

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 859
Committee Substitute Favorable 5/3/95

Short Title: Solid Waste Amendments.

(Public)

Sponsors:

Referred to:

April 12, 1995

1 A BILL TO BE ENTITLED
2 AN ACT TO REVISE THE SOLID WASTE MANAGEMENT ACT OF 1989 AND
3 RELATED STATUTES.

4 The General Assembly of North Carolina enacts:

5 Section 1. G.S. 130A-290(a)(5) is repealed.

6 Sec. 2. G.S. 130A-290(a) is amended by adding a new subdivision to read:

7 "(13a) 'Industrial solid waste' means solid waste generated by manufacturing or
8 industrial processes that is not hazardous waste."

9 Sec. 3. G.S. 130A-290(a)(18a) reads as rewritten:

10 "(18a) 'Municipal solid waste' means any solid waste resulting from the
11 operation of residential, commercial, industrial, governmental, or
12 institutional establishments that would normally be collected, processed,
13 and disposed of through a public or private solid waste management
14 service. Municipal solid waste does not include hazardous waste,
15 sludge, industrial waste managed in a solid waste management facility
16 owned and operated by the generator of the industrial waste for
17 management of that waste, or solid waste from mining or agricultural
18 operations."

19 Sec. 4. G.S. 130A-290(a)(24) reads as rewritten:

1 "(24) '~~Recovered materials' means those materials which have material~~ means a
2 material that has known recycling potential, can be feasibly recycled,
3 and have been diverted or removed from the solid waste stream for sale,
4 use, or ~~reuse by separation, collection, or processing.~~ reuse. In order to
5 qualify as a recovered material, a material must meet the requirements
6 of G.S. 130A-309.05(c)."

7 Sec. 5. G.S. 130A-290(a)(35) reads as rewritten:

8 "(35) 'Solid waste' means any hazardous or nonhazardous garbage, refuse or
9 sludge from a waste treatment plant, water supply treatment plant or air
10 pollution control facility, domestic sewage and sludges generated by the
11 treatment thereof in sanitary sewage collection, treatment and disposal
12 systems, and other material that is either discarded or is being
13 accumulated, stored or treated prior to being discarded, or has served its
14 original intended use and is generally discarded, including solid, liquid,
15 semisolid or contained gaseous material resulting from industrial,
16 institutional, commercial and agricultural operations, and from
17 community activities. The term does not include:

- 18 a. Fecal waste from fowls and animals other than ~~humans;~~ humans.
19 b. Solid or dissolved material in:
20 1. Domestic sewage and sludges generated by treatment
21 thereof in sanitary sewage collection, treatment and
22 disposal systems which are designed to discharge effluents
23 to the surface ~~waters;~~ waters.
24 2. Irrigation return ~~flows;~~ and flows.
25 3. Wastewater discharges and the sludges incidental to and
26 generated by treatment which are point sources subject to
27 permits granted under Section 402 of the Water Pollution
28 Control Act, as amended (P.L. 92-500), and permits
29 granted under G.S. 143-215.1 by the Environmental
30 Management Commission. However, any sludges that
31 meet the criteria for hazardous waste under RCRA shall
32 also be a solid waste for the purposes of this ~~Article;~~
33 Article.
34 c. Oils and other liquid hydrocarbons controlled under Article 21A
35 of Chapter 143 of the General Statutes. However, any oils or
36 other liquid hydrocarbons that meet the criteria for hazardous
37 waste under RCRA shall also be a solid waste for the purposes of
38 this ~~Article;~~ Article.
39 d. Any source, special nuclear or byproduct material as defined by
40 the Atomic Energy Act of 1954, as amended (42 U.S.C. § 2011).
41 e. Mining refuse covered by the North Carolina Mining Act, G.S.
42 74-46 through 74-68 and regulated by the North Carolina Mining
43 Commission (as defined under G.S. 143B-290). However, any

1 specific mining waste that meets the criteria for hazardous waste
2 under RCRA shall also be a solid waste for the purposes of this
3 Article.

4 f. Recovered materials."

5 Sec. 6. G.S. 130A-294(a)(3) reads as rewritten:

6 "(3) Develop and adopt rules to establish standards for qualification as a
7 ~~waste~~-'recycling, reduction or resource recovering facility' or as ~~waste~~
8 'recycling, reduction or resource recovering equipment' for the purpose
9 of special tax classifications or treatment, and to certify as qualifying
10 those applicants which meet the established standards. The standards
11 shall be developed to qualify only those facilities and equipment
12 exclusively used in the actual waste recycling, reduction or resource
13 recovering process and shall exclude any incidental or supportive
14 facilities and equipment;".

15 Sec. 7. G.S. 130A-309.04 reads as rewritten:

16 **"§ 130A-309.04. State solid waste management policy and goals.**

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

- 21 (1) Waste reduction at the source;
- 22 (2) Recycling and reuse;
- 23 (3) Composting;
- 24 (4) Incineration with energy ~~production~~; recovery;
- 25 (5) Incineration for ~~volume reduction~~; without energy recovery;
- 26 (6) Disposal in landfills.

27 (b) It is the policy of the State to encourage research into innovative solid waste
28 management methods and products and to encourage regional solid waste management
29 projects.

30 (c) It is the goal of this State to reduce the municipal solid waste stream, primarily
31 through source reduction, reuse, recycling, and composting, ~~on a per capita basis, on the~~
32 ~~following schedule:~~ by forty percent (40%) on a per capita basis by 30 June 2001.

- 33 ~~(1) Twenty five percent (25%) by 30 June 1993.~~
- 34 ~~(2) Forty percent (40%) by 30 June 2001.~~

35 (c1) To measure progress toward the municipal solid waste reduction ~~goals~~ goal in a
36 given year, comparison shall be made between the amount by weight of the municipal
37 solid waste that, during the baseline year and the given year, is received at municipal
38 solid waste management facilities and is:

- 39 (1) Disposed of in a landfill;
- 40 (2) Incinerated;
- 41 (3) Converted to tire-derived fuel; or
- 42 (4) Converted to refuse-derived fuel.

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

6 ~~(c3) If a unit of local government is unable to meet the municipal solid waste
7 reduction goal established in subdivision (2) of subsection (c) of this section and if the
8 unit of local government demonstrates to the satisfaction of the Department that it has
9 considered all reasonably available options to reduce its municipal solid waste stream
10 through source reduction, reuse, recycling, and composting and that it has made a good
11 faith effort and done everything technologically and economically feasible to meet the
12 goal, for the purpose of calculating progress of the unit of local government toward the
13 goal, ten percent (10%) of the amount by weight of the municipal solid waste stream that
14 is converted to tire derived fuel or refuse derived fuel may be added to the amount that is
15 diverted from the municipal solid waste stream through source reduction, reuse,
16 recycling, and composting.~~

17 (d) In furtherance of the State's solid waste management policy, each State agency
18 shall develop a solid waste management plan ~~which~~that is consistent with the solid waste
19 management policy of the State.

20 (d1) It is the policy of the State to obtain, to the extent practicable, economic
21 benefits from the recovery from solid waste and reuse of material and energy resources.
22 In furtherance of this policy, it is the goal of the State to foster partnerships between the
23 public and private sectors that strengthen the supply of, and demand for, recyclable and
24 reusable materials and that foster opportunities for economic development from the
25 recovery and reuse of materials.

26 ~~(e) Each county, either individually or in cooperation with others, shall, in
27 cooperation with its municipalities, develop a comprehensive county solid waste
28 management plan and submit the plan to the Department for approval. County solid waste
29 management plans shall be updated and submitted for approval at least once every two
30 years. A county solid waste management plan shall be consistent with the State's
31 comprehensive solid waste plan. In counties where a municipality operates the major
32 solid waste disposal facility, the comprehensive solid waste plan may be prepared by the
33 municipality, with the approval of the county and in cooperation with the other
34 municipalities. Each county's comprehensive solid waste management plan shall include
35 provisions which address the State's waste reduction goals. Each county's plan shall take
36 into consideration facilities and other resources for management of solid waste which
37 may be available through private enterprise. This section shall be construed to encourage
38 the involvement and participation of private enterprise in solid waste management. The
39 Department shall develop a form designed to elicit pertinent information regarding a
40 county's solid waste management plan. The Department shall provide assistance in the
41 preparation of county plans upon request.~~

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

4 Sec. 8. G.S. 130A-309.05 reads as rewritten:

5 **"§ 130A-309.05. Regulated wastes; certain exclusions.**

6 (a) Notwithstanding other provisions of this Article, the following waste shall be
7 regulated pursuant to this Part:

8 (1) Medical waste; and

9 (2) Ash generated by a solid waste management facility from the burning of
10 solid waste.

11 (b) Ash generated by a solid waste management facility from the burning of solid
12 waste shall be disposed of in a properly designed solid waste disposal area that complies
13 with standards developed by the Department for the disposal of the ash. The Department
14 shall work with solid waste management facilities ~~which that~~ burn solid waste to identify
15 and develop methods for recycling and reusing incinerator ash or treated ash.

16 (c) ~~Recovered materials are not subject to the provisions of this Part if: regulation as~~
17 ~~solid waste under this Article. The Commission may adopt rules to ensure that recovered~~
18 ~~materials do not pose a threat to public health or the environment. In order for a material~~
19 ~~that would otherwise be regulated as solid waste to qualify as a recovered material, the~~
20 ~~Department may require any person who owns or has control over the material to~~
21 ~~demonstrate that the material meets the requirements of this subsection. In order to~~
22 ~~qualify as a recovered material:~~

23 (1) ~~A majority of the recovered materials—material at a facility are—is sold,~~
24 ~~used, or reused within one year;~~

25 (2) ~~The recovered materials—material or the products or by-products of~~
26 ~~operations that process recovered materials—are—material is not~~
27 ~~discharged, deposited, injected, dumped, spilled, leaked, or placed into~~
28 ~~or upon any land or water so that the products or by-products or any~~
29 ~~constituent thereof may enter other lands or be emitted into the air or~~
30 ~~discharged into any waters including groundwaters, or otherwise enter~~
31 ~~the environment or pose a threat to public health and safety; and~~

32 (3) ~~The recovered materials—are not—material is not a hazardous waste and~~
33 ~~have—has not been recovered from solid waste which is defined as hazardous~~
34 ~~waste under G.S. 130A-290.—a hazardous waste."~~

35 Sec. 9. G.S. 130A-309.06 reads as rewritten:

36 **"§ 130A-309.06. Additional powers and duties of the Department.**

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

39 (1) Develop a comprehensive solid waste management plan consistent with
40 this ~~Part by 1 March 1991. Part.~~ The plan shall be developed in
41 consultation with units of local government and shall be updated at least
42 every three years. In developing the State solid waste management
43 plan, the Department shall hold public hearings around the State and

- 1 shall give notice of these public hearings to all units of local
2 government and regional planning agencies.
- 3 (2) Provide guidance for the orderly collection, transportation, storage,
4 separation, processing, recovery, recycling, and disposal of solid waste
5 throughout the State.
- 6 (3) Encourage coordinated local activity for solid waste management within
7 a common geographical area.
- 8 (4) Provide planning, technical, and financial assistance to units of local
9 government and State agencies for reduction, recycling, reuse, and
10 processing of solid waste and for safe and environmentally sound solid
11 waste management and disposal.
- 12 (5) Cooperate with appropriate federal ~~agencies~~agencies, local
13 governments, and private organizations in carrying out the provisions of
14 this Part.
- 15 (6) Promote and assist the development of solid waste reduction, recycling,
16 and resource recovery programs ~~which~~that preserve and enhance the
17 quality of the air, water, and other natural resources of the State.
- 18 (7) Maintain a directory of recycling and resource recovery systems in the
19 State and provide assistance with matching recovered materials with
20 markets.
- 21 (8) Manage a program of grants for programs for recycling and special
22 waste management, and for programs ~~which~~that provide for the safe and
23 proper management of solid waste.
- 24 (9) Provide for the education of the general public and the training of solid
25 waste management professionals to reduce the production of solid
26 waste, to ensure proper processing and disposal of solid waste, and to
27 encourage recycling and solid waste reduction.
- 28 (10) Develop descriptive literature to inform units of local government of
29 their solid waste management responsibilities and opportunities.
- 30 ~~(11) Conduct at least one workshop each year in each region served by a~~
31 ~~council of governments.~~
- 32 (12) Provide and maintain recycling bins for the collection and recycling of
33 newspaper, aluminum cans, glass containers, and recyclable plastic
34 beverage containers at the North Carolina Zoological Park.
- 35 (13) Identify, based on reports required under G.S. 130A-309.14 and any
36 other relevant information, those materials in the municipal solid waste
37 stream that are marketable in the State or any portion thereof and that
38 should be recovered from the waste stream prior to treatment or
39 disposal.
- 40 (14) Identify and analyze, with assistance from the Department of Commerce
41 pursuant to G.S. 130A-309.14, components of the State's recycling
42 industry and present and potential markets for recyclable materials in
43 this State, other states, and foreign countries.

1 (b) The Department may refuse to issue a permit to an applicant who by past
2 conduct in this State has repeatedly violated related statutes, rules, orders, or permit terms
3 or conditions relating to any solid waste management facility and who is deemed by the
4 Department to be responsible for the violations. For the purpose of this subdivision, an
5 applicant includes the owner or operator of the facility, or, if the owner or operator is a
6 business entity, the parent of the subsidiary corporation, a partner, a corporate officer or
7 director, or a stockholder holding more than fifty percent (50%) of the stock of the
8 corporation.

9 (c) The Department shall prepare by 1 ~~May~~ March of each year a report on the
10 status of solid waste management efforts in the State. The scope of the report shall be
11 determined by the resources available to the Department for its preparation and, to the
12 extent possible, shall include:

- 13 (1) A comprehensive analysis, to be updated in each report, of solid waste
14 generation and disposal in the State projected for the 20-year period
15 beginning on 1 July 1991.
- 16 (2) The total amounts of solid waste ~~generated, recycled,~~ recycled and
17 disposed of and the methods of solid waste recycling and disposal used
18 during the calendar year prior to the year in which the report is
19 published.
- 20 (3) An evaluation of the development and implementation of local solid
21 waste management programs and county and municipal recycling
22 programs.
- 23 (4) An evaluation of the success of each county or group of counties in
24 meeting the municipal solid waste reduction goal established in G.S.
25 130A-309.04.
- 26 (5) Recommendations concerning existing and potential programs for solid
27 waste reduction and recycling that would be appropriate for units of
28 local government and State agencies to implement to meet the
29 requirements of this Part.
- 30 (6) An evaluation of the markets for recycled materials and the success of
31 State, local, and private industry efforts to enhance the markets for ~~such~~
32 these materials.
- 33 (7) Recommendations to the Governor and the ~~General Assembly~~
34 Environmental Review Commission to improve the management and
35 recycling of solid waste in the ~~State~~ State, including any proposed
36 legislation to implement the recommendations.

37 (d) The Department of Environment, Health, and Natural Resources shall prepare
38 ~~by March 1, 1994, and every other year thereafter,~~ a report assessing the recycling industry
39 and recyclable materials markets in the ~~State~~ State every two years, and shall submit the
40 report to the Environmental Review Commission on or before 1 March of even-numbered
41 years."

42 Sec. 10. G.S. 130A-309.07 reads as rewritten:
43 "**§ 130A-309.07. State solid waste management plan.**

1 The State solid waste management plan shall include, at a minimum:

- 2 (1) ~~Procedures and requirements to ensure~~ encourage cooperative efforts in
3 solid waste management by counties and municipalities and groups of
4 counties and municipalities where appropriate, including the
5 establishment of joint agencies pursuant to G.S. 160A-462.
- 6 (2) Provisions for the continuation of existing effective regional resource
7 recovery, recycling, and solid waste management facilities and
8 programs.
- 9 (3) Planning guidance and technical assistance to counties and
10 municipalities to aid in meeting the municipal solid waste reduction
11 goals established in G.S. 130A-309.04.
- 12 (4) Planning guidance and technical assistance to counties and
13 municipalities to assist the development and implementation of ~~recycling~~
14 solid waste reduction programs.
- 15 (5) Technical assistance to counties and municipalities in determining the
16 full cost for solid waste management as required in G.S. 130A-309.08.
- 17 (6) Planning guidance and technical assistance to counties and
18 municipalities to assist the development and implementation of
19 programs for alternative disposal, processing, or recycling of the solid
20 wastes prohibited from disposal in landfills pursuant to G.S. 130A-
21 309.10 and for special wastes.
- 22 (7) A public education program, to be developed in cooperation with the
23 Department of Public Instruction, units of local government, other State
24 agencies, and business and industry organizations, to inform the public
25 of the need for and the benefits of recycling solid waste and reducing
26 the amounts of solid and hazardous waste generated and disposed of in
27 the State. The public education program shall be implemented through
28 public workshops and through the use of brochures, reports, public
29 service announcements, and other materials.
- 30 (8) Provisions to encourage partnerships between the public and private
31 sectors that strengthen the supply of, and demand for, recyclable
32 materials and that foster opportunities for economic development from
33 the recovery and reuse of materials."

34 Sec. 11. G.S. 130A-309.08 reads as rewritten:

35 "**§ 130A-309.08. Determination of cost for solid waste management; local solid**
36 **waste management fees.**

37 (a) Within one year of the effective date of this section or within one year after
38 rules are adopted by the Commission, whichever occurs later, each county and each
39 municipality shall determine the full cost for solid waste management within the service
40 area of the county or municipality for a one-year period as specified by rules adopted by
41 the Commission, and shall update the full cost determination every year thereafter. The
42 Commission shall establish by rule the method for units of local government to use in
43 calculating full cost. Rule making shall be initiated and at least one public hearing shall

1 be held by 1 March 1990. In developing the rule, the Commission shall examine the
2 feasibility of the use of an enterprise fund process by units of local government in
3 operating their solid waste management systems.

4 (b) Within one year after the completion of the cost determination required by
5 subsection (a) of this section, each municipality shall establish a system to inform, no less
6 than once a year, residential and nonresidential users of solid waste management services
7 within the municipality's service area of the user's share, on an average or individual
8 basis, of the full cost for solid waste management as determined pursuant to subsection
9 (a) of this section. Counties shall provide the information required of municipalities only
10 to residential and nonresidential users of solid waste management services within the
11 county's service area that are not served by a municipality. Municipalities shall include
12 costs charges to them or persons contracting with them for disposal of solid waste in the
13 full cost information provided to residential and nonresidential users of solid waste
14 management services. Counties and municipalities are encouraged to operate their solid
15 waste management systems through use of an enterprise fund.

16 (c) For purposes of this section, "service area" means the area in which the county
17 or municipality provides, directly or by contract, solid waste management services. The
18 provisions of this section shall not be construed to require a person operating under a
19 franchise contract or other agreement to collect or dispose of solid waste within the
20 service area of a county or municipality to make the calculations or to establish a system
21 to provide the information required under this section, unless such person agrees to do so
22 as part of such franchise contract or other agreement.

23 (d) ~~In order to assist in achieving the municipal solid waste reduction goal and the~~
24 ~~recycling provisions of G.S. 130A-309.09B, a county or a municipality~~ A unit of local
25 government which owns or operates a solid waste management facility may charge solid
26 waste disposal fees ~~which~~ that may vary based on a number of factors, including the
27 amount, characteristics, and form of recyclable materials present in the solid waste that is
28 brought to the county's or the municipality's facility for processing or disposal.

29 (e) In addition to all other fees required or allowed by law, a county or a
30 municipality, at the discretion of its governing board, may impose a fee for the services
31 the county or municipality provides with regard to the collection, processing, or disposal
32 of solid waste, to be used for developing and implementing a ~~recycling~~ waste reduction
33 program.

34 (f) This section does not prohibit a county, ~~municipality, city,~~ or other person from
35 providing loans, grants, loans, or other aid to low-income persons to pay all or part ~~or all~~
36 of the costs of ~~such persons' solid waste management services.~~ services for those persons."

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

38 **"§ 130A-309.09A. Local government solid waste responsibilities.**

39 (a) ~~The governing board of a designated local government shall provide for the~~
40 ~~operation of solid waste disposal facilities to meet the needs of all incorporated and~~
41 ~~unincorporated areas designated to be served by the facility.~~ each unit of local
42 government shall assess local solid waste collection services and disposal capacity and
43 shall determine the adequacy of collection services and disposal capacity to meet local

1 needs and to protect human health and the environment. Each unit of local government
2 shall implement programs and take other actions that it determines are necessary to
3 address deficiencies in service or capacity required to meet local needs and to protect
4 human health and the environment. Pursuant to this section and notwithstanding any
5 other provision of this Chapter, designated local governments ~~A unit of local government~~
6 may adopt ordinances governing the disposal ~~disposal,~~ in facilities which they operate
7 that it operates, of solid waste generated outside of the area designated to be served by
8 such ~~the~~ facility. Such ordinances shall not be construed to apply to privately operated
9 disposal facilities located within the boundaries of a ~~designated~~ the unit of local
10 government. In accordance with this section, municipalities are responsible for collecting
11 and transporting solid waste from their jurisdictions to a solid waste disposal facility
12 operated by the municipality or county, any other municipality or county, or by any other
13 person. Counties and municipalities may charge reasonable fees for the handling and
14 disposal of solid waste at their facilities. The fees charged to municipalities without
15 facilities at a solid waste management facility specified by the county shall not be greater
16 than the fees charged to other users of the facility except as provided in G.S. 130A-
17 309.08(d). Solid waste management fees collected on a countywide basis shall be used to
18 fund solid waste management services provided throughout the county.

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

23 Each unit of local government, either individually or in cooperation with other units
24 of local government, shall develop a 10-year comprehensive solid waste management
25 plan. Units of local government shall make a good-faith effort to achieve the State's forty
26 percent (40%) municipal solid waste reduction goal and with the State's comprehensive
27 solid waste management plan. Each unit of local government shall develop its solid
28 waste management plan with public participation, including, at a minimum, one
29 advertised public meeting. The Department shall assist units of local government in the
30 preparation of the plan required by this subsection if the unit of local government
31 requests assistance. Each plan shall be updated at least every three years. In order to
32 assure compliance with this subsection, each unit of local government shall provide the
33 Department with a copy of its current plan upon request by the Department. Each plan
34 shall:

- 35 (1) Evaluate the solid waste stream in the geographic area covered by the
36 plan.
- 37 (2) Include a goal for the reduction of municipal solid waste on a per capita
38 basis by 30 June 2001 and a goal for the further reduction of municipal
39 solid waste by 30 June 2006. The solid waste reduction goals shall be
40 determined by the unit or units of local government that prepare the
41 plan.
- 42 (3) Be designed to achieve the solid waste reduction goals established by
43 the plan.

- 1 (4) Include a description of the process by which the plan was developed,
2 including provisions for public participation in the development of the
3 plan.
- 4 (5) Include a description and assessment of intended actions with respect to
5 the following solid waste management methods:
- 6 a. Reduction at the source.
7 b. Collection.
8 c. Recycling and reuse.
9 d. Composting and mulching.
10 e. Incineration with energy recovery.
11 f. Incineration without energy recovery.
12 g. Transfer outside the geographic area covered by the plan.
13 h. Disposal.
- 14 (6) Include a description and assessment of intended actions with respect to:
- 15 a. Education with the community and through the schools.
16 b. Management of special wastes.
17 c. Prevention of illegal disposal and management of litter.
18 d. Purchase of recycled materials and products manufactured with
19 recycled materials.
- 20 (7) Include a description and assessment of the full cost of solid waste
21 management, including the costs of collection, disposal, waste
22 reduction, and other programs, and of the methods of financing those
23 costs.
- 24 (8) Consider the use of facilities and other resources for management of
25 solid waste that may be available through private enterprise.
- 26 (e) ~~The Department may reduce or modify the municipal solid waste reduction~~
27 ~~goal that a unit of local government is required to attempt to achieve pursuant to~~
28 ~~subsection (b) of this section if the unit of local government demonstrates to the~~
29 ~~Department that:~~
- 30 (1) ~~The achievement of the goal would have an adverse effect on the~~
31 ~~financial obligations of the unit of local government incurred prior to 1~~
32 ~~October 1989 that are directly related to a waste to energy facility~~
33 ~~owned or operated by or on behalf of a unit of local government; and~~
- 34 (2) ~~The unit of local government cannot remove normally combustible~~
35 ~~materials from solid waste that is to be processed at a waste to energy~~
36 ~~facility permitted prior to 1 July 1991 because of the need to maintain a~~
37 ~~sufficient amount of solid waste to ensure the financial viability of the~~
38 ~~facility. The goal may not be waived entirely and may be reduced or~~
39 ~~modified only to the extent necessary to alleviate the adverse effects of~~
40 ~~achieving the goal on the financial viability of a unit of local~~
41 ~~government's waste to energy facility. Nothing in this subsection shall~~
42 ~~exempt a unit of local government from developing and implementing a~~
43 ~~recycling program pursuant to this Part.~~

1 (d) ~~In order to assess the progress in meeting the goals set out in G.S. 130A-~~
2 ~~309.04, each county, either individually or in cooperation with one or more other~~
3 ~~counties, shall, by 1 December 1991 and each year thereafter, Each unit of local~~
4 ~~government shall report to the Department on the solid waste management programs and~~
5 ~~reeycling waste reduction activities within the county or the geographic area covered by~~
6 ~~the county's solid waste management plan. within the unit of local government by 1~~
7 ~~September of each year. This report by the county must~~ At a minimum, the report shall
8 include:

- 9 (1) A description of public education programs on ~~reeycling;~~ recycling.
10 (2) The amount of solid waste received at municipal solid waste
11 management facilities, by type of solid ~~waste;~~ waste.
12 (3) The amount and type of materials from the solid waste stream that were
13 ~~reeycleed;~~ recycled.
14 (4) The percentage of the population participating in various types of
15 recycling activities ~~instituted;~~ instituted.
16 (5) The annual reduction in municipal solid waste, measured as provided in
17 G.S. ~~130A-309.04;~~ 130A-309.04.
18 ~~(6) A description of the recycling activities attempted, their success rates,~~
19 ~~the perceived reasons for failure or success, and the recycling activities~~
20 ~~which are ongoing and most successful; and~~ Information regarding
21 programs and other actions implemented as part of the local
22 comprehensive solid waste management plan.
23 (7) ~~In its first report, a description of any recycling activities implemented prior to~~
24 ~~1 July 1991. A statement of the costs of solid waste management~~
25 ~~programs implemented by the unit of local government and the methods~~
26 ~~of financing those costs.~~

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

30 ~~(f) On and after 1 July 1991, each~~ Each operator of a municipal solid waste management
31 facility shall weigh all solid waste when it is received.

32 ~~(g) A unit of local government that is a collector of municipal solid waste shall not~~
33 ~~knowingly collect for disposal, and the owner or operator of a municipal solid waste~~
34 ~~management facility that is owned or operated by a unit of local government shall not~~
35 ~~knowingly dispose of, any type or form of municipal solid waste that is generated within~~
36 ~~the boundaries of a unit of local government that by ordinance:~~

- 37 (1) Prohibits generators or collectors of municipal solid waste from
38 disposing of that type or form of municipal solid waste.
39 (2) Requires generators or collectors of municipal solid waste to recycle
40 that type or form of municipal solid waste."

41 Sec. 13. G.S. 130A-309.09B reads as rewritten:

42 "**§ 130A-309.09B. Local government ~~reeycling waste reduction~~ waste reduction programs.**

1 (a) ~~Each designated unit of local government shall initiate a recyclable materials~~
2 ~~recycling program by 1 July 1991. Counties and municipalities are encouraged to form~~
3 ~~cooperative arrangements for implementing recycling programs. establish and maintain a~~
4 ~~solid waste reduction program that will enable the unit of local government to meet the~~
5 ~~local solid waste reduction goals established pursuant to G.S. 130A-309.09A(b)(2). The~~
6 following requirements shall apply:

7 (1) ~~Construction and demolition debris must be separated from the solid~~
8 ~~waste stream and segregated in separate locations at a solid waste~~
9 ~~disposal facility or other permitted site. Demolition debris consisting of~~
10 ~~used asphalt or used asphalt mixed with dirt, sand, gravel, rock,~~
11 ~~concrete, or similar nonhazardous material may be used as fill and need~~
12 ~~not be disposed of in a permitted landfill or solid waste disposal facility,~~
13 ~~provided that such demolition debris may not be placed in the waters of~~
14 ~~the State or at or below the seasonal high water table.~~

15 (2) Repealed by Session Laws 1991, c. 621, s. 8.

16 (3) Units of local government are encouraged to separate marketable
17 plastics, 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 organic solid waste into compost available for agricultural and other
20 acceptable uses.

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

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

42 (d) ~~In developing and implementing recycling programs, counties and~~
43 ~~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-profit~~
2 ~~or nonprofit basis. Counties and municipalities are encouraged to use for-profit and~~
3 ~~nonprofit organizations in fulfilling their responsibilities under this Part.~~

4 ~~(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 (f) A county or counties and its or their municipalities may jointly determine,
13 through a joint agency established pursuant to G.S. 153A-421 or G.S. 160A-462, which
14 local governmental agency shall administer a solid waste management or recycling-waste
15 reduction program.

16 (g) ~~A unit of local government that enters into an agreement with one or more~~
17 ~~other units of local government to develop and operate a recycling program shall provide~~
18 ~~periodic written progress reports to the units of local government concerning the~~
19 ~~implementation of the recycling program."~~

20 Sec. 14. G.S. 130A-309.09C(g) reads as rewritten:

21 "(g) In addition to any other penalties provided by law, a unit of local government
22 that does not comply with the requirements of G.S. 130A-309.09A(b) and G.S. 130A-
23 309.09B(a) shall not be eligible for grants from the Solid Waste Management Trust Fund,
24 the Scrap Tire Disposal Account, or the White Goods Management Account and the
25 Department may notify the State Treasurer to withhold payment of all or a portion of funds
26 payable to the unit of local government by the Department from the General Fund or by the
27 Department from any other State fund, to the extent not pledged to retire bonded indebtedness,
28 unless the unit of local government demonstrates that good faith efforts to meet the requirements
29 of G.S. 130A-309.09A(b) and G.S. 130A-309.09B(a) have been made or that the funds are being
30 or will be used to finance the correction of a pollution control problem that spans jurisdictional
31 boundaries. shall not receive the proceeds of the scrap tire disposal tax imposed by Article
32 5B of Chapter 105 of the General Statutes or the proceeds of the white goods disposal tax
33 imposed by Article 5C of Chapter 105 of the General Statutes to which the unit of local
34 government would otherwise be entitled. The Secretary shall notify the Secretary of
35 Revenue to withhold payment of funds to any unit of local government that fails to
36 comply with the requirements of G.S. 130A-309.09A(b) and G.S. 130A-309.09B(a).
37 Proceeds of the scrap tire disposal tax that are withheld pursuant to this subsection shall
38 be credited to the Scrap Tire Disposal Account and may be used as provided in G.S.
39 130A-309.63. Proceeds of the white goods management tax that are withheld pursuant to
40 this subsection shall be credited to the White Goods Management Account and may be
41 used as provided in G.S. 130A-309.83."

42 Sec. 15. G.S. 130A-309.09D reads as rewritten:

1 **"§ 130A-309.09D. Responsibilities of owners and operators of privately owned**
2 **~~municipal solid waste management facilities.~~ facilities and collectors of**
3 **municipal solid waste.**

4 (a) ~~The~~ A collector of municipal solid waste shall not knowingly collect for
5 disposal, and the owner or operator of a privately owned or operated municipal solid
6 waste management facility shall operate the facility in a manner which is consistent with the
7 State solid waste management plan and with the solid waste management plans that have been
8 adopted by those units of local government served by the facility and approved by the
9 Department. ~~not knowingly dispose of, any type or form of municipal solid waste that is~~
10 generated within the boundaries of a unit of local government that by ordinance:

11 (1) Prohibits generators or collectors of municipal solid waste from
12 disposing of that type or form of municipal solid waste.

13 (2) Requires generators or collectors of municipal solid waste to recycle
14 that type or form of municipal solid waste.

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

23 (c) A generator of industrial solid waste that owns and operates an industrial solid
24 waste facility for the management of industrial solid waste generated by that generator
25 shall develop a 10-year waste management plan. The plan shall be updated at least every
26 three years. In order to assure compliance with this subsection, each generator to which
27 this subsection applies shall provide the Department with a copy of its current plan upon
28 request by the Department. Each generator to which this subsection applies shall file a
29 report on its implementation of the plan required by this subsection with the Department
30 by 1 August of each year. The plan shall have the following components:

31 (1) A waste reduction goal established by the generator.

32 (2) Options for the management and reduction of wastes evaluated by the
33 generator.

34 (3) A waste management strategy, including plans for waste reduction and
35 waste disposal, for the 10-year period covered by the plan."

36 Sec. 16. G.S. 130A-309.10 reads as rewritten:

37 **"§ 130A-309.10. Prohibited acts relating to packaging; coded labeling of plastic**
38 **containers required; disposal of certain solid wastes in landfills or by**
39 **incineration prohibited.**

40 (a) No beverage shall be sold or offered for sale within the State in a beverage
41 container designed and constructed so that the container is opened by detaching a metal
42 ring or tab.

1 (b) No person shall distribute, sell, or offer for sale in this State, any product
2 packaged in a container or packing material manufactured with fully halogenated
3 chlorofluorocarbons (CFC). Producers of containers or packing material manufactured
4 with chlorofluorocarbons (CFC) are urged to introduce alternative packaging materials
5 ~~which that~~ are environmentally compatible.

6 (c) (1) No plastic bag shall be provided at any retail outlet to any
7 retail customer to use for the purpose of carrying items purchased by
8 that customer unless the bag is composed of material ~~which that~~ is
9 recyclable. ~~Notice of recyclability shall be printed on each bag purchased~~
10 ~~by the retailer.~~

11 (2) It is the goal of the State that at least twenty-five percent (25%) of the
12 plastic bags provided at retail outlets in the State to retail customers for
13 carrying items purchased by the customer be recycled.

14 (d) (1) No person shall distribute, sell, or offer for sale in this State
15 any polystyrene foam product ~~which that~~ is to be used in conjunction
16 with food for human consumption unless ~~such the~~ product is
17 composed of material ~~which that~~ is recyclable.

18 ~~(2) After October 1, 1997, no person shall distribute, sell, or offer for sale in~~
19 ~~this State any polystyrene foam product that is to be used in conjunction~~
20 ~~with food for human consumption unless the Secretary certifies that at~~
21 ~~least twenty five percent (25%) of such products are being recycled.~~
22 ~~This subdivision does not apply to any polystyrene foam product~~
23 ~~containing at least twenty five percent (25%) polystyrene derived from~~
24 ~~products that have been collected for recycling after those products have~~
25 ~~served the purpose for which they were manufactured.~~

26 (e) No person shall distribute, sell, or offer for sale in this State any plastic
27 container product unless the product has a molded label indicating the plastic resin used
28 to produce the plastic container product. The code shall consist of a number placed
29 within three triangulated arrows and letters placed below the triangulated arrows. The
30 three arrows shall form an equilateral triangle with the common point of each line
31 forming each angle of the triangle at the midpoint of each arrow and rounded with a short
32 radius. The arrowhead of each arrow shall be at the midpoint of each side of the triangle
33 with a short gap separating the arrowhead from the base of the adjacent arrow. The
34 triangle formed by the three arrows curved at their midpoints shall depict a clockwise
35 path around the code number. The label shall appear on the bottom of the plastic
36 container product and be clearly visible. Plastic beverage containers having a capacity of
37 less than 16 fluid ounces, nonsolid food liquid containers having a capacity of less than
38 16 fluid ounces, and rigid plastic containers having a capacity of less than eight fluid
39 ounces are exempt from the requirements of this subsection. The numbers and letters
40 shall be as follows:

41 (1) For polyethylene terephthalate, the letters 'PETE' and the number 1.

42 (2) For high density polyethylene, the letters 'HDPE' and the number 2.

43 (3) For vinyl, the letter 'V' and the number 3.

- 1 (4) For low density polyethylene, the letters 'LDPE' and the number 4.
2 (5) For polypropylene, the letters 'PP' and the number 5.
3 (6) For polystyrene, the letters 'PS' and the number 6.
4 (7) For any other, including multi-material containers, the letters 'OTHER'
5 and the number 7.
- 6 (f) ~~In accordance with the following schedule, no~~ No person shall knowingly dispose
7 of the following solid wastes in landfills:
- 8 (1) Repealed by Session Laws 1991, c. 375, s. 1.
9 (2) Used oil.
10 (3) Yard trash, except in landfills ~~classified for such use~~ approved for the
11 disposal of yard trash under rules adopted by the Commission. Yard
12 trash that is source separated from solid waste may be accepted at a
13 solid waste disposal area where the area provides and maintains separate
14 yard trash composting facilities.
15 (4) White goods.
16 (5) Antifreeze (ethylene glycol).
17 (6) ~~Aluminum cans, after July 1, 1994.~~ cans.
18 (7) Whole scrap tires, as provided in G.S. 130A-309.58(b). The prohibition
19 against landfilling whole tires applies to all whole pneumatic rubber
20 coverings, but does not apply to whole solid rubber coverings.
21 (8) Lead-acid batteries, as provided in G.S. 130A-309.70.
- 22 (f1) ~~In accordance with the following schedule, no~~ No person shall knowingly dispose
23 of the following solid wastes by incineration in an incinerator for which a permit is
24 required under this Article:
- 25 (1) Antifreeze (ethylene glycol) used solely in motor ~~vehicles, after July 1,~~
26 ~~1994.~~ vehicles.
27 (2) ~~Aluminum cans, after July 1, 1994.~~ cans.
28 (3) Steel cans, unless the steel is recoverable at the end of the incineration
29 ~~process, after July 1, 1994.~~ process.
30 (4) ~~White goods, after July 1, 1994.~~ goods.
31 (5) Lead-acid batteries, as provided in G.S. 130A-309.70.
- 32 (f2) ~~Provided that this subsection~~ Subsection (f1) of this section shall not apply to
33 solid waste incinerated in an incinerator solely owned and operated by the generator of
34 the solid waste; ~~and provided further that this subsection~~ waste. Subsection (f1) of this
35 section shall not apply to antifreeze (ethylene glycol) ~~which~~ that cannot be recycled or
36 reclaimed to make it usable as antifreeze in a motor vehicle.
- 37 (g) Prior to the effective dates specified in this section, the Department shall
38 identify and assist in developing alternative disposal, processing, or recycling options for
39 the solid waste identified in this section.
- 40 (h) The accidental or occasional disposal of small amounts of prohibited solid
41 waste by landfill or incineration shall not be construed as a violation of subsections (f) or
42 (f1) of this section."

43 Sec. 17. G.S. 130A-309.25(c) reads as rewritten:

1 (c) A person may not perform the duties of an operator of a solid waste
2 management facility after 1 January ~~1996, 1998,~~ unless he has completed an operator
3 training course approved by the Department. An owner of a solid waste management
4 facility may not employ any person to perform the duties of an operator unless ~~such the~~
5 person has completed an approved solid waste management facility operator training
6 course."

7 Sec. 18. G.S. 130A-309.26(b) reads as rewritten:

8 (b) It is the intent of the General Assembly to protect the public health by
9 establishing standards for the safe packaging, storage, treatment, and disposal of medical
10 waste. The Commission shall adopt and the Department shall enforce rules for the
11 packaging, storage, treatment, and disposal of:

- 12 (1) Medical waste at facilities where medical waste is generated;
- 13 (2) Medical waste from the point at which the waste is transported from the
14 facility where it was generated;
- 15 (3) On-site and off-site ~~incineration~~ treatment of medical waste; and
- 16 (4) The off-site transport, storage, treatment or disposal of medical waste."

17 Sec. 19. G.S. 130A-309.53(7) reads as rewritten:

18 (7) 'Tire' means a continuous solid or pneumatic rubber covering that
19 encircles the wheel of a ~~vehicle and is subject to the tax imposed by Article~~
20 ~~5B of Chapter 105-vehicle.~~ Bicycle tires and other tires for vehicles
21 propelled by human power are not subject to the provisions of this Part."

22 Sec. 20. G.S. 130A-309.58(b) reads as rewritten:

23 (b) The Commission may adopt rules approving other permissible methods of
24 scrap tire disposal. Landfilling of whole scrap tires is prohibited. The prohibition against
25 landfilling whole tires applies to all whole pneumatic rubber coverings, but does not
26 apply to whole solid rubber coverings."

27 Sec. 21. G.S. 130A-309.63(e) is rewritten to read:

28 (e) Reports. – The Department shall ~~make quarterly reports~~ report annually on the
29 Scrap Tire Disposal Account to the Environmental Review Commission. The report shall
30 be submitted by 1 October of each year for the fiscal year ending the preceding 30 June.
31 The report shall show the beginning and ending balances in the Account for the reporting
32 period, the amount credited to the Account during the quarter, and the amount of revenue
33 used for grants and to clean up nuisance tire collection sites. ~~A quarterly report shall be~~
34 ~~filed within 60 days after the end of a calendar quarter."~~

35 Sec. 22. G.S. 130A-309.85 reads as rewritten:

36 **"§ 130A-309.85. (Effective until July 1, 1999) Department to submit annual report**
37 **on the management of white goods.**

38 The Department shall ~~make an annual report~~ annually to the Environmental Review
39 Commission concerning the management of white goods. The report shall be submitted
40 by 1 October ~~of each year, shall cover year for~~ the fiscal year ending on the preceding
41 ~~June 30, and 30 June.~~ The report shall include the following information:

- 42 (1) The amount of taxes collected and distributed under G.S. 105-187.24
43 during the period covered by the report.

1 (2) The cost to each county of managing white goods during the period
2 covered by the report.

3 (3) The beginning and ending balances of the White Goods Management
4 Account for the period covered by the report and a list of grants made
5 from the Account for the period.

6 (4) Any other information the Department considers helpful in
7 understanding the problem of managing white goods."

8 Sec. 23. G.S. 130A-309.85 reads as rewritten:

9 **"§ 130A-309.85. (Effective July 1, 1999) Department to submit annual report on the**
10 **management of white goods.**

11 The Department shall ~~make an annual report~~ annually to the Environmental Review
12 Commission concerning the management of white goods. The report shall be submitted
13 by 1 October ~~1 of each year, shall cover year for~~ the fiscal year ending on the preceding
14 ~~June 30, and 30 June.~~ The report shall include the cost to each county of managing white
15 goods during the period covered by the report, the additional fees on white goods
16 collected by each county during the period covered by the report, and any other
17 information the Department considers helpful in understanding the problem of managing
18 white goods."

19 Sec. 24. G.S. 153A-292 is amended by adding three new subsections to read:

20 "(f) A board of county commissioners may impose reasonable fees for processing
21 and disposal of solid waste at any facility that the county owns or operates. A board of
22 commissioners may impose fees authorized under this subsection only on those persons
23 who use the facility. Except as provided in subsection (g) of this section, a county may
24 not charge a fee to a municipality that is greater than the fee the county charges to other
25 users of the facility. Solid waste use and availability fees collected on a countywide basis
26 shall be used to fund solid waste management services that are provided throughout the
27 county.

28 (g) A county may vary the fees it charges for processing and disposal of solid
29 waste based upon the amount, characteristics, and form of recyclable materials present in
30 the solid waste.

31 (h) Nothing in this section prohibits a county from providing loans, grants, or other
32 aid to low-income persons to pay all or part of the cost of solid waste management
33 services for those persons."

34 Sec. 25. G.S. 160A-314 is amended by adding three new subsections to read:

35 "(f) The governing board of a city may impose reasonable fees for collecting,
36 processing, or disposal of solid waste in order to develop and implement a waste
37 reduction program.

38 (g) A city may vary the fees it charges for processing and disposal of solid waste
39 based upon the amount, characteristics, and form of recyclable materials present in the
40 solid waste.

41 (h) Nothing in this section prohibits a city from providing loans, grants, or other
42 aid to low-income persons to pay all or part of the cost of solid waste management
43 services for those persons."

1 Sec. 26. (a) Each unit of local government shall adopt a resolution approving the
2 comprehensive solid waste management plan required by G.S. 130A-309.09A(b), as
3 amended by Section 12 of this act, and shall begin implementation of the plan, by 1 July
4 1996. Units of local government that prepared a solid waste management plan pursuant
5 to G.S. 130A-309.09A(b) prior to the date this act becomes effective may, in lieu of
6 developing a new plan, update their existing plan to meet the requirements of G.S. 130A-
7 309.09A(b), as amended by Section 12 of this act.

8 (b) A generator of industrial waste who is required to develop a solid waste
9 management plan by G.S. 130A-309.09D(c), as enacted by Section 15 of this act, is not
10 required to complete the plan until 1 July 1996, and is not required to file a report on the
11 implementation of the plan with the Department of Environment, Health, and Natural
12 Resources until 1 August 1997.

13 Sec. 27. This act becomes effective 1 October 1995.