

GENERAL ASSEMBLY OF NORTH CAROLINA
1983 SESSION

CHAPTER 973
SENATE BILL 734

AN ACT TO CREATE THE NORTH CAROLINA HAZARDOUS WASTE
TREATMENT COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. Article 10 of Chapter 143B of the General Statutes is amended by adding a new Part 12 to read:

"PART 12.

"North Carolina Hazardous Waste Treatment Commission.

"§ 143B-470. **Declaration of findings.**—The General Assembly of North Carolina hereby finds and declares that the safe management of hazardous waste, and particularly the timely establishment of adequate facilities for the disposal and management of hazardous waste, is one of the most urgent problems facing North Carolina. The safe management and disposal of hazardous wastes are essential to continued economic growth and for protection of the public health and safety and the environment. Consequently, cooperation and coordination among the private sector, the general public and State and local agencies to assure the prevention of unnecessary waste and the establishment of a comprehensive and integrated system of adequate treatment and disposal facilities are essential.

The General Assembly of North Carolina finds and declares that prevention, recycling, detoxification and reduction of hazardous wastes should be encouraged and promoted. These are alternatives which ultimately remove such wastes' hazards to human health and the environment. When these alternatives are not technologically or economically feasible, long-term retrievable storage is preferable to other means of disposal until appropriate methods for recycling or detoxification of the stored wastes are found. Hazardous waste shall be treated prior to disposal or long-term storage in North Carolina. Long-term storage or disposal shall be used for the storage or disposal of the residual or ashes of hazardous waste which has been treated so that the toxicity is low enough to present no significant health or safety hazard in the event of leakage from the facility. Hazardous waste that cannot be reduced, stabilized or destroyed to the extent which renders it sufficiently low in toxicity as to present no significant health or safety hazard shall be stored in long-term retrievable storage until such methods are found. Hazardous waste in long-term retrievable storage shall be detoxified as soon as the Commission for Health Services determines, based upon a preponderance of the evidence, that the technology is available at a reasonable cost. Hazardous waste landfill facilities and polychlorinated biphenyl landfill facilities shall be detoxified as soon as economically feasible technology is available and sufficient money is available without

additional appropriation. The General Assembly further finds that hazardous wastes shall be treated and disposed of in the most cost-effective manner while protecting public health and safety and the environment.

"§ 143B-470.1. Declaration of purposes.—It is the purpose of this Part to provide for the siting, construction and operation of comprehensive hazardous waste management facilities to the end that hazardous waste may be treated or disposed of in the most cost-effective manner, while protecting public health and safety and the environment. It is also the purpose of the General Assembly to create a Commission to site, finance, build, lease or operate, or oversee a hazardous waste treatment facility if private enterprise fails to do so within a specified time. It is also the purpose of the General Assembly through powers granted to the Governor's Waste Management Board to place limitations upon the exercise by all units of local government in North Carolina of the power to regulate the management of hazardous waste by means of special local or private acts or resolutions, ordinances, property restrictions, zoning laws, rules and regulations, fire laws, rules and regulations, civil defense laws, rules and regulations, public health laws, rules and regulations, building codes, and otherwise.

"§ 143B-470.2. Definitions.—Unless the context otherwise requires, the following definitions shall apply to this Part:

(1) 'Federal act' means the Resource Conservation and Recovery Act of 1976, P.L. 94-580, as amended; codified in Chapter 82 of Title 42 of the United States Code, as amended.

(2) 'Hazardous waste' means a solid waste, or combination of solid wastes, as solid waste is defined in G.S. 130A-290(18), which because of its quantity, concentration or physical, chemical or infectious characteristics may:

- a. Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or
- b. Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of or otherwise managed.

(3) 'Hazardous waste treatment facility' means a facility which is established, constructed, financed, sited and operated in accordance with this Part for the recovery, recycling, treatment, storage during collection and prior to treatment, short term storage after treatment, collection, processing, volume reduction, source separation, or transportation used exclusively in connection with the facility, of hazardous waste; and which facility includes several of the following equipments and processes: incinerators, rotary kilns, drum handling, washing and crushing facilities, raw waste tank storage, reduction, neutralization, detoxification, wastewater treatment facilities including settling systems, aerobic digesters, anaerobic digesters, clarifiers, neutralization facilities, solidifying facilities, evaporators, reactions to facilitate 'reuse' or recycling, analytical capabilities, and other similar appropriate technologies, activities and processes as may now exist or be developed in the future.

(4) 'Hazardous waste generation' means the act or process of producing hazardous waste.

(5) 'Hazardous waste long-term storage facility' means any facility or any portion of a facility constructed pursuant to the rules adopted under this Part for storage of the residuals of the treatment of hazardous waste, on or in land.

(6) 'Hazardous waste management' means the systematic control of the collection, source separation, storage, transportation, processing, treatment, recovery and disposal of hazardous wastes.

(7) 'Long-term retrievable storage' means storage in closed containers in facilities (either above or below ground) with (i) adequate lights, (ii) impervious cement floors, (iii) strong visible shelves or platforms, (iv) passageways to allow inspection at any time, (v) adequate ventilation if underground or in closed buildings, (vi) protection from the weather, (vii) accessible to monitoring with signs on both individual containers and sections of storage facilities, and (viii) adequate safety and security precautions for facility personnel, inspectors and invited or permitted members of the community.

(8) 'Manifest' means the form used for identifying the quantity, composition, origin, routing and destination of hazardous waste during its transportation from the point of generation to the point of disposal, treatment or storage.

(9) 'Notice' shall include any written notice made in accordance with the provisions of G.S. 1A-1, Rule 4 of the North Carolina Rules of Civil Procedure, or any notice provision under this Article or the federal act.

(10) 'Operated' includes any phase of the planning, application, siting, financing, construction, operating and maintaining of the hazardous waste treatment facility.

(11) 'Person' means an individual, corporation, company, association, partnership, unit of local government, State agency, federal agency, or other legal entity.

(12) 'Recycling' means the process by which recovered resources are transformed into new products so that the original products lose their identity.

(13) 'Reuse' means a process by which resources are reused or rendered usable.

(14) 'Surface impoundment' or 'impoundment' means a facility or part of a facility which is a natural topographic depression, man-made excavation, or diked area formed primarily of earthen materials (although it may be lined with man-made materials), which is designed to hold an accumulation of hazardous waste(s) containing free liquids, and which is not an injection well. Examples of surface impoundments are holding, storage, settling, and aeration pits, ponds and lagoons.

(15) 'Treatment' means any method, technique or process, including neutralization, designed to change the physical, chemical or biological character, form or composition of any solid waste so as to neutralize the waste or to render the waste nonhazardous or less hazardous, safer for transport, amenable for recovery, amenable for storage or reduced in volume. The term includes any activity or processing designed to change the physical form or chemical composition of solid waste to render it nonhazardous.

(16) 'Treatment Commission' means the North Carolina Hazardous Waste Treatment Commission created by this Part.

(17) 'Unit of local government' means a county, city, town or incorporated village.

"§ 143B-470.3. Creation of Commission.—Membership, appointment, terms and vacancies, officers, meetings and quorum, compensation.

The North Carolina Hazardous Waste Treatment Commission is created. It shall be governed by a board composed of nine members herein referred to as the Treatment Commission. Members of the General Assembly shall be ineligible for appointment to membership on the Treatment Commission. The Governor shall appoint three members of the Treatment Commission, and the General Assembly shall appoint six members of the Treatment Commission.

The initial appointments by the Governor shall be made on or after January 31, 1985, one term to expire January 31, 1989, and two terms to expire January 31, 1987. Thereafter, at the expiration of each stipulated term of office all appointments made by the Governor shall be for a term of four years. The members of the Treatment Commission appointed by the Governor shall be selected from the State at large and insofar as practicable shall represent each geographic section of the State and the industrial and environmental interests of the State. Any vacancy occurring in the membership of the Treatment Commission appointed by the Governor shall be filled by the Governor for the unexpired term. The Governor shall have the authority to remove any member appointed by the Governor.

The General Assembly shall appoint three persons to serve terms expiring January 31, 1987. The General Assembly shall appoint three persons to serve terms expiring January 31, 1989. Successors shall serve for four-year terms. Of the three persons whose terms are to expire in 1987, two shall be appointed upon the recommendation of the President of the Senate and one shall be appointed upon the recommendation of the Speaker. Of the three persons whose terms are to expire in 1989, two shall be appointed upon the recommendation of the Speaker and one shall be appointed upon the recommendation of the President of the Senate. Appointments by the General Assembly shall be made in accordance with G.S. 120-121, and vacancies in those appointments shall be filled in accordance with G.S. 120-122. The members of the Treatment Commission appointed by the General Assembly shall be selected from the State at large and insofar as practicable shall represent each geographic section of the State and the industrial and environmental interests of the State. The General Assembly shall have the authority to remove any member appointed by the General Assembly. No member shall serve more than two consecutive four-year terms.

The Governor shall appoint from the members of the Treatment Commission the Chairman and Vice-Chairman of the Treatment Commission. The Secretary of Commerce or his designee shall serve as secretary of the Treatment Commission. The members of the Treatment Commission shall appoint a treasurer of the Treatment Commission. The Department of Commerce shall use funds already appropriated to the Department to implement this Part.

Should any one of the appointing authorities fail to make appointments by March 1, 1985, or in the event that the Chairman and Vice-Chairman of the Commission are not appointed by that date, the Treatment Commission shall proceed to elect officers and begin operation.

The Treatment Commission shall meet once in each 60 days at such regular meeting time as the Treatment Commission by rule may provide and at any place within the State as the Treatment Commission may provide, and shall also meet upon the call of its

chairman or a majority of its members. A majority of its members shall constitute a quorum for the transaction of business. The members of the Treatment Commission shall not be entitled to compensation for their services, but they shall receive per diem and necessary travel and subsistence expense in accordance with G.S. 138-5.

"§ 143B-470.4. Powers and duties of the Treatment Commission.– (a) To carry out the purposes of this Part, the Treatment Commission:

- (1) May exercise the powers of a body corporate, including the power to sue and be sued, to make contracts, and to adopt and use a common seal and to alter the same as may be deemed expedient;
- (2) May make all necessary contracts and arrangements with other authorities of this and other states for any other purposes of the Treatment Commission;
- (3) May rent, lease, buy, own, acquire, mortgage, or otherwise encumber, and dispose of real or personal property;
- (4) Shall establish an office for the transaction of its business at such place or places as, in the opinion of the Treatment Commission, shall be advisable or necessary in carrying out the purposes of this Part;
- (5) May create and operate any divisions it deems necessary or useful;
- (6) May pay all costs of the formation and organization of the Treatment Commission, and incident to its administration and operation, and may pay all other costs necessary in carrying out and accomplishing the purposes of this Part;
- (7) May apply for, accept and expend loans and grants of money from any federal agency or the State or any political subdivision thereof or from any public or private sources available for any of the purposes authorized in this Part, and to give any evidences of indebtedness as may be required. No indebtedness of any kind incurred or created by the Treatment Commission shall constitute an indebtedness of the State or any of its political subdivisions, and no such indebtedness shall involve or be secured by the faith, credit or taxing power of the State or any of its political subdivision. At no time may the total outstanding indebtedness of the Treatment Commission, excluding bond indebtedness, exceed a total of five hundred thousand dollars (\$500,000) without approval of the Governor, after receiving the advice of the Advisory Budget Commission;
- (8) May appoint an Executive Director, who shall report to the Treatment Commission and serve at the pleasure of the Treatment Commission. The Executive Director with the approval of the Treatment Commission shall appoint such management personnel as he deems necessary to serve at his pleasure. They shall report to the Executive Director. The salaries of these personnel shall be fixed by the Governor with the approval of the Advisory Budget Commission. The Executive Director or his designee shall appoint, employ, dismiss and, within the limits of available funding, fix the compensation of such

other employees as he deems necessary to carry out the purposes of this Part. There shall be an executive committee consisting of the chairman of the Treatment Commission and two other members elected annually by the Treatment Commission. The executive committee shall be vested with the authority to do all acts which are authorized by the bylaws of the Treatment Commission. Members of the executive committee shall serve until their successors are elected;

- (9) May act as agent for the United States of America, or any of its agencies, departments, corporations, or instrumentalities, in any matter coming within the purposes or powers of the Treatment Commission;
- (10) May, pursuant to Article 2 of Chapter 150A of the General Statutes, adopt, alter or repeal its own bylaws, rules and regulations governing the manner in which its business may be transacted and in which the power granted to it may be enjoyed, and may provide for the appointment of any committees, and the functions thereof;
- (11) May do anything necessary to accomplish the purposes of this Part.

The property of the Treatment Commission shall not be subject to any taxes or assessments.

(b) If no permit to operate a hazardous waste treatment facility has been issued to a private operator by June 1, 1985, the Treatment Commission shall actively seek communities interested in hosting hazardous waste treatment facilities and private operators of hazardous waste treatment facilities and shall present appropriate sites, as prescribed in G.S. 130A- 294(g), to those operators. If no permit to operate a hazardous waste treatment facility has been issued to a private operator by January 1, 1986, the Treatment Commission shall, on the basis of the criteria and procedures outlined in G.S. 130A-294(g), select appropriate site(s) and begin proceedings to purchase or if necessary condemn property for such site(s) under the State's power of eminent domain. Condemnation shall be upon the same terms and procedures as set forth in Article 9 of Chapter 136 of the General Statutes of North Carolina, except that the Treatment Commission shall have the same rights, duties, and responsibilities as set forth for the North Carolina Department of Transportation. The purposes for which the power of eminent domain is used in this section are to enable a hazardous waste treatment facility to be built which will manage hazardous waste generated by the public or by private industry in making goods for the benefit of the public, and are, therefore, public purposes for these and related purposes. The Treatment Commission shall then actively seek private operators of hazardous waste treatment facilities and shall contract with at least one operator to purchase the site and construct a hazardous waste treatment facility. If no permit to operate a hazardous waste treatment facility has been issued by June 1, 1986, the Treatment Commission shall submit to the General Assembly plans for construction of a facility on one of the sites and shall proceed to begin construction of a facility within one year and shall seek a private operator to operate the facility. If no private operator can be found, the Treatment Commission shall operate the facility.

(c) The Treatment Commission shall submit to the General Assembly by May 1, 1985, a comprehensive plan for the treatment of hazardous waste in North Carolina,

including a plan to provide for a statewide hazardous waste collection system. The Governor's Waste Management Board, the Solid and Hazardous Waste Branch of the Division of Health Services of the Department of Human Resources, and other State agencies and departments shall cooperate with the Treatment Commission in preparation of the plan. If the Treatment Commission, in its report to the General Assembly, indicates that the needs of the State for treatment of hazardous waste are being met, the Treatment Commission shall cease to exist as of October 1, 1985. If not, the Treatment Commission shall report periodically to the General Assembly or, if the General Assembly is not in session, to the Joint Legislative Commission on Governmental Operations, on progress toward meeting the State's needs.

"§ 143B-470.5. Issuance of bonds and notes.—(a) As a means of raising the funds needed from time to time for the acquisition, construction, equipment, maintenance or operation of any facility, building, structure or any other matter or thing which the Treatment Commission is authorized to acquire, construct, equip, maintain, or operate, all or any of them, including authorized special user projects, the Treatment Commission may borrow money and in evidence thereof may issue bonds, notes and other obligations of the Treatment Commission as provided in the Local Government Revenue Bond Act, Article 5 of Chapter 159 of the General Statutes. Bonds, notes and other obligations may also be issued to (i) establish any reserves the Treatment Commission may determine to be desirable including, without limitation, a debt service reserve fund, and (ii) provide for interest during the estimated period of construction and for a reasonable period thereafter and (iii) provide for working capital.

(b) Any obligations issued by the Treatment Commission under the provisions of this Part, their transfer and the income therefrom (including any profit made on the sale of them), shall at all times be free from taxation by the State or any local unit or political subdivision or other instrumentality of the State, except inheritance or gift taxes."

Sec. 2. G.S. 130A-290 is amended by adding six additional definitions to read:

"(1a) 'Comprehensive hazardous waste treatment facility' means a facility designated as such by the Governor's Waste Management Board, meeting the following criteria:

- a. It is a commercial facility that accepts hazardous waste from the general public for treatment;
- b. It has the capacity and capability to treat and dispose of hazardous waste on at least an intrastate regional basis; and
- c. Its location will substantially facilitate treatment of hazardous waste for the State of North Carolina.

(7a) 'Hazardous waste long-term storage facility' means a facility as defined in G.S. 143B-470.2(5).

(7b) 'Hazardous waste treatment facility' means a facility as defined in G.S. 143B-470.2(3).

(8a) 'Landfill' means a disposal facility or part of a disposal facility where waste is placed in or on land and which is not a land treatment facility, a surface impoundment,

an injection well, a hazardous waste long-term storage facility or a surface storage facility.

(8b) 'Long-term retrievable storage' means storage in closed containers in facilities (either above or below ground) with (i) adequate lights, (ii) impervious cement floors, (iii) strong visible shelves or platforms, (iv) passageways to allow inspection at any time, (v) adequate ventilation if underground or in closed buildings, (vi) protection from the weather, (vii) accessible to monitoring with signs on both individual containers and sections of storage facilities, and (viii) adequate safety and security precautions for facility personnel, inspectors and invited or permitted members of the community.

(12a) 'Reuse' means a process by which resources are reused or rendered usable."

Sec. 3. The first sentence of G.S. 130A-293(a) is amended by deleting the words "and the Governor have" and substituting the word "has".

Sec. 4. G.S. 130A-293(b) is rewritten to read:

"(b) When a hazardous waste facility would be prevented from construction or operation by a county, municipal or other local ordinance(s), the developer or operator of the facility or the Hazardous Waste Treatment Commission may petition the Governor's Waste Management Board to review the matter. After receipt of a petition, the Board shall hold a hearing in accordance with the procedures in subsection (c) of this section and shall either approve or disapprove the establishment and operation of the facility. If the Board makes the four findings set forth below, the Board shall approve the establishment of the facility. If the Board does not make all of the four findings set forth below, the Board shall disapprove the establishment or operation of the facility. The decision of the Board shall be final unless a party to the action shall, pursuant to G.S. 7A-29, file a written appeal within 30 days of the date of the decision. The record on appeal shall include all materials and information submitted to or considered by the Board in accordance with subsection (c) of this section. The scope of judicial review shall be limited to questions of abuse of discretion. Before approving the facility, the Board must make the following findings:

- (1) That the proposed facility is needed in order to establish adequate capability for the management of hazardous waste generated in this State and serves the interest of the citizens of the State as a whole;
- (2) That all legally required State and federal permits or approvals have been issued by the appropriate State and federal agencies or that all State and federal permit requirements have been satisfied and that the permits or approvals have been denied or withheld only because of the local ordinance(s);
- (3) That local citizens and elected officials have had adequate opportunity to participate in the siting process; and
- (4) That the construction and operation of the facility will not pose an unreasonable health or environmental risk to the surrounding locality and that the facility developer or operator has taken or consented to take any reasonable measures to avoid or manage foreseeable risks and to comply to the maximum feasible extent with applicable ordinance(s).

The record for appeal shall include the Board's written decision, a complete transcript of the hearing, all written material presented to the Board regarding the site location and the specific findings required in this subsection and any minority positions on the recommendation and the specific findings required in this subsection. The Board's decision shall be in writing and shall identify the material submitted to the Board plus any additional materials used in arriving at the decision."

Sec. 5. G.S. 130A-293(c) is amended by rewriting the seventh sentence to read: "No later than 60 days after the hearing, the Board shall approve or disapprove the facility." and by deleting the remainder of the subsection.

Sec. 6. G.S. 130A-294(f) is amended by adding the following new paragraphs at the end of the subsection to read:

"Within 180 days after receiving a complete application for a permit or for an amendment to an existing permit for a comprehensive hazardous waste treatment facility, the Department shall approve or disapprove the application. In acting upon the application, the Department shall consider land use, zoning, buffer zones, utility availability, proximity to sources of waste, civil defense, fire safety, transportation and access, existing road network, general considerations of the public's health and safety, and any other objective factors reasonably related and relevant to the proper siting and operation of the comprehensive hazardous waste treatment facility. The Department may impose action responding to these factors as a condition in the permit. If the Department disapproves the application, the disapproval shall set forth specifically the reasons for the denial and the applicant shall have the right to appeal the disapproval."

Sec. 7. G.S. 130A-294 is amended by adding the following additional subsections:

"(g) The Commission shall develop and adopt criteria and standards to be considered in location and permitting of a hazardous waste facility by January 31, 1985. The standards and criteria shall be developed through public participation, shall be enforced by the Department and shall include, in addition to all applicable State and federal rules and regulations, consideration of:

- (1) Acceptability within the community where the facility is to be located or steps which should be taken if community acceptance is not forthcoming;
- (2) Hydrological and geological factors such as flood plains, depth to water table, groundwater travel time, proximity to public water supply watersheds, soil pH, soil cation exchange capacity, soil composition and permeability, cavernous bedrock, seismic activity, slope, mines and climate;
- (3) Natural resources such as wetlands, endangered species habitats, proximity to parks, forests, wilderness areas and historical sites, and air quality;
- (4) Local land use whether residential, industrial, commercial, recreational, agricultural, and proximity to incompatible structures such as schools and airports;

- (5) Transportation factors, such as proximity to waste generators and to population, route safety and method of transportation; and
 - (6) Aesthetic factors such as the visibility, appearance and noise level of the facility.
- (h) Rules adopted by the Commission shall be subject to the following requirements:
- (1) No hazardous waste landfill shall be established until at least one comprehensive hazardous waste treatment facility is fully operational in North Carolina.
 - (2) Hazardous waste shall be treated prior to disposal in North Carolina. Long-term storage or disposal shall be used for the storage or disposal of the residual or ashes of hazardous waste which has been treated so the toxicity is low enough to present no significant health or safety hazard in the event of leakage from the facility. Hazardous waste that cannot be reduced, stabilized or destroyed to the extent which renders it sufficiently low in toxicity as to present no significant health or safety hazard in the event of leakage shall be stored in long-term retrievable storage until such methods are found. Hazardous waste in long-term retrievable storage shall be detoxified as soon as the Commission for Health Services determines based upon a preponderance of the evidence that the technology is available at a reasonable cost. The Commission shall determine the extent of waste treatment required before hazardous waste can be disposed of in a hazardous waste landfill facility.
 - (3) Any hazardous waste landfill facility hereafter constructed in this State shall meet, at the minimum, the standards of construction imposed by federal regulations adopted under the Federal Act at the time the permit is issued.
 - (4) No hazardous waste landfill facility or polychlorinated biphenyl landfill facility shall be located within 25 miles of any other hazardous waste landfill facility or polychlorinated biphenyl landfill facility.
 - (5) No hazardous waste landfill facility or polychlorinated biphenyl landfill facility shall be permitted within 25 miles of a comprehensive hazardous waste treatment facility as defined in G.S. 130A-290(1a).
 - (6) The following will not be disposed of in a hazardous waste landfill or long-term retrievable storage: ignitables as defined in the Federal Act, polyhalogenated biphenyls of 50 ppm or greater concentration and free liquids whether or not containerized.
 - (7) The underground storage of either a hazardous waste landfill or long-term storage facility shall have at a minimum the following: a leachate collection and removal system above an artificial impervious liner of at least 30 mils in thickness, a minimum of five feet of clay or clay-like liner with a maximum permeability of 1.0×10^{-7} centimeters per

second (cm/sec) below said artificial liner, and a leachate detection system immediately below the clay or clay-like liner.

- (8) Hazardous waste shall not be stored at a hazardous waste treatment facility for over 90 days prior to treatment or disposal.
- (9) The Commission shall consider any hazardous waste treatment process proposed to it, if the process lessens treatment cost or improves treatment over then current methods or standards required by the Commission.

(i) The Department shall submit to the General Assembly by February 1, 1985, plans:

- (1) to monitor and regulate all generators of more than 100 kilograms per month of hazardous waste; and
- (2) to locate, catalogue and monitor all existing hazardous waste impoundments and surface impoundments, including inactive hazardous waste disposal sites and 'orphan dumps', including those owned or operated by units of State and local government, and shall submit to the General Assembly by February 1, 1985, a plan to bring all of these under legal requirements in effect on February 1, 1985, including a timetable for compliance. This plan shall include recordation of each of these sites in the office of the Register of Deeds in the county where it is located."

Sec. 8. G.S. 130A-295 is amended by designating the present language as subsection (a) and adding new subsections (b) and (c) to read:

"(b) The operator shall deposit in trust with the city or county government one half of one percent (0.5%) of the income of the comprehensive hazardous waste treatment facility, payable within 30 days of each calendar quarter, until the total shall equal an amount of two hundred fifty thousand dollars (\$250,000). As used herein, income means gross operating revenues less refunds, rebates and allowances. This fund shall be available to the city or county in which the comprehensive hazardous waste treatment facility is located for the purpose of defraying the cost of any cleanup which might be required at the comprehensive hazardous waste treatment facility. The city or county may, in its discretion, use up to fifty thousand dollars (\$50,000) of this total to establish an Emergency Response Team, trained and equipped to handle hazardous waste spills and to respond to accidents at hazardous waste treatment facilities. Financial records shall be subject to the audit of the local government for two years after any fee is paid. Any errors in the payment shall be corrected by credit or debit in the next payment or payments by the operator of the hazardous waste facility. If the North Carolina Hazardous Waste Treatment Commission owns and operates the facility, the North Carolina Hazardous Waste Treatment Commission, consistent with the resources available, shall compensate the local government for expenses incurred due to location of the facility. This compensation shall not exceed the amount of ad valorem tax revenues the local government would have received if the facility were privately owned. Nothing herein shall be construed to limit in any way funds which might be available to local government from other sources.

(c) Although no one is required to use a comprehensive hazardous waste treatment facility, use by North Carolina industry shall be encouraged. Nothing in this act shall be construed to prevent any hazardous waste or other waste generated or located in North Carolina from being removed from the State for disposal, treatment or storage."

Sec. 9. G.S. 143B-216.13 is amended by adding at the end of subdivision (7) the following:

"The Board shall provide a report to the General Assembly by February 1, 1985, to include:

- a. an analysis of the size, type and number of hazardous waste facilities needed in North Carolina and a plan to meet these needs;
- b. an analysis of the system of collection of hazardous waste in North Carolina, recommendations as to how that system might be improved and a plan to implement these recommendations; and
- c. an analysis of the cost incurred by local government because of the presence of a hazardous waste facility, a hazardous waste landfill facility or a comprehensive hazardous waste treatment facility."

and by adding a new subdivision to read:

"(17) The Board shall certify comprehensive hazardous waste treatment facilities which meet the criteria prescribed in G.S. 130A-290(1a)."

Sec. 10. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of June, 1984.