

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

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HOUSE BILL 1093*
Senate Agriculture/Environment/Natural Resources Committee Substitute
Adopted 7/12/06

Short Title: Moratorium Imposed on New Landfills. (Public)

Sponsors:

Referred to:

April 4, 2005

A BILL TO BE ENTITLED

1
2 AN ACT TO IMPOSE A MORATORIUM ON THE CONSIDERATION OF PERMIT
3 APPLICATIONS AND ISSUANCE OF PERMITS FOR THE CONSTRUCTION
4 OF NEW LANDFILLS IN THE STATE AND TO DIRECT THE
5 ENVIRONMENTAL REVIEW COMMISSION TO STUDY ISSUES RELATED
6 TO SOLID WASTE DISPOSAL IN ORDER TO PROTECT PUBLIC HEALTH
7 AND THE ENVIRONMENT.

8 Whereas, North Carolina has experienced severe problems from widespread
9 flooding during the past five years; and

10 Whereas, large areas of the State have also experienced severe drought
11 conditions during the past five years; and

12 Whereas, ground water is the source of drinking water for approximately half
13 the population of the State; and

14 Whereas, depletion of certain large ground water aquifers in the State has
15 been documented in recent years; and

16 Whereas, protection and enhancement of water quality in the State's rivers
17 and coastal estuaries is the declared public policy of the State; and

18 Whereas, North Carolina is home to many rare and endangered species of
19 plants and animals; and

20 Whereas, the State has established many parks, natural areas, and wildlife
21 refuges to protect habitats for migrating birds and other species; and

22 Whereas, many fragile ecosystems exist in the State which are in need of
23 further study and protection; and

24 Whereas, the State recognizes that ecosystems transcend state borders, and
25 that changes affecting the State's water, air, natural habitats, and scenic resources also
26 have impacts outside the State; and

27 Whereas, it is the policy of the State to insure the continued public enjoyment
28 of the natural attractions of the State; and

1 Whereas, improperly sited, designed, or operated landfills have the potential
2 to cause serious environmental damage, including groundwater contamination; and

3 Whereas, it is essential that the State study the siting, design, and operational
4 requirements for landfills for the disposal of solid waste in areas susceptible to flooding
5 from natural disasters, areas with high water tables, and other environmentally sensitive
6 areas in order to protect public health and the environment; and

7 Whereas, it is critical to the protection of public health and the environment
8 to adequately staff the State solid waste program to review permit applications, ensure
9 compliance with State solid waste management laws and rules, and provide technical
10 assistance on solid waste management issues; and

11 Whereas, it is the policy of the State to promote methods of solid waste
12 management that are alternatives to disposal in landfills; Now, therefore,
13 The General Assembly of North Carolina enacts:

14 **SECTION 1.** Definitions. – The definitions set forth in G.S. 130A-290 apply
15 throughout this act.

16 **SECTION 2.** Moratorium Established. – There is hereby established a
17 moratorium on consideration of applications for a permit and on the issuance of permits
18 for new landfills in the State. The purposes of this moratorium are to allow the State to
19 study solid waste disposal issues in order to protect public health and the environment.
20 The Department of Environment and Natural Resources shall not consider a permit
21 application nor issue a permit for a new landfill for the disposal of construction or
22 demolition waste, municipal solid waste, or industrial solid waste for a period beginning
23 on 1 July 2006 and ending on 1 January 2008.

24 **SECTION 3.** Exceptions. – The moratorium established by Section 2 of this
25 act shall not prohibit consideration of an application for or issuance of:

- 26 (1) An amendment, modification, or other change to a permit for a landfill
27 issued on or before 1 June 2006.
- 28 (2) A permit for a horizontal or vertical expansion of the landfill permitted
29 on or before 1 June 2006.
- 30 (3) A permit to construct a new landfill within the facility boundary
31 identified in the facility plan of a landfill permitted on or before 1 June
32 2006.
- 33 (4) A permit to operate a new landfill if a permit to construct the new
34 landfill was issued on or before 1 June 2006.
- 35 (5) A permit for a sanitary landfill used only to dispose of waste generated
36 by a coal-fired generating unit that is owned or operated by an
37 investor-owned utility subject to the requirements of
38 G.S. 143-215.107D.
- 39 (6) A permit for a sanitary landfill determined to be necessary by the
40 Secretary of Environment and Natural Resources in order to respond to
41 an imminent hazard to public health or a natural disaster.

42 **SECTION 4.** Study. – The Environmental Review Commission, with the
43 assistance of the Division of Waste Management of the Department of Environment and

1 Natural Resources, shall study issues related to solid waste. The Commission shall
2 specifically study measures concerning:

- 3 (1) Financial responsibility requirements for solid waste landfills,
4 including the application of requirements to limited liability companies
5 and other business entity structures of applicants seeking solid waste
6 landfill permits.
- 7 (2) Application of franchise requirements and local government approval
8 for solid waste landfill permits, including adequacy of public notice
9 and comment, community studies, and site designations prior to local
10 government approval.
- 11 (3) Siting, design, and operational requirements for landfills for the
12 disposal of construction or demolition waste, municipal solid waste, or
13 industrial solid waste that are proposed in areas susceptible to flooding
14 from natural disasters, areas with high water tables, and other
15 environmentally sensitive areas.
- 16 (4) Traffic considerations for proposed landfills.
- 17 (5) Regulatory oversight and staffing for permitting and compliance of
18 solid waste landfills, and inspection of waste containers on barges,
19 railways, and trucks.
- 20 (6) Compliance with statutory prohibitions on disposal of certain types of
21 solid waste and measures to prevent disposal of hazardous waste in
22 solid waste and construction and demolition landfills.
- 23 (7) Ways to reduce the amount of solid waste disposed of within North
24 Carolina landfills, including statewide tipping fees, bans on the
25 disposal of certain types of waste in landfills, more aggressive
26 recycling requirements, and enhanced regulatory requirements for
27 landfills and other solid waste management facilities.

28 **SECTION 5.** Subcommittee. – In order to facilitate the conduct of this
29 study, the Cochairs of the Environmental Review Commission may establish a
30 subcommittee of the Commission. The subcommittee of the Commission may include
31 nonlegislative members who have special knowledge, interest, or expertise in various
32 aspects of solid waste management, appointed in consultation with the President Pro
33 Tempore of the Senate and the Speaker of the House of Representatives.

34 **SECTION 6.** Report. – The Commission shall report its findings, together
35 with any recommended legislation, to the 2007 Regular Session of the General
36 Assembly upon its convening.

37 **SECTION 7.** Effective Date. – This act is effective when it becomes law.