

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2015

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HOUSE BILL 748

Short Title: Establish Contam. Source Removal/Disposal Bd. (Public)

Sponsors: Representatives Dixon and Millis (Primary Sponsors).

*For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.*

Referred to: Environment, if favorable, Appropriations.

April 15, 2015

1 A BILL TO BE ENTITLED  
2 AN ACT TO ESTABLISH THE NORTH CAROLINA CONTAMINATION SOURCE  
3 REMOVAL AND DISPOSAL BOARD AND TO DIRECT THE BOARD TO  
4 IMPLEMENT A PRIVATE-PUBLIC PARTNERSHIP TO REMOVE AND DISPOSE OF  
5 THE CONTAMINATION SOURCES FROM ALL PRE-1983 LANDFILLS OR OTHER  
6 STATE-IDENTIFIED CONTAMINATED SITES AND RETURN THESE SITES TO  
7 BENEFICIAL USE.

8 The General Assembly of North Carolina enacts:

9 **SECTION 1.** Legislative Findings. – The General Assembly makes the following  
10 findings:

- 11 (1) Section 5 of Article XIV of the North Carolina Constitution sets out the  
12 conservation and protection of State lands and waters as a policy of the  
13 State, and a more expeditious method for remediation and reuse of pre-1983  
14 landfills and other State-identified contaminated sites is in furtherance of  
15 that policy.  
16 (2) Despite past legislative directives, a dedicated source of revenue and a  
17 considerable fund balance, little progress has been made in active cleanup of  
18 these landfill sites.  
19 (3) Qualified private firms should be given the opportunity to remediate  
20 pre-1983 landfills and other State-identified contamination sites under the  
21 oversight of a Contamination Source Removal and Disposal (CSRD) Board.  
22 (4) CSRD Board implementation of a site assessment and remediation program  
23 based on requests for proposal from private firms will result in multiple  
24 benefits to the State, including: (i) reducing known environmental hazards  
25 that are associated with the many identified sites across the State; (ii)  
26 decreasing the State's economic liability for these sites (iii) promoting  
27 economic growth through the job creation associated with returning these  
28 sites to beneficial and productive use; and (iv) establishing an efficient,  
29 cost-effective model for other State projects.

30 **SECTION 2.** Article 9 of Chapter 130A of the General Statutes is amended by  
31 adding a new Part to read:

32 "Part 9. North Carolina Contamination Source Removal and Disposal Board.

33 "§ 130A-310.80. North Carolina Contamination Source Removal and Disposal Board –  
34 creation; powers and duties."



1       (a) Creation. – There is hereby created the North Carolina Contamination Source  
2 Removal and Disposal Board.

3       (b) Purpose. – The purposes and functions of the Contamination Source Removal and  
4 Disposal Board are to identify, evaluate, prioritize, schedule, and facilitate lowest cost and best  
5 achievable processes and mechanisms for safe, expeditious, and cost-effective remediation of  
6 all pre-1983 landfills, as that term is defined under G.S. 130A 290(a)(22a), and other  
7 State-identified contaminated sites, and to contract with a dedicated and qualified private sector  
8 firm to return these sites to beneficial and productive use for the good of the State and its  
9 citizens.

10       (c) Authority. – To achieve its purposes, the Board shall have all of the following  
11 powers and duties:

12           (1) To pursue efforts directed at the expeditious and cost-effective cleanup of  
13 pre-1983 landfills and other State-identified contaminated sites as  
14 appropriate funding sources permit.

15           (2) To develop rules and procedures for the conduct of its business or as may be  
16 necessary to perform its duties and carry out its objectives, including, but not  
17 limited to, calling meetings and establishing voting procedures.

18           (3) To establish processes and procedures for bidding and contracting with  
19 private entities for site investigation and remediation activities. The Board,  
20 in contracting with any private entity to provide administration and oversight  
21 of remediation and investigation activities, shall negotiate a contract for a  
22 fixed compensation percentage not to exceed twelve percent (12%) of  
23 remediation and investigation contracts entered into by the Board

24           (4) To seek, apply for, and accept grants from public or private sources. The  
25 Board may accept or expend funds only after an affirmative vote by a  
26 majority of the members of the Board.

27           (5) To exercise the powers of a body corporate, including the power to sue and  
28 be sued, and adopt and use a common seal and alter the same.

29           (6) To enter into contracts and execute all instruments necessary or appropriate  
30 to achieve the purposes of the Board.

31           (7) To designate a fiscal agent.

32           (8) To perform any lawful acts necessary or appropriate to achieve the purposes  
33 of the Board.

34       Rules and procedures developed pursuant to this subsection shall be effective upon an  
35 affirmative vote by a majority of the Board members.

36       (d) Membership. – The Board shall consist of five members as follows:

37           (1) Two members appointed by the General Assembly upon recommendation of  
38 the President Pro Tempore of the Senate, meeting the following descriptions:

39           a. One who shall be a licensed private sector environmental engineer  
40 with experience in contamination source removal, transportation, and  
41 disposal.

42           b. One who shall be a private sector solid waste or construction  
43 manager with extensive experience in industrial wastes,  
44 environmental restoration, remediation, and mitigation of  
45 contamination resulting from industrial activities.

46           (2) Two members appointed by the General Assembly upon recommendation of  
47 the Speaker of the House of Representatives, meeting the following  
48 descriptions:

49           a. One who shall be a licensed private sector attorney with experience  
50 in legal matters associated with contamination removal,

1 transportation, and disposal and property law title issues arising from  
2 contaminated sites.

3 b. One who shall have extensive private sector experience with the  
4 removal, handling, transportation, and disposal of hazardous  
5 substances.

6 (3) The Secretary of the Department of Environment and Natural Resources, or  
7 the Secretary's designee.

8 (e) Terms. – The term of office of members of the Board is five years. A member may  
9 be reappointed to no more than three consecutive three-year terms. The term of a member who  
10 no longer meets the qualifications of their respective appointment, as set forth in subsection (d)  
11 of this section, shall terminate, but the member may continue to serve until a new member who  
12 meets the qualifications is appointed. The terms of members appointed under sub-subdivisions  
13 (1)(a.) and (2)(a.) of subsection (d) of this section shall expire on June 30 of years evenly  
14 divisible by five. The terms of members appointed under sub-subdivisions (1)(b.) and (2)(b.) of  
15 subsection (d) of this section shall expire on June 30 of years that precede by two years those  
16 years that are evenly divisible by five.

17 (f) Vacancies; Removal from Office. –

18 (1) Members appointed by the President Pro Tempore of the Senate and the  
19 Speaker of the House of Representatives shall be made in accordance with  
20 G.S. 120-121, and vacancies in those appointments shall be filled in  
21 accordance with G.S. 120-122. In accordance with Section 10 of Article VI  
22 of the North Carolina Constitution, a member may continue to serve until a  
23 successor is duly appointed. The President Pro Tempore of the Senate and  
24 the Speaker of the House of Representatives shall have the power to remove  
25 their appointed members of the Board from office for misfeasance,  
26 malfeasance, or nonfeasance.

27 (g) Compensation. – The members of the Board shall receive compensation  
28 commensurate with their private sector experience, as determined by the Office of State Human  
29 Resources, provided that no Board member shall receive a salary greater than one hundred  
30 thousand dollars (\$100,000).

31 (h) Quorum. – A majority of the Board shall constitute a quorum for the transaction of  
32 business.

33 (i) Officers. – The Board shall elect a chair and vice-chair, and any other officers the  
34 Board considers necessary, and shall determine the length of the term of office of each officer.

35 (j) Staff. – All staff support required by the Board shall be supplied by the Division of  
36 Waste Management of the Department of Environment and Natural Resources.

37 (k) Reports. – The Board shall submit monthly written reports as to its operation,  
38 activities, programs, and progress to the Environmental Review Commission. The Board shall  
39 supplement the written reports required by this subsection with additional written and oral  
40 reports as may be requested by the Environmental Review Commission. The Board shall  
41 submit the written reports required by this subsection whether or not the General Assembly is  
42 in session at the time the report is due.

43 (l) Meetings. – The Board shall meet at least weekly and may hold special meetings at  
44 any time and place within the State at the call of the chair or upon the written request of at least  
45 three members.

46 (m) Sunset. – This section expires on June 30, 2035."

47 **SECTION 3.(a)** The Contamination Source Removal and Disposal Board created  
48 by this act shall implement an ongoing program that contracts and schedules contamination  
49 sources of pre-1983 landfill sites, as defined by the State of North Carolina, and other  
50 State-identified and known contamination sites to be remediated in the manner the Board  
51 determines to be most practicable and cost-efficient and to return those sites to safe, beneficial,

1 and productive use utilizing private sector best practices. The Board shall seek ongoing per unit  
2 pricing for any contamination source removal and disposal associated with all presubtitle D  
3 landfills and other State-identified and known contamination sites to prequalified private sector  
4 firms for expediting projects as funding becomes available. The Board shall also conduct the  
5 following activities:

- 6 (1) Contract with a private entity for contamination source removal and disposal  
7 of the identified and chosen sites based on the Board's evaluation of existing  
8 and projected revenue streams and other pertinent factors.
- 9 (2) Develop requirements for full-time monitoring of project sites to ensure that  
10 contamination source removal is safely and environmentally protective and  
11 performed to a health-based, predetermined risk standard for subsequent use  
12 of the properties and completed to the satisfaction of the Board.
- 13 (3) Review and evaluate other states' requirements, programs, and policies for  
14 remediation of sites similar to those classified as "pre-1983 landfills" as  
15 defined by the State of North Carolina, with a focus on other states that may  
16 have implemented requirements, programs, and policies that are resulting in  
17 safe remediation of such sites, which are performed in a more cost-effective  
18 and expeditious manner than that performed in North Carolina under  
19 traditional remediation requirements, programs, and policies.

20 **SECTION 3.(b)** The Department of Environment and Natural Resources and the  
21 Board shall jointly seek United States Environmental Protection Agency approval for  
22 implementation of all elements of the program required by this section. On or before December  
23 31, 2015, the Department and the Board shall develop and submit any Memoranda of  
24 Agreement, delineations of programmatic responsibility, procedure for coordination, and other  
25 information that the United States Environmental Protection Agency may require in order to  
26 effectuate the elements of the program required by this section.

27 **SECTION 3.(c)** The CSRD Board, with the support of the Department of  
28 Environment and Natural Resources, shall seek United States Environmental Protection  
29 Agency (EPA) comments regarding the Board's proposed programs on or before December 31,  
30 2017.

31 **SECTION 4.** This act is effective when it becomes law.