

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

H

4

HOUSE BILL 859
Committee Substitute Favorable 5/3/95
Committee Substitute #2 Favorable 6/14/95
Fourth Edition Engrossed 6/20/95

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 G.S. 130A-290(a)(5) is repealed.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

1 management of that waste, or solid waste from mining or agricultural
2 operations."

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

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

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

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

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

1 e. Mining refuse covered by the North Carolina Mining Act, G.S.
2 74-46 through 74-68 and regulated by the North Carolina Mining
3 Commission (as defined under G.S. 143B-290). However, any
4 specific mining waste that meets the criteria for hazardous waste
5 under RCRA shall also be a solid waste for the purposes of this
6 Article.

7 f. Recovered material."

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

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

18 Sec. 6.1. G.S. 130A-294(b) reads as rewritten:

19 "(b) The Commission shall adopt and the Department shall enforce rules to
20 implement a comprehensive statewide solid waste management program. The rules shall
21 be consistent with applicable State and federal law; and shall be designed to protect the
22 public health, safety, and welfare; preserve the environment; and provide for the greatest
23 possible conservation of cultural and natural resources. Rules for the establishment,
24 location, operation, maintenance, use, discontinuance, recordation, post-closure care of
25 solid waste management facilities also shall be based upon recognized public health
26 practices and procedures, including applicable epidemiological research and studies;
27 hydrogeological research and studies; sanitary engineering research and studies; and
28 current technological development in equipment and methods. The rules shall not apply
29 to the management of solid waste that is generated by an individual or individual family
30 or household unit on the individual's property and is disposed of on the individual's
31 property.

32 The Commission ~~may~~shall adopt rules for financial responsibility to ensure the
33 availability of sufficient funds for closure and post-closure maintenance and monitoring
34 at solid waste management facilities, and for any corrective action the Department may
35 require during the active life of a facility or during the closure and post-closure periods.
36 The rules may permit demonstration of financial responsibility through the use of a letter
37 of credit, insurance, surety, trust agreement, ~~financial test, or guarantee by corporate parents~~
38 ~~or third parties who can pass the financial test.~~or, for a unit of local government, a financial
39 test."

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

41 "**§ 130A-309.04. State solid waste management policy and goals.**

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

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

- 3 (1) Waste reduction at the source;
- 4 (2) Recycling and reuse;
- 5 (3) Composting;
- 6 (4) Incineration with energy production; ~~recovery;~~
- 7 (5) Incineration for volume reduction; without energy recovery;
- 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 to reduce the municipal solid waste stream, primarily
13 through source reduction, reuse, recycling, and composting, ~~on a per capita basis, on the~~
14 ~~following schedule:~~ by forty percent (40%) on a per capita basis by 30 June 2001.

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

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

- 21 (1) Disposed of in a landfill;
- 22 (2) Incinerated;
- 23 (3) Converted to tire-derived fuel; or
- 24 (4) Converted to refuse-derived fuel.

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

30 (c3) ~~If a unit of local government is unable to meet the municipal solid waste~~
31 ~~reduction goal established in subdivision (2) of subsection (c) of this section and if the~~
32 ~~unit of local government demonstrates to the satisfaction of the Department that it has~~
33 ~~considered all reasonably available options to reduce its municipal solid waste stream~~
34 ~~through source reduction, reuse, recycling, and composting and that it has made a good~~
35 ~~faith effort and done everything technologically and economically feasible to meet the~~
36 ~~goal, for the purpose of calculating progress of the unit of local government toward the~~
37 ~~goal, ten percent (10%) of the amount by weight of the municipal solid waste stream that~~
38 ~~is converted to tire-derived fuel or refuse-derived fuel may be added to the amount that is~~
39 ~~diverted from the municipal solid waste stream through source reduction, reuse,~~
40 ~~recycling, and composting.~~

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

1 (d1) It is the policy of the State to obtain, to the extent practicable, economic
2 benefits from the recovery from solid waste and reuse of material and energy resources.
3 In furtherance of this policy, it is the goal of the State to foster partnerships between the
4 public and private sectors that strengthen the supply of, and demand for, recyclable and
5 reusable materials and that foster opportunities for economic development from the
6 recovery and reuse of materials.

7 ~~(e) Each county, either individually or in cooperation with others, shall, in~~
8 ~~cooperation with its municipalities, develop a comprehensive county solid waste~~
9 ~~management plan and submit the plan to the Department for approval. County solid waste~~
10 ~~management plans shall be updated and submitted for approval at least once every two~~
11 ~~years. A county solid waste management plan shall be consistent with the State's~~
12 ~~comprehensive solid waste plan. In counties where a municipality operates the major~~
13 ~~solid waste disposal facility, the comprehensive solid waste plan may be prepared by the~~
14 ~~municipality, with the approval of the county and in cooperation with the other~~
15 ~~municipalities. Each county's comprehensive solid waste management plan shall include~~
16 ~~provisions which address the State's waste reduction goals. Each county's plan shall take~~
17 ~~into consideration facilities and other resources for management of solid waste which~~
18 ~~may be available through private enterprise. This section shall be construed to encourage~~
19 ~~the involvement and participation of private enterprise in solid waste management. The~~
20 ~~Department shall develop a form designed to elicit pertinent information regarding a~~
21 ~~county's solid waste management plan. The Department shall provide assistance in the~~
22 ~~preparation of county plans upon request.~~

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

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

27 **"§ 130A-309.05. Regulated wastes; certain exclusions.**

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

- 30 (1) Medical waste; and
31 (2) Ash generated by a solid waste management facility from the burning of
32 solid waste.

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

38 (c) ~~Recovered materials are material is not subject to the provisions of this Part if:~~
39 regulation as solid waste under this Article. In order for a material that would otherwise
40 be regulated as solid waste to qualify as a recovered material, the Department may
41 require any person who owns or has control over the material to demonstrate that the
42 material meets the requirements of this subsection. In order to protect public health and

1 the environment, the Commission may adopt rules to implement this subsection. In order
2 to qualify as a recovered material:

- 3 (1) A majority of the recovered ~~materials~~material at a facility ~~are~~shall be
4 sold, used, or reused within one year;
- 5 (2) The recovered ~~materials~~material or the products or by-products of
6 operations that process recovered ~~materials~~material ~~are~~shall not be
7 discharged, deposited, injected, dumped, spilled, leaked, or placed into
8 or upon any land or water so that the products or by-products or any
9 constituent thereof may enter other lands or be emitted into the air or
10 discharged into any waters including groundwaters, or otherwise enter
11 the environment or pose a threat to public health and safety; and
- 12 (3) The recovered ~~materials~~material ~~shall not be a hazardous waste and~~
13 ~~or have not been recovered from solid waste which is defined as hazardous~~
14 ~~waste under G.S. 130A-290.~~a hazardous waste."

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

16 **"§ 130A-309.06. Additional powers and duties of the Department.**

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

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

- 1 (8) Manage a program of grants for programs for recycling and special
2 waste management, and for programs ~~which~~that provide for the safe and
3 proper management of solid waste.
- 4 (9) Provide for the education of the general public and the training of solid
5 waste management professionals to reduce the production of solid
6 waste, to ensure proper processing and disposal of solid waste, and to
7 encourage recycling and solid waste reduction.
- 8 (10) Develop descriptive literature to inform units of local government of
9 their solid waste management responsibilities and opportunities.
- 10 ~~(11) Conduct at least one workshop each year in each region served by a~~
11 ~~council of governments.~~
- 12 (12) Provide and maintain recycling bins for the collection and recycling of
13 newspaper, aluminum cans, glass containers, and recyclable plastic
14 beverage containers at the North Carolina Zoological Park.
- 15 (13) Identify, based on reports required under G.S. 130A-309.14 and any
16 other relevant information, those materials in the municipal solid waste
17 stream that are marketable in the State or any portion thereof and that
18 should be recovered from the waste stream prior to treatment or
19 disposal.
- 20 (14) Identify and analyze, with assistance from the Department of Commerce
21 pursuant to G.S. 130A-309.14, components of the State's recycling
22 industry and present and potential markets for recyclable materials in
23 this State, other states, and foreign countries.

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

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

- 36 (1) A comprehensive analysis, to be updated in each report, of solid waste
37 generation and disposal in the State projected for the 20-year period
38 beginning on 1 July 1991.
- 39 (2) The total amounts of solid waste ~~generated, recycled,~~recycled and
40 disposed of and the methods of solid waste recycling and disposal used
41 during the calendar year prior to the year in which the report is
42 published.

- 1 (3) An evaluation of the development and implementation of local solid
2 waste management programs and county and municipal recycling
3 programs.
- 4 (4) An evaluation of the success of each county or group of counties in
5 meeting the municipal solid waste reduction goal established in G.S.
6 130A-309.04.
- 7 (5) Recommendations concerning existing and potential programs for solid
8 waste reduction and recycling that would be appropriate for units of
9 local government and State agencies to implement to meet the
10 requirements of this Part.
- 11 (6) An evaluation of the markets for recycled materials and the success of
12 State, local, and private industry efforts to enhance the markets for ~~such~~
13 these materials.
- 14 (7) Recommendations to the Governor and the General Assembly
15 Environmental Review Commission to improve the management and
16 recycling of solid waste in the State. State, including any proposed
17 legislation to implement the recommendations.

18 (d) ~~The Department of Environment, Health, and Natural Resources shall prepare by~~
19 ~~March 1, 1994, and every other year thereafter, a report assessing the recycling industry and~~
20 ~~recyclable materials markets in the State. State every two years, and shall submit the~~
21 ~~report to the Environmental Review Commission on or before 1 March of even-numbered~~
22 ~~years. The report shall include a report on the progress of polystyrene recycling in North~~
23 ~~Carolina, giving a year-to-year comparison."~~

24 Sec. 10. G.S. 130A-309.07 reads as rewritten:

25 "**§ 130A-309.07. State solid waste management plan.**

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

- 27 (1) ~~Procedures and requirements to ensure~~ encourage cooperative efforts in
28 solid waste management by counties and municipalities and groups of
29 counties and municipalities where appropriate, including the
30 establishment of joint agencies pursuant to G.S. 160A-462.
- 31 (2) Provisions for the continuation of existing effective regional resource
32 recovery, recycling, and solid waste management facilities and
33 programs.
- 34 (3) Planning guidance and technical assistance to counties and
35 municipalities to aid in meeting the municipal solid waste reduction
36 goals established in G.S. 130A-309.04.
- 37 (4) Planning guidance and technical assistance to counties and
38 municipalities to assist the development and implementation of ~~recycling~~
39 solid waste reduction programs.
- 40 (5) Technical assistance to counties and municipalities in determining the
41 full cost for solid waste management as required in G.S. 130A-309.08.
- 42 (6) Planning guidance and technical assistance to counties and
43 municipalities to assist the development and implementation of

1 programs for alternative disposal, processing, or recycling of the solid
2 wastes prohibited from disposal in landfills pursuant to G.S 130A-
3 309.10 and for special wastes.

4 (7) A public education program, to be developed in cooperation with the
5 Department of Public Instruction, units of local government, other State
6 agencies, and business and industry organizations, to inform the public
7 of the need for and the benefits of recycling solid waste and reducing
8 the amounts of solid and hazardous waste generated and disposed of in
9 the State. The public education program shall be implemented through
10 public workshops and through the use of brochures, reports, public
11 service announcements, and other materials.

12 (8) Provisions to encourage partnerships between the public and private
13 sectors that strengthen the supply of, and demand for, recyclable
14 materials and that foster opportunities for economic development from
15 the recovery and reuse of materials."

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

17 **"§ 130A-309.08. Determination of cost for solid waste management; local solid**
18 **waste management fees.**

19 (a) ~~Within one year of the effective date of this section or within one year after~~
20 ~~rules are adopted by the Commission, whichever occurs later, each~~ Each county and each
21 municipality shall annually determine the full cost for solid waste management within the
22 service area of the county or municipality for a ~~one year period as specified by rules~~
23 ~~adopted by the Commission, and shall update the full cost determination every year~~
24 ~~thereafter, the preceding year.~~ The Commission shall establish by rule the method for
25 units of local government to use in calculating full cost. ~~Rule making shall be initiated~~
26 ~~and at least one public hearing shall be held by 1 March 1990. In developing the rule, the~~
27 ~~Commission shall examine the feasibility of the use of an enterprise fund process by units~~
28 ~~of local government in operating their solid waste management systems.~~

29 (b) ~~Within one year after the completion of the cost determination required by subsection~~
30 ~~(a) of this section, each~~ Each municipality shall establish a system to inform, no less than
31 once a year, residential and nonresidential users of solid waste management services
32 within the municipality's service area of the user's share, on an average or individual
33 basis, of the full cost for solid waste management as determined pursuant to subsection
34 (a) of this section. Counties shall provide the information required of municipalities only
35 to residential and nonresidential users of solid waste management services within the
36 county's service area that are not served by a municipality. Municipalities shall include
37 costs ~~charges charged~~ to them or to persons contracting with them for disposal of solid
38 waste in the full cost information provided to residential and nonresidential users of solid
39 waste management services. Counties and municipalities are encouraged to operate their
40 solid waste management systems through use of an enterprise fund.

41 (c) For purposes of this section, 'service area' means the area in which the county
42 or municipality provides, directly or by contract, solid waste management services. The
43 provisions of this section shall not be construed to require a person operating under a

1 franchise contract or other agreement to collect or dispose of solid waste within the
2 service area of a county or municipality to make the calculations or to establish a system
3 to provide the information required under this section, unless such person agrees to do so
4 as part of such franchise contract or other agreement.

5 ~~(d) In order to assist in achieving the municipal solid waste reduction goal and the~~
6 ~~recycling provisions of G.S. 130A-309.09B, a county or a municipality which owns or~~
7 ~~operates a solid waste management facility may charge solid waste disposal fees which~~
8 ~~may vary based on a number of factors, including the amount, characteristics, and form~~
9 ~~of recyclable materials present in the solid waste that is brought to the county's or the~~
10 ~~municipality's facility for processing or disposal. A county may charge fees for the~~
11 ~~collection, processing, or disposal of solid waste as provided in Article 15 of Chapter~~
12 ~~153A of the General Statutes. A city may charge fees for the collection, processing, or~~
13 ~~disposal of solid waste as provided in Article 16 of Chapter 160A of the General Statutes.~~

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

18 ~~(f) This section does not prohibit a county, municipality, or other person from~~
19 ~~providing grants, loans, or other aid to low income persons to pay part or all of the costs~~
20 ~~of such persons' solid waste management services."~~

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

22 **"§ 130A-309.09A. Local government solid waste responsibilities.**

23 (a) ~~The governing board of a designated local government shall provide for the~~
24 ~~operation of solid waste disposal facilities to meet the needs of all incorporated and~~
25 ~~unincorporated areas designated to be served by the facility. each unit of local~~
26 ~~government shall assess local solid waste collection services and disposal capacity and~~
27 ~~shall determine the adequacy of collection services and disposal capacity to meet local~~
28 ~~needs and to protect human health and the environment. Each unit of local government~~
29 ~~shall implement programs and take other actions that it determines are necessary to~~
30 ~~address deficiencies in service or capacity required to meet local needs and to protect~~
31 ~~human health and the environment. Pursuant to this section and notwithstanding any~~
32 ~~other provision of this Chapter, designated local governments A unit of local government~~
33 ~~may adopt ordinances governing the disposal disposal, in facilities which they operate~~
34 ~~that it operates, of solid waste generated outside of the area designated to be served by~~
35 ~~such the facility. Such ordinances shall not be construed to apply to privately operated~~
36 ~~disposal facilities located within the boundaries of a designated the unit of local~~
37 ~~government. In accordance with this section, municipalities are responsible for collecting~~
38 ~~and transporting solid waste from their jurisdictions to a solid waste disposal facility~~
39 ~~operated by the municipality or county, any other municipality or county, or by any other~~
40 ~~person. Counties and municipalities may charge reasonable fees for the handling and~~
41 ~~disposal of solid waste at their facilities. The fees charged to municipalities without~~
42 ~~facilities at a solid waste management facility specified by the county shall not be greater~~
43 ~~than the fees charged to other users of the facility except as provided in G.S. 130A-~~

1 ~~309.08(d). Solid waste management fees collected on a countywide basis shall be used to~~
2 ~~fund solid waste management services provided throughout the county.~~

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

7 Each unit of local government, either individually or in cooperation with other units
8 of local government, shall develop a 10-year comprehensive solid waste management
9 plan. Units of local government shall make a good-faith effort to achieve the State's forty
10 percent (40%) municipal solid waste reduction goal and to comply with the State's
11 comprehensive solid waste management plan. Each unit of local government shall
12 develop its solid waste management plan with public participation, including, at a
13 minimum, one advertised public meeting. The Department shall assist units of local
14 government in the preparation of the plan required by this subsection if the unit of local
15 government requests assistance. Each plan shall be updated at least every three years. In
16 order to assure compliance with this subsection, each unit of local government shall
17 provide the Department with a copy of its current plan upon request by the Department.

18 Each plan shall:

- 19 (1) Evaluate the solid waste stream in the geographic area covered by the
20 plan.
- 21 (2) Include a goal for the reduction of municipal solid waste on a per capita
22 basis by 30 June 2001 and a goal for the further reduction of municipal
23 solid waste by 30 June 2006. The solid waste reduction goals shall be
24 determined by the unit or units of local government that prepare the
25 plan, and shall be determined so as to assist the State, to the maximum
26 extent practical, to achieve the State's forty percent (40%) municipal
27 solid waste reduction goal as set out in G.S. 130A-309.04(c).
- 28 (3) Be designed to achieve the solid waste reduction goals established by
29 the plan.
- 30 (4) Include a description of the process by which the plan was developed,
31 including provisions for public participation in the development of the
32 plan.
- 33 (5) Include a description and assessment of intended actions with respect to
34 the following solid waste management methods:
 - 35 a. Reduction at the source.
 - 36 b. Collection.
 - 37 c. Recycling and reuse.
 - 38 d. Composting and mulching.
 - 39 e. Incineration with energy recovery.
 - 40 f. Incineration without energy recovery.
 - 41 g. Transfer outside the geographic area covered by the plan.
 - 42 h. Disposal.
- 43 (6) Include a description and assessment of intended actions with respect to:

- 1 a. Education with the community and through the schools.
2 b. Management of special wastes.
3 c. Prevention of illegal disposal and management of litter.
4 d. Purchase of recycled materials and products manufactured with
5 recycled materials.
6 (7) Include a description and assessment of the full cost of solid waste
7 management, including the costs of collection, disposal, waste
8 reduction, and other programs, and of the methods of financing those
9 costs.
10 (8) Consider the use of facilities and other resources for management of
11 solid waste that may be available through private enterprise.
12 (e) ~~The Department may reduce or modify the municipal solid waste reduction~~
13 ~~goal that a unit of local government is required to attempt to achieve pursuant to~~
14 ~~subsection (b) of this section if the unit of local government demonstrates to the~~
15 ~~Department that:~~
16 (1) ~~The achievement of the goal would have an adverse effect on the~~
17 ~~financial obligations of the unit of local government incurred prior to 1~~
18 ~~October 1989 that are directly related to a waste to energy facility~~
19 ~~owned or operated by or on behalf of a unit of local government; and~~
20 (2) ~~The unit of local government cannot remove normally combustible~~
21 ~~materials from solid waste that is to be processed at a waste to energy~~
22 ~~facility permitted prior to 1 July 1991 because of the need to maintain a~~
23 ~~sufficient amount of solid waste to ensure the financial viability of the~~
24 ~~facility. The goal may not be waived entirely and may be reduced or~~
25 ~~modified only to the extent necessary to alleviate the adverse effects of~~
26 ~~achieving the goal on the financial viability of a unit of local~~
27 ~~government's waste to energy facility. Nothing in this subsection shall~~
28 ~~exempt a unit of local government from developing and implementing a~~
29 ~~reeycling program pursuant to this Part.~~
30 (d) In order to assess the progress in meeting the goals ~~goal~~ set out in G.S. 130A-
31 309.04, each county, either individually or in cooperation with one or more other
32 counties, shall, by 1 December 1991 and each year thereafter, unit of local government
33 shall report to the Department on the solid waste management programs and reeycling
34 waste reduction activities within the county or the geographic area covered by the
35 county's solid waste management plan. within the unit of local government by 1
36 September of each year. This report by the county must ~~At a minimum, the report shall~~
37 ~~include:~~
38 (1) A description of public education programs on ~~reeycling;~~ recycling.
39 (2) The amount of solid waste received at municipal solid waste
40 management facilities, by type of solid ~~waste;~~ waste.
41 (3) The amount and type of materials from the solid waste stream that were
42 ~~reeycled;~~ recycled.

- 1 (4) The percentage of the population participating in various types of
2 recycling activities ~~instituted;~~ instituted.
- 3 (5) The annual reduction in municipal solid waste, measured as provided in
4 G.S. ~~130A-309.04;~~ 130A-309.04.
- 5 ~~(6) A description of the recycling activities attempted, their success rates,~~
6 ~~the perceived reasons for failure or success, and the recycling activities~~
7 ~~which are ongoing and most successful; and~~ Information regarding
8 programs and other actions implemented as part of the local
9 comprehensive solid waste management plan.
- 10 (7) ~~In its first report, a description of any recycling activities implemented prior to~~
11 ~~1 July 1991. A statement of the costs of solid waste management~~
12 ~~programs implemented by the unit of local government and the methods~~
13 ~~of financing those costs.~~

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

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

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

24 ~~(1) Prohibits generators or collectors of municipal solid waste from~~
25 ~~disposing of that type or form of municipal solid waste.~~

26 ~~(2) Requires generators or collectors of municipal solid waste to recycle~~
27 ~~that type or form of municipal solid waste."~~

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

29 **"§ 130A-309.09B. Local government ~~recycling~~ waste reduction programs.**

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

36 ~~(1) Construction and demolition debris must be separated from the solid~~
37 ~~waste stream and segregated in separate locations at a solid waste~~
38 ~~disposal facility or other permitted site. Demolition debris consisting of~~
39 ~~used asphalt or used asphalt mixed with dirt, sand, gravel, rock,~~
40 ~~concrete, or similar nonhazardous material may be used as fill and need~~
41 ~~not be disposed of in a permitted landfill or solid waste disposal facility,~~
42 ~~provided that such demolition debris may not be placed in the waters of~~
43 ~~the State or at or below the seasonal high water table.~~

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

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

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

14 ~~(c) In the development and implementation of a curbside recyclable materials~~
15 ~~collection program, a county or municipality shall enter into negotiations with a~~
16 ~~franchisee who is operating to exclusively collect solid waste within a service area of a~~
17 ~~county or municipality to undertake curbside recyclable materials collection~~
18 ~~responsibilities for a county or municipality. If the county or municipality and the~~
19 ~~franchisee fail to reach an agreement within 60 days from the initiation of negotiations,~~
20 ~~the county or municipality may solicit proposals from other persons to undertake curbside~~
21 ~~recyclable materials collection responsibilities for the county or municipality as it may~~
22 ~~require. Upon the determination of the lowest responsible proposals, the county or~~
23 ~~municipality may undertake, or enter into a written agreement with the person who~~
24 ~~submitted the lowest responsible proposal to undertake, the curbside recyclable materials~~
25 ~~collection responsibilities for the county or municipality, notwithstanding the exclusivity~~
26 ~~of any franchise agreement for the collection of solid waste within a service area of the~~
27 ~~county or municipality.~~

28 ~~(d) In developing and implementing recycling programs, counties and~~
29 ~~municipalities shall give consideration to the collection, marketing, and disposition of~~
30 ~~recyclable materials by persons engaged in the business of recycling on either a for-profit~~
31 ~~or nonprofit basis. Counties and municipalities are encouraged to use for-profit and~~
32 ~~nonprofit organizations in fulfilling their responsibilities under this Part.~~

33 ~~(e) A county or county and the municipalities within the county's or counties'~~
34 ~~boundaries may jointly develop a recycling program, provided that the county and each~~
35 ~~municipality must enter into a written agreement to jointly develop a recycling program.~~
36 ~~If a municipality does not participate in jointly developing a recycling program with the~~
37 ~~county within which it is located, the county may require the municipality to provide~~
38 ~~information on recycling efforts undertaken within the boundaries of the municipality in~~
39 ~~order to determine whether the goals for municipal solid waste reduction are being~~
40 ~~achieved.~~

41 (f) A county or counties and its or their municipalities may jointly determine,
42 through a joint agency established pursuant to G.S. 153A-421 or G.S. 160A-462, which

1 local governmental agency shall administer a solid waste management or ~~recycling waste~~
2 reduction program.

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

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

8 "(g) In addition to any other penalties provided by law, a unit of local government
9 that does not comply with the requirements of G.S. 130A-309.09A(b) and G.S. 130A-
10 309.09B(a) shall not be eligible for grants from the Solid Waste Management Trust Fund,
11 the Scrap Tire Disposal Account, or the White Goods Management Account and the
12 Department may notify the State Treasurer to withhold payment of all or a portion of funds
13 payable to the unit of local government by the Department from the General Fund or by the
14 Department from any other State fund, to the extent not pledged to retire bonded indebtedness,
15 unless the unit of local government demonstrates that good faith efforts to meet the requirements
16 of G.S. 130A-309.09A(b) and G.S. 130A-309.09B(a) have been made or that the funds are being
17 or will be used to finance the correction of a pollution control problem that spans jurisdictional
18 boundaries. shall not receive the proceeds of the scrap tire disposal tax imposed by Article
19 5B of Chapter 105 of the General Statutes or the proceeds of the white goods disposal tax
20 imposed by Article 5C of Chapter 105 of the General Statutes to which the unit of local
21 government would otherwise be entitled. The Secretary shall notify the Secretary of
22 Revenue to withhold payment of these funds to any unit of local government that fails to
23 comply with the requirements of G.S. 130A-309.09A(b) and G.S. 130A-309.09B(a).
24 Proceeds of the scrap tire disposal tax that are withheld pursuant to this subsection shall
25 be credited to the Scrap Tire Disposal Account and may be used as provided in G.S.
26 130A-309.63. Proceeds of the white goods disposal tax that are withheld pursuant to this
27 subsection shall be credited to the White Goods Management Account and may be used
28 as provided in G.S. 130A-309.83."

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

30 "**§ 130A-309.09D. Responsibilities of owners and operators of privately owned**
31 **municipal solid waste management facilities. facilities and collectors of**
32 **municipal solid waste.**

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

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

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

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

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

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

18 (2) Options for the management and reduction of wastes evaluated by the
19 generator.

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

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

23 "**§ 130A-309.10. Prohibited acts relating to packaging; coded labeling of plastic**
24 **containers required; disposal of certain solid wastes in landfills or by**
25 **incineration prohibited.**

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

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

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

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

42 (d) (1) No person shall distribute, sell, or offer for sale in this State
43 any polystyrene foam product ~~which that~~ is to be used in conjunction

1 with food for human consumption unless ~~such~~ the product is
2 composed of material ~~which~~ that is recyclable.

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

11 (e) No person shall distribute, sell, or offer for sale in this State any plastic
12 container product unless the product has a molded label indicating the plastic resin used
13 to produce the plastic container product. The code shall consist of a number placed
14 within three triangulated arrows and letters placed below the triangulated arrows. The
15 three arrows shall form an equilateral triangle with the common point of each line
16 forming each angle of the triangle at the midpoint of each arrow and rounded with a short
17 radius. The arrowhead of each arrow shall be at the midpoint of each side of the triangle
18 with a short gap separating the arrowhead from the base of the adjacent arrow. The
19 triangle formed by the three arrows curved at their midpoints shall depict a clockwise
20 path around the code number. The label shall appear on the bottom of the plastic
21 container product and be clearly visible. Plastic beverage containers having a capacity of
22 less than 16 fluid ounces, nonsolid food liquid containers having a capacity of less than
23 16 fluid ounces, and rigid plastic containers having a capacity of less than eight fluid
24 ounces are exempt from the requirements of this subsection. The numbers and letters
25 shall be as follows:

- 26 (1) For polyethylene terephthalate, the letters 'PETE' and the number 1.
27 (2) For high density polyethylene, the letters 'HDPE' and the number 2.
28 (3) For vinyl, the letter 'V' and the number 3.
29 (4) For low density polyethylene, the letters 'LDPE' and the number 4.
30 (5) For polypropylene, the letters 'PP' and the number 5.
31 (6) For polystyrene, the letters 'PS' and the number 6.
32 (7) For any other, including multi-material containers, the letters 'OTHER'
33 and the number 7.

34 (f) ~~In accordance with the following schedule, no~~ No person shall knowingly dispose
35 of the following solid wastes in landfills:

- 36 (1) Repealed by Session Laws 1991, c. 375, s. 1.
37 (2) Used oil.
38 (3) Yard trash, except in landfills ~~classified for such use~~ approved for the
39 disposal of yard trash under rules adopted by the Commission. Yard
40 trash that is source separated from solid waste may be accepted at a
41 solid waste disposal area where the area provides and maintains separate
42 yard trash composting facilities.
43 (4) White goods.

1 (5) Antifreeze (ethylene glycol).
2 (6) ~~Aluminum cans, after July 1, 1994. cans.~~
3 (7) Whole scrap tires, as provided in G.S. 130A-309.58(b). The prohibition
4 against landfilling whole tires applies to all whole pneumatic rubber
5 coverings, but does not apply to whole solid rubber coverings.
6 (8) Lead-acid batteries, as provided in G.S. 130A-309.70.
7 (f1) ~~In accordance with the following schedule, no~~ No person shall knowingly dispose
8 of the following solid wastes by incineration in an incinerator for which a permit is
9 required under this Article:

10 (1) Antifreeze (ethylene glycol) used solely in motor ~~vehicles, after July 1,~~
11 1994. vehicles.
12 (2) ~~Aluminum cans, after July 1, 1994. cans.~~
13 (3) Steel cans, unless the steel is recoverable at the end of the incineration
14 process, after July 1, 1994. process.
15 (4) ~~White goods, after July 1, 1994. goods.~~
16 (5) Lead-acid batteries, as provided in G.S. 130A-309.70.

17 (f2) ~~Provided that this subsection~~ Subsection (f1) of this section shall not apply to
18 solid waste incinerated in an incinerator solely owned and operated by the generator of
19 the solid waste; ~~and provided further that this subsection~~ waste. Subsection (f1) of this
20 section shall not apply to antifreeze (ethylene glycol) ~~which~~ that cannot be recycled or
21 reclaimed to make it usable as antifreeze in a motor vehicle.

22 (g) ~~Prior to the effective dates specified in this section, the Department shall~~
23 ~~identify and assist in developing alternative disposal, processing, or recycling options for~~
24 ~~the solid waste identified in this section.~~

25 (h) The accidental or occasional disposal of small amounts of prohibited solid
26 waste by landfill or incineration shall not be construed as a violation of subsections (f) or
27 (f1) of this section."

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

29 "(c) A person may not perform the duties of an operator of a solid waste
30 management facility after 1 January ~~1996, 1998,~~ unless he has completed an operator
31 training course approved by the Department. An owner of a solid waste management
32 facility may not employ any person to perform the duties of an operator unless ~~such~~ the
33 person has completed an approved solid waste management facility operator training
34 course."

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

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

40 (1) Medical waste at facilities where medical waste is generated;
41 (2) Medical waste from the point at which the waste is transported from the
42 facility where it was generated;
43 (3) On-site and off-site ~~incineration~~ treatment of medical waste; and

1 (4) The off-site transport, storage, treatment or disposal of medical waste."

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

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

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

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

12 Sec. 21. G.S. 130A-309.63(e) reads as rewritten:

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

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

21 "**§ 130A-309.85. (Effective until July 1, 1999) Department to submit annual report**
22 **on the management of white goods.**

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

- 27 (1) The amount of taxes collected and distributed under G.S. 105-187.24
28 during the period covered by the report.
- 29 (2) The cost to each county of managing white goods during the period
30 covered by the report.
- 31 (3) The beginning and ending balances of the White Goods Management
32 Account for the period covered by the report and a list of grants made
33 from the Account for the period.
- 34 (4) Any other information the Department considers helpful in
35 understanding the problem of managing white goods."

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

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

39 The Department shall ~~make an annual~~ report annually to the Environmental Review
40 Commission concerning the management of white goods. The report shall be submitted
41 by 1 October ~~1 of each year, shall cover year for~~ the fiscal year ending on the preceding
42 ~~June 30, and 30 June.~~ The report shall include the cost to each county of managing white
43 goods during the period covered by the report, the additional fees on white goods

1 collected by each county during the period covered by the report, and any other
2 information the Department considers helpful in understanding the problem of managing
3 white goods."

4 Sec. 24. G.S. 153A-292 reads as rewritten:

5 **"§ 153A-292. County collection and disposal facilities.**

6 (a) The board of county commissioners of any county may establish and operate
7 solid waste collection and disposal facilities in areas outside the corporate limits of a city.
8 The board may by ordinance regulate the use of a disposal facility provided by the
9 county, the nature of the solid wastes disposed of in a facility, and the method of
10 disposal. The board may contract with any city, individual, or privately owned
11 corporation to collect and dispose of solid waste in the area. Counties and cities may
12 establish and operate joint collection and disposal facilities. A joint agreement shall be in
13 writing and executed by the governing bodies of the participating units of local
14 government.

15 (b) The board of county commissioners may impose a fee for the collection of
16 solid waste. The fee may not exceed the costs of collection.

17 The board of county commissioners may impose a fee for the use of a disposal facility
18 provided by the county. The fee for use may not exceed the cost of operating the facility
19 and may be imposed only on those who use the facility. The fee for use may vary based
20 on the amount, characteristics, and form of recyclable materials present in solid waste
21 brought to the facility for disposal. A county may not impose a fee for the use of a
22 disposal facility on a city located in the county or a contractor or resident of the city
23 unless the fee is based on a schedule that applies uniformly throughout the county.

24 The board of county commissioners may impose a fee for the availability of a disposal
25 facility provided by the county. A fee for availability may not exceed the cost of
26 providing the facility and may be imposed on all improved property in the county that
27 benefits from the availability of the facility. A county may not impose an availability fee
28 on property whose solid waste is collected by a county, a city, or a private contractor for
29 a fee if the fee imposed by a county, a city, or a private contractor for the collection of
30 solid waste includes a charge for the availability and use of a disposal facility provided
31 by the county. Property served by a private contractor who disposes of solid waste
32 collected from the property in a disposal facility provided by a private contractor is not
33 considered to benefit from a disposal facility provided by the county and is not subject to
34 a fee imposed by the county for the availability of a disposal facility provided by the
35 county.

36 In determining the costs of providing and operating a disposal facility, a county may
37 consider solid waste management costs incidental to a county's handling and disposal of
38 solid waste at its disposal facility, including the costs of the methods of solid waste
39 management specified in G.S. 130A-309.04(a) of the Solid Waste Management Act of
40 1989. A fee for the availability or use of a disposal facility may be based on the
41 combined costs of the different disposal facilities provided by the county.

42 (c) The board of county commissioners may use any suitable vacant land owned
43 by the county for the site of a disposal facility, subject to the permit requirements of

1 Article 9 of Chapter 130A of the General Statutes. If the county does not own suitable
2 vacant land for a disposal facility, it may acquire suitable land by purchase or
3 condemnation. The board may erect a gate across a highway that leads directly to a
4 disposal facility operated by the county. The gate may be erected at or in close proximity
5 to the boundary of the disposal facility. The county shall pay the cost of erecting and
6 maintaining the gate.

7 (d), (e) Repealed by Session Laws 1991, c. 652, s. 1.

8 (f) This section does not prohibit a county from providing aid to low-income
9 persons to pay all or part of the cost of solid waste management services for those
10 persons."

11 Sec. 25. G.S. 160A-314 is amended by adding a new subsection to read:

12 "(a2) A fee for the use of a disposal facility provided by the city may vary based on
13 the amount, characteristics, and form of recyclable materials present in solid waste
14 brought to the facility for disposal. This section does not prohibit a city from providing
15 aid to low-income persons to pay all or part of the cost of solid waste management
16 services for those persons."

17 Sec. 26. (a) Each unit of local government shall adopt a resolution approving the
18 comprehensive solid waste management plan required by G.S. 130A-309.09A(b), as
19 amended by Section 12 of this act, and shall begin implementation of the plan, by 1 July
20 1996. Units of local government that prepared a solid waste management plan pursuant
21 to G.S. 130A-309.09A(b) prior to the date this act becomes effective may, in lieu of
22 developing a new plan, update their existing plan to meet the requirements of G.S. 130A-
23 309.09A(b), as amended by Section 12 of this act.

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

29 Sec. 27. Notwithstanding any rule to the contrary, upon request of the board of
30 commissioners of a county that operates a sanitary landfill, the Department of
31 Environment, Health, and Natural Resources may grant a variance in the geographic area
32 served by the sanitary landfill, as specified in the permit for the sanitary landfill, to allow
33 the disposal of municipal solid waste generated in a county adjacent to the county in
34 which the sanitary landfill is located. This section shall not be construed to authorize the
35 disposal of municipal solid waste in excess of the permitted capacity of the sanitary
36 landfill.

37 Sec. 28. Sections 27 and 28 of this act become effective 1 July 1995. Section
38 27 of this act expires 31 December 1996. All other sections of this act become effective
39 1 October 1995.