

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

H

1

HOUSE BILL 1090

Short Title: Env. Impact Statement/Private Landfills.

(Public)

Sponsors: Representative Privette.

Referred to: Environment.

April 24, 1991

A BILL TO BE ENTITLED

AN ACT TO REQUIRE ENVIRONMENTAL IMPACT STATEMENTS FOR
SANITARY LANDFILLS THAT ARE PRIVATELY OPERATED.

The General Assembly of North Carolina enacts:

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

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

- (1) Develop a comprehensive program for implementation of safe and sanitary practices for management of solid waste;
- (2) Advise, consult, cooperate and contract with other State agencies, units of local government, the federal government, industries and individuals in the formulation and carrying out of a solid waste management program;
- (3) Develop and adopt rules to establish standards for qualification as a waste 'recycling, reduction or resource recovering facility' or as waste 'recycling, reduction or resource recovering equipment' for the purpose of special tax classifications or treatment, and to certify as qualifying those applicants which meet the established standards. The standards shall be developed to qualify only those facilities and equipment exclusively used in the actual waste recycling, reduction or resource recovering process and shall exclude any incidental or supportive facilities and equipment;

1 (4) Develop a permit system governing the establishment and operation of
2 solid waste management facilities. No permit shall be granted for a
3 sanitary landfill, excluding demolition landfills as defined in the rules
4 of the Commission for Health Services, without the Department
5 receiving the prior approval for such permit from the county where it
6 is to be located, except if it is to be located within the corporate limits
7 or extraterritorial jurisdiction under Article 19 of Chapter 160A of the
8 General Statutes, of a city as defined in G.S. 160A-1(2), from the city
9 where it is to be located or whose jurisdiction it is in. No permit shall
10 be granted for a solid waste management facility having discharges
11 which are point sources until the Department has referred the complete
12 plans and specifications to the Environmental Management
13 Commission and has received advice in writing that the plans and
14 specifications are approved in accordance with the provisions of G.S.
15 143-215.1. In any case where the Department denies a permit for a
16 solid waste management facility, it shall state in writing the reason for
17 denial and shall also state its estimate of the changes in the applicant's
18 proposed activities or plans which will be required for the applicant to
19 obtain a permit.

20 Notwithstanding the provisions of Article 1 of Chapter 113A of the
21 General Statutes, no permit shall be granted for a privately operated
22 sanitary landfill without a detailed statement by the Secretary setting
23 forth the environmental impact of the proposed landfill. The issuance
24 of permits for sanitary landfills operated by local governments is
25 exempt from the environmental impact statements required by Article
26 1 of Chapter 113A of the General Statutes, entitled the North Carolina
27 Environmental Policy Act of 1971. All sanitary landfill permits issued
28 to local governments prior to July 1, 1984, are hereby validated
29 notwithstanding any failure to provide environmental impact
30 statements pursuant to the North Carolina Environmental Policy Act of
31 1971;

32 (4a) No permit shall be granted for any public or private sanitary landfill to
33 receive solid non-radioactive waste generated outside the boundaries
34 of North Carolina to be deposited, unless such waste has previously
35 been inspected by the solid waste regulatory agency of that nation,
36 state or territory, characterized in detail as to its contents and certified
37 by that agency to be non-injurious to health and safety. The
38 Commission shall adopt rules to implement this subsection.

39 (5) Repealed by Session Laws 1983, c. 795, s. 3.

40 (5a) Designate a geographic area within which the collection,
41 transportation, storage and disposal of all solid waste generated within
42 said area shall be accomplished in accordance with a solid waste
43 management plan. Such designation may be made only after the
44 Department has received a request from the unit or units of local

1 government having jurisdiction within said geographic area that such
2 designation be made and after receipt by the Department of a solid
3 waste management plan which shall include:

- 4 a. The existing and projected population for such area;
- 5 b. The quantities of solid waste generated and estimated to be
6 generated in such area;
- 7 c. The availability of sanitary landfill sites and the environmental
8 impact of continued landfill of solid waste on surface and
9 subsurface waters;
- 10 d. The method of solid waste disposal to be utilized and the energy
11 or material which shall be recovered from the waste; and
- 12 e. Such other data that the Department may reasonably require.

13 (5b) Authorize units of local government to require by ordinance, that all
14 solid waste generated within the designated geographic area that is
15 placed in the waste stream for disposal be collected, transported, stored
16 and disposed of at a permitted solid waste management facility or
17 facilities serving such area. The provisions of such ordinance shall not
18 be construed to prohibit the source separation of materials from solid
19 waste prior to collection of such solid waste for disposal, or prohibit
20 collectors of solid waste from recycling materials or limit access to
21 such materials as an incident to collection of such solid waste;
22 provided such prohibitions do not authorize the construction and
23 operation of a resource recovery facility unless specifically permitted
24 pursuant to an approved solid waste management plan. If a private
25 solid waste landfill shall be substantially affected by such ordinance
26 then the unit of local government adopting the ordinance shall be
27 required to give the operator of the affected landfill at least two years
28 written notice prior to the effective date of the proposed ordinance.

29 (5c) Except for the authority to designate a geographic area to be serviced
30 by a solid waste management facility, delegate authority and
31 responsibility to units of local government to perform all or a portion
32 of a solid waste management program within the jurisdictional area of
33 the unit of local government; provided that no authority over or control
34 of the operations or properties of one local government shall be
35 delegated to any other local government.

36 (5d) Require that an annual report of the implementation of the solid waste
37 management plan within the designated geographic area be filed with
38 the Department.

39 (6) The Department is authorized to charge and collect fees from operators
40 of hazardous waste disposal facilities. The fees shall be used to
41 establish a fund sufficient for each individual facility to defray the
42 anticipated costs to the State for monitoring and care of the facility
43 after the termination of the period during which the facility operator is
44 required by applicable State and federal statutes, regulations or rules to

1 remain responsible for post-closure monitoring and care. In
2 establishing the fees, consideration shall be given to the size of the
3 facility, the nature of the hazardous waste and the projected life of the
4 facility.
5 (7) Establish and collect annual fees from generators and transporters of
6 hazardous waste, and from storage, treatment, and disposal facilities
7 regulated under this Article as provided in G.S. 130A-294.1."
8 Sec. 2. This act is effective upon ratification and applies to applications for
9 permits filed on or after that date and to applications for permits that were previously
10 filed but were not granted or denied before that date.