

State and National

General Assembly session to await waste plan accord

By JENNIFER BLACKWELL
Staff Writer

Gov. James Martin postponed a special session of the General Assembly Friday after eight Southeastern states failed to agree on a new regional plan for hazardous waste disposal.

The purpose of the special session, originally scheduled for this Thursday, was to approve the regional agreement. The session has not been rescheduled, but it will probably take place one or two weeks following Sept. 29, the new proposed date for signing the agreement.

North Carolina is discussing the management of hazardous waste with seven other Southeastern states. The officials had hoped they would reach an agreement Friday in Atlanta.

The proposed regional plan involves

the eight states sharing waste treatment facilities, such as incinerators, landfills, metal recovery and water treatment plants. Each state would be in charge of handling one of the facilities, and each facility would be made available to the other states in the region.

Kentucky and Mississippi are "not quite ready to do any committing," said Linda Little, executive director of the governor's Waste Management Board.

Kentucky wanted to postpone the meeting until Sept. 29 because of a public meeting it has scheduled for Sept. 28. Officials want to give the public a chance to express their views on the plan before finalizing the agreement, said Annette Heyden, a spokeswoman for the division of waste management in Kentucky.

Mississippi, although excited about

the plan, has not reached an agreement as to what type of facility it is going to offer the region.

North Carolina has tentatively agreed to construct a \$30-million solid waste incinerator, capable of handling 40,000 tons of solid waste per year. Other states would export hazardous wastes to this incinerator, while North Carolina would have access to facilities in other states, such as landfill sites in Alabama and South Carolina, or water treatment plants in Tennessee.

After the agreement is signed, it will go to the General Assembly.

It is too soon to say whether the agreement will have a difficult passage in the General Assembly since the agreement has not been finalized, said Rep. Dennis Wicker, D-Sanford. But he did say there was substantial sup-

port, especially since he doesn't know of any alternatives.

The interstate agreement is better than handling all of the state's own waste independently, he said.

Wicker said the legislature would also emphasize that all eight states concentrate on waste minimization and recycling, and not just treatment as a means for handling hazardous waste.

Several environmental groups oppose the interstate agreement.

North Carolina does not have sufficient need for an incinerator, said Chip Hughes, a spokesman for the Environmental Defense Fund. The legislature also needs to look at and adopt measures concerning reduction regulations, and he pointed out that several facilities in North Carolina and in the other states

are leaking and contaminating the environment.

"We think it's a good idea for states to get together," Hughes said. But he feels that North Carolina should not be part of an agreement with other states that have sites that are polluting the environment.

"It's an ethical problem," he said. An alternative plan involves the use of above-ground storage, and solvent and metal recovery plants to deal with most of the refuse.

North Carolina has previously disposed of its waste through the use of private companies in neighboring states. If this agreement is settled, North Carolina would save money in the long run. The state would look for a site for the incinerator, and then consult with other private companies who would under-

take the construction of the facility. According to Little, the Waste Management Board is still researching possible sites for the incinerator.

She said the government expects an uproar when the sites are chosen.

She hopes there is not much opposition in the General Assembly. "I really don't know what alternative we have."

Another consideration is the Oct. 17 deadline set by the federal government that says states must show they have the proper facilities to handle their hazardous waste or that they have entered into regional agreements.

If North Carolina fails to meet this deadline, it could lose \$30 million in Superfund money, which pays for approximately 90 percent of the costs of cleaning up hazardous waste sites.

Study suggests shift to out-of-court malpractice settlements

By WENDY BOUNDS
Staff Writer

Patients considering taking court action for malpractice suits in North Carolina may need to examine alternate channels, according to a three-year malpractice survey released Friday.

The survey, an extensive review of all malpractice cases filed in North Carolina, was released by the Duke University Private Adjudication Center and suggests the future of malpractice suits may lie outside the courtroom.

Thomas Metzloff, director of the survey, said the findings show that only 10 percent of malpractice suits are ever actually brought to trial and the defendant prevails in 80 percent of these

cases. But he says the statistics don't mean the patient is being pushed aside in malpractice suits, but that the patient is seeking alternative ways of settling cases outside the courtroom.

"What these results suggest to me is that although the plaintiff in many trial cases does not retain an award from the jury, he may very well be compensated via settlement resolved outside of court," Metzloff said.

These statistics shouldn't discourage plaintiffs, but should encourage them to seek compensation in other ways, said David Warren, a professor of health administration at Duke.

"Both the defendant and the patient will now be able to negotiate with more awareness about their odds," he said. "For the first time, we have factual

information on malpractice litigation in North Carolina that will provide a basis for the plaintiff and defendant to reassess their claims."

Warren and Metzloff agreed future cases might be resolved more effectively by the following means:

- Arbitration out of open court.
- Jury-determined settlements where each party sets a range for his settlement and the jury determines a settlement within this range.
- Mediation in which both parties work through a mediator to find a solution without going to trial.

In some situations the case is not about money, but based on a patient's complaints of a doctor's treatment. These alternatives would provide less expensive solutions to these problems.

Finding compromises outside the courtroom is becoming more common in malpractice suits and more acceptable by insurance companies. These types of solutions are known as ADR, Alternate Disputes Resolutions. This alternate route of dispute settlement is popular in many respects simply because it is cheaper than taking a case to court.

A one-week malpractice suit being handled in court by lawyers would cost the defendant on average around \$10,000 for lawyers and expert witnesses. The plaintiff would spend around \$3,000 to \$5,000 for his legal fees. ADR alleviates these costs to the parties and saves the court time and state funds.

The most important issue raised by

the survey concerns the recent trend toward out-of-court settlements in North Carolina, said Ken Wing, a UNC professor of law.

For a while, malpractice suits were becoming very costly, said Bob Byrd, a professor of law at UNC. "During the '70s and '80s there was a major move toward tort reform (civil law reform). Doctors and insurance companies were claiming that their liabilities to the patients were so overwhelming that it wasn't feasible for insurance companies to provide malpractice insurance without extremely high premiums. The juries were running somewhat wild with their settlements for the plaintiff."

This legal history could explain why, in the past seven years, North Carolina

has begun to take a more conservative approach toward malpractice litigation, and as a result has one of the lowest medical malpractice premiums in the country, said Ronnie Chamberlain of the N.C. State Insurance Commission.

Those involved with the survey say the findings are preliminary and predictions about their future significance are not concrete. But they agree their findings show the juries of North Carolina are no longer out of control as they may have been 15 years ago, and malpractice suits appear to be headed out of the courts.

"The results of the survey indicate that more tools are needed to resolve these disputes," Warren said, "and yet it shows that our discovery and negotiating processes are working."

Chemical pollutants endanger wildlife in Florida Everglades

By KIMBERLEY MAXWELL
Staff Writer

The 1.4 million acres of water and land known as the Florida Everglades are in danger, according to environmental specialists.

Nitrates and phosphates from the fertilizers in nearby dairy and sugar farms are being loaded into the Everglades, said Pat Tolle, public affairs specialist for Everglades National Park. This affects the wildlife by causing new organisms to grow, thus imbalancing the local food chain.

An indicator is the explosive growth of cattails, Tolle said. Cattails consume oxygen, making survival harder for the animals.

To make matters worse, high levels

of mercury contamination have been discovered in bass and bull-head catfish, Tolle said. The levels in the fish were safe only for limited consumption.

The source of the mercury contamination remains unknown.

The problem in Florida originates from efforts in the past to regulate water flow in the Everglades, said Cynthia Len Hart, wildlife policy specialist for the National Audubon Society.

"They, in an effort to develop the southern Florida region in the 1920s and '30s, began ditching and diking the area," Hart said. Canals and levees were also included in the plan.

As a result, there was a total change in the area, Hart said. Certain areas

were left with limited water supplies, and other areas were oversupplied.

The Everglades is actually a river, and the system begins north of Lake Okeechobee, Tolle said. A lake was formed each year because of flooding, and the lake was modified for flooding and storage of surface water.

But the modifications weren't effective, Tolle said.

They required about 2,000 Army Corps of Engineers workers to restore the area, but the projects they have

completed over the years are being undone. Former Florida Gov. Bob Graham started the program called "Save Our Everglades" to undo the damage, and it has been successful so far, Tolle said.

Action to help save the Everglades is coming from several different directions.

The U.S. attorney filed suit last May against Florida for not enforcing its own water standards, Tolle said. The case is being researched now.

The U.S. Congress is considering legislation to expand the Everglades National Park by 100,000 acres to the east. The National Audubon Society supports the bill.

The Army Corps of Engineers, along with the Save Our Everglades program, is also doing research in the area.

"We (have been) conducting rain-driven topic experiments for the last three years," said Juan Colon, chief of public affairs. "It will duplicate how rainfall will accomplish getting rain to

the Everglades."

Environmentalists will have to determine a way to negotiate with the sugar and dairy farmers to decrease the amount of fertilizers in the water, Hart said.

But the Everglades' problems aren't affecting tourism.

"We had over one million visitors last year," Tolle said. "People are going to see it while it's still there."

The damage isn't evident on the first visit, she said.

Virus reports panic PC users nationwide

From Associated Press reports

NEW YORK — News reports of a harmful computer virus that will strike after Oct. 12 have spread fear among many users of personal computers even though experts say only a few people are likely to be affected.

Computer security firms and companies that supply anti-viral software say they have been deluged by calls since word spread of the Datacrime



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virus. Some experts said the virus, while unusually harmful, was so rare that it was not a cause for panic. But that was no comfort to computer owners fearful they would be among the victims.

"The alarms that are going off absolutely staggered me," said Winn Schwartz, president of American Computer Security Industries Inc. in Nashville, Tenn. He said several government agencies and Fortune 500 companies had contacted him about the virus.

"Frankly, the virus isn't all that important a virus, yet this phone is ringing off the hook," Ross Greenberg, a New Yorker who makes a virus protector called Flu-Shot Plus, said late last week.

Greenberg said he had received as

many as a half-dozen reports of the virus since it surfaced earlier this year. The Computer Virus Industry Association of Santa Clara, Calif., has received seven reports, Chairman John McAfee said Monday.

In contrast, there have been thousands of reports of other viruses. Far more people will be hit Oct. 13 by the less harmful but more widespread Jerusalem virus, also known as the PLO or Friday the 13th virus.

"I'm more worried about spilling a cup of coffee on my keyboard than I am about the Datacrime virus," Greenberg said.

Computer viruses, created by anonymous programmers, are pieces of software that make copies of themselves and spread from one machine to

another through infected floppy disks, office networks or phone links such as computer bulletin boards.

Datacrime attacks the hard disk data-storage devices of IBM-compatible personal computers that use Microsoft Corp.'s MS-DOS operating system. It wipes out the directory section, making it impossible for the disk's contents to be read.

The virus is triggered when an infected program is used anytime after the computer's internal clock passes Oct. 12, the traditional date for Columbus Day. It is also known as the Columbus Day or Icelandic virus.

The virus was found dormant in computers by people who noticed that some of their programs had swollen inexplicably.

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