

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 58
Second Edition Engrossed 2/28/89
House Committee Substitute Favorable 6/14/90

Short Title: Regional Solid Waste Authorities.

(Public)

Sponsors:

Referred to:

January 26, 1989

A BILL TO BE ENTITLED
AN ACT TO PROVIDE FOR THE CREATION OF REGIONAL SOLID WASTE
MANAGEMENT AUTHORITIES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 153A of the General Statutes is amended by adding a
new Article to read:

“ARTICLE 22.

“REGIONAL SOLID WASTE MANAGEMENT AUTHORITIES.

“§ 153A-421. Definitions; applicability; creation of authorities.

(a) Unless a different meaning is required by the context, terms relating to the management of solid waste used in this Article have the same meaning as in G.S. 130A-2 and in G.S. 130A-290. As used in this Article, the term ‘solid waste’ means nonhazardous solid waste, that is, solid waste as defined in G.S. 130A-290 but not including hazardous waste or sludge.

(b) This Article shall not be construed to authorize any authority created pursuant to this Article to regulate or manage hazardous wastes or sludge.

(c) Any two or more units of local government may create a regional solid waste management authority by adopting substantially identical resolutions to that effect in accordance with the provisions of this Article. The resolutions creating a regional solid waste management authority and any amendments thereto are referred to in this Article as the ‘charter’ of the regional solid waste management authority. Units of local

1 government which participate in the creation of a regional solid waste management
2 authority are referred to in this Article as 'members'.

3 **"§ 153A-422. Purposes of an authority.**

4 The purpose of a regional solid waste management authority is to provide
5 environmentally sound, cost effective management of solid waste, including storage,
6 collection, transporting, separation, processing, recycling, and disposal of solid waste in
7 order to protect the public health, safety, and welfare; enhance the environment for the
8 people of this State; and recover resources and energy which have the potential for
9 further use and to encourage, implement and promote the purposes set forth in Part 2A
10 of Article 9 of Chapter 130A of the General Statutes.

11 **"§ 153A-423. Membership; board; delegates.**

12 (a) Each unit of local government initially adopting a resolution under G.S.
13 153A-421 shall become a member of the regional solid waste management authority.
14 Thereafter, any unit of local government may join the authority by ratifying its charter
15 and by being admitted by a unanimous vote of the existing members. All of the rights
16 and privileges of membership in a regional solid waste management authority shall be
17 exercised on behalf of the member units of local government by a board composed of
18 delegates to the authority who shall be appointed by and shall serve at the pleasure of
19 the governing boards of their respective units of local government. A vacancy on the
20 board shall be filled by appointment by the governing board of the unit of local
21 government having the original appointment.

22 (b) Any delegate appointed by a member unit of local government to an authority
23 created pursuant to this Article who is a county commissioner or city or town alderman
24 or commissioner serves on the board of the authority in an ex officio capacity and such
25 service shall not constitute the holding of an office for the purpose of determining dual
26 office holding under Section 9 of Article VI of the Constitution of North Carolina or of
27 Article 1 of Chapter 128 of the General Statutes.

28 **"§ 153A-424. Contents of charter.**

29 (a) The charter of a regional solid waste management authority shall:

- 30 (1) Specify the name of the authority;
- 31 (2) Establish the powers, duties and functions that the authority may
32 exercise and perform;
- 33 (3) Establish the number of delegates to represent the member units of
34 local government and prescribe the compensation and allowances, if
35 any, to be paid to delegates;
- 36 (4) Set out the method of determining the financial support that will be
37 given to the authority by each member unit of local government; and
- 38 (5) Establish a method for amending the charter, and for dissolving the
39 authority and liquidating its assets and liabilities.

40 (b) The charter of a regional solid waste management authority may, but need
41 not, contain rules for the conduct of authority business and any other matter pertaining
42 to the organization, powers, and functioning of the authority that the member units of
43 local government deem appropriate.

44 **"§ 153A-425. Organization of authorities.**

1 The governing board of a regional solid waste management authority shall hold an
2 initial organizational meeting at such time and place as is agreed upon by its member
3 units of local government and shall elect a chairman and any other officers that the
4 charter may specify or the delegates may deem advisable. The authority shall then
5 adopt bylaws for the conduct of its business. All meetings of regional solid waste
6 management authorities shall be subject to the provisions of Article 33C of Chapter 143
7 of the General Statutes.

8 **"§ 153A-426. Withdrawal from an authority.**

9 If the authority has no outstanding indebtedness, any member may withdraw from a
10 regional solid waste management authority effective at the end of the current fiscal year
11 by giving at least six months notice in writing to each of the other members.
12 Withdrawal of a member shall not dissolve the authority if at least two members remain.

13 **"§ 153A-427. Powers of an authority.**

14 (a) The charter may confer on the regional solid waste management authority any
15 or all of the following powers:

- 16 (1) To apply for, accept, receive, and disburse funds and grants made
17 available to it by the State or any agency thereof, the United States of
18 America or any agency thereof, any unit of local government whether
19 or not a member of the authority, any private or civic agency, and any
20 persons, firms, or corporations;
- 21 (2) To employ personnel;
- 22 (3) To contract with consultants;
- 23 (4) To contract with the United States of America or any agency or
24 instrumentality thereof, the State or any agency, instrumentality,
25 political subdivision, or municipality thereof, or any private
26 corporation, partnership, association, or individual, providing for the
27 acquisition, construction, improvement, enlargement, operation or
28 maintenance of any solid waste management facility, or providing for
29 any solid waste management services;
- 30 (5) To adopt bylaws for the regulation of its affairs and the conduct of its
31 business and to prescribe rules and policies in connection with the
32 performance of its functions and duties, not inconsistent with this
33 Article;
- 34 (6) To adopt an official seal and alter the same;
- 35 (7) To establish and maintain suitable administrative buildings or offices
36 at such place or places as it may determine by purchase, construction,
37 lease, or other arrangements either by the authority alone or through
38 appropriate cost-sharing arrangements with any unit of local
39 government or other person;
- 40 (8) To sue and be sued in its own name, and to plead and be impleaded;
- 41 (9) To receive, administer, and comply with the conditions and
42 requirements respecting any gift, grant, or donation of any property or
43 money;

- 1 (10) To acquire by purchase, lease, gift, or otherwise, or to obtain options
2 for the acquisition of any property, real or personal, improved or
3 unimproved, including an interest in land less than the fee thereof;
- 4 (11) To sell, lease, exchange, transfer, or otherwise dispose of, or to grant
5 options for any such purposes with respect to any real or personal
6 property or interest therein;
- 7 (12) To pledge, assign, mortgage, or otherwise grant a security interest in
8 any real or personal property or interest therein, including the right and
9 power to pledge, assign, or otherwise grant a security interest in any
10 money, rents, charges, or other revenues and any proceeds derived by
11 an authority from any and all sources;
- 12 (13) To issue revenue bonds of the authority and enter into other financial
13 arrangements including those permitted by this Chapter and Chapters
14 159, 159I, and 160A of the General Statutes to finance solid waste
15 management activities, including but not limited to systems and
16 facilities for waste reduction, materials recovery, recycling, resource
17 recovery, landfilling, ash management, and disposal and for related
18 support facilities, to refund any revenue bonds or notes issued by the
19 authority, whether or not in advance of their maturity or earliest
20 redemption date, or to provide funds for other corporate purposes of
21 the authority;
- 22 (14) With the approval of any unit of local government, to use officers,
23 employees, agents, and facilities of the unit of local government for
24 such purposes and upon such terms as may be mutually agreeable;
- 25 (15) To develop and make data, plans, information, surveys, and studies of
26 solid waste management facilities within the territorial jurisdiction of
27 the members of the authority, to prepare and make recommendations
28 in regard thereto;
- 29 (16) To study, plan, design, construct, operate, acquire, lease, and improve
30 systems and facilities, including systems and facilities for waste
31 reduction, materials recovery, recycling, resource recovery, landfilling,
32 ash management, household hazardous waste management,
33 transportation, disposal, and public education regarding solid waste
34 management, in order to provide environmentally sound, cost-effective
35 management of solid waste including storage, collection, transporting,
36 separation, processing, recycling, and disposal of solid waste in order
37 to protect the public health, safety, and welfare; to enhance the
38 environment for the people of this State; recover resources and energy
39 which have the potential for further use, and to promote and
40 implement the purposes set forth in Part 2A of Article 9 of Chapter
41 130A of the General Statutes;
- 42 (17) To locate solid waste facilities, including ancillary support facilities, as
43 the authority may see fit;

- 1 (18) To assume any responsibility for disposal and management of solid
2 waste imposed by law on any member unit of local government;
- 3 (19) To operate such facilities together with any person, firm, corporation,
4 the State, any entity of the State, or any unit of local government as
5 appropriate and otherwise permitted by its charter and the laws of this
6 State;
- 7 (20) To set and collect such fees and charges as is reasonable to offset
8 operating costs, debt service, and capital reserve requirements of the
9 authority;
- 10 (21) To apply to the appropriate agencies of the State, the United States of
11 America or any state thereof, and to any other appropriate agency for
12 such permits, licenses, certificates, or approvals as may be necessary,
13 and to construct, maintain, and operate projects in accordance with
14 such permits, licenses, certificates, or approvals in the same manner as
15 any other person or operating unit of any other person;
- 16 (22) To employ engineers, architects, attorneys, real estate counselors,
17 appraisers, financial advisors, and such other consultants and
18 employees as may be required in the judgment of the authority, to fix
19 and pay their compensation from funds available to the authority
20 therefor, to select and retain, subject to approval of the Local
21 Government Commission, the financial consultants, underwriters, and
22 bond attorneys to be associated with the issuance of any revenue
23 bonds, and to pay for services rendered by financial consultants,
24 underwriters, or bond attorneys from funds available to the authority
25 including the proceeds of any revenue bond issue with regard to which
26 the services were performed;
- 27 (23) To acquire property located within the territorial jurisdiction of any
28 member unit of local government by eminent domain pursuant to
29 authority granted to counties;
- 30 (24) To require that any and all solid waste and recyclable materials
31 generated within the authority's service area be separated and delivered
32 to specific locations and facilities; and
- 33 (25) To do all things necessary, convenient, or desirable to carry out the
34 purposes and to exercise the powers granted to an authority under its
35 charter.

36 (b) The acquisition and disposal of real and personal property by an authority
37 created under this Article shall be governed by those provisions of the General Statutes
38 which govern the acquisition and disposal of real and personal property by counties. No
39 authority created pursuant to this Article shall exercise any power of eminent domain
40 with respect to any property located outside the territorial jurisdiction of the members of
41 such authority.

42 **"§ 153A-428. Fiscal accountability; support from other governments.**

43 (a) A regional solid waste management authority is a public authority subject to
44 the provisions of Chapter 159 of the General Statutes.

1 (b) The establishment and operation of an authority as herein authorized are
2 governmental functions and constitute a public purpose, and the State and any unit of
3 local government may appropriate funds to support the establishment and operation of
4 an authority.

5 (c) The State and any unit of local government may also dedicate, sell, convey,
6 donate, or lease any of their interests in any property to an authority.

7 **"§ 153A-429. Long-term contract permitted by and with an authority.**

8 (a) To the extent authorized by its charter, an authority may enter into long-term
9 and continuing contracts, not to exceed a term of 60 years, with member or other units
10 of local government for the acquisition, construction, improvement, enlargement,
11 operation, or maintenance of any solid waste management facility or for solid waste
12 management services with respect to solid waste generated within their geographic
13 boundaries or brought into their geographic boundaries.

14 (b) Contracts entered into by an authority may include, but are not limited to,
15 provisions for:

16 (1) Payment by the members of the authority and other units of local
17 government of a fee or other charge by the authority to accept and
18 dispose of solid waste;

19 (2) Periodic adjustments to the fee or other charges to be paid by each
20 member of the authority and such other units of local government;

21 (3) Warranties from the members of the authority and such other units of
22 local government with respect to the quantity of the solid waste which
23 will be delivered to the authority and warranties relating to the content
24 or quality of the solid waste; and

25 (4) Legal and equitable title to the solid waste passing to the authority
26 upon delivery of the solid waste to the authority.

27 **"§ 153A-430. Controlling provisions; compliance with other law.**

28 (a) Insofar as the provisions of this Article are not consistent with the provisions
29 of any other law, public or private, the provisions of this Article shall be controlling.

30 (b) An authority created pursuant to this Article shall comply with all applicable
31 federal and State laws, regulations, and rules, including specifically those enacted or
32 adopted for the management of solid waste or for the protection of the environment or
33 public health.

34 **"§ 153A-431. Issuance of revenue bonds and notes.**

35 The State and Local Government Revenue Bond Act, Article 5 of Chapter 159 of the
36 General Statutes, governs the issuance of revenue bonds by an authority. Article 9 of
37 Chapter 159 of the General Statutes governs the issuance of notes in anticipation of the
38 sale of revenue bonds.

39 **"§ 153A-432. Advances.**

40 Any member or other units of local government may make advances from any
41 monies that may be available for such purpose, in connection with the creation of an
42 authority and to provide for the preliminary expenses of an authority. Any such
43 advances may be repaid to such member or other units of local government from the

1 proceeds of the revenue bonds or anticipation notes issued by such authority or from
2 funds otherwise available to the authority."

3 Sec. 2. G.S. 159I-3(13) reads as rewritten:

4 "(13) 'Unit of local government' or 'unit' means:

- 5 a. A unit of local government as defined in G.S. 159-44(4);
6 b. Any combination of units, as defined in G.S. 160A-460(2),
7 entering into a contract or agreement with each other under G.S.
8 160A-461; ~~or~~
9 c. Any joint agency established under G.S. 160A-462; as any such
10 section may be amended from time to ~~time~~-time; or
11 d. Any regional solid waste management authority created
12 pursuant to G.S. 153A-421."

13 Sec. 3. This act is effective upon ratification.