

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013**

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SENATE BILL 328

**Agriculture/Environment/Natural Resources Committee Substitute Adopted 6/6/13
PROPOSED COMMITTEE SUBSTITUTE S328-PCS85240-RIF-26**

Short Title: Solid Waste Management Reform Act of 2013.

(Public)

Sponsors:

Referred to:

March 19, 2013

A BILL TO BE ENTITLED

1 AN ACT TO (1) EXTEND THE DURATION OF PERMITS FOR SANITARY LANDFILLS
2 AND TRANSFER STATIONS TO THIRTY YEARS; (2) MODIFY THE DEPARTMENT
3 OF ENVIRONMENT AND NATURAL RESOURCES' AUTHORITY TO ISSUE AND
4 TRANSFER PERMITS FOR SOLID WASTE MANAGEMENT FACILITIES; (3)
5 MODIFY CERTAIN REQUIREMENTS GOVERNING SANITARY LANDFILLS,
6 INCLUDING APPLICABLE BUFFERS, CLEANING AND INSPECTION OF
7 LEACHATE COLLECTION LINES, ALTERNATIVE DAILY COVER, AND
8 REQUIRED STUDIES FOR CERTAIN LANDFILL OWNERS AND OPERATORS; (4)
9 MODIFY REQUIREMENTS FOR FINANCIAL RESPONSIBILITY APPLICABLE TO
10 APPLICANTS AND PERMIT HOLDERS FOR SOLID WASTE MANAGEMENT
11 FACILITIES; (5) AMEND THE RULE GOVERNING COLLECTION AND
12 TRANSPORT OF SOLID WASTE TO REQUIRE THAT CONTAINERS BE
13 "LEAK-RESISTANT" RATHER THAN "LEAK-PROOF," AND AMEND A STATUTE
14 THAT REQUIRES VEHICLES TO BE CONSTRUCTED AND LOADED TO PREVENT
15 LEAKAGE; (6) AMEND THE DEFINITION OF LEACHATE TO EXCLUDE LIQUID
16 ADHERING TO TIRES OF VEHICLES LEAVING SANITARY LANDFILLS AND
17 TRANSFER STATIONS; (7) AUTHORIZE CITIES AND COUNTIES THAT ACCEPT
18 SOLID WASTE FROM OTHER LOCAL GOVERNMENTS TO LEVY A SURCHARGE
19 ON FEES FOR USE OF THEIR DISPOSAL FACILITIES, AND AUTHORIZE THEM
20 TO MAKE APPROPRIATIONS FROM A UTILITY OR PUBLIC SERVICE
21 ENTERPRISE FUND USED FOR OPERATION OF A LANDFILL TO THE
22 JURISDICTION'S GENERAL FUND UPON CERTAIN FINDINGS; (8) REQUIRE THE
23 RETURN OF A PORTION OF THE REIMBURSEMENTS PAID OUT PURSUANT TO
24 S.L. 2007-543 IN CERTAIN CIRCUMSTANCES; AND (9) MAKE RELATED
25 CLARIFYING, CONFORMING, AND TECHNICAL CHANGES.
26

27 Whereas, the provision of effectively managed solid waste services is of vital
28 importance to North Carolina's economy and environment; and

29 Whereas, previous changes to the statutes and rules of the State that govern solid
30 waste matters have significantly and negatively impacted the ability of providers of solid waste
31 disposal services to site landfills within the State, have raised the cost of waste disposal for the
32 State's citizens, and have put North Carolina at a competitive disadvantage in the recruitment of
33 industry; Now, therefore,

34 The General Assembly of North Carolina enacts:

35



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1 **PART I. EXTENSION OF DURATION OF PERMITS FOR SANITARY LANDFILLS**
2 **AND TRANSFER STATIONS TO THIRTY YEARS AND CONFORMING CHANGES**

3 **SECTION 1.(a)** G.S. 130A-294 is amended by adding two new subsections to
4 read:

5 "(a2) Permits for sanitary landfills and transfer stations shall be issued for up to 30 years
6 unless revoked as otherwise provided under this Article or upon the expiration of any local
7 government franchise required for the facility pursuant to subsection (b1) of this section.
8 Permits issued pursuant to this subsection shall take into account the duration of any permits
9 previously issued for the facility.

10 (a3) Each permit for a sanitary landfill and transfer station shall have a limited review of
11 the permit five years after issuance of the initial permit and at five-year intervals thereafter until
12 expiration of the permit. The limited review includes review of the operations plan, closure
13 plan, post-closure plan, financial assurance cost estimates, environmental monitoring plans, and
14 any other applicable plans for the facility."

15 **SECTION 1.(b)** No later than July 1, 2014, the Commission for Public Health
16 shall adopt rules to allow applicants for permits for sanitary landfills to apply for a permit for a
17 phase of landfill development up to 30 years. No later than July 1, 2014, the Commission shall
18 also adopt rules to allow applicants for permits for transfer stations to apply for a permit with a
19 30-year duration to construct and operate a transfer station.

20 **SECTION 1.(c)** G.S. 130A-295.8 reads as rewritten:

21 **"§ 130A-295.8. Fees applicable to permits for solid waste management facilities.**

22 (a) The Solid Waste Management Account is established as a nonreverting account
23 within the Department. All fees collected under this section shall be credited to the Account
24 and shall be used to support the solid waste management program established pursuant to
25 G.S. 130A-294.

26 (b) As used in this section:

27 (1) "New permit" means any of the following:

- 28 a. An application for a permit for a solid waste management facility
29 that has not been previously permitted by the Department. The term
30 includes one site suitability review, the initial permit to construct,
31 and one permit to ~~operate~~~~operate the constructed portion of a phase~~
32 ~~included in the permit to construct.~~
33 b. An application that proposes to expand the boundary of a permitted
34 waste management facility for the purpose of expanding the
35 permitted activity.
36 c. An application that includes a proposed expansion to the boundary of
37 a waste disposal unit within a permitted solid waste management
38 facility.
39 d. An application for a substantial amendment to a solid waste permit,
40 as defined in G.S. 130A-294.

41 (2) "Permit amendment" means any of the following:

- 42 a. ~~An application for a permit to construct and one permit to operate for~~
43 ~~the second and subsequent phases of landfill development described~~
44 ~~in the approved facility plan for a permitted solid waste management~~
45 ~~facility.~~
46 b. An application for the five-year renewal of a permit for a permitted
47 solid waste management facility or for a permit review of a permitted
48 solid waste management facility. This sub-subdivision shall not
49 apply to sanitary landfills or transfer stations.
50 c. Any application that proposes a change in ownership or corporate
51 structure of a permitted solid waste management facility. This

sub-subdivision shall not apply to sanitary landfills or transfer stations.

(3) "Permit modification" means an application for a five-year limited review of a permit issued pursuant to G.S. 130A-294(a2), including review of the operations plan, closure plan, post-closure plan, financial assurance cost estimates, environmental monitoring plans, and any other applicable plans for the facility, any of the following:

a. An application for any change to the plans approved in a permit for a solid waste management facility that does not constitute a "permit amendment" or a "new permit".

b. A second or subsequent permit to operate for a constructed portion of a phase included in the permit to construct.

(4) "Major permit modification" means any of the following:

a. An application for any change to the approved engineering plans for a sanitary landfill or transfer station permitted for up to a 30-year design capacity that does not constitute a "new permit" or "permit modification."

b. An application for a permit to be issued pursuant to G.S. 130A-294(a2), which is issued for a duration of less than 30 years based upon permits previously issued to a facility.

c. An application for a subsequent permit with a term of up to 30 years for a sanitary landfill or transfer station.

(5) "Ownership modification" means any application that proposes a change in ownership or corporate structure of a permitted sanitary landfill or transfer station.

(c) An applicant for a permit shall pay an application fee to the Department. For applications for facilities set forth in subdivisions (1) through (20) and (25) through (27), fifty percent (50%) of the applicable fee shall be paid upon submission of the application, twenty-five percent (25%) shall be paid at 10 years after issuance of the permit, and twenty-five percent (25%) shall be paid at 20 years after issuance of the permit. For applications for facilities set forth in subdivisions (22) through (24) and (28) through (36), the applicable fee shall be paid upon submission of an application. As of July 1, 2014, the base fees for permits for sanitary landfills and transfer stations with a 30-year duration are applicable according to the following schedule:

(1) Municipal Solid Waste Landfill accepting less than 100,000 tons/year of solid waste, New Permit – \$25,000.

(2) Municipal Solid Waste Landfill accepting less than 100,000 tons/year of solid waste, ~~Amendment~~ Major Modification – \$15,000.

(3) ~~Municipal Solid Waste Landfill accepting less than 100,000 tons/year of solid waste, Modification – \$1,500.~~

(4) Municipal Solid Waste Landfill accepting 100,000 tons/year or more but less than 250,000 tons/year of solid waste, New Permit – \$50,000.

(5) Municipal Solid Waste Landfill accepting 100,000 tons/year or more but less than 250,000 tons/year of solid waste, ~~Amendment~~ Major Modification – \$30,000.

(6) ~~Municipal Solid Waste Landfill accepting 100,000 tons/year or more of solid waste, Modification – \$3,000.~~

(6a) Municipal Solid Waste Landfill accepting 250,000 tons/year or more of solid waste, New Permit – \$75,000.

(6b) Municipal Solid Waste Landfill accepting 250,000 tons/year or more of solid waste, Major Modification – \$55,000.

- 1 (7) Construction and Demolition Landfill accepting less than ~~100,000~~25,000
2 tons/year of solid waste, New Permit – \$15,000.
- 3 (8) Construction and Demolition Landfill accepting less than ~~100,000~~25,000
4 tons/year of solid waste, ~~Amendment~~Major Modification – \$9,000.
- 5 ~~(9) Construction and Demolition Landfill accepting less than 100,000 tons/year~~
6 ~~of solid waste, Modification – \$1,500.~~
- 7 (10) Construction and Demolition Landfill accepting ~~100,000~~25,000 tons/year or
8 more of solid waste, New Permit – \$30,000.
- 9 (11) Construction and Demolition Landfill accepting ~~100,000~~25,000 tons/year or
10 more of solid waste, ~~Amendment~~Major Modification – \$18,500.
- 11 ~~(12) Construction and Demolition Landfill accepting 100,000 tons/year or more~~
12 ~~of solid waste, Modification – \$2,500.~~
- 13 (13) Industrial Landfill accepting less than 100,000 tons/year of solid waste, New
14 Permit – \$15,000.
- 15 (14) Industrial Landfill accepting less than 100,000 tons/year of solid waste,
16 ~~Amendment~~Major Modification – \$9,000.
- 17 ~~(15) Industrial Landfill accepting less than 100,000 tons/year of solid waste,~~
18 ~~Modification – \$1,500.~~
- 19 (16) Industrial Landfill accepting 100,000 tons/year or more of solid waste, New
20 Permit – \$30,000.
- 21 (17) Industrial Landfill accepting 100,000 tons/year or more of solid waste,
22 ~~Amendment~~Major Modification – \$18,500.
- 23 ~~(18) Industrial Landfill accepting 100,000 tons/year or more of solid waste,~~
24 ~~Modification – \$2,500.~~
- 25 (19) Tire Monofill, New Permit – ~~\$1,750.~~\$15,000.
- 26 (20) Tire Monofill, ~~Amendment – \$1,250.~~Major Modification – \$9,000.
- 27 ~~(21) Tire Monofill, Modification – \$500.~~
- 28 (22) Treatment and Processing, New Permit – \$1,750.
- 29 (23) Treatment and Processing, Amendment – \$1,250.
- 30 (24) Treatment and Processing, Modification – \$500.
- 31 (25) ~~Transfer Station, Station~~ accepting less than 25,000 tons/year of solid waste,
32 New Permit – ~~\$5,000.~~\$2,500.
- 33 (25a) Transfer Station accepting less than 25,000 tons/year of solid waste, Major
34 Modification – \$1,500.
- 35 (25b) Transfer Station accepting 25,000 tons/year or more of solid waste, New
36 Permit – \$5,000.
- 37 (25c) Transfer Station accepting 25,000 tons/year or more of solid waste, Major
38 Modification – \$3,000.
- 39 ~~(26) Transfer Station, Amendment – \$3,000.~~
- 40 ~~(27) Transfer Station, Modification – \$500.~~
- 41 (28) Incinerator, New Permit – \$1,750.
- 42 (29) Incinerator, Amendment – \$1,250.
- 43 (30) Incinerator, Modification – \$500.
- 44 (31) Large Compost Facility, New Permit – \$1,750.
- 45 (32) Large Compost Facility, Amendment – \$1,250.
- 46 (33) Large Compost Facility, Modification – \$500.
- 47 (34) Land Clearing and Inert, New Permit – \$1,000.
- 48 (35) Land Clearing and Inert, Amendment – \$500.
- 49 (36) Land Clearing and Inert, Modification – \$250.
- 50 (37) Municipal Solid Waste Landfill, Ownership Modification – \$5,000.

- 1 (38) Construction and Demolition Waste Landfill, Ownership Modification –
 2 \$3,000.
 3 (39) Industrial Landfill, Ownership Modification – \$2,000.
 4 (40) Tire Monofill, Ownership Modification – \$2,000.
 5 (41) Transfer Station, Ownership Modification – \$1,000.

6 (c1) After July 1, 2014, facilities for which permits are issued for a period of less than 30
 7 years, based on the duration of all design and operation permits previously issued for the
 8 facility, shall pay a proportional amount of the base fee as set forth in subsection (c) of this
 9 section, prorated in accordance with the duration of the permit issued after that date. For
 10 facilities subject to this subdivision that submit applications for a permit to be issued pursuant
 11 to G.S. 130A-294(a2) for facilities set forth in subdivisions (1) through (20) and (25) through
 12 (27) of subsection (c) of this section, the applicable fee shall be paid as follows: (i) fifty percent
 13 (50%) of the applicable fee shall be paid upon submission of the application; (ii) twenty-five
 14 percent (25%) shall be paid five years after issuance of the permit; and (iii) twenty-five percent
 15 (25%) shall be paid at 10 years after issuance of the permit. If the permit issued is for less than
 16 15 years, based on the duration of all design and operation permits previously issued for the
 17 facility, the fee shall be paid at other periodic intervals as the Department may require. For
 18 applications for facilities set forth in subdivisions (22) through (24) and (28) through (36), the
 19 applicable fee shall be paid upon submission of an application. The Department shall adopt
 20 rules to implement this subsection.

21 (d) A permitted solid waste management facility shall pay an annual permit fee on or
 22 before ~~1 August~~ August 1 of each year according to the following schedule:

- 23 (1) Municipal Solid Waste Landfill—~~\$3,500.~~ accepting less than 100,000
 24 tons/year of solid waste – \$7,500.
 25 (1a) Municipal Solid Waste Landfill accepting 100,000 tons/year or more but less
 26 than 250,000 tons/year of solid waste – \$12,000.
 27 (1b) Municipal Solid Waste Landfill accepting 250,000 tons/year or more of solid
 28 waste – \$15,000.
 29 (2) Post-Closure Municipal Solid Waste Landfill – \$1,000.
 30 (3) Construction and Demolition Landfill—~~\$2,750.~~ accepting less than 25,000
 31 tons/year of solid waste – \$5,500.
 32 (3a) Construction and Demolition Landfill accepting 25,000 tons/year or more of
 33 solid waste – \$8,500.
 34 (4) Post-Closure Construction and Demolition Landfill – \$500.
 35 (5) Industrial Landfill—~~\$2,750.~~ Landfill accepting less than 100,000 tons/year
 36 of solid waste – \$5,500.
 37 (5a) Industrial Landfill accepting 100,000 tons/year or more of solid waste –
 38 \$10,000.
 39 (6) Post-Closure Industrial Landfill – \$500.
 40 (7) Transfer Station accepting less than 25,000 tons/year of solid waste – \$750.
 41 (7a) Transfer Station accepting 25,000 tons/year or more of solid waste – \$1,500.
 42 (8) Treatment and Processing Facility – \$500.
 43 (9) Tire Monofill—~~\$500.~~ \$5,500.
 44 (10) Incinerator – \$500.
 45 (11) Large Compost Facility – \$500.
 46 (12) Land Clearing and Inert Debris Landfill – \$500.

47 "

48 **SECTION 1.(d)** G.S. 130A-295.3 reads as rewritten:

49 "**§ 130A-295.3. Environmental compliance review requirements for applicants and**
 50 **permit holders.**

51 ...

1 (b) The Department shall conduct an environmental compliance review of each
2 applicant for a new ~~permit, permit renewal, permit~~ and permit amendment under this Article.
3 The environmental compliance review shall evaluate the environmental compliance history of
4 the applicant for a period of five years prior to the date of the application and may cover a
5 longer period at the discretion of the Department. The environmental compliance review of an
6 applicant may include consideration of the environmental compliance history of the parents,
7 subsidiaries, or other affiliates of an applicant or parent that is a business entity, including any
8 business entity or joint venturer with a direct or indirect interest in the applicant, and other
9 facilities owned or operated by any of them. The Department shall determine the scope of the
10 review of the environmental compliance history of the applicant, parents, subsidiaries, or other
11 affiliates of the applicant or parent, including any business entity or joint venturer with a direct
12 or indirect interest in the applicant, and of other facilities owned or operated by any of them.
13 An applicant for a permit shall provide environmental compliance history information for each
14 facility, business entity, joint venture, or other undertaking in which any of the persons listed in
15 this subsection is or has been an owner, operator, officer, director, manager, member, or
16 partner, or in which any of the persons listed in this subsection has had a direct or indirect
17 interest as requested by the Department.

18"

19 **SECTION 1.(e)** Section 15.1 of S.L. 2012-187 is repealed.

20 **SECTION 1.(f)** If House Bill 135, 2013 Regular Session, becomes law, it is
21 repealed when it becomes law.

22 **SECTION 1.(g)** If Senate Bill 380, 2013 Regular Session, becomes law, it is
23 repealed when it becomes law.

24 **SECTION 1.(h)** This section becomes effective August 1, 2013, except that
25 G.S. 130A-294(a2), as enacted by Section 1(a) of this act, and G.S. 130A-295.8, as amended by
26 Section 1(c) of this act, apply to (i) existing sanitary landfills and transfer stations, with a valid
27 permit issued before the date this act becomes effective, when that permit is next subject to
28 renewal after July 1, 2014, and (ii) new sanitary landfills and transfer stations, for applications
29 submitted on or after July 1, 2014.

30
31 **PART II. MISCELLANEOUS MODIFICATIONS TO THE DEPARTMENT OF**
32 **ENVIRONMENT AND NATURAL RESOURCES' AUTHORITY TO ISSUE AND**
33 **TRANSFER PERMITS FOR SOLID WASTE MANAGEMENT FACILITIES AND**
34 **CONFORMING CHANGES**

35 **SECTION 2.** G.S. 130A-294 reads as rewritten:

36 "**§ 130A-294. Solid waste management program.**

37 (a) The Department is authorized and directed to engage in research, conduct
38 investigations and surveys, make inspections and establish a statewide solid waste management
39 program. In establishing a program, the Department shall have authority to:

40 ...

- 41 (4) a. Develop a permit system governing the establishment and operation
42 of solid waste management facilities. A landfill with a disposal area
43 of 1/2 acre or less for the on-site disposal of land clearing and inert
44 debris is exempt from the permit requirement of this section and shall
45 be governed by G.S. 130A-301.1. Demolition debris from the
46 decommissioning of manufacturing buildings, including electric
47 generating stations, that is disposed of on the same site as the
48 decommissioned buildings, is exempt from the permit requirement of
49 this section and rules adopted pursuant to this section and shall be
50 governed by G.S. 130A-301.3. The Department shall not approve an
51 application for a new permit, major modification, ~~the renewal of a~~

1 ~~permit~~, or a substantial amendment to a permit for a sanitary landfill,
2 excluding demolition landfills as defined in the rules of the
3 Commission, except as provided in subdivisions (3) and (4) of
4 subsection (b1) of this section. No permit shall be granted for a solid
5 waste management facility having discharges that are point sources
6 until the Department has referred the complete plans and
7 specifications to the Environmental Management Commission and
8 has received advice in writing that the plans and specifications are
9 approved in accordance with the provisions of G.S. 143-215.1. If the
10 applicant is a unit of local government, and has not submitted a solid
11 waste management plan that has been approved by the Department
12 pursuant to G.S. 130A-309.09A(b), the Department may deny a
13 permit for a sanitary landfill or a facility that disposes of solid waste
14 incineration, unless the Commission has not adopted rules pursuant
15 to G.S. 130A-309.29 for local solid waste management plans. In any
16 case where the Department denies a permit for a solid waste
17 management facility, it shall state in writing the reason for denial and
18 shall also state its estimate of the changes in the applicant's proposed
19 activities or plans that will be required for the applicant to obtain a
20 permit.

21 b. Repealed by Session Laws 2007-550, s. 1(a), effective August 1,
22 2007.

23 c. The Department shall deny an application for a permit for a solid
24 waste management facility if the Department finds that:

25 1. Construction or operation of the proposed facility would ~~be~~
26 ~~inconsistent with or violate~~ this Article or rules adopted by
27 ~~the Commission.~~ Commission pursuant to this Article.

28 2. Construction or operation of the proposed facility would
29 result in a violation of water quality standards adopted by the
30 Environmental Management Commission pursuant to
31 G.S. 143-214.1 for waters, as defined in G.S. 143-213.

32 ~~3. Construction or operation of the facility would result in~~
33 ~~significant damage to ecological systems, natural resources,~~
34 ~~cultural sites, recreation areas, or historic sites of more than~~
35 ~~local significance. These areas include, but are not limited to,~~
36 ~~national or State parks or forests; wilderness areas; historic~~
37 ~~sites; recreation areas; segments of the natural and scenic~~
38 ~~rivers system; wildlife refuges, preserves, and management~~
39 ~~areas; areas that provide habitat for threatened or endangered~~
40 ~~species; primary nursery areas and critical fisheries habitat~~
41 ~~designated by the Marine Fisheries Commission; and~~
42 ~~Outstanding Resource Waters designated by the~~
43 ~~Environmental Management Commission.~~

44 4. Construction or operation of the proposed facility would
45 substantially limit ~~or threaten~~ access to ~~or use of~~ public trust
46 waters or public lands.

47 5. The proposed facility would be located in a ~~natural hazard~~
48 ~~area, including a floodplain, a landslide hazard area, or an~~
49 ~~area subject to storm surge or excessive seismic activity, such~~
50 ~~that the facility will present a~~ significant risk to public health
51 or safety.

- 1 6. ~~There is a practical alternative that would accomplish the~~
- 2 ~~purposes of the proposed facility with less adverse impact on~~
- 3 ~~public resources, considering engineering requirements and~~
- 4 ~~economic costs.~~
- 5 7. ~~The cumulative impacts of the proposed facility and other~~
- 6 ~~facilities in the area of the proposed facility would violate the~~
- 7 ~~criteria set forth in sub-sub-subdivisions 2. through 5. of this~~
- 8 ~~sub-subdivision.~~
- 9 8. Construction or operation of the proposed facility would be
- 10 ~~inconsistent with~~ violate the State solid waste management
- 11 policy and goals as set out in G.S. 130A-309.04 and with the
- 12 State solid waste management plan developed as provided in
- 13 G.S. 130A-309.07.
- 14 9. The cumulative impact of the proposed facility, when
- 15 considered in relation to other similar impacts of facilities
- 16 located or proposed in the community, would have a
- 17 disproportionate adverse impact on a minority or low-income
- 18 community protected by Title VI of the federal Civil Rights
- 19 Act of 1964. This subdivision shall apply only to the extent
- 20 required by federal law.

21 ...

22 (a1) A permit for a solid waste management facility may be transferred ~~only with the~~

23 ~~approval of the Department upon 30 days' written notice to the Department to include such~~

24 ~~information as the Department may reasonably require to complete the Department's review~~

25 ~~pursuant to subsection (b2) of this section, G.S. 130A-295.2, and G.S. 130A-295.3, and with~~

26 ~~the approval of the Department.~~

- 27 ...
- 28 (b1) (1) For purposes of this subsection and subdivision (4) of subsection (a) of this
- 29 section, a "substantial amendment" means either:
- 30 a. An increase of ten percent (10%) or more in:
- 31 1. The population of the geographic area to be served by the
- 32 sanitary landfill;
- 33 2. The quantity of solid waste to be disposed of in the sanitary
- 34 landfill; or
- 35 3. The geographic area to be served by the sanitary landfill.
- 36 b. A change in the categories of solid waste to be disposed of in the
- 37 sanitary ~~landfill, landfill or any other change to the application for a~~
- 38 ~~permit or to the permit for a sanitary landfill that the Commission or~~
- 39 ~~the Department determines to be substantial.~~
- 40 (2) A person who intends to apply for a new permit, major modification, the
- 41 ~~renewal of a permit,~~ or a substantial amendment to a permit for a sanitary
- 42 landfill shall obtain, prior to applying for a permit, a franchise for the
- 43 operation of the sanitary landfill from each local government then having
- 44 jurisdiction over any part of the land on which the sanitary landfill and its
- 45 appurtenances are located or to be located. A local government may adopt a
- 46 franchise ordinance under G.S. 153A-136 or G.S. 160A-319. A franchise
- 47 granted for a sanitary landfill shall include all of the following:
- 48 a. A statement of the population to be served, including a description of
- 49 the geographic area.
- 50 b. A description of the volume and characteristics of the waste stream.
- 51 c. A projection of the useful life of the sanitary landfill.

- 1 d. An explanation of how the franchise will be consistent with the
2 jurisdiction's solid waste management plan required under
3 G.S. 130A-309.09A, including provisions for waste reduction, reuse,
4 and recycling.
- 5 e. The procedures to be followed for governmental oversight and
6 regulation of the fees and rates to be charged by facilities subject to
7 the franchise for waste generated in the jurisdiction of the franchising
8 entity.
- 9 f. A facility plan for the sanitary landfill that shall include the
10 boundaries of the proposed facility, proposed development of the
11 facility site in five-year operational phases, the boundaries of all
12 waste disposal units, final elevations and capacity of all waste
13 disposal units, the amount of waste to be received per day in tons, the
14 total waste disposal capacity of the sanitary landfill in tons, a
15 description of environmental controls, and a description of any other
16 waste management activities to be conducted at the facility. In
17 addition, the facility plan shall show the proposed location of soil
18 borrow areas, leachate facilities, and all other facilities and
19 infrastructure, including ingress and egress to the facility.

20 ...
21 (4)

22 An applicant for a new permit, major modification, ~~the renewal of a permit~~,
23 or a substantial amendment to a permit for a sanitary landfill shall request
24 each local government having jurisdiction over any part of the land on which
25 the sanitary landfill and its appurtenances are located or to be located to
26 issue a determination as to whether the local government has in effect a
27 franchise, zoning, subdivision, or land-use planning ordinance applicable to
28 the sanitary landfill and whether the proposed sanitary landfill, or the
29 existing sanitary landfill as it would be operated under the ~~renewed or~~
30 substantially amended permit, would be consistent with the applicable
31 ordinances. The request to the local government shall be accompanied by a
32 copy of the permit application and shall be delivered to the clerk of the local
33 government personally or by certified mail. In order to serve as a basis for a
34 determination that an application for a new permit, major modification, ~~the~~
35 ~~renewal of a permit~~, or a substantial amendment to a permit for a sanitary
36 landfill is consistent with a zoning, subdivision, or land-use planning
37 ordinance, an ordinance or zoning classification applicable to the real
38 property designated in the permit application shall have been in effect not
39 less than 90 days prior to the date the request for a determination of
40 consistency is delivered to the clerk of the local government. The
41 determination shall be verified or supported by affidavit signed by the chief
42 administrative officer, the chief administrative officer's designee, clerk, or
43 other official designated by the local government to make the determination
44 and, if the local government states that the sanitary landfill as it would be
45 operated under the new, majorly modified, ~~renewed~~, or substantially
46 amended permit is inconsistent with a franchise, zoning, subdivision, or
47 land-use planning ordinance, shall include a copy of the ordinance and the
48 specific reasons for the determination of inconsistency. A copy of the
49 determination shall be provided to the applicant when the determination is
50 submitted to the Department. The Department shall not act upon an
51 application for a permit under this section until it has received a
determination from each local government requested to make a

determination by the applicant; provided that if a local government fails to submit a determination to the Department as provided by this subsection within 15 days after receipt of the request, the Department shall proceed to consider the permit application without regard to a franchise, local zoning, subdivision, and land-use planning ordinances. Unless the local government makes a subsequent determination of consistency with all ordinances cited in the determination or the sanitary landfill as it would be operated under the ~~new, renewed, new~~ or substantially amended permit is determined by a court of competent jurisdiction to be consistent with the cited ordinances, the Department shall attach as a condition of the permit a requirement that the applicant, prior to construction or operation of the sanitary landfill under the permit, comply with all lawfully adopted local ordinances cited in the determination that apply to the sanitary landfill. This subsection shall not be construed to affect the validity of any lawfully adopted franchise, local zoning, subdivision, or land-use planning ordinance or to affect the responsibility of any person to comply with any lawfully adopted franchise, local zoning, subdivision, or land-use planning ordinance. This subsection shall not be construed to limit any opportunity a local government may have to comment on a permit application under any other law or rule. This subsection shall not apply to any facility with respect to which local ordinances are subject to review under either G.S. 104E-6.2 or G.S. 130A-293.

- (5) As used in this subdivision, "coal-fired generating unit" and "investor-owned public utility" have the same meaning as in G.S. 143-215.107D(a). Notwithstanding subdivisions (a)(4), (b1)(3), or (b1)(4) of this section, no franchise shall be required for a sanitary landfill used only to dispose of waste generated by a coal-fired generating unit that is owned or operated by an investor-owned utility subject to the requirements of G.S. 143-215.107D.

...."

PART III. MODIFICATIONS TO CERTAIN REQUIREMENTS GOVERNING SANITARY LANDFILLS INCLUDING APPLICABLE BUFFERS, CLEANING AND INSPECTION OF LEACHATE COLLECTION LINES, ALTERNATIVE DAILY COVER, AND REQUIRED STUDIES FOR CERTAIN LANDFILL OWNERS AND OPERATORS

SECTION 3.(a) G.S. 130A-295.6 reads as rewritten:

"§ 130A-295.6. Additional requirements for sanitary landfills.

(a) The applicant for a proposed sanitary landfill shall contract with a qualified third party, approved by the Department, ~~Department shall to~~ conduct a study of the environmental impacts of any proposed sanitary ~~landfill.~~ landfill, in conjunction with its application for a new permit as defined in sub-subdivisions a. through d. of subdivision (1) of subsection (b) of G.S. 130A-295.8. The study shall meet all of the requirements set forth in G.S. 113A-4 and rules adopted pursuant to G.S. 113A-4. If an environmental impact statement is required, the Department shall publish notice of the draft environmental impact statement and shall hold a public hearing in the county where the landfill will be located no sooner than 30 days following the public notice. The Department shall consider the study of environmental impacts and any mitigation measures proposed by the applicant in deciding whether to issue or deny a permit. An applicant for a permit for a sanitary landfill shall pay all costs incurred by the Department to comply with the public notice and public hearing requirements of this subsection. ~~this subsection including the costs of any special studies that may be required.~~

1 (b) The Department shall require a buffer between any ~~perennial stream or wetland~~ with
2 continuous flow and the nearest waste disposal unit of a sanitary landfill of at least 200 feet.
3 The Department may approve a buffer of less than 200 feet, ~~but in no case less than 100 feet~~, if
4 it finds all of the following:

- 5 (1) The proposed sanitary landfill or expansion of the sanitary landfill will serve
6 a critical need in the community.
7 (2) There is no feasible alternative location that would allow siting or expansion
8 of the sanitary landfill with 200-foot buffers.

9 (c) A waste disposal unit of a sanitary landfill shall not be constructed within:

- 10 (1) A 100-year floodplain, as shown on the current floodplain maps prepared
11 pursuant to the National Flood Insurance Program, floodplain or land
12 removed from a 100-year floodplain designation pursuant to 44 Code of
13 Federal Regulations Part 72 (1 October 2006 Edition) as a result of
14 man-made alterations within the floodplain such as the placement of fill,
15 except as authorized by variance granted under G.S. 143-215.54A(b). This
16 subdivision does not apply to land removed from a 100-year floodplain
17 designation (i) as a result of floodplain map corrections or updates not
18 resulting from man-made alterations of the affected areas within the
19 floodplain, or (ii) pursuant to 44 Code of Federal Regulations Part 70 (1
20 October 2006 Edition) by a letter of map amendment.

21 (2) A wetland, unless the applicant or permit holder can show all of the
22 following, as to the waste disposal unit:

- 23 a. Where applicable under section 404 of the federal Clean Water Act
24 or applicable State wetlands laws, the presumption that a practicable
25 alternative to the proposed waste disposal unit is available which
26 does not involve wetlands is clearly rebutted;
27 b. Construction of the waste disposal unit will not do any of the
28 following:
29 1. Cause or contribute to violations of any applicable State
30 water quality standard.
31 2. Violate any applicable toxic effluent standard or prohibition
32 under section 307 of the federal Clean Water Act.
33 3. Jeopardize the continued existence of endangered or
34 threatened species or result in the destruction or adverse
35 modification of a critical habitat, protected under the federal
36 Endangered Species Act of 1973.
37 4. Violate any requirement under the federal Marine Protection,
38 Research, and Sanctuaries Act of 1972.
39 c. Construction of the waste disposal unit will not cause or contribute to
40 significant degradation of wetlands.
41 d. To the extent required under section 404 of the federal Clean Water
42 Act or applicable State wetlands laws, any unavoidable wetlands
43 impacts will be mitigated.

44 (d) The Department shall not issue a permit to construct any disposal unit of a sanitary
45 landfill if, at the earlier of (i) the acquisition by the applicant or permit holder of the land or of
46 an option to purchase the land on which the waste disposal unit will be located, (ii) the
47 application by the applicant or permit holder for a franchise agreement, or (iii) at the time of the
48 application for a permit, any portion of the proposed waste disposal unit would be located
49 within:

- 50 (1) ~~Five miles of the outermost boundary of a National Wildlife Refuge.~~

- 1 (2) ~~One mile of the outermost boundary of a State gameland owned, leased, or~~
 2 ~~managed by the Wildlife Resources Commission pursuant to G.S. 113-306.~~
 3 (3) ~~Two miles of the outermost boundary of a component of the State Parks~~
 4 ~~System.~~
 5 (4) One thousand five hundred feet of the outermost boundary of a national or
 6 State park or other component of the State Parks System, segment of the
 7 Natural and Scenic Rivers System, National Wildlife Refuge, critical
 8 fisheries habitat designated by the Marine Fisheries' Commission, or
 9 Outstanding Resource Waters designated by the Environmental Management
 10 Commission.

11 ...
 12 (h) The following requirements apply to any sanitary landfill for which a liner is
 13 required:

- 14 (1) A geomembrane base liner system shall be tested for leaks and damage by
 15 methods approved by the Department that ensure that the entire liner is
 16 evaluated.
 17 (2) A leachate collection system shall be designed to return the head of the liner
 18 to 30 centimeters or less within 72 hours. The design shall be based on the
 19 precipitation that would fall on an empty cell of the sanitary landfill as a
 20 result of a 25-year-24-hour storm event. The leachate collection system shall
 21 maintain a head of less than 30 centimeters at all times during leachate
 22 recirculation. The Department may require the operator to monitor the head
 23 of the liner to demonstrate that the head is being maintained in accordance
 24 with this subdivision and any applicable rules.
 25 (3) All leachate collection lines shall be designed and constructed to
 26 permanently allow cleaning and remote camera inspection. Remote camera
 27 inspections of the leachate collection lines shall occur upon completion of
 28 the construction and at least once every five years. Cleaning of leachate
 29 collection lines found necessary for proper functioning and to address
 30 buildup of leachate over the liner shall occur. ~~All leachate collection lines~~
 31 ~~shall be cleaned at least once a year, except that the Department may allow~~
 32 ~~leachate collection lines to be cleaned once every two years if: (i) the facility~~
 33 ~~has continuous flow monitoring; and (ii) the permit holder demonstrates to~~
 34 ~~the Department that the leachate collection lines are clear and functional~~
 35 ~~based on at least three consecutive annual cleanings. Remote camera~~
 36 ~~inspections of the leachate collection lines shall occur upon completion of~~
 37 ~~construction, at least once every five years thereafter, and following the~~
 38 ~~clearing of blockages.~~
 39 (4) Any pipes used to transmit leachate shall provide dual containment outside
 40 of the disposal unit. The bottom liner of a sanitary landfill shall be
 41 constructed without pipe penetrations.

42 (h1) With respect to requirements for daily cover at sanitary landfills, once the
 43 Department has approved use of an alternative method of daily cover for use at any sanitary
 44 landfill, that alternative method of daily cover shall be approved for use at all sanitary landfills
 45 located within the State.

46 (h2) Studies and research and development pertaining to alternative disposal techniques
 47 and waste-to-energy matters shall be conducted by certain sanitary landfills as follows:

- 48 (1) The owner or operator of any sanitary landfill permitted to receive more than
 49 240,000 tons of waste per year shall research the development of alternative
 50 disposal technologies. In addition, the owner or operator shall allow access
 51 to nonproprietary information and provide site resources for individual

1 research and development projects related to alternative disposal techniques
2 for the purpose of studies that may be conducted by local community or
3 State colleges and universities or other third-party developers or consultants.
4 The owner or operator shall report on research and development activities
5 conducted pursuant to this subdivision, and any results of these activities, to
6 the Department annually on or before July 1.

7 (2) The owner or operator of any sanitary landfill permitted to receive more than
8 240,000 tons of waste per year shall perform a feasibility study of landfill
9 gas-to-energy, or other waste-to-energy technology, to determine
10 opportunities for production of renewable energy from landfills in order to
11 promote economic development and job creation in the State. The owner or
12 operator shall initiate the study when sufficient waste is in place at the
13 landfill to produce gas, as determined by the United States Environmental
14 Protection Agency's Landfill Gas Emissions Model (LandGEM), and may
15 consult and coordinate with other entities to facilitate conduct of the study,
16 including local and State government agencies, economic development
17 organizations, consultants, and third-party developers. The study shall
18 specifically examine opportunities for returning a portion of the benefits
19 derived from energy produced from the landfill to the jurisdiction within
20 which the landfill is located in the form of direct supply of energy to the
21 local government and its citizens, or through revenue sharing with the local
22 government from sale of the energy, with revenues owing to the local
23 government credited to a fund specifically designated for economic
24 development within the jurisdiction. The owner or operator shall report on
25 its activities associated with the study, and any results of the study, to the
26 Department annually on or before July 1.

27 (i) The Department shall not issue a permit for a sanitary landfill that authorizes:

- 28 (1) A capacity of more than 55 million cubic yards of waste.
29 (2) A disposal area of more than 350 acres.
30 (3) A maximum height, including the cap and cover vegetation, of more than
31 250 feet above the mean natural elevation of the disposal area.

32 (j) This section does not apply to landfills for the disposal of land clearing and inert
33 debris or to Type I or Type II compost facilities."

34 **SECTION 3.(b)** S.L. 2013-25 is repealed.

35 **SECTION 3.(c)** This section becomes effective August 1, 2013, except that (i) the
36 repeal of G.S. 130A-295.6(d)(2), as enacted by Section 3(a) of this act, applies retroactively to
37 applications for permits submitted on or after January 1, 2013; (ii) G.S. 130A-295.6(h2), as
38 enacted by Section 3(a) of this act, applies to new landfills for which a permit is issued on or
39 after August 1, 2013; and (iii) to the extent that G.S. 130A-295.6, as amended by Section 3(a)
40 of this act, imposes requirements that are more stringent than those in effect prior to August 1,
41 2007, the more stringent requirements do not apply to:

- 42 (1) An amendment, modification, or other change to a permit for a landfill
43 issued on or before June 1, 2006.
44 (2) A permit for a horizontal or vertical expansion of the landfill permitted on or
45 before June 1, 2006.
46 (3) A permit to construct a new landfill within the facility boundary identified in
47 the facility plan of a landfill permitted on or before June 1, 2006.
48 (4) A permit to operate a new landfill if a permit to construct the new landfill
49 was issued on or before June 1, 2006.

- 1 (5) A permit for a sanitary landfill used only to dispose of waste generated by a
2 coal-fired generating unit that is owned or operated by an investor-owned
3 utility subject to the requirements of G.S. 143-215.107D.
4 (6) A permit for a sanitary landfill determined to be necessary by the Secretary
5 of Environment and Natural Resources in order to respond to an imminent
6 hazard to public health or a natural disaster.
7

8 **PART IV. MODIFICATIONS TO REQUIREMENTS FOR FINANCIAL**
9 **RESPONSIBILITY APPLICABLE TO APPLICANTS AND PERMIT HOLDERS FOR**
10 **SOLID WASTE MANAGEMENT FACILITIES**

11 SECTION 4. G.S. 130A-295.2 reads as rewritten:

12 "**§ 130A-295.2. Financial responsibility requirements for applicants and permit holders**
13 **for solid waste management facilities.**

14 ...
15 (h) To meet the financial assurance requirements of this section, the owner or operator
16 of a sanitary landfill shall establish financial assurance sufficient to cover ~~the a minimum of~~
17 ~~two million dollars (\$2,000,000) in costs for~~ of potential assessment and corrective action at the
18 facility. The Department may require financial assurance in a higher amount and may increase
19 the amount of financial assurance required of a permit holder at any time based upon the types
20 of waste disposed in the landfill, the projected amount of waste to be disposed in the landfill,
21 the location of the landfill, potential receptors of releases from the landfill, and inflation. The
22 financial assurance requirements of this subsection are in addition to the other financial
23 responsibility requirements set out in this section.

24 ...
25 (j) In addition to the other methods by which financial assurance may be established as
26 set forth in subsection (f) of this section, the Department may allow the owner or operator of a
27 sanitary landfill permitted on or before August 1, 2009, to meet the financial assurance
28 requirement set forth in subsection (h) of this section by establishing a trust fund which
29 conforms to the following minimum requirements:

- 30 (1) The trustee shall be an entity which has the authority to act as a trustee and
31 whose trust operations are regulated and examined by a State or federal
32 agency.
33 (2) A copy of the trust agreement shall be placed in the facility's operating
34 record.
35 (3) Payments into the trust fund shall be made annually by the owner or operator
36 over a period not to exceed five years. This period is referred to as the pay-in
37 period.
38 (4) Payments into the fund shall be made in equal annual installments in
39 amounts calculated by dividing the current cost estimate for potential
40 assessment and corrective action at the ~~facility~~ facility, ~~which shall not be~~
41 ~~less than two million dollars (\$2,000,000) in accordance with subsection (h)~~
42 ~~of this section,~~ by the number of years in the pay-in period.
43 (5) The trust fund may be terminated by the owner or operator only if the owner
44 or operator establishes financial assurance by another method or
45 combination of methods allowed under subsection (f) of this section.
46 (6) The trust agreement shall be accompanied by a formal certification of
47 acknowledgement."
48
49

50 **PART V. AMEND THE RULE GOVERNING COLLECTION AND TRANSPORT OF**
51 **SOLID WASTE TO REQUIRE THAT CONTAINERS BE "LEAK-RESISTANT"**

1 **RATHER THAN "LEAK-PROOF," AND AMEND A STATUTE THAT REQUIRES**
2 **VEHICLES TO BE CONSTRUCTED AND LOADED TO PREVENT LEAKAGE**

3 **SECTION 5.(a)** Definitions. – "Collection and Transport Rule" means 15A NCAC
4 13B .0105 (Collection and Transportation of Solid Waste) for purposes of this section and its
5 implementation.

6 **SECTION 5.(b)** Collection and Transport Rule. – Until the effective date of the
7 revised permanent rule that the Commission for Public Health is required to adopt pursuant to
8 Section 5(d) of this act, the Commission and the Department of Environment and Natural
9 Resources shall implement the Collection and Transport Rule, as provided in Section 5(c) of
10 this act.

11 **SECTION 5.(c)** Implementation. – Notwithstanding any provision of the
12 Collection and Transport Rule, the Commission shall not require vehicles or containers used for
13 the collection and transportation of solid waste to be leak-proof; however, they may require that
14 these containers be designed and maintained to be leak-resistant in accordance with industry
15 standards.

16 **SECTION 5.(d)** Additional Rule-Making Authority. – The Commission shall
17 adopt a rule to replace the Collection and Transport Rule. Notwithstanding G.S. 150B-19(4),
18 the rule adopted by the Commission pursuant to this section shall be substantively identical to
19 the provisions of Section 5(c) of this act. Rules adopted pursuant to this section are not subject
20 to G.S. 150B-21.9 through G.S. 150B-21.14. The rule adopted pursuant to this section shall
21 become effective, as provided in G.S. 150B-21.3(b1), as though 10 or more written objections
22 had been received, as provided by G.S. 150B-21.3(b2).

23 **SECTION 5.(e)** Effective Date. – Section 5(c) of this act expires when permanent
24 rules to replace Section 5(c) of this act have become effective, as provided by Section 5(d) of
25 this act.

26 **SECTION 5.(f)** G.S. 20-116(g)(1) reads as rewritten:

27 **"§ 20-116. Size of vehicles and loads.**

28 ...

- 29 (g) (1) No vehicle shall be driven or moved on any highway unless the vehicle is
30 constructed and loaded to prevent any of its load from falling, blowing,
31 dropping, sifting, leaking, or otherwise escaping therefrom, and the vehicle
32 shall not contain any holes, cracks, or openings through which any of its
33 load may escape. However, sand may be dropped for the purpose of securing
34 traction, or water or other substance may be sprinkled, dumped, or spread on
35 a roadway in cleaning or maintaining the roadway. For purposes of this
36 subsection, ~~load~~ the terms "load" and "leaking" ~~does do~~ not include water
37 accumulated from precipitation."
38

39 **PART VI. AMEND THE DEFINITION OF "LEACHATE" TO EXCLUDE LIQUID**
40 **ADHERING TO TIRES OF VEHICLES LEAVING SANITARY LANDFILLS AND**
41 **TRANSFER STATIONS**

42 **SECTION 6.(a)** G.S. 130A-290 is amended by adding a new subdivision to read:

43 "(16a) "Leachate" means a liquid that has passed through or emerged from solid
44 waste and contains soluble, suspended, or miscible materials removed from
45 such waste. The term "leachate" does not include liquid adhering to tires of
46 vehicles leaving a sanitary landfill and transfer stations."
47

48 **PART VII. AUTHORIZE CITIES AND COUNTIES THAT ACCEPT SOLID WASTE**
49 **FROM OTHER LOCAL GOVERNMENTS TO LEVY A SURCHARGE ON FEES FOR**
50 **USE OF THEIR DISPOSAL FACILITIES, AND TO MAKE APPROPRIATIONS**
51 **FROM A UTILITY OR PUBLIC SERVICE ENTERPRISE FUND USED FOR**

OPERATION OF A LANDFILL TO THE JURISDICTION'S GENERAL FUND UPON CERTAIN FINDINGS

SECTION 7.(a) G.S. 153A-292(b) reads as rewritten:

"(b) The board of county commissioners may impose a fee for the collection of solid waste. The fee may not exceed the costs of collection.

The board of county commissioners may impose a fee for the use of a disposal facility provided by the county. ~~The~~ Except as provided in this subsection, the fee for use may not exceed the cost of operating the facility ~~and may be imposed only on those who use the facility.~~ The fee may exceed those costs if the county enters into a contract with another county or city to accept the other entity's solid waste and the county by ordinance levies a surcharge on the fee which may be used for any purpose for which the county may appropriate funds. A fee under this paragraph may be imposed only on those who use the facility. The fee for use may vary based on the amount, characteristics, and form of recyclable materials present in solid waste brought to the facility for disposal. A county may not impose a fee for the use of a disposal facility on a city located in the county or a contractor or resident of the city unless the fee is based on a schedule that applies uniformly throughout the county.

The board of county commissioners may impose a fee for the availability of a disposal facility provided by the county. A fee for availability may not exceed the cost of providing the facility and may be imposed on all improved property in the county that benefits from the availability of the facility. A county may not impose an availability fee on property whose solid waste is collected by a county, a city, or a private contractor for a fee if the fee imposed by a county, a city, or a private contractor for the collection of solid waste includes a charge for the availability and use of a disposal facility provided by the county. Property served by a private contractor who disposes of solid waste collected from the property in a disposal facility provided by a private contractor that provides the same services as those provided by the county disposal facility is not considered to benefit from a disposal facility provided by the county and is not subject to a fee imposed by the county for the availability of a disposal facility provided by the county. To the extent that the services provided by the county disposal facility differ from the services provided by the disposal facility provided by a private contractor in the same county, the county may charge an availability fee to cover the costs of the additional services provided by the county disposal facility.

In determining the costs of providing and operating a disposal facility, a county may consider solid waste management costs incidental to a county's handling and disposal of solid waste at its disposal facility, including the costs of the methods of solid waste management specified in G.S. 130A-309.04(a) of the Solid Waste Management Act of 1989. A fee for the availability or use of a disposal facility may be based on the combined costs of the different disposal facilities provided by the county."

SECTION 7.(b) G.S. 159-13(b)(14) reads as rewritten:

"(b) The following directions and limitations shall bind the governing board in adopting the budget ordinance:

...

(14) No appropriation may be made from a utility or public service enterprise fund to any other fund than the appropriate debt service fund unless the total of all other appropriations in the fund equal or exceed the amount that will be required during the fiscal year, as shown by the budget ordinance, to meet operating expenses, capital outlay, and debt service on outstanding utility or enterprise bonds or notes. A county may, upon a finding that a fund balance in a utility or public service enterprise fund used for operation of a landfill exceeds the requirements for funding the operation of that fund, including closure and post-closure expenditures, transfer excess funds to be used to support the other services supported by the county's general fund."

1 **SECTION 7.(c)** G.S. 160A-314.1 reads as rewritten:

2 "**§ 160A-314.1. Availability fees for solid waste disposal facilities; collection of any solid**
3 **waste fees.**

4 (a) A city may impose a fee for the collection of solid waste. The fee may not exceed
5 the costs of collection.

6 A city may impose a fee for the use of a disposal facility provided by the city. Except as
7 provided in this subsection, the fee for use may not exceed the cost of operating the facility.
8 The fee may exceed those costs if the city enters into a contract with another county or city to
9 accept the other entity's solid waste and the city by ordinance levies a surcharge on the fee
10 which may be used for any purpose for which the city may appropriate funds. A fee under this
11 paragraph may be imposed only on those who use the facility. The fee for use may vary based
12 on the amount, characteristics, and form of recyclable materials present in solid waste brought
13 to the facility for disposal.

14 (a1) In addition to a fee that a city may impose for collecting solid waste or for using a
15 disposal facility, a city may impose a fee for the availability of a disposal facility provided by
16 the city. A fee for availability may not exceed the cost of providing the facility and may be
17 imposed on all improved property in the city that benefits from the availability of the facility. A
18 city may not impose an availability fee on property whose solid waste is collected by a county,
19 a city, or a private contractor for a fee if the fee imposed by a county, a city, or a private
20 contractor for the collection of solid waste includes a charge for the availability and use of a
21 disposal facility provided by the city. Property served by a private contractor who disposes of
22 solid waste collected from the property in a disposal facility provided by a private contractor
23 that provides the same services as those provided by the city disposal facility is not considered
24 to benefit from a disposal facility provided by the city and is not subject to a fee imposed by the
25 city for the availability of a disposal facility provided by the city. To the extent that the services
26 provided by the city disposal facility differ from the services provided by the disposal facility
27 provided by a private contractor in the same city, the city may charge an availability fee to
28 cover the costs of the additional services provided by the city disposal facility.

29 In determining the costs of providing and operating a disposal facility, a city may consider
30 solid waste management costs incidental to a city's handling and disposal of solid waste at its
31 disposal facility. A fee for the availability or use of a disposal facility may be based on the
32 combined costs of the different disposal facilities provided by the city.

33 (b) A city may adopt an ordinance providing that any fee imposed under subsection (a)
34 or under G.S. 160A-314 for collecting or disposing of solid waste may be billed with property
35 taxes, may be payable in the same manner as property taxes, and, in the case of nonpayment,
36 may be collected in any manner by which delinquent personal or real property taxes can be
37 collected. If an ordinance states that delinquent fees can be collected in the same manner as
38 delinquent real property taxes, the fees are a lien on the real property described on the bill that
39 includes the fee."

40 **SECTION 7.(d)** G.S. 160A-314(a2) reads as rewritten:

41 "**§ 160A-314. Authority to fix and enforce rates.**

42 (a2) A fee for the use of a disposal facility provided by the city may vary based on the
43 amount, characteristics, and form of recyclable materials present in solid waste brought to the
44 facility for disposal. This section does not prohibit a city from providing aid to low-income
45 persons to pay all or part of the cost of solid waste management services for those persons. A
46 city may, upon a finding that a fund balance in a utility or public service enterprise fund used
47 for operation of a landfill exceeds the requirements for funding the operation of that fund,
48 including closure and post-closure expenditures, transfer excess funds to be used to support the
49 other services supported by the city's general fund."

50 **SECTION 7.(e)** G.S. 130A-294(b1) is amended by adding a new subdivision to
51 read:

1 "(2b) A local government may elect to include as part of a franchise agreement a
2 surcharge on waste disposed of in its jurisdiction by other local governments
3 located within the State."

4 **SECTION 7.(f)** This section becomes effective August 1, 2013, and Section 7(e) is
5 applicable to franchise agreements executed on or after that date.

6
7 **PART VIII. RETURN OF REIMBURSEMENTS/S.L. 2007-543**

8 **SECTION 8.** Applicants for a permit for a sanitary landfill who received funds as
9 reimbursement in accordance with subsections (a) through (g) of Section 3 of S.L. 2007-543
10 shall repay eighty percent (80%) of the funds received as reimbursement to the Secretary of
11 Revenue before a permit may be issued to construct a sanitary landfill on the property, or part
12 thereof, which was the subject of a permit application for which funds were received as
13 reimbursement in accordance with subsections (a) through (g) of Section 3 of S.L. 2007-543.
14 Any funds received by the Secretary pursuant to this Section shall be credited or distributed as
15 set forth in G.S. 105-187.63.

16
17 **PART IX. SEVERABILITY AND EFFECTIVE DATE**

18 **SECTION 9.(a)** If any section or provision of this act is declared unconstitutional
19 or invalid by the courts, it does not affect the validity of this act as a whole or any part other
20 than the part so declared to be unconstitutional or invalid.

21 **SECTION 9.(b)** Except as otherwise provided, this act is effective when it
22 becomes law.