

GENERAL ASSEMBLY OF NORTH CAROLINA
1989 SESSION

CHAPTER 888
SENATE BILL 58

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

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

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

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

(a) Each unit of local government initially adopting a resolution under G.S. 153A-421 shall become a member of the regional solid waste management authority. Thereafter, any unit of local government may join the authority by ratifying its charter and by being admitted by a unanimous vote of the existing members. All of the rights

and privileges of membership in a regional solid waste management authority shall be exercised on behalf of the member units of local government by a board composed of delegates to the authority who shall be appointed by and shall serve at the pleasure of the governing boards of their respective units of local government. A vacancy on the board shall be filled by appointment by the governing board of the unit of local government having the original appointment.

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

"§ 153A-424. Contents of charter.

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

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

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

"§ 153A-425. Organization of authorities.

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

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

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

"§ 153A-427. Powers of an authority.

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

- (1) To apply for, accept, receive, and disburse funds and grants made available to it by the State or any agency thereof, the United States of America or any agency thereof, any unit of local government whether or not a member of the authority, any private or civic agency, and any persons, firms, or corporations;
- (2) To employ personnel;
- (3) To contract with consultants;
- (4) To contract with the United States of America or any agency or instrumentality thereof, the State or any agency, instrumentality, political subdivision, or municipality thereof, or any private corporation, partnership, association, or individual, providing for the acquisition, construction, improvement, enlargement, operation or maintenance of any solid waste management facility, or providing for any solid waste management services;
- (5) To adopt bylaws for the regulation of its affairs and the conduct of its business and to prescribe rules and policies in connection with the performance of its functions and duties, not inconsistent with this Article;
- (6) To adopt an official seal and alter the same;
- (7) To establish and maintain suitable administrative buildings or offices at such place or places as it may determine by purchase, construction, lease, or other arrangements either by the authority alone or through appropriate cost-sharing arrangements with any unit of local government or other person;
- (8) To sue and be sued in its own name, and to plead and be impleaded;
- (9) To receive, administer, and comply with the conditions and requirements respecting any gift, grant, or donation of any property or money;
- (10) To acquire by purchase, lease, gift, or otherwise, or to obtain options for the acquisition of any property, real or personal, improved or unimproved, including an interest in land less than the fee thereof;
- (11) To sell, lease, exchange, transfer, or otherwise dispose of, or to grant options for any such purposes with respect to any real or personal property or interest therein;
- (12) To pledge, assign, mortgage, or otherwise grant a security interest in any real or personal property or interest therein, including the right and power to pledge, assign, or otherwise grant a security interest in any money, rents, charges, or other revenues and any proceeds derived by an authority from any and all sources;
- (13) To issue revenue bonds of the authority and enter into other financial arrangements including those permitted by this Chapter and Chapters 159, 159I, and 160A of the General Statutes to finance solid waste management activities, including but not limited to systems and facilities for waste reduction, materials recovery, recycling, resource

recovery, landfilling, ash management, and disposal and for related support facilities, to refund any revenue bonds or notes issued by the authority, whether or not in advance of their maturity or earliest redemption date, or to provide funds for other corporate purposes of the authority;

- (14) With the approval of any unit of local government, to use officers, employees, agents, and facilities of the unit of local government for such purposes and upon such terms as may be mutually agreeable;
- (15) To develop and make data, plans, information, surveys, and studies of solid waste management facilities within the territorial jurisdiction of the members of the authority, to prepare and make recommendations in regard thereto;
- (16) To study, plan, design, construct, operate, acquire, lease, and improve systems and facilities, including systems and facilities for waste reduction, materials recovery, recycling, resource recovery, landfilling, ash management, household hazardous waste management, transportation, disposal, and public education regarding solid waste management, in order to provide environmentally sound, cost-effective management of solid waste including storage, collection, transporting, separation, processing, recycling, and disposal of solid waste in order to protect the public health, safety, and welfare; to enhance the environment for the people of this State; recover resources and energy which have the potential for further use, and to promote and implement the purposes set forth in Part 2A of Article 9 of Chapter 130A of the General Statutes;
- (17) To locate solid waste facilities, including ancillary support facilities, as the authority may see fit;
- (18) To assume any responsibility for disposal and management of solid waste imposed by law on any member unit of local government;
- (19) To operate such facilities together with any person, firm, corporation, the State, any entity of the State, or any unit of local government as appropriate and otherwise permitted by its charter and the laws of this State;
- (20) To set and collect such fees and charges as is reasonable to offset operating costs, debt service, and capital reserve requirements of the authority;
- (21) To apply to the appropriate agencies of the State, the United States of America or any state thereof, and to any other appropriate agency for such permits, licenses, certificates, or approvals as may be necessary, and to construct, maintain, and operate projects in accordance with such permits, licenses, certificates, or approvals in the same manner as any other person or operating unit of any other person;
- (22) To employ engineers, architects, attorneys, real estate counselors, appraisers, financial advisors, and such other consultants and

employees as may be required in the judgment of the authority, to fix and pay their compensation from funds available to the authority therefor, to select and retain, subject to approval of the Local Government Commission, the financial consultants, underwriters, and bond attorneys to be associated with the issuance of any revenue bonds, and to pay for services rendered by financial consultants, underwriters, or bond attorneys from funds available to the authority including the proceeds of any revenue bond issue with regard to which the services were performed;

(23) To acquire property located within the territorial jurisdiction of any member unit of local government by eminent domain pursuant to authority granted to counties;

(24) To require that any and all solid waste and recyclable materials generated within the authority's service area be separated and delivered to specific locations and facilities provided that if a private landfill shall be substantially affected by such requirement then the regional solid waste management authority shall be required to give the operator of the affected landfill at least two years written notice prior to the effective date of the requirement; and

(25) To do all things necessary, convenient, or desirable to carry out the purposes and to exercise the powers granted to an authority under its charter.

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

(c) Each authority's plan shall take into consideration facilities and other resources for management of solid waste which may be available through private enterprise. This Article shall be construed to encourage the involvement and participation of private enterprise in solid waste management.

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

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

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

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

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

(a) To the extent authorized by its charter, an authority may enter into long-term and continuing contracts, not to exceed a term of 60 years, with member or other units

of local government for the acquisition, construction, improvement, enlargement, operation, or maintenance of any solid waste management facility or for solid waste management services with respect to solid waste generated within their geographic boundaries or brought into their geographic boundaries.

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

- (1) Payment by the members of the authority and other units of local government of a fee or other charge by the authority to accept and dispose of solid waste;
- (2) Periodic adjustments to the fee or other charges to be paid by each member of the authority and such other units of local government;
- (3) Warranties from the members of the authority and such other units of local government with respect to the quantity of the solid waste which will be delivered to the authority and warranties relating to the content or quality of the solid waste; and
- (4) Legal and equitable title to the solid waste passing to the authority upon delivery of the solid waste to the authority.

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

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

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

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

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

"§ 153A-432. Advances.

Any member or other units of local government may make advances from any monies that may be available for such purpose, in connection with the creation of an authority and to provide for the preliminary expenses of an authority. Any such advances may be repaid to such member or other units of local government from the proceeds of the revenue bonds or anticipation notes issued by such authority or from funds otherwise available to the authority."

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

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

- a. A unit of local government as defined in G.S. 159-44(4);
- b. Any combination of units, as defined in G.S. 160A-460(2), entering into a contract or agreement with each other under G.S. 160A-461; or
- c. Any joint agency established under G.S. 160A-462; as any such section may be amended from time to time. time; or

d. Any regional solid waste management authority created pursuant to G.S. 153A-421."

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 11th day of July, 1990.