

**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**  
**Third Edition Engrossed 7/13/06**

Short Title: Moratorium Imposed on New Landfills.

(Public)

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Sponsors:

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Referred to:

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April 4, 2005

A BILL TO BE ENTITLED

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

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

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

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

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

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

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

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

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

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

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

1           **SECTION 4.** Study. – The Environmental Review Commission, with the  
2 assistance of the Division of Waste Management of the Department of Environment and  
3 Natural Resources, shall study issues related to solid waste. The Commission shall  
4 specifically study measures concerning:

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

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

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

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