

NORTH CAROLINA GENERAL ASSEMBLY
1973 SESSION

CHAPTER 535
HOUSE BILL 390

AN ACT TO REWRITE ARTICLE 22 OF CHAPTER 153 OF THE GENERAL STATUTES
RELATING TO THE AUTHORITY OF COUNTIES TO COLLECT AND DISPOSE OF
GARBAGE AND SOLID WASTE.

The General Assembly of North Carolina enacts:

Section 1. Article 22 of Chapter 153 of the General Statutes is hereby rewritten to read:

"Article 22

"Garbage and Solid Waste Collection and Disposal

"§ 153-272. The following definitions shall apply in the administration, enforcement and interpretation of this Article:

- (1) 'Garbage' - all putrescible wastes, including animal and vegetable matter, animal offal and carcasses, and recognizable industrial by-products, but excluding sewage and human wastes.
- (2) 'Refuse' - all nonputrescible wastes.
- (3) 'Solid waste' - garbage, refuse, rubbish, trash, and other discarded solid materials, including solid waste materials resulting from homes, businesses, industrial, commercial, and agricultural operations, and from community activities, but does not include solids or dissolved materials in domestic sewage or other significant pollutants in water resources, such as silt, dissolved or suspended solids in industrial waste water effluents, dissolved materials in irrigation return flows or other common water pollutants.
- (4) 'Solid waste disposal' - the collection, storage, treatment, utilization, processing, or final disposal of solid waste.
- (5) 'Solid waste disposal facility' - land, personnel, equipment or other resources used in the disposal of solid wastes.
- (6) 'Solid waste disposal site' - any place at which solid wastes are disposed of by incineration, sanitary landfill or any other methods.

The board of county commissioners of any county is hereby empowered to regulate the collection and disposal of garbage, refuse, and solid waste by private persons, firms or corporations outside the municipalities of the county for the purpose of encouraging and attempting to insure an adequate and continuing service of garbage, refuse and solid waste collection and disposal when the board deems it desirable.

The board may license any person, firm or corporation to engage in such services, and may prohibit the collection and disposal by unlicensed persons, firms or corporations. The board may grant to those licensed under this act the exclusive right to collect or dispose, or both, garbage, refuse and solid waste for compensation within the entire county or within specified areas of the county and prohibit unauthorized persons, firms or corporations from engaging in the same service within the area where the exclusive right has been granted.

The board shall regulate the fees charged by licensed persons, firms or corporations for the collection and disposal of garbage, refuse, and solid waste to the end that adequate service may be furnished and reasonable compensation may be provided for such services.

The board shall adopt such regulations as it deems necessary to carry out the purpose and intent of this section and to provide adequate services to the citizens of the county. A violation of such regulations shall be a misdemeanor punishable by a fine not to exceed fifty dollars (\$50.00) or imprisonment not to exceed 30 days. Each week that such violation continues to exist shall be a separate offense.

"§ 153-273. County collection and disposal; tax levy. — The board of county commissioners of any county is hereby empowered to establish and operate garbage, refuse, and solid waste collection and disposal facilities, or either, in areas outside of incorporated cities and towns where, in its opinion, the need for such facilities exists. The board may by ordinance regulate the use of such garbage, refuse, and solid waste disposal facilities; the nature of the solid wastes disposed of therein; and the method of disposal. Ordinances so adopted may be enforced by any law enforcement officer having jurisdiction, which shall include, but not be limited to, officers of the county sheriff's department, county police department and the State Highway Patrol. The board may contract with any municipality, individual, or privately owned corporation to collect and dispose, or collect or dispose, of garbage, refuse, and solid waste in any such area provided no county shall be authorized by this act to levy a disposal fee upon any municipality located in that county if the Board of Commissioners levy a county wide tax on property which provides in part for financing such disposal facilities. In the disposal of garbage, refuse, and solid waste, the board may use any vacant land owned by the county, or it may acquire suitable sites for such purpose. The board may make appropriations to carry out the activities herein authorized. The board may impose fees for the use of disposal facilities, and in the event it shall provide for the collection of garbage, refuse, and solid waste, it may charge fees for such collection service sufficient in its opinion to defray the expense of collection. Counties and municipalities therein are authorized to establish and operate joint collection and disposal facilities, or either of these, upon such terms as the governing bodies may determine. Such agreement shall be in writing and executed by the governing body of the participating units of local government.

The board of commissioners of each county is hereby authorized to levy taxes for the special purpose of carrying out the authority conferred by this section, in addition to the rate of tax allowed by the Constitution for general purposes, and the General Assembly hereby gives its special approval for such tax levies.

The board of county commissioners may use any vacant land owned by the county, and it may acquire by purchase or condemnation suitable land for the disposal sites, and in the event condemnation of said lands is necessary, the procedure used shall be that set forth in Chapter 40 of the North Carolina General Statutes.

The board may impose fees for the use of the disposal site, and if the county provides for collection services, it shall charge fees sufficient to defray the expense of collection.

The board of commissioners of each county is authorized to levy taxes for the special purpose of carrying out the authority conferred by this section, in addition to the rate of tax allowed by the Constitution for general purposes, and the General Assembly hereby gives its special approval for such tax levies. The board of commissioners is authorized to make appropriations from these tax funds, and from non-revenue funds which may be available. Provided that the County Board of Commissioners, may authorize the erection of a gate across a State or county maintained highway leading directly to a sanitary landfill or garbage disposal site which is operated by the county. The gate may be erected at or in close proximity to the boundary of the landfill or garbage disposal site. The cost of the erection of the gate and its maintenance is to be borne by the county, and the gate shall be closed upon authority of the County Commissioners.

"§ 153-274. Powers of local boards of health unaffected. — Nothing in this Article shall affect the powers of local boards of health to control the keeping, removal, collection, and disposal of garbage, insofar as the exercise of any such power is necessary to protect and advance the public health.

"§ 153-275. **Powers granted herein supplementary.** — The powers granted to counties by this Article shall be deemed supplementary to any powers heretofore or hereafter granted by any other law, either general, special, or local, for the same or a similar purpose, and in any case where the provisions of this Article conflict with or are different from the provisions of such other law, the board of county commissioners may in its discretion proceed in accordance with the provisions of such other law, or, as an alternative method, in accordance with the provisions of this Article.

"§ 153-275.1. **State Highway Commission authorized to cooperate with counties in establishing and operating garbage disposal facilities.** — The State Highway Commission is authorized to cooperate with any county in establishing and operating garbage disposal facilities in areas outside of incorporated cities and towns under the provisions of Article 22 of Chapter 153 of the General Statutes, or otherwise and may make available prison and other labor and the use of equipment for said purpose to any county and the said county shall reimburse the State Highway Commission for the cost to the Commission of said labor and use and operation of said equipment. Before any work is undertaken under this section, the Commission and the county for which the work is to be performed shall enter into an agreement specifying the work to be performed and the basis upon which reimbursement will be made to the State Highway Commission."

Sec. 2. This act is effective on ratification.

In the General Assembly read three times and ratified, this the 16th day of May, 1973.