

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

**SESSION LAW 2006-256
SENATE BILL 1564**

AN ACT TO AMEND THE STATUTES GOVERNING SANITARY LANDFILL FRANCHISE ORDINANCES AND AGREEMENTS TO CLARIFY THAT LOCAL GOVERNMENTS MAY, BUT ARE NOT REQUIRED TO, AWARD SANITARY LANDFILL FRANCHISES; TO PROVIDE FOR THE AWARD OF PRELIMINARY FRANCHISES AS WELL AS FRANCHISES AND TO SPECIFY THE INFORMATION TO BE INCLUDED THEREIN; TO ENSURE THAT SANITARY LANDFILL FRANCHISES ARE AWARDED ONLY AFTER ADEQUATE PUBLIC NOTICE AND OPPORTUNITY FOR PUBLIC PARTICIPATION IN THE DECISION TO AWARD THE FRANCHISE; TO PROVIDE THAT FRANCHISES ARE AWARDED ONLY AFTER PUBLIC NOTICE OF THE LOCATION OF THE PROPOSED SANITARY LANDFILL; TO ENSURE THAT SANITARY LANDFILL FRANCHISES ARE CONSISTENT WITH LOCAL SOLID WASTE MANAGEMENT PLANS AND ARE SUBJECT TO LOCAL GOVERNMENT OVERSIGHT AND REGULATION OF RATES AND FEES; AND TO PROVIDE THAT THIS ACT IS EFFECTIVE WHEN IT BECOMES LAW AND APPLIES TO ANY APPLICATION FOR A PRELIMINARY FRANCHISE OR FRANCHISE THAT IS FILED WITH A LOCAL GOVERNMENT ON OR AFTER THAT DATE AND THAT THIS ACT DOES NOT AFFECT ANY FRANCHISE THAT HAS BEEN AWARDED AS OF THE DATE ON WHICH THIS ACT BECOMES EFFECTIVE UNLESS THE FRANCHISE PROVIDES FOR A FINAL VOTE OF THE GOVERNING BOARD OF THE LOCAL GOVERNMENT ON THE FRANCHISE AND THE FINAL VOTE OCCURS ON OR AFTER 1 NOVEMBER 2006, IN WHICH CASE THE PROVISIONS OF G.S. 130A-294(B1), AS AMENDED BY THIS ACT, APPLY, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

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

"~~(3)~~(2)~~An applicant~~A person who intends to apply for a new permit, the renewal of a permit, or a substantial amendment to a permit for a sanitary landfill shall obtain, prior to applying for a permit, a franchise for the operation of the sanitary landfill from each local government having jurisdiction over any part of the land on which the sanitary landfill and its appurtenances are located or to be located. A local government ~~shall~~may adopt a franchise ordinance under

~~G.S. 153A-136 or G.S. 160A-319 prior to the submittal by an applicant of an application for a new permit, the renewal of a permit, or a substantial amendment to a permit for a sanitary landfill.~~G.S. 160A-319. A franchise granted for a sanitary landfill shall include:

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

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

read:

"(2a) A local government may elect to award a preliminary franchise. If a local government elects to award a preliminary franchise, the preliminary franchise shall contain, at a minimum, all of the information described in sub-subdivisions a. through e. of subdivision (2) of this subsection plus a general description of the proposed sanitary landfill, including the approximate number of acres required for the proposed sanitary landfill and its appurtenances and a description of any other solid waste management activities that are to be conducted at the site."

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

~~"(2)(3) Within 10 days after receiving an application for a permit, for the renewal of a permit, or for a substantial amendment to a permit for a sanitary landfill, the Department shall notify the clerk of the board of commissioners of the county or counties in which the sanitary landfill is proposed to be located or is located and, if the sanitary landfill is proposed to be located or is located within a city, the clerk of the governing board of the city, that the application has been filed and shall file a copy of the application with the clerk. Prior to the award of a franchise for the construction or operation of a sanitary landfill, the issuance of a permit, the renewal of a permit, or a substantial amendment to a permit, the board of commissioners of the county or counties in which the sanitary landfill is proposed to be located or is located or, if the sanitary landfill is proposed to be located or is located in a city, the governing board of the city shall conduct a public hearing when sufficient public interest exists. hearing. The board of commissioners of the county or counties in which the sanitary landfill is proposed to be located or is located or, if the sanitary landfill is proposed to be located or is located in a city, the governing board of the city shall provide adequate notice at least 30 days' notice to the public of the public hearing hearing. The notice shall include a summary of all the information required to be included in the franchise, and shall specify the procedure to be followed at the public hearing. The applicant for the franchise shall provide a copy of the application for the franchise that includes all of the information required to be included in the franchise, to the public library closest to the proposed sanitary landfill site to be made available for inspection and copying by the public."~~

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

In the General Assembly read three times and ratified this the 27th day of July, 2006.

s/ Beverly E. Perdue
President of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 12:52 p.m. this 23rd day of August, 2006