

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

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HOUSE BILL 1097*

Short Title: Design/Build/Operate Contract Sludge Mgt. (Public)

Sponsors: Representatives Gibson and L. Allen (Primary Sponsors).

Referred to: Environment and Natural Resources.

April 4, 2005

A BILL TO BE ENTITLED

1 AN ACT TO AUTHORIZE UNITS OF LOCAL GOVERNMENT TO AWARD
2 CONTRACTS FOR THE MANAGEMENT OF SLUDGE ON THE BASIS OF
3 FACTORS OTHER THAN COST ALONE AND TO ENTER INTO CONTRACTS
4 THAT PROVIDE FOR THE DESIGN, CONSTRUCTION, AND OPERATION OF
5 SLUDGE MANAGEMENT FACILITIES BY A SINGLE ENTITY.
6

7 The General Assembly of North Carolina enacts:

8 **SECTION 1.** G.S. 143-129.2 reads as rewritten:

9 **"§ 143-129.2. Construction, design, and operation of solid waste management
10 facilities and sludge management facilities.**

11 (a) All terms relating to solid waste management and disposal as used in this
12 section shall be defined as set forth in G.S. 130A-290.

13 (b) To acknowledge the highly complex and innovative nature of solid waste and
14 sludge management technology technologies for processing mixed solid waste, ~~waste~~
15 and sludge generated by water and wastewater treatment facilities, the relatively limited
16 availability of existing and proven proprietary technology involving solid waste and
17 sludge management facilities, the desirability of a single point of responsibility for the
18 development of facilities and the economic and technical utility of contracts for solid
19 waste and sludge management which include in their scope combinations of design,
20 construction, operation, management and maintenance responsibilities over prolonged
21 periods of time and that in some instances it may be beneficial to a unit of local
22 government to award a contract on the basis of factors other than cost alone, including
23 but not limited to facility design, operational experience, system reliability, energy
24 production efficiency, long-term operational costs, compatibility with source separation
25 and other recycling systems, environmental impact and operational guarantees.
26 Accordingly, and notwithstanding other provisions of this Article ~~8, or any other~~
27 general, special or any local law, a contract entered into between a unit of local
28 government and any person pursuant to this section may be awarded in accordance with
29 the following provisions for the award of a contract based upon an evaluation of

1 proposals submitted in response to a request for proposals prepared by or for a unit of
2 local government.

3 (c) The unit of local government shall require in its request for proposals that
4 each proposal to be submitted shall ~~include~~include all of the following:

5 (1) Information relating to the experience of the proposer on the basis of
6 which said proposer purports to be qualified to carry out all work
7 required by a proposed contract; the ability of the proposer to secure
8 adequate financing; and proposals for project staffing, implementation
9 of work tasks, and the carrying out of all responsibilities required by a
10 proposed ~~contract~~contract.

11 (2) A proposal clearly identifying and specifying all elements of cost
12 which would become charges to the unit of local government, in
13 whatever form, in return for the fulfillment by the proposer of all tasks
14 and responsibilities established by the request for the proposal for the
15 full lifetime of a proposed contract, including, as appropriate, but not
16 limited to, the cost of planning, design, construction, operation,
17 management and/or maintenance of any facility; provided, that the unit
18 of local government may prescribe the form and content of ~~such~~the
19 proposal and that, in any event, the proposer must submit sufficiently
20 detailed information to permit a fair and equitable evaluation of ~~such~~
21 proposal~~the proposal~~.

22 (3) ~~Such~~Any other information as the unit of local government may
23 determine to have a material bearing on its ability to evaluate any
24 proposal in accordance with this section.

25 (d) Proposals received in response to ~~such~~a request for proposals may be
26 evaluated on the basis of a technical analysis of facility design, operational experience
27 of the technology to be utilized in the proposed facility, system reliability and
28 availability, energy production balance and efficiency, environmental impact and
29 protection, recovery of materials, required staffing level during operation, projection of
30 anticipated revenues from the sale of energy and materials recovered by the facility, net
31 cost to the unit of local government for operation and maintenance of the facility for the
32 duration of time to be established in the request for proposals and upon ~~such~~any other
33 factors and information ~~as that~~ the unit of local government determined to have a
34 material bearing on its ability to evaluate any proposal, which factors were set forth in
35 said request for proposal.

36 (e) The unit of local government may make a contract award to any responsible
37 proposer selected pursuant to this section based upon a determination that the selected
38 proposal is more responsive to the request for proposals and may thereupon negotiate a
39 contract with said proposer for the performance of the services set forth in the request
40 for proposals and the response thereto, ~~such~~the determination shall be deemed to be
41 conclusive. Notwithstanding other provisions of this Article 8, ~~or any other general, or~~
42 any local or special law, a contract may be negotiated and entered into between a unit of
43 local government and any person selected as a responsible proposer hereunder which
44 may provide for, but not be limited to, the following:

- 1 (1) A contract, lease, rental, license, permit or other authorization to
2 design, construct, operate and maintain ~~such a solid waste or sludge~~
3 ~~management facility, upon such terms and conditions for such~~
4 ~~consideration and for such term or facility upon such terms and~~
5 ~~conditions, for such consideration, and for such duration, not to exceed~~
6 ~~40 years, as may be agreed upon by the unit of local government and~~
7 ~~such person;the person.~~
8 (2) Payment by the unit of local government of a fee or other charge to
9 ~~such the person~~ for acceptance, processing, recycling, management
10 and disposal of solid ~~waste;waste or sludge.~~
11 (3) An obligation on the part of a unit of local government to deliver or
12 cause to be delivered to a solid waste or sludge management facility
13 guaranteed quantities of solid ~~wastes; andwastes or sludge.~~
14 (4) The sale, utilization or disposal of any form of energy, recovered
15 material or residue resulting from the operation of any solid waste or
16 sludge management facility.
17 (f) The construction work for any facility or structure ~~which that~~ is ancillary to
18 ~~the a~~ solid waste or sludge management facility and ~~which that~~ does not involve storage
19 and processing of solid waste or sludge or the separation, ~~extraction extraction,~~ and
20 recovery of useful or marketable forms of energy and materials from solid waste at ~~the a~~
21 solid waste management ~~facility, facility~~ shall be procured through competitive bidding
22 procedures described by G.S. 143-128 through 143-129.1. ~~Such ancillary Ancillary~~
23 ~~facilities shall include but shall are not necessarily be limited to the following:~~ roads,
24 water and sewer lines to the facility limits, transfer stations, scale ~~house, houses,~~
25 administration ~~buildings buildings,~~ and residue and bypass disposal sites."

26 **SECTION 2.** This act is effective when it becomes law.