

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 1761

Short Title: Low-Level Waste Site Benefits.

(Public)

Sponsors: Representatives Hackney, Barnes, Culp, G. Miller; and H. Hunter.

Referred to: Finance.

May 26, 1994

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT ALL BENEFITS ASSOCIATED WITH HOSTING A LOW-LEVEL RADIOACTIVE WASTE FACILITY BE SHARED EQUALLY BY ANY COUNTIES IN WHICH THE SITE IS LOCATED AND ANY COUNTIES WHOSE BORDERS ARE IMMEDIATELY ADJACENT TO THE SITE AND TO APPROPRIATE FUNDS FOR THE WAKE AND CHATHAM LOCAL ADVISORY COMMITTEES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 104G-18 reads as rewritten:

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

(a) A low-level radioactive waste disposal facility shall be is exempt from ad valorem property taxes; provided however, that the taxes as provided in G.S. 105-275(36). The Authority shall, in lieu of property taxes taxes, pay to any governmental body authorized to levy property taxes the amount which that would be assessed as taxes on real and personal property of a facility if such the facility were otherwise subject to valuation and assessment by local taxing unit. to property taxes. In addition, the Authority shall reimburse the any city or county for the loss of ad valorem property tax revenues from property in the city or county that is immediately adjacent to the property upon which the facility is located and which is shown to have diminished in value as the direct result of the siting and operation of the facility. Such These payments in lieu of taxes shall be due and shall bear interest if unpaid, as in the cases of taxes on other property. Payments in lieu of taxes made hereunder under this section shall be treated in the same manner as taxes for purposes of all procedural and substantive provisions of law. Administrative buildings, associated land and other real Real and personal property

1 owned by the Authority ~~and not located at a disposal facility shall be~~ is exempt from
2 property taxes as provided in G.S. ~~105-278.1-105-275(36).~~

3 (b) Except as authorized in G.S. 153A-152.1, G.S. 160A-211.1 and Chapter
4 104G of the General Statutes, no city or county may impose any tax, assessment or levy
5 of any kind or description upon the Authority or the operator of the Authority's low-
6 level radioactive waste disposal facility. All laws, ordinances or portions thereof to the
7 contrary are hereby invalidated and are of no effect.

8 (c) The Authority shall collect, on behalf of the State, an annual radioactive
9 waste tax based on volume and curies, to be distributed on a pro rata basis among the
10 counties in which or immediately adjacent to whose border the facility is located. ~~paid to~~
11 ~~the General Fund of North Carolina.~~ The Authority shall develop and recommend to the
12 General Assembly a proposed radioactive waste tax schedule ~~which~~ that the General
13 Assembly shall consider in enacting taxes and fees under this Chapter.

14 (d) The Authority shall collect and deposit with the State Treasurer, on behalf of
15 ~~local governments where~~ the counties in which or immediately adjacent to whose border a
16 low-level radioactive waste disposal facility is located, a tax on the gross receipts of the
17 facility in the amount of two and one-half percent ~~(2.5%) to be distributed to local~~
18 ~~governments as the General Assembly shall provide. (2.5%).~~ The Authority shall distribute
19 the gross proceeds of a tax levied pursuant to this subsection on a pro rata basis among
20 the counties in which or immediately adjacent to whose border the facility is located.
21 The Authority shall develop and recommend to the General Assembly a proposed
22 revenue package and revenue distribution formula which the General Assembly shall
23 consider in providing for distribution of this tax and such other revenues as may be
24 recommended."

25 Sec. 2. G.S. 104G-20 reads as rewritten:

26 "**§ 104G-20. Preferred site local advisory committees.**

27 (a) ~~Upon~~ At any time subsequent to the designation of the preferred site for the
28 low-level radioactive waste disposal facility pursuant to G.S. 104G-9(g), the board of
29 commissioners of each county within whose jurisdiction the site is located and each
30 county whose border is immediately adjacent to the site may appoint a preferred site
31 local advisory committee. The committee shall consist of 11 members representing
32 insofar as possible local government, environmental, health, engineering, business and
33 industry, academic, public interest, and emergency response groups. The committee
34 shall elect a chairman, vice-chairman, and a secretary. Vacancies shall be filled by the
35 county board of commissioners using the same criteria employed in the original
36 appointment. Members shall be reimbursed by the committee for reasonable and
37 necessary expenses incurred in connection with their duties. The county shall provide
38 the committee with necessary support staff.

39 (b) ~~The~~ Each preferred site local advisory committee shall:

- 40 (1) Study the costs and benefits associated with the proposed facility;
- 41 (2) Review all license and permit applications and related documents
42 concerning the proposed facility;
- 43 (3) Hire program, technical, and legal consultants to assist in the review
44 process;

- 1 (4) Collect and review information required for issuance of a special or
- 2 conditional use zoning permit;
- 3 (5) Assess the potential local environmental and socioeconomic impacts
- 4 of the proposed facility;
- 5 (6) Promote public education, information, and participation in the
- 6 licensing process;
- 7 (7) Develop and propose agreements between the Authority, the low-level
- 8 radioactive waste disposal facility operator, local governments, and
- 9 other persons;
- 10 (8) Develop and present recommendations concerning license conditions,
- 11 operational requirements, compensation, and incentives related to the
- 12 proposed facility;
- 13 (9) Hire a mediator to facilitate negotiations among the Authority, the
- 14 low-level radioactive waste disposal facility operator, local
- 15 governments, and other persons; and
- 16 (10) Reimburse committee members for reasonable and necessary
- 17 expenses.

18 (c) An applicant for a license to operate a low-level radioactive waste disposal
 19 facility shall pay a one-time local application fee of one hundred thousand dollars
 20 (\$100,000) to the county ~~where-in which~~ the site of the proposed facility is located. If
 21 the site lies in more than one ~~county, county~~ or is adjacent to the borders of any county,
 22 the local application fee will be distributed to the counties in which the site is located
 23 and any county whose borders are immediately adjacent to the site in equal amounts. If
 24 the board of commissioners appoints a preferred site local advisory committee the local
 25 application fee shall be used to support the work of the committee. No funds for local
 26 review shall be used to finance litigation expenses.

27 (d) In addition to the application fee under subsection (c) of this section, any
 28 county in which the site of the proposed facility is located and any county whose
 29 borders are immediately adjacent to the site shall receive a separate one-time General
 30 Fund appropriation to support the work of each county's preferred site local advisory
 31 committee."

32 Sec. 3. G.S. 104G-21 reads as rewritten:

33 **"§ 104G-21. Negotiation and arbitration.**

34 (a) Any local government in ~~the county or counties where~~ any county in which a
 35 low-level radioactive waste facility is proposed to be located and any county whose
 36 borders are immediately adjacent to the proposed facility pursuant to this Chapter may
 37 negotiate with the Authority with respect to any issue relating to the facility except:

- 38 (1) The need for the facility;
- 39 (2) Any proposal to reduce the duties of the Authority under this Chapter
- 40 or under any license issued for the facility;
- 41 (3) Any proposal to reduce the duties of the Commission or to make less
- 42 stringent any rule of the Commission; or

1 (4) Any decision of the Authority regarding site selection, operator
2 selection, or technology pursuant to G.S. 104G-9, 104G-10, and 104G-
3 11.

4 (b) The Authority shall negotiate in good faith with any local government in ~~the~~
5 ~~county or counties where any county in which a~~ low-level radioactive waste facility is
6 proposed to be ~~located~~-located and any county whose borders are immediately adjacent
7 to the proposed facility. A local government may designate itself or any other person to
8 negotiate on its behalf.

9 (c) Negotiations may be conducted with the assistance of a mediator if mediation
10 is requested by both the Authority and a local government. The function of the
11 mediator is to encourage a voluntary settlement of unresolved negotiable issues. The
12 Department shall provide the Authority and ~~the~~-that local government with the names
13 and qualifications of persons willing to serve as mediators. If the Authority and a local
14 government cannot agree on the selection of a mediator, the Authority and ~~the~~-that local
15 government may request the Department to appoint a mediator.

16 (d) If the Authority and a local government have not reached agreement on all
17 issues by negotiation within six months after selection of the preferred site pursuant to
18 G.S. 104G-9(g), the following issues may be submitted to arbitration pursuant to the
19 provisions of Article 45A of Chapter 1 of the General Statutes (Uniform Arbitration
20 Act):

21 (1) Compensation to any local government for substantial economic
22 impacts which are a direct result of the siting and operation of a low-
23 level radioactive waste facility located in the county or immediately
24 adjacent to the borders of the county and for which adequate
25 compensation is not otherwise provided;

26 (2) Reimbursement of reasonable costs incurred by ~~the~~-each local
27 government relating to negotiation, ~~mediation~~-mediation, and
28 arbitration activities under this section;

29 (3) Screening, fencing, and other matters related to the appearance of a
30 facility;

31 (4) Operational concerns other than design capacity and regulatory issues;

32 (5) Traffic flows and patterns which result from the operation of a facility;

33 (6) Uses of the site where a facility is located after the facility is closed;

34 (7) The applicability or nonapplicability of any local ordinance;

35 (8) Emergency response capabilities, including training and resources;

36 (9) Access to facility records and monitoring data; and

37 (10) Ongoing health surveys of persons living in the area around the
38 facility.

39 (e) In addition to those issues set out in subsection (d), any other issue may be
40 submitted for arbitration except:

41 (1) Those issues excluded from negotiation under subsection (a) of this
42 section;

43 (2) Any issue relating to the imposition by the General Assembly of a tax,
44 or fee not authorized by this Chapter; and

1 (3) Any issue requiring an appropriation by the General Assembly.

2 (f) Repealed by Session Laws 1993, c. 501, s. 8."

3 Sec. 4. There is appropriated from the General Fund to Wake County the
4 sum of one hundred thousand dollars (\$100,000) for the 1994-95 fiscal year for its local
5 advisory committee appointed pursuant to G.S. 104G-20, as amended in Section 2 of
6 this act.

7 Sec. 5. There is appropriated from the General Fund to Chatham County the
8 sum of one hundred thousand dollars (\$100,000) for the 1994-95 fiscal year for its local
9 advisory committee appointed pursuant to G.S. 104G-20, as amended in Section 2 of
10 this act.

11 Sec. 6. This act becomes effective upon ratification.