

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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HOUSE PRINCIPAL CLERK

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HOUSE DRH30249-MH-152 (04/02)

Short Title: Establish Contam. Source Removal/Disposal Bd. (Public)

Sponsors: Representatives Dixon and Millis (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH THE NORTH CAROLINA CONTAMINATION SOURCE
3 REMOVAL AND DISPOSAL BOARD AND TO DIRECT THE BOARD TO
4 IMPLEMENT A PRIVATE-PUBLIC PARTNERSHIP TO REMOVE AND DISPOSE OF
5 THE CONTAMINATION SOURCES FROM ALL PRE-1983 LANDFILLS OR OTHER
6 STATE-IDENTIFIED CONTAMINATED SITES AND RETURN THESE SITES TO
7 BENEFICIAL USE.

8 The General Assembly of North Carolina enacts:

9 SECTION 1. Legislative Findings. – The General Assembly makes the following
10 findings:

- 11 (1) Section 5 of Article XIV of the North Carolina Constitution sets out the
12 conservation and protection of State lands and waters as a policy of the
13 State, and a more expeditious method for remediation and reuse of pre-1983
14 landfills and other State-identified contaminated sites is in furtherance of
15 that policy.
- 16 (2) Despite past legislative directives, a dedicated source of revenue and a
17 considerable fund balance, little progress has been made in active cleanup of
18 these landfill sites.
- 19 (3) Qualified private firms should be given the opportunity to remediate
20 pre-1983 landfills and other State-identified contamination sites under the
21 oversight of a Contamination Source Removal and Disposal (CSR) Board.
- 22 (4) CSR Board implementation of a site assessment and remediation program
23 based on requests for proposal from private firms will result in multiple
24 benefits to the State, including: (i) reducing known environmental hazards
25 that are associated with the many identified sites across the State; (ii)
26 decreasing the State's economic liability for these sites (iii) promoting
27 economic growth through the job creation associated with returning these
28 sites to beneficial and productive use; and (iv) establishing an efficient,
29 cost-effective model for other State projects.

30 SECTION 2. Article 9 of Chapter 130A of the General Statutes is amended by
31 adding a new Part to read:

32 "Part 9. North Carolina Contamination Source Removal and Disposal Board.

33 "§ 130A-310.80. North Carolina Contamination Source Removal and Disposal Board –
34 creation; powers and duties.

35 (a) Creation. – There is hereby created the North Carolina Contamination Source
36 Removal and Disposal Board.



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1 (b) Purpose. – The purposes and functions of the Contamination Source Removal and
2 Disposal Board are to identify, evaluate, prioritize, schedule, and facilitate lowest cost and best
3 achievable processes and mechanisms for safe, expeditious, and cost-effective remediation of
4 all pre-1983 landfills, as that term is defined under G.S. 130A 290(a)(22a), and other
5 State-identified contaminated sites, and to contract with a dedicated and qualified private sector
6 firm to return these sites to beneficial and productive use for the good of the State and its
7 citizens.

8 (c) Authority. – To achieve its purposes, the Board shall have all of the following
9 powers and duties:

10 (1) To pursue efforts directed at the expeditious and cost-effective cleanup of
11 pre-1983 landfills and other State-identified contaminated sites as
12 appropriate funding sources permit.

13 (2) To develop rules and procedures for the conduct of its business or as may be
14 necessary to perform its duties and carry out its objectives, including, but not
15 limited to, calling meetings and establishing voting procedures.

16 (3) To establish processes and procedures for bidding and contracting with
17 private entities for site investigation and remediation activities. The Board,
18 in contracting with any private entity to provide administration and oversight
19 of remediation and investigation activities, shall negotiate a contract for a
20 fixed compensation percentage not to exceed twelve percent (12%) of
21 remediation and investigation contracts entered into by the Board

22 (4) To seek, apply for, and accept grants from public or private sources. The
23 Board may accept or expend funds only after an affirmative vote by a
24 majority of the members of the Board.

25 (5) To exercise the powers of a body corporate, including the power to sue and
26 be sued, and adopt and use a common seal and alter the same.

27 (6) To enter into contracts and execute all instruments necessary or appropriate
28 to achieve the purposes of the Board.

29 (7) To designate a fiscal agent.

30 (8) To perform any lawful acts necessary or appropriate to achieve the purposes
31 of the Board.

32 Rules and procedures developed pursuant to this subsection shall be effective upon an
33 affirmative vote by a majority of the Board members.

34 (d) Membership. – The Board shall consist of five members as follows:

35 (1) Two members appointed by the General Assembly upon recommendation of
36 the President Pro Tempore of the Senate, meeting the following descriptions:

37 a. One who shall be a licensed private sector environmental engineer
38 with experience in contamination source removal, transportation, and
39 disposal.

40 b. One who shall be a private sector solid waste or construction
41 manager with extensive experience in industrial wastes,
42 environmental restoration, remediation, and mitigation of
43 contamination resulting from industrial activities.

44 (2) Two members appointed by the General Assembly upon recommendation of
45 the Speaker of the House of Representatives, meeting the following
46 descriptions:

47 a. One who shall be a licensed private sector attorney with experience
48 in legal matters associated with contamination removal,
49 transportation, and disposal and property law title issues arising from
50 contaminated sites.

1 b. One who shall have extensive private sector experience with the
2 removal, handling, transportation, and disposal of hazardous
3 substances.

4 (3) The Secretary of the Department of Environment and Natural Resources, or
5 the Secretary's designee.

6 (e) Terms. – The term of office of members of the Board is five years. A member may
7 be reappointed to no more than three consecutive three-year terms. The term of a member who
8 no longer meets the qualifications of their respective appointment, as set forth in subsection (d)
9 of this section, shall terminate, but the member may continue to serve until a new member who
10 meets the qualifications is appointed. The terms of members appointed under sub-subdivisions
11 (1)(a.) and (2)(a.) of subsection (d) of this section shall expire on June 30 of years evenly
12 divisible by five. The terms of members appointed under sub-subdivisions (1)(b.) and (2)(b.) of
13 subsection (d) of this section shall expire on June 30 of years that precede by two years those
14 years that are evenly divisible by five.

15 (f) Vacancies; Removal from Office. –

16 (1) Members appointed by the President Pro Tempore of the Senate and the
17 Speaker of the House of Representatives shall be made in accordance with
18 G.S. 120-121, and vacancies in those appointments shall be filled in
19 accordance with G.S. 120-122. In accordance with Section 10 of Article VI
20 of the North Carolina Constitution, a member may continue to serve until a
21 successor is duly appointed. The President Pro Tempore of the Senate and
22 the Speaker of the House of Representatives shall have the power to remove
23 their appointed members of the Board from office for misfeasance,
24 malfesance, or nonfesance.

25 (g) Compensation. – The members of the Board shall receive compensation
26 commensurate with their private sector experience, as determined by the Office of State Human
27 Resources, provided that no Board member shall receive a salary greater than one hundred
28 thousand dollars (\$100,000).

29 (h) Quorum. – A majority of the Board shall constitute a quorum for the transaction of
30 business.

31 (i) Officers. – The Board shall elect a chair and vice-chair, and any other officers the
32 Board considers necessary, and shall determine the length of the term of office of each officer.

33 (j) Staff. – All staff support required by the Board shall be supplied by the Division of
34 Waste Management of the Department of Environment and Natural Resources.

35 (k) Reports. – The Board shall submit monthly written reports as to its operation,
36 activities, programs, and progress to the Environmental Review Commission. The Board shall
37 supplement the written reports required by this subsection with additional written and oral
38 reports as may be requested by the Environmental Review Commission. The Board shall
39 submit the written reports required by this subsection whether or not the General Assembly is
40 in session at the time the report is due.

41 (l) Meetings. – The Board shall meet at least weekly and may hold special meetings at
42 any time and place within the State at the call of the chair or upon the written request of at least
43 three members.

44 (m) Sunset. – This section expires on June 30, 2035."

45 **SECTION 3.(a)** The Contamination Source Removal and Disposal Board created
46 by this act shall implement an ongoing program that contracts and schedules contamination
47 sources of pre-1983 landfill sites, as defined by the State of North Carolina, and other
48 State-identified and known contamination sites to be remediated in the manner the Board
49 determines to be most practicable and cost-efficient and to return those sites to safe, beneficial,
50 and productive use utilizing private sector best practices. The Board shall seek ongoing per unit
51 pricing for any contamination source removal and disposal associated with all presubtitle D

1 landfills and other State-identified and known contamination sites to prequalified private sector
2 firms for expediting projects as funding becomes available. The Board shall also conduct the
3 following activities:

- 4 (1) Contract with a private entity for contamination source removal and disposal
5 of the identified and chosen sites based on the Board's evaluation of existing
6 and projected revenue streams and other pertinent factors.
- 7 (2) Develop requirements for full-time monitoring of project sites to ensure that
8 contamination source removal is safely and environmentally protective and
9 performed to a health-based, predetermined risk standard for subsequent use
10 of the properties and completed to the satisfaction of the Board.
- 11 (3) Review and evaluate other states' requirements, programs, and policies for
12 remediation of sites similar to those classified as "pre-1983 landfills" as
13 defined by the State of North Carolina, with a focus on other states that may
14 have implemented requirements, programs, and policies that are resulting in
15 safe remediation of such sites, which are performed in a more cost-effective
16 and expeditious manner than that performed in North Carolina under
17 traditional remediation requirements, programs, and policies.

18 **SECTION 3.(b)** The Department of Environment and Natural Resources and the
19 Board shall jointly seek United States Environmental Protection Agency approval for
20 implementation of all elements of the program required by this section. On or before December
21 31, 2015, the Department and the Board shall develop and submit any Memoranda of
22 Agreement, delineations of programmatic responsibility, procedure for coordination, and other
23 information that the United States Environmental Protection Agency may require in order to
24 effectuate the elements of the program required by this section.

25 **SECTION 3.(c)** The CSRD Board, with the support of the Department of
26 Environment and Natural Resources, shall seek United States Environmental Protection
27 Agency (EPA) comments regarding the Board's proposed programs on or before December 31,
28 2017.

29 **SECTION 4.** This act is effective when it becomes law.