

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 1991

CHAPTER 1013  
SENATE BILL 1159

AN ACT TO REPEAL THE REQUIREMENT THAT LONG-TERM CONTRACTS ENTERED INTO BY LOCAL GOVERNMENTS FOR THE COLLECTION OR DISPOSAL OF NONHAZARDOUS SOLID WASTE MUST BE APPROVED BY THE DEPARTMENT OF ENVIRONMENT, HEALTH, AND NATURAL RESOURCES, TO ESTABLISH A UNIFORM MAXIMUM DURATION OF SUCH CONTRACTS, TO ALLOW ALL LOCAL GOVERNMENTS TO ENTER INTO SUCH CONTRACTS, TO PROVIDE FOR PARTIAL CREDIT IN CERTAIN CASES TOWARD THE STATE NONHAZARDOUS MUNICIPAL SOLID WASTE REDUCTION GOAL FOR NONHAZARDOUS MUNICIPAL SOLID WASTE THAT IS CONVERTED TO TIRE-DERIVED FUEL OR REFUSE-DERIVED FUEL, AND TO REQUIRE A PUBLIC HEARING AND CONSIDERATION OF CERTAIN DATA PRIOR TO THE SELECTION OR APPROVAL OF A SITE FOR CERTAIN SANITARY LANDFILLS BY UNITS OF LOCAL GOVERNMENT.

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~~30 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.
- (7) Include any other proper matter.

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

(c) The board of commissioners of a county shall consider alternative sites and socioeconomic and demographic data and shall hold a public hearing prior to selecting or approving a site for a new sanitary landfill that receives residential solid waste that is located within one mile of an existing sanitary landfill within the State. The distance between an existing and a proposed site shall be determined by measurement between the closest points on the outer boundary of each site. The definitions set out in G.S. 130A-290 apply to this subsection. As used in this subsection:

- (1) 'Approving a site' refers to prior approval of a site under G.S. 130A-294(a)(4).
- (2) 'Existing sanitary landfill' means a sanitary landfill that is in operation or that has been in operation within the five-year period immediately prior to the date on which an application for a permit is submitted.
- (3) 'New sanitary landfill' means a sanitary landfill that includes areas not within the legal description of an existing sanitary landfill as set out in the permit for the existing sanitary landfill.
- (4) 'Socioeconomic and demographic data' means the most recent socioeconomic and demographic data compiled by the United States Bureau of the Census and any additional socioeconomic and demographic data submitted at the public hearing.

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

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

**"§ 160A-319. Utility franchises.**

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

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

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

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

**"§ 160A-325. Selection or approval of sites for certain sanitary landfills; solid waste defined.**

(a) The governing board of a city shall consider alternative sites and socioeconomic and demographic data and shall hold a public hearing prior to selecting or approving a site for a new sanitary landfill that receives residential solid waste that is located within one mile of an existing sanitary landfill within the State. The distance between an existing and a proposed site shall be determined by measurement between the closest points on the outer boundary of each site. The definitions set out in G.S. 130A-290 apply to this subsection. As used in this subsection:

- (1) 'Approving a site' refers to prior approval of a site under G.S. 130A-294(a)(4).
- (2) 'Existing sanitary landfill' means a sanitary landfill that is in operation or that has been in operation within the five-year period immediately prior to the date on which an application for a permit is submitted.
- (3) 'New sanitary landfill' means a sanitary landfill that includes areas not within the legal description of an existing sanitary landfill as set out in the permit for the existing sanitary landfill.
- (4) 'Socioeconomic and demographic data' means the most recent socioeconomic and demographic data compiled by the United States Bureau of the Census and any additional socioeconomic and demographic data submitted at the public hearing.

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

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

**"§ 153A-294. Solid waste defined.**

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

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

Sec. 6. G.S. 130A-309.04 reads as rewritten:

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

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

- (1) Waste reduction at the source;

- (2) Recycling and reuse;
- (3) Composting;
- (4) Incineration with energy production;
- (5) Incineration for volume reduction;
- (6) Disposal in landfills.

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

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

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

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

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

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

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

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

(e) Each county, either individually or in cooperation with others, shall, in cooperation with its municipalities, develop a comprehensive county solid waste management plan and submit the plan to the Department for approval. County solid waste management plans shall be updated and submitted for approval at least once

every two years. A county solid waste management plan shall be consistent with the State's comprehensive solid waste plan. In counties where a municipality operates the major solid waste disposal facility, the comprehensive solid waste plan may be prepared by the municipality, with the approval of the county and in cooperation with the other municipalities. Each county's comprehensive solid waste management plan shall include provisions which address the State's waste reduction goals. Each county's plan shall take into consideration facilities and other resources for management of solid waste which may be available through private enterprise. This section shall be construed to encourage the involvement and participation of private enterprise in solid waste management. The Department shall develop a form designed to elicit pertinent information regarding a county's solid waste management plan. The Department shall provide assistance in the preparation of county plans upon request.

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

Sec. 7. G.S. 130A-290(28a) reads as rewritten:

"(28a) 'Refuse-derived fuel' means ~~a form of fuel derived from a~~ that consists of municipal solid waste by a processing system in from which recyclable and noncombustible materials are removed ~~and so that the remaining combustible material is converted for use as a fuel. used for energy production.~~"

Sec. 8. Any contract for solid waste collection or disposal entered into by any county, city, or town that would have been lawful if this act had been in effect at the time the contract was entered into is validated. The provisions of this act that limit a contract or franchise for the collection and disposal of solid waste to a period of not more than 30 years shall not be construed to invalidate any contract or franchise for a longer period up to 60 years that was entered into by any county, city, or town prior to the date this act is effective.

Sec. 9. G.S. 153A-136(c), as enacted by Section 1 of this act, and G.S. 160A-325(a), as enacted by Section 3 of this act, shall not apply to the selection or approval of a site for a new sanitary landfill if, prior to the effective date of this act:

- (1) The site was selected or approved by the board of commissioners of a county or the governing board of a city;
- (2) A public hearing on the selection or approval of the site has been held;
- (3) A long-term contract was approved by the Department of Environment, Health, and Natural Resources under Part 4 of Article 15 of Chapter 153A of the General Statutes; or
- (4) An application for a permit for a sanitary landfill to be located on the site has been submitted to the Department of Environment, Health, and Natural Resources.

Sec. 10. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 22nd day of July, 1992.

James C. Gardner  
President of the Senate

Daniel Blue, Jr.  
Speaker of the House of Representatives