

NATURAL RESOURCES/ENVIRONMENTAL POLICY

Promote an environment beneficial to life through the protection and wise management of natural resources in the public interest by recognizing the interrelationships of air quality, energy, land use, waste management, and water resources.

RESOURCE MANAGEMENT

from LWWVUS position

Promote resource conservation, stewardship and long-range planning, with the responsibility for managing natural resources shared by all levels of government.

ENVIRONMENTAL PROTECTION AND POLLUTION CONTROL

from LWWVUS position

Preserve the physical, chemical and biological integrity of the ecosystem, with the maximum protection of public health and the environment.

PUBLIC PARTICIPATION

from LWWVUS position

Promote public understanding and participation in decision-making as essential elements of responsible and responsive management of our natural resources.

Legislative Background

Under this broad umbrella, the League of Women Voters of North Carolina has taken action to support in North Carolina:

- Measures to conserve water, land, and energy resources
- Measures to protect or improve air and water quality
- Planning for resource use
- Management of water resources
- Management of wastes
- State participation in funding measures needed for resource protection
- Citizen participation in the formulation and implementation of natural resource policies, plans, and regulations.

ORGANIZATION OF STATE AGENCIES FOR THE MANAGEMENT AND REGULATION OF NATURAL RESOURCES

The League of Women Voters of North Carolina favors the consolidation of environmental regulatory agencies in the state.

Legislative Background

The following resolution was passed in April 1988 and copies were sent to the Governor, Lieutenant Governor, and Speaker of the House:

"Be it resolved that the League of Women Voters of North Carolina State Council, meeting in Raleigh on April 16, 1988, urges consolidation of North Carolina's environmental management and regulatory agencies. Natural resources management and waste management and regulation must be coordinated and adequately funded to achieve the protection needed for our air, water, and land." (At the 1989 LWWVNC Convention the words, "and quality of life," were added at the end of this statement for the 1989-91 program.)

In 1974, as part of a constitutionally mandated streamlining of state government, the Department of Natural and Economic Resources was reorganized to centralize administrative functions under the cabinet level Secretary presiding over at least six departmental divisions. In 1977, that department was renamed the Department of Natural Resources and Community Development (NRCD). The Board of Water and Air Resources became the Environmental Management Commission which approved regulations within NRCD jurisdiction. In 1988, the majority of state agencies responsible for environmental quality were shared primarily by the Department of Natural Resources and Community Development (NRCD) and the Department of Human Resources (DHR).

HB480, entitled Environmental Agency Consolidation, was passed by the North Carolina Legislature in August 1989 and made retroactive to July 1, 1989. This act implemented the recommendations of the Environmental Review Commission which had supervised the study of consolidation of state environmental agencies for two terms. Governor Martin recommended consolidation of environmental health, public health, and natural resource agencies in February 1988 with suggested reorganizational outline. The Environmental Review Commission endorsed most of the Governor's recommendations, creating the new Department of Environment, Health, and Natural Resources (DEHNR).

The duties of DEHNR are: 1. to provide for protection of the environment; 2. to provide for protection and enhancement of the public health; and 3. to provide for management of the state's natural resources.

The League continues to work on development of administrative regulations and enforcement at the state level. 1989 saw new Groundwater Standards and Air Pollution Regulations put into place.

FEDERAL RESOURCE MANAGEMENT

The League of Women Voters works for effective federal legislation in natural resource management and protection. In water and air protection, the key concept has been a strong federal role in formulating national policies and procedures. The North Carolina LWV worked persistently with congressional representatives to get the Safe Drinking Water Act Amendments of 1986 and the Water Quality Act of 1987 passed. In 1989 the League worked on the Oil Spill Liability Act and other coastal issues. The League has worked actively for passage of a strong Clean Air Act.

In the 70s and 80s, the League was at the forefront of support for a wide variety of new legislation and programs, both federal and state. State legislation and environmental programs were spurred by federal standards, federal regulations, federal enforcement and, last but not least, federal money.

The Hardison Amendments in the 1970s further tied North Carolina to federal programs by prohibiting state environmental laws more stringent than federal legislation. The League worked toward repeal of the Hardison Amendments throughout the 1980s to allow North Carolina greater flexibility in environmental regulations until the Amendments were eliminated.

The Coastal Area Management Act of 1974 (CAMA) provided for the establishment of a Coastal Resources Commission and Advisory Committee. It provided for the designation of Areas of Environmental Concern (AEC) and state-level permitting of major developments. It also mandated the development of land use plans for coastal counties.

The 1989 session of the General Assembly may have done more than any session since 1974 to protect the coastal environment when nine bills, recommended by the study

committee, were passed. In so doing, the legislature increased the opportunities for public involvement in permit decisions, strengthened 4 membership qualifications on the Coastal Resources Commission, and amended CAMA to authorize the

CRC to designate Primary Nursery Areas (PNA), Outstanding Resource Waters (ORW) areas, and Areas of Environmental Concern (AEC). Increased public awareness of coastal problems helped environmentalists get more protective bills (CAMA) through the 1989 North Carolina Legislature, and the General Assembly responded to growing concern over the quality and declining productivity of our coastal waters and accelerated growth and development in the coastal region. The result was an expanded state regulatory role under CAMA and increased protection of coastal regions from the potentially adverse impacts of offshore gas and oil drilling activities.

In recognition of the anniversary of the enactment of CAMA in 1994, a fifteen-member Coastal Futures Commission, created by executive order, was charged with assessing the program and its future. The committee identified five focus areas: land use and growth management, coastal water quality, protection of natural areas, CAIVIA regulatory program organization, and environmental education. In its report to the Governor, the committee recommended a comprehensive management approach to non-point source pollution, involving active local participation in planning and implementation and recommended that communities not in compliance risk a moratorium on state-issued development permits and state funding.

Legislative Background

Specific recommendations were made for marinas, agriculture, forestry, construction, and hydromodification. Individual plans for each of the state's estuarine systems including their tributaries, greater conservation, and acquisition programs are considered essential. The committee stated that, "These recommendations are intended to serve as a guide for administrative, legislative and citizen action, and as a call for public commitment to wisely manage our coastal resources for years to come."

WATER QUALITY

Promote high water quality standards through monitoring, watershed protection regulation, basinwide water resource planning, coastal water resource protection, and equitable financing.

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Legislative Background

Water quality and resource programs have been a major concern of LWVNC since the 1950s when the League undertook a study of state government activities affecting water resources. After establishment of the North Carolina Department of Water Resources (later part of the Natural Resources and Community Development), the League used the national positions in support of conserving, protecting and managing water resources. Water resources are now the responsibility of the Department of Environment, Health and Natural Resources.

During the 1960s, the LWVNC supported eight bills designed to "provide for wise management of water resources and ensure water quality and quantity for the future." Most controversial was the authorization of the state to designate capacity use areas (areas of

present or impending water shortage) and to regulate the use of water by large users in those areas.

In the 70s, penalties for water pollution control violations were stiffened, and the septic tank law was strengthened. The 1973 Sedimentation and Erosion Control Act provided for state regulation of construction to control sediment pollution of surface waters (agriculture was explicitly exempted.) Amendments in the 80s mandated approved plans before land disturbance could occur and required out-of-state developers to have in-state representatives. The North Carolina Safe Drinking Water Act (1979) granted the state primary jurisdiction over drinking water standards. In 1995, because of inadequate statewide enforcement of federal drinking water standards, NC's primacy was threatened.

The elections of 1994 were followed by an unprecedented assault on environmental rules and regulations in NC's General Assembly. Many of the bills opposed by the League and other environmentally groups were defeated. The League opposed one proposal to exempt wetlands of one acre or less from state regulatory reviews and opposed another proposal that would have had a negative impact on NC's recycling efforts by allowing local communities to set their own waste reduction goals instead of the statewide 40% goal supported by the League in 1989.

In 1995, NC's historically underfunded state parks were the beneficiaries of a dedicated source of funding due to bipartisan support.

A hog lagoon spill that dumped 25 million gallons of waste into the New River in June 1995 brought national attention to the environmental problems associated with the rapidly growing number of hog farms in NC. The League was among the first organizations to request a moratorium on the expansion of corporate hog farms and processing plants until acceptable actions were prescribed and proper monitoring methods were approved.

The League also supported stricter setbacks for hog farms, public notice and participation in permitting, adequate fees to pay for inspections, and community zoning authority. The hog industry worked to weaken the minimal recommendations of the Blue Ribbon Commission appointed to study the issue. Following one of the biggest political battles of the 1994-96 session, the passed version of I-IB 1227 included a 500 foot setback requirement, annual inspections by the Division of Water Quality, and a new permitting requirement to construct and operate animal waste management systems.

In response to public outcry and the efforts of environmental groups, the largest environmental package in NC history was passed with the approval of the Clean Water Trust Fund. This fund, designed to help clean up state waters, along with a companion wetland restoration fund, to preserve and protect wetlands, provided renewable funding. Estimates place this funding at \$35 to \$40 million annually, with \$9.2 million of that going to wetland restoration. Money was also allocated for the hiring of hog inspectors, increasing the availability of assistance for farmers wishing to implement Best Management Practices, and improving water quality in the Neuse River Basin.

In the 1980s, the League worked on a broad range of issues concerned with the protection of drinking water sources, particularly watershed management. The ban on phosphates in household detergents, enacted in 1987 following a three session fight, reduced the level of nutrients introduced into wastewater.

In 1984, the first legislation to protect watersheds from non-point source pollution was passed. Through the Agriculture Cost-Share program emphasis was placed on best management practices which are designed to reduce the potential pollutants going into surface water. Originally used in only thirteen counties, the program was extended to the entire state in 1989.

Recognizing that land use planning measures are vital to effective surface water and groundwater protection, the 1989 General Assembly passed two historic watershed protection bills, HB 156 and HB 157. HB156, Watershed Protection Rules Statewide, directed the Environmental Management Commission (EMC) to adopt rules establishing water supply watershed classifications and to develop minimum statewide requirements to protect drinking water supply watersheds by January 1, 1991. The state may classify "critical areas" within water supply watersheds and impose management requirements that are more stringent than the statewide minimum.

The first round of statewide public hearings on the Watershed Regulations produced a tremendous response; 90 percent of the testimony supported stronger protective regulations than proposed. The proposed regulations were passed by the Legislature. Before they actually took effect, a statewide coalition of business interests persuaded the EMC to hold an unprecedented round of public hearings during which these interests claimed around the state that the new watershed regulations would destroy North Carolina's economy. A new, weaker set of regulations was adopted.

After watersheds had been classified by the state, communities were required to submit their watershed ordinances for approval. There was close to 90% compliance by the January 1994 deadline.

In the waning hours of the last day of the 1993 session, the General Assembly enacted a local exemption from the Water Supply Watershed Protection Act (WSWPA) that may have seriously undermined the statewide act. Chapter 520 of IiB 686 ("the Ivy River Bill"), exempted from WSWPA an area described so narrowly by location, elevation, and size classifications that it almost certainly applies only to its intended target, the Ivy River watershed in Buncombe and Madison counties.

Chapter 520 grew out of local efforts to avoid the limits on development density imposed by the WSII classification assigned to the Ivy River watershed in view of a pending water supply project by the Town of Weaverville. North Carolina Legislation 1993 published by the Institute of Government states, "Chapter 520 contains an elaborate sunset clause, providing for its expiration on July 1, 1996, if the General Assembly has amended WSWPA in ten detailed particulars, and if the EMC has reclassified the Ivy River watershed to a WSIII or lower classification and amended its rules in several respects. The conditions imposed on the General Assembly and the EMC would require a series of definitions, some general philosophical concepts, and a set of details statutory and rule-making changes that will be very difficult to achieve." These exemptions may have set the stage for undermining the state's watershed regulations.

Undermining of the 1989 Watershed Water Supply Protection Act continues. In September 1996, the NC Court of Appeals ruled in a 2 to 1 decision that the EMC did not have the power to make the rules for watershed protection when the Legislature had not set down the standards. The case is now to be heard before the State Supreme Court. As of January 1996, the Division of Water Quality has obtained a "staying order" that remains in effect until such time as the State Supreme Court rules on the case.

The 1995 Legislature undermined the rule making power of the EMC when a "last minute" rider was attached to a budget bill that requires that the Legislature review all new environmental rules and gives the Legislature veto power over such rules. In 1996, the Rules Review Commission reviewed the new Wetlands Rules just before the new law went into effect, so the EMC overruled the RRC. In the future, it will delay putting new rules into effect even after the public hearings, since a review has to take place. The present example is the

Neuse River Sensitive Waters Rules which have already been delayed and have a period of delay in the calendar after the Public Hearings take place in November 1996.

Basinwide water quality management is a new watershed-based management approach being implemented by the NC Division of Water Quality intended to improve the effectiveness and consistency of the State's Surface Water Regulatory Program through basinwide permitting of discharges, integration of existing point and nonpoint source regulatory programs. Preparation of basinwide water quality management plans will go through public hearings for each of the 17 river basins with plans to be updated every five years. In 1993, the DWQ completed the first Basinwide Management Plan for the Neuse River which will be updated in 1998. Despite management measures which classified the Neuse as Nutrient Sensitive Waters, water quality problems in the lower Neuse continue as illustrated by a massive fish kill in the fall of 1995 below New Bern. This fish kill led to a study by the Legislature and to plans by the DWQ to work out a management plan and regulations designed to reduce nitrogen levels in the river by 2001. Basinwide Management Plans have been completed for most of the 17 river basins in North Carolina.

"Stormwater" is the water that runs off hard surfaces such as roads, roofs, graveled and graded areas. Growing evidence that urban stormwater runoff is a major Contributor to water pollution across the nation resulted in federal requirements that municipalities with populations of more than 100,000 obtain a permit and produce and implement stormwater management plans. In North Carolina, the Environmental Protection Agency has delegated its authority to the State.

HB35, Statewide Stormwater Standards, gave the state another way to help prevent nonpoint source pollution by directing, in 1989, that the EMC develop a plan for protecting shellfish waters, water supply watersheds, outstanding resource waters, and other high quality waters from the effects of stormwater runoff disposal in coastal counties and other nonpoint sources. Despite these developments, by 1994 the state's marketable supply of shellfish declined precipitously. Its coastal fish stocks were also significantly reduced. North Carolina also has the authority to oversee the federal NPDES requirements for industries. Under this program, industries are required to obtain permits and comply with regulations governing industrial discharges into state waters.

The Underground Storage Tank Act of 1987 and the Underground Storage Tank Amendments of 1989 were legislation designed to provide greater protection for groundwater in North Carolina. The first bill mandated the payment by oil companies of a fee toward liability when leaking occurred. The 1989 legislation appropriated \$1.2 million per year to administer the clean-up funds and granted the EMC the ability to develop and adopt regulations for underground petroleum tanks which are stricter than those of the EPA, to increase tank fees, and to dedicate funds from the fuel inspection tax for cleanup funds. The coverages and revenue allocation provisions of this statutory scheme are very complex and they vary from year-to-year. These fluctuations in the funds reflect a basic problem of this set-up: shortfalls of revenue to meet claims. Every recent legislative session has brought another set of complex amendments to the USTA law designed to address this problem.

OFFSHORE OIL AND GAS LEASING EXPLORATION AND DEVELOPMENT

The League of Women Voters of North Carolina calls for changes in the policies, procedures, and regulations governing the Outer Continental Shelf (OCS) and Tidelands. Until such changes are in place, all offshore oil and gas leasing activity in waters off North Carolina should be suspended.

The League expects strict regulation to protect the environment along with responsible government management of the public's natural resources. Decisions on such protection and management must be based on a process that provides time and opportunity for full citizen participation.

The orderly and prudent development of publicly owned petroleum resources--both national and state must be guided by national and state energy policies that recognize these resources as finite and not expendable. We support a decreased reliance on fossil fuels and an increased emphasis on conservation, and the use of renewable energy sources. Such a policy would dictate greatly reduced frequency and size in lease sales with improved environmental safeguards.

Policies, procedures, and regulations must meet all requirements of the OCS Lands Act, National Environmental Policy Act, Endangered Species Act, Marine Mammal Protection Act of 1972, Fish and Wildlife Coordination Act, National Historic Preservation Act, the Clean Air Act, the Port and Waterways Safety Act, the Marine Protection, Research and Sanctuaries Act of 1972, the Coastal Zone Management Act, the North Carolina Coastal Management Act, and state water quality legislation.

In brief, the League of Women Voters of North Carolina supports the following measures:

1. Adequate methods for public and local agency participation.
2. Phased lease sales.
3. Smaller planning areas.
4. Revision of the requirement to develop leased tracts.
5. Research on long-term implications of offshore oil and gas activities for the marine environment and air quality and analysis specific to the affected area.
6. Sharing of revenues with affected states and local governments.
7. Exclusion of areas of special significance from lease sales.
8. EIRs and EISs which are clear, succinct, and understandable to the public, with at least sixty days for response.
9. OCS regulations consistent with state and local government policies.
10. Full compliance with, and enforcement of, environmental regulations; frequent monitoring of all phases, with periodic review and evaluation.
11. US Coast Guard authority over access and transportation routes.

The League believes in the wise management of resources in the public interest and in an environment beneficial to life. The League supports an end to the regulatory policy of offering vast planning areas for lease sale, in accelerated and overlapping sequences without:

1. proper environmental assessment, cumulative impact analysis or adequate baseline data specific to the area affected;
2. full public participation or adequate coordination among federal, state, and local governments; and
3. balancing the needs for petroleum resources and the need to reduce dependence on foreign oil against the need to conserve our domestic oil and gas resources and the need to protect the environmental and economic health of North Carolina's coastal communities already under severe pressure from development and loss of resources such as potable water.

Current lease sale policies, procedures and regulations do not lead to the orderly development of petroleum resources with assured protection of the environment. There are conflicts of interest in having the same federal agency certify environmental safety and collect royalty income needed to help balance the federal budget. Therefore, the League supports a

suspension of gas and oil lease sales until basic changes are made in administrative policies, lease sale processes, and the regulatory framework to satisfy the following objectives:

1. Administrative mechanisms should allow active participation by the local and state governmental agencies and the public in lease sale decisions. The current limited comment process constricts, rather than enhances, public response and coordination among levels of government. Information should be more readily accessible and available within the affected local communities. The public should be given sufficient time to analyze information and prepare a response.
2. Lease sales of reasonable size and pace should be phased in rational sequence. Sales should allow for the prudent development and management of the public's resources on the Outer Continental Shelf and should encourage the conservation of finite resources for longterm use.
3. Lease sale planning areas should be reduced in size to ensure the proper development of necessary oil and gas infrastructure, including onshore support facilities and refining capacity. Such timely development should reduce severe impacts on onshore communities and onshore air quality. The US Department of Interior's five-year lease schedule should be amended to offer fewer lease sales at a slower pace and to reduce planning areas to a more reasonable size.
4. Requirements to develop leased tracts within five years (or ten years in frontier areas) should be revised to be consistent with best management practices and environmental protection.
5. Decisions on exploration and development must include comprehensive analysis for cumulative effects from oil development and industrialization. Analyses have found subtle, long-term degradation of ecological systems that goes far beyond the immediate effects of a spill or release of contaminants. Collection of baseline data should be specific to the area.
6. All revenues derived from lease sales and development should be shared with the affected state and local governments. Such funds should be used to assist agencies in the public review process, to assess onshore impacts (sociological, ecological and physical) and to require and monitor the appropriate mitigation. Fiscal policies should include the mitigation of economic and social impacts on local communities prior to, during, and after oil and gas development.
7. The OCS policies and procedures should recognize the importance of other uses of the North Carolina coast and the unusual conditions, resulting from Gulf Stream eddies and frontal filaments, which affect the estuarine system. There are crucial conflicts between the fishery and tourism industries and the development of oil and gas. The potential loss of other uses due to oil and gas development is real. Some areas should be deleted from lease sale consideration because they are areas of biological, environmental, or economic importance. The establishment of criteria and decisions on exclusions should include opportunities for full participation by the public, and local and state government agencies, including, but not limited to, the Division of Marine Fisheries, the Coastal Resources Commission, and representatives of existing industries and environmental groups. Decisions on exclusions should be substantially based on environmental impact reports that reflect scientific knowledge.
8. Environmental Impact Reports and Environmental Impact Statements should be clear, succinct, and organized in a way in which the information is easily retrievable and understandable to the public. EIR and EIS information and studies must not be treated pro forma, but given full consideration.
9. OCS regulations, orders, and standard lease sale stipulations should be revised to be consistent with the policies of state and local governments. Such revisions would provide increased environmental protection. The Air Quality regulations are of particular concern. Areas of Cape Hatteras National Seashore and the Alligator River National Wildlife Refuge are designated areas of "pristine" air quality. This quality should be retained. In addition, the EPA permit process for dumping of drilling muds should be sitespecific and there should be no blanket permits for discharges.
10. Enforcement to Ensure Full Compliance. Full compliance with federal, state, and local regulations, orders, and stipulations should be guaranteed by effective

enforcement and funding programs, including a program for regular monitoring and periodic review and evaluation. State agencies, as well as Minerals Management Service, should monitor the exploration and development program.

The League of Women Voters supports the suspension of OCS leasing activity in the mid-Atlantic region until such time as the changes outlined here are made and there are assurances that oil and gas development will not destroy or seriously damage our coastal resources. We do not totally oppose oil and gas development, provided that adequate environmental safeguards are in place. The necessity of compensation funds is an indication that even the government is not convinced the technology exists to tap offshore oil and gas resources safely.

AIR QUALITY

Support high air quality through control of pollutants including acid rains and toxins.

from LWVUS

The League supports:

measures to reduce vehicular pollution, including inspection and maintenance of emission controls, changes in engine design and fuel types and development of more energy efficient transportation systems; regulations and reduction of pollution from stationery sources; regulation and reduction of ambient toxic-air pollutants; measures to reduce transboundary air pollutants, such as ozone and those that cause acid deposition.

Legislative Background

North Carolina's air toxics standards, developed during the mid 1980s, were primarily health-based. The federal Clean Air Act Amendments were more technology-based and required North Carolina to integrate its provisions for permitting, rule-making, penalties and fees into the new federal patterns. A significant change under the Clean Air Act Amendments is that industries subject to the federal permitting program are required to pay permit fees that cover the costs of administering the program. Although complementary, a continuing tension exists between these two basic approaches. Many who worked on the North Carolina regulations felt that it was a significant achievement to keep essential elements of North Carolina's original Air Toxics program in place.

Highlights of the resulting North Carolina regulations (Chapter 400 [HB681] of 1993) include direction to the Environmental Management Commission (EMC).:

- to develop standards to implement the Clean Air Act and the rules of the EPA and to develop standards for control of acid rain deposition and nitrogen oxide emissions.
- to adopt rules specifying the time limit for approval of applications for permits. Failure to act within the time specified is deemed to be a denial (whereas, in North Carolina's prior law, failure to act was deemed to be approval).
- to establish a non-reverting, monitoring, and inspecting account to help administer mobile source air pollution control programs.

During the early 1990s, the state has been primarily concerned with re-designation requests from regions deemed non-attainment areas for ozone and carbon monoxide. Though significant short-term reductions of these pollutants have occurred due to fleet turnover, higher emissions standards, and technological innovations, predictions are that increased automobile use, linked to increased road development, will neutralize these gains by the next decade.

ENERGY

from LWVUS

The League supports: energy goals and policies that acknowledge the United States as a responsible member of the world community; reduction of energy growth rates; use of a variety of energy sources, with emphasis on conserving energy and using energy-efficient technologies; the environmentally sound use of energy resources, with consideration of the entire cycle of energy production; predominant reliance on renewable resources; policies that limit reliance on nuclear fission; action by appropriate levels of government to encourage the use of renewable resources and energy conservation through funding for research and development, financial incentives, rate-setting policies, and mandatory standards; mandatory energy conservation measures, including thermal standards for building efficiency, new appliance standards, and standards for new automobiles with no relaxation of auto-emission control requirements; policies to reduce energy demand and minimize the need for new generating capacity through techniques such as marginal cost or peak-load pricing or demand management programs; maintaining deregulation of oil and natural gas prices; assistance for low-income individuals when energy policies bear unduly on the poor.

Legislative Background

In 1974, energy made its first appearance on the State Government agenda. An Energy Division was established in the Division of Military and Veteran Affairs in the Department of Administration. Energy was later transferred to the Department of Commerce.

In 1977, the LWVNC supported state efforts to encourage energy conservation through the Energy Tax Incentive which provided a state income tax credit for installing solar systems of twenty-five percent of the cost up to \$100 and up to \$100 for insulation. LWVNC also supported authorization of the use of peak load and hour rates. A property tax exclusion for solar heating was also enacted in 1977.

In 1977, a measure that the League did not address passed--the authorization of charges to current rate payers for Construction Work In Progress (CWIP).

In 1979, income tax credits for certain co-generating power plant installations were permitted. In 1981, efforts to repeal the CWIP law in the regular session did not succeed.

In 1982, legislation was passed which modified both the CWIP law and the Fuel Adjustment Clause. This gave the Utilities Commission the power to decide when and how much of the cost of power plants under construction could be included in the rate base, rather than automatic inclusion as in the past. This should have a positive effect on utility decisions regarding excessive generating capacity vs. conservation.

In 1985, efforts to repeal CWIP failed.

In 1987, Electric Utility Fuel True-Up bill, which the League opposed, passed. The House, however, adopted an amendment, which the League supported, which provided for a sunset to the entire fuel adjustment clause in two years.

In 1989, the Electric Utility Fuel True-Up bill was renewed despite League opposition.

In 1993, a major revision and expansion of the state's energy conservation policy applicable to state facilities was undertaken. Under that policy, the state government is responsible for a program to reduce energy use in state facilities and their equipment. The Energy Division of the Commerce Department is charged with developing a comprehensive energy management program for all of state government, and the Department of Administration must develop building energy design guidelines to ensure that state purchasing practices improve energy efficiency and apply "life-cycle cost analysis." In other legislation in 1993, the mission of the Department of Transportation was broadened to encompass transportation policy generally.

General
Program Statement

Position Statement

NATURAL RESOURCES / ENVIRONMENTAL QUALITY

LAND USE

Support land use policies of statewide and regional application which would effectively guide development to meet human needs and would also conserve resources and protect the natural environment. Support property tax policies which will promote wise use of land to meet present and future needs.

LAND USE

Adopted 1971

The North Carolina state government should assume the responsibility:

- To formulate and implement a comprehensive state land use policy or to set policies in accordance with well-defined state goals;
- To prepare land resource inventories and to keep them updated with an emphasis on land capability;
- To identify critical areas and to provide for their protection from unwise development, including development which would result in predictable and unjustified costs to taxpayers. Critical areas include fragile ecological systems, steep slopes, floodplains, and dunes;
- To designate a clearinghouse and coordinating agency for land use policies of other state agencies, federal and state expenditures affecting land use as well as local and regional planning efforts;
- To require that local, city and county governments, do long-range planning and implementation according to state guidelines and in cooperation with regional planning offices;
- To acquire and hold lands for public purposes in fee simple and also to acquire certain selected property rights in land by use of such devices as easements, leases, and options. "Public purposes" should include not only health, safety and welfare, but also recreation, housing, industrial siting, aesthetics, and environmental protection;
- To coordinate location of transportation and delivery systems such as utility rights of way, power plant siting and dams;
- To study and recommend property tax and appraisal methods to

further state, regional, and local land use goals. Preferential treatment on property tax should be granted only in exchange for the public acquisition of some property right or some public service deemed necessary or desirable;

- To see citizen participation at all levels of government, at formative stages of all major development projects. Wide publicity, public hearings, public consultation with local governments and regional planning agencies, and broad citizen representation on policy-making boards at all levels should be used in this effort.

HAZARDOUS WASTE

Support a comprehensive waste management program which would encourage waste prevention, reduction, recovery and recycling and which would discourage the underground storage of hazardous materials. Hazardous waste that cannot be reduced, stabilized or destroyed should be stored in long-term retrievable storage until adequate technology is available.

from LWVUS

The League supports:

- policies to reduce the generation and promote the reuse and recycling of solid and hazardous wastes; policies to ensure safe treatment, transportation, storage, and disposal of solid and wastes in order to protect public health and air, water, and land resources;
- planning and decision-making processes that recognize suitable solid and hazardous wastes as potential resources;
- policies for the management of civilian and military high- and low-level radioactive wastes to protect public health and air, water, and land resources;
- establishment of processes for effective involvement of state and local governments and citizens in siting proposals for treatment, storage, disposal and transportation of radioactive wastes;
- full environmental review of treatment, storage and disposal facilities for radioactive wastes;
- safe transport, storage, and disposal of radioactive wastes.

Legislative Background

During the 1983 legislative session, the League urged the General Assembly to propose and support a comprehensive waste management program which would encourage the underground storage of hazardous materials. Several important bills were introduced during the long session of 1983 including measures (HB559) which used physical state and threshold concentrations to limit land disposal and a provision (HB 12) to prohibit the usage of landfills for certain chemicals.

The major flaw in both bills was that they addressed what the League believed to be the least significant aspect of waste management--landfilling. The comprehensive legislation passed in 1981 had stated that North Carolina should: 1. prevent production of wastes; 2. treat wastes; and only then 3. dispose of what is left. Although the League worked to strengthen both bills, a compromise was not reached.

The Legislative Study Commission drafted in 1984, An Act to Create a Hazardous Waste Treatment Commission, which passed with no major changes and with very strong language drafted by League lobbyists. The bill reflected the growing sentiment that the state should build a hazardous waste treatment facility if private industry could not successfully site and build one. The bill further stated that no hazardous waste shall be buried in North Carolina unless it

has been pre-treated to such an extent that it is harmless even if leakage occurs.

The issue of strict liability, supported by the League, has been raised several times since 1983. The concept allows an injured party to collect damages from the producers, storers or transporters of hazardous waste, regardless of fault. The philosophy is that risks are increased due to the presence of the hazardous materials.

During the 1987 legislative session, several desirable bills were ratified. SB 1144 imposed an additional requirement on a commercial hazardous waste treatment facility, prohibiting direct or indirect discharge into surface water upstream of a drinking water supply intake unless there is a dilution factor of 1000 or greater at the point of discharge. The General Assembly appropriated more than \$1,000,000 for 1987-1989 to the Solid and Hazardous Waste Management Branch to implement HB 123, Inactive Hazardous Waste Sites Clean-up.

HB 35 created a Radioactive Waste Siting Authority, established siting criteria and proposed two conditions by which North Carolina would accept designation as a host state and would develop the Southeast's regional disposal facility.

League lobbyists were active in 1984 and 1985 and were successful in helping the passage of HB 348, An Act Regarding the Identification and Labeling of Toxic and Hazardous Substances in the 1985 General Assembly. Major points of the law included: the right of citizens to know the hazardous substances used and the amount used by any employer; the right of local fire chiefs to information on the hazardous materials stored on site; and the right of a worker to refuse to work with a chemical if that person has reason to believe that the chemical is hazardous.

SOLID WASTE

Legislative Background

During the 1989 General Assembly, SB111, entitled Solid Waste Revisions, was enacted. Although some of the strongest components of the bill were lost in compromise, it was a significant piece of legislation, which incorporated many long-standing League positions. The legislation required the state to develop a solid waste management plan based on the following hierarchy of management methods. In descending order of preference, they were: waste volume reduction at the source; recycling and reuse; composting; incineration for volume reduction; and disposal in landfills.

The law also required local government to assess the costs of disposing of waste in landfills. It banned the disposal of lead-acid batteries, used oil, white goods, and yard waste in landfills, and banned the production of polystyrene with chlorofluorocarbons. It created a scrap tire program financed by a one percent tax levied on the sale of tires and created a used oil program. This tax was "temporarily" increased during the 1993 General Assembly to two percent of the sales price of the tire. This increase is due to expire June 30, 1997. Finally, the law strengthened the state's existing littering law and created a Solid Waste Trust Fund.

In 1993, legislation was passed that stipulated that DEHNR may not issue a permit for a sanitary landfill unless the governing board of the city or county where the landfill is to be located gives its approval. The constitutionality of this measure has been questioned.

Also in 1993, GS 130A-309.81 required each county to provide at least one collection site for discarded white goods and to provide for the disposal of discarded white goods.

Progress has also been made in recent years in recycling and, in 1993, legislation was enacted which enabled counties and cities to require the participation of property owners in

recycling programs.

The League opposed HB 859/SB 891 in 1995 which would have negatively impacted NC's recycling efforts by allowing local governments to set their own waste reduction goals instead of the statewide 40% goal. A compromise in the House reached in 1995 would have further relaxed recycling goals but passage was blocked for fear the bill would be amended to allow unlined landfills to remain open beyond the state's 1998 deadline (extension requests were to be heard in October 1996.)