

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 1109

Short Title: Solid Waste Law Amendments.

(Public)

Sponsors: Representatives Hackney, Grimmer; H. Hunter and Redwine.

Referred to: Environment.

April 24, 1991

1 A BILL TO BE ENTITLED
2 AN ACT TO IMPROVE AND REFINE THE SOLID WASTE MANAGEMENT
3 LAWS REGARDING THE STATE SOLID WASTE GOAL AND CERTAIN
4 OTHER MATTERS.

5 The General Assembly of North Carolina enacts:

6 Section 1. G.S. 130A-290 is amended by adding a new subdivision to read:

7 "(18a) 'Municipal solid waste' means any solid waste, except for sludge,
8 resulting from the operation of residential, commercial, industrial,
9 governmental, or institutional establishments that would normally be
10 collected, processed, and disposed of through a public or private solid
11 waste management service. The term includes yard trash, but does not
12 include solid waste from mining or agricultural operations."

13 Sec. 2. G.S. 130A-309.04 reads as rewritten:

14 "**§ 130A-309.04. State solid waste management policy and goals.**

15 (a) It is the policy of the State to promote methods of solid waste management
16 that are alternatives to disposal in landfills and to assist units of local government with
17 solid waste management. In furtherance of this State policy, there is established a
18 hierarchy of methods of managing solid waste, in descending order of preference:

- 19 (1) Waste ~~volume~~ reduction at the source;
- 20 (2) Recycling and reuse;
- 21 (3) Composting;
- 22 (4) Incineration with energy production;
- 23 (5) Incineration for volume reduction;
- 24 (6) Disposal in landfills.

1 (b) It is the policy of the State to encourage research into innovative solid waste
2 management methods and products and to encourage regional solid waste management
3 projects.

4 (c) It is the goal of this State ~~that at least twenty-five percent (25%) of the total waste~~
5 ~~stream be recycled by 1 January 1993.~~ to reduce the municipal solid waste stream through
6 source reduction, reuse, recycling, and composting of materials that cannot be reused or
7 recycled, on the following schedule:

8 (1) Twenty-five percent (25%) by 1993;

9 (2) Thirty percent (30%) by 1996; and

10 (3) Forty percent (40%) by 2000.

11 To measure waste reduction, comparisons shall be made between:

12 (1) The amount, by weight, of municipal solid waste that is:

13 a. Landfilled;

14 b. Incinerated;

15 c. Converted to fuel; or

16 d. Composted without the removal of materials that are
17 marketable as determined by the Department pursuant to G.S.
18 130A-309.06

19 from July 1, 1991, through June 30, 1992; and

20 (2) The amount, by weight, of municipal solid waste that is:

21 a. Landfilled;

22 b. Incinerated;

23 c. Converted to fuel; or

24 d. Composted without the removal of materials that are
25 marketable as determined by the Department pursuant to G.S.
26 130A-309.06

27 from July 1 of a given year through June 30 of the following year.

28 In determining its progress toward the State's waste reduction goal, a unit of local
29 government may use an earlier baseline year than the period July 1, 1991, through June
30 1, 1992, if, as determined by the Department, it has sufficient data to support the use of
31 an earlier year.

32 (d) In furtherance of the State's solid waste management policy, each State
33 agency shall develop a solid waste management plan ~~for any waste which it generates~~
34 which is consistent with the solid waste management policy of the State.

35 (e) Each county, either individually or in cooperation with others, shall, in
36 cooperation with its municipalities, develop a comprehensive county solid waste
37 management plan and submit the plan to the Department for approval. County solid
38 waste management plans shall be updated and submitted for approval at least once
39 every two years. A county solid waste management plan shall be consistent with the
40 State's comprehensive solid waste plan. In counties where a municipality operates the
41 major solid waste disposal facility, the comprehensive solid waste plan may be prepared
42 by the municipality, with the approval of the county and in cooperation with the other
43 municipalities. Each county's comprehensive solid waste management plan shall
44 include provisions which address the State's ~~recycling goal.~~ waste reduction goals. Each

1 county's plan shall take into consideration facilities and other resources for management
2 of solid waste which may be available through private enterprise. This section shall be
3 construed to encourage the involvement and participation of private enterprise in solid
4 waste management. The Department shall develop a form designed to elicit pertinent
5 information regarding a county's solid waste management plan. The Department shall
6 provide assistance in the preparation of county plans upon request.

7 (f) Any municipality that does not participate in a county solid waste
8 management plan shall prepare its own plan in accordance with the provisions of
9 subsection (e) of this section."

10 Sec. 3. G.S. 130A-309.06(a) reads as rewritten:

11 "(a) In addition to other powers and duties set forth in this Part, the Department
12 shall:

- 13 (1) Develop a comprehensive solid waste management plan consistent
14 with this Part by 1 March 1991. The plan shall be developed in
15 consultation with units of local government and shall be updated at
16 least every three years. In developing the State solid waste
17 management plan, the Department shall hold public hearings around
18 the State and shall give notice of these public hearings to all units of
19 local government and regional planning agencies.
- 20 (2) Provide guidance for the orderly collection, transportation, storage,
21 separation, processing, recovery, recycling, and disposal of solid waste
22 throughout the State.
- 23 (3) Encourage coordinated local activity for solid waste management
24 within a common geographical area.
- 25 (4) Provide planning, technical, and financial assistance to units of local
26 government and State agencies for reduction, recycling, reuse, and
27 processing of solid waste and for safe and environmentally sound solid
28 waste management and disposal.
- 29 (5) Cooperate with appropriate federal agencies and private organizations
30 in carrying out the provisions of this Part.
- 31 (6) Promote and assist the development of solid waste reduction,
32 recycling, and resource recovery programs which preserve and
33 enhance the quality of the air, water, and other natural resources of the
34 State.
- 35 (7) Maintain a directory of recycling and resource recovery systems in the
36 State and provide assistance with matching recovered materials with
37 markets.
- 38 (8) Manage a program of grants for programs for recycling and special
39 waste management, and for programs which provide for the safe and
40 proper management of solid waste.
- 41 (9) Provide for the education of the general public and the training of solid
42 waste management professionals to reduce the production of solid
43 waste, to ensure proper processing and disposal of solid waste, and to
44 encourage recycling and solid waste reduction.

- 1 (10) Develop descriptive literature to inform units of local government of
2 their solid waste management responsibilities and opportunities.
- 3 (11) Conduct at least one workshop each year in each region served by a
4 council of governments.
- 5 (12) Identify, based on reports required under G.S. 130A-309.14 and any
6 other relevant information, those materials in the municipal solid waste
7 stream that:
- 8 a. Are marketable, either throughout the State or in portions
9 thereof; and
- 10 b. Should be recovered from the waste stream prior to any final
11 treatment or disposal."

12 Sec. 4. G.S. 130A-309.09 reads as rewritten:

13 "**§ 130A-309.09. Local government solid waste responsibilities.**

14 (a) The governing board of a designated local government shall provide for the
15 operation of solid waste disposal facilities to meet the needs of all incorporated and
16 unincorporated areas designated to be served by the facility. Pursuant to this section
17 and notwithstanding any other provision of this Chapter, designated local governments
18 may adopt ordinances governing the disposal in facilities which they operate of solid
19 waste generated outside of the area designated to be served by such facility. Such
20 ordinances shall not be construed to apply to privately operated disposal facilities
21 located within the boundaries of a designated local government. In accordance with this
22 section, municipalities are responsible for collecting and transporting solid waste from
23 their jurisdictions to a solid waste disposal facility operated by the municipality or
24 county, any other municipality or county, or by any other person. Counties and
25 municipalities may charge reasonable fees for the handling and disposal of solid waste
26 at their facilities. The fees charged to municipalities without facilities at a solid waste
27 management facility specified by the county shall not be greater than the fees charged to
28 other users of the facility except as provided in G.S. 130A-309.08(d). Solid waste
29 management fees collected on a countywide basis shall be used to fund solid waste
30 management services provided throughout the county.

31 (b) Each designated local government shall initiate a recyclable materials
32 recycling program by 1 July 1991. Counties and municipalities are encouraged to form
33 cooperative arrangements for implementing recycling programs. The following
34 requirements shall apply:

- 35 (1) Construction and demolition debris must be separated from the solid
36 waste stream and segregated in separate locations at a solid waste
37 disposal facility or other permitted site.
- 38 (2) At a minimum, ~~a majority of marketable~~ those materials identified
39 pursuant to G.S. 130A-309.14(b) by the Department as marketable
40 pursuant to G.S. 130A-309.06 must be separated from the solid waste
41 stream prior to final disposal at a solid waste disposal facility and must
42 be offered for recycling if the separation and collection of these
43 materials is economically feasible and markets for such materials exist

1 in such proximity as to make transportation of such materials to such
2 markets economically feasible.

3 (3) Units of local government are encouraged to separate all plastics,
4 glass, metal, and all grades of paper for recycling prior to final
5 disposal and are further encouraged to recycle yard trash and other
6 ~~mechanically treated~~ organic solid waste into compost available for
7 agricultural and other acceptable uses.

8 (c) ~~Each designated local government shall ensure, to~~ To the maximum extent
9 ~~possible, that municipalities within its boundaries practicable, units of local government~~
10 should participate in the preparation and implementation of joint recycling and solid
11 waste management ~~programs~~ programs, whether through joint agencies established
12 pursuant to G.S. 160A-462 or any other means provided by law. Nothing in a county's
13 solid waste management or recycling program shall affect the authority of a
14 municipality to franchise or otherwise provide for the collection of solid waste
15 generated within the boundaries of the municipality.

16 (d) ~~A designated~~ All units of local government's solid waste management and
17 ~~recycling program shall be designed to provide for sufficient reduction of the amount of~~
18 ~~solid waste generated within the county and the municipalities within its boundaries in~~
19 ~~order to meet goals for the reduction of municipal solid waste prior to the final disposal~~
20 ~~or incineration of the waste at a solid waste disposal facility. The goals shall provide, at~~
21 ~~a minimum, that the amount of municipal solid waste that would be disposed of in the~~
22 ~~absence of municipal solid waste recycling efforts undertaken within the county and the~~
23 ~~municipalities within its boundaries is reduced by at least twenty five percent (25%) of~~
24 ~~the total waste stream by 1 January 1993. In determining whether the municipal solid~~
25 ~~waste reduction goal established by this subsection has been achieved, no more than~~
26 ~~one half of the goal may be met with yard trash, white goods, construction and~~
27 ~~demolition debris, and tires that are removed from the total amount of municipal solid~~
28 ~~waste that would be disposed of in the absence of municipal solid waste recycling~~
29 ~~efforts.~~ government, either individually or in cooperation with one or more other units
30 of local government, shall participate in a solid waste management plan that is designed
31 to meet the State waste reduction goals under G.S. 130A-309.04 within the geographic
32 area covered by the plan.

33 (e) ~~As used in this section, 'municipal solid waste' includes any solid waste,~~
34 ~~except for sludge, resulting from the operation of residential, commercial, industrial,~~
35 ~~governmental, or institutional establishments that would normally be collected,~~
36 ~~processed, and disposed of through a public or private solid waste management service.~~
37 ~~The term includes yard trash, but does not include solid waste from mining or~~
38 ~~agricultural operations.~~

39 (f) The Department may reduce or modify the municipal solid waste reduction goal
40 that a ~~designated unit of~~ local government is required to attempt to achieve pursuant to
41 subsection (d) of this section if the ~~designated unit of~~ local government demonstrates to
42 the Department that:

43 (1) The achievement of the goal set forth in subsection (d) would have an
44 adverse effect on the financial obligations of a ~~designated~~ the unit of

1 local government incurred prior to the effective date of this section that
2 are directly related to a waste-to-energy facility owned or operated by
3 or on behalf of ~~the designated a unit of~~ local government; and

- 4 (2) The ~~designated unit of~~ local government cannot remove normally
5 combustible materials from solid waste that is to be processed at a
6 waste-to-energy facility permitted prior to July 1, 1991, because of the
7 need to maintain a sufficient amount of solid waste to ensure the
8 financial viability of the facility. The goal shall not be waived entirely
9 and may only be reduced or modified to the extent necessary to
10 alleviate the adverse effects of achieving the goal on the financial
11 viability of a ~~designated unit of~~ local government's waste-to-energy
12 facility. Nothing in this subsection shall exempt a ~~designated unit of~~
13 local government from developing and implementing a recycling
14 program pursuant to this Part.

15 (g) In order to assess the progress in meeting the ~~goal goals~~ established ~~in under~~
16 G.S. 130A-309.04 and subsection (d) of this section, each ~~designated local government~~
17 county, either individually or in cooperation with one or more other counties, shall, by 1
18 October 1990, 1991, and each year thereafter, report to the Department ~~its annual on the~~
19 solid waste management program programs and recycling activities activities within the
20 county or the geographic area covered by the county's solid waste management plan.
21 ~~The~~ This report by the designated local government county must include:

- 22 (1) A description of ~~its public education program programs~~ on recycling;
23 (2) The amount of solid waste ~~disposed of at received by~~ solid waste
24 ~~disposal management~~ facilities, by type of waste such as yard trash,
25 white goods, clean debris, tires, and unseparated solid waste;
26 (3) The amount and type of materials from the solid waste stream that
27 were recycled;
28 (4) The percentage of the population participating in various types of
29 recycling activities instituted;
30 (5) The ~~percent reduction each year annual reduction in~~ municipal solid
31 ~~waste disposed of at solid waste disposal facilities; waste, measured in the~~
32 same manner as set forth for the State in G.S. 130A-309.04.
33 (6) A description of the recycling activities attempted, their success rates,
34 the perceived reasons for failure or success, and the recycling activities
35 which are ongoing and most successful; and
36 (7) In its first report, a description of any recycling activities implemented
37 prior to 1 July 1991.

38 (g1) Any municipality that does not participate in a county report shall prepare its
39 own report in accordance with the provisions of subsection (g) of this section.

40 (h) A county or municipality may enter into a written agreement with other persons,
41 including persons transporting solid waste, to undertake to fulfill some or all of the
42 county's or municipality's responsibilities under this section.

43 (i) In the development and implementation of a curbside recyclable materials
44 collection program, a county or municipality shall enter into negotiations with a

1 franchisee who is operating to exclusively collect solid waste within a service area of a
2 county or municipality to undertake curbside recyclable materials collection
3 responsibilities for a county or municipality. If the county or municipality and the
4 franchisee fail to reach an agreement within 60 days from the initiation of negotiations,
5 the county or municipality may solicit proposals from other persons to undertake
6 curbside recyclable materials collection responsibilities for the county or municipality
7 as it may require. Upon the determination of the lowest responsible proposals, the
8 county or municipality may undertake, or enter into a written agreement with the person
9 who submitted the lowest responsible proposal to undertake, the curbside recyclable
10 materials collection responsibilities for the county or municipality, notwithstanding the
11 exclusivity of any franchise agreement for the collection of solid waste within a service
12 area of the county or municipality.

13 (j) In developing and implementing recycling programs, counties and
14 municipalities shall give consideration to the collection, marketing, and disposition of
15 recyclable materials by persons engaged in the business of recycling on either a for-
16 profit or nonprofit basis. Counties and municipalities are encouraged to use for-profit
17 and nonprofit organizations in fulfilling their responsibilities under this Part.

18 (k) A county or county and the municipalities within the county's or counties'
19 boundaries may jointly develop a recycling program, provided that the county and each
20 municipality must enter into a written agreement to jointly develop a recycling program.
21 If a municipality does not participate in jointly developing a recycling program with the
22 county within which it is located, the county may require the municipality to provide
23 information on recycling efforts undertaken within the boundaries of the municipality in
24 order to determine whether the goals for municipal solid waste reduction are being
25 achieved.

26 (l) It is the policy of the State that a county or counties and its or their
27 municipalities may jointly determine, through a joint agency established pursuant to
28 G.S. 160A-462 or by requesting the passage of special legislation, which local
29 governmental agency shall administer a solid waste management or recycling program.

30 (m) ~~The Any~~ designated local government shall provide written notice to all units
31 of local ~~government within the designated local government government, which, pursuant to~~
32 an agreement, it is serving, when recycling program development begins and shall
33 provide periodic written progress reports to ~~the those~~ units of local government
34 concerning the preparation of the recycling program.

35 (n) Nothing in this section shall be construed to prevent the governing board of
36 any county or municipality from providing by ordinance or regulation for solid waste
37 management standards which are stricter or more extensive than those imposed by the
38 State solid waste management program and rules and orders issued to implement the
39 State program.

40 (o) Nothing in this Part or in any rule adopted by any agency shall be construed
41 to require any county or municipality to participate in any regional solid waste
42 management until the governing board of the county or municipality has determined
43 that participation in such a program is economically feasible for that county or
44 municipality. Nothing in this Part or in any special or local act or in any rule adopted

1 by any agency shall be construed to limit the authority of a municipality to regulate the
2 disposal of solid waste located within its boundaries or generated within its boundaries
3 so long as a facility for any such disposal has been approved by the Department, unless
4 the municipality is included within a solid waste management program created under a
5 joint agency or special or local act. If bonds had been issued to finance a solid waste
6 management program in reliance on State law granting to a ~~designated local government~~
7 unit of local government, a region, or a special district the responsibility for the solid
8 waste management program, nothing herein shall permit any governmental agency to
9 withdraw from the program if the agency's participation is necessary for the financial
10 feasibility of the project, so long as the bonds are outstanding.

11 (p) Nothing in this Part or in any rule adopted by any State agency pursuant to
12 this Part shall require any person to subscribe to any private solid waste collection
13 service.

14 (q) To effect the purposes of this Part, counties and municipalities are authorized,
15 in addition to other powers granted pursuant to this Part:

16 (1) To contract with persons to provide resource recovery services or
17 operate resource recovery facilities on behalf of the county or
18 municipality.

19 (2) To indemnify persons providing resource recovery services or
20 operating resource recovery facilities for liabilities or claims arising
21 out of the provision or operation of such services or facilities that are
22 not the result of the sole negligence of the persons providing the
23 services or operating the facilities.

24 (3) To contract with persons to provide solid waste disposal services or
25 operate solid waste disposal facilities on behalf of the county or
26 municipality.

27 (r) On and after 1 July 1991, each operator of a solid waste management ~~facility~~
28 ~~owned or operated by or on behalf of a county or municipality,~~ facility, except existing
29 facilities which will not be in use one year after the effective date of this section, shall
30 weigh all solid waste when it is received.

31 (s) In the event ~~the power to manage solid waste has been granted to a special district~~
32 a region, special district, or other entity by special act or joint agency, has been
33 established to manage solid waste, any duty or responsibility or penalty imposed under
34 this Part on a ~~county or municipality~~ unit of local government shall apply to such region,
35 ~~special district~~ special district, or other entity to the extent of the grant of the duty or
36 responsibility or imposition of such penalty. To the same extent, such region, ~~special~~
37 ~~district~~ district, or other entity shall be eligible for grants or other benefits provided
38 pursuant to this Part.

39 (t) In addition to any other penalties provided by law, a unit of local government
40 that does not comply with the requirements of subsections (b) and (d) shall not be
41 eligible for grants from the Solid Waste Management Trust Fund, and the Department
42 may notify the State Treasurer to withhold payment of all or a portion of funds payable
43 to the unit of local government by the Department from the General Fund or by the
44 Department from any other State fund, to the extent not pledged to retire bonded

1 indebtedness, unless the unit of local government demonstrates that good faith efforts to
2 meet the requirements of subsections (b) and (d) have been made or that the funds are
3 being or will be used to finance the correction of a pollution control problem that spans
4 jurisdictional boundaries."

5 Sec. 5. This act is effective upon ratification.