

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013**

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**SENATE BILL 328
Agriculture/Environment/Natural Resources Committee Substitute Adopted 6/6/13
Finance Committee Substitute Adopted 6/19/13
Fourth Edition Engrossed 6/24/13**

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:



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

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

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

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

16 **SECTION 1.(b)** No later than July 1, 2014, the Commission for Public Health
17 shall adopt rules to allow applicants for permits for sanitary landfills to apply for a permit for a
18 phase of landfill development up to 30 years. No later than July 1, 2014, the Commission shall
19 also adopt rules to allow applicants for permits for transfer stations to apply for a permit with a
20 30-year duration to construct and operate a transfer station.

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

22 **"§ 130A-295.8. Fees applicable to permits for solid waste management facilities.**

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

27 (b) As used in this section:

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

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

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

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

1 c. Any application that proposes a change in ownership or corporate
2 structure of a permitted solid waste management facility. This
3 sub-subdivision shall not apply to sanitary landfills or transfer
4 stations.

5 (3) "Permit modification" means ~~any of the following:~~

6 a. An application for any change to the plans approved in a permit for a
7 solid waste management facility that does not constitute a "permit
8 amendment" or a "new permit". This sub-subdivision shall not apply
9 to sanitary landfills or transfer stations.

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

12 c. An application for a five-year limited review of a permit issued
13 pursuant to G.S. 130A-294(a2), including review of the operations
14 plan, closure plan, post-closure plan, financial assurance cost
15 estimates, environmental monitoring plans, and any other applicable
16 plans for the facility.

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

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

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

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

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

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

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

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

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

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

47 (5) Municipal Solid Waste Landfill accepting 100,000 tons/year or more but less
48 than 250,000 tons/year of solid waste, ~~Amendment~~ Major Modification –
49 \$30,000.

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

- 1 (6a) Municipal Solid Waste Landfill accepting 250,000 tons/year or more of solid
2 waste, New Permit – \$75,000.
- 3 (6b) Municipal Solid Waste Landfill accepting 250,000 tons/year or more of solid
4 waste, Major Modification – \$55,000.
- 5 (7) Construction and Demolition Landfill accepting less than ~~100,000~~25,000
6 tons/year of solid waste, New Permit – \$15,000.
- 7 (8) Construction and Demolition Landfill accepting less than ~~100,000~~25,000
8 tons/year of solid waste, ~~Amendment~~Major Modification – \$9,000.
- 9 ~~(9) Construction and Demolition Landfill accepting less than 100,000 tons/year~~
10 ~~of solid waste, Modification – \$1,500.~~
- 11 (10) Construction and Demolition Landfill accepting ~~100,000~~25,000 tons/year or
12 more of solid waste, New Permit – \$30,000.
- 13 (11) Construction and Demolition Landfill accepting ~~100,000~~25,000 tons/year or
14 more of solid waste, ~~Amendment~~Major Modification – \$18,500.
- 15 ~~(12) Construction and Demolition Landfill accepting 100,000 tons/year or more~~
16 ~~of solid waste, Modification – \$2,500.~~
- 17 (13) Industrial Landfill accepting less than 100,000 tons/year of solid waste, New
18 Permit – \$15,000.
- 19 (14) Industrial Landfill accepting less than 100,000 tons/year of solid waste,
20 ~~Amendment~~Major Modification – \$9,000.
- 21 ~~(15) Industrial Landfill accepting less than 100,000 tons/year of solid waste,~~
22 ~~Modification – \$1,500.~~
- 23 (16) Industrial Landfill accepting 100,000 tons/year or more of solid waste, New
24 Permit – \$30,000.
- 25 (17) Industrial Landfill accepting 100,000 tons/year or more of solid waste,
26 ~~Amendment~~Major Modification – \$18,500.
- 27 ~~(18) Industrial Landfill accepting 100,000 tons/year or more of solid waste,~~
28 ~~Modification – \$2,500.~~
- 29 (19) Tire Monofill, New Permit – ~~\$1,750~~\$15,000.
- 30 (20) Tire Monofill, ~~Amendment~~– \$1,250. Major Modification – \$9,000.
- 31 ~~(21) Tire Monofill, Modification – \$500.~~
- 32 (22) Treatment and Processing, New Permit – \$1,750.
- 33 (23) Treatment and Processing, Amendment – \$1,250.
- 34 (24) Treatment and Processing, Modification – \$500.
- 35 (25) ~~Transfer Station, Station~~ accepting less than 25,000 tons/year of solid waste,
36 New Permit – ~~\$5,000~~\$2,500.
- 37 (25a) Transfer Station accepting less than 25,000 tons/year of solid waste, Major
38 Modification – \$1,500.
- 39 (25b) Transfer Station accepting 25,000 tons/year or more of solid waste, New
40 Permit – \$5,000.
- 41 (25c) Transfer Station accepting 25,000 tons/year or more of solid waste, Major
42 Modification – \$3,000.
- 43 ~~(26) Transfer Station, Amendment – \$3,000.~~
- 44 ~~(27) Transfer Station, Modification – \$500.~~
- 45 (28) Incinerator, New Permit – \$1,750.
- 46 (29) Incinerator, Amendment – \$1,250.
- 47 (30) Incinerator, Modification – \$500.
- 48 (31) Large Compost Facility, New Permit – \$1,750.
- 49 (32) Large Compost Facility, Amendment – \$1,250.
- 50 (33) Large Compost Facility, Modification – \$500.
- 51 (34) Land Clearing and Inert, New Permit – \$1,000.

1 (35) Land Clearing and Inert, Amendment – \$500.

2 (36) Land Clearing and Inert, Modification – \$250.

3 (37) Municipal Solid Waste Landfill, Ownership Modification – \$5,000.

4 (38) Construction and Demolition Waste Landfill, Ownership Modification –
5 \$3,000.

6 (39) Industrial Landfill, Ownership Modification – \$2,000.

7 (40) Tire Monofill, Ownership Modification – \$2,000.

8 (41) Transfer Station, Ownership Modification – \$1,000.

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

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

26 (1) Municipal Solid Waste Landfill—~~\$3,500.~~ accepting less than 100,000
27 tons/year of solid waste – \$7,500.

28 (1a) Municipal Solid Waste Landfill accepting 100,000 tons/year or more but less
29 than 250,000 tons/year of solid waste – \$12,000.

30 (1b) Municipal Solid Waste Landfill accepting 250,000 tons/year or more of solid
31 waste – \$15,000.

32 (2) Post-Closure Municipal Solid Waste Landfill – \$1,000.

33 (3) Construction and Demolition Landfill—~~\$2,750.~~ accepting less than 25,000
34 tons/year of solid waste – \$5,500.

35 (3a) Construction and Demolition Landfill accepting 25,000 tons/year or more of
36 solid waste – \$8,500.

37 (4) Post-Closure Construction and Demolition Landfill – \$500.

38 (5) Industrial Landfill—~~\$2,750.~~ Landfill accepting less than 100,000 tons/year
39 of solid waste – \$5,500.

40 (5a) Industrial Landfill accepting 100,000 tons/year or more of solid waste –
41 \$10,000.

42 (6) Post-Closure Industrial Landfill – \$500.

43 (7) Transfer Station accepting less than 25,000 tons/year of solid waste – \$750.

44 (7a) Transfer Station accepting 25,000 tons/year or more of solid waste – \$1,500.

45 (8) Treatment and Processing Facility – \$500.

46 (9) Tire Monofill—~~\$500.~~ \$5,500.

47 (10) Incinerator – \$500.

48 (11) Large Compost Facility – \$500.

49 (12) Land Clearing and Inert Debris Landfill – \$500.

50"

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

1 **"§ 130A-295.3. Environmental compliance review requirements for applicants and**
2 **permit holders.**

3 ...

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

21"

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

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

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

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

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

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

39 **"§ 130A-294. Solid waste management program.**

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

43 ...

- 44 (4) a. Develop a permit system governing the establishment and operation
45 of solid waste management facilities. A landfill with a disposal area
46 of 1/2 acre or less for the on-site disposal of land clearing and inert
47 debris is exempt from the permit requirement of this section and shall
48 be governed by G.S. 130A-301.1. Demolition debris from the
49 decommissioning of manufacturing buildings, including electric
50 generating stations, that is disposed of on the same site as the
51 decommissioned buildings, is exempt from the permit requirement of

1 this section and rules adopted pursuant to this section and shall be
2 governed by G.S. 130A-301.3. The Department shall not approve an
3 application for a new permit, major modification, ~~the renewal of a~~
4 ~~permit~~, or a substantial amendment to a permit for a sanitary landfill,
5 excluding demolition landfills as defined in the rules of the
6 Commission, except as provided in subdivisions (3) and (4) of
7 subsection (b1) of this section. No permit shall be granted for a solid
8 waste management facility having discharges that are point sources
9 until the Department has referred the complete plans and
10 specifications to the Environmental Management Commission and
11 has received advice in writing that the plans and specifications are
12 approved in accordance with the provisions of G.S. 143-215.1. If the
13 applicant is a unit of local government, and has not submitted a solid
14 waste management plan that has been approved by the Department
15 pursuant to G.S. 130A-309.09A(b), the Department may deny a
16 permit for a sanitary landfill or a facility that disposes of solid waste
17 incineration, unless the Commission has not adopted rules pursuant
18 to G.S. 130A-309.29 for local solid waste management plans. In any
19 case where the Department denies a permit for a solid waste
20 management facility, it shall state in writing the reason for denial and
21 shall also state its estimate of the changes in the applicant's proposed
22 activities or plans that will be required for the applicant to obtain a
23 permit.

24 b. Repealed by Session Laws 2007-550, s. 1(a), effective August 1,
25 2007.

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

- 28 1. Construction or operation of the proposed facility would ~~be~~
29 ~~inconsistent with or violate~~ this Article or rules adopted by
30 ~~the Commission.~~ Commission pursuant to this Article.
- 31 2. Construction or operation of the proposed facility would
32 result in a violation of water quality standards adopted by the
33 Environmental Management Commission pursuant to
34 G.S. 143-214.1 for waters, as defined in G.S. 143-213.
- 35 3. ~~Construction or operation of the facility would result in~~
36 ~~significant damage to ecological systems, natural resources,~~
37 ~~cultural sites, recreation areas, or historic sites of more than~~
38 ~~local significance. These areas include, but are not limited to,~~
39 ~~national or State parks or forests; wilderness areas; historic~~
40 ~~sites; recreation areas; segments of the natural and scenic~~
41 ~~rivers system; wildlife refuges, preserves, and management~~
42 ~~areas; areas that provide habitat for threatened or endangered~~
43 ~~species; primary nursery areas and critical fisheries habitat~~
44 ~~designated by the Marine Fisheries Commission; and~~
45 ~~Outstanding Resource Waters designated by the~~
46 ~~Environmental Management Commission.~~
- 47 4. Construction or operation of the proposed facility would
48 substantially limit ~~or threaten~~ access to ~~or use of~~ public trust
49 waters or public lands.
- 50 5. The proposed facility would be located in a ~~natural hazard~~
51 ~~area, including a floodplain, a landslide hazard area, or an~~

- 1 area subject to storm surge or excessive seismic activity, such
- 2 that the facility will present a significant risk to public health
- 3 or safety.
- 4 6. ~~There is a practical alternative that would accomplish the~~
- 5 ~~purposes of the proposed facility with less adverse impact on~~
- 6 ~~public resources, considering engineering requirements and~~
- 7 ~~economic costs.~~
- 8 7. ~~The cumulative impacts of the proposed facility and other~~
- 9 ~~facilities in the area of the proposed facility would violate the~~
- 10 ~~criteria set forth in sub-sub-subdivisions 2. through 5. of this~~
- 11 ~~sub-subdivision.~~
- 12 8. Construction or operation of the proposed facility would be
- 13 ~~inconsistent with~~ violate the State solid waste management
- 14 policy and goals as set out in G.S. 130A-309.04 and with the
- 15 State solid waste management plan developed as provided in
- 16 G.S. 130A-309.07.
- 17 9. The cumulative impact of the proposed facility, when
- 18 considered in relation to other similar impacts of facilities
- 19 located or proposed in the community, would have a
- 20 disproportionate adverse impact on a minority or low-income
- 21 community protected by Title VI of the federal Civil Rights
- 22 Act of 1964. This subdivision shall apply only to the extent
- 23 required by federal law.
- 24 10. Construction or operation of the proposed facility would
- 25 encroach upon or would otherwise have a significant adverse
- 26 impact on the mission, training, or operations of any military
- 27 installation or branch of the military. For purposes of this
- 28 section, "military installation" means a base, camp, post,
- 29 station, yard, center, or other activity under the jurisdiction of
- 30 the Secretary of a military department, including the United
- 31 States Coast Guard. In its evaluation, the Department may
- 32 consider whether the proposed facility would cause
- 33 interference with air navigation routes, air traffic control
- 34 areas, military training routes, or radar based on information
- 35 received from the Department of Defense or the Department
- 36 of Homeland Security on behalf of the United States Coast
- 37 Guard.

...

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

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

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

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

43 the approval of the Department.

...

- 45 (b1) (1) For purposes of this subsection and subdivision (4) of subsection (a) of this
- 46 section, a "substantial amendment" means either:
- 47 a. An increase of ten percent (10%) or more in:
- 48 1. The population of the geographic area to be served by the
- 49 sanitary landfill;
- 50 2. The quantity of solid waste to be disposed of in the sanitary
- 51 landfill; or

1 landfill is consistent with a zoning, subdivision, or land-use planning
2 ordinance, an ordinance or zoning classification applicable to the real
3 property designated in the permit application shall have been in effect not
4 less than 90 days prior to the date the request for a determination of
5 consistency is delivered to the clerk of the local government. The
6 determination shall be verified or supported by affidavit signed by the chief
7 administrative officer, the chief administrative officer's designee, clerk, or
8 other official designated by the local government to make the determination
9 and, if the local government states that the sanitary landfill as it would be
10 operated under the new, majorly modified, ~~renewed~~, or substantially
11 amended permit is inconsistent with a franchise, zoning, subdivision, or
12 land-use planning ordinance, shall include a copy of the ordinance and the
13 specific reasons for the determination of inconsistency. A copy of the
14 determination shall be provided to the applicant when the determination is
15 submitted to the Department. The Department shall not act upon an
16 application for a permit under this section until it has received a
17 determination from each local government requested to make a
18 determination by the applicant; provided that if a local government fails to
19 submit a determination to the Department as provided by this subsection
20 within 15 days after receipt of the request, the Department shall proceed to
21 consider the permit application without regard to a franchise, local zoning,
22 subdivision, and land-use planning ordinances. Unless the local government
23 makes a subsequent determination of consistency with all ordinances cited in
24 the determination or the sanitary landfill as it would be operated under the
25 ~~new, renewed, new~~ or substantially amended permit is determined by a court
26 of competent jurisdiction to be consistent with the cited ordinances, the
27 Department shall attach as a condition of the permit a requirement that the
28 applicant, prior to construction or operation of the sanitary landfill under the
29 permit, comply with all lawfully adopted local ordinances cited in the
30 determination that apply to the sanitary landfill. This subsection shall not be
31 construed to affect the validity of any lawfully adopted franchise, local
32 zoning, subdivision, or land-use planning ordinance or to affect the
33 responsibility of any person to comply with any lawfully adopted franchise,
34 local zoning, subdivision, or land-use planning ordinance. This subsection
35 shall not be construed to limit any opportunity a local government may have
36 to comment on a permit application under any other law or rule. This
37 subsection shall not apply to any facility with respect to which local
38 ordinances are subject to review under either G.S. 104E-6.2 or
39 G.S. 130A-293.

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

46 ...

47 (b4) Within 10 days of receiving an application for a permit or for a substantial
48 amendment to an existing permit for a sanitary landfill or transfer station, the Department shall
49 notify a designated point of contact for the Department of Defense and a designated point of
50 contact for the Department of Homeland Security on behalf of the United States Coast Guard,
51 that the application has been filed, and shall forward a copy of the application to the designated

1 points of contact. At that time, the Department shall request that the Department of Defense
2 and the Department of Homeland Security on behalf of the United States Coast Guard inform
3 the Department, in writing within 45 days of issuance of the Department's request, as to
4 whether the proposed facility would encroach upon or would otherwise have a significant
5 adverse impact on the mission, training, or operations of any military installation or branch of
6 the military, including whether the proposed facility would cause interference with air
7 navigation routes, air traffic control areas, military training routes, or radar. If the Department
8 does not receive information indicating a significant adverse impact from the designated points
9 of contact within 45 days of issuance of the Department's request for same, the Department
10 shall deem the proposed facility to have no significant adverse impact.

11"

12
13 **PART III. MODIFICATIONS TO CERTAIN REQUIREMENTS GOVERNING**
14 **SANITARY LANDFILLS INCLUDING APPLICABLE BUFFERS, CLEANING AND**
15 **INSPECTION OF LEACHATE COLLECTION LINES, ALTERNATIVE DAILY**
16 **COVER, AND REQUIRED STUDIES FOR CERTAIN LANDFILL OWNERS AND**
17 **OPERATORS**

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

19 **"§ 130A-295.6. Additional requirements for sanitary landfills.**

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

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

37 (1) The proposed sanitary landfill or expansion of the sanitary landfill will serve
38 a critical need in the community.

39 (2) There is no feasible alternative location that would allow siting or expansion
40 of the sanitary landfill with 200-foot buffers.

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

42 (1) A 100-year floodplain, as shown on the current floodplain maps prepared
43 pursuant to the National Flood Insurance Program, ~~floodplain or land~~
44 removed from a 100-year floodplain designation pursuant to 44 Code of
45 Federal Regulations Part 72 (1 October 2006 Edition) as a result of
46 man-made alterations within the floodplain such as the placement of fill,
47 except as authorized by variance granted under G.S. 143-215.54A(b).This
48 subdivision does not apply to land removed from a 100-year floodplain
49 designation (i) as a result of floodplain map corrections or updates not
50 resulting from man made alterations of the affected areas within the

floodplain, or (ii) pursuant to ~~44 Code of Federal Regulations Part 70 (1 October 2006 Edition)~~ by a letter of map amendment.

- (2) A wetland, unless the applicant or permit holder can show all of the following, as to the waste disposal unit:
 - a. Where applicable under section 404 of the federal Clean Water Act or applicable State wetlands laws, the presumption that a practicable alternative to the proposed waste disposal unit is available which does not involve wetlands is clearly rebutted;
 - b. Construction of the waste disposal unit will not do any of the following:
 - 1. Cause or contribute to violations of any applicable State water quality standard.
 - 2. Violate any applicable toxic effluent standard or prohibition under section 307 of the federal Clean Water Act.
 - 3. Jeopardize the continued existence of endangered or threatened species or result in the destruction or adverse modification of a critical habitat, protected under the federal Endangered Species Act of 1973.
 - 4. Violate any requirement under the federal Marine Protection, Research, and Sanctuaries Act of 1972.
 - c. Construction of the waste disposal unit will not cause or contribute to significant degradation of wetlands.
 - d. To the extent required under section 404 of the federal Clean Water Act or applicable State wetlands laws, any unavoidable wetlands impacts will be mitigated.

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

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

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

- (1) A geomembrane base liner system shall be tested for leaks and damage by methods approved by the Department that ensure that the entire liner is evaluated.
- (2) A leachate collection system shall be designed to return the head of the liner to 30 centimeters or less within 72 hours. The design shall be based on the precipitation that would fall on an empty cell of the sanitary landfill as a

1 result of a 25-year-24-hour storm event. The leachate collection system shall
2 maintain a head of less than 30 centimeters at all times during leachate
3 recirculation. The Department may require the operator to monitor the head
4 of the liner to demonstrate that the head is being maintained in accordance
5 with this subdivision and any applicable rules.

- 6 (3) All leachate collection lines shall be designed and constructed to
7 permanently allow cleaning and remote camera inspection. Remote camera
8 inspections of the leachate collection lines shall occur upon completion of
9 the construction and at least once every five years. Cleaning of leachate
10 collection lines found necessary for proper functioning and to address
11 buildup of leachate over the liner shall occur. ~~All leachate collection lines~~
12 ~~shall be cleaned at least once a year, except that the Department may allow~~
13 ~~leachate collection lines to be cleaned once every two years if: (i) the facility~~
14 ~~has continuous flow monitoring; and (ii) the permit holder demonstrates to~~
15 ~~the Department that the leachate collection lines are clear and functional~~
16 ~~based on at least three consecutive annual cleanings. Remote camera~~
17 ~~inspections of the leachate collection lines shall occur upon completion of~~
18 ~~construction, at least once every five years thereafter, and following the~~
19 ~~clearing of blockages.~~

- 20 (4) Any pipes used to transmit leachate shall provide dual containment outside
21 of the disposal unit. The bottom liner of a sanitary landfill shall be
22 constructed without pipe penetrations.

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

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

- 29 (1) The owner or operator of any sanitary landfill permitted to receive more than
30 240,000 tons of waste per year shall research the development of alternative
31 disposal technologies. In addition, the owner or operator shall allow access
32 to nonproprietary information and provide site resources for individual
33 research and development projects related to alternative disposal techniques
34 for the purpose of studies that may be conducted by local community or
35 State colleges and universities or other third-party developers or consultants.
36 The owner or operator shall report on research and development activities
37 conducted pursuant to this subdivision, and any results of these activities, to
38 the Department annually on or before July 1.

- 39 (2) The owner or operator of any sanitary landfill permitted to receive more than
40 240,000 tons of waste per year shall perform a feasibility study of landfill
41 gas-to-energy, or other waste-to-energy technology, to determine
42 opportunities for production of renewable energy from landfills in order to
43 promote economic development and job creation in the State. The owner or
44 operator shall initiate the study when sufficient waste is in place at the
45 landfill to produce gas, as determined by the United States Environmental
46 Protection Agency's Landfill Gas Emissions Model (LandGEM), and may
47 consult and coordinate with other entities to facilitate conduct of the study,
48 including local and State government agencies, economic development
49 organizations, consultants, and third-party developers. The study shall
50 specifically examine opportunities for returning a portion of the benefits
51 derived from energy produced from the landfill to the jurisdiction within

1 which the landfill is located in the form of direct supply of energy to the
2 local government and its citizens, or through revenue sharing with the local
3 government from sale of the energy, with revenues owing to the local
4 government credited to a fund specifically designated for economic
5 development within the jurisdiction. The owner or operator shall report on
6 its activities associated with the study, and any results of the study, to the
7 Department annually on or before July 1.

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

9 (1) A capacity of more than 55 million cubic yards of waste.

10 (2) A disposal area of more than 350 acres.

11 (3) A maximum height, including the cap and cover vegetation, of more than
12 250 feet above the mean natural elevation of the disposal area.

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

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

16 **SECTION 3.(c)** This section becomes effective July 1, 2014, except that (i) the
17 repeal of G.S. 130A-295.6(d)(2), as enacted by Section 3(a) of this act, applies retroactively to
18 applications for permits submitted on or after January 1, 2013; (ii) G.S. 130A-295.6(h2), as
19 enacted by Section 3(a) of this act, applies to new landfills for which a permit is issued on or
20 after July 1, 2014; and (iii) to the extent that G.S. 130A-295.6, as amended by Section 3(a) of
21 this act, imposes requirements that are more stringent than those in effect prior to August 1,
22 2007, the more stringent requirements do not apply to:

23 (1) An amendment, modification, or other change to a permit for a landfill
24 issued on or before June 1, 2006.

25 (2) A permit for a horizontal or vertical expansion of the landfill permitted on or
26 before June 1, 2006.

27 (3) A permit to construct a new landfill within the facility boundary identified in
28 the facility plan of a landfill permitted on or before June 1, 2006.

29 (4) A permit to operate a new landfill if a permit to construct the new landfill
30 was issued on or before June 1, 2006.

31 (5) A permit for a sanitary landfill used only to dispose of waste generated by a
32 coal-fired generating unit that is owned or operated by an investor-owned
33 utility subject to the requirements of G.S. 143-215.107D.

34 (6) A permit for a sanitary landfill determined to be necessary by the Secretary
35 of Environment and Natural Resources in order to respond to an imminent
36 hazard to public health or a natural disaster.
37

38 **PART IV. MODIFICATIONS TO REQUIREMENTS FOR FINANCIAL**
39 **RESPONSIBILITY APPLICABLE TO APPLICANTS AND PERMIT HOLDERS FOR**
40 **SOLID WASTE MANAGEMENT FACILITIES**

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

42 **"§ 130A-295.2. Financial responsibility requirements for applicants and permit holders**
43 **for solid waste management facilities.**

44 ...

45 (h) To meet the financial assurance requirements of this section, the owner or operator
46 of a sanitary landfill shall establish financial assurance sufficient to cover ~~the a minimum of~~
47 ~~two million dollars (\$2,000,000) in costs for of~~ potential assessment and corrective action at the
48 facility. The Department may require financial assurance in a higher amount and may increase
49 the amount of financial assurance required of a permit holder at any time based upon the types
50 of waste disposed in the landfill, the projected amount of waste to be disposed in the landfill,
51 the location of the landfill, potential receptors of releases from the landfill, and inflation. The

1 financial assurance requirements of this subsection are in addition to the other financial
2 responsibility requirements set out in this section.

3 ...

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

- 9 (1) The trustee shall be an entity which has the authority to act as a trustee and
10 whose trust operations are regulated and examined by a State or federal
11 agency.
- 12 (2) A copy of the trust agreement shall be placed in the facility's operating
13 record.
- 14 (3) Payments into the trust fund shall be made annually by the owner or operator
15 over a period not to exceed five years. This period is referred to as the pay-in
16 period.
- 17 (4) Payments into the fund shall be made in equal annual installments in
18 amounts calculated by dividing the current cost estimate for potential
19 assessment and corrective action at the ~~facility~~ facility, ~~which shall not be~~
20 ~~less than two million dollars (\$2,000,000) in accordance with subsection (h)~~
21 ~~of this section,~~ by the number of years in the pay-in period.
- 22 (5) The trust fund may be terminated by the owner or operator only if the owner
23 or operator establishes financial assurance by another method or
24 combination of methods allowed under subsection (f) of this section.
- 25 (6) The trust agreement shall be accompanied by a formal certification of
26 acknowledgement."

27
28
29 **PART V. AMEND THE RULE GOVERNING COLLECTION AND TRANSPORT OF**
30 **SOLID WASTE TO REQUIRE THAT CONTAINERS BE "LEAK-RESISTANT"**
31 **RATHER THAN "LEAK-PROOF," AND AMEND A STATUTE THAT REQUIRES**
32 **VEHICLES TO BE CONSTRUCTED AND LOADED TO PREVENT LEAKAGE**

33 **SECTION 5.(a)** Definitions. – "Collection and Transport Rule" means 15A NCAC
34 13B .0105 (Collection and Transportation of Solid Waste) for purposes of this section and its
35 implementation.

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

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

46 **SECTION 5.(d)** Additional Rule-Making Authority. – The Commission shall
47 adopt a rule to replace the Collection and Transport Rule. Notwithstanding G.S. 150B-19(4),
48 the rule adopted by the Commission pursuant to this section shall be substantively identical to
49 the provisions of Section 5(c) of this act. Rules adopted pursuant to this section are not subject
50 to G.S. 150B-21.9 through G.S. 150B-21.14. The rule adopted pursuant to this section shall

1 become effective, as provided in G.S. 150B-21.3(b1), as though 10 or more written objections
2 had been received, as provided by G.S. 150B-21.3(b2).

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

6 **SECTION 5.(f)** G.S. 20-116(g)(1) reads as rewritten:
7 "**§ 20-116. Size of vehicles and loads.**

8 ...
9 (g) (1) No vehicle shall be driven or moved on any highway unless the vehicle is
10 constructed and loaded to prevent any of its load from falling, blowing,
11 dropping, sifting, leaking, or otherwise escaping therefrom, and the vehicle
12 shall not contain any holes, cracks, or openings through which any of its
13 load may escape. However, sand may be dropped for the purpose of securing
14 traction, or water or other substance may be sprinkled, dumped, or spread on
15 a roadway in cleaning or maintaining the roadway. For purposes of this
16 subsection, ~~load~~ the terms "load" and "leaking" ~~does do~~ not include water
17 accumulated from precipitation."
18

19 **PART VI. AMEND THE DEFINITION OF "LEACHATE" TO EXCLUDE LIQUID**
20 **ADHERING TO TIRES OF VEHICLES LEAVING SANITARY LANDFILLS AND**
21 **TRANSFER STATIONS**

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

23 "(16a) "Leachate" means a liquid that has passed through or emerged from solid
24 waste and contains soluble, suspended, or miscible materials removed from
25 such waste. The term "leachate" does not include liquid adhering to tires of
26 vehicles leaving a sanitary landfill and transfer stations."
27

28 **PART VII. AUTHORIZE CITIES AND COUNTIES THAT ACCEPT SOLID WASTE**
29 **FROM OTHER LOCAL GOVERNMENTS TO LEVY A SURCHARGE ON FEES FOR**
30 **USE OF THEIR DISPOSAL FACILITIES, AND TO MAKE APPROPRIATIONS**
31 **FROM A UTILITY OR PUBLIC SERVICE ENTERPRISE FUND USED FOR**
32 **OPERATION OF A LANDFILL TO THE JURISDICTION'S GENERAL FUND UPON**
33 **CERTAIN FINDINGS**

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

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

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

48 The board of county commissioners may impose a fee for the availability of a disposal
49 facility provided by the county. A fee for availability may not exceed the cost of providing the
50 facility and may be imposed on all improved property in the county that benefits from the
51 availability of the facility. A county may not impose an availability fee on property whose solid

1 waste is collected by a county, a city, or a private contractor for a fee if the fee imposed by a
2 county, a city, or a private contractor for the collection of solid waste includes a charge for the
3 availability and use of a disposal facility provided by the county. Property served by a private
4 contractor who disposes of solid waste collected from the property in a disposal facility
5 provided by a private contractor that provides the same services as those provided by the
6 county disposal facility is not considered to benefit from a disposal facility provided by the
7 county and is not subject to a fee imposed by the county for the availability of a disposal
8 facility provided by the county. To the extent that the services provided by the county disposal
9 facility differ from the services provided by the disposal facility provided by a private
10 contractor in the same county, the county may charge an availability fee to cover the costs of
11 the additional services provided by the county disposal facility.

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

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

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

21 ...

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

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

33 "**§ 160A-314.1. Availability fees for solid waste disposal facilities; collection of any solid**
34 **waste fees.**

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

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

45 (a1) In addition to a fee that a city may impose for collecting solid waste or for using a
46 disposal facility, a city may impose a fee for the availability of a disposal facility provided by
47 the city. A fee for availability may not exceed the cost of providing the facility and may be
48 imposed on all improved property in the city that benefits from the availability of the facility. A
49 city may not impose an availability fee on property whose solid waste is collected by a county,
50 a city, or a private contractor for a fee if the fee imposed by a county, a city, or a private
51 contractor for the collection of solid waste includes a charge for the availability and use of a

1 disposal facility provided by the city. Property served by a private contractor who disposes of
2 solid waste collected from the property in a disposal facility provided by a private contractor
3 that provides the same services as those provided by the city disposal facility is not considered
4 to benefit from a disposal facility provided by the city and is not subject to a fee imposed by the
5 city for the availability of a disposal facility provided by the city. To the extent that the services
6 provided by the city disposal facility differ from the services provided by the disposal facility
7 provided by a private contractor in the same city, the city may charge an availability fee to
8 cover the costs of the additional services provided by the city disposal facility.

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

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

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

21 "**§ 160A-314. Authority to fix and enforce rates.**

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

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

32 "(2b) A local government may elect to include as part of a franchise agreement a
33 surcharge on waste disposed of in its jurisdiction by other local governments
34 located within the State."

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

37 38 **PART VIII. RETURN OF REIMBURSEMENTS/S.L. 2007-543**

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

47 48 **PART IX. SEVERABILITY AND EFFECTIVE DATE**

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

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