

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 1973*

Short Title: Local Govt. Review Landfill Permit.

(Public)

Sponsors: Representative Richardson.

Referred to: Environment.

June 1, 1994

A BILL TO BE ENTITLED

AN ACT TO PROVIDE STANDARDS FOR USE BY LOCAL GOVERNMENTS IN THE REVIEW OF APPLICATIONS FOR PERMITS OR FOR SUBSTANTIAL AMENDMENTS TO PERMITS FOR SANITARY LANDFILLS IN ORDER TO ENSURE THAT LOCAL GOVERNMENT REVIEW OF PERMIT APPLICATIONS MEETS CONSTITUTIONAL REQUIREMENTS, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130A-294(a)(4) reads as rewritten:

"(4) a. Develop a permit system governing the establishment and operation of solid waste management facilities. No The Department shall not approve an application for a new permit, the renewal of a permit, or a substantial amendment to a permit shall be granted for a sanitary landfill, excluding demolition landfills as defined in the rules of the Commission for Health Services, without the Department receiving the prior approval for the sanitary landfill for which the application the new permit, renewal of the permit, or substantial amendment to the permit from the county where it is to be located, except if it is to be located within the corporate limits or extraterritorial jurisdiction under Article 19 of Chapter 160A of the General Statutes, of a city as defined in G.S. 160A-1(2), from the city where it is to be located or whose jurisdiction it is in. except as provided in subdivision (3) of subsection (b1) of this section. No permit shall be granted for a solid waste management facility having discharges which are point sources until the Department has referred

1 the complete plans and specifications to the Environmental
2 Management Commission and has received advice in writing that the
3 plans and specifications are approved in accordance with the
4 provisions of G.S. 143-215.1. If the applicant is a unit of local
5 government, and has not submitted a solid waste management plan that
6 has been approved by the Department pursuant to G.S. 130A-
7 309.09A(b), the Department may deny a permit for a sanitary landfill
8 or a facility that disposes of solid waste by incineration, unless the
9 Commission has not adopted rules pursuant to G.S. 130A-309.29 for
10 local solid waste management plans. In any case where the
11 Department denies a permit for a solid waste management facility, it
12 shall state in writing the reason for denial and shall also state its
13 estimate of the changes in the applicant's proposed activities or plans
14 which will be required for the applicant to obtain a permit.

15 b. The issuance of permits for sanitary landfills operated by local
16 governments is exempt from the environmental impact
17 statements required by Article 1 of Chapter 113A of the
18 General Statutes, entitled the North Carolina Environmental
19 Policy Act of 1971. All sanitary landfill permits issued to local
20 governments prior to July 1, 1984, are hereby validated
21 notwithstanding any failure to provide environmental impact
22 statements pursuant to the North Carolina Environmental Policy
23 Act of 1971;".

24 Sec. 2. G.S. 130A-294(b1) reads as rewritten:

- 25 "(b1) (1) For purposes of this subsection and subdivision (4) of
26 subsection (a) of this section, a 'substantial amendment' means
27 either:
28 a. An increase of ten percent (10%) or more in:
29 1. The population of the geographic area to be served by
30 the sanitary landfill;
31 2. The quantity of solid waste to be disposed of
32 in the sanitary landfill; or
33 3. The geographic area to be served by the sanitary landfill.
34 b. A change in the categories of solid waste to be disposed of in
35 the sanitary landfill or any other change to the application for a
36 permit or to the permit for a sanitary landfill that the
37 Commission or the Department determines to be substantial.
38 (2) Within 10 days after receiving an application for a permit, for the
39 renewal of a permit, or for a substantial amendment to a permit for a
40 sanitary landfill, the Department shall notify the clerk of the board of
41 commissioners of the county or counties in which the sanitary landfill
42 is proposed to be located or is located and, if the sanitary landfill is
43 proposed to be located or is located within a city, the clerk of the
44 governing board of the city, that the application has been filed and

1 shall file a copy of the application with the clerk. Prior to the issuance
2 of a permit, the renewal of a permit, or a substantial amendment to a
3 permit, the board of commissioners of the county or counties in which
4 the sanitary landfill is proposed to be located or is located or, if the
5 sanitary landfill is proposed to be located or is located in a city, the
6 governing board of the city shall conduct a public hearing when
7 sufficient public interest exists. The board of commissioners of the
8 county or counties in which the sanitary landfill is proposed to be
9 located or is located or, if the sanitary landfill is proposed to be located
10 or is located in a city, the governing board of the city shall provide
11 adequate notice to the public of the public hearing and shall specify the
12 procedure to be followed at the public hearing.

13 (3) An applicant for a new permit, the renewal of a permit, or a substantial
14 amendment to a permit for a sanitary landfill shall request each local
15 government having jurisdiction over any part of the land on which the
16 sanitary landfill and its appurtenances are located or to be located to
17 issue a determination as to whether the local government has in effect
18 a zoning or subdivision ordinance applicable to the sanitary landfill
19 and whether the proposed sanitary landfill, or the existing sanitary
20 landfill as it would be operated under the renewed or substantially
21 amended permit, would be consistent with the ordinance. The request
22 to the local government shall be accompanied by a copy of the draft
23 permit application and shall be delivered to the clerk of the local
24 government personally or by certified mail. The determination shall
25 be verified or supported by affidavit signed by the official designated
26 by the local government to make the determination and, if the local
27 government states that the sanitary landfill as it would be operated
28 under the new, renewed, or substantially amended permit is
29 inconsistent with a zoning or subdivision ordinance, shall include a
30 copy of the ordinance and the specific reasons for the determination of
31 inconsistency. A copy of any such determination shall be provided to
32 the applicant when it is submitted to the Department. The Department
33 shall not act upon an application for a permit under this section until it
34 has received a determination from each local government requested to
35 make a determination by the applicant. Unless the local government
36 makes a subsequent determination of consistency with all ordinances
37 cited in the determination or the sanitary landfill as it would be
38 operated under the new, renewed, or substantially amended permit is
39 determined by a court of competent jurisdiction to be consistent with
40 the cited ordinances, the Department shall attach as a condition of the
41 permit a requirement that the applicant, prior to construction or
42 operation of the sanitary landfill under the permit, comply with all
43 lawfully adopted local ordinances, including those cited in the
44 determination, that apply to the sanitary landfill at the time of

1 construction or operation of the sanitary landfill. If a local government
2 fails to submit a determination to the Department as provided by this
3 subsection within 15 days after receipt of the request, the Department
4 may proceed to consider the permit application without regard to local
5 zoning and subdivision ordinances. This subsection shall not be
6 construed to limit any opportunity a local government may have to
7 comment on a permit application under any other law or rule. This
8 subsection shall not apply to any facility with respect to which local
9 ordinances are subject to review under either G.S. 104E-6.2 or G.S.
10 130A-293."

11 Sec. 3. This act is effective upon ratification.