# Legislation Details (With Text)

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Int. No. 80

By Council Members McMahon, Comrie, Jackson, Nelson, Quinn, Yassky and Liu; also Council Members Gennaro and Gerson

A Local Law to amend the administrative code of the city of New York, in relation to imposing a moratorium on the authorization of new private solid waste transfer stations and on the expansion of capacity at existing private solid waste transfer stations.

Be it enacted by the Council as follows:

Section one. Legislative Intent and findings. Local Law 40 of 1990 was enacted to address several problems relating to the operation of private solid waste transfer stations, particularly putrescible solid waste transfer stations, and to provide the City with comprehensive enforcement authority against private solid waste transfer stations that are operated in violation of City laws and rules. Prior to the enactment of Local Law 40, the Department of Health maintained jurisdiction over putrescible solid waste transfer stations in accordance with Article 157 of the Health Code, while the Department of Sanitation ("DOS" or the "Department") regulated non-putrescible solid waste transfer stations.

One of Local Law 40's most significant provisions is a requirement that DOS, in consultation with the City's Commissioners of Health and Environmental Protection, establish siting requirements for transfer stations, which for years the Department failed to do. In 1996, the City was sued because of this failure and in March 1997, the New York State Supreme Court held that Local Law 40 requires the Department to promulgate these rules. In December 1997, the New York State Supreme Court, Appellate Division,

unanimously affirmed the lower court opinion.

In 1998, the Department promulgated siting rules and was promptly sued by community-based organizations from different areas of the City which charged that the rules violated the requirements of Local Law 40 and the State Environmental Quality Review Act. In particular, the petitioners argued that the regulations increased clustering in a handful of neighborhoods, primarily those of low income and of color. In late 2001, the Department informed the Court that it recognized deficiencies in the regulations and indicated that it is proceeding with the promulgation of new regulations, which may take more than a year.

Since 1990, the Council has maintained oversight of the operation of private solid waste transfer stations both in the context of hearings on Local Law 40 and hearings relating to the State legislatively mandated closure of the Fresh Kills landfill after January 1, 2002. During the course of these oversight hearings, the Council received testimony indicating the following: (i) certain areas of the City contain a disproportionate number of transfer stations, which is one of the issues that could be addressed by appropriate siting rules; (ii) the Department does not expeditiously complete environmental reviews of applications for permits for new transfer station permits, requests for variances and requests for expanded capacity at existing transfer stations, and authorizes the operation of these transfer stations while such environmental reviews are pending; (iii) a number of solid waste transfer stations have been operating pursuant to consent orders with the Department or other authorizations, rather than pursuant to a permit; (iv) continued problems with respect to odors generated at existing putrescible solid waste transfer stations and the Department's issuance of permits prior to the receipt of complete permit applications; and (iv) there is inadequate enforcement against operators who violate the relevant laws and rules (e.g., permits of operators with a history of violations are renewed, poor coordination of enforcement between the Department and other City agencies and an insufficient number of enforcement personnel).

In November 2000, the Council adopted a resolution approving a significant modification to the City's Comprehensive Solid Waste Management Plan relating to the plan for disposal of the City's residential waste in the wake of the closure of the Fresh Kills Landfill. In doing so, the Council recognized that the problems associated with the handling and disposal of the City's commercial waste stream remain unsolved and, concurrent with the resolution, enacted Local Law 74 of 2000 requiring the Department of Sanitation to study, among other things, the amount and composition of commercial waste and associated reduction, recycling, and disposal practices in order to develop an environmentally and economically sound management plan to be incorporated in a new Comprehensive Solid Waste Management Plan. The commercial waste study was to have been completed within 18 months from registration of the contract, however, neither the Council nor the public have been informed of any progress on the study.

While DOS has made significant improvements in its operations over the last decade, there are still many substantial deficiencies which affect the quality of life in many communities and the environmental and economic health of the City. Therefore, in light of (i) the failure of the Department of Sanitation to promulgate adequate siting rules as mandated by Local Law 40 of 1990



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and the issues raised with respect to its administration and enforcement of existing private solid waste transfer station rules; (ii) the closure of the Fresh Kills landfill; (iii) the legal obligation of the Department to study the City's commercial waste stream; (iv) the Department's commitment to promulgate new siting regulations; and (v) the prospect of a new Comprehensive Solid Waste Management Plan, it is the strongly held view of the Council that no further authorizations to operate new private solid waste transfer stations or to expand existing ones should be approved until December 31, 2003.

It is the Council's belief that this time period will provide sufficient time for the Department to promulgate effective siting rules in accordance with Local Law 40, complete the commercial waste study pursuant to Local Law 74 of 2000, propose the new Solid Waste Management Plan, and provide the Council with sufficient time to consider regulatory changes that may be appropriate and undertake any necessary legislative action.

§2. Notwithstanding the provisions of sections 16-130 and 16-131.1 of the administrative code of the city of New York and any rules promulgated thereto, no permit or other authorization to operate shall be issued during the period from March thirteenth, two thousand two until December thirty-first, two thousand three for a private putrescible solid waste transfer station or non-putrescible solid waste transfer station, as defined in section 16-131 of such code, that was not lawfully operating on March thirteenth, two thousand two, nor may any private putrescible solid waste transfer station or non-putrescible solid waste transfer station that was lawfully operating on March thirteenth, two thousand two be authorized during such period to increase its lawful capacity. No consent order or other authorization to operate a private putrescible solid waste transfer station or a non-putrescible solid waste transfer station that is in effect on March thirteenth, two thousand two may be amended where the effect of such amendment is to extend the period of time by which any person subject to the consent order or other authorization must perform any act or satisfy any obligation required by such consent order or other authorization as of such date.

§3. This local law shall take effect immediately and shall be deemed to have been in full force and effect on March 13, 2002.



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