

House Bill 176

By: Representatives Buckner of the 137th, Oliver of the 82nd, Clark of the 108th, Williams of the 37th, Allen of the 40th, and others

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 relative to solid waste management, so as to
3 provide for conditions for the issuance of a permit for solid waste or special waste handling
4 for a coal combustion unit or landfill; to provide for legislative intent; to provide for
5 definitions; to amend Part 3 of Article 2 of Chapter 7 of Title 16 of the Official Code of
6 Georgia Annotated, relating to damage and intrusion on property relative to criminal trespass
7 and damage to property, so as to provide for a conforming cross-reference; to amend Part 1
8 of Article 3 of Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to
9 county sales and use tax relative to county special purpose local option sales tax, relating to
10 procedure for imposition of tax, resolution or ordinance, notice to county election
11 superintendent, and election to provide for conforming cross-references; to provide for
12 related matters; to repeal conflicting laws; and for other purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

14 **SECTION 1.**

15 Part 1 of Article 2 of Chapter 8 of Title 12 of the Official Code of Georgia Annotated,
16 relating to general provisions relative to solid waste management, is amended in Code

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17 Section 12-8-21, relating to declaration of policy and legislative intent, by adding a new
18 subsection to read as follows:

19 "(h) It is further the intent of the General Assembly that every effort be undertaken to
20 ensure that coal combustion residuals are stored, collected, transported, and disposed of in
21 a manner that does not adversely affect the health, safety, and well-being of the public and
22 does not degrade the quality of the environment. The General Assembly recognizes that
23 coal combustion residuals contain dangerous heavy metals such as arsenic, mercury, and
24 lead, and that coal combustion residuals do not biodegrade over time. It is further the
25 intent of the General Assembly that coal combustion residuals be disposed of in solid waste
26 facilities that, at a minimum, contain liners and leachate collection systems that meet or
27 exceed the design standards for new municipal solid waste landfills disposing of household
28 garbage and trash."

29 **SECTION 2.**

30 Said part is further amended by revising Code Section 12-8-22, relating to definitions, as
31 follows:

32 "12-8-22.

33 As used in this article, the term:

34 (1) 'Affected county' means, in addition to the county in which a facility is or is proposed
35 to be located, each county contiguous to the host county and each county and
36 municipality within a county that has a written agreement with the facility to dispose of
37 solid waste.

38 ~~(1.1)~~(2) 'Biomedical waste' means pathological waste, biological waste cultures and
39 stocks of infectious agents and associated biologicals, contaminated animal carcasses
40 (body parts, their bedding, and other wastes from such animals), sharps, chemotherapy
41 waste, discarded medical equipment and parts, not including expendable supplies and

42 materials which have not been decontaminated, as further defined in Rule 391-3-4-.15 of
43 the board as such rule existed on January 1, 2006, and other such waste materials.

44 ~~(2)~~(3) 'Board' means the Board of Natural Resources of the State of Georgia.

45 (4) 'CCR' or 'coal combustion residuals' means fly ash, bottom ash, boiler slag, and flue
46 gas desulfurization materials generated from burning coal for the purpose of generating
47 electricity by electric utilities and independent power producers.

48 (5) 'CCR landfill' means an area of land or an excavation that receives CCR and which
49 is not a surface impoundment, an underground injection well, a salt dome formation, a
50 salt bed formation, an underground or surface coal mine, or a cave.

51 (6) 'CCR surface impoundment' means a natural topographic depression, manmade
52 excavation, or diked area, which is designed to hold an accumulation of CCR and liquids,
53 and the unit treats, stores, or disposes of CCR.

54 (7) 'CCR unit' means any CCR landfill, CCR surface impoundment, or lateral expansion
55 of a CCR unit, or a combination of more than one of these units.

56 ~~(3)~~(8) 'Certificate' means a document issued by a college or university of the University
57 System of Georgia or other organization approved by the director stating that the operator
58 has met the requirements of the board for the specified operator classification of the
59 certification program.

60 ~~(4)~~(9) 'Closure' means a procedure approved by the division which provides for the
61 cessation of waste receipt at a solid waste disposal site and for the securing of the site in
62 preparation for postclosure.

63 ~~(4.1)~~(10) 'Commercial solid waste' means all types of solid waste generated by stores,
64 offices, restaurants, warehouses, and other nonmanufacturing activities, excluding
65 residential and industrial wastes.

66 ~~(5)~~(11) 'Composting' means the controlled biological decomposition of organic matter
67 into a stable, odor-free humus.

68 ~~(5.1)~~(12) 'Construction or demolition waste' means waste building materials and rubble
69 resulting from construction, remodeling, repair, or demolition operations on pavements,
70 houses, commercial buildings, and other structures. Such waste includes but is not
71 limited to waste containing asbestos, wood, bricks, metal, concrete, wallboard, paper,
72 cardboard, and other nonputrescible wastes associated with construction and demolition
73 activities which have a low potential for ground-water contamination. Inert waste landfill
74 materials approved by the board for disposal in landfills permitted by rule and regulation
75 are also included in this definition if disposed in a construction or demolition waste
76 landfill.

77 ~~(6)~~(13) 'Contaminant' means any physical, chemical, biological, or radiological substance
78 or matter.

79 ~~(7)~~(14) 'Director' means the director of the Environmental Protection Division of the
80 Department of Natural Resources.

81 ~~(8)~~(15) 'Disposal facility' means any facility or location where the final deposition of
82 solid waste occurs and includes but is not limited to landfilling and solid waste thermal
83 treatment technology facilities.

84 ~~(9)~~(16) 'Division' means the Environmental Protection Division of the Department of
85 Natural Resources.

86 ~~(9.1)~~(17) 'Feedstock' means raw material that is used in a machine or industrial process.

87 ~~(10)~~(18) 'Financial responsibility mechanism' means a mechanism designed to
88 demonstrate that sufficient funds will be available to meet specific environmental
89 protection needs of solid waste handling facilities. Available financial responsibility
90 mechanisms include but are not limited to insurance, trust funds, surety bonds, letters of
91 credit, personal bonds, certificates of deposit, financial tests, and corporate guarantees as
92 defined in 40 C.F.R. Part 264 Subpart H — Financial Requirements.

93 ~~(10.1)~~(19) 'Gasification to fuels and chemicals' means a process through which recovered
94 materials or other nonrecycled feedstock is heated and converted into a fuel-gas mixture

95 in an oxygen-deficient atmosphere, and such mixture is converted into fuel, including
96 ethanol and transportation fuel, chemicals, or other chemical feedstocks.

97 ~~(10.2)~~(20) 'Gasification to fuels and chemicals facility' means a facility that collects,
98 separates, stores, or converts nonrecycled feedstock into fuels, chemicals, or other
99 valuable final or intermediate products by using a gasification to fuels and chemicals
100 process. Such term shall not include a waste handling facility or solid waste thermal
101 treatment facility.

102 ~~(11)~~(21) 'Generator' means any person in Georgia or in any other state who creates solid
103 waste.

104 ~~(12)~~(22) 'Hazardous constituent' means any substance listed as a hazardous constituent
105 in regulations promulgated pursuant to the federal act by the administrator of the United
106 States Environmental Protection Agency which are in force and effect on February 1,
107 2004, codified as Appendix VIII to 40 C.F.R. Part 261 — Identification and Listing of
108 Hazardous Waste.

109 ~~(12.1)~~(23) 'Industrial solid waste' means solid waste generated by manufacturing or
110 industrial processes or operations that is not a hazardous waste regulated under Part 1 of
111 Article 3 of this chapter, the 'Georgia Hazardous Waste Management Act.' Such waste
112 includes, but is not limited to, waste resulting from the following manufacturing
113 processes: ~~Electric~~ electric power generation; fertilizer and agricultural chemicals; food
114 and related products and by-products; inorganic chemicals; iron and steel products;
115 leather and leather products; nonferrous metal and foundry products; organic chemicals;
116 plastics and resins; pulp and paper; rubber and miscellaneous plastic products; stone,
117 glass, clay, and concrete products; textiles; transportation equipment; and water
118 treatment. This term does not include mining waste or oil and gas waste.

119 ~~(13)~~(24) 'Label' means a code label described in paragraphs (2) and (3) ~~and (4)~~ of
120 subsection (b) of Code Section 12-8-34.

121 ~~(14)~~(25) 'Landfill' means an area of land on which or an excavation in which solid waste
122 is placed for permanent disposal and which is not a land application unit, surface
123 impoundment, injection well, or compost pile.

124 ~~(15)~~(26) 'Leachate collection system' means a system at a landfill for collection of the
125 leachate which may percolate through the waste and into the soils surrounding the
126 landfill.

127 ~~(15.1)~~(27) 'Litter' ~~has the meaning provided by~~ shall have the same meaning as set forth
128 in Code Section 16-7-42.

129 ~~(16)~~(28) 'Manifest' means a form or document used for identifying the quantity and
130 composition and the origin, routing, and destination of special solid waste during its
131 transportation from the point of generation, through any intermediate points, to the point
132 of disposal, treatment, or storage.

133 ~~(17)~~(29) 'Materials recovery facility' means a solid waste handling facility that provides
134 for the extraction from solid waste of recoverable materials, materials suitable for use as
135 a fuel or soil amendment, or any combination of such materials.

136 ~~(17.1)~~(30) 'Multijurisdictional solid waste management plan' means a comprehensive
137 solid waste plan adopted pursuant to Code Section 12-8-31.1 covering two or more
138 jurisdictions.

139 ~~(18)~~(31) 'Municipal solid waste' means any solid waste derived from households,
140 including garbage, trash, and sanitary waste in septic tanks, and means solid waste from
141 single-family and multifamily residences, hotels and motels, bunkhouses, campgrounds,
142 picnic grounds, and day use recreation areas. The term includes yard trimmings,
143 construction or demolition waste, and commercial solid waste but does not include solid
144 waste from mining, agricultural, or silvicultural operations or industrial processes or
145 operations.

146 ~~(19)~~(32) 'Municipal solid waste disposal facility' means any facility or location where the
147 final deposition of any amount of municipal solid waste occurs, whether or not mixed

148 with or including commercial or industrial solid waste, and includes, but is not limited
149 to, municipal solid waste landfills and municipal solid waste thermal treatment
150 technology facilities.

151 ~~(20)~~(33) 'Municipal solid waste landfill' means a disposal facility where any amount of
152 municipal solid waste, whether or not mixed with or including commercial waste,
153 industrial waste, nonhazardous sludges, or small quantity generator hazardous waste, is
154 disposed of by means of placing an approved cover thereon.

155 ~~(20.1)~~(34) 'Nonrecycled feedstock' means one or more of the following materials,
156 derived from nonrecycled materials, that has been processed so that it may be used as a
157 feedstock in a gasification to fuels and chemicals facility, but excluding coal refuse and
158 scrap tires:

159 (A) Post-use plastics; or

160 (B) Materials for which the Environmental Protection Agency has made a nonwaste
161 determination under 40 C.F.R. Section 241.3(c) or that are otherwise determined not
162 to constitute waste.

163 ~~(21)~~(35) 'Operator' means the person stationed on the site who is in ~~responsible~~ charge
164 of and has direct supervision of daily field operations of a municipal solid waste disposal
165 facility to ensure that the facility operates in compliance with the permit.

166 ~~(22)~~(36) 'Person' means the State of Georgia or any other state or any agency or
167 institution thereof and any municipality, county, political subdivision, public or private
168 corporation, solid waste authority, special district empowered to engage in solid waste
169 management activities, individual, partnership, association, or other entity in Georgia or
170 any other state. This term also includes any officer or governing or managing body of
171 any municipality, political subdivision, solid waste authority, special district empowered
172 to engage in solid waste management activities, or public or private corporation in
173 Georgia or any other state. This term also includes employees, departments, and agencies
174 of the federal government.

175 ~~(23)~~(37) 'Postclosure' means a procedure approved by the division to provide for
176 long-term financial assurance, monitoring, and maintenance of a solid waste disposal site
177 to protect human health and the environment.

178 ~~(22.1)~~(38) 'Post-use plastics' means recovered plastics, derived from any source, that are
179 not being used for their originally intended purpose and that might otherwise become
180 waste if not processed at a pyrolysis or gasification to fuels and chemicals facility or
181 recycled, and the term includes plastics that may contain incidental contaminants or
182 impurities such as paper labels or metal rings.

183 ~~(24)~~(39) 'Private industry solid waste disposal facility' means a disposal facility which
184 is operated exclusively by and for a private solid waste generator for the purpose of
185 accepting solid waste generated exclusively by said private solid waste generator.

186 ~~(24.1)~~(40) 'Pyrolysis' means a process through which post-use plastics are heated, in an
187 oxygen-free environment, until melted and thermally decomposed, then cooled,
188 condensed, and converted into oil, diesel, gasoline, home heating oil, or other liquid fuel;
189 gasoline or diesel blendstock; chemicals or chemical feedstock; waxes or lubricants; or
190 other similar raw materials or intermediate or final products.

191 ~~(24.2)~~(41) 'Pyrolysis facility' means a facility that collects, separates, stores, or converts
192 post-use plastics into fuels or other valuable final or intermediate products by using a
193 pyrolysis process. Pyrolysis facilities shall not be considered solid waste handling
194 facilities or solid waste thermal treatment facilities.

195 ~~(25)~~(42) 'Recovered materials' means those materials which have known use, reuse, or
196 recycling potential; can be feasibly used, reused, or recycled; and have been diverted or
197 removed from the solid waste stream for sale, use, reuse, or recycling, whether or not
198 requiring subsequent separation and processing.

199 ~~(26)~~(43) 'Recovered materials processing facility' means a facility engaged solely in the
200 storage, processing, recycling, and resale or reuse of recovered materials. Such facility
201 shall not be considered a solid waste handling facility; provided, however, that any solid

202 waste generated by such facility shall be subject to all applicable laws and regulations
203 relating to such solid waste.

204 ~~(27)~~(44) 'Recycling' means any process by which materials which would otherwise
205 become solid waste are collected, separated, or processed and reused or returned to use
206 in the form of raw materials, intermediates, or products which can be used as a substitute
207 for products not derived by such processes.

208 ~~(27.1)~~(45) 'Regional landfill or regional solid waste disposal facility' means a facility
209 owned by a county, municipality, authority, or special district empowered to engage in
210 solid waste management activities, or any combination thereof, which serves two or more
211 or any combination of counties, municipalities, or special solid waste districts.

212 ~~(27.2)~~(46) 'Regional solid waste management plan' means a comprehensive solid waste
213 management plan adopted pursuant to Code Section 12-8-31.1 covering two or more
214 counties and may include one or more municipal corporations within those counties.

215 ~~(28)~~(47) 'Retreadable casing' means a scrap tire suitable for retreading.

216 ~~(29)~~(48) 'Rigid plastic bottle' means any rigid plastic container with a neck that is smaller
217 than the container body with a capacity of 16 ounces or more and less than five gallons.

218 ~~(30)~~(49) 'Rigid plastic container' means any formed or molded part comprised
219 predominantly of plastic resin, having a relatively inflexible finite shape or form, and
220 intended primarily as a single-service container with a capacity of eight ounces or more
221 and less than five gallons.

222 ~~(31)~~(50) 'Scrap tire' means a tire that is no longer suitable for its original intended
223 purpose because of wear, damage, or defect.

224 ~~(32)~~(51) Reserved.

225 ~~(33)~~(52) 'Solid waste' means any garbage or refuse; sludge from a waste-water treatment
226 plant, water supply treatment plant, or air pollution control facility; and other discarded
227 material including solid, semisolid, or contained gaseous material resulting from
228 industrial, commercial, mining, and agricultural operations and community activities, but

229 does not include recovered materials; post-use plastics and nonrecycled feedstock that are
230 subsequently processed using a pyrolysis or gasification to fuels and chemicals process;
231 solid or dissolved materials in domestic sewage; solid or dissolved materials in irrigation
232 return flows or industrial discharges that are point sources subject to permit under 33
233 U.S.C. Section 1342; or source, special nuclear, or by-product material as defined by the
234 federal Atomic Energy Act of 1954, as amended (68 Stat. 923).

235 ~~(34)~~(53) 'Solid waste handling' means the storage, collection, transportation, treatment,
236 utilization, processing, or disposal of solid waste or any combination of such activities,
237 but does not include recovered materials processing or pyrolysis or gasification to fuels
238 and chemicals processes, or the holding of post-use plastics or nonrecycled feedstock at
239 a pyrolysis facility or gasification to fuels and chemicals facility prior to processing at the
240 facility where those materials are being held to ensure production is not interrupted.

241 ~~(35)~~(54) 'Solid waste handling facility' means any facility the primary purpose of which
242 is the storage, collection, transportation, treatment, utilization, processing, or disposal,
243 or any combination thereof, of solid waste, but does not include recovered materials
244 processing facilities or pyrolysis or gasification to fuels and chemicals facilities.

245 ~~(36)~~(55) 'Solid waste thermal treatment technology' means any solid waste handling
246 facility the purpose of which is to reduce the amount of solid waste to be disposed of
247 through a process of combustion, with or without the process of waste to energy.

248 ~~(37)~~(56) 'Special solid waste' means any solid waste not otherwise regulated under Part
249 1 of Article 3 of this chapter, known as the 'Georgia Hazardous Waste Management Act,'
250 and regulations promulgated under such part originating or produced from or by a source
251 or generator not subject to regulation under Code Section 12-8-24.

252 ~~(38)~~(57) 'Tire' means a continuous solid or pneumatic rubber covering designed for
253 encircling the wheel of a motor vehicle and which is neither attached to the motor vehicle
254 nor a part of the motor vehicle as original equipment.

255 ~~(38.1)~~(58) 'Tire carrier' means any person engaged in collecting or transporting tires,
256 other than new tires.

257 ~~(39)~~(59) 'Tire retailer' means any person, other than a used motor vehicle parts dealer
258 licensed in accordance with Chapter 47 of Title 43, engaged in the business of selling
259 new replacement tires or used tires.

260 ~~(40)~~(60) 'Tire retreader' means any person actively engaged in the business of retreading
261 scrap tires by scarifying the surface to remove the old surface tread and attaching a new
262 tread to make a usable tire.

263 ~~(40.1)~~(61) 'Used tire' means a tire which has a minimum of 2/32 inch of road tread and
264 which is still suitable for its original purpose but is no longer new. A tire retailer shall
265 inventory and market used tires in substantially the same fashion as a new tire and be able
266 to provide satisfactory evidence to the division that a market for the tire exists and the tire
267 is in fact being marketed as a used tire. A used tire shall not be considered solid waste.

268 ~~(41)~~(62) 'Waste to energy facility' means a solid waste handling facility that provides for
269 the extraction and utilization of energy from municipal solid waste through a process of
270 combustion.

271 ~~(42)~~(63) 'Yard trimmings' means leaves, brush, grass clippings, shrub and tree prunings,
272 discarded Christmas trees, nursery and greenhouse vegetative residuals, and vegetative
273 matter resulting from landscaping development and maintenance other than mining,
274 agricultural, and silvicultural operations."

275 **SECTION 3.**

276 Said part is further amended by revising Code Section 12-8-24, relating to permits for solid
277 waste or special solid waste handling, disposal, or thermal treatment technology facility and
278 inspection of solid waste generators, by adding a new subsection to read as follows:

279 "(1) No permit or permit modification for a CCR unit or any municipal solid waste landfill
280 that accepts or will accept CCR shall be issued by the director unless the applicant for such

281 permit or permit modification demonstrates to the director that the CCR unit or municipal
 282 solid waste landfill is or shall be designed, constructed, operated, and maintained with a
 283 liner and leachate collection system that meets the design standards required for new
 284 municipal solid waste landfills. This subsection shall not apply to CCR surface
 285 impoundments which have been or shall be closed by removal of all CCR."

286 **SECTION 4.**

287 Part 3 of Article 2 of Chapter 7 of Title 16 of the Official Code of Georgia Annotated,
 288 relating to damage and intrusion on property relative to criminal trespass and damage to
 289 property, is amended in Code Section 16-7-51, relating to definitions, by revising paragraph
 290 (1) as follows:

291 "(1) 'Biomedical waste' means that term as defined in paragraph ~~(1.1)~~ (2) of Code Section
 292 12-8-22."

293 **SECTION 5.**

294 Part 1 of Article 3 of Chapter 8 of Title 48 of the Official Code of Georgia Annotated,
 295 relating to county sales and use tax relative to county special purpose local option sales tax,
 296 is amended in Code Section 48-8-111, relating to procedure for imposition of tax, resolution
 297 or ordinance, notice to county election superintendent, and election, by revising subparagraph
 298 (a)(1)(B) as follows:

299 "(B) A capital outlay project or projects in the special district and consisting of a
 300 courthouse; administrative buildings; a civic center; a local or regional jail, correctional
 301 institution, or other detention facility; a library; a coliseum; local or regional solid waste
 302 handling facilities as defined under paragraph ~~(27.1)~~ (45) or ~~(35)~~ (54) of Code Section
 303 12-8-22, as amended, excluding any solid waste thermal treatment technology facility,
 304 including, but not limited to, any facility for purposes of incineration or waste to energy
 305 direct conversion; local or regional recovered materials processing facilities as defined

306 under paragraph ~~(26)~~ (43) of Code Section 12-8-22, as amended; or any combination
307 of such projects;"

308

SECTION 6.

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