

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 51*

Short Title: Local Solid Waste Fees.

(Public)

Sponsors: Senators Odom, Cooper, and Speed.

Referred to: Local Government and Regional Affairs.

February 4, 1993

1 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE COUNTIES AND CITIES TO
2 EXPAND THE FEE ON OWNERS OF IMPROVED PROPERTY FOR SOLID
3 WASTE MANAGEMENT, TO AUTHORIZE COUNTIES TO IMPOSE A
4 FRANCHISE FEE, AND TO ESTABLISH THE BASIS FOR SETTING THE
5 AMOUNT OF CERTAIN LOCAL FEES FOR COMMERCIAL SOLID WASTE
6 COLLECTION AND DISPOSAL ACTIVITIES.

7 The General Assembly of North Carolina enacts:

8 Section 1. G.S. 153A-274 reads as rewritten:

9 **"§ 153A-274. Public enterprise defined.**

10 As used in this Article, 'public enterprise' includes:

- 11 (1) Water supply and distribution systems,
- 12 (2) Sewage collection and disposal systems of all types, including septic
13 tank systems or other on-site collection or disposal facilities or
14 systems,
- 15 (3) Solid waste collection and disposal systems and management services
16 and solid waste management facilities,
- 17 (4) Airports,
- 18 (5) Off-street parking facilities,
- 19 (6) Public transportation systems,
- 20 (7) Structural and natural stormwater and drainage systems of all types."

21 Sec. 2. The title of Part 3 of Article 15 of Chapter 153A of the General
22 Statutes reads as rewritten:

23 "Part 3. Special Provisions for Solid Waste ~~Collection and Disposal.~~ Management
24 and Solid Waste Management Facilities."

1 Sec. 3. G.S. 153A-277 is amended by adding a new subsection to read:

2 "(e) Subsection (c) of this section does not apply to solid waste management
3 services and solid waste management facilities."

4 Sec. 4. G.S. 153A-292 reads as rewritten:

5 "**§ 153A-292. County collection and disposal facilities.**

6 (a) The board of county commissioners of any county may establish and operate
7 solid waste collection and disposal management services and solid waste management
8 facilities in areas outside the corporate limits of a city. The board may by ordinance
9 regulate the use of a disposal solid waste management service or a solid waste
10 management facility provided by the county, the nature of the solid wastes disposed of
11 in a facility, and the method of disposal. The board may contract with any city,
12 individual, or privately owned corporation person to collect and dispose of solid waste
13 provide or operate a solid waste management service or a solid waste management
14 facility in the area. Counties and cities may establish and operate joint collection and
15 disposal solid waste management services or solid waste management facilities. A joint
16 agreement shall be in writing and executed by the governing bodies of the participating
17 units of local government.

18 (b) The board of county commissioners may impose a fee for the ~~collection of~~
19 solid waste use of a solid waste management service. The fee may ~~not exceed the costs~~
20 of collection be imposed only on those who use the service.

21 The board of county commissioners may impose a fee for the availability of a solid
22 waste management service provided by the county. A fee for availability may be
23 imposed on all improved property in the county that benefits from the availability of the
24 service.

25 (b1) The board of county commissioners may impose a fee for the use of a
26 ~~disposal solid waste management facility provided by the county. The fee for use may~~
27 ~~not exceed the cost of operating the facility and may be imposed only on those who use~~
28 ~~the facility. A county may not impose a fee for the use of a disposal facility on a city~~
29 ~~located in the county or a contractor or resident of the city unless the fee is based on a~~
30 ~~schedule that applies uniformly throughout the county.~~

31 The board of county commissioners may impose a fee for the availability of a
32 ~~disposal solid waste management facility provided by the county. A fee for availability~~
33 ~~may not exceed the cost of providing the facility and may be imposed on all improved~~
34 ~~property in the county that benefits from the availability of the facility. A county may~~
35 ~~not impose an availability fee on property whose solid waste is collected by a county, a~~
36 ~~city, or a private contractor for a fee if the fee imposed by a county, a city, or a private~~
37 ~~contractor for the collection of solid waste includes a charge for the availability and use~~
38 ~~of a disposal facility provided by the county. Property served by a private contractor~~
39 ~~who disposes of solid waste collected from the property in a disposal facility provided~~
40 ~~by a private contractor is not considered to benefit from a disposal facility provided by~~
41 ~~the county and is not subject to a fee imposed by the county for the availability of a~~
42 ~~disposal facility provided by the county.~~

43 (b2) A county may not impose a fee for the use of a solid waste management
44 service or for the use of a solid waste management facility on owners of improved

1 property who have been charged a fee for the availability of the service or facility
2 except to recover any costs of providing and operating the service or the facility not
3 covered by the availability fees.

4 (b3) In determining the costs of providing and operating a ~~disposal~~-solid waste
5 management facility, a county may consider solid waste management costs incidental to
6 a county's handling and disposal of solid waste at its ~~disposal~~-solid waste management
7 facility, including the costs of the methods of solid waste management specified in G.S.
8 130A-309.04(a) of the Solid Waste Management Act of 1989. A fee for the availability
9 or use of a ~~disposal~~-solid waste management service or a solid waste management
10 facility may be based on the combined costs of the different ~~disposal~~-solid waste
11 management services or solid waste management facilities provided by the county-
12 county and may not exceed the the combined costs of providing and operating all
13 services and facilities provided by the county.

14 (c) The board of county commissioners may use any suitable vacant land owned
15 by the county for the site of a disposal facility, subject to the permit requirements of
16 Article 9 of Chapter 130A of the General Statutes. If the county does not own suitable
17 vacant land for a disposal facility, it may acquire suitable land by purchase or
18 condemnation. The board may erect a gate across a highway that leads directly to a
19 disposal facility operated by the county. The gate may be erected at or in close
20 proximity to the boundary of the disposal facility. The county shall pay the cost of
21 erecting and maintaining the gate.

22 (d), (e) Repealed by Session Laws 1991, c. 652, s. 1.

23 (f) As used in this section, 'solid waste management' and 'solid waste
24 management facility' have the same meaning as set forth in G.S. 130A-290."

25 Sec. 5. The catch line of G.S. 153A-293 reads as rewritten:

26 "**§ 153A-293. Collection of fees for solid waste ~~disposal~~-management facilities and**
27 **solid waste collection and transportation services."**

28 Sec. 6. G.S. 160A-311 reads as rewritten:

29 "**§ 160A-311. Public enterprise defined.**

30 As used in this Article, the term 'public enterprise' includes:

- 31 (1) Electric power generation, transmission, and distribution systems;
- 32 (2) Water supply and distribution systems;
- 33 (3) Sewage collection and disposal systems of all types, including septic
34 tank systems or other on-site collection or disposal facilities or
35 systems;
- 36 (4) Gas production, storage, transmission, and distribution systems, where
37 systems shall also include the purchase and/or lease of natural gas
38 fields and natural gas reserves, the purchase of natural gas supplies,
39 and the surveying, drilling and any other activities related to the
40 exploration for natural gas, whether within the State or without;
- 41 (5) Public transportation systems;
- 42 (6) Solid waste ~~collection and disposal systems and~~ management services
43 and solid waste management facilities;
- 44 (7) Cable television systems;

- 1 (8) Off-street parking facilities and systems;
2 (9) Airports;
3 (10) Structural and natural stormwater and drainage systems of all types."

4 Sec. 7. G.S. 160A-314 is amended by adding a new subsection to read:

5 "(a2) A fee for the use of a solid waste management service or a fee for the use of a
6 solid waste management facility may include, but not exceed, the costs of providing and
7 operating the service or the facility provided by the city and may be imposed on only
8 those who use the service or the facility."

9 Sec. 8. G.S. 160A-314.1 reads as rewritten: ♦

10 "**§ 160A-314.1. Availability fees for solid waste ~~disposal~~management services or**
11 **solid waste management facilities; collection of any solid waste fees.**

12 (a) In addition to a fee that a city may impose for ~~collecting solid waste or for~~
13 ~~using a disposal~~ the use of a solid waste management facility, a city may impose a fee
14 for the availability of a ~~disposal~~ solid waste management facility provided by the city.
15 A fee for availability ~~may not exceed the cost of providing the facility and may be~~
16 imposed on all improved property in the city that benefits from the availability of the
17 facility. ~~A city may not impose an availability fee on property whose solid waste is~~
18 ~~collected by a county, a city, or a private contractor for a fee if the fee imposed by a~~
19 ~~county, a city, or a private contractor for the collection of solid waste includes a charge~~
20 ~~for the availability and use of a disposal facility provided by the city. Property served~~
21 ~~by a private contractor who disposes of solid waste collected from the property in a~~
22 ~~disposal facility provided by a private contractor is not considered to benefit from a~~
23 ~~disposal facility provided by the city and is not subject to a fee imposed by the city for~~
24 ~~the availability of a disposal facility provided by the city.~~

25 (a1) In addition to a fee that a city may impose for the use of a solid waste
26 management service, a city may impose a fee for the availability of a solid waste
27 management service provided by the city. A fee for availability may be imposed on all
28 improved property in the city that benefits from the availability of the service.

29 (a2) A city may not impose a fee for the use of providing or operating a solid
30 waste management service or for the use of providing and operating a solid waste
31 management facility on owners of improved property who have been charged a fee for
32 the availability of the service or facility except to recover any costs of providing and
33 operating the service or the facility not covered by the availability fees.

34 (a3) In determining the costs of providing and operating a ~~disposal~~ solid waste
35 management facility, a city may consider solid waste management costs incidental to a
36 city's handling and disposal of solid waste at its disposal facility. A fee for the
37 availability or use of a ~~disposal~~ solid waste management service or a solid waste
38 management facility may be based on the combined costs of the different ~~disposal~~ solid
39 waste management services or solid waste management facilities provided by the city.
40 city and may not exceed the the combined costs of providing and operating all services
41 and facilities provided by the city.

42 (b) A city may adopt an ordinance providing that any fee imposed under
43 subsection ~~(a)~~ (a), (a1), or under G.S. 160A-314 for ~~collecting or disposing of~~ solid
44 waste may be billed with property taxes, may be payable in the same manner as

1 property taxes, and, in the case of nonpayment, may be collected in any manner by
 2 which delinquent personal or real property taxes can be collected. If an ordinance states
 3 that delinquent fees can be collected in the same manner as delinquent real property
 4 taxes, the fees are a lien on the real property described on the bill that includes the fee."

5 Sec. 9. G.S. 153A-136(a) reads as rewritten:

6 "(a) A county may by ordinance regulate the storage, collection, transportation,
 7 use, disposal, and other disposition of solid ~~wastes~~-waste. Such an ordinance may:

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

36 Sec. 10. G.S. 153A-136 is amended by adding a new subsection to read:

37 "(a1) A person shall not hold both a license pursuant to subdivision (2) of
 38 subsection (a) of this section and a franchise pursuant to subdivision (3) of subsection
 39 (a) of this section."

40 Sec. 11. G.S. 160A-319 reads as rewritten:

41 "**§ 160A-319. Utility franchises.**

42 A city shall have authority to grant upon reasonable terms franchises for the
 43 operation within the city of any of the enterprises listed in G.S. 160A-311 and for the
 44 operation of telephone systems. No franchise shall be granted for a period of more than

1 60 years, and cable television franchises shall not be granted for a period of more than
2 20 years. Franchises to commercially collect or dispose of solid waste may be based on
3 the weight, volume, or composition of solid waste collected or disposed of, on the gross
4 revenues received by the franchise holder from the collection or disposal activities, or
5 on other factors. Except as otherwise provided by law, when a city operates an
6 enterprise, or upon granting a franchise, a city may by ordinance make it unlawful to
7 operate an enterprise without a franchise.

8 For the purposes of this section, 'cable television system' means any system or
9 facility that, by means of a master antenna and wires or cables, or by wires or cables
10 alone, receives, amplifies, modifies, transmits, or distributes any television, radio, or
11 electronic signal, audio or video or both, to subscribing members of the public for
12 compensation. 'Cable television system' does not include providing master antenna
13 services only to property owned or leased by the same person, firm, or corporation, nor
14 communication services rendered to a cable television system by a public utility that is
15 regulated by the North Carolina Utilities Commission or the Federal Communications
16 Commission in providing those services."

17 Sec. 12. This act becomes effective July 1, 1993.