

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015**

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SENATE BILL 777

Short Title: Solid Waste Amendments. (Public)

Sponsors: Senators Wade, Brock, B. Jackson (Primary Sponsors); and Rabin.

Referred to: Agriculture/Environment/Natural Resources

April 28, 2016

A BILL TO BE ENTITLED

1 AN ACT TO (1) MAKE TECHNICAL, CLARIFYING, AND CONFORMING CHANGES TO
2 PROVISIONS ENACTED IN 2015 TO ESTABLISH LIFE-OF-SITE PERMITS FOR
3 SANITARY LANDFILLS AND TRANSFER STATIONS AND (2) PROVIDE THAT
4 FRANCHISE AGREEMENTS PREVIOUSLY EXECUTED BY LOCAL GOVERNMENTS
5 FOR SANITARY LANDFILLS MAY BE MODIFIED BY AGREEMENT OF ALL
6 PARTIES TO LAST FOR A LANDFILL'S LIFE-OF-SITE, EXCEPT THAT NO
7 FRANCHISE AGREEMENT, MODIFIED OR NEWLY EXECUTED, SHALL EXCEED A
8 DURATION OF SIXTY YEARS, AS RECOMMENDED BY THE ENVIRONMENTAL
9 REVIEW COMMISSION.
10

11 The General Assembly of North Carolina enacts:

12 **SECTION 1.(a)** Section 4.9(a) of S.L. 2015-286 reads as rewritten:

13 "**SECTION 4.9.(a)** Section 14.20(a) of S.L. 2015-241 ~~reads as rewritten:~~is rewritten to read:
14"

15 **SECTION 1.(b)** Section 4.9(b) of S.L. 2015-286 reads as rewritten:

16 "**SECTION 4.9.(b)** Section ~~14.20(a)~~14.20(c) of S.L. 2015-241 ~~reads as rewritten:~~is rewritten
17 to read:
18"

19 **SECTION 1.(c)** Section 4.9(c) of S.L. 2015-286 reads as rewritten:

20 "**SECTION 4.9.(c)** Section 14.20(d) of S.L. 2015-241 ~~reads as rewritten:~~is rewritten to read:
21"

22 **SECTION 1.(d)** Section 4.9(d) of S.L. 2015-286 reads as rewritten:

23 "**SECTION 4.9.(d)** Section 14.20(f) of S.L. 2015-241 ~~reads as rewritten:~~is rewritten to read:
24"

25 **SECTION 1.(f)** Section 14.20(e) of S.L. 2015-241 reads as rewritten:

26 "**SECTION 14.20.(e)** After July 1, 2016, the annual fee due pursuant to
27 ~~G.S. 130A-295.8A(d1);~~G.S. 130A-295.8(d1), as enacted by Section 14.20(c) of this act, for
28 existing sanitary landfills and transfer stations with a valid permit issued before the date this act
29 becomes effective is equal to the applicable annual fee for the facility as set forth in
30 G.S. 130A-295.8A(d1), as enacted by Section 14.20(c) of this act, less a permittee fee credit. A
31 permittee fee credit exists when the life-of-site permit fee amount is greater than the time-limited
32 permit fee amount. The amount of the permittee fee credit shall be calculated by (i) subtracting the
33 time-limited permit fee amount from the life-of-site permit fee amount due for the same period of
34 time and (ii) multiplying the difference by a fraction, the numerator of which is the number of
35 years remaining in the facility's time-limited permit and the denominator of which is the total
36 number of years covered by the facility's time-limited permit. The amount of the permittee fee



1 credit shall be allocated in equal annual installments over the number of years that constitute the
2 facility's remaining life-of-site, as determined by the Department, unless the Department
3 accelerates, in its sole discretion, the use of the credit over a shorter period of time. For purposes
4 of this subsection, the following definitions apply:

- 5 (1) Life-of-site permit fee amount. – The amount equal to the sum of all annual
6 fees that would be due under the fee structure set forth in
7 G.S. 130A-295.8A(d1), as enacted by Section 14.20(c) of this act, during the
8 cycle of the facility's permit in effect on July 1, 2016.
- 9 (2) Time-limited permit fee amount. – The amount equal to the sum of the
10 application fee or renewal fee, whichever is applicable, and all annual fees paid
11 or to be paid pursuant to subsections (c) and (d) of G.S. 130A-295.8A, as
12 repealed by Section 14.20(c) of this act, during the cycle of the facility's permit
13 in effect on July 1, 2016.

14 The Department shall adopt rules to implement this subsection."

15 **SECTION 2.(a)** Section 14.20(f) of S.L. 2015-241, as amended by Section 4.9(d) of
16 S.L. 2015-286, reads as rewritten:

17 "**SECTION 14.20.(f)** This section becomes effective October 1, 2015. G.S. 130A-294(b1)(2),
18 as amended by subsection (a) of this section, applies to franchise ~~agreements~~ agreements (i)
19 executed on or after October 1, 2015, and (ii) executed on or before October 1,
20 2015, only if all parties to the agreement consent to modify the agreement for the purpose of
21 extending the agreement's duration to the life-of-site of the landfill for which the agreement was
22 executed. The remainder of G.S. 130A-294, as amended by subsection (a) of this section, and
23 G.S. 130A-295.8, as amended by subsection (c) of this section, apply to (i) existing sanitary
24 landfills and transfer stations, with a valid permit issued before the date this act becomes effective,
25 on July 1, 2016, at which point a permittee may choose to apply for a life-of-site permit pursuant
26 to G.S. 130A-294(a2), as amended by Section 14.20(b) of this act, or may choose to apply for a
27 life-of-site permit for the facility when the facility's permit is next subject to renewal after July 1,
28 2016, (ii) new sanitary landfills and transfer stations, for applications submitted on or after July 1,
29 2016, and (iii) applications for sanitary landfills or transfer stations submitted before July 1, 2015,
30 and pending on the date this act becomes law shall be evaluated by the Department based on the
31 applicable laws that were in effect on July 1, 2015, and the Department shall not delay in
32 processing such permit applications in consideration of changes made by this act, but such
33 landfills and transfer stations shall be eligible for issuance of life-of-site permits pursuant to
34 G.S. 130A-294(a2), as amended by Section 14.20(b) of this act, on July 1, 2016, at which point a
35 permittee may choose to apply for a life-of-site permit pursuant to G.S. 130A-294(a2), as amended
36 by Section 14.20(b) of this act, or may choose to apply for a life-of-site permit for the facility
37 when the facility's permit is next subject to renewal after July 1, 2016."

38 **SECTION 2.(b)** G.S. 130A-294(b1)(2) reads as rewritten:

39 "(2) A person who intends to apply for a new permit for a sanitary landfill shall
40 obtain, prior to applying for a permit, a franchise for the operation of the
41 sanitary landfill from each local government having jurisdiction over any part
42 of the land on which the sanitary landfill and its appurtenances are located or to
43 be located. A local government may adopt a franchise ordinance under
44 G.S. 153A-136 or G.S. 160A-319. A franchise granted for a sanitary landfill
45 ~~shall~~ shall (i) be granted for the life-of-site of the landfill and shall
46 for a period not to exceed 60 years and (ii) include all of the following:

- 47 a. A statement of the population to be served, including a description of
48 the geographic area.
- 49 b. A description of the volume and characteristics of the waste stream.
- 50 c. A projection of the useful life of the sanitary landfill.
- 51 d. Repealed by Session Laws 2013-409, s. 8, effective August 23, 2013.

- 1 e. The procedures to be followed for governmental oversight and
 2 regulation of the fees and rates to be charged by facilities subject to the
 3 franchise for waste generated in the jurisdiction of the franchising
 4 entity.
- 5 f. A facility plan for the sanitary landfill that shall include the boundaries
 6 of the proposed facility, proposed development of the facility site, the
 7 boundaries of all waste disposal units, final elevations and capacity of
 8 all waste disposal units, the amount of waste to be received per day in
 9 tons, the total waste disposal capacity of the sanitary landfill in tons, a
 10 description of environmental controls, and a description of any other
 11 waste management activities to be conducted at the facility. In addition,
 12 the facility plan shall show the proposed location of soil borrow areas,
 13 leachate facilities, and all other facilities and infrastructure, including
 14 ingress and egress to the facility."

15 **SECTION 2.(c)** G.S. 160A-319(a) reads as rewritten:

16 **"§ 160A-319. Utility franchises.**

17 (a) A city shall have authority to grant upon reasonable terms franchises for a telephone
 18 system and any of the enterprises listed in G.S. 160A-311, except a cable television system. A
 19 franchise granted by a city authorizes the operation of the franchised activity within the city. No
 20 franchise shall be granted for a period of more than 60 years, ~~except including a franchise granted~~
 21 to a sanitary landfill for the life-of-site of the landfill pursuant to G.S. 130A-294(b1); provided,
 22 however, that a franchise for solid waste collection or disposal systems and facilities-facilities,
 23 other than sanitary landfills, shall not be granted for a period of more than 30 years. Except as
 24 otherwise provided by law, when a city operates an enterprise, or upon granting a franchise, a city
 25 may by ordinance make it unlawful to operate an enterprise without a franchise."

26 **SECTION 2.(d)** G.S. 153A-136 reads as rewritten:

27 **"§ 153A-136. Regulation of solid wastes.**

28 (a) A county may by ordinance regulate the storage, collection, transportation, use,
 29 disposal, and other disposition of solid wastes. Such an ordinance may:

30 ...

- 31 (3) Grant a franchise to one or more persons for the exclusive right to
 32 commercially collect or dispose of solid wastes within all or a defined portion
 33 of the county and prohibit any other person from commercially collecting or
 34 disposing of solid wastes in that area. The board of commissioners may set the
 35 terms of any franchise, ~~except that no franchise may be granted for a period~~
 36 ~~exceeding 30 years, nor may any franchise; provided, however, no franchise~~
 37 shall be granted for a period of more than 30 years, except for a franchise
 38 granted to a sanitary landfill for the life-of-site of the landfill pursuant to
 39 G.S. 130A-294(b1), which may not exceed 60 years. No franchise by its terms
 40 may impair the authority of the board of commissioners to regulate fees as
 41 authorized by this section.

42"

43 **SECTION 2.(e)** This section applies to franchise agreements (i) executed on or after
 44 October 1, 2015, and (ii) executed on or before October 1, 2015, only if all parties to the
 45 agreement consent to modify the agreement for the purpose of extending the agreement's duration
 46 of the life-of-site of the landfill for which the agreement was executed.

47 **SECTION 3.** Except as otherwise provided, this act is effective retroactively to July 1,
 48 2015.