

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 51*

Local Government and Regional Affairs Committee Substitute Adopted 4/29/93

Short Title: Local Solid Waste Fees.

(Public)

Sponsors:

Referred to: Finance.

February 4, 1993

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE COUNTIES AND CITIES TO EXPAND THE FEE ON OWNERS OF IMPROVED PROPERTY FOR SOLID WASTE MANAGEMENT, TO AUTHORIZE COUNTIES TO IMPOSE A FRANCHISE FEE, AND TO ESTABLISH THE BASIS FOR SETTING THE AMOUNT OF CERTAIN LOCAL FEES FOR COMMERCIAL SOLID WASTE COLLECTION AND DISPOSAL ACTIVITIES.

The General Assembly of North Carolina enacts:

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

"§ 153A-274. Public enterprise defined.

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

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

Sec. 2. The title of Part 3 of Article 15 of Chapter 153A of the General

Statutes reads as rewritten:

1 ~~"Part 3. Special Provisions for Solid Waste Collection and Disposal. Management and~~
2 ~~Solid Waste Management Facilities."~~

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

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

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

7 **"§ 153A-292. County collection and disposal facilities.**

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

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

23 The board of county commissioners may impose a fee for the availability of a solid
24 waste management service provided by the county or its designee as provided in
25 subsection (a) of this section. A fee for availability may be imposed on all
26 improved property in the county that benefits from the availability of the service. A
27 county may not impose an availability fee for a solid waste management service on
28 improved property located within a city unless the county has a joint agreement with the
29 city to provide the service.

30 (b1) The board of county commissioners may impose a fee for the use of a ~~disposal~~
31 ~~solid waste management facility provided by the county county or its designee as~~
32 ~~provided in subsection (a) of this section. The fee for use may not exceed the cost of~~
33 ~~operating the facility and may be imposed only on those who use the facility. A county~~
34 ~~may not impose a fee for the use of a disposal facility on a city located in the county or a~~
35 ~~contractor or resident of the city unless the fee is based on a schedule that applies uniformly~~
36 ~~throughout the county. A county may not either directly or indirectly impose a fee for the~~
37 ~~use of a solid waste management facility on a city or a contractor of the city, or on a~~
38 ~~resident or property owner of the city that exceeds the fee charged to residents or~~
39 ~~property owners located in the county.~~

40 The board of county commissioners may impose a fee for the availability of a ~~disposal~~
41 ~~solid waste management facility provided by the county. A fee for availability may not~~
42 ~~exceed the cost of providing the facility and may be imposed on all improved property in~~
43 ~~the county that benefits from the availability of the facility. A county may not impose an~~
44 ~~availability fee for a solid waste management service on improved property located~~

1 within a city unless the county has a joint agreement with the city to provide the service.
2 ~~A county may not impose an availability fee on property whose solid waste is collected by a~~
3 ~~county, a city, or a private contractor for a fee if the fee imposed by a county, a city, or a~~
4 ~~private contractor for the collection of solid waste includes a charge for the availability and use~~
5 ~~of a disposal facility provided by the county. Property served by a private contractor who~~
6 ~~disposes of solid waste collected from the property in a disposal facility provided by a private~~
7 ~~contractor is not considered to benefit from a disposal facility provided by the county and is not~~
8 ~~subject to a fee imposed by the county for the availability of a disposal facility provided by the~~
9 ~~county.~~

10 (b2) A county may not impose a fee for the use of a solid waste management
11 service or for the use of a solid waste management facility on owners of improved
12 property who have been charged a fee for the availability of the service or facility
13 except to recover any costs of providing and operating the service or the facility not
14 covered by the availability fees.

15 (b3) In determining the costs of providing and operating a disposal-solid waste
16 management facility, a county may consider solid waste management costs incidental to
17 a county's handling and disposal of solid waste at its disposal-solid waste management
18 facility, including the costs of the methods of solid waste management specified in G.S.
19 130A-309.04(a) of the Solid Waste Management Act of 1989. A fee for the availability
20 or use of a disposal-solid waste management service or a solid waste management
21 facility may be based on the combined costs of the different disposal-solid waste
22 management services or solid waste management facilities provided by the county-
23 county or its designee as provided in subsection (a) of this section and may not exceed
24 the combined costs of providing and operating all services and facilities provided by the
25 county.

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

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

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

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

38 **"§ 153A-293. Collection of fees for solid waste ~~disposal-management~~ facilities and**
39 **solid waste collection and transportation services."**

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

41 **"§ 160A-311. Public enterprise defined.**

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

- 43 (1) Electric power generation, transmission, and distribution systems;
- 44 (2) Water supply and distribution systems;

- 1 (3) Sewage collection and disposal systems of all types, including septic
2 tank systems or other on-site collection or disposal facilities or
3 systems;
- 4 (4) Gas production, storage, transmission, and distribution systems, where
5 systems shall also include the purchase and/or lease of natural gas
6 fields and natural gas reserves, the purchase of natural gas supplies,
7 and the surveying, drilling and any other activities related to the
8 exploration for natural gas, whether within the State or without;
- 9 (5) Public transportation systems;
- 10 (6) Solid waste collection and disposal systems and management services
11 and solid waste management facilities;
- 12 (7) Cable television systems;
- 13 (8) Off-street parking facilities and systems;
- 14 (9) Airports;
- 15 (10) Structural and natural stormwater and drainage systems of all types."

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

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

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

22 "**§ 160A-314.1. Availability fees for solid waste ~~disposal~~ management services or**
23 **solid waste management facilities; collection of any solid waste fees.**

24 (a) In addition to a fee that a city may impose for ~~collecting solid waste or for using~~
25 ~~a disposal~~ the use of a solid waste management facility, a city may impose a fee for the
26 availability of a ~~disposal~~ solid waste management facility provided by the city. A fee for
27 availability ~~may not exceed the cost of providing the facility and~~ may be imposed on all
28 improved property in the city that benefits from the availability of the facility. ~~A city~~
29 ~~may not impose an availability fee on property whose solid waste is collected by a county, a~~
30 ~~city, or a private contractor for a fee if the fee imposed by a county, a city, or a private~~
31 ~~contractor for the collection of solid waste includes a charge for the availability and use of a~~
32 ~~disposal facility provided by the city. Property served by a private contractor who disposes of~~
33 ~~solid waste collected from the property in a disposal facility provided by a private contractor is~~
34 ~~not considered to benefit from a disposal facility provided by the city and is not subject to a fee~~
35 ~~imposed by the city for the availability of a disposal facility provided by the city.~~

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

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

1 (a3) In determining the costs of providing and operating a ~~disposal~~ solid waste
2 management facility, a city may consider solid waste management costs incidental to a
3 city's handling and disposal of solid waste at its disposal facility. A fee for the
4 availability or use of a ~~disposal~~ solid waste management service or a solid waste
5 management facility may be based on the combined costs of the different ~~disposal~~ solid
6 waste management services or solid waste management facilities provided by the ~~city.~~
7 city and may not exceed the combined costs of providing and operating all services and
8 facilities provided by the city.

9 (b) A city may adopt an ordinance providing that any fee imposed under
10 ~~subsection (a)~~ subsections (a), (a1), or under G.S. 160A-314 for collecting or disposing of
11 solid waste may be billed with property taxes, may be payable in the same manner as
12 property taxes, and, in the case of nonpayment, may be collected in any manner by
13 which delinquent personal or real property taxes can be collected. If an ordinance states
14 that delinquent fees can be collected in the same manner as delinquent real property
15 taxes, the fees are a lien on the real property described on the bill that includes the fee."

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

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

- 19 (1) Regulate the activities of persons, firms, and corporations, both public
20 and private.
- 21 (2) Require each person wishing to commercially collect or dispose of
22 solid ~~wastes~~ waste to secure a license from the county and prohibit any
23 person from commercially collecting or disposing of solid ~~wastes~~ waste
24 without a license. A fee may be charged for a license. A license fee
25 may be based on the weight, volume, or composition of solid waste
26 collected or disposed of, on the gross revenues received by the license
27 holder for the collection or disposal activities, or on other factors.
- 28 (3) Grant a franchise to one or more persons for the exclusive right to
29 commercially collect or dispose of solid ~~wastes~~ waste within all or a
30 defined portion of the county and prohibit any other person from
31 commercially collecting or disposing of solid ~~wastes~~ waste in that area.
32 The board of commissioners may set the terms of any franchise, except
33 that no franchise may be granted for a period exceeding 30 years, nor
34 may any franchise by its terms impair the authority of the board of
35 commissioners to regulate fees as authorized by this section. A fee
36 may be charged for a franchise. A franchise fee may be based on the
37 weight, volume, or composition of solid waste collected or disposed
38 of, on the gross revenues received by the franchise holder from the
39 collection or disposal activities, or on other factors.
- 40 (4) Regulate the fees, if any, that may be charged by licensed or franchise
41 persons for collecting or disposing of solid ~~wastes~~ waste.
- 42 (5) Require the source separation of materials from solid waste prior to
43 collection of the solid waste for disposal.

1 (6) Require participation in a recycling program which has been approved
2 by the board of commissioners.

3 (7) Include any other proper matter."

4 Sec. 10. G.S. 160A-319 reads as rewritten:

5 **"§ 160A-319. Utility franchises.**

6 A city shall have authority to grant upon reasonable terms franchises for the
7 operation within the city of any of the enterprises listed in G.S. 160A-311 and for the
8 operation of telephone systems. No franchise shall be granted for a period of more than
9 60 years, and cable television franchises shall not be granted for a period of more than
10 20 years. Franchises to commercially collect or dispose of solid waste may be based on
11 the weight, volume, or composition of solid waste collected or disposed of, on the gross
12 revenues received by the franchise holder from the collection or disposal activities, or
13 on other factors. Except as otherwise provided by law, when a city operates an
14 enterprise, or upon granting a franchise, a city may by ordinance make it unlawful to
15 operate an enterprise without a franchise.

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

25 Sec. 11. This act becomes effective July 1, 1993.