

GENERAL ASSEMBLY OF NORTH CAROLINA  
1987 SESSION

CHAPTER 850  
HOUSE BILL 35

AN ACT TO CREATE THE NORTH CAROLINA LOW-LEVEL RADIOACTIVE WASTE MANAGEMENT AUTHORITY, TO PROVIDE FOR THE MANAGEMENT OF LOW-LEVEL RADIOACTIVE WASTE IN NORTH CAROLINA, AND TO AMEND THE SOUTHEAST INTERSTATE LOW-LEVEL RADIOACTIVE WASTE MANAGEMENT COMPACT.

The General Assembly of North Carolina enacts:

Section 1. A new Chapter is added to the General Statutes to read:

**"Chapter 104G.**

**"North Carolina Low-Level Radioactive Waste Management Authority  
Act of 1987.**

**"§ 104G-1. Title.**—This Chapter shall be known and may be cited as the 'North Carolina Low-Level Radioactive Waste Management Authority Act of 1987.'

**"§ 104G-2. Definitions.**—Unless the context otherwise requires, the following definitions shall apply to this Chapter:

(1) 'Authority' means the North Carolina Low-Level Radioactive Waste Management Authority established pursuant to this Chapter, its governing board, or any successor thereto.

(2) 'Board' means the Governor's Waste Management Board established pursuant to Part 27 of Article 3 of Chapter 143B of the General Statutes.

(3) 'Commission' means the North Carolina Radiation Protection Commission established pursuant to Chapter 104E of the General Statutes.

(4) 'LLRWPA' means the Low-Level Radioactive Waste Policy Act of 1980, Pub. L. No. 96-573, 94 Stat. 3347, and the Low-Level Radioactive Waste Policy Amendments Act of 1985, Pub. L. 99-240, 99 Stat. 1842, 42 U.S.C. 2021b **et seq.**

(5) 'Low-level radioactive waste' means low-level radioactive waste as defined in the Low-Level Radioactive Waste Policy Amendments Act of 1985, Pub. L. 99-240, 99 Stat. 1842, 42 U.S.C. 2021b **et seq.** and other waste, including waste containing naturally occurring and accelerator produced radioactive material, which is not regulated by the United States Nuclear Regulatory Commission or other agency of the federal government and which is determined to be low-level radioactive waste by the Commission.

(6) 'Low-level radioactive waste facility' means a facility for the storage, collection, processing, treatment, recycling, recovery, or disposal of low-level radioactive waste.

(7) 'Low-level radioactive waste disposal facility' means any low-level radioactive waste facility or any portion of such facility, including land, buildings, and equipment, which is used or intended to be used for the disposal of low-level radioactive waste on or in land in accordance with rules promulgated under Chapter 104E of the General Statutes.

(8) 'Local government(s)' means the board of commissioners of a county or the governing board of a city, as the term 'city' is defined in G.S. 160A-1(2).

**"§ 104G-3. Legislative findings.**— The General Assembly finds that the generation of low-level radioactive waste is an unavoidable result of the needs and demands of a modern society. The General Assembly further finds that the safe and efficient management of low-level radioactive waste, including the timely establishment of adequate facilities for the comprehensive management and permanent disposal of low-level radioactive waste, presents urgent problems for North Carolina; and that solutions to these problems are essential to the State's continued economic growth and to protection of the public health and safety and the environment.

It is the policy of the State to provide and ensure continuous access to sufficient facilities for the proper management and permanent disposal of low-level radioactive waste for which the State assumes responsibility or for which the State is responsible under the LLRWPA; to protect the water, land and air resources of the State, as well as the health and safety of its citizens by promoting the proper handling and disposal of these wastes; to limit the number of facilities required to effectively and efficiently manage and dispose of these wastes; to provide for prevention, minimization and volume reduction of these wastes; to distribute the costs, benefits and obligations of successful low-level radioactive waste management equitably among those generators who produce or possess these wastes; and to promote cooperation and coordination among the private sector, the general public and State and local agencies to assure the availability of a comprehensive and integrated system of waste management and disposal.

The General Assembly of North Carolina finds that local governments have an important role in promoting public health and safety, encouraging planned and orderly land use development, and in providing services to meet the needs of educational and health institutions, business, and industry. The General Assembly of North Carolina further finds that the reasonable concerns and reasonable decisions of local authorities should be considered in the siting, licensing, and operation of low-level radioactive waste facilities.

**"§ 104G-4. Purpose.**— It is the purpose of this Chapter to ensure the State fulfills its responsibilities under the LLRWPA to provide for the availability, no later than 31 December 1992, of adequate capacity for permanent disposal of low-level radioactive waste, while protecting public health, safety, and the environment. It is the purpose of the General Assembly to create an Authority to site, finance, build, lease or operate, oversee, monitor and close such a facility, all in accordance with laws, regulations and agreements governing such activities. The Authority is to be responsible for selecting and acquiring suitable sites, selecting, and if necessary removing, operators, or operating a facility itself, preparing an environmental impact statement, assuming

control of the decommissioned site, providing post decommissioning active maintenance or remedial action, collecting and disbursing fees and other charges, administering an adequate long-term care fund, and responding to inquiries and concerns of the host community. The Authority is also to be responsible for determining whether any other facilities are required for the responsible management of low-level radioactive waste in this State, and to do whatever may be necessary, consistent with this Chapter, to meet those requirements.

Furthermore, it is the purpose of this Chapter to establish an effective and comprehensive policy of negotiation and arbitration between the Authority or other applicant for a low-level radioactive waste disposal facility license and a committee representing the affected local government(s) to assure that:

(1) arbitrary or discriminatory policies and actions of local governments which prohibit or have the effect of prohibiting the establishment of a low-level radioactive waste disposal facility can be set aside;

(2) the legitimate concerns of nearby residents and affected municipalities can be expressed in a public forum, negotiated and, if need be, arbitrated with the applicant in a fair manner and reduced to a written document that is legally binding; and

(3) an environmentally sound and economically viable low-level radioactive waste disposal facility will be established.

**"§ 104G-5. Organization and administration.**– (a) Creation. The North Carolina Low-Level Radioactive Waste Management Authority is hereby created as follows:

(1) The Authority shall be located within the Department of Administration. The Authority shall exercise all of its powers independently of the Secretary of Administration and, notwithstanding any other provision of law, shall be subject to the direction and supervision of the Secretary of Administration only with respect to the management functions of coordinating and reporting.

(2) The Authority shall continue until its existence shall be terminated by law. Upon the termination of the existence of the Authority, all of its rights and properties shall pass to and be vested in the State.

(3) The Department of Administration shall provide such technical and clerical services and personnel as the Authority may require in the performance of its functions and shall provide liaison services with other agencies of State government to disseminate information and comment on Authority matters. The Authority shall reimburse the Department for such services from its revenues or from other funding sources.

(4) To the extent necessary and appropriate, the Authority shall reimburse any participating State agency or unit of local government which advances funds to pay for the expenditures required for preliminary costs in the creation of the Authority or for its subsequent operation. Such funds shall be reimbursed to the advancing party from low-level radioactive waste disposal facility revenues.

(b) Membership. The Authority shall be governed by a board composed of 15 members. Members of the General Assembly, the Board, the Commission, and of any State board or commission which exercises regulatory authority with respect to any activity of the Authority shall be ineligible for appointment to membership on the Authority.

(c) Appointment. Appointments to the Authority shall be made as follows:

- (1) The General Assembly shall appoint 10 members in accordance with G.S. 120-121, five upon recommendation of the Speaker of the House of Representatives and five upon recommendation of the President of the Senate. Successors shall be made upon the recommendation of the officer who recommended the original appointment.
- (2) The Governor shall appoint five members.
- (3) Vacancies in appointments shall be filled for the unexpired term. Vacancies in appointments made by the General Assembly shall be filled in accordance with G.S. 120-122.
- (4) Members of the Authority shall include persons with technical and legal expertise in low-level radioactive waste management and shall represent, insofar as practicable, the diverse interests of the State and, initially, each geographic region of the State.
- (5) Initial appointments shall be made on or before 1 October 1987. Initial appointments to be made by the General Assembly shall be made as though vacancies had occurred in unexpired terms and in accordance with G.S. 120-122.
- (6) The Authority shall begin operation upon the appointment of all of its members, provided that the Authority shall begin operation by 1 November 1987, notwithstanding the failure of any of the appointing authorities to make appointments.

(d) Terms.

- (1) Of the initial appointments made by the General Assembly, two terms shall expire 30 June 1990, four terms shall expire 30 June 1991, two terms shall expire 30 June 1992, and two terms shall expire 30 June 1993. Successors shall serve for four-year terms. The General Assembly shall have the power to remove, in accordance with G.S. 143B-13, any member appointed by it.
- (2) Of the initial appointments by the Governor, two terms shall expire 30 June 1990, one term shall expire 30 June 1991, one term shall expire 30 June 1992, and one term shall expire 30 June 1993. Successors shall serve for four-year terms. The Governor shall have the power to remove, in accordance with G.S. 143B-13, any member appointed by him.

(e) Officers. The Governor shall appoint from the members of the Authority the Chairman and Vice-Chairman of the Authority. In the event that the Chairman and Vice-Chairman are not appointed by 1 November 1987, the Authority shall elect a

Chairman and Vice-Chairman and begin operation. The Executive Director of the Authority shall serve as secretary of the Authority.

(f) Meetings. The Authority shall meet at least quarterly or more frequently at such regular meeting time as the Authority by rule may provide and at any place within the State as the Authority may provide. The Authority shall 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 Authority shall be compensated for their services at the rate of one hundred fifty dollars (\$150.00) per day and shall receive travel expenses in accordance with G.S. 138-5; the members may not receive a subsistence allowance.

(g) Executive Director and Staff. The Authority shall be assisted by an Executive Director and staff who shall be subject to provisions of law applicable to State employees generally, including Chapters 126 and 135 of the General Statutes, except as such provisions are modified by this Chapter.

- (1) The Authority shall appoint an Executive Director, who shall report to the Authority and serve at its pleasure. The Executive Director shall be the chief administrative officer of the Authority. The Authority shall set, subject to consultation with the Advisory Budget Commission, and pay the compensation of the Executive Director.
- (2) The Executive Director shall be assisted by such senior professional staff members as may be necessary to carry out the provisions of this Chapter, who shall be appointed by the Authority on nomination of the Executive Director. The Authority shall set, subject to consultation with the Advisory Budget Commission, and pay the compensation of the staff members it appoints.
- (3) In addition, the Executive Director shall be assisted by such other employees as may be needed to carry out the provisions of this Chapter. The staff complement shall be established by the Authority on recommendation of the Executive Director. Such other employees shall be appointed by the Authority upon the recommendation of the Executive Director and shall be compensated by the Authority pursuant to the provisions of Chapter 126 of the General Statutes.

**"§ 104G-6. Powers and duties of the Authority.**– (a) To carry out the purposes of this Chapter, the Authority:

- (1) Shall site, design, construct, and operate a low-level radioactive waste disposal facility exclusively for the wastes generated within the State or within the region pursuant to the Southeast Interstate Low-Level Radioactive Waste Management Compact, G.S. 104F-1;
- (2) Shall establish, consistent with the rules of the Commission, the criteria and procedures for characterizing and evaluating alternative locations for a low-level radioactive waste disposal facility;
- (3) May employ consultants and contractors to provide services including site selection, design, construction, operation, closure and perpetual care of a low-level radioactive waste disposal facility, necessary,

- desirable or convenient to effectuate the purposes of this Chapter, and to fix and pay their compensation;
- (4) May acquire by deed, purchase, lease, contract, gift, devise, condemnation or otherwise, any real or personal property, structures, rights-of-way, franchises, easements, and other interests in land which is necessary and convenient for the construction or operation of low-level radioactive waste facilities, upon such terms and conditions as it deems advisable, and to lease, sell, or dispose of the same in such manner as may be necessary or desirable to carry out the objects and purposes of this Chapter;
  - (5) May exercise the powers of a body corporate, including the power to sue and be sued, and may adopt and use a common seal and alter the same as may be deemed expedient;
  - (6) May make all necessary contracts and arrangements with other officials or agencies in this and other states, including compact commissions, for any of the purposes of this Chapter;
  - (7) Shall establish an office for the transaction of its business at such place or places as, in the opinion of the Authority, shall be advisable or necessary in carrying out the purposes of this Chapter;
  - (8) May create and operate any divisions it deems necessary or useful;
  - (9) Shall pay all costs of the formation and organization of the Authority, and incident to its administration and operation, and may pay all other costs necessary in carrying out the purposes of this Chapter;
  - (10) Shall develop proposed schedules of fees and other charges, including user charges, penalties, and surcharges, applicable to the use and operation of low-level radioactive waste facilities under its control, and shall supervise the enforcement of such schedules as may be authorized by the General Assembly;
  - (11) Shall develop and use procedures for determining the design, technology, operational features, and post-closure requirements of a low-level radioactive waste disposal facility;
  - (12) Shall reimburse, or assure that licensee reimburses, the various State agencies or departments for the actual administrative costs of licensing, training of inspection and enforcement personnel, inspection, and enforcement which those agencies incur as a result of the establishment, operation, and closure of low-level radioactive waste facilities pursuant to the provisions of this Chapter;
  - (13) May apply for, accept, and expend loans and grants of money from any federal or State agency or any political subdivision thereof, from a compact commission, or from any other public or private source for any of the purposes authorized by this Chapter, and to give any evidences of indebtedness as may be required. Except as may hereafter be authorized by the General Assembly, no indebtedness of any kind incurred or created by the Authority 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 subdivisions. At no time may the total outstanding indebtedness of the Authority, excluding bond indebtedness, exceed a total of five hundred thousand dollars (\$500,000) without prior approval of the Governor, after receiving the advice of the Advisory Budget Commission;

- (14) May issue revenue bonds pursuant to The State and Local Government Revenue Bond Act, Article 5 of Chapter 159 of the General Statutes;
- (15) Shall, if it elects to issue bonds, select and retain, subject to approval of the Local Government Commission, financial consultants, underwriters, and bond attorneys to assist with the issuance of such bonds and to pay for services rendered;
- (16) May pledge revenues from low-level radioactive waste facilities to the benefit of bondholders, or for other purposes necessary to secure financing;
- (17) Shall make such plans, surveys, studies, and investigations as may be necessary or desirable with respect to the acquisition, development, and use of real property and the design, construction, operation, closure, and long-term care of low-level radioactive waste facilities;
- (18) Shall receive all field data, charts, maps, tracings, laboratory test data, soil and rock samples, and such other records as the Authority deems appropriate, collected or produced by its employees, contractors, or consultants pursuant to siting, operating, or closing of low-level radioactive waste facilities. All such data and materials shall become the property of the State and shall not be disposed of except in accordance with G.S. 132-3 except that soil and rock samples may be subjected to tests and reduced in volume for purposes of storage in a manner approved by the Authority. The Authority may enter into agreements with other State agencies for the purpose of storage and preservation of data and materials;
- (19) Shall procure and keep in force adequate insurance or otherwise provide for the adequate protection to indemnify and save harmless it and its officers, agents, employees, adjoining property owners, or the general public against loss or liability resulting from any act or omission by or on behalf of the Authority, and for the protection of its property;
- (20) May adopt bylaws for the regulation of its affairs and the conduct of its business and to prescribe rules, regulations and policies in connection with the performance of its functions and duties;
- (21) Shall do anything else necessary for the siting, design, construction, operation, maintenance, closure and long-term care of a low-level radioactive waste disposal facility not otherwise prohibited by law; and

(22) Shall periodically review the current and projected availability and adequacy of facilities for the management of low-level radioactive waste, determine whether any facilities for the management of such wastes are required in addition to the disposal facility operated pursuant to this Chapter, and make appropriate recommendations to the General Assembly.

(b) Neither the Authority nor any contractor performing services on behalf of the Authority shall be subject to the following provisions of the General Statutes:

- (1) Article 3 of Chapter 143 (Purchases and Contracts);
- (2) Article 8B of Chapter 143 (State Building Commission);
- (3) G.S. 143-128 (Separate specifications for building contracts);
- (4) G.S. 143-341 (Powers and duties of the Department of Administration);
- (5) Chapter 146 (State Lands); and
- (6) Articles 3 and 3A of Chapter 150B shall not apply to final decisions regarding site selection, operator selection or technology selection pursuant to G.S. 104G-9, 104G-10, and 104G-11.

**"§ 104G-7. Compliance with laws applicable to radiation control and protection and to protection of the environment.**— This Chapter shall not be construed as amending, repealing, or in any manner abridging or interfering with those sections of the General Statutes relating to radiation protection or the protection of the environment, nor shall the provisions of this Chapter be construed as being applicable to or in any way affecting the authority of State agencies and commissions to control radiation or the discharge of environmental pollutants and wastes into the air, soil, or waters of the State. The Authority, its members, officers, employees, agents, contractors, and the operator of any low-level radioactive waste facility shall comply with all federal and State laws, including statutes, regulations, and rules, applicable to radiation control and protection, and to protection of the environment. The Authority shall be considered a State agency for purposes of the North Carolina Environmental Policy Act, G.S. 113A-1 et seq.

**"§ 104G-8. Liability and defense.**—(a) The provisions of Article 31 of Chapter 143 (Tort Claims Against State Departments and Agencies) shall apply to the Authority. No member, officer, or employee of the Authority, while acting within the scope of their authority, shall be subject to any personal liability or accountability by reason of any act or omission in connection with the exercise of any power or performance of any duty, whether express or implied, pursuant to this Chapter.

(b) The Authority may provide for the defense of a criminal or civil proceeding brought against any current or former member, officer, agent, or employee either in his official or individual capacity, or both, on account of any act done or omission made in the scope and course of his employment or duty as a member, officer, agent or employee of the Authority. The defense may be provided by the Attorney General or by the Authority by its own counsel, by employing other counsel, or by purchasing insurance which requires that the insurer provide the defense.



(c) The Authority may appropriate funds for the purpose of paying all or part of a claim made or any civil judgment entered against any of its current or former members, officers, agents, or employees when such claim is made or such judgment is rendered as damages on account of any act done or omission made or in the scope and course of his current or former employment or duty as a member, officer, agent or employee; provided, however, that nothing in this section shall permit the Authority to appropriate funds for the purpose of paying a claim made or civil judgment entered against any current or former member, officer, agent or employee where the Authority or a court of competent jurisdiction finds that the claim or civil judgment resulted from malice, fraud or corruption.

**"§ 104G-9. Site selection.**— (a) The Authority shall actively seek communities interested in hosting low-level radioactive waste facilities.

(b) No later than 1 May 1988, the Authority shall develop procedures and criteria for selecting a site for a low-level radioactive waste disposal facility. These procedures shall be developed with, and provide for, public participation; shall be developed with the assistance of the Board; shall include a written justification for each criteria; shall be consistent with all applicable federal and State law, including statutes, regulations and rules; shall be developed and revised in light of the best available scientific data; and shall be based on consideration of at least the following factors:

- (1) Hydrological and geological factors, including flood plains, depth to water table, groundwater travel time, soil pH, soil cation exchange capacity, soil composition and permeability, cavernous bedrock, seismic activity, slope, mines, climate, and earthquake faults;
- (2) Environmental and public health factors, including air quality, quality of surface and groundwater, and proximity to public water supply watersheds;
- (3) Natural and cultural resources, including wetlands, gamelands, endangered species habitats, proximity to parks, forests, wilderness areas, nature preserves, and historic sites;
- (4) Local land uses;
- (5) Transportation factors, including proximity to waste generators, route safety, and method of transportation;
- (6) Aesthetic factors, including the visibility, appearance, and noise level of the facility.

(c) The Authority shall identify areas that may be suitable for the location of a low-level radioactive waste disposal facility no later than 1 December 1988.

(d) The Authority shall conduct public information meetings in the areas identified pursuant to subsection (c) of this section.

(e) No later than 1 August 1989, the Authority shall select two or three sites that are suitable for the location of a low-level radioactive disposal facility, for characterization.

(f) No later than 1 August 1990, the Authority shall complete characterization of two to three sites.

(g) No later than 15 November 1990, the Authority shall select the preferred site for a low-level radioactive waste disposal facility and begin proceedings to purchase or if necessary, condemn property for such site(s) under the State's power of eminent domain. The procedure for condemnation by the Authority shall be as set out in Article 9 of Chapter 136 of the General Statutes, except that the Authority shall have the same rights, powers, duties, and responsibilities as are set out for the Department of Transportation. The General Assembly finds that the protection of public health, safety, and welfare, including protection of the environment, requires that facilities for the management and disposal of low-level radioactive waste be established. The acquisition of real property for the management and disposal of low-level radioactive waste is therefore declared to be for the use and benefit of the public, and to serve a public purpose. Pursuant to G.S. 104E-6.1, fee simple title to the land shall be vested in the Authority.

(h) The Authority may request information and assistance from any State agency which has data or expertise which would assist the Authority in the identification and characterization of sites for a low-level radioactive waste disposal facility, provided that no agency which has authority to issue any license or permit required for the construction or operation of the facility shall participate in the site selection process in any way that would result in an actual or apparent conflict of interest.

(i) The Authority may in its discretion contract for the services of independent, qualified consultants to assist in the development and implementation of procedures and criteria for site screening, selection, and characterization. Such consultants shall be eligible to subsequently design, construct, or operate a low-level radioactive waste disposal facility on behalf of the Authority.

**"§ 104G-10. Operator selection and oversight.**— (a) The Authority shall actively seek private operators for low-level radioactive waste facilities.

(b) Operator shall meet the requirements of G.S. 104E-10.1.

(c) The Authority shall select and employ an operator for a low-level radioactive waste disposal facility no later than 1 August 1988. If no private operator is employed by 1 August 1988, the Authority shall designate itself as the operator and shall do everything necessary to obtain all required licenses or permits to operate a low-level radioactive waste disposal facility.

(d) The Authority shall enter into and enforce an agreement with the operator of a low-level radioactive waste facility which shall incorporate such terms and conditions as the Authority determines are consistent with the purposes of this Chapter. Such agreement shall contain adequate assurances of operator performance through the use of bonds, insurance, and shall require substantial compliance with all applicable federal and State law, including statutes, regulations, and rules. The Authority shall provide for an independent annual audit of the collection of all fees and charges.

(e) The Authority may, in its discretion, seek the advice, assistance of other State agencies or private consultants in selecting an operator.

(f) No later than 1 August 1989, the operator shall submit to the Authority conceptual design proposals for a low-level radioactive waste disposal facility to be located on the sites identified under G.S. 104G-9(e). Proposals shall include a general

description of the design(s), technology(ies), staffing, and other considerations which the designated operator proposes for a low-level radioactive waste disposal facility. Proposals shall be made available to the site designation review committee for their review.

(g) The Authority may suspend or terminate its agreement with the operator of a low-level radioactive waste facility for any breach thereof. In the event of suspension or termination of the agreement, the Authority may select an interim or replacement operator, or may operate the facility itself, to ensure that the facility is properly maintained and operated in compliance with all applicable federal and State laws, including statutes, rules, and regulations.

(h) The Authority shall periodically review and amend its agreement with the operator of a low-level radioactive waste disposal facility to reflect necessary changes in fees or charges, new environmental requirements, additional bonding or insurance requirements, or other alterations deemed necessary or appropriate.

**"§ 104G-11. Technology, license application, and environmental impact statement.**— (a) The Authority shall, with the assistance of other State agencies or private consultants it deems appropriate, select a technology and approve the design, operating procedures, safety plan, closure plan and other plans necessary for its low-level radioactive waste facilities. The Authority shall select the technology for a low-level radioactive waste disposal facility no later than 1 March 1990.

(b) The operator shall prepare and submit all applications for licenses and permits required for a low-level radioactive waste facility to the appropriate regulatory agencies. The operator shall also prepare an environmental impact report which shall become the basis of an environmental impact statement required for such facility under G.S. 113-4.

(c) The operator shall prepare and submit all applications for licenses and permits required for a low-level radioactive waste disposal facility no later than 31 December 1990. The Department of Human Resources is designated as the lead State agency for overall coordination of the review of the application process and ensuring that decisions by the affected State agencies are rendered in a timely manner.

**"§ 104G-12. Construction.**— (a) The Authority shall actively seek private contractors to construct low-level radioactive waste facilities. The operator of a facility may be selected as the contractor.

(b) If no private contractor is selected for a low-level radioactive waste disposal facility, the Authority shall designate itself as the contractor and shall do everything necessary to construct a low-level radioactive waste disposal facility.

(c) The Authority shall monitor and enforce its agreement with the contractor to ensure all work complies with specifications and is completed on schedule.

(d) The Authority shall comply with the requirements of Article 8 of Chapter 143 of the General Statutes of North Carolina (Public Building Contracts) except for G.S. 143-128 (separate specifications for building contracts).

**"§ 104G-13. Closure and decommissioning.**— (a) The Authority shall enter into an agreement with the operator for the safe and proper closure and decommissioning of a

low-level radioactive waste disposal facility and site prior to the period of institutional control.

(b) The Authority shall, with the assistance of other State agencies and private consultants it deems necessary, approve the operator's site closure and decommissioning plan. The Authority may employ an independent contractor to do anything necessary to ensure that a low-level radioactive waste disposal facility is properly closed and that the site is stabilized.

(c) The approval of the Authority under this section is in addition to the approval of the Department of Human Resources in accordance with the rules and regulations of the Commission.

(d) Upon proper closure, the Authority shall assume responsibility for a low-level radioactive waste disposal facility site during the institutional care period and shall release the operator from further responsibility, subject to approval by the Department of Human Resources of the transfer of the license to the Authority.

**"§ 104G-14. Institutional control.** – (a) The Authority shall enter into agreement with private contractors or otherwise provide for physical surveillance and environmental monitoring of a low-level radioactive waste disposal facility and site operated pursuant to this Chapter when the facility is decommissioned.

(b) The Authority shall reimburse appropriate State agencies for the costs of environmental surveillance or other services rendered during the institutional control period.

(c) The Authority shall maintain and administer a long-term care fund in accordance with G.S. 104G-16.

(d) The Authority shall provide through its own personnel, private contractors, cooperative agreement with other governmental agencies, or any combination thereof, any active maintenance or remedial actions that may be required. Payment for the cost thereof shall be made from the Long-Term Care Fund established pursuant to G.S. 104G-16.

**"§ 104G-15. Fees.**– (a) It is the intent of the General Assembly that the cost of all activities of the Authority, the cost of all activities of State regulatory agencies which result from activities of the Authority, and the cost of compensation for any damages, including any loss in the value of property which is a direct result of the siting or operation of the facility, be borne by the waste generators served by low-level radioactive waste facilities established under this Chapter.

(b) The Authority shall develop proposed schedules of fees and other charges, including user charges, penalties, and surcharges to meet the following costs:

- (1) Establishment and operation of the Authority;
- (2) Reimbursement of State agencies for costs incurred on behalf of the Authority or in support of its activities, including the costs of any services performed pursuant to G.S. 104G-14;
- (3) Establishment and administration of the Long-Term Care Fund under G.S. 104G-16;
- (4) Compensation to the State and local government(s) as provided in G.S. 104G-18;

- (5) Repayment to the State with interest, as calculated and certified by the State Treasurer, of all funds expended from the General Fund to establish, maintain, and regulate a low-level radioactive waste disposal facility;
- (6) Funding for the Southeast Interstate Low-Level Radioactive Waste Management Compact pursuant to G.S. 104F-1, Article IV;
- (7) Compensation of operators, contractors, and consultants employed by the Authority;
- (8) Other expenses incurred by the Authority, the State or its agencies in furtherance of the purposes of this Chapter; and
- (9) Compensation of any property owner for any loss in value of property directly resulting from the siting or operation of a low-level radioactive waste disposal facility.

(c) The Authority shall prepare, on a quarterly basis, a detailed financial statement showing its current fee schedules, income from all sources, indebtedness, and expenses for the quarter and fiscal year to date. This report, and any other information regarding the operation of the Authority which may be requested, shall be submitted to the chairmen of the House and Senate committees on Finance and Appropriations, the Joint Legislative Commission on Governmental Operations, and the Fiscal Research Division.

**"§ 104G-16. Long-Term Care Fund.** – (a) There is hereby established under the control and direction of the Authority a nonreverting Long-Term Care Fund, to be administered by the State Treasurer, which may be used for:

- (1) Administration of the Fund;
- (2) Emergency response to and decontamination of radiation accidents at facilities operated by the Authority; or
- (3) Environmental monitoring, maintenance, care, and custody of a disposal facility including necessary remedial actions during the institutional control period.

(b) The Long-Term Care Fund shall be treated as a special trust fund and shall be credited with interest by the State Treasurer pursuant to G.S. 147-69.2 and 147-69.3.

(c) In addition to any money that shall be appropriated or otherwise made available to it, the Fund may be maintained by fees, user charges, penalties, surcharges or other money paid to or recovered by or on behalf of the Authority under the provisions of this Chapter. It is the intention of the General Assembly that user charges, surcharges, or other fees which may hereafter be authorized shall at all times be sufficient to build and maintain the Fund balance at a level determined by the Authority, with the concurrence of the Commission, to be adequate for the purposes stated in this section.

(d) The establishment of this Fund shall in no way be construed to relieve or reduce the liability of facility operator, contractors, or other persons for damages caused by a low-level radioactive waste facility.

**"§ 104G-17. Other receipts.** – (a) For purposes of this Chapter, an operator of a low-level radioactive waste disposal facility may serve as the collection agent for the

Authority, in which case, money shall be transferred to the Authority on a timely basis, and deposited with the State Treasurer, as established by the Authority.

(b) All grants from the United States Department of Energy or other sources and all monies from the Southeast Interstate Low-Level Radioactive Waste Management Compact Commission which are received by the Authority shall be deposited with the State Treasurer. Such monies shall be placed in a separate nonreverting account for use by the Authority. The account provided for by this subsection shall be credited with interest by the State Treasurer pursuant to G.S. 147-69.2 and 147-69.3.

(c) All Authority accounts shall be audited on an annual basis.

**"§ 104G-18. Taxes; other compensation to the State and local governments.** – (a) A low-level radioactive waste disposal facility shall be exempt from ad valorem property taxes; provided however, that the Authority shall, in lieu of property taxes pay to any governmental body authorized to levy property taxes the amount which would be assessed as taxes on real and personal property of a facility if such facility were otherwise subject to valuation and assessment by local taxing unit. In addition, the Authority shall reimburse the city or county for the loss of ad valorem property tax revenues from property that is immediately adjacent to the property upon which the facility is located and which is shown to have diminished in value as the direct result of the siting and operation of the facility. Such payments in lieu of taxes shall be due and shall bear interest if unpaid, as in the cases of taxes on other property. Payments in lieu of taxes made hereunder shall be treated in the same manner as taxes for purposes of all procedural and substantive provisions of law. Administrative buildings, associated land and other real and personal property owned by the Authority and not located at a disposal facility shall be exempt from property taxes as provided in G.S. 105-278.1.

(b) Except as authorized in G.S. 153A-152.1, G.S. 160A-211.1 and Chapter 104G of the General Statutes, no city or county may impose any tax, assessment or levy of any kind or description upon the Authority or the operator of the Authority's low-level radioactive waste disposal facility. All laws, ordinances or portions thereof to the contrary are hereby invalidated and are of no effect.

(c) The Authority shall collect, on behalf of the State, an annual radioactive waste tax based on volume and curies, to be paid to the General Fund of North Carolina. The Authority shall develop and recommend to the General Assembly a proposed radioactive waste tax schedule which the General Assembly shall consider in enacting taxes and fees under this Chapter.

(d) The Authority shall collect, on behalf of local governments where a low-level radioactive waste disposal facility is located, a gross receipts tax in an amount to be determined by the General Assembly, to be distributed to local governments as the General Assembly shall provide. The Authority shall develop and recommend to the General Assembly a proposed gross receipts tax schedule and revenue distribution formula which the General Assembly shall consider in enacting taxes and fees under this Chapter.

**"§ 104G-19. Site designation review committees.** – (a) The board of commissioners of each county in which there is located a site identified for characterization pursuant to G.S. 104G-9(e) may appoint a site designation review committee for a low-level

radioactive waste disposal facility. The committee shall consist of 11 members representing, insofar as possible, local government, environmental, health, engineering, business and industry, academic, public interest, and emergency response groups. The committee shall elect a chairman, vice-chairman, and a secretary. Vacancies shall be filled by the county board of commissioners using the same criteria employed in the original appointment. Members shall be reimbursed by the committee for reasonable and necessary expenses incurred in connection with their duties. The county shall provide the committee with necessary support staff.

(b) The committee shall advise the county board of commissioners on matters relating to the siting of a low-level radioactive waste disposal facility.

(c) All site designation review committees shall terminate upon the designation of the preferred site by the Authority.

(d) The Board shall provide technical assistance grants of up to fifty thousand dollars (\$50,000) to each site designation review committee. The maximum amount that the Board may grant to all site designation review committees for a particular site is seventy-five thousand dollars (\$75,000).

(e) Grant funds may be used by the committee to:

- (1) Collect information on site suitability;
- (2) Monitor the site characterization and site selection process;
- (3) Conduct socioeconomic and environmental assessments of the proposed site;
- (4) Participate in any meetings, hearings, or other events related to the site selection process;
- (5) Study the cost and benefits of the facility being located at the site under consideration; and
- (6) Reimburse members for their expenses as provided in subsection (a) of this section.

No grant funds shall be used for litigation expenses. Any reviews or studies funded with grant monies shall be completed before the selection of the preferred site by the Authority.

(f) The Authority shall consider in its decision-making process recommendations or other information of the site designation review committee as may be transmitted to the Authority by the county board of commissioners.

**"§ 104G-20. Preferred site local advisory committees.** – (a) Upon the designation of the preferred site for the low-level radioactive waste disposal facility pursuant to G.S. 104G-9(g), the board of commissioners of each county within whose jurisdiction the site is located may appoint a preferred site local advisory committee. The committee shall consist of 11 members representing insofar as possible local government, environmental, health, engineering, business and industry, academic, public interest, and emergency response groups. The committee shall elect a chairman, vice-chairman, and a secretary. Vacancies shall be filled by the county board of commissioners using the same criteria employed in the original appointment. Members shall be reimbursed by the committee for reasonable and necessary expenses incurred in connection with their duties. The county shall provide the committee with necessary support staff.

- (b) The preferred site local advisory committee shall:
- (1) Study the costs and benefits associated with the proposed facility;
  - (2) Review all license and permit applications and related documents concerning the proposed facility;
  - (3) Hire program, technical, and legal consultants to assist in the review process;
  - (4) Collect and review information required for issuance of a special or conditional use zoning permit;
  - (5) Assess the potential local environmental and socioeconomic impacts of the proposed facility;
  - (6) Promote public education, information, and participation in the licensing process;
  - (7) Develop and propose agreements between the Authority, the low-level radioactive waste disposal facility operator, local governments, and other persons;
  - (8) Develop and present recommendations concerning license conditions, operational requirements, compensation, and incentives related to the proposed facility; and
  - (9) Hire a mediator to facilitate negotiations among the Authority, the low-level radioactive waste disposal facility operator, local governments, and other persons; and
  - (10) Reimburse committee members for reasonable and necessary expenses.

(c) An applicant for a license to operate a low-level radioactive waste disposal facility shall pay a one-time local application fee in an amount to be determined by the General Assembly to the county or counties where the site of the proposed facility is located. If the board of commissioners appoints a preferred site local advisory committee the local application fee shall be used to support the work of the committee. No funds for local review shall be used to finance litigation expenses.

**"§ 104G-21. Negotiation and arbitration.** – (a) Any local government in the county or counties where a low-level radioactive waste facility is proposed to be located pursuant to this Chapter may negotiate with the Authority with respect to any issue relating to the facility except:

- (1) The need for the facility;
- (2) Any proposal to reduce the duties of the Authority under this Chapter or under any license issued for the facility;
- (3) Any proposal to reduce the duties of the Commission or to make less stringent any rule of the Commission; or
- (4) Any decision of the Authority regarding site selection, operator selection, or technology pursuant to G.S. 104G-9, 104G-10, and 104G-11.

(b) The Authority shall negotiate in good faith with any local government in the county or counties where a low-level radioactive waste facility is proposed to be



located. A local government may designate itself or any other person to negotiate on its behalf.

(c) Negotiations may be conducted with the assistance of a mediator if mediation is requested by both the Authority and a local government. The function of the mediator is to encourage a voluntary settlement of unresolved negotiable issues. The Board shall provide the Authority and the local government with the names and qualifications of persons willing to serve as mediators. If the Authority and a local government cannot agree on the selection of a mediator, the Authority and the local government may request the Board to appoint a mediator.

(d) If the Authority and a local government have not reached agreement on all issues by negotiation within six months after selection of the preferred site pursuant to G.S. 104G-9(g), the following issues may be submitted to arbitration pursuant to the provisions of Article 45A of Chapter 1 of the General Statutes (Uniform Arbitration Act):

- (1) Compensation to any local government for substantial economic impacts which are a direct result of the siting and operation of a low-level radioactive waste facility and for which adequate compensation is not otherwise provided;
- (2) Reimbursement of reasonable costs incurred by the local government relating to negotiation, mediation and arbitration activities under this section;
- (3) Screening, fencing, and other matters related to the appearance of a facility;
- (4) Operational concerns other than design capacity and regulatory issues;
- (5) Traffic flows and patterns which result from the operation of a facility;
- (6) Uses of the site where a facility is located after the facility is closed;
- (7) The applicability or nonapplicability of any local ordinance;
- (8) Emergency response capabilities, including training and resources;
- (9) Access to facility records and monitoring data; and
- (10) Ongoing health surveys of persons living in the area around the facility.

(e) In addition to those issues set out in subsection (c), upon petition to the Board by a local government in the county or counties where a low-level radioactive waste facility is proposed to be located, any other issue may be submitted for arbitration except:

- (1) Those issues excluded from negotiation under subsection (a) of this section;
- (2) Any issue relating to the imposition by the General Assembly of a tax, or fee not authorized by this Chapter; and
- (3) Any issue requiring an appropriation by the General Assembly.

(f) The Board shall serve as the arbitrator of any issue submitted for arbitration under this section."

Sec. 2. G.S. 7A-29 is amended by deleting the phrase "or from the Governor pursuant to the Waste Management Act of 1981," and substituting the phrase ", or from the Governor's Waste Management Board pursuant to".

Sec. 3. G.S. 104E-5(18) is repealed.

Sec. 4. G.S. 104E-6.2 is rewritten to read:

**"§ 104E-6.2. Local ordinances prohibiting low-level radioactive waste facilities invalid; petition to establish facility.** – (a) Notwithstanding any authority heretofore granted to counties, municipalities, or other local authorities to adopt local ordinances, including those regulating land use, any local ordinance which prohibits or has the effect of prohibiting the establishment or operation of a low-level radioactive waste facility which the Governor's Waste Management Board has approved pursuant to the procedures in subsections (b) through (e) of this section, shall be invalid from 26 June 1981, but only to the extent necessary to effectuate the purposes of this Chapter and Chapter 104G of the General Statutes. For the purpose of this section, the Governor's Waste Management Board shall include, in addition to the members enumerated in G.S. 143B-216.12(a), two members appointed by the governing body of the county in which the proposed site is located. If the proposed site is located in more than one county, or if the proposed site is located within the boundaries of a city, the governing board of each city and county in which any portion of the proposed site is located shall have one appointment. The terms of members appointed by local governing bodies shall end upon the final determination made by the Board under this section, and such members shall serve as members of the Board only for the purposes of this section.

(b) When a low-level radioactive waste facility would be prevented from construction or operation by a county, city or other local ordinance(s), the Authority or operator 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.

(c) When a petition described in subsection (b) of this section has been filed with the Governor's Waste Management Board, the Board shall hold a public hearing to consider the petition. Such hearing shall be held in the affected locality within 60 days after receipt of the petition by the Board. The Authority shall give notice of the hearing at least 30 days prior to the date thereof by:

- (1) Publication in a newspaper or newspapers having general circulation in the county or counties where the facility is to be located for three consecutive weeks beginning 30 days prior to the scheduled date of the hearing; and
- (2) First class mail to persons who have requested such notice. The Board shall maintain a mailing list of persons who request notice pursuant to this section.

Any interested persons may appear before the Board at the hearing to offer testimony. In addition to testimony before the Board, any interested person may submit written material to the Board for its consideration. At least 20 days will be allowed for receipt of written comment following the hearing.

(d) The Board shall approve or disapprove the facility no later than 60 days after the hearing. The Board shall approve the establishment or operation of the facility only if it makes all four of the following findings:

- (1) That the proposed facility is needed in order to establish adequate capability for the management of low-level radioactive waste and therefore 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 a facility will not pose an unreasonable health or environmental risk to the surrounding locality and that the facility developer or operator, or North Carolina Low-Level Radioactive Waste Management Authority established pursuant to Chapter 104G of the General Statutes, has taken or consented to take any reasonable measures to avoid or manage foreseeable risks and to comply to the maximum feasible extent with any applicable ordinances.

If the Board does not make all four findings set out above, the Board shall disapprove the establishment or operation of the facility. 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.

(e) The decision of the Board shall be final unless a party to the action shall, pursuant to Article 4 of Chapter 150B of the General Statutes as modified by G.S. 7A-29 and this section, files a written appeal within 30 days of the date of such decision. The record on appeal shall consist of all materials and information submitted to or considered by the Board, 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 subsection (d), and any minority positions on the recommendation and the specific findings required in this subsection. The scope of judicial review shall be that the court may affirm the decision of the Board, or may remand the matter for further proceedings, or may reverse or modify the decision if the substantial rights of the parties may have been prejudiced because the agency findings, inferences, conclusions, or decisions are:

- (1) In violation of constitutional provisions; or
- (2) In excess of the statutory authority or jurisdiction of the agency; or
- (3) Made upon unlawful procedure; or
- (4) Affected by other error or law; or
- (5) Unsupported by substantial evidence admissible under G.S. 150B-29(a) or G.S. 150B-30 in view of the entire record as submitted; or
- (6) Arbitrary or capricious.

If the court reverses or modifies the decision of the agency, the judge shall set out in writing which writing shall become part of the record, the reasons for such reversal or modification."

Sec. 5. G.S. 104E-7 is amended by:

- (a) designating the existing text as subsection "(a)";
- (b) adding the following subdivision to G.S. 104E-7(a):

"(10) To adopt rules which exempt a generator of low-level radioactive waste who operates a low-level radioactive waste facility solely for the management of wastes he produces, from any requirement, made applicable by this Chapter or rules adopted pursuant to this Chapter to low-level radioactive waste facilities generally where, because of the low volume or activity of the wastes involved, such exemption would not endanger the public health or safety, or the environment." and;

- (c) adding a new subsection to read:

"(b) No license for a low-level radioactive waste facility which would accept low-level radioactive waste from the public, or from another person for a fee, shall be issued other than for a facility to be operated pursuant to Chapter 104G of the General Statutes."

Sec. 6. G.S. 104E-10 is amended by deleting subdivision (d) in its entirety.

Sec. 7. G.S. 104E-10.1(a), as amended by Chapter 24 of the 1987 Session Laws, is amended by adding the following sentence to the end thereof:

"In order to continue to hold a license under this Chapter, a licensee must remain financially qualified, and must provide any information requested by the Department to show that he continues to be financially qualified."

Sec. 8. G.S. 104E-10.1, as amended by Chapter 24 of the 1987 Session Laws, is amended by adding a new subdivision to read:

"(c) Within 10 days of receiving an application for a license or an amendment to a license to operate a low-level radioactive waste facility, the Department shall notify the clerk of the board of commissioners of the county or counties in which the facility is proposed to be located or is located, and, if the facility is to be located or is located within a city, the clerk of the governing board of the city, that the application has been filed, and shall file a copy of the application with the clerk. Prior to issuing a license or an amendment to an existing license the Secretary of the Department or his designee shall conduct a public hearing in the county, or in one of the counties, in which a person proposes to operate a low-level radioactive waste facility or to enlarge an existing facility. The Secretary shall give notice of the hearing at least 30 days prior to the date thereof by:

- (1) Publication in a newspaper or newspapers having general circulation in the county or counties where the facility is to be located for three consecutive weeks beginning 30 days prior to the scheduled date of the hearing; and
- (2) First class mail to persons who have requested such notice. The Department shall maintain a mailing list of persons who request notice pursuant to this subsection."

Sec. 9. Chapter 104E of the General Statutes is amended by adding a new section to read:

**"§ 104E-10.3. Low-level radioactive waste facility access licenses.** – The Commission shall provide by regulation for the licensing of access to any low-level radioactive waste facility located in the State. No person shall send waste to a low-level radioactive waste facility unless licensed or otherwise authorized to do so by the Department. No low-level radioactive waste facility shall receive waste from any source not licensed by the Department except as may be otherwise specifically authorized by the Department. Such regulations shall provide, at a minimum, for amendment, suspension, or revocation of licenses, and for authorization for access to a low-level radioactive waste facility by the Department on a temporary or emergency basis. Each application for a license or amendment shall be in writing and shall include such information as may be required by regulation, and such additional information as the Department deems necessary. The application for a license shall set forth the manner in which the applicant plans to comply with the requirements of this Chapter and regulations promulgated thereunder. Upon receipt of an application under this section the Department shall review the application and shall issue a license only if it finds that the applicant is fully qualified under all applicable laws and regulation."

Sec. 10. G.S. 104E-13(a) and (c) are amended by substituting the words "Chapter 150B" for "Chapter 150".

Sec. 11. G.S. 104E-16(b) is repealed.

Sec. 12. G.S. 104E-18 is amended by adding a new subsection to read:

"(c) Notwithstanding the provision of this section, the bond, insurance or other security for a low-level radioactive waste facility shall be filed in accordance with the provisions of Chapter 104G of the General Statutes."

Sec. 13. G.S. 104E-19(b) is repealed.

Sec. 14. G.S. 104E-24 is amended in subsection (c) by deleting the phrase "G.S. 150A-23 through 150A-52." and substituting the phrase "Articles 3, 3A, and 4 of Chapter 150B of the General Statutes."; and in subdivision (d)(2) by deleting the phrase "G.S. 150A-36." and substituting the phrase "G.S. 150B-36."

Sec. 15. Chapter 104E of the General Statutes is amended by adding a new section to read:

**"§ 104E-26. Standards and criteria for licensing low-level radioactive waste facilities.** – Standards and criteria for licensing low-level radioactive waste facilities shall be developed by the Commission. Such standards and criteria shall be developed with public participation and shall be incorporated into rules adopted by the Commission for the licensing of such facilities. Standards and criteria shall be consistent with all applicable federal and State law, including statutes, regulations and rules; shall be developed and revised in light of the best available scientific data; and shall be based on consideration of at least the following factors:

(1) Hydrological and geological factors, including flood plains, depth to water table, groundwater travel time, soil pH, soil cation exchange capacity, soil composition and permeability, cavernous bedrock, seismic activity, slope, mines, climate and earthquake faults;

- (2) Environmental and public health factors, including air quality, quality of surface and groundwater, and proximity to public water supply watersheds;
- (3) Natural and cultural resources, including wetlands, gamelands, endangered species habitats, proximity to parks, forests, wilderness areas, nature preserves, and historic sites;
- (4) Local land uses;
- (5) Transportation factors, including proximity to waste generators, route safety, and method of transportation;
- (6) Aesthetic factors, including the visibility, appearance, and noise level of the facility.

Sec. 15.1. Chapter 104E of the General Statutes is amended by adding a new section to read:

**"§ 104E-27. Volume reduction required.** – (a) The Commission shall develop and adopt rules which require generators of low-level radioactive waste to implement best management practices, including prevention, minimization, reduction, segregation, and hold-for-decay storage, as a condition of access to the low-level radioactive waste disposal facility.

(b) No license for access to the disposal facility operated pursuant to Chapter 104G of the General Statutes shall be issued unless the Commission certifies to the Low-Level Radioactive Waste Management Authority that the generator is reducing waste volume to the extent technologically and economically feasible."

Sec. 16. G.S. 105-164.14(c) is amended by deleting the period at the end thereof and substituting a comma, and by adding the phrase "the North Carolina Low-Level Radioactive Waste Management Authority created pursuant to Chapter 104G of the General Statutes."

Sec. 17. G.S. 105-275 is amended by adding a new subsection to read:

"(32) Real and personal property belonging to the North Carolina Low-Level Radioactive Waste Management Authority created under Chapter 104G of the General Statutes."

Sec. 18. G.S. 120-123 is amended by adding a new subsection to read:

"(51) The North Carolina Low-Level Radioactive Waste Disposal Authority, as established by G.S. 104G-5."

Sec. 19. G.S. 126-5(c1) is amended by adding the following new subdivision:

"(12) Employees of the North Carolina Low-Level Radioactive Waste Management Authority whose salaries are fixed pursuant to G.S. 104G-5(g)."

Sec. 20. G.S. 150B-1(d) is amended by adding the following paragraphs at the end thereof:

"Articles 3 and 3A of this Chapter shall not apply to the Governor's Waste Management Board in administering the provisions of G.S. 104E-6.2.

Articles 3 and 3A of this Chapter shall not apply to the North Carolina Low-Level Radioactive Waste Management Authority in administering the provisions of G.S. 104G-9, 104G-10, and 104G-11."

Sec. 21. G.S. 153A-152.1 reads as rewritten:

**"§ 153A-152.1. Privilege license tax on low-level radioactive and hazardous wastes waste facilities.**—(a) Counties in which hazardous waste facilities as defined in G.S. 130A-290(5) or low-level radioactive waste facilities as defined in ~~104E-7(9b)~~ ~~[104E-5(9b)]~~ G.S. 104E-5(9b) are located may levy an annual privilege license tax on persons or firms operating such facilities only in accordance with this section.

(b) The rate or rates of a tax levied under authority of this section shall be in an amount calculated to compensate the county for the additional costs incurred by it from having a hazardous waste facility or a low-level radioactive waste facility located in its jurisdiction, to the extent to which compensation for such costs is not otherwise provided, which costs may include the loss of ad valorem property tax revenues from the property on which a facility is located, the cost of providing any additional emergency services, the cost of monitoring air, surface water, groundwater, and other environmental media to the extent other monitoring data is not available, and other costs the county establishes as being associated with the facilities and for which it is not otherwise compensated.

(c) Any person or firm taxed pursuant to this section may appeal the tax rate to the Board, but shall pay the tax when due, subject to a refund when the appeal is resolved by the Board or in the courts."

Sec. 22. G.S. 160A-211.1 reads as rewritten:

**"§ 160A-211.1. Privilege license tax on low-level radioactive and hazardous wastes waste facilities.**—(a) Cities in which hazardous waste facilities as defined in G.S. 130A-290(5) or low-level radioactive waste facilities as defined in ~~104E-7(9b)~~ ~~[104E-5(9b)]~~ G.S. 104E-5(9b) are located may levy an annual privilege license tax on persons or firms operating such facilities only in accordance with this section.

(b) The rate or rates of a tax levied under authority of this section shall be in an amount calculated to compensate the city for the additional costs incurred by it from having a hazardous waste facility or a low-level radioactive waste facility located in its jurisdiction, to the extent to which compensation for such costs is not otherwise provided, which costs may include the loss of ad valorem property tax revenues from the property on which a facility is located, the cost of providing any additional emergency services, the cost of monitoring air, surface water, groundwater, and other environmental media to the extent other monitoring data is not available, and other costs the municipality established as being associated with the facilities and for which it is not otherwise compensated.

(c) Any person or firm taxed pursuant to this section may appeal the tax rate to the Board, but shall pay the tax when due, subject to a refund when the appeal is resolved by the Board or in the courts."

Sec. 23. (a) To assist the Authority in the performance of its responsibilities under this act and to advise the General Assembly, there is created the Inter-Agency Committee on Low-Level Radioactive Waste to consist of nine members. The Chairmen of the Governor's Waste Management Board, the Radiation Protection Commission, and the Low-Level Radioactive Waste Management Authority shall each appoint three members of their respective bodies to serve as members of the Committee. The Chairman of the Governor's Waste Management Board shall designate the

Chairman of the Committee, and that Board shall provide professional and clerical support to the Committee. Members of the Committee who are State employees shall receive travel expenses as set forth in G.S. 138-5; other Committee members shall receive per diem and travel expenses as set forth in G.S. 138-6.

(b) The Committee shall:

- (1) determine the sequence of tasks required to be accomplished in order to site, design, construct, and place into operation a low-level radioactive waste disposal facility, determine the time likely to be required to accomplish those tasks, construct a timetable of task completion dates, and estimate the resources required to accomplish those tasks;
- (2) review and evaluate options with respect to policies, procedures, and rates of taxes, fees, penalties, and surcharges applicable to the management of low-level radioactive waste;
- (3) review and evaluate procedures in this and other jurisdictions relating to public participation and dispute resolution in connection with siting and management of low-level radioactive waste disposal facilities, including mediation, negotiation, and arbitration;
- (4) work cooperatively with any other group authorized by the General Assembly to study issues relating to low-level radioactive waste management and siting; and
- (5) recommend by a written report to the General Assembly and its General Research Division, by 1 April 1988, those procedures and changes in the present law it may deem appropriate to expedite the resolution of issues regarding siting and management of low-level radioactive waste, including siting of low-level radioactive waste facilities, while effectively protecting the environment and safeguarding the public health.

(c) Notwithstanding any rule or resolution to the contrary, proposed legislation to implement the recommendations of this study may be introduced and considered during the 1988 Regular Session of the 1987 General Assembly.

(d) Consistent with existing law, each agency which appoints members of the Committee shall be responsible for any expenses incident to the participation of its appointees in the work of the Committee from funds otherwise appropriated to the agency. The Authority shall pay any costs of the study for which provision is not otherwise made in this section from funds otherwise appropriated to the Authority.

Sec. 24. (a) The Joint Select Committee on Low-Level Radioactive Waste, as appointed by the President of the Senate and the Speaker of the House of Representatives, acting as Cochairmen of the Joint Legislative Commission on Governmental Operations, on 18 September 1986, is confirmed as a joint committee of the General Assembly. The Committee shall consist of 12 members; six Senators appointed by the President of the Senate, and six Representatives appointed by the Speaker of the House of Representatives. The initial members of the Committee shall be those Senators and Representatives serving on the Committee as of the effective date



of this act. Vacancies on the Committee shall be filled in the same manner as initial appointments.

(b) The President shall designate one Senator as Cochairman and the Speaker shall designate one Representative as Cochairman. The initial Cochairmen shall be the Senator and Representative designated as Cochairmen of the Committee as of the effective date of this act.

(c) The Committee shall meet on the call of the Cochairmen.

(d) The Committee shall conduct an in-depth study of alternatives available to North Carolina for dealing with low-level radioactive waste and the ramifications of each of those alternatives.

(e) It is the intention of the General Assembly to establish an irrevocable trust fund with a principal of not less than ninety million dollars (\$90,000,000) to be used to compensate the county or counties in which a low-level radioactive waste disposal facility is located. It is the intention of the General Assembly that the principal of the trust fund would be available only for such costs of health and safety measures as are directly related to the facility. It is the intention of the General Assembly that the income of the trust fund be paid to the general fund of the county in which a low-level radioactive waste disposal facility is located. The Joint Select Committee on Low-Level Radioactive Waste shall study the issue of compensation to the county in which a low-level radioactive waste disposal facility is located in the context of the intentions stated in this subsection and shall submit its findings and recommendations in a written report to the 1988 Regular Session of the 1987 General Assembly. The Committee shall include in its report recommendations as to how the trust fund will be funded, how it will be administered, and whether and on what basis other local governments in the vicinity of the facility should share in the distribution of the trust income. Notwithstanding any rule or resolution to the contrary, proposed legislation to implement the recommendations of this study may be introduced and considered during the 1988 Regular Session of the 1987 General Assembly.

(f) The Committee shall terminate as determined by the President of the Senate and the Speaker of the House of Representatives.

(g) Upon the approval of the Legislative Services Commission, the Legislative Administrative Officer shall assign professional and clerical staff to assist in the work of the Committee. Clerical staff shall be furnished to the Committee through the offices of House and Senate supervisors of clerks. The expenses of employment of the clerical staff shall be borne by the Committee. The Committee may meet in the Legislative Building or the Legislative Office Building, upon the approval of the Legislative Services Commission.

(h) Members of the Committee shall be paid subsistence and travel allowances at the rate established in G.S. 120-3.1;

(i) The expenses of the Committee shall be paid from funds otherwise appropriated to the General Assembly.

Sec. 25. G.S. 104F-1 is amended as follows:

(a) Article V is amended by adding a new section to read:

"(e) No party state shall be required to operate a regional facility for longer than a 20-year period, or to dispose of more than 32,000,000 cubic feet of low-level radioactive waste, whichever first occurs.";

(b) Section (g) of Article VII is amended by rewriting the first sentence thereof to read:

"(g) Subject to the provisions of Article VII section (h), any party state may withdraw from this compact by enacting a law repealing the compact, provided that if a regional facility is located within such state, such regional facility shall remain available to the region for four years after the date the Commission receives verification in writing from the Governor of such party state of the rescission of the compact.";

(c) Article VII is amended by adding a new section (h) to read:

"(h) The right of a party state to withdraw pursuant to Article VII section (g) shall terminate thirty days following the commencement of operation of the second host state disposal facility. Thereafter a party state may withdraw only with the unanimous approval of the Commission and with the consent of Congress. For purposes of this section, the low-level radioactive waste disposal facility located in Barnwell County, South Carolina shall be considered the first host state disposal facility."; and

by redesignating the existing section (h) as section (i).

Sec. 26. Unless every party state to the Southeast Interstate Low-Level Radioactive Waste Management Compact (Compact) has enacted legislation to amend the Compact Law in force in that state in substantially the manner set out in section 25 of this act by 31 December 1988; and unless the Congress of the United States has amended the Low-Level Radioactive Waste Policy Amendments Act of 1985, Pub. L. No. 99-240, 99 Stat. 1842 (1986), so as to consent to the amendments to the Compact required to be made by this section on or before 31 December 1992; North Carolina shall withdraw from the Compact. The North Carolina Compact Commissioners shall certify to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Attorney General, and the Secretary of State that the requirements of this section have, or have not, been met. In the event that the party states to the Compact have not enacted legislation to amend the Compact as required by this section by 31 December 1988, Chapter 104F of the General Statutes is repealed as of that date. In the event that the Congress has not amended the Low-Level Radioactive Waste Policy Amendments Act so as to consent to the amendments required to be made by this section by 31 December 1992, Chapter 104F of the General Statutes is repealed as of that date.

Sec. 27. (a) Notwithstanding any other provision of this act, this act shall not be construed as a revenue bill within the meaning of Section 23 of Article II of the Constitution of North Carolina. Any provision of this act contrary to this section is void.

(b) The provisions of this act are severable, and if any provision of this act is held invalid by a court of competent jurisdiction, the invalidity shall not affect other provisions of the act which can be given effect without the invalid provision.

Sec. 28. Funds in the amount of four hundred thousand dollars (\$400,000) that are appropriated for the 1987-88 fiscal year in Section 2 of Chapter 738 of the 1987 Session Laws to the Department of Administration, Reserve-Hazardous Waste, to begin initial work of surveying geological data and implementation process of a siting procedure for the low-level radioactive waste site, are transferred to the North Carolina Low-Level Radioactive Waste Management Authority. The Authority shall use these funds to defray the expenses of the Authority and of other State agencies which the Authority is authorized to reimburse to carry out the responsibilities of the Authority under the provisions of the North Carolina Low-Level Radioactive Waste Management Authority Act of 1987. The Council of State may upon request of the Authority allot additional funds from the Contingency and Emergency Fund when in the opinion of the Governor and Council of State such additional funds are required for the Authority to achieve the purposes of that Act. Any funds remaining at the end of the biennium shall revert to the General Fund of the State.

Sec. 29. Sections 1 through 27 of this act are effective upon ratification. Section 28 of this act is effective 1 July 1987.

In the General Assembly read three times and ratified this the 14th day of August, 1987.