

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 418*

Short Title: Low-Level Rad. Waste Amends.

(Public)

Sponsors: Senator Johnson.

Referred to: Environment and Natural Resources.

April 1, 1991

A BILL TO BE ENTITLED

1
2 AN ACT TO PROVIDE RULE-MAKING AUTHORITY TO THE NORTH
3 CAROLINA LOW-LEVEL RADIOACTIVE WASTE MANAGEMENT
4 AUTHORITY FOR COMPENSATING LANDOWNERS FOR LOSS OF VALUE
5 IN PROPERTY DIRECTLY RESULTING FROM THE SITING OR OPERATION
6 OF A LOW-LEVEL RADIOACTIVE WASTE FACILITY AND TO AMEND
7 CERTAIN PROVISIONS OF CHAPTER 104G OF THE GENERAL STATUTES
8 RELATING TO TAXES SO AS TO INCREASE THE BENEFITS AVAILABLE
9 TO THE HOST COUNTY OF A LOW-LEVEL RADIOACTIVE WASTE
10 DISPOSAL FACILITY.

11 The General Assembly of North Carolina enacts:

12 Section. 1. G.S. 104G-6(a) reads as rewritten:

13 "(a) To carry out the purposes of this Chapter, the Authority:

- 14 (1) Shall site, design, construct, and operate a low-level radioactive waste
15 disposal facility exclusively for the wastes generated within the State
16 or within the region pursuant to the Southeast Interstate Low-Level
17 Radioactive Waste Management Compact, G.S. 104F-1;
- 18 (2) Shall establish, consistent with the rules of the Commission, rules
19 specifying the criteria and procedures for characterizing and evaluating
20 alternative locations for a low-level radioactive waste disposal facility;
- 21 (3) May employ consultants and contractors to provide services including
22 site selection, design, construction, operation, closure and perpetual
23 care of a low-level radioactive waste disposal facility, necessary,

- 1 desirable or convenient to effectuate the purposes of this Chapter, and
2 to fix and pay their compensation;
- 3 (4) May acquire by deed, purchase, lease, contract, gift, devise,
4 condemnation or otherwise, any real or personal property, structures,
5 rights-of-way, franchises, easements, and other interests in land which
6 is necessary and convenient for the construction or operation of low-
7 level radioactive waste facilities, upon such terms and conditions as it
8 deems advisable, and to lease, sell, or dispose of the same in such
9 manner as may be necessary or desirable to carry out the objects and
10 purposes of this Chapter;
- 11 (5) May exercise the powers of a body corporate, including the power to
12 sue and be sued, and may adopt and use a common seal and alter the
13 same as may be deemed expedient;
- 14 (6) May make all necessary contracts and arrangements with other
15 officials or agencies in this and other states, including compact
16 commissions, for any of the purposes of this Chapter;
- 17 (7) Shall establish an office for the transaction of its business at such place
18 or places as, in the opinion of the Authority, shall be advisable or
19 necessary in carrying out the purposes of this Chapter;
- 20 (8) May create and operate any divisions it deems necessary or useful;
- 21 (9) Shall pay all costs of the formation and organization of the Authority,
22 and incident to its administration and operation, and may pay all other
23 costs necessary in carrying out the purposes of this Chapter;
- 24 (10) Shall develop and implement schedules of fees and other charges,
25 including user charges, penalties, and surcharges, applicable to the use
26 and operation of low-level radioactive waste facilities under its
27 control;
- 28 (11) Shall develop and use procedures for determining the design,
29 technology, operational features, and post-closure requirements of a
30 low-level radioactive waste disposal facility;
- 31 (12) Shall reimburse, or assure that the licensee reimburses, the various
32 State agencies or departments for the actual administrative costs of
33 licensing, training of inspection and enforcement personnel,
34 inspection, and enforcement which those agencies incur as a result of
35 the establishment, operation, and closure of low-level radioactive
36 waste facilities pursuant to the provisions of this Chapter;
- 37 (13) May apply for, accept, and expend loans and grants of money from
38 any federal or State agency or any political subdivision thereof, from a
39 compact commission, or from any other public or private source for
40 any of the purposes authorized by this Chapter, and to give any
41 evidences of indebtedness as may be required. Except as may
42 hereafter be authorized by the General Assembly, no indebtedness of
43 any kind incurred or created by the Authority shall constitute an
44 indebtedness of the State or any of its political subdivisions, and no

- 1 such indebtedness shall involve or be secured by the faith, credit, or
2 taxing power of the State or any of its political subdivisions. At no
3 time may the total outstanding indebtedness of the Authority,
4 excluding bond indebtedness, exceed a total of five hundred thousand
5 dollars (\$500,000) without prior approval of the Governor, after
6 receiving the advice of the Advisory Budget Commission;
- 7 (14) May issue revenue bonds from time to time pursuant to The State and
8 Local Government Revenue Bond Act, Article 5 of Chapter 159 of the
9 General Statutes, and such bonds may be sold at public or private sale
10 pursuant to G.S. 159-123;
- 11 (15) Shall, if it elects to issue bonds, select and retain, subject to approval
12 of the Local Government Commission, financial consultants,
13 underwriters, and bond attorneys to assist with the issuance of such
14 bonds and to pay for services rendered;
- 15 (16) May pledge revenues from low-level radioactive waste facilities to the
16 benefit of bondholders, or for other purposes necessary to secure
17 financing;
- 18 (17) Shall make such plans, surveys, studies, and investigations as may be
19 necessary or desirable with respect to the acquisition, development,
20 and use of real property and the design, construction, operation,
21 closure, and long-term care of low-level radioactive waste facilities;
- 22 (18) Shall receive all field data, charts, maps, tracings, laboratory test data,
23 soil and rock samples, and such other records as the Authority deems
24 appropriate, collected or produced by its employees, contractors, or
25 consultants pursuant to siting, operating, or closing of low-level
26 radioactive waste facilities. All such data and materials shall become
27 the property of the State and shall not be disposed of except in
28 accordance with G.S. 132-3 except that soil and rock samples may be
29 subjected to tests and reduced in volume for purposes of storage in a
30 manner approved by the Authority. The Authority may enter into
31 agreements with other State agencies for the purpose of storage and
32 preservation of data and materials;
- 33 (19) Shall procure and keep in force adequate insurance or otherwise
34 provide for the adequate protection to indemnify and save harmless it
35 and its officers, agents, employees, adjoining property owners, or the
36 general public against loss or liability resulting from any act or
37 omission by or on behalf of the Authority, and for the protection of its
38 property;
- 39 (20) May adopt bylaws for the regulation of its affairs and the conduct of its
40 business and prescribe rules, regulations and policies in connection
41 with the performance of its functions and duties;
- 42 (21) Shall do anything else necessary for the siting, design, construction,
43 operation, maintenance, closure and long-term care of a low-level
44 radioactive waste disposal facility not otherwise prohibited by law; ~~and~~

1 (22) Shall periodically review the current and projected availability and
2 adequacy of facilities for the management of low-level radioactive
3 waste, determine whether any facilities for the management of such
4 wastes are required in addition to the disposal facility operated
5 pursuant to this Chapter, and make appropriate recommendations to
6 the General Assembly. ~~Assembly~~; and

7 (23) Shall adopt rules specifying the criteria and procedures for
8 compensating any property owner for any loss in value of property
9 directly resulting from the siting or operation of a low-level
10 radioactive waste facility."

11 Sec. 2. G.S. 104G-18 reads as rewritten:

12 **"§ 104G-18. Taxes; other compensation to the State and local governments.**

13 (a) A low-level radioactive waste disposal facility shall be exempt from ad
14 valorem property taxes; provided however, that the Authority shall, in lieu of property
15 taxes pay to any governmental body authorized to levy property taxes the amount which
16 would be assessed as taxes on real and personal property of a facility if such facility
17 were otherwise subject to valuation and assessment by local taxing unit. In addition, the
18 Authority shall reimburse the city or county for the loss of ad valorem property tax
19 revenues from property that is immediately adjacent to the property upon which the
20 facility is located and which is shown to have diminished in value as the direct result of
21 the siting and operation of the facility. Such payments in lieu of taxes shall be due and
22 shall bear interest if unpaid, as in the cases of taxes on other property. Payments in lieu
23 of taxes made hereunder shall be treated in the same manner as taxes for purposes of all
24 procedural and substantive provisions of law. Administrative buildings, associated land
25 and other real and personal property owned by the Authority and not located at a
26 disposal facility shall be exempt from property taxes as provided in G.S. 105-278.1.

27 (b) Except as authorized in G.S. 153A-152.1, G.S. 160A-211.1 and Chapter
28 104G of the General Statutes, no city or county may impose any tax, assessment or levy
29 of any kind or description upon the Authority or the operator of the Authority's low-
30 level radioactive waste disposal facility. All laws, ordinances or portions thereof to the
31 contrary are hereby invalidated and are of no effect.

32 ~~(c) The Authority shall collect, on behalf of the State, an annual radioactive~~
33 ~~waste tax based on volume and curies, to be paid to the General Fund of North Carolina.~~
34 ~~The Authority shall develop and recommend to the General Assembly a proposed~~
35 ~~radioactive waste tax schedule which the General Assembly shall consider in enacting~~
36 ~~taxes and fees under this Chapter.~~

37 (d) The Authority shall collect and deposit with the State Treasurer, ~~on behalf of~~
38 ~~local governments where a low-level radioactive waste disposal facility is located,~~ Treasurer a
39 tax on the gross receipts of ~~the~~ a low-level radioactive waste disposal facility in the
40 amount of ~~two and one-half percent (2.5%) to be distributed to local governments as the~~
41 ~~General Assembly shall provide.~~ The Authority shall develop and recommend to the General
42 ~~Assembly a proposed revenue package and revenue distribution formula which the General~~
43 ~~Assembly shall consider in providing for distribution of this tax and such other revenues as~~
44 ~~may be recommended.~~ six percent (6%) to be paid on a quarterly basis to the county in

1 which the facility is located. In the event that the facility is located in more than one
2 county, the proceeds of the gross receipts tax shall be divided equally among all the
3 counties in which the facility is located."

4 Sec. 3. Sections 1 and 3 of this act are effective upon ratification. Section 2
5 of this act becomes effective 1 January 1993.