

House Bill 351

By: Representatives Corbett of the 174th, Cannon of the 172nd, Smith of the 70th, Smith of the 138th, and Dickey of the 134th

A BILL TO BE ENTITLED
AN ACT

1 To amend Part 1 of Article 2 of Chapter 8 of Title 12 of the Official Code of Georgia
2 Annotated, relating to general provisions regarding solid waste management, so as to modify
3 the powers and duties of the Board of Natural Resources; to revise definitions; to modify
4 solid waste permitting; to provide for submission of written verification regarding
5 compliance with local zoning and land use regulations; to remove certain restrictions on
6 permits; to revise provisions regarding public meetings and notice; to remove outdated
7 terminology; to provide for related matters; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Part 1 of Article 2 of Chapter 8 of Title 12 of the Official Code of Georgia Annotated,
11 relating to general provisions regarding solid waste management, is amended by revising
12 paragraphs (16) and (37) of Code Section 12-8-22, relating to definitions, as follows:

13 "(16) 'Manifest' means a form or document used for identifying the quantity and
14 composition and the origin, routing, and destination of ~~special~~ solid waste during its
15 transportation from the point of generation, through any intermediate points, to the point
16 of disposal, treatment, or storage."

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17 ~~"(37) 'Special solid waste' means any solid waste not otherwise regulated under Part 1~~
18 ~~of Article 3 of this chapter, known as the 'Georgia Hazardous Waste Management Act,'~~
19 ~~and regulations promulgated under such part originating or produced from or by a source~~
20 ~~or generator not subject to regulation under Code Section 12-8-24 Reserved."~~

21 **SECTION 2.**

22 Said part is further amended by revising Code Section 12-8-23, relating to powers and duties
23 of board, as follows:

24 "12-8-23.

25 In the performance of its duties the board shall have and may exercise the power to:

26 (1) Adopt, promulgate, modify, amend, and repeal rules and regulations to implement
27 and enforce the provisions of this part as the board may deem necessary to provide for
28 the control and management of solid waste to protect the environment and the health of
29 humans. Such rules and regulations may be applicable to the state as a whole or may
30 vary from area to area or may vary by waste characteristics, as may be appropriate to
31 facilitate the accomplishment of the provisions, purposes, and policies of this part. The
32 rules and regulations may include, but shall not be limited to, the following:

33 (A) Rules and regulations governing and controlling solid waste handling, including
34 measures to ensure that solid waste management practices are regulated, governed, and
35 controlled in the public interest;

36 (B) Rules and regulations prescribing the procedure to be followed in applying for
37 permits and requiring the submission of such plans, specifications, verifications, and
38 other pertinent information deemed relevant in connection with the issuance of such
39 permits;

40 (C) Rules and regulations concerning the establishment of permits by rule;

41 ~~(D) Rules and regulations establishing the use of a manifest during the generation and~~
42 ~~handling of special solid waste Reserved;~~

- 43 (E) Rules and regulations governing and controlling the handling of ~~special solid waste~~
44 ~~and~~ biomedical waste;
- 45 (F) Rules and regulations establishing criteria and a system of priorities for the
46 distribution of any state funds as may be made available through a grant-in-aid program
47 to assist financially local governmental agencies or authorities in the planning,
48 implementing, maintaining, or operating of solid waste handling systems which are
49 consistent with local and regional solid waste management plans;
- 50 (G) Rules and regulations establishing procedures and requirements for the postclosure
51 care of all solid waste disposal facilities, including but not limited to corrective action
52 of releases, ground-water monitoring, and maintenance of final cover;
- 53 (H) Rules and regulations establishing the criteria for approval, time periods for
54 coverage, and other terms and conditions for the demonstration of financial
55 responsibility required by this part and for the implementation of financial
56 responsibility instruments;
- 57 (I) Rules and regulations establishing qualifications for municipal solid waste disposal
58 facility operators and certification of such operators through colleges or universities of
59 the University System of Georgia or other organizations as may be determined
60 acceptable by the board;
- 61 (J) Rules and regulations regulating the generation, collection, processing, and disposal
62 of scrap tires and the collection, inventory, and marketing of used tires and governing
63 the investigation and cleanup of sites where scrap tires have been disposed regardless
64 of the date when such disposal occurred; and
- 65 (K) Rules and regulations further defining what shall or shall not constitute 'recovered
66 materials'; and
- 67 (2) Take all necessary steps to ensure the effective enforcement of this part."

68 **SECTION 3.**

69 Said part is further amended in Code Section 12-8-24, relating to permits for solid waste or
 70 special solid waste handling, disposal, or thermal treatment technology facility and
 71 inspection of solid waste generators, by revising subsections (a), (c), and (d), paragraph (2)
 72 of subsection (e), and subsections (g) and (h) as follows:

73 "(a) No person shall engage in solid waste ~~or special solid waste~~ handling in Georgia or
 74 construct or operate a solid waste handling facility in Georgia, except those individuals
 75 exempted from this part under Code Section 12-8-30.10, without first obtaining a permit
 76 from the director authorizing such activity."

77 "~~(c) On or after March 30, 1990, any permit for the transportation of municipal solid waste~~
 78 ~~from a jurisdiction generating solid waste to a municipal solid waste disposal facility~~
 79 ~~located in another county shall be conditioned upon the jurisdiction generating solid waste~~
 80 ~~developing and being actively involved in, by July 1, 1992, a strategy for meeting the~~
 81 ~~state-wide goal of waste reduction by July 1, 1996~~ Reserved.

82 (d) If the director determines that such activity will result in any violation of this part or
 83 any rule or regulation promulgated pursuant to this part, ~~he~~ the director shall deny the
 84 permit; otherwise, ~~he~~ the director shall issue the permit, specifying on the permit the
 85 conditions under which such activity shall be conducted; provided, however, that a public
 86 hearing shall be held by the governing authority of the county or municipality in which the
 87 municipal solid waste ~~or special solid waste~~ handling shall occur not less than two weeks
 88 prior to the issuance of any permit under this Code section and notice of such hearing shall
 89 be posted at the proposed site and advertised in a newspaper of general circulation serving
 90 the county or counties in which the proposed activity will be conducted at least 30 days
 91 prior to such hearing."

92 "(2) Prior to the granting of any major modification of an existing solid waste handling
 93 permit by the director, a public hearing shall be held by the governing authority of the
 94 county or municipality in which the municipal solid waste facility ~~or special solid waste~~

95 ~~handling facility~~ requesting the modification is located not less than two weeks prior to
96 the issuance of any permit under this Code section and notice of such hearing shall be
97 posted at the site of such facility and advertised in a newspaper of general circulation
98 serving the county or counties in which such facility is located at least 30 days prior to
99 such hearing."

100 ~~"(g)(1) Prior to the issuance of~~ The director shall require that an applicant for any permit
101 for a solid waste handling facility or the granting of any major modification of an existing
102 solid waste handling permit, the director shall require written verification to be furnished
103 by the applicant submit to the division written verification from an authorized official of
104 the host local government for the facility or proposed facility or major modification that
105 is no more than 36 months old from the date of application that:

106 (A) Identifies the type of facility or proposed facility;

107 (B) Describes the location of such facility or proposed facility by tax parcel
108 identification number or legal description;

109 (C) Expressly states that the facility or proposed facility complies with local zoning or
110 land use ordinances, if any or that there are no such local zoning or land use ordinances;
111 and after July 1, 1992;

112 (D) States that the facility or proposed facility is consistent with the local,
113 multijurisdictional, or regional solid waste management plan developed and adopted
114 by the host local government in accordance with standards promulgated pursuant to this
115 part subject to the provisions of Code Section 12-8-31.1 and that the host jurisdiction
116 and all jurisdictions generating solid waste destined for the applicants' facility can
117 demonstrate that they are part of an approved solid waste plan developed in accordance
118 with standards promulgated pursuant to this part and are actively involved in and have
119 a strategy for meeting the state-wide goal of waste reduction by July 1, 1996. Prior to
120 the issuance of any permit for a solid waste handling facility or the granting of any
121 major modification of an existing solid waste handling permit that will handle solid

122 ~~waste from jurisdictions outside Georgia, the out-of-state solid waste generating~~
123 ~~jurisdictions shall provide documentation that they have a strategy for and are actively~~
124 ~~involved in meeting planning requirements and a waste reduction goal that are~~
125 ~~substantially equivalent to the planning requirements and waste reduction goal~~
126 ~~contained in this part; and~~

127 (E) Attaches or cross-references the ordinance or resolution which specifically
128 authorizes an administrative official or employee of the host local government to
129 provide the written verification required by subparagraphs (C) and (D) of this
130 paragraph, if applicable.

131 (2) For purposes of paragraph (1) of this subsection, written verification may be executed
132 by an administrative official or employee of the host local government only if that person
133 has been authorized to provide the written verification by ordinance or resolution of the
134 governing authority. In the absence of such authorization, written verification shall be
135 executed by the chief elected official of the governing authority of the host local
136 government.

137 (3) If, after reviewing all application materials and approving the final design and
138 operation plan for a facility or proposed facility or major modification, the director, in his
139 or her sole discretion, determines that such facility or proposed facility or major
140 modification is substantially different from that described in the application, before
141 issuing the permit the director may request in writing that the applicant submit to the
142 division written verification from the governing authority of the host local government
143 for the facility or proposed facility reconfirming that, as described in the final design and
144 operation plan, the facility or proposed facility or major modification complies with local
145 zoning or land use ordinances, if any, in effect at the time of application submission and
146 is consistent with the local, multijurisdictional, or regional solid waste management plan
147 developed and adopted by the host local government in effect at the time of application
148 submission.

149 (4) Such written verification from the host local government shall constitute a
 150 determination that the facility or proposed facility or major modification is consistent
 151 with the applicable requirements of subsection (e) of Code Section 12-8-31.1.

152 (h) No permit for a disposal facility shall be issued to any regional solid waste
 153 management authority created under Part 2 of this article, the 'Regional Solid Waste
 154 Management Authorities Act,' until local and regional solid waste management plans
 155 consistent with this part have been developed for all jurisdictions participating in such
 156 authority and such plans are found to be consistent with the state solid waste management
 157 plan pursuant to described in subsection ~~(d)~~ (c) of Code Section ~~12-8-31.1~~ 12-8-31."

158 **SECTION 4.**

159 Said part is further amended in Code Section 12-8-25.3, relating to further restrictions on
 160 sites within significant ground-water recharge area or near military air space used as
 161 bombing range, by revising subsections (a) and (b) as follows:

162 ~~(a) Notwithstanding the provisions of Code Section 12-8-25.2, no permit shall be issued~~
 163 ~~for a municipal solid waste landfill which accepts solid waste generated from outside the~~
 164 ~~county in which such landfill is located or, in the case of a regional landfill, from outside~~
 165 ~~any of the counties or special districts empowered to engage in solid waste management~~
 166 ~~activities constituting such region if any part of such site is within any area that has been~~
 167 ~~designated by the director as a significant ground-water recharge area~~ Reserved.

168 ~~(b) In addition to the provisions of subsection (a) of this Code section, in the case of a~~
 169 ~~regional municipal solid waste landfill where any part of such site is within any area that~~
 170 ~~has been designated by the director as a significant ground-water recharge area, no permit~~
 171 ~~shall be issued for such regional landfill unless the boundaries of the counties or special~~
 172 ~~districts empowered to engage in solid waste management activities are contiguous and~~
 173 ~~such counties or special districts have entered into a joint contract for the collection and~~
 174 ~~disposal of solid waste~~ Reserved."

175 **SECTION 5.**

176 Said part is further amended by revising Code Section 12-8-26, relating to public meetings
177 on site selection, notice, and decision, as follows:

178 "12-8-26.

179 (a) Any county, municipality, group of counties, or government authority beginning a
180 process to select a site for on which such county, municipality, group of counties, or
181 government authority intends to own or operate a municipal solid waste disposal facility
182 must first call at least one public meeting to discuss waste management needs of the local
183 government or region and to describe the process of siting facilities to the public. Notice
184 of this meeting shall be published within a newspaper of general circulation serving such
185 county or municipality at least ~~once a week for two weeks~~ 14 days and again at least seven
186 days immediately preceding the date of such meeting. A regional solid waste management
187 authority created under Part 2 of this article must hold at least one meeting within each
188 jurisdiction participating in such authority, and notice for these meetings must be published
189 within a newspaper of general circulation serving each such jurisdiction at least ~~once a~~
190 ~~week for two weeks~~ 14 days and again at least seven days immediately preceding the date
191 of such meeting.

192 ~~(b) The governing authority of any county or municipality taking action resulting in a~~
193 ~~publicly or privately owned municipal solid waste disposal facility siting decision shall~~
194 ~~cause to be published within a newspaper of general circulation serving such county or~~
195 ~~municipality a notice of the meeting at which such siting decision is to be made at least~~
196 ~~once a week for two weeks immediately preceding the date of such meeting. Such notice~~
197 ~~shall state the time, place, and purpose of the meeting and the meeting shall be conducted~~
198 ~~by the governing authority taking the action. A siting decision shall include, but is not~~
199 ~~limited to, such activities as the final selection of property for landfilling and the execution~~
200 ~~of contracts or agreements pertaining to the location of municipal solid waste disposal~~
201 ~~facilities within the jurisdiction, but shall not include zoning decisions~~ Before a host local

202 government verifies in writing that a proposed new public or private municipal solid waste
203 disposal facility or a major modification expanding the permit boundaries of an existing
204 facility is consistent with the local, multijurisdictional, or regional solid waste management
205 plan adopted by the host local government and local zoning or land use ordinances, as
206 required by subsection (g) of Code Section 12-8-24, the governing authority of the host
207 local government shall comply with the notice and meeting requirements set forth in this
208 part. Prior to issuing written verification, such governing authority shall cause a notice of
209 the meeting at which the public will be informed of the proposed new facility or major
210 modification expanding the permit boundaries of an existing facility to be published in a
211 newspaper of general circulation serving such local government. The meeting notice shall
212 be published at least 14 days and again at least seven days preceding the date of such
213 meeting. The meeting notice shall identify the governing authority of the host local
214 government jurisdiction that will conduct the meeting and shall include the time, place, and
215 purpose of the meeting. During the meeting on the proposed new facility or major
216 modification expanding the permit boundaries of an existing facility, the governing
217 authority of the host local government shall inform the public of:

- 218 (1) The location of the proposed new facility or major modification expanding the permit
219 boundaries of an existing facility;
220 (2) The type of facility and operations proposed; and
221 (3) The process by which such governing authority shall provide the written verification
222 described in subsection (g) of Code Section 12-8-24."

223 **SECTION 6.**

224 Said part is further amended in Code Section 12-8-27.1, relating to Solid Waste Trust Fund,
225 by revising paragraph (1) of subsection (e) as follows:

226 "(e)(1) If the director determines that a solid waste ~~or special solid waste~~ handling facility
227 has been abandoned, that the owner or operator thereof has become insolvent, or that for

228 any other reason there is a demonstrated unwillingness or inability of the owner or
 229 operator to maintain, operate, or close the facility, to carry out postclosure care of the
 230 facility, or to carry out corrective action required as a condition of a permit to the
 231 satisfaction of the director, the director may implement the applicable financial
 232 responsibility mechanisms. The proceeds from any applicable financial responsibility
 233 mechanisms shall be deposited into the Solid Waste Trust fund."

234 **SECTION 7.**

235 Said part is further amended in Code Section 12-8-31.1, relating to local, multijurisdictional,
 236 or regional solid waste plans, reporting by cities and counties, and annual reporting
 237 requirements for landfill owners and operators, by revising subsections (a) and (d) through
 238 (h) as follows:

239 "(a)(1) Each city and county in Georgia shall develop or be included in a comprehensive
 240 solid waste management plan. Said plan may be developed independently as a local plan
 241 or jointly with other jurisdictions as a multijurisdictional or regional solid waste plan.

242 ~~(2)(A) The Department of Community Affairs under the provisions of Chapter 13 of~~
 243 ~~Title 50 shall promulgate solid waste planning guidance that a city or county may use~~
 244 ~~to update or amend such city's or county's solid waste plan.~~

245 ~~(B)~~ Any city or county that proposes to update or amend its solid waste management
 246 plan shall publish notice of such proposed action in the county legal organ or the city's
 247 or county's Internet website, as applicable, at least two weeks prior to adopting such
 248 update or amendment to its plan in accordance with subsection (c) of this Code section."

249 "(d) Each city and county may report annually to the ~~Department of Community Affairs~~
 250 division on the status of solid waste management in the jurisdiction or may post such
 251 reports on its website. Such reports may be individual or collective in nature or, in lieu of
 252 local reports, a regional report may be filed by any of the several regional commissions for

253 political jurisdictions within their region. The annual report may include but not be limited
254 to:

- 255 (1) The amount of solid waste collected, processed, and disposed of in the area;
- 256 (2) The progress on the reduction in solid waste, as evidenced by the solid waste
257 received at disposal facilities in the planning area since the previous reporting period and
258 total cumulative progress made toward meeting the waste reduction goals of the state;
- 259 (3) The remaining permitted capacity of disposal facilities;
- 260 (4) Recycling and composting activities in existence;
- 261 (5) Public information and education activities during the reporting period; and
- 262 (6) Any other pertinent information as may be required.

263 (e) ~~After July 1, 1992, no permit, grant, or loan shall be issued for any municipal solid~~
264 ~~waste disposal facility or any solid waste handling equipment or recycling equipment~~
265 ~~used in conjunction therewith in a county or region which is not consistent with a local,~~
266 ~~multijurisdictional, or regional solid waste management plan. Each application for a~~
267 ~~permit, major modification, grant, or loan issued after July 1, 1992, shall include the~~
268 ~~following:~~

- 269 (1) Certification that the facility for which a permit or major modification is sought
270 complies with local land use ~~and~~ or zoning requirements, if any;
- 271 (2) Verification that the facility for which a permit, major modification, grant, or loan
272 ~~is sought meets the ten-year capacity needs identified in the~~ is consistent with the
273 applicable local, multijurisdictional, or regional solid waste management plan; and
- 274 (3) Demonstration that the host ~~jurisdiction and all jurisdictions generating solid waste~~
275 ~~destined for the applicant's facility are part of an approved~~ local government has adopted
276 a solid waste management plan or updated plan developed consistent with standards
277 promulgated pursuant to this part, and are actively involved in, and have a strategy for,
278 meeting the state-wide goal for reduction of solid waste disposal in accordance with the
279 requirements of subsection (c) of this Code section.

280 (f) This Code section shall not apply to:

281 ~~(1) Any any solid waste disposal facility which is operated exclusively by a private solid~~
282 ~~waste generator on property owned by the private solid waste generator for the purpose~~
283 ~~of accepting solid waste exclusively from the private solid waste generator so long as the~~
284 ~~operation of the solid waste disposal facility does not adversely affect the public health~~
285 ~~or the environment. After commencement of operation by a private solid waste generator~~
286 ~~of a solid waste disposal facility which is permitted but not included in a local or regional~~
287 ~~solid waste management plan, an amendment into a local or regional solid waste~~
288 ~~management plan shall be required for any solid waste which is to be no longer disposed~~
289 ~~of by the private solid waste generator in its own solid waste disposal facility prior to any~~
290 ~~substantial reduction in the amount of solid waste accepted by the solid waste disposal~~
291 ~~facility or its closure; or,~~

292 ~~(2) Any privately owned solid waste handling facility seeking a permit or major~~
293 ~~modification of an existing permit where the host local governing authority has failed to~~
294 ~~make a good faith effort, as determined by the Department of Community Affairs, to~~
295 ~~develop and adopt a local solid waste management plan or to be included in a~~
296 ~~multijurisdictional or regional solid waste management plan; provided, however, that the~~
297 ~~permit applicant continues to be obligated to demonstrate that all generating jurisdictions~~
298 ~~from which waste will be received are part of an approved solid waste management plan~~
299 ~~developed in accordance with planning guidance promulgated pursuant to this part and~~
300 ~~have a strategy to meet and are actively engaged in meeting the state-wide goal of~~
301 ~~reducing waste.~~

302 (g) Effective July 1, 1991, it It shall be the responsibility of the owner or operator of each
303 municipal solid waste disposal facility to keep an accurate written record of all amounts of
304 solid waste measured in tons received at the facility. Measurement in tons of solid waste
305 received shall be accomplished by one or more of the following methods:

- 306 (1) The provision of stationary or portable scales at the disposal facility for weighing
 307 incoming waste;
- 308 (2) Implementation of contractual or other arrangements for the use of scales at a
 309 location other than the disposal facility for weighing all waste destined for disposal at the
 310 facility; or
- 311 (3) Implementation of contractual or other arrangements for the use of scales at a
 312 location other than the disposal facility to weigh representative samples of the solid waste
 313 received at the disposal facility on a basis which is sufficiently frequent to estimate
 314 accurately the amount of solid waste received at the disposal facility.
- 315 (h) The provisions of subsection (d) of this Code section notwithstanding, each public or
 316 private owner or operator of a municipal solid waste landfill shall report annually to the
 317 ~~Department of Community Affairs~~ division on the status of solid waste management for
 318 each municipal solid waste landfill it owns or operates in this state. The annual report for
 319 each such landfill shall include but not be limited to:
- 320 (1) The amount of solid waste collected, processed, and disposed of at such landfill;
- 321 (2) The remaining permitted capacity of the landfill;
- 322 (3) ~~Recycling and composting activities in existence~~ Quantities of material recycled and
 323 composted annually at such landfill; and
- 324 (4) Any other pertinent information as may be required by the ~~Department of~~
 325 ~~Community Affairs~~ division."

326 **SECTION 8.**

327 Said part is further amended in Code Section 12-8-39, relating to cost reimbursement fees,
 328 surcharges, exempt contracts, and reporting, by revising subsection (c) as follows:

329 "(c) Effective January 1, 1992, when a municipal solid waste disposal facility is operated
 330 as a joint venture by more than one city or county or combination thereof, by a ~~special~~ solid
 331 waste district, or by an authority, the cost reimbursement fee specified in this Code section

332 shall be imposed by the joint operators, district, or authority and the cost reimbursement
333 fee received shall be administered as outlined in subsection (b) of this Code section and
334 shall be remitted into a restricted account established by the participating local
335 governments."

336 **SECTION 9.**

337 All laws and parts of laws in conflict with this Act are repealed.