

9-1-1990

CONSERVATION AND NATURAL RESOURCES Solid Waste Management

B. E. Potter

Follow this and additional works at: <https://readingroom.law.gsu.edu/gsulr>

 Part of the [Law Commons](#)

Recommended Citation

B. E. Potter, *CONSERVATION AND NATURAL RESOURCES Solid Waste Management*, 7 GA. ST. U. L. REV. (1990).

Available at: <https://readingroom.law.gsu.edu/gsulr/vol7/iss1/1>

This Peach Sheet is brought to you for free and open access by the Publications at Reading Room. It has been accepted for inclusion in Georgia State University Law Review by an authorized editor of Reading Room. For more information, please contact mbutler@gsu.edu.

CONSERVATION AND NATURAL RESOURCES

Solid Waste Management

CODE SECTIONS: O.C.G.A. §§ 12-8-23.1(c) (new), 12-8-25.2 (amended), 12-8-20 to -59.1 (new), 50-8-7.3 (new), 27-1-5 (amended), 12-2-1(c)–(d) (new), 12-8-27(h) (new)

BILL NUMBERS: SB 478, SB 533, SB 534

ACT NUMBERS: 1279, 1106, 957

SUMMARY: SB 533 replaces the Solid Waste Management Act and creates a Solid Waste Management Authority, creating a plan for reducing solid waste by twenty-five percent locally and statewide by 1996, and establishing mandatory recycling plans for governmental agencies and for several waste products. SB 478 amends the Georgia Comprehensive Solid Waste Management Act to allow landfills situated within two miles of significant ground water recharge areas to operate without liners and leachate systems, provided that the landfills received approval to operate before March 15, 1989. The Act also restricts the opening of new solid waste thermal treatment technology facilities. Decisions regarding opening of new facilities are left to the discretion of the director. Purely private facilities are not restricted.

EFFECTIVE DATE: July 1, 1990

History

Prompted by an on-going need to restructure the management and disposal of solid waste in Georgia, the Georgia General Assembly has repeatedly amended the Georgia Comprehensive Solid Waste Management Act. In 1990, legislators attempted to expand the Act's coverage to meet heightened environmental and financial concerns, and to create a plan for the disposal of the 10,000 tons of garbage Georgians

generate daily.¹ In addition, legislators considered the expected closing of over fifty landfills statewide in the next two years.² The Governor and environmental lobbyists supported passage of a comprehensive bill.³

The history of solid waste management in Georgia is brief. Before an initiative by Governor Carter in 1972, no waste management legislation existed.⁴ Garbage was deposited in unregulated dumps, rather than in sanitary landfills.⁵ Georgia's solid waste management has remained essentially stagnant since 1972.⁶

One of the weaknesses of the old law was a lack of community involvement in solid waste management.⁷ The old law required neither materials reclamation and recovery, nor waste generation reduction.⁸ In the summer of 1989, Governor Joe Frank Harris appointed a committee to study solid waste management in Georgia and to make recommendations for statutory reform.⁹ These recommendations were the basis of SB 533.¹⁰ Conditions highlighting the need to restructure solid waste management in Georgia included: the lack of acreage limits on landfills, the lack of restrictions regarding proximity to aquifers, the opening of numerous commercial landfills in rural Georgia, and the projected closing of sixty percent of the state's landfills in the next three to five years.¹¹

SB 533

SB 533 amends the Georgia Comprehensive Solid Waste Management Act.¹² The new Act incorporates several aspects of the previous Act.

1. Telephone interview with Representative Robert L. Patten, Chairman, Natural Resources and Environment Committee, May 2, 1990 [hereinafter Patten Interview]. See also Legislative Review, *Solid Waste Management: Regulate Landfills*, 6 GA. ST. U.L. REV. 169 (1989) (discussing O.C.G.A. §§ 12-8-22, 12-8-23, 12-8-27, 12-8-27.1, 12-8-28.3, 12-8-28.4, 12-8-45, 12-8-46); Legislative Review, *Solid Waste Disposal: Limit Location of Waste Facilities*, 5 GA. ST. U.L. REV. 244 (1988) (discussing O.C.G.A. § 12-8-28.1).

2. Walston, *Plan Would Have More Recycling Their Trash*, Atlanta Const., Jan. 25, 1990, at C1, col. 4 [hereinafter Walston].

3. *Id.*

4. *Current at the Capitol*, 33 The Georgia Legislative Forum 5 (Feb. 6, 1990) (available in Georgia State University College of Law Library) [hereinafter *Current*].

5. *Id.*

6. *Id.*

7. Telephone interview with Hugh Esco, Coordinator, 3 R.S.C. Campaign, Georgia Environmental Project (July 11, 1990) [hereinafter Esco Interview].

8. *Id.*

9. *Current*, *supra* note 4. The Solid Waste Study Committee consisted of six subcommittees on recycling, landfills, education and source reduction, incineration, legislation and research. *Id.*

10. *Id.*

11. *Id.*

12. O.C.G.A. §§ 12-8-20 to -59, 50-8-7.3 (Supp. 1990).

The State of Georgia has adopted a policy to reduce solid waste production and to make optimum use of recovered and recycled materials.¹³ In addition, the new Act provides that the amount of solid waste received by disposal facilities must be reduced by July 1, 1996.¹⁴ This goal is based on United States Environmental Protection Agency (EPA) studies of feasibility for reduction.¹⁵ Environmental lobbyists received these goals with enthusiasm, while lobbyists representing private landfill operators and packaging companies opposed the goals.¹⁶

The Act defines a total of twenty-two new terms, to provide needed precision in implementing the restructuring of solid waste management in Georgia.¹⁷ The Board of the Department of Natural Resources (DNR) must now comply with local and regional solid waste management plans developed in accordance with the Act.¹⁸ The Director of the DNR now has express power to enforce plans or programs implemented under the Act.¹⁹ Previously, the Act contained no enforcement provisions. Many lawmakers believed that a revised plan which did not give enforcement powers to the Director would be useless.²⁰

Private corporations may no longer receive funds disbursed through state grants.²¹ To receive these funds, municipal solid waste handling systems must be "consistent with local and regional solid waste management plans prepared in accordance with the requirements of [the Act]."²² Although the Director must approve all governmental projects which require state or federal loans or grants,²³ the Georgia Environmental Facilities Authority will now conduct financial reviews and make determinations regarding the approval of loans.²⁴

The Director will also develop environmental standards to aid in the preparation of local and regional solid waste management plans.²⁵ The

13. O.C.G.A. § 12-8-21(b) (Supp. 1990).

14. O.C.G.A. § 12-8-21(c) (Supp. 1990).

15. Telephone interview with John Taylor, Legal Counsel, Environmental Protection Division of Department of Natural Resources (March 30, 1990) [hereinafter Taylor Interview].

16. Walston, *supra* note 2.

17. Telephone interview with Senator Lewis H. McKenzie, Senate District No. 14, May 2, 1990 [hereinafter McKenzie Interview]. For example, the House Natural Resources and Environmental Committee replaced the term "incinerator" with the phrase "solid waste thermal treatment technology facility." O.C.G.A. § 12-8-22(33) (Supp. 1990). The new definition expanded the regulation of such activities. *Id.*

18. O.C.G.A. § 12-8-23(f) (Supp. 1990).

19. O.C.G.A. § 12-8-23.1(6) (Supp. 1990).

20. Taylor Interview, *supra* note 15.

21. O.C.G.A. § 12-8-23.1(a)(14) (Supp. 1990).

22. *Id.*

23. 1989 Ga. Laws 144, § 3 (formerly found at O.C.G.A. § 12-8-23.1(a)(15) (Supp. 1989)).

24. O.C.G.A. § 12-8-23.1(a)(15) (Supp. 1990).

25. O.C.G.A. § 12-8-23.1(a)(16) (Supp. 1990).

Director may contract, and otherwise consult, with any state or federal entity, to educate the public about effective solid waste management practices.²⁶ The Act postulates no particular forms of education, leaving these decisions to the Director.²⁷

With the exception of parties who generate and safely dispose of solid waste on their own property,²⁸ no one may operate a solid waste handling facility in Georgia without obtaining a permit from the Director.²⁹ The Act applies to all permits for which site suitability or unsuitability letters are submitted.³⁰ To obtain a permit to transport waste from one county to another, the generating county must show that, as of July 1, 1992, the county is actively involved in achieving the proposed twenty-five percent waste reduction.³¹

Before a permit may be issued, the applicant must verify in writing that the facility complies with the local or regional solid waste management plan, and that no conflicts exist with land use or zoning ordinances.³² Regional solid waste management authorities³³ may not receive permits until every jurisdiction within the authority has developed a local or regional solid waste management plan.³⁴ Finally, to receive a permit, a solid waste thermal treatment facility must comply with the Federal New Source Performance Standards for new waste combusters, pursuant to the Clean Air Act.³⁵

The Act also requires governmental entities to hold public meetings and provide notice before selecting a location for a new solid waste handling facility.³⁶

Applicants must publish notice of application for a permit, and notice of a meeting, in newspapers and at local courthouses.³⁷ Once the Director approves a site, a public meeting is held.³⁸ This local process does not deal with technical issues, does not involve the Environmental Protection

26. O.C.G.A. § 12-8-23.1(a)(17) (Supp. 1990).

27. Taylor Interview, *supra* note 15.

28. O.C.G.A. § 12-8-30.10 (Supp. 1990).

29. O.C.G.A. § 12-8-24(a) (Supp. 1990).

30. O.C.G.A. § 12-8-24(b) (Supp. 1990). A suitability letter is an official letter issued by the Environmental Protection Division (EPD) giving the applicant permission to develop the site after geohydrological investigation of the area. *Id.* These letters are a requirement of the permit process and the EPD may impose restrictions or limitations as necessary. Taylor Interview, *supra* note 15.

31. O.C.G.A. § 12-8-24(c) (Supp. 1990).

32. O.C.G.A. § 12-8-24(g) (Supp. 1990).

33. These are created under O.C.G.A. §§ 12-8-50 to -59.1 (Supp. 1990).

34. O.C.G.A. § 12-8-24(h) (Supp. 1990).

35. O.C.G.A. § 12-8-24(i) (Supp. 1990) (citing 42 U.S.C. 1857; 42 U.S. 7401) (Cites are to the old Clean Air Act).

36. O.C.G.A. § 12-8-26(a)–(b) (Supp. 1990).

37. O.C.G.A. § 12-8-32(a)(1)–(3) (Supp. 1990).

38. O.C.G.A. § 12-8-32(c) (Supp. 1990) (notice of meetings the same as in O.C.G.A. § 12-8-32(a)(1)–(3) (Supp. 1990)).

Division (EPD), and does not halt the Division's review of a proposal.³⁹

If voters and landowners petition for a negotiation hearing, the local process continues.⁴⁰ This hearing is overseen by a facilitator, appointed by the local host government,⁴¹ and involves a citizens' committee.⁴² The applicant, landowners, and voters may negotiate such issues as recycling, traffic, property values, and hours of operation.⁴³ Technical environmental issues may not be discussed.⁴⁴

Regardless of the outcome of negotiations, an applicant may seek a permit,⁴⁵ and proceedings with the director may begin.⁴⁶ Any concessions made during negotiations will not be construed as permit conditions.⁴⁷ The Act also requires the certification of waste disposal facility operators and inspectors,⁴⁸ and provides for the development of a certification program.⁴⁹

Provisions regarding protection of confidential information obtained by the Director or his agents now include "quantities and sources of recovered materials being privately processed."⁵⁰ The duty of confidentiality continues even after the termination of the Director or his agents. A breach of the duty is a misdemeanor, leading to both criminal and civil penalties.⁵¹ SB 533, as introduced, did not include this provision.⁵² The Senate Natural Resources Committee added a five-year

39. O.C.G.A. § 12-8-32(d) (Supp. 1990). The division will take no action regarding a proposal until local proceedings have terminated. Taylor Interview, *supra* note 15. A spokesman from the Environmental Protection Division stated that this provision is not intended to exclude the public from the technical issues involved in site selection, but is meant to bifurcate the proceedings, to permit greater definition of issues. Previously, approximately 90% of the issues raised by the public concerned non-environmental issues, such as property values, traffic, and hours of operation. *Id.*

40. O.C.G.A. § 12-8-32(f) (Supp. 1990). Notice of the meeting must be given in the same manner as in O.C.G.A. § 12-8-32(a). O.C.G.A. § 12-8-32(h) (Supp. 1990).

41. O.C.G.A. § 12-8-32(j) (Supp. 1990).

42. O.C.G.A. § 12-8-32(i) (Supp. 1990). The committee shall be chosen by the petitioners and consist of at least 8 voters. *Id.*

43. Concessions are reduced to writing and results published. O.C.G.A. § 12-8-32(n) and 32(o) (Supp. 1990).

44. O.C.G.A. § 12-8-32(m)(1)-(3) (Supp. 1990).

45. O.C.G.A. § 12-8-32(p)-(q) (Supp. 1990).

46. O.C.G.A. § 12-8-32(s) (Supp. 1990).

47. O.C.G.A. § 12-8-32(r) (Supp. 1990). Lobbyists fear that omitting concessions as permit conditions will place a great burden on the public. Esco Interview, *supra* note 7. If the government cannot be required to enforce concessions through permit conditions, the public will have to bring private causes of action to ensure compliance. *Id.*

48. O.C.G.A. § 12-8-24.1(a)-(b) (Supp. 1990).

49. O.C.G.A. § 12-8-24.1(c) (Supp. 1990).

50. O.C.G.A. § 12-8-29.2(a) (Supp. 1990). As under the previous law, the Director must keep information regarding "secret processes, devices, or methods of manufacture or production" confidential. *Id.*

51. O.C.G.A. § 12-8-29.2(b) (Supp. 1990).

52. SB 533, as introduced, 1990 Ga. Gen. Assem.

post-office confidentiality requirement,⁵³ which was later extended indefinitely by a Senate floor amendment.⁵⁴

Upon learning of violations of the Act or rules promulgated under the Act, the Director must attempt to remedy the situation by negotiating with the violators.⁵⁵ If this fails, the Director may issue an order to violators, stating the provisions, rules, or regulations allegedly violated.⁵⁶ The violators then have to submit a written request for a hearing. Otherwise, the order becomes final.⁵⁷ Hearings on contested orders and enforcement actions are conducted in accordance with O.C.G.A. § 12-2-2(c).⁵⁸

While the penalties for failing to comply with emergency or final orders issued by the Director remain unchanged, the methods for conducting hearings and imposing penalties have been revised.⁵⁹ The Director must now appoint an administrative law judge to conduct hearings and penalize violators.⁶⁰ Previously, penalties were imposed by order of the Director.⁶¹ Handling solid waste in any manner other than as provided under the Act or its corresponding rules or regulations is unlawful.⁶² Violations are misdemeanors, and each day of continued violation after conviction constitutes a separate offense.⁶³

Under the Act, local governments and authorities have the power to adopt additional, nonconflicting regulations; to impose "further conditions,

53. SB 533 (SCS), 1990 Ga. Gen. Assem.

54. SB 533 (SFA), 1990 Ga. Gen. Assem. This Amendment was probably made at the request of DNR members. McKenzie Interview, *supra* note 17.

55. O.C.G.A. § 12-8-30 (Supp. 1990).

56. *Id.*

57. *Id.*

58. O.C.G.A. § 12-8-30.2 (Supp. 1990).

59. Compare O.C.G.A. § 12-8-30.6(b)-(d) (Supp. 1990) with 1988 Ga. Laws 1965, § 7 (formerly found at O.C.G.A. § 12-8-41(a)-(b) (1988)). All fines are still paid into the solid waste trust fund under O.C.G.A. § 12-8-30.6(d) as they were in 1988 Ga. Laws 1965, § 7 (formerly found at O.C.G.A. § 12-8-41(b) (1988)).

60. O.C.G.A. § 12-8-30.6(b) (Supp. 1990). When imposing penalties under this section, the administrative law judge is instructed to consider a non-exclusive list of factors:

- (1) the amount of the penalty as compared with the margin of profit resulting from the violation or noncompliance;
- (2) the impact of the violation or noncompliance on the state's natural resources, with an emphasis on "any rare or unique natural phenomena";
- (3) the conduct of the person attempting to remedy the situation;
- (4) any prior record of violations or noncompliance;
- (5) the amount of injury to public health and safety;
- (6) the amount of injury to property; and
- (7) intent of the party in incurring the violation.

O.C.G.A. § 12-8-30.6(c)(1)-(7) (Supp. 1990).

61. 1988 Ga. Laws 1965, § 7 (formerly found at O.C.G.A. § 12-8-41(b) (1988)). This provision was added to remain consistent with standards of administrative procedure followed by the EPA. Taylor Interview, *supra* note 15.

62. O.C.G.A. § 12-8-30.7 (Supp. 1990).

63. O.C.G.A. § 12-8-30.8 (Supp. 1990).

restrictions, or limitations” regarding the handling or disposal of municipal solid waste;⁶⁴ or to abate nuisances.⁶⁵ In addition, the Attorney General has unlimited power to institute actions for the State.⁶⁶ State agencies now have unlimited power to perform their functions.⁶⁷ Landfills receiving intercounty or interregional waste may not be located within any area the Director designates as a significant ground-water recharge area.⁶⁸ In addition, the Director will not issue a permit for a regional municipal solid waste landfill which would be located within a significant ground-water recharge area. Exceptions are made when the boundaries of the districts or counties are contiguous and a joint contract governing disposal and collection of the solid waste has been signed.⁶⁹

Owners of facilities which handle “special solid waste”⁷⁰ must show that they are financially able to stay in business from the present through the post-closure phase of the facility.⁷¹ The Act expands post-closure care of a facility from five years to thirty years.⁷² The Director has discretion to condition the issuance of permits on such terms and requirements as necessary for the proper functioning of the division.⁷³

Operators of facilities which treat special solid waste generated outside of Georgia must now pay a monthly fee of \$10 for each ton of special solid waste treated, stored, or discarded.⁷⁴ The Director or his agent may still inspect any facet of special solid waste handling,⁷⁵ and prohibit other states from using facilities in Georgia, if the action of another state hinders the functioning of the Director or his agent.⁷⁶

The Division and the Department of Community Affairs, in cooperation with the Georgia Environmental Facilities Authority, must jointly create a state solid waste management plan.⁷⁷ The plan will serve as a guide

64. O.C.G.A. § 12-8-30.9(1) (Supp. 1990).

65. O.C.G.A. § 12-8-30.9(2) (Supp. 1990).

66. O.C.G.A. § 12-8-30.9(3) (Supp. 1990).

67. O.C.G.A. § 12-8-30.9(4) (Supp. 1990).

68. O.C.G.A. § 12-8-25.3(a) (Supp. 1990).

69. O.C.G.A. § 12-8-25.3(b) (Supp. 1990).

70. O.C.G.A. § 12-8-22(34) (Supp. 1990). “‘Special solid waste’ means any solid waste not otherwise regulated under Article 3 of this chapter, known as the ‘Georgia Hazardous Waste Management Act,’ and regulations promulgated under such article originating or produced from or by a source or generator not subject to regulation under Code Section 12-8-24.” *Id.*

71. O.C.G.A. § 12-8-27(a)(1)(A) (Supp. 1990).

72. O.C.G.A. § 12-8-27(a)(1)(B) (Supp. 1990).

73. O.C.G.A. § 12-8-27(a)(2) (Supp. 1990). The factors to be considered include “the type of waste, sources of waste, degree of difficulty and expense in inspecting and verification at the point of generation, and the need for supervision of the storage, treatment and disposal.” *Id.*

74. O.C.G.A. § 12-8-27(c) (Supp. 1990).

75. O.C.G.A. § 12-8-27(d) (Supp. 1990).

76. O.C.G.A. § 12-8-27(e) (Supp. 1990).

77. O.C.G.A. § 12-8-31(a) (Supp. 1990).

for the development of local and regional plans.⁷⁸ This method of organization is intended to work more efficiently than the previous method, which merged independent local and regional plans to create a state plan.⁷⁹

The state plan should include: analysis of practices in use; strategies to meet reduction goals; minimum standards for local and regional plans and for ten year capacity assurance; a method of informing the public of the costs of solid waste management; procedures to ensure cooperation; a description of public and private alternatives; a description of roles in a state-wide education program for citizens of all ages; methods of assuring public participation in plans and decisions; and methods of assuring implementation of the plan.⁸⁰ The Act also requires the Department of Community Affairs, with the assistance of the Georgia Environmental Facilities Authority, to prepare an annual report.⁸¹

The Act outlines the steps which the various agencies must follow in creating local and regional solid waste plans. Each city and county must develop, or be included in, a comprehensive solid waste management plan.⁸² Cities and counties may create these plans individually, or in cooperation with other jurisdictions.⁸³ The local and regional plans must contain provisions to assure both the space and the ability to handle solid waste generated for ten years after the plan ends.⁸⁴ The DNR must review all plans to determine and report whether the plans are consistent with the state plan.⁸⁵

An annual report regarding each city and county, whether prepared individually or jointly, must be filed with the Department of Community Affairs, beginning on January 1, 1992.⁸⁶ Also, as of July 1, 1992, each jurisdiction must disclose solid waste management costs.⁸⁷ Finally, as of July 1, 1992, the plan of each jurisdiction must include procedures to reduce generated waste in accordance with the state plan.⁸⁸

The Director must review all state purchases to determine the percentage containing recyclable materials.⁸⁹ Another review will

78. O.C.G.A. § 12-8-31(b) (Supp. 1990).

79. *Id.*

80. O.C.G.A. § 12-8-31(c)(1)–(9) (Supp. 1990).

81. O.C.G.A. § 12-8-31(d)(1)–(10) (Supp. 1990).

82. O.C.G.A. § 12-8-31.1(a) (Supp. 1990). These plans must conform to procedures contained in Chapter 70 of Title 36 and Articles 1 and 2 of Chapter 8 of Title 50 and to the standards and procedures developed by the Department of Community Affairs. *Id.*

83. *Id.*

84. O.C.G.A. § 12-8-31.1(b) (Supp. 1990).

85. O.C.G.A. § 12-8-30.1(c) (Supp. 1990). Review is to be accomplished as set forth in Articles 1 and 2 of Chapter 8 of Title 50 and Chapter 70 of Title 36. *Id.*

86. O.C.G.A. § 12-8-31.1(d) (Supp. 1990).

87. O.C.G.A. § 12-8-39.2 (Supp. 1990).

88. O.C.G.A. § 12-8-39.1 (Supp. 1990).

89. O.C.G.A. § 12-8-35(a)(1) (Supp. 1990). This is to be done by the Commissioner of Administrative Services between January 1, 1990 and December 31, 1991. *Id.*

determine a method to increase the amount of recycled and recovered materials purchased by the state without sacrificing quality or performance standards.⁹⁰ To avoid overspending or unfair competition, the Senate Natural Resources Committee deleted provisions requiring that quality or performance standards not be sacrificed. Once these concerns were assuaged, these provisions were reinserted in the final version of the bill.⁹¹ All state agencies must develop procedures for collecting and recovering office paper waste and compost yard materials.⁹² The EPD is optimistic about this program. They have been recycling office waste paper and have found the recycling process both easy and effective.⁹³ Government agencies could also decrease solid waste output significantly by implementing composting programs for yard trash.⁹⁴

The Act creates a fifteen-member Recycling Market Development Council, composed of industry and administrative appointments.⁹⁵ In its provisional five-year existence,⁹⁶ the Council will explore recycling opportunities for Georgia.⁹⁷

As of January 1, 1991, all used lead acid vehicle batteries must be delivered to a retailer or wholesaler of batteries, to a secondary lead smelter, or to a recovered materials facility that accepts lead batteries.⁹⁸ After that date, battery retailers must also dispose of lead acid vehicle batteries by returning them to any of the receivers mentioned above, or to the battery manufacturer.⁹⁹ Retailers and wholesalers of lead acid vehicle batteries will be required to accept batteries from consumers¹⁰⁰ and to post written notices outlining Georgia's law regarding such batteries.¹⁰¹ The push to recycle batteries resulted from lawmakers' concerns about lead contamination in ground water. Also, battery recycling is a convenient and lucrative market.¹⁰²

90. O.C.G.A. § 12-8-35(a)(2) (Supp. 1990). This review is also to be undertaken by the Commissioner of Administrative Services. *Id.*

91. McKenzie Interview, *supra* note 17.

92. O.C.G.A. § 12-8-36(a)-(c) (Supp. 1990).

93. Taylor Interview, *supra* note 15.

94. *Id.*

95. O.C.G.A. § 12-8-33(a) (Supp. 1990).

96. O.C.G.A. § 12-8-33(c) (Supp. 1990). At the end of five years the Council will either be abolished or reauthorized. *Id.*

97. O.C.G.A. § 12-8-33(b) (Supp. 1990).

98. O.C.G.A. § 12-8-28(a) (Supp. 1990).

99. O.C.G.A. § 12-8-28(b) (Supp. 1990).

100. O.C.G.A. § 12-8-28(c)(1), (d) (Supp. 1990).

101. O.C.G.A. § 12-8-28(c)(2) (Supp. 1990). Retailers must post a notice on paper at least 8-1/2 inches by 11 inches in size; the notice must have the universal recycling symbol, and must state: "IT IS ILLEGAL TO PUT A MOTOR VEHICLE BATTERY IN THE GARBAGE. RECYCLE YOUR USED BATTERIES. STATE LAW REQUIRES US TO ACCEPT USED MOTOR VEHICLE BATTERIES FOR RECYCLING." O.C.G.A. § 12-8-28(c)(1) (Supp. 1990).

102. Taylor Interview, *supra* note 15.

As of January 1, 1991, all rigid plastic bottles manufactured or sold in Georgia must be molded with a label identifying the resin used to produce the bottle.¹⁰³ The manufacture or use of any unlabeled bottles will be illegal.¹⁰⁴ Since plastics represent a non-renewable resource, the Georgia General Assembly placed emphasis on the development of recycling methods.¹⁰⁵ The plastics industry supported this provision, anticipating that recycling efforts would bolster their competitiveness in the containers industry.¹⁰⁶

Counties and solid waste management authorities now have the power to impose restrictions on tire disposal.¹⁰⁷ These restrictions may range from banning tire disposal in landfills to requiring chopping or other processing.¹⁰⁸ Tire disposal regulation is necessary because of the high volume of unshredded tires.¹⁰⁹ The Senate Natural Resources Committee substitute added a provision requiring a one dollar surcharge on tires purchased.¹¹⁰ This surcharge would be used to reimburse local governments for monies spent transporting tires to shredding facilities which do not pay for the tires.¹¹¹ This provision caused considerable debate on the Senate floor. Senators were concerned with the practicalities of imposing such a charge.¹¹² The provision was deleted in the House and was excluded from the final version of the bill.¹¹³

Counties and solid waste management authorities restrict the disposal of yard trash. Authorities may require that materials be sorted or may ban yard trash from solid waste management facilities.¹¹⁴ Restrictions are necessary because huge volumes of yard trash needlessly clog state landfills, despite the availability and disuse of inexpensive and efficient alternatives, such as compost.¹¹⁵

103. O.C.G.A. § 12-8-34(b) (Supp. 1990).

104. O.C.G.A. § 12-8-34(a) (Supp. 1990). The label will consist of a triangle made of three bent arrows, a number, and an abbreviation for the resin from which the bottle is made. O.C.G.A. § 12-8-34(b)(1)–(3) (Supp. 1990). Bottle resins have been classified into six specific categories as well as a seventh 'other' category containing mixes and layered plastics. *Id.* at (3).

105. Taylor Interview, *supra* note 15.

106. *Id.*

107. O.C.G.A. § 12-8-40.1 (Supp. 1990).

108. O.C.G.A. § 12-8-40.1(1)–(2) (Supp. 1990).

109. Taylor Interview, *supra* note 15.

110. SB 533 (SCS), 1990 Ga. Gen. Assem.

111. McKenzie Interview, *supra* note 17.

112. *Id.* Lawmakers questioned how the money would reach the final point of disposal if a charge were imposed at the point of purchase. *Id.* Several proposed solutions were defeated on the Senate floor. *Id.*

113. Patten Interview, *supra* note 1.

114. O.C.G.A. § 12-8-40.2(1)–(3) (Supp. 1990).

115. Taylor Interview, *supra* note 15. The Senate Natural Resources Committee substitute added provisions regarding discretionary composting based on successful composting plans in other states. McKenzie Interview, *supra* note 17. The Senator also noted

The Act does not address environmentally conscious handling of private waste on private land¹¹⁶ because regulation and inspection of privately owned sites would be difficult under current state law.¹¹⁷ The Act is also inapplicable to disposal of livestock facility waste, so long as owners provide handling facilities sufficient to handle a "ten year storm."¹¹⁸

The state collects a fee on each ton of solid waste municipal solid waste facilities received.¹¹⁹ A minimum of one dollar will be placed in a restricted solid waste management account.¹²⁰ In addition to these fees, a surcharge of one dollar per ton of waste received is paid to the host government, to counter costs generated by the plan.¹²¹ The Director manages the DNR's receipt and administration of financial aid.¹²² Jurisdictions which implement solid waste management plans may receive grants and loans.¹²³

The "Regional Solid Waste Authorities Act," contained in part two of SB 533, enacts an entirely new section of law.¹²⁴ Part two outlines conditions for the creation of authorities.¹²⁵ The authorities will have the power to act as corporate entities. They may contract, buy, sell, fund, borrow, or exercise other powers given to governmental corporations in the state.¹²⁶ Part two also establishes a solid waste management education program¹²⁷ which allows the Department of

that Florida studies showing the benefits and ease of composting had influenced the addition of this section. Lobbying by various environmental groups was also influential. *Id.* The goal is that all homeowners in the state will soon be producing their own compost piles. *Id.*

116. O.C.G.A. § 12-8-31.1(f) (Supp. 1990).

117. Esco Interview, *supra* note 7.

118. O.C.G.A. § 12-8-40 (Supp. 1990). The maximum feeding capacity under the act is 1,000 cattle or 5,000 swine. *Id.* Curiously, the term "ten year storm" is not defined anywhere in the Act. The term is a meteorological one, referring to the greatest amount of rainfall in a twenty-four hour period in the last decade. Taylor interview, *supra* note 15.

119. O.C.G.A. § 12-8-39(a) (Supp. 1990). Fees must correspond to the actual cost of processing the waste. *Id.*

120. O.C.G.A. § 12-8-39(b) (Supp. 1990). In joint ventures between jurisdictions, these fees will be collected and used by the joint venture members. O.C.G.A. § 12-8-39(c) (Supp. 1990).

121. O.C.G.A. § 12-8-39(d) (Supp. 1990).

122. O.C.G.A. § 12-8-37 (Supp. 1990).

123. O.C.G.A. § 12-8-37.1(a) (Supp. 1990).

124. O.C.G.A. § 12-8-50 (Supp. 1990).

125. Authorities must be created under the Georgia Constitution. O.C.G.A. § 12-8-51(a)-(c) (Supp. 1990). They must also regulate solid waste within the state, excluding recycling, and must not compete unfairly with the private sector. Municipal, county, or regional authorities can be created and can be managed by a group of appointed, uncompensated resident directors. O.C.G.A. §§ 12-8-53 to 54 (Supp. 1990). "[A] majority of which shall be considered a quorum." O.C.G.A. § 12-8-55 (Supp. 1990).

126. O.C.G.A. § 12-8-56(a)(1)-(10) (Supp. 1990).

127. O.C.G.A. § 50-8-7.3 (Supp. 1990).

Community Affairs to comply with the Comprehensive Solid Waste Management Act requirements.¹²⁸

SB 478

SB 478 delineates the Director's powers regarding permits issued for biomedical waste thermal treatment technology facilities. The Act also outlines the conditions under which permits may be issued for sites within two miles of a significant ground-water recharge area.

As originally passed by the Georgia Senate, SB 478 amended the previous Solid Waste Management Act and included no provisions governing biomedical waste thermal treatment technology facilities.¹²⁹ A House substitute changed the bill to amend SB 533 and to include the biomedical waste provisions.¹³⁰ The House substitute also fortified the section concerning sites located within certain distances of significant ground-water recharge areas. The substitute addresses municipalities which already require liners and leachate systems for proposed solid waste handling facilities.¹³¹ A Conference Committee was appointed to resolve the differences between the two versions of the bill. The Conference Committee substitute was adopted as the final version.¹³²

The Act, as amended, forbids the Director to issue permits for municipal solid waste landfills which lie within two miles of significant ground-water recharge areas and which do not include a liner and leachate collection system.¹³³ The amended Act provides an exception for proposed landfills which received a site suitability letter before March 15, 1989, however.¹³⁴ The amendment also allows a municipality to adopt a resolution to install a liner and leachate collection system.¹³⁵

The Conference Committee expanded House provisions regulating biomedical waste thermal treatment technology facilities and incorporated these provisions in the final version of the bill. The Act defines "biomedical waste thermal treatment facility"¹³⁶ and forbids the issuance

128. McKenzie Interview, *supra* note 17.

129. SB 478, as introduced, 1990 Ga. Gen. Assem.

130. SB 478 (HFA), 1990 Ga. Gen. Assem.

131. O.C.G.A. § 12-8-25.2 (Supp. 1990).

132. Final Composite Sheet Mar. 9, 1990; *see also* O.C.G.A. § 12-8-25.2(b) (Supp. 1990).

133. O.C.G.A. § 12-8-25.2(b) (Supp. 1990).

134. *Id.*

135. *Id.* Lobbyists raised the issue of whether liner and leachate systems are beneficial. Esco Interview, *supra* note 7. The lobbyists claimed that the EPA had declared that all liners leak and that no leachate system can be adequate. Legislators countered this argument by claiming that liner and leachate systems are the best technology available, and will have to suffice for the present. *Id.*

136. O.C.G.A. § 12-8-23.1(c)(1) (Supp. 1990). "[B]iomedical waste thermal treatment technology facility' means any facility the purpose of which is to reduce the amount of biomedical waste to be disposed of through a process of combustion, with or without the process of waste to energy." *Id.*

of a permit unless the applicant can also show that such a facility is needed.¹³⁷ The Conference Committee incorporated into this section a subsection which exempts privately owned and operated biomedical waste thermal treatment technology facilities from the scope of this section.

Conclusion

Lobbyists responded favorably to provisions mandating recycling and local control of site selection.¹³⁸ Legislators believe the Act is environmentally sound and will lead to the development of meaningful local land-use plans.¹³⁹ One senator labelled the bill “[o]ne of the most important pieces of legislation you will deal with in your lifetime.”¹⁴⁰ Despite these rave reviews, lobbyists warn that without meaningful public participation, no real change in environmental policies can result.¹⁴¹

B. E. Potter

137. *Id.*

138. Esco Interview, *supra* note 7.

139. *Current*, *supra* note 4.

140. Walston, *House OKs Legislation on Recycling*, *Atlanta J.*, Feb. 16, 1990, at C3, col. 4.

141. Esco Interview, *supra* note 7.