

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005

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SENATE BILL 1564\*  
Agriculture/Environment/Natural Resources Committee Substitute Adopted  
7/11/06

Short Title: Amend Solid Waste Franchise Statutes. (Public)

Sponsors:

Referred to:

May 18, 2006

A BILL TO BE ENTITLED

1 AN ACT TO AMEND THE STATUTES GOVERNING SANITARY LANDFILL  
2 FRANCHISE ORDINANCES AND AGREEMENTS TO CLARIFY THAT  
3 LOCAL GOVERNMENTS MAY, BUT ARE NOT REQUIRED TO, AWARD  
4 SANITARY LANDFILL FRANCHISES; TO PROVIDE FOR THE AWARD OF  
5 PRELIMINARY FRANCHISES AS WELL AS FRANCHISES AND TO SPECIFY  
6 THE INFORMATION TO BE INCLUDED THEREIN; TO ENSURE THAT  
7 SANITARY LANDFILL FRANCHISES ARE AWARDED ONLY AFTER  
8 ADEQUATE PUBLIC NOTICE AND OPPORTUNITY FOR PUBLIC  
9 PARTICIPATION IN THE DECISION TO AWARD THE FRANCHISE; TO  
10 PROVIDE THAT FRANCHISES ARE AWARDED ONLY AFTER PUBLIC  
11 NOTICE OF THE LOCATION OF THE PROPOSED SANITARY LANDFILL;  
12 AND TO ENSURE THAT SANITARY LANDFILL FRANCHISES ARE  
13 CONSISTENT WITH LOCAL SOLID WASTE MANAGEMENT PLANS AND  
14 ARE SUBJECT TO LOCAL GOVERNMENT OVERSIGHT AND REGULATION  
15 OF RATES AND FEES, AS RECOMMENDED BY THE ENVIRONMENTAL  
16 REVIEW COMMISSION.  
17

18 The General Assembly of North Carolina enacts:

19 **SECTION 1.** G.S. 130A-294(b1)(3) is recodified as G.S. 130A-294(b1)(2)  
20 and reads as rewritten:

21 "~~(3)(2)An applicant~~ A person who intends to apply for a new permit, the  
22 renewal of a permit, or a substantial amendment to a permit for a  
23 sanitary landfill shall obtain, prior to applying for a permit, a franchise  
24 for the operation of the sanitary landfill from each local government  
25 having jurisdiction over any part of the land on which the sanitary  
26 landfill and its appurtenances are located or to be located. A local  
27 government ~~shall~~ may adopt a franchise ordinance under  
28 G.S. 153A-136 or ~~G.S. 160A-319~~ prior to the submittal by an

1 applicant of an application for a new permit, the renewal of a permit,  
 2 or a substantial amendment to a permit for a sanitary  
 3 landfill. G.S. 160A-319. A franchise granted for a sanitary landfill shall  
 4 ~~include:~~ include all of the following:

- 5 a. A statement of the population to be served, including a
- 6 description of the geographic area.
- 7 b. A description of the volume and characteristics of the waste
- 8 stream.
- 9 c. A projection ~~on~~ of the useful life of the sanitary landfill.
- 10 d. An explanation of how the franchise will be consistent with the
- 11 jurisdiction's solid waste management plan required under
- 12 G.S. 130A-309.09A, including provisions for waste reduction,
- 13 reuse, and recycling.
- 14 e. The procedures to be followed for governmental oversight and
- 15 regulation of the fees and rates to be charged by facilities
- 16 subject to the franchise for waste generated in the jurisdiction of
- 17 the franchising entity.
- 18 f. A facility plan for the sanitary landfill that shall include the
- 19 exact boundaries of the proposed facility, proposed
- 20 development of the facility site in five-year operational phases,
- 21 the boundaries of all waste disposal units, final elevations and
- 22 capacity of all waste disposal units, the amount of waste to be
- 23 received per day in tons, the total waste disposal capacity of the
- 24 sanitary landfill in tons, a description of environmental controls,
- 25 and a description of any other waste management activities to
- 26 be conducted at the facility. In addition, the facility plan shall
- 27 show the location of soil borrow areas, leachate facilities, and
- 28 all other facilities and infrastructure, including ingress and
- 29 egress to the facility."

30 **SECTION 2.** G.S. 130A-294(b1) is amended by adding a new subdivision to

31 read:

32 "(2a) A local government may elect to award a preliminary franchise. If a

33 local government elects to award a preliminary franchise, the

34 preliminary franchise shall contain, at a minimum, all of the

35 information described in sub-subdivisions a. through e. of subdivision

36 (2) of this subsection plus a general description of the proposed

37 sanitary landfill, including the approximate number of acres required

38 for the proposed sanitary landfill and its appurtenances and a

39 description of any other solid waste management activities that are to

40 be conducted at the site."

41 **SECTION 3.** G.S. 130A-294(b1)(2) is recodified as G.S. 130A-294(b1)(3)

42 and reads as rewritten:

43 "(2)(3) Within 10 days after receiving an application for a permit, for the

44 renewal of a permit, or for a substantial amendment to a permit for a

1 sanitary landfill, the Department shall notify the clerk of the board of  
2 commissioners of the county or counties in which the sanitary landfill  
3 is proposed to be located or is located and, if the sanitary landfill is  
4 proposed to be located or is located within a city, the clerk of the  
5 governing board of the city, that the application has been filed and  
6 shall file a copy of the application with the clerk. Prior to the award of  
7 a franchise for the construction or operation of a sanitary landfill, the  
8 issuance of a permit, the renewal of a permit, or a substantial  
9 amendment to a permit, the board of commissioners of the county or  
10 counties in which the sanitary landfill is proposed to be located or is  
11 located or, if the sanitary landfill is proposed to be located or is located  
12 in a city, the governing board of the city shall conduct a public hearing  
13 when sufficient public interest exists. hearing. The board of  
14 commissioners of the county or counties in which the sanitary landfill  
15 is proposed to be located or is located or, if the sanitary landfill is  
16 proposed to be located or is located in a city, the governing board of  
17 the city shall provide adequate notice at least 30 days' notice to the  
18 public of the public hearing hearing. The notice shall include a  
19 summary of all the information required to be included in the  
20 franchise, and shall specify the procedure to be followed at the public  
21 hearing. The applicant for the franchise shall provide a copy of the  
22 application for the franchise that includes all of the information  
23 required to be included in the franchise, to the public library closest to  
24 the proposed sanitary landfill site to be made available for inspection  
25 and copying by the public."

26 **SECTION 4.** This act is effective when it becomes law and applies to any  
27 application for a preliminary franchise or franchise that is filed with a local government  
28 on or after that date. This act does not affect any franchise that has been awarded as of  
29 the date on which this act becomes effective unless the franchise provides for a final  
30 vote of the governing board of the local government on the franchise and the final vote  
31 occurs on or after 1 November 2006, in which case the provisions of  
32 G.S. 130A-294(b1), as amended by this act, apply.