

GENERAL ASSEMBLY OF NORTH CAROLINA
1991 SESSION

CHAPTER 652
HOUSE BILL 86

AN ACT TO AUTHORIZE CITIES AND COUNTIES TO IMPOSE AN AVAILABILITY FEE FOR SOLID WASTE DISPOSAL FACILITIES AND TO BILL AND COLLECT THE FEE IN THE SAME MANNER AS PROPERTY TAXES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 153A-292 reads as rewritten:

"§ 153A-292. County collection and disposal; tax levy. disposal facilities.

(a) The board of county commissioners of any county ~~is hereby empowered to~~ may establish and operate ~~garbage, refuse, and solid waste collection and disposal facilities, or either, facilities in areas outside of incorporated cities and towns where, in its opinion, the need for such facilities exists. the corporate limits of a city.~~ garbage, refuse, and solid waste a disposal facilities; facility provided by the county, the nature of the solid wastes disposed of ~~therein; in a facility,~~ and the method of disposal. ~~Ordinances so adopted may be enforced by any law enforcement officer having jurisdiction, which shall include, but not be limited to, officers of the county sheriff's department, county police department and the State Highway Patrol.—The board may contract with any municipality, city, individual, or privately owned corporation to collect and dispose, or collect or dispose, of garbage, refuse, and solid waste in any such area. to collect and dispose of solid waste in the area. No county shall levy a fee for the disposal of solid waste upon any municipality located in that county or upon any contractor or resident of any such municipality unless such disposal fee is based on a schedule which applies uniformly throughout the county. In the disposal of garbage, refuse, and solid waste, the board may use any vacant land owned by the county, or it may acquire suitable sites for such purpose. The board may make appropriations to carry out the activities herein authorized. The board may impose fees for the use of disposal facilities, and in the event it shall provide for the collection of garbage, refuse, and solid waste, it may charge fees for such collection service sufficient in its opinion to defray the expense of collection.—Counties and municipalities therein are authorized to cities may~~ establish and operate joint collection and disposal ~~facilities, or either of these, upon such terms as the governing bodies may determine. facilities.~~ facilities. ~~Such A joint agreement shall be in writing and executed by the governing body bodies of the participating units of local government.~~

(b) ~~The board of commissioners of each county is hereby authorized to levy taxes for the special purpose of carrying out the authority conferred by this section, in~~

~~addition to the rate of tax allowed by the Constitution for general purposes, and the General Assembly hereby gives its special approval for such tax levies. 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 fee for use may not exceed the cost of operating the facility and may be imposed only on those who use the facility. 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 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.~~

~~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.~~

~~(c) The board of county commissioners may use any suitable vacant land owned by the county, and county for the site of a disposal facility, subject to the permit requirements of Article 9 of Chapter 130A of the General Statutes. If the county does not own suitable vacant land for a disposal facility, it may acquire suitable land by purchase or condemnation suitable land for the disposal sites, and in the event condemnation of said lands is necessary, the procedure used shall be that set forth in Chapter 40A of the North Carolina General Statutes. The board may erect a gate across a highway that leads directly to a disposal facility operated by the county. The gate may be erected at or in close proximity to the boundary of the disposal facility. The county shall pay the cost of erecting and maintaining the gate.~~

~~(d) The board may impose fees for the use of the disposal site, and if the county provides for collection services, it shall charge fees sufficient to defray the expense of collection.~~

~~(e) The board of commissioners of each county is authorized to levy taxes for the special purpose of carrying out the authority conferred by this section, in addition to the rate of tax allowed by the Constitution for general purposes, and the General Assembly~~

hereby gives its special approval for such tax levies. The board of commissioners is authorized to make appropriations from these tax funds, and from nonrevenue funds which may be available. Provided that the county board of commissioners may authorize the erection of a gate across a State or county maintained highway leading directly to a sanitary landfill or garbage disposal site which is operated by the county. The gate may be erected at or in close proximity to the boundary of the landfill or garbage disposal site. The cost of the erection of the gate and its maintenance is to be borne by the county, and the gate shall be closed upon authority of the county commissioners."

Sec. 2. G.S. 153A-293 reads as rewritten:

"§ 153A-293. Collection of fees in certain counties. for solid waste disposal facilities and solid waste collection services.

(a) A county may ~~provide that~~ adopt an ordinance providing that any fee imposed under G.S. 153A-292 may be billed with the ~~ad valorem property~~ taxes, may be payable in the same manner as ~~ad valorem property~~ taxes, and, in the case of nonpayment, may result in the imposition of a lien on the property owner's real property in the same manner as ~~ad valorem taxes.~~ be collected in any manner by which delinquent personal or real property taxes can be collected. If an ordinance states that delinquent fees can be collected in the same manner as delinquent real property taxes, the fees are a lien on the real property described on the bill that includes the fee.

(b) ~~This section applies to Alleghany, Anson, Ashe, Burke, Caswell, Cleveland, Duplin, Gaston, Lee, Lenoir, Montgomery, Polk, Richmond, Robeson, Transylvania, Washington, Watauga, and Wayne Counties only."~~

Sec. 3. G.S. 153A-299.2 reads as rewritten:

"§ 153A-299.2. Solid waste defined.

As used in this ~~Part, Article,~~ the term 'solid waste' shall include but not be limited to trash, debris, garbage, litter, discarded cans or receptacles or any other type of waste or garbage material whatsoever."

Sec. 4. G.S. 160A-314(c) reads as rewritten:

"(c) Except as provided in subsection ~~(d),~~ (d) and G.S. 160A-314.1, rents, rates, fees, charges, and penalties for enterprisory services shall be legal obligations of the person contracting for them, and shall in no case be a lien upon the property or premises served."

Sec. 5. Chapter 160A of the General Statutes is amended by adding a new section to read:

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

(a) In addition to a fee that a city may impose for collecting solid waste or for using a disposal facility, a city may impose a fee for the availability of a disposal facility provided by the city. A fee for availability may not exceed the cost of providing the facility and may be imposed on all improved property in the city that benefits from the availability of the facility. A city 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 city. Property served by a private contractor who disposes of solid waste collected from the property in a disposal facility provided by a private contractor is not considered to benefit from a disposal facility provided by the city and is not subject to a fee imposed by the city for the availability of a disposal facility provided by the city.

In determining the costs of providing and operating a disposal facility, a city may consider solid waste management costs incidental to a city's handling and disposal of solid waste at its disposal facility. 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 city.

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

Sec. 6. Chapters 591, 905, 938, 940, 974, 1007, and 1017 of the 1989 Session Laws are repealed. An ordinance adopted under a local act that is repealed by this act is considered to have been adopted under G.S. 153A-293, as amended by this act.

Sec. 7. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 12th day of July, 1991.

James C. Gardner
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives