facility that, by means of a master antenna and wires or cables, or by wires or cables
42 alone, receives, amplifies, modifies, transmits, or distributes any television, radio, or
43 electronic signal, audio or video or both, to subscribing members of the public for
44 compensation. 'Cable television system' does not include providing master antenna

1 services only to property owned or leased by the same person, firm, or corporation, nor
2 communication services rendered to a cable television system by a public utility that is
3 regulated by the North Carolina Utilities Commission or the Federal Communications
4 Commission in providing those services."

5 Sec. 3. Part 1 of Article 16 of Chapter 160A of the General Statutes is
6 amended by adding a new section to read:

7 **"§ 160A-325. Solid waste defined.**

8 As used in this Part, 'solid waste' means nonhazardous solid waste, that is, solid
9 waste as defined in G.S. 130A-290 but not including hazardous waste."

10 Sec. 4. Part 3 of Article 15 of Chapter 153A of the General Statutes is
11 amended by adding a new section to read:

12 **"§ 153A-294. Solid waste defined.**

13 As used in this Article, 'solid waste' means nonhazardous solid waste, that is, solid
14 waste as defined in G.S. 130A-290 but not including hazardous waste."

15 Sec. 5. Part 4 of Article 15 of Chapter 153A, as amended by Chapters 763,
16 773, and 775 of the 1991 Session Laws (1992 Regular Session), is repealed.

17 Sec. 6. Any contract for solid waste collection or disposal entered into by any
18 county, city, or town that would have been lawful if this act had been in effect at the
19 time the contract was entered into is validated. The provisions of this act that limit a
20 contract or franchise for the collection and disposal of solid waste to a period of not
21 more than 30 years shall not be construed to invalidate any contract or franchise for a
22 longer period up to 60 years that was entered into by any county, city, or town prior to
23 the date this act is effective.

24 Sec. 7. G.S. 130A-309.04 reads as rewritten:

25 **"§ 130A-309.04. State solid waste management policy and goals.**

26 (a) It is the policy of the State to promote methods of solid waste management
27 that are alternatives to disposal in landfills and to assist units of local government with
28 solid waste management. In furtherance of this State policy, there is established a
29 hierarchy of methods of managing solid waste, in descending order of preference:

- 30 (1) Waste reduction at the source;
- 31 (2) Recycling and reuse;
- 32 (3) Composting;
- 33 (4) Incineration with energy production;
- 34 (5) Incineration for volume reduction;
- 35 (6) Disposal in landfills.

36 (b) It is the policy of the State to encourage research into innovative solid waste
37 management methods and products and to encourage regional solid waste management
38 projects.

39 (c) It is the goal of this State to reduce the municipal solid waste ~~stream~~stream,
40 primarily through source reduction, reuse, recycling, and composting, on a per capita
41 basis, on the following schedule:

- 42 (1) Twenty-five percent (25%) by 30 June 1993.
- 43 (2) Forty percent (40%) by 30 June 2001.

1 (c1) To measure progress toward the municipal solid waste reduction goals in a
2 given year, comparison shall be made between the amount by weight of the municipal
3 solid waste that, during the baseline year and the given year, is received at municipal
4 solid waste management facilities and is:

- 5 (1)_ Disposed of in a landfill;
- 6 (2)_ Incinerated;
- 7 (3)_ Converted to tire-derived fuel; or
- 8 (4)_ Converted to refuse-derived fuel.

9 (c2) Comparison shall be between baseline and given years beginning on 1 July
10 and ending on 30 June of the following year. The baseline year shall be the year
11 beginning 1 July 1991 and ending 30 June 1992. However, a unit of local government
12 may use an earlier baseline year if it demonstrates to the satisfaction of the Department
13 that it has sufficient data to support the use of the earlier baseline year.

14 (c3) If a unit of local government is unable to meet the municipal solid waste
15 reduction goal established in subdivision (2) of subsection (c) of the this section and
16 demonstrates to the satisfaction of the Department that it has considered all reasonably
17 available options to reduce its municipal solid waste stream and that it has made a good
18 faith effort to meet the goal, for the purpose of calculating progress of the unit of local
19 government toward the goal, ten percent (10%) of the amount by weight of the
20 municipal solid waste stream that is converted to tire-derived fuel or refuse-derived fuel
21 may be added to the amount that is diverted from the municipal solid waste stream
22 through source reduction, reuse, recycling, and composting.

23 (d) In furtherance of the State's solid waste management policy, each State
24 agency shall develop a solid waste management plan which is consistent with the solid
25 waste management policy of the State.

26 (e) Each county, either individually or in cooperation with others, shall, in
27 cooperation with its municipalities, develop a comprehensive county solid waste
28 management plan and submit the plan to the Department for approval. County solid
29 waste management plans shall be updated and submitted for approval at least once
30 every two years. A county solid waste management plan shall be consistent with the
31 State's comprehensive solid waste plan. In counties where a municipality operates the
32 major solid waste disposal facility, the comprehensive solid waste plan may be prepared
33 by the municipality, with the approval of the county and in cooperation with the other
34 municipalities. Each county's comprehensive solid waste management plan shall
35 include provisions which address the State's waste reduction goals. Each county's plan
36 shall take into consideration facilities and other resources for management of solid
37 waste which may be available through private enterprise. This section shall be
38 construed to encourage the involvement and participation of private enterprise in solid
39 waste management. The Department shall develop a form designed to elicit pertinent
40 information regarding a county's solid waste management plan. The Department shall
41 provide assistance in the preparation of county plans upon request.

42 (f) Any unit of local government that does not participate in a county solid waste
43 management plan shall prepare a plan in accordance with the provisions of subsection
44 (e) of this section."

1 Sec. 8. G.S. 130A-294(a) is amended by adding a new subdivision (4b) to
2 read:

3 "(4b) No permit shall be granted for a new solid waste disposal facility
4 within one mile of an existing solid waste disposal facility unless the
5 applicant submits data to demonstrate that other alternative sites were
6 considered. The Commission shall adopt rules to establish a process
7 for public participation for the siting of a new solid waste disposal
8 facility. The public participation shall include, but is not limited to
9 consideration of demographic data."

10 Sec. 9. The Department shall review all long-term contracts under this act
11 that are submitted prior to the effective date of this act.

12 Sec. 10. This act is effective upon ratification.