

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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HOUSE BILL 321
Committee Substitute Favorable 4/4/13
Senate Agriculture/Environment/Natural Resources Committee Substitute Adopted
7/2/13

Short Title: Amend Local Solid Waste Planning.

(Public)

Sponsors:

Referred to:

March 18, 2013

A BILL TO BE ENTITLED

AN ACT TO (1) REPEAL THE REQUIREMENT THAT LOCAL GOVERNMENTS DEVELOP AND MAINTAIN A SOLID WASTE MANAGEMENT PLAN; AND (2) EXEMPT CERTAIN LANDFILLS FROM THE REQUIREMENT THAT THEY OBTAIN A FRANCHISE TO OPERATE FROM A LOCAL GOVERNMENT IN LIMITED CIRCUMSTANCES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 130A-309.09A reads as rewritten:

"§ 130A-309.09A. Local government solid waste responsibilities.

(a) The governing board of each unit of local government shall assess local solid waste collection services and disposal capacity and shall determine the adequacy of collection services and disposal capacity to meet local needs and to protect human health and the environment. Each unit of local government shall implement programs and take other actions that it determines are necessary to address deficiencies in service or capacity required to meet local needs and to protect human health and the environment. A unit of local government may adopt ordinances governing the disposal, in facilities that it operates, of solid waste generated outside of the area designated to be served by the facility. Such ordinances shall not be construed to apply to privately operated disposal facilities located within the boundaries of the unit of local government.

~~(b) Each unit of local government, either individually or in cooperation with other units of local government, shall develop a 10 year comprehensive solid waste management plan. Units of local government shall make a good-faith effort to achieve the State's forty percent (40%) municipal solid waste reduction goal and to comply with the State's comprehensive solid waste management plan. Each unit of local government shall develop its solid waste management plan with public participation, including, at a minimum, one advertised public meeting. The Department shall assist units of local government in the preparation of the plan required by this subsection if the unit of local government requests assistance. Each plan shall be updated at least every three years. In order to assure compliance with this subsection, each unit of local government shall provide the Department with a copy of its current plan upon request by the Department. Each plan shall:~~

- ~~(1) Evaluate the solid waste stream in the geographic area covered by the plan.~~
- ~~(2) Include a goal for the reduction of municipal solid waste on a per capita basis by 30 June 2001 and a goal for the further reduction of municipal solid waste by 30 June 2006. The solid waste reduction goals shall be determined~~



1 by the unit or units of local government that prepare the plan, and shall be
2 determined so as to assist the State, to the maximum extent practical, to
3 achieve the State's forty percent (40%) municipal solid waste reduction goal
4 as set out in G.S. 130A-309.04(c).

- 5 (3) ~~Be designed to achieve the solid waste reduction goals established by the~~
6 ~~plan.~~
- 7 (4) ~~Include a description of the process by which the plan was developed,~~
8 ~~including provisions for public participation in the development of the plan.~~
- 9 (5) ~~Include an assessment of current programs and a description of intended~~
10 ~~actions with respect to the following solid waste management methods:~~
- 11 a. ~~Reduction at the source.~~
- 12 b. ~~Collection.~~
- 13 c. ~~Recycling and reuse.~~
- 14 d. ~~Composting and mulching.~~
- 15 e. ~~Incineration with energy recovery.~~
- 16 f. ~~Incineration without energy recovery.~~
- 17 g. ~~Transfer outside the geographic area covered by the plan.~~
- 18 h. ~~Disposal.~~
- 19 (6) ~~Include an assessment of current programs and a description of intended~~
20 ~~actions with respect to:~~
- 21 a. ~~Education with the community and through the schools.~~
- 22 b. ~~Management of special wastes.~~
- 23 c. ~~Prevention of illegal disposal and management of litter.~~
- 24 d. ~~Purchase of recycled materials and products manufactured with~~
25 ~~recycled materials.~~
- 26 e. ~~For each county and each municipality with a population in excess of~~
27 ~~25,000, collection of discarded computer equipment and televisions,~~
28 ~~as defined in G.S. 130A-309.131.~~
- 29 (7) ~~Include a description and assessment of the full cost of solid waste~~
30 ~~management, including the costs of collection, disposal, waste reduction,~~
31 ~~and other programs, and of the methods of financing those costs.~~
- 32 (8) ~~Consider the use of facilities and other resources for management of solid~~
33 ~~waste that may be available through private enterprise.~~
- 34 (9) ~~(Expires October 1, 2023) Include as a component a written plan for the~~
35 ~~management of abandoned manufactured homes as required under~~
36 ~~G.S. 130A-309.113(a).~~

37 (d) In order to assess the progress in meeting the goal set out in G.S. 130A-309.04, each
38 unit of local government shall report to the Department on the solid waste management
39 programs and waste reduction activities within the unit of local government by 1 September of
40 each year. At a minimum, the report shall include:

- 41 (1) A description of public education programs on recycling.
- 42 (2) The amount of solid waste received at municipal solid waste management
43 facilities, by type of solid waste.
- 44 (3) The amount and type of materials from the solid waste stream that were
45 recycled.
- 46 (4) The percentage of the population participating in various types of recycling
47 activities instituted.
- 48 (5) The annual reduction in municipal solid waste, measured as provided in
49 G.S. 130A-309.04.
- 50 (6) ~~Information regarding programs and other actions implemented as part of the~~
51 ~~local comprehensive solid waste management plan.~~

- 1 (7) A statement of the costs of solid waste management programs implemented
2 by the unit of local government and the methods of financing those costs.
- 3 (8) Information regarding permanent recycling programs for discarded computer
4 equipment and televisions for which funds are received pursuant to
5 G.S. 130A-309.137, and information on operative interlocal agreements
6 executed in conjunction with funds received, if any.
- 7 (9) A description of the disaster debris management program.
- 8 (10) A description of scrap tire disposal procedures.
- 9 (11) A description of white goods management procedures.
- 10 (12) Information regarding the prevention of illegal disposal and management of
11 litter.

12"

13 **SECTION 2.** G.S. 130A-309.09B(a) reads as rewritten:

14 **"§ 130A-309.09B. Local government waste reduction programs.**

15 (a) Each unit of local government shall establish and maintain a solid waste reduction
16 program that will enable the unit of local government to meet the local solid waste reduction
17 goals established pursuant to ~~G.S. 130A-309.09A(b)(2)~~ program. The following requirements
18 shall apply:

19"

20 **SECTION 3.** G.S. 130A-309.09C(g) reads as rewritten:

21 **"§ 130A-309.09C. Additional powers of local governments; construction of this Part;
22 effect of noncompliance.**

23 ...

24 (g) In addition to any other penalties provided by law, a unit of local government that
25 does not comply with the requirements of ~~G.S. 130A-309.09A(b)~~ G.S. 130A-309.09A(b),
26 G.S. 130A-309.09A(d), and G.S. 130A-309.09B(a) shall not be eligible for grants from the
27 Solid Waste Management Trust Fund, the Scrap Tire Disposal Account, or the White Goods
28 Management Account and shall not receive the proceeds of the scrap tire disposal tax imposed
29 by Article 5B of Chapter 105 of the General Statutes or the proceeds of the white goods
30 disposal tax imposed by Article 5C of Chapter 105 of the General Statutes to which the unit of
31 local government would otherwise be entitled. The Secretary shall notify the Secretary of
32 Revenue to withhold payment of these funds to any unit of local government that fails to
33 comply with the requirements of ~~G.S. 130A-309.09A(b)~~ G.S. 130A-309.09A(b),
34 G.S. 130A-309.09A(d), and G.S. 130A-309.09B(a). Proceeds of the scrap tire disposal tax that
35 are withheld pursuant to this subsection shall be credited to the Scrap Tire Disposal Account
36 and may be used as provided in G.S. 130A-309.63. Proceeds of the white goods disposal tax
37 that are withheld pursuant to this subsection shall be credited to the White Goods Management
38 Account and may be used as provided in G.S. 130A-309.83."

39 **SECTION 4.** G.S. 130A-309.58(d) reads as rewritten:

40 **"§ 130A-309.58. Disposal of scrap tires.**

41 ...

42 (d) Each county is responsible for developing a description of scrap tire disposal
43 procedures. ~~These procedures shall be included in any solid waste management plan required~~
44 ~~by the Department under this Article.~~ These procedures shall be included in the annual report
45 required under G.S. 130A-309.09A. Further, any revisions to the initial description of the scrap
46 tire disposal procedures shall be forwarded to the Department."

47 **SECTION 5.** G.S. 130A-309.81(c) reads as rewritten:

48 **"§ 130A-309.81. Management of discarded white goods; disposal fee prohibited.**

49 ...

50 (c) Plan. – Each county shall establish written procedures for the management of white
51 goods. ~~The county shall include the procedures in any solid waste management plan required~~

1 ~~by the Department under this Article. These procedures shall be included in the annual report~~
2 ~~required under G.S. 130A-309.09A."~~

3 **SECTION 6.** G.S. 130A-309.113(a) reads as rewritten:

4 "**§ 130A-309.113. (Effective July 1, 2009, and expiring October 1, 2023) Management of**
5 **abandoned manufactured homes.**

6 (a) Plan. – Each county shall consider whether to implement a program for the
7 management of abandoned manufactured homes. ~~If, after consideration, the county decides not~~
8 ~~to implement a program, the county must state in the comprehensive solid waste management~~
9 ~~plan that it is required to develop under G.S. 130A 309.09A(b) that the county considered~~
10 ~~whether to implement a program for the management of abandoned manufactured homes and~~
11 ~~decided not to do so. A county may, at any time, reconsider its decision not to implement a~~
12 ~~program for the management of abandoned manufactured homes. If~~ If at any time the county
13 decides to implement a program, the county shall develop a written plan for the management of
14 abandoned manufactured homes ~~and include the plan as a component of the comprehensive~~
15 ~~solid waste management plan it is required to develop under G.S. 130A 309.09A(b).~~ homes.
16 This plan shall be included in the annual report required under G.S. 130A-309.09A. At a
17 minimum, the plan shall include:

- 18 (1) A method by which the county proposes to identify abandoned manufactured
19 homes in the county, including, without limitation, a process by which
20 manufactured home owners or other responsible parties may request
21 designation of their home as an abandoned manufactured home.
- 22 (2) A plan for the deconstruction of these abandoned manufactured homes.
- 23 (3) A plan for the removal of the deconstructed components, including mercury
24 switches from thermostats, for reuse or recycling, as appropriate.
- 25 (4) A plan for the proper disposal of abandoned manufactured homes that are
26 not deconstructed under subdivision (2) of this subsection."

27 **SECTION 7.** G.S. 130A-309.137 reads as rewritten:

28 "**§ 130A-309.137. (See editor's note) Electronics Management Fund.**

29 ...
30 (c) Eligibility. – Except as provided in subsection (d) of this section, no more than one
31 unit of local government per county, including the county itself, may receive funding pursuant
32 to this section for a program to manage discarded computer equipment, televisions, and other
33 electronic devices. ~~In order to be eligible for funding, a~~ A unit of local government ~~shall~~ shall
34 submit a plan to include:

- 35 (1) ~~Submit a comprehensive solid waste management plan required pursuant to~~
36 ~~G.S. 130A 309.09A, amended as necessary to include the following~~
37 ~~information:~~
 - 38 a. Information on existing programs within the jurisdiction to recycle or
39 reuse discarded computer equipment, televisions, and other
40 electronic devices, or information on a plan to begin such a program
41 on a date certain. This information shall include a description of the
42 implemented or planned practices for collection of the equipment and
43 a description of the types of equipment to be collected and how the
44 equipment will be marketed for recycling.
 - 45 (2) b. Information on a public awareness and education program
46 concerning the recycling and reuse of discarded computer equipment,
47 televisions, and other electronic devices.
 - 48 (3) e. Information on methods to track and report total tonnage of computer
49 equipment, televisions, and other electronic devices collected and
50 recycled in the jurisdiction.

- 1 (4) ~~e.~~ Information on interactions with other units of local government to
- 2 provide or receive services concerning disposal of discarded
- 3 computer equipment, televisions, and other electronic devices.
- 4 (5) ~~e.~~ Information on how the unit of local government will account for the
- 5 expenditure of funds received pursuant to this section.
- 6 (2) ~~Establish a separate local budget account for the receipt and~~
- 7 ~~expenditure of funds received pursuant to this section.~~
- 8 (3)(6) ~~Contract~~ Proof of contract or agreement with a recycler that is
- 9 certified as adhering to Responsible Recycling ("R2") practices or
- 10 that is certified as an e-Steward recycler adhering to the e-Stewards
- 11 Standard for Responsible Recycling and Reuse of Electronic
- 12 Equipment® to process the discarded computer equipment,
- 13 televisions, and other electronic devices that the unit of local
- 14 government collects.

15 (c1) Submittal of Information for Distribution of Funding. – Documentation meeting the
 16 requirements of subdivision (6) of subsection (c) of this section, and other information required
 17 by subsection (c) of this section, including new plans or revisions to plans as necessary, must
 18 be submitted annually on or before December 31 in order to be eligible for funding during the
 19 next distribution by the Department.

20 (d) Local Government Designation. – If more than one unit of local government in a
 21 county, including the county itself, requests funding pursuant to this section, the units of local
 22 government in question ~~may: (i) may~~ enter into interlocal agreements for provision of services
 23 concerning disposal of discarded computer equipment and televisions, and distribution of funds
 24 received pursuant to this section among the parties to the ~~agreement; or (ii) submit separate and~~
 25 ~~distinct comprehensive solid waste management plans pursuant to G.S. 130A-309.09A, with~~
 26 ~~the information set forth in sub-subdivisions a. through e. of subdivision (1) of subsection (c) of~~
 27 ~~this section. In the case of (ii), the Department shall distribute funds to the local governments~~
 28 ~~determined to be eligible based on the percentage of the county's population to be served under~~
 29 ~~each eligible local government's program agreement. If the units of local government do not~~
 30 ~~enter into an interlocal agreement regarding funding under this section, the Department shall~~
 31 ~~distribute funds to the eligible local governments based on the percentage of the county's~~
 32 ~~population to be served under each eligible local government's program.~~

33 "

34 **SECTION 8.** G.S. 130A-294 reads as rewritten:

35 **"§ 130A-294. Solid waste management program.**

36 (a) The Department is authorized and directed to engage in research, conduct
 37 investigations and surveys, make inspections and establish a statewide solid waste management
 38 program. In establishing a program, the Department shall have authority to:

- 39 ...
- 40 (4) a. Develop a permit system governing the establishment and operation
- 41 of solid waste management facilities. A landfill with a disposal area
- 42 of 1/2 acre or less for the on-site disposal of land clearing and inert
- 43 debris is exempt from the permit requirement of this section and shall
- 44 be governed by G.S. 130A-301.1. Demolition debris from the
- 45 decommissioning of manufacturing buildings, including electric
- 46 generating stations, that is disposed of on the same site as the
- 47 decommissioned buildings, is exempt from the permit requirement of
- 48 this section and rules adopted pursuant to this section and shall be
- 49 governed by G.S. 130A-301.3. The Department shall not approve an
- 50 application for a new permit, the renewal of a permit, or a substantial
- 51 amendment to a permit for a sanitary landfill, excluding demolition

landfills as defined in the rules of the Commission, except as provided in subdivisions (3) and (4) of subsection (b1) of this section. No permit shall be granted for a solid waste management facility having discharges that are point sources until the Department has referred the complete plans and specifications to the Environmental Management Commission and has received advice in writing that the plans and specifications are approved in accordance with the provisions of G.S. 143-215.1. ~~If the applicant is a unit of local government, and has not submitted a solid waste management plan that has been approved by the Department pursuant to G.S. 130A-309.09A(b), the Department may deny a permit for a sanitary landfill or a facility that disposes of solid waste by incineration, unless the Commission has not adopted rules pursuant to G.S. 130A-309.29 for local solid waste management plans.~~ In any case where the Department denies a permit for a solid waste management facility, it shall state in writing the reason for denial and shall also state its estimate of the changes in the applicant's proposed activities or plans that will be required for the applicant to obtain a permit.

(b1) ...
 (2)

A person who intends to apply for a new permit, the renewal of a permit, or a substantial amendment to a permit for a sanitary landfill shall obtain, prior to applying for a permit, a franchise for the operation of the sanitary landfill from each local government having jurisdiction over any part of the land on which the sanitary landfill and its appurtenances are located or to be located. A local government may adopt a franchise ordinance under G.S. 153A-136 or G.S. 160A-319. A franchise granted for a sanitary landfill shall include all of the following:

- a. A statement of the population to be served, including a description of the geographic area.
- b. A description of the volume and characteristics of the waste stream.
- c. A projection of the useful life of the sanitary landfill.
- d. ~~An explanation of how the franchise will be consistent with the jurisdiction's solid waste management plan required under G.S. 130A-309.09A, including provisions for waste reduction, reuse, and recycling.~~
- e. The procedures to be followed for governmental oversight and regulation of the fees and rates to be charged by facilities subject to the franchise for waste generated in the jurisdiction of the franchising entity.
- f. A facility plan for the sanitary landfill that shall include the boundaries of the proposed facility, proposed development of the facility site in five-year operational phases, the boundaries of all waste disposal units, final elevations and capacity of all waste disposal units, the amount of waste to be received per day in tons, the total waste disposal capacity of the sanitary landfill in tons, a description of environmental controls, and a description of any other waste management activities to be conducted at the facility. In addition, the facility plan shall show the proposed location of soil

borrow areas, leachate facilities, and all other facilities and infrastructure, including ingress and egress to the facility.

...."

SECTION 9. G.S. 130A-294(b1) is amended by adding a new subdivision to read:

"(6) Notwithstanding any provision of this section, no franchise for the operation of a sanitary landfill shall be required from a local government if the property on which the landfill is located is incorporated within a local government's boundaries by act of the General Assembly and the landfill was validly operating in another jurisdiction prior to the time the legislative act became effective. This subdivision only applies to sanitary landfills for the disposal of construction and demolition debris that had a permit from the Department to operate the landfill on January 1, 2008."

SECTION 10. This act is effective when it becomes law.