

Article 15.

Borrowing for Expansion of Existing Landfills and Construction of New Landfills in Certain Circumstances.

§ 159-216. Borrowing authority for landfills.

(a) Whenever a unit of local government applies to the Commission for approval to enter debt by any method authorized by this Chapter for the purpose of expansion of an existing landfill within their jurisdiction, or construction of a new landfill within their jurisdiction, and to support the repayment of the new debt by requiring by ordinance, franchise, or otherwise that all waste collected within the county must be delivered to the county facility exclusively, in addition to any other criteria the Commission is required to consider in approving such debt, the unit of local government shall demonstrate all of the following to the satisfaction of the Commission:

- (1) The proposed expansion of the existing landfill, or construction of the new landfill, for which debt is to be incurred is necessary to ensure reliable, convenient, and affordable solid waste disposal service is provided consistently to all citizens under its jurisdiction for the protection of public health, safety, and welfare.
- (2) The proposed expansion of the existing landfill, or construction of the new landfill, will result in lower overall costs per ton of waste disposed for the jurisdiction's citizens and businesses within the jurisdiction than would be available through privately funded and operated disposal facilities. The analysis shall take into account all direct, indirect, asset retirement, closure, post-closure, and capital costs divided by tons disposed per year to establish a "tip fee" required to support the operation and repayment of the debt. State or federal subsidies shall be disregarded for purposes of this analysis.
- (3) The requirements of subdivisions (1) and (2) of this subsection have been confirmed by way of a bid or request for proposals process in which private businesses have been invited to compete for the right to provide the services subject only to compliance with State and federal law. Private company proposals will be on a "tip fee" basis for comparison to the unit of local government landfill tip fee calculated pursuant to subdivision (2) of this subsection.

(b) In determining whether debt for expansion of an existing landfill, or construction of a new landfill, shall be approved, the Commission shall consider the information submitted pursuant to subsection (a) of this section and shall approve an application only if it finds the information presented supports the need for, and cost-effectiveness of, the proposed project. If the Commission tentatively decides to deny the application because it is of the opinion that these criteria cannot be supported from the information presented to it, it shall so notify the unit filing the application. Prior to final approval of the application, the Commission shall hold a public hearing on the application at which time any interested persons shall be heard, including any private business that has offered an alternative. The Commission may appoint a hearing officer to conduct the hearing and to present a summary of the testimony and associated recommendations for the Commission's consideration.

(c) The requirements of this section shall only apply to a unit of local government, which, at the time it submits an application to the Commission for approval to enter debt for expansion or construction of a landfill, has adopted an ordinance pursuant to G.S. 130A-291(c). Provided, however, where such debt is approved and the requirements of this section have not been satisfied, a unit of local government that later seeks to adopt an ordinance pursuant to

G.S. 130A-291(c), must meet the requirements of this section prior to adopting and enforcing such an ordinance. (2017-209, s. 17(d).)