

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 1109
Committee Substitute Favorable 5/10/91

Short Title: Solid Waste Amendments.

(Public)

Sponsors:

Referred to:

April 24, 1991

A BILL TO BE ENTITLED

AN ACT TO IMPROVE THE MANAGEMENT OF NONHAZARDOUS SOLID WASTE, TO REDEFINE THE STATE SOLID WASTE MANAGEMENT GOALS, AND TO MAKE CLARIFYING, CONFORMING, AND TECHNICAL AMENDMENTS TO THE SOLID WASTE MANAGEMENT LAWS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130A-290 is amended by adding two new subdivisions to read:

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

(18b) 'Municipal solid waste management facility' means any publicly or privately owned solid waste management facility permitted by the Department that receives municipal solid waste for processing, treatment, or disposal."

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

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

(a) It is the policy of the State to promote methods of solid waste management that are alternatives to disposal in landfills and to assist units of local government with

1 solid waste management. In furtherance of this State policy, there is established a
2 hierarchy of methods of managing solid waste, in descending order of preference:

- 3 (1) Waste ~~volume~~ reduction at the source;
- 4 (2) Recycling and reuse;
- 5 (3) Composting;
- 6 (4) Incineration with energy production;
- 7 (5) Incineration for volume reduction;
- 8 (6) Disposal in landfills.

9 (b) It is the policy of the State to encourage research into innovative solid waste
10 management methods and products and to encourage regional solid waste management
11 projects.

12 (c) It is the goal of this State ~~that at least twenty-five percent (25%) of the total waste~~
13 ~~stream be recycled by 1 January 1993.~~ to reduce the municipal solid waste stream through
14 source reduction, reuse, recycling, and composting, on a per capita basis, on the
15 following schedule:

- 16 (1) Twenty-five percent (25%) by 30 June 1993.
- 17 (2) Thirty percent (30%) by 30 June 1996.
- 18 (3) Forty percent (40%) by 30 June 2000.

19 (c1) To measure progress toward the municipal solid waste reduction goals in a
20 given year, comparison shall be made between the amount by weight of the municipal
21 solid waste that, during the baseline year and the given year, is received at municipal
22 solid waste management facilities and is:

- 23 (1) Disposed of in a landfill;
- 24 (2) Incinerated; or
- 25 (3) Converted to fuel.

26 (c2) Comparison shall be between baseline and given years beginning on 1 July
27 and ending on 30 June of the following year. The baseline year shall be the year
28 beginning 1 July 1991 and ending 30 June 1992. However, a unit of local government
29 may use an earlier baseline year if it demonstrates to the satisfaction of the Department
30 that it has sufficient data to support the use of the earlier baseline year.

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

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

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

6 (f) Any unit of local government that does not participate in a county solid waste
7 management plan shall prepare a plan in accordance with the provisions of subsection
8 (e) of this section."

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

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

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

10 Sec. 4. Subsections (a), (f), (g), and (r) of G.S. 130A-309.09 are recodified as
11 G.S. 130A-309.09A and read as rewritten:

12 "~~§ 130A-309.09.~~ **130A-309.09A. Local government solid waste responsibilities.**

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

30 (b) Each unit of local government, either individually or in cooperation with one
31 or more other units of local government, shall participate in the development and
32 implementation of a solid waste management plan designed to meet the waste reduction
33 goals set out in G.S. 130A-309.04 within the geographic area covered by the plan.

34 (c) The Department may reduce or modify the municipal solid waste
35 reduction goal that a ~~designated unit of~~ local government is required to attempt to
36 achieve pursuant to subsection ~~(d)~~ (b) of this section if the ~~designated unit of~~ local
37 government demonstrates to the Department that:

- 38 (1) The achievement of the goal ~~set forth in subsection (d)~~ would have an
39 adverse effect on the financial obligations of ~~a designated the unit of~~
40 local government incurred prior to ~~the effective date of this section~~ 1
41 October 1989 that are directly related to a waste-to-energy facility
42 owned or operated by or on behalf of ~~the designated a unit of~~ local
43 government; and

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

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

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

(e) Any municipality that does not participate in the preparation of a county report shall prepare its own report in accordance with the provisions of subsection (d) of this section.

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

Sec. 5. Subsections (b), (c), (i), (j), (k), (l), and (m) of G.S. 130A-309.09 are recodified as G.S. 130A-309.09B and read as rewritten:

1 **"§ 130A-309.09B. Local government recycling programs.**

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

6 (1) Construction and demolition debris must be separated from the solid
7 waste stream and segregated in separate locations at a solid waste
8 disposal facility or other permitted site.

9 (2) At a minimum, ~~a majority of marketable~~ those materials identified
10 ~~pursuant to G.S. 130A-309.14(b) by the Department as marketable~~ must
11 be separated from the solid waste stream prior to final disposal at a
12 solid waste disposal facility and must be offered for recycling if the
13 separation and collection of these materials is economically feasible
14 and markets for such materials exist in such proximity as to make
15 transportation of such materials to such markets economically feasible.

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

21 ~~(e)~~ ~~(b)~~ ~~Each designated local government shall ensure, to~~ To the maximum extent
22 ~~possible, that municipalities within its boundaries practicable, units of local government~~
23 should participate in the preparation and implementation of joint recycling and solid
24 waste management programs—programs, whether through joint agencies established
25 pursuant to G.S. 153A-421, G.S. 160A-462-160A-462, or any other means provided by
26 law. Nothing in a county's solid waste management or recycling program shall affect
27 the authority of a municipality to franchise or otherwise provide for the collection of
28 solid waste generated within the boundaries of the municipality.

29 ~~(i)~~ ~~(c)~~ In the development and implementation of a curbside recyclable materials
30 collection program, a county or municipality shall enter into negotiations with a
31 franchisee who is operating to exclusively collect solid waste within a service area of a
32 county or municipality to undertake curbside recyclable materials collection
33 responsibilities for a county or municipality. If the county or municipality and the
34 franchisee fail to reach an agreement within 60 days from the initiation of negotiations,
35 the county or municipality may solicit proposals from other persons to undertake
36 curbside recyclable materials collection responsibilities for the county or municipality
37 as it may require. Upon the determination of the lowest responsible proposals, the
38 county or municipality may undertake, or enter into a written agreement with the person
39 who submitted the lowest responsible proposal to undertake, the curbside recyclable
40 materials collection responsibilities for the county or municipality, notwithstanding the
41 exclusivity of any franchise agreement for the collection of solid waste within a service
42 area of the county or municipality.

43 ~~(j)~~ ~~(d)~~ In developing and implementing recycling programs, counties and
44 municipalities shall give consideration to the collection, marketing, and disposition of

1 recyclable materials by persons engaged in the business of recycling on either a for-
 2 profit or nonprofit basis. Counties and municipalities are encouraged to use for-profit
 3 and nonprofit organizations in fulfilling their responsibilities under this Part.

4 ~~(k)~~ (e) A county or county and the municipalities within the county's or counties'
 5 boundaries may jointly develop a recycling program, provided that the county and each
 6 municipality must enter into a written agreement to jointly develop a recycling program.
 7 If a municipality does not participate in jointly developing a recycling program with the
 8 county within which it is located, the county may require the municipality to provide
 9 information on recycling efforts undertaken within the boundaries of the municipality in
 10 order to determine whether the goals for municipal solid waste reduction are being
 11 achieved.

12 ~~(l)~~ (f) ~~It is the policy of the State that a~~ A county or counties and its or their
 13 municipalities may jointly determine, through a joint agency established pursuant to
 14 G.S. 153A-421 or G.S. 160A-462 or by requesting the passage of special legislation, 160A-
 15 462, which local governmental agency shall administer a solid waste management or
 16 recycling program.

17 ~~(m)~~ (g) ~~The designated~~ A unit of local government that enters into an agreement
 18 with one or more other units of local government to develop and operate a recycling
 19 program shall provide written notice to all units of local government within the designated
 20 local government when recycling program development begins and shall provide periodic
 21 written progress reports to the units of local government concerning the preparation
 22 implementation of the recycling program."

23 Sec. 6. Subsections (h), (n), (o), (p), (q), (s), and (t) of G.S. 130A-309.09 are
 24 recodified as G.S. 130A-309.09C and read as rewritten:

25 **"§ 130A-309.09C. Additional powers of local governments; construction of this**
 26 **Part; effect of noncompliance.**

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

- 29 (1) To contract with persons to provide resource recovery services or
 30 operate resource recovery facilities on behalf of the county or
 31 municipality.
- 32 (2) To indemnify persons providing resource recovery services or
 33 operating resource recovery facilities for liabilities or claims arising
 34 out of the provision or operation of such services or facilities that are
 35 not the result of the sole negligence of the persons providing the
 36 services or operating the facilities.
- 37 (3) To contract with persons to provide solid waste disposal services or
 38 operate solid waste disposal facilities on behalf of the county or
 39 municipality.

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

43 ~~(n)~~ (c) Nothing in this ~~section~~ Part shall be construed to prevent the governing
 44 board of any county or municipality from providing by ordinance or regulation for solid

1 waste management standards which are stricter or more extensive than those imposed
2 by the State solid waste management program and rules and orders issued to implement
3 the State program.

4 (⊖) (d) Nothing in this Part or in any rule adopted by any agency shall be
5 construed to require any county or municipality to participate in any regional solid
6 waste management until the governing board of the county or municipality has
7 determined that participation in such a program is economically feasible for that county
8 or municipality. Nothing in this Part or in any special or local act or in any rule adopted
9 by any agency shall be construed to limit the authority of a municipality to regulate the
10 disposal of solid waste located within its boundaries or generated within its boundaries
11 so long as a facility for any such disposal has been approved by the Department, unless
12 the municipality is included within a solid waste management program created under a
13 joint agency or special or local act. If bonds had been issued to finance a solid waste
14 management program in reliance on State law granting to a ~~designated local government~~
15 unit of local government, a region, or a special district the responsibility for the solid
16 waste management program, nothing herein shall permit any governmental agency to
17 withdraw from the program if the agency's participation is necessary for the financial
18 feasibility of the project, so long as the bonds are outstanding.

19 (⊕) (e) Nothing in this Part or in any rule adopted by any State agency pursuant to
20 this Part shall require any person to subscribe to any private solid waste collection
21 service.

22 (s) (f) ~~In the event the power to manage solid waste has been granted to a special~~
23 ~~district a region, special district, or other entity by special act or joint agency, has been~~
24 established to manage solid waste, any duty or responsibility or penalty imposed under
25 this Part on a county or municipality unit of local government shall apply to such region,
26 special district district, or other entity to the extent of the grant of the duty or
27 responsibility or imposition of such penalty. To the same extent, such region, special
28 district district, or other entity shall be eligible for grants or other benefits provided
29 pursuant to this Part.

30 (⊕) (g) In addition to any other penalties provided by law, a unit of local
31 government that does not comply with the requirements of ~~subsections (b) and (d) G.S.~~
32 130A-309.09A(b) and G.S. 130A-309.09B(a) shall not be eligible for grants from the
33 Solid Waste Management Trust Fund, and the Department may notify the State
34 Treasurer to withhold payment of all or a portion of funds payable to the unit of local
35 government by the Department from the General Fund or by the Department from any
36 other State fund, to the extent not pledged to retire bonded indebtedness, unless the unit
37 of local government demonstrates that good faith efforts to meet the requirements of
38 ~~subsections (b) and (d) G.S. 130A-309.09A(b) and G.S. 130A-309.09B(a)~~ have been
39 made or that the funds are being or will be used to finance the correction of a pollution
40 control problem that spans jurisdictional boundaries."

41 Sec. 7. Subsections (d) and (e) of G.S. 130A-309.09 are repealed.

42 Sec. 8. G.S. 130A-309.08(d) reads as rewritten:

43 "(d) In order to assist in achieving the municipal solid waste reduction goal and
44 the recycling provisions of G.S. ~~130A-309.09~~ 130A-309.09B, a county or a municipality

1 which owns or operates a solid waste management facility may charge solid waste
2 disposal fees which may vary based on a number of factors, including the amount,
3 characteristics, and form of recyclable materials present in the solid waste that is
4 brought to the county's or the municipality's facility for processing or disposal."

5 Sec. 9. Part 2A of Article 9 of Chapter 130A of the General Statutes is
6 amended by adding a new section to read:

7 **"§ 130A-309.09D. Responsibilities of owners and operators of privately owned**
8 **municipal solid waste management facilities.**

9 (a) The owner or operator of a privately owned municipal solid waste
10 management facility shall operate the facility in a manner which is consistent with the
11 State solid waste management plan and with the solid waste management plans adopted
12 by those units of local government that are served by the facility.

13 (b) On or before 1 August 1992 and each year thereafter, the owner or operator
14 of a privately owned municipal solid waste management facility shall report to the
15 Department, for the previous year beginning 1 July and ending 30 June, the amount by
16 weight of the solid waste that was received at the facility and disposed of in a landfill,
17 incinerated, or converted to fuel. To the maximum extent practicable, such reports shall
18 indicate by weight the county of origin of all solid waste. The owner or operator shall
19 transmit a copy of the report to the county in which the facility is located and to each
20 county from which solid waste originated."

21 Sec. 10. Part 2A of Article 9 of Chapter 130A of the General Statutes is
22 amended by adding a new section to read:

23 **"§ 130A-309.29. Adoption of rules.**

24 The Commission may adopt rules to implement the provisions of this Part pursuant
25 to Article 2 of Chapter 150B of the General Statutes."

26 Sec. 11. This act is effective upon ratification.