

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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SENATE BILL 1564*
Agriculture/Environment/Natural Resources Committee Substitute Adopted
7/11/06
House Committee Substitute Favorable 7/19/06

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 TO ENSURE THAT SANITARY LANDFILL FRANCHISES ARE CONSISTENT
13 WITH LOCAL SOLID WASTE MANAGEMENT PLANS AND ARE SUBJECT
14 TO LOCAL GOVERNMENT OVERSIGHT AND REGULATION OF RATES
15 AND FEES; AND TO PROVIDE THAT THIS ACT IS EFFECTIVE WHEN IT
16 BECOMES LAW AND APPLIES TO ANY APPLICATION FOR A
17 PRELIMINARY FRANCHISE OR FRANCHISE THAT IS FILED WITH A
18 LOCAL GOVERNMENT ON OR AFTER THAT DATE AND THAT THIS ACT
19 DOES NOT AFFECT ANY FRANCHISE THAT HAS BEEN AWARDED AS OF
20 THE DATE ON WHICH THIS ACT BECOMES EFFECTIVE UNLESS THE
21 FRANCHISE PROVIDES FOR A FINAL VOTE OF THE GOVERNING BOARD
22 OF THE LOCAL GOVERNMENT ON THE FRANCHISE AND THE FINAL
23 VOTE OCCURS ON OR AFTER 1 NOVEMBER 2006, IN WHICH CASE THE
24 PROVISIONS OF G.S. 130A-294(B1), AS AMENDED BY THIS ACT, APPLY,
25 AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.
26

27 The General Assembly of North Carolina enacts:

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

3 "~~(3)(2)An applicant~~ A person who intends to apply for a new permit, the
4 renewal of a permit, or a substantial amendment to a permit for a
5 sanitary landfill shall obtain, prior to applying for a permit, a franchise
6 for the operation of the sanitary landfill from each local government
7 having jurisdiction over any part of the land on which the sanitary
8 landfill and its appurtenances are located or to be located. A local
9 government ~~shall~~ may adopt a franchise ordinance under
10 G.S. 153A-136 or ~~G.S. 160A-319~~ prior to the submittal by an
11 applicant of an application for a new permit, the renewal of a permit,
12 ~~or a substantial amendment to a permit for a sanitary~~
13 ~~landfill.~~ G.S. 160A-319. A franchise granted for a sanitary landfill shall
14 ~~include;~~ include all of the following:

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

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

42 "(2a) A local government may elect to award a preliminary franchise. If a
43 local government elects to award a preliminary franchise, the
44 preliminary franchise shall contain, at a minimum, all of the

1 information described in sub-subdivisions a. through e. of subdivision
2 (2) of this subsection plus a general description of the proposed
3 sanitary landfill, including the approximate number of acres required
4 for the proposed sanitary landfill and its appurtenances and a
5 description of any other solid waste management activities that are to
6 be conducted at the site."

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

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

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