

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 1631\*

Short Title: Local Govt. Review Landfill Permit.

(Public)

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Sponsors: Senators Blackmon; and Carpenter.

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Referred to: Environment and Natural Resources.

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June 9, 1994

A BILL TO BE ENTITLED

1 AN ACT TO PROVIDE STANDARDS FOR USE BY LOCAL GOVERNMENTS IN  
2 THE REVIEW OF APPLICATIONS FOR PERMITS OR FOR SUBSTANTIAL  
3 AMENDMENTS TO PERMITS FOR SANITARY LANDFILLS IN ORDER TO  
4 ENSURE THAT LOCAL GOVERNMENT REVIEW OF PERMIT  
5 APPLICATIONS MEETS CONSTITUTIONAL REQUIREMENTS, AS  
6 RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.  
7

8 The General Assembly of North Carolina enacts:

9 Section 1. G.S. 130A-294(a)(4) reads as rewritten:

10 "(4) a. Develop a permit system governing the establishment and  
11 operation of solid waste management facilities. ~~No~~ The Department  
12 shall not approve an application for a new permit, the renewal of a  
13 permit, or a substantial amendment to a permit shall be granted for a  
14 sanitary landfill, excluding demolition landfills as defined in the rules  
15 of the Commission for Health Services, without the Department receiving  
16 the prior approval for the sanitary landfill for which the application the new  
17 permit, renewal of the permit, or substantial amendment to the permit from  
18 the county where it is to be located, except if it is to be located within the  
19 corporate limits or extraterritorial jurisdiction under Article 19 of Chapter  
20 160A of the General Statutes, of a city as defined in G.S. 160A-1(2), from  
21 the city where it is to be located or whose jurisdiction it is in, except as  
22 provided in subdivision (3) of subsection (b1) of this section. No  
23 permit shall be granted for a solid waste management facility having  
24 discharges which are point sources until the Department has referred

1 the complete plans and specifications to the Environmental  
2 Management Commission and has received advice in writing that the  
3 plans and specifications are approved in accordance with the  
4 provisions of G.S. 143-215.1. If the applicant is a unit of local  
5 government, and has not submitted a solid waste management plan that  
6 has been approved by the Department pursuant to G.S. 130A-  
7 309.09A(b), the Department may deny a permit for a sanitary landfill  
8 or a facility that disposes of solid waste by incineration, unless the  
9 Commission has not adopted rules pursuant to G.S. 130A-309.29 for  
10 local solid waste management plans. In any case where the  
11 Department denies a permit for a solid waste management facility, it  
12 shall state in writing the reason for denial and shall also state its  
13 estimate of the changes in the applicant's proposed activities or plans  
14 which will be required for the applicant to obtain a permit.

15 b. The issuance of permits for sanitary landfills operated by local  
16 governments is exempt from the environmental impact  
17 statements required by Article 1 of Chapter 113A of the  
18 General Statutes, entitled the North Carolina Environmental  
19 Policy Act of 1971. All sanitary landfill permits issued to local  
20 governments prior to July 1, 1984, are hereby validated  
21 notwithstanding any failure to provide environmental impact  
22 statements pursuant to the North Carolina Environmental Policy  
23 Act of 1971;".

24 Sec. 2. G.S. 130A-294(b1) reads as rewritten:

- 25 "(b1) (1) For purposes of this subsection and subdivision (4) of  
26 subsection (a) of this section, a 'substantial amendment' means  
27 either:
- 28 a. An increase of ten percent (10%) or more in:
    - 29 1. The population of the geographic area to be served by  
30 the sanitary landfill;
    - 31 2. The quantity of solid waste to be disposed of  
32 in the sanitary landfill; or
    - 33 3. The geographic area to be served by the sanitary landfill.
  - 34 b. A change in the categories of solid waste to be disposed of in  
35 the sanitary landfill or any other change to the application for a  
36 permit or to the permit for a sanitary landfill that the  
37 Commission or the Department determines to be substantial.
- 38 (2) Within 10 days after receiving an application for a permit, for the  
39 renewal of a permit, or for a substantial amendment to a permit for a  
40 sanitary landfill, the Department shall notify the clerk of the board of  
41 commissioners of the county or counties in which the sanitary landfill  
42 is proposed to be located or is located and, if the sanitary landfill is  
43 proposed to be located or is located within a city, the clerk of the  
44 governing board of the city, that the application has been filed and

1 shall file a copy of the application with the clerk. Prior to the issuance  
2 of a permit, the renewal of a permit, or a substantial amendment to a  
3 permit, the board of commissioners of the county or counties in which  
4 the sanitary landfill is proposed to be located or is located or, if the  
5 sanitary landfill is proposed to be located or is located in a city, the  
6 governing board of the city shall conduct a public hearing when  
7 sufficient public interest exists. The board of commissioners of the  
8 county or counties in which the sanitary landfill is proposed to be  
9 located or is located or, if the sanitary landfill is proposed to be located  
10 or is located in a city, the governing board of the city shall provide  
11 adequate notice to the public of the public hearing and shall specify the  
12 procedure to be followed at the public hearing.

13 (3) An applicant for a new permit, the renewal of a permit, or a substantial  
14 amendment to a permit for a sanitary landfill shall request each local  
15 government having jurisdiction over any part of the land on which the  
16 sanitary landfill and its appurtenances are located or to be located to  
17 issue a determination as to whether the local government has in effect  
18 a zoning or subdivision ordinance applicable to the sanitary landfill  
19 and whether the proposed sanitary landfill, or the existing sanitary  
20 landfill as it would be operated under the renewed or substantially  
21 amended permit, would be consistent with the ordinance. The request  
22 to the local government shall be accompanied by a copy of the draft  
23 permit application and shall be delivered to the clerk of the local  
24 government personally or by certified mail. The determination shall  
25 be verified or supported by affidavit signed by the official designated  
26 by the local government to make the determination and, if the local  
27 government states that the sanitary landfill as it would be operated  
28 under the new, renewed, or substantially amended permit is  
29 inconsistent with a zoning or subdivision ordinance, shall include a  
30 copy of the ordinance and the specific reasons for the determination of  
31 inconsistency. A copy of any such determination shall be provided to  
32 the applicant when it is submitted to the Department. The Department  
33 shall not act upon an application for a permit under this section until it  
34 has received a determination from each local government requested to  
35 make a determination by the applicant. Unless the local government  
36 makes a subsequent determination of consistency with all ordinances  
37 cited in the determination or the sanitary landfill as it would be  
38 operated under the new, renewed, or substantially amended permit is  
39 determined by a court of competent jurisdiction to be consistent with  
40 the cited ordinances, the Department shall attach as a condition of the  
41 permit a requirement that the applicant, prior to construction or  
42 operation of the sanitary landfill under the permit, comply with all  
43 lawfully adopted local ordinances, including those cited in the  
44 determination, that apply to the sanitary landfill at the time of

1                   construction or operation of the sanitary landfill. If a local government  
2                   fails to submit a determination to the Department as provided by this  
3                   subsection within 15 days after receipt of the request, the Department  
4                   may proceed to consider the permit application without regard to local  
5                   zoning and subdivision ordinances. This subsection shall not be  
6                   construed to limit any opportunity a local government may have to  
7                   comment on a permit application under any other law or rule. This  
8                   subsection shall not apply to any facility with respect to which local  
9                   ordinances are subject to review under either G.S. 104E-6.2 or G.S.  
10                  130A-293."

11                  Sec. 3. This act is effective upon ratification.