

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 50

STATE OF NEW JERSEY

ADOPTED JUNE 12, 1997

**Sponsored by Assemblymen GIBSON, Kramer, Bucco, Cottrell,
Assemblywoman Bark, Assemblymen Roberts, LeFevre and
Blee**

1 AN ACT concerning solid waste management, and amending,
2 supplementing and repealing parts of the statutory law.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. (New section) Sections 1 through 21 and 131 and 132 of
8 P.L. , c. (C.13:1E-208 through 13:1E-228 and 13:1E-229 and
9 13:1E-230) (pending in the Legislature as this bill) shall be known and
10 may be cited as the "Solid Waste Management and Environmental
11 Investment Cost Recovery Act."

12

13 2. (New section) The Legislature finds and declares that in
14 response to the need to protect and enhance the quality of the State's
15 environment, and to provide for the environmentally-sound and proper
16 collection, recycling and disposal of solid waste, the Legislature made
17 a determination over a quarter-century ago that these goals would be
18 best achieved through the development of a comprehensive Statewide
19 solid waste management strategy; that in furtherance of these
20 environmental goals and policies, and to provide for a regulatory
21 framework for the implementation thereof on a Statewide basis, the
22 Legislature enacted the "Solid Waste Management Act," P.L.1970,
23 c.39 (C.13:1E-1 et seq.), which designated every county and the
24 Hackensack Meadowlands District as a solid waste management
25 district for planning and implementation purposes and required each
26 county, or a public authority designated by the governing body of the
27 county, to develop, adopt and implement a district solid waste
28 management plan for the collection, disposal or recycling of solid
29 waste generated within its geographic boundaries.

30 The Legislature further finds and declares that in furtherance of
31 this State mandate, each county or public authority has entered into
32 contracts, acquired real and personal property, incurred administrative

**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not
enacted and is intended to be omitted in the law.**

Matter underlined thus is new matter.

1 and other operating expenses, and issued debt obligations, and the
2 Department of Environmental Protection has issued waste flow orders
3 requiring constituent municipalities and local haulers to use designated
4 in-county solid waste facilities for solid waste processing or disposal,
5 all in furtherance of district solid waste management plan
6 implementation.

7 The Legislature further finds and declares that the ability of each
8 county or public authority to fulfill its lawful responsibilities with
9 respect to district solid waste management plan implementation,
10 including the ability to raise revenues sufficient to provide funds for
11 payment of the costs of developing self-sufficient solid waste
12 management systems, has been predicated on its legal authority to
13 direct the flow of solid waste generated within the geographic
14 boundaries of the county to designated solid waste facilities, thereby
15 ensuring the economic viability of these facilities; and that waste flow
16 control by counties and public authorities has been supported by
17 statute, rules and regulations adopted by the Department of
18 Environmental Protection and franchises awarded by the Board of
19 Public Utilities, and was upheld as a valid exercise of State power by
20 the federal courts in J. Filberto Sanitation, Inc. v. New Jersey Dept. of
21 Envtl. Protection.

22 The Legislature further finds and declares that in the case of C &
23 A Carbone, Inc. v. Town of Clarkstown, N.Y. the U.S. Supreme Court
24 held that the challenged ordinance, which mandated that haulers use
25 the facility designated by the town for solid waste processing and
26 disposal, impermissibly discriminated against interstate commerce in
27 violation of the U.S. Constitution; that the holding in Carbone was
28 subsequently interpreted by the appellate court in Atlantic Coast
29 Demolition & Recycling, Inc., et al. v. Board of Chosen Freeholders
30 of Atlantic County et al. to require reversal of the prior ruling in J.
31 Filberto Sanitation; on July 15, 1996, the U.S. District Court for the
32 district of New Jersey in its Atlantic Coast decision invalidated New
33 Jersey's waste flow rules to the extent that they discriminate against
34 interstate commerce; and that on May 1, 1997, the U.S. Court of
35 Appeals in its second Atlantic Coast decision affirmed the district
36 court's findings that New Jersey's waste flow laws, rules and
37 regulations are unconstitutional insofar as they discriminate against
38 out-of-state solid waste facilities, while rejecting its two-year post-
39 appeal stay, thereby affording the State, counties and public authorities
40 a limited interval within which to implement a constitutionally
41 acceptable system for solid waste management.

42 The Legislature further finds that in the Waste Management of
43 Pennsylvania, Inc. v. Shinn decision, the U.S. District Court for the
44 district of New Jersey determined that the self-sufficiency goals used
45 by the Department of Environmental Protection in the evaluation of
46 contracts for long-term disposal of the State's solid waste

1 impermissibly discriminated against interstate commerce in violation
2 of the U.S. Constitution.

3 The Legislature further finds and declares that counties and public
4 authorities must be able, under all circumstances, to collect revenues
5 sufficient to recover the environmental investment costs incurred in
6 developing and implementing State-mandated district solid waste
7 management plans, whether through the acquisition, construction and
8 operation of solid waste facilities or through execution of interdistrict
9 agreements or implementation of solid waste disposal or recycling
10 programs.

11 The Legislature further finds and declares that the State must
12 maintain its commitment to the recycling of waste materials by
13 continuing to enforce the implementation of the district recycling plans
14 required pursuant to section 3 of P.L.1987, c.102 (C.13:1E-99.13) and
15 the other county and municipal recycling program requirements of the
16 "New Jersey Statewide Mandatory Source Separation and Recycling
17 Act," P.L.1987, c.102 (C.13:1E-99.11 et seq.) and expanding
18 programs for the source separation, collection, marketing, recycling,
19 and beneficial reuse of waste materials generated in this State.

20 The Legislature therefore determines that it is the public policy of
21 the State of New Jersey to authorize and empower every county and
22 public authority to establish and implement a program to recover the
23 environmental investment costs associated with developing and
24 implementing solid waste management systems, including debt service
25 on bonds, or payment for solid waste disposal or recycling services
26 under lawfully executed contracts or agreements; and that it is
27 necessary to revise the solid waste management statutes to reflect
28 these changes, all as hereinafter provided.

29

30 3. (New section) As used in sections 1 through 21 and 131 and
31 132 of P.L. , c. (C.13:1E-208 through 13:1E-228 and 13:1E-229
32 and 13:1E-230) (pending in the Legislature as this bill):

33 "Business concern" means any corporation, association, firm,
34 partnership, sole proprietorship, trust or other form of commercial
35 organization.

36 "Commissioner" means the Commissioner of the Department of
37 Environmental Protection.

38 "Constituent municipality" means any municipality located within
39 the territorial boundaries of a county; any municipality located within
40 the territorial boundaries of a county that has created a public
41 authority; any municipality included within the jurisdiction of a public
42 authority pursuant to law; or any combination thereof.

43 "Cost" means, in addition to the usual connotations thereof, any
44 expenses related to: (1) the planning, acquisition or construction of
45 solid waste facilities, including debt service on bonds issued prior to
46 the effective date of P.L. , c. (C.) (pending in the

1 Legislature as this bill) to finance solid waste facilities, including
2 abandoned or canceled solid waste facility projects, or debt service on
3 bonds associated with a refinancing of bonds issued prior to the
4 effective date of P.L. , c. (C.) (pending in the Legislature
5 as this bill) to finance solid waste facilities, including abandoned or
6 canceled solid waste facility projects; (2) the fulfillment of interdistrict
7 agreements or lawfully executed solid waste disposal contracts; (3) the
8 establishment and implementation of solid waste management
9 programs adopted prior to the effective date of P.L. , c.
10 (C.) (pending in the Legislature as this bill); (4) the payment of
11 solid waste taxes or other payments mandated by State law, rule,
12 directive or order; or (5) the payment of host municipality benefits. As
13 used herein, "cost" shall not include the debt service on the
14 unexpended balance of bond proceeds on bonds or refinancing bonds
15 authorized but not expended prior to the effective date of P.L. ,
16 c. (C.)(pending in the Legislature as this bill).

17 "Department" means the Department of Environmental Protection.

18 "District" means a solid waste management district as designated
19 by section 10 of P.L.1975, c.326 (C.13:1E-19).

20 "District solid waste facility" means a solid waste facility that is
21 designated by a public authority or county in its adopted district solid
22 waste management plan as approved by the department prior to the
23 effective date of P.L. , c. (C.) (pending in the Legislature
24 as this bill) as the in-county facility to which solid waste generated
25 within the boundaries of the county is transported for final disposal, or
26 transfer for transportation to an offsite solid waste facility or
27 designated out-of-state disposal site for disposal, as appropriate.

28 "Environmental investments" means any: (1) solid waste facilities;
29 (2) solid waste management programs; (3) obligation to fulfill
30 interdistrict agreements or lawfully executed solid waste disposal
31 contracts; (4) obligation to pay solid waste taxes or other payments
32 mandated by State law, rule, directive or order; or (5) obligation to
33 pay host municipality benefits.

34 "Environmental investment charges" means the rates, fees or other
35 charges imposed and collected by a public authority or county for the
36 payment of environmental investment costs.

37 "Environmental investment costs" means the cost of environmental
38 investments.

39 "Host municipality benefits" means the payment of annual
40 economic benefits made to host municipalities required pursuant to
41 section 19 of P.L.1975, c.326 (C.13:1E-28), section 2 of P.L.1987,
42 c.449 (C.13:1E-28.1), P.L.1994, c.27 (C.13:1E-28.3) or section 40 of
43 P.L.1985, c.38 (C.48:13A-5.1).

44 "Interdistrict agreement" means a contract or agreement entered
45 into between the concerned boards of chosen freeholders, the
46 Hackensack Commission, any person, public authority, or any

1 combination thereof, for the shared use of district solid waste facilities.

2 "Local Finance Board" means the Local Finance Board in the
3 Division of Local Government Services in the Department of
4 Community Affairs.

5 "Municipal solid waste services agreement" means a contract or
6 agreement entered into between any person, public authority or county
7 and a municipal governing body for the use of a district solid waste
8 facility by the municipality for the disposal of solid waste generated
9 within its municipal boundaries.

10 "Person" means any individual or business concern.

11 "Public authority" means a municipal or county utilities authority
12 created pursuant to the "municipal and county utilities authorities
13 law," P.L.1957, c.183 (C.40:14B-1 et seq.); a county improvement
14 authority created pursuant to the "county improvement authorities
15 law," P.L.1960, c.183 (C.40:37A-44 et seq.); a pollution control
16 financing authority created pursuant to the "New Jersey Pollution
17 Control Financing Law," P.L.1973, c.376 (C.40:37C-1 et seq.); or any
18 other public body corporate and politic created for solid waste
19 management purposes in any county, pursuant to the provisions of any
20 law.

21 "Qualified vendor" means a person that has been awarded a
22 contract for the design, financing, construction, operation, or
23 maintenance, or any combination thereof, of a resource recovery
24 facility, or for the provision of resource recovery services, which
25 contract has been approved pursuant to section 28 of P.L.1985, c.38
26 (C.13:1E-163); or a person that has been awarded a contract pursuant
27 to the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et
28 seq.) or any other contracting procedure permitted by law for the
29 design, financing, construction, operation, or maintenance, or any
30 combination thereof, of a resource recovery facility, or for the
31 provision of resource recovery services.

32 "Recyclable material" means those materials which would
33 otherwise become solid waste, and which may be collected, separated
34 or processed and returned to the economic mainstream in the form of
35 raw materials or products.

36 "Recycling" means any process by which materials which would
37 otherwise become solid waste are collected, separated or processed
38 and returned to the economic mainstream in the form of raw materials
39 or products.

40 "Regular solid waste collection service" means the scheduled
41 pick-up and removal of solid waste from a source of generation within
42 the boundaries of any municipality at least once a week.

43 "Resource recovery facility" means a solid waste facility
44 constructed and operated for the incineration of solid waste for energy
45 production and the recovery of metals and other materials for reuse;
46 or a mechanized composting facility, or any other solid waste facility.

1 “Resource recovery services” means any services provided by the
2 owner or operator of a resource recovery facility, including but not
3 limited to, solid waste disposal; the utilization of a resource recovery
4 facility for the disposal of out-of-county solid waste; the disposal of
5 residual ash or the solid waste delivered to a resource recovery facility
6 which cannot be processed at the resource recovery facility; the
7 utilization of a sanitary landfill facility for the disposal of solid waste
8 due to downtime or technical failure at a resource recovery facility; or
9 any combination thereof.

10 "Responsible solid waste generator" means any property owner,
11 tenant or occupant of any single-family residential dwelling or multi-
12 family multiple dwelling, or the owner, tenant or occupant of any
13 industrial, commercial or institutional building or structure located
14 within the boundaries of any municipality, who generates solid waste
15 at those premises.

16 "Solid waste" means garbage, refuse, and other discarded materials
17 resulting from industrial, commercial and agricultural operations, and
18 from domestic and community activities, and shall include all other
19 waste materials including liquids, except for source separated
20 recyclable materials or source separated food waste collected by
21 livestock producers approved by the State Department of Agriculture
22 to collect, prepare and feed such wastes to livestock on their own
23 farms.

24 "Solid waste collection" means the activity related to pick-up and
25 transportation of solid waste from its source or location to a solid
26 waste facility or other destination.

27 "Solid waste collector" means a person engaged in the collection
28 of solid waste and registered pursuant to sections 4 and 5 of P.L.1970,
29 c.39 (C.13:1E-4 and 13:1E-5).

30 "Solid waste container" means a receptacle, container or bag
31 suitable for the depositing of solid waste.

32 "Solid waste disposal" means the storage, treatment, utilization,
33 processing, or final disposal of solid waste.

34 "Solid waste facilities" means, and includes, the plants, structures
35 and other real and personal property acquired, constructed or operated
36 or to be acquired, constructed or operated by, or on behalf of, any
37 person, public authority or county pursuant to the provisions of the
38 "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.)
39 or any other act, including transfer stations, incinerators, resource
40 recovery facilities, sanitary landfill facilities or other plants for the
41 disposal of solid waste, and all vehicles, equipment and other real and
42 personal property and rights therein and appurtenances necessary or
43 useful and convenient for the collection or disposal of solid waste in
44 a sanitary manner.

45 "Solid waste management program" means any program
46 established by, or on behalf of, a public authority or county for

1 sanitary landfill facility closure, enforcement, household hazardous
2 waste management, recycling or other purposes related to the
3 implementation of a district solid waste management plan required
4 pursuant to the provisions of the "Solid Waste Management Act,"
5 P.L.1970, c.39 (C.13:1E-1 et seq.) or a district recycling plan required
6 pursuant to section 3 of P.L.1987, c.102 (C.13:1E-99.13).

7 "Solid waste taxes" means the taxes imposed pursuant to section
8 5 of P.L.1981, c.306 (C.13:1E-104) or section 3 of P.L.1985, c.38
9 (C.13:1E-138).

10 "Source separated recyclable materials" means recyclable materials
11 which are separated at the point of generation by the generator thereof
12 from solid waste for the purposes of recycling.

13 "Source separation" or "source separated" means the process by
14 which recyclable materials are separated at the point of generation by
15 the generator thereof from solid waste for the purposes of recycling.
16

17 4. (New section) Any municipality may provide for the collection
18 or disposal of all nonhazardous solid waste or any portion thereof
19 generated within its municipal boundaries.

20 a. A municipal governing body, in its discretion, may:

21 (1) Establish and operate a municipal service system for solid
22 waste collection;

23 (2) Enter into a contract for regular solid waste collection service
24 with a solid waste collector pursuant to the provisions of the "Local
25 Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.);

26 (3) Permit responsible solid waste generators to contract for
27 regular solid waste collection service on an individual basis with a
28 solid waste collector; or

29 (4) Any combination thereof.

30 b. A municipal governing body, in its discretion, may:

31 (1) Enter into a municipal solid waste services agreement with any
32 person, public authority or county that owns or operates a district
33 solid waste facility pursuant to the provisions of the "Local Public
34 Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.);

35 (2) Enter into a contract for the collection or disposal of solid
36 waste with any person lawfully engaged in solid waste collection or
37 solid waste disposal pursuant to the provisions of the "Local Public
38 Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.);

39 (3) Permit responsible solid waste generators to contract for the
40 disposal of solid waste on an individual basis with any person, public
41 authority or county lawfully engaged in solid waste disposal;

42 (4) Permit responsible solid waste generators to directly transport
43 the solid waste generated at their premises for disposal at a specified
44 solid waste facility or designated out-of-state disposal site; or

45 (5) Any combination thereof.
46

1 5. (New section) a. A municipal governing body may establish
2 and operate a municipal service system for solid waste collection.

3 (1) In the case of single-family residential housing, the municipal
4 service system shall include the provision of regular solid waste
5 collection service;

6 (2) In the case of multi-family residential housing, the municipal
7 service system may include the provision of regular solid waste
8 collection service;

9 (3) In the case of any other source of generation within the
10 boundaries of the municipality, the municipal service system may:

11 (a) include the provision of regular solid waste collection service;

12 (b) permit the responsible solid waste generator to contract with
13 a solid waste collector on an individual basis for regular solid waste
14 collection service; or

15 (c) permit responsible solid waste generators to directly transport
16 the solid waste generated at their premises for disposal at a specified
17 solid waste facility or designated out-of-state disposal site.

18 A municipal governing body that establishes a municipal service
19 system for solid waste collection shall adopt a municipal service
20 ordinance.

21 b. Every municipal service ordinance, as appropriate, shall:

22 (1) Specify the district solid waste facility to be utilized by the
23 municipality for the disposal of solid waste pursuant to the terms and
24 conditions of a municipal solid waste services agreement entered into
25 pursuant to the provisions of the "Local Public Contracts Law,"
26 P.L.1971, c.198 (C.40A:11-1 et seq.);

27 (2) Specify the solid waste facility or designated out-of-state
28 disposal site to be utilized by the municipality for the disposal of solid
29 waste pursuant to the terms and conditions of a contract entered into
30 pursuant to the provisions of the "Local Public Contracts Law,"
31 P.L.1971, c.198 (C.40A:11-1 et seq.);

32 (3) Submit evidence satisfactory to the department that the
33 designated disposal site is permitted by the appropriate state
34 regulatory agency having jurisdiction over solid waste management to
35 accept solid waste for disposal and is in compliance with all relevant
36 Federal or state laws, rules or regulations;

37 (4) Publish a consolidated schedule of the rates, fees or charges
38 to be charged by the municipality for solid waste collection, including
39 a separate section for:

40 (a) the rates, fees or charges to be charged by the municipality for
41 regular solid waste collection service;

42 (b) the solid waste charges received at the district solid waste
43 facility or other solid waste facility for solid waste disposal, including
44 any portion of the rates, fees or charges allocated for environmental
45 investment charges; or

46 (c) the solid waste charges received at the designated out-of-state

1 disposal site for solid waste disposal;

2 (5) Specify the portion of municipal property taxes allocated for
3 the payment of the rates, fees or charges for solid waste collection or
4 solid waste disposal, or otherwise provide for the manner of payment
5 of the rates, fees or charges for solid waste collection or solid waste
6 disposal.

7 c. Every municipal service ordinance shall include:

8 (1) In the case of single-family residential housing, a requirement
9 that the responsible solid waste generator place solid waste generated
10 at those premises in solid waste containers for collection in the manner
11 provided by the ordinance;

12 (2) In the case of multi-family residential housing, as appropriate,
13 a requirement that the responsible solid waste generator place solid
14 waste generated at those premises in solid waste containers for
15 collection in the manner provided by the ordinance; and

16 (3) In the case of any other source of generation within the
17 boundaries of the municipality, a requirement that the responsible solid
18 waste generator place solid waste generated at those premises in solid
19 waste containers for collection in the manner provided by the
20 ordinance.

21 d. A municipal governing body may exempt the owner, tenant or
22 occupant of any multi-family residential housing, industrial,
23 commercial or institutional building or structure from the provisions
24 of the municipal service ordinance as provided in subsection c. of this
25 section.

26

27 6. (New section) a. A municipal governing body may establish a
28 municipal contract system for solid waste collection by entering into
29 a contract for regular solid waste collection service with a solid waste
30 collector pursuant to the provisions of the "Local Public Contracts
31 Law," P.L.1971, c.198 (C.40A:11-1 et seq.).

32 (1) In the case of single-family residential housing, the municipal
33 contract system shall include the provision of regular solid waste
34 collection service;

35 (2) In the case of multi-family residential housing, the municipal
36 contract system may include the provision of regular solid waste
37 collection service;

38 (3) In the case of any other source of generation within the
39 boundaries of the municipality, the municipal contract system may:

40 (a) include the provision of regular solid waste collection service;

41 (b) permit the responsible solid waste generator to contract with
42 a solid waste collector on an individual basis for regular solid waste
43 collection service; or

44 (c) permit responsible solid waste generators to directly transport
45 the solid waste generated at their premises for disposal at a specified
46 solid waste facility or designated out-of-state disposal site.

1 A municipal governing body that establishes a municipal contract
2 system for solid waste collection shall adopt a municipal contract
3 ordinance.

4 b. Every municipal contract ordinance, as appropriate, shall:

5 (1) Specify the district solid waste facility to be utilized by the
6 solid waste collector for solid waste disposal pursuant to the terms and
7 conditions of a municipal solid waste services agreement entered into
8 pursuant to the provisions of the "Local Public Contracts Law,"
9 P.L.1971, c.198 (C.40A:11-1 et seq.);

10 (2) Specify the solid waste facility or designated out-of-state
11 disposal site to be utilized by the solid waste collector for the disposal
12 of solid waste pursuant to the terms and conditions of a contract
13 entered into pursuant to the provisions of the "Local Public Contracts
14 Law," P.L.1971, c.198 (C.40A:11-1 et seq.);

15 (3) Require the solid waste collector to submit evidence
16 satisfactory to the department that the designated disposal site is
17 permitted by the appropriate state regulatory agency having
18 jurisdiction over solid waste management to accept solid waste for
19 disposal and is in compliance with all relevant Federal or state laws,
20 rules or regulations;

21 (4) Provide for the publishing of a consolidated schedule of the
22 rates, fees or charges to be charged by the solid waste collector,
23 including a separate section for:

24 (a) the rates, fees or charges to be charged for regular solid waste
25 collection service;

26 (b) the solid waste charges received at the district solid waste
27 facility or other solid waste facility for solid waste disposal, including
28 any portion of the rates, fees or charges allocated for environmental
29 investment charges; or

30 (c) the solid waste charges received at the designated out-of-state
31 disposal site for solid waste disposal;

32 (5) Specify the portion of municipal property taxes allocated for
33 the payment of the rates, fees or charges for solid waste collection or
34 solid waste disposal, or otherwise provide for the manner of payment
35 of the rates, fees or charges for solid waste collection or solid waste
36 disposal.

37 c. Every municipal contract ordinance shall include:

38 (1) In the case of single-family residential housing, a requirement
39 that the responsible solid waste generator place solid waste generated
40 at those premises in solid waste containers for collection in the manner
41 provided by the ordinance;

42 (2) In the case of multi-family residential housing, as appropriate,
43 a requirement that the responsible solid waste generator place solid
44 waste generated at those premises in solid waste containers for
45 collection in the manner provided by the ordinance; and

46 (3) In the case of any other source of generation within the

1 boundaries of the municipality, a requirement that the responsible solid
2 waste generator place solid waste generated at those premises in solid
3 waste containers for collection in the manner provided by the
4 ordinance.

5 d. A municipal governing body may exempt the owner, tenant or
6 occupant of any multi-family residential housing, industrial,
7 commercial or institutional building or structure from the provisions
8 of the municipal contract ordinance as provided in subsection c. of this
9 section.

10

11 7. (New section) a. A solid waste collector shall not engage in
12 private solid waste collection services within the boundaries of any
13 municipality except upon the consent of the municipal governing body.
14 The municipal governing body may establish and charge reasonable
15 fees in connection with permitting solid waste collectors to engage in
16 private solid waste collection services within its municipal boundaries,
17 provided that any fees to be charged for such municipal consent shall
18 reflect solely the administrative costs of the municipal governing body
19 therefor.

20 Any municipal governing body that permits solid waste collectors
21 to engage in private solid waste collection services within its municipal
22 boundaries shall submit, at least once every twelve months, a report to
23 the department related to the identity of every person engaging in solid
24 waste collection activities within the municipality.

25 b. As a condition of municipal consent to engage in private solid
26 waste collection services within its municipal boundaries, the
27 municipal governing body may require any solid waste collector
28 providing regular solid waste collection service to responsible solid
29 waste generators on an individual basis within the municipality to
30 assist the municipal governing body in the collection of environmental
31 investment charges.

32 c. As a condition of municipal consent to engage in private solid
33 waste collection services within its municipal boundaries, the
34 municipal governing body may require any solid waste collector
35 providing regular solid waste collection service to responsible solid
36 waste generators on an individual basis within the municipality to
37 transport every truckload or roll-off container of solid waste collected
38 within the municipality to the district solid waste facility located within
39 the county wherein the solid waste was generated for weighing and
40 inspection, provided that the solid waste collector is not utilizing that
41 district solid waste facility for solid waste disposal and the public
42 authority or county has requested the municipal governing body to do
43 so, prior to transporting the load of solid waste to the out-of-county
44 solid waste facility or designated out-of-state disposal site to be
45 utilized by the solid waste collector for solid waste disposal.

46 (1) The public authority or county is authorized to establish and

1 enforce procedures to determine the gross and net tare weight of all
2 vehicles transporting solid waste generated within the county to out-
3 of-county solid waste facilities or designated out-of-state disposal sites
4 for solid waste disposal. The owner or operator of the district solid
5 waste facility to be utilized by a solid waste collector to fulfill the
6 weighing and inspection requirements of this subsection shall maintain
7 a monthly record of the weight and vehicle information for the solid
8 waste weighed and inspected at the district solid waste facility. This
9 information shall be forwarded to the department and the relevant
10 municipal governing body on a monthly basis and shall be made
11 available by the department for public inspection.

12 (2) The weight information provided pursuant to this subsection
13 may be used to assist the public authority or county in determining the
14 aggregate amount of solid waste disposed of from all sources of
15 generation within a constituent municipality, as measured in tons, for
16 the purposes of calculating, charging and collecting environmental
17 investment charges.

18

19 8. (New section) A municipal governing body may enter into a
20 municipal solid waste services agreement with any person, public
21 authority or county that owns or operates a district solid waste facility
22 pursuant to the provisions of the "Local Public Contracts Law,"
23 P.L.1971, c.198 (C.40A:11-1 et seq.).

24 a. Every municipal solid waste services agreement shall include,
25 but need not be limited to, provisions concerning:

26 (1) The solid waste charges received at the district solid waste
27 facility for solid waste disposal, including any portion of the rates, fees
28 or charges allocated for environmental investment charges; and

29 (2) The formulas to be used to determine the solid waste charges
30 for solid waste disposal, or environmental investment charges, and the
31 methodology or methodologies used to develop these formulas.

32 b. Any municipal solid waste services agreement may include a
33 provision authorizing the person, public authority or county to
34 calculate, charge and collect differential solid waste charges for the
35 solid waste accepted for disposal at the district solid waste facility
36 from the constituent municipality, provided that the differential solid
37 waste charges are to be calculated, charged and collected from the
38 constituent municipality in lieu of the payment of environmental
39 investment charges.

40 c. Any municipal solid waste services agreement may include
41 optional arrangements for the provision of other solid waste
42 management programs or services, including the collection,
43 processing, disposition or marketing of source separated recyclable
44 materials, or inclusion within a district household hazardous waste
45 management program.

46 d. Prior to the implementation of a municipal solid waste services

1 agreement, the municipal governing body shall notify all responsible
2 solid waste generators and local solid waste collectors of the
3 applicable provisions thereof. In order to fulfill the notification
4 requirements of this subsection, the municipal governing body may, in
5 its discretion, place an advertisement in a newspaper circulating in the
6 municipality, post a notice in public places where public notices are
7 customarily posted, include a notice with other official notifications
8 periodically mailed to local taxpayers, or any combination thereof, as
9 the municipal governing body deems necessary and appropriate. The
10 municipal solid waste services agreement may take effect 20 days
11 thereafter.

12 e. A municipal governing body that has entered into a municipal
13 solid waste services agreement shall submit a copy thereof to the
14 department for public inspection.

15 The commissioner shall maintain on file in the department for
16 public inspection a copy of any municipal solid waste services
17 agreement received by the department pursuant to this subsection.
18 The department shall provide a copy to any person upon request at a
19 cost not to exceed the cost of reproduction.

20

21 9. (New section) a. As a condition of a contract for regular solid
22 waste collection service entered into pursuant to section 6 of P.L. ,
23 c. (C.) (pending in the Legislature as this bill), any
24 municipal governing body that has negotiated a municipal solid waste
25 services agreement pursuant to section 8 of P.L. , c. (C.
26)(pending in the Legislature as this bill) shall require the solid waste
27 collector to utilize the district solid waste facility that has been
28 selected by the municipality for the disposal of solid waste pursuant to
29 the terms and conditions of the municipal solid waste services
30 agreement.

31 b. As a condition of a contract for regular solid waste collection
32 service entered into pursuant to section 6 of P.L. , c. (C.)
33 (pending in the Legislature as this bill), any municipal governing body
34 that has entered into a contract for the use of a designated out-of-state
35 disposal site pursuant to section 10 of P.L. , c. (C.)
36 (pending in the Legislature as this bill) shall require the solid waste
37 collector to utilize the designated out-of-state disposal site that has
38 been selected by the municipality for the disposal of solid waste
39 pursuant to the provisions of the contract for solid waste disposal.

40

41 10. (New section) A municipal governing body may enter into a
42 contract for solid waste disposal with any person lawfully providing
43 solid waste disposal service pursuant to the provisions of the "Local
44 Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.).

45 a. Every contract for the use of a designated out-of-state disposal
46 site shall include, but need not be limited to, provisions concerning:

1 (1) The solid waste charges received at the designated out-of-state
2 disposal site for solid waste disposal; and

3 (2) The formulas to be used to determine the charges, rates or fees
4 to be charged for solid waste disposal services, and the methodology
5 or methodologies used to develop these formulas.

6 b. Prior to the implementation of a contract for the use of a
7 designated out-of-state disposal site, the municipal governing body
8 shall notify all responsible solid waste generators and local solid waste
9 collectors of the applicable provisions thereof. In order to fulfill the
10 notification requirements of this subsection, the municipal governing
11 body may, in its discretion, place an advertisement in a newspaper
12 circulating in the municipality, post a notice in public places where
13 public notices are customarily posted, include a notice with other
14 official notifications periodically mailed to local taxpayers, or any
15 combination thereof, as the municipal governing body deems necessary
16 and appropriate. The contract may take effect 20 days thereafter.

17 c. A municipal governing body that has entered into a contract for
18 the use of a designated out-of-state disposal site shall submit a copy
19 thereof to the department for public inspection.

20 The commissioner shall maintain on file in the department for
21 public inspection a copy of any solid waste disposal contract received
22 by the department pursuant to this subsection. The department shall
23 provide a copy to any person upon request at a cost not to exceed the
24 cost of reproduction.

25
26 11. (New section) a. The provisions of any other law to the
27 contrary notwithstanding, every public authority and county is hereby
28 authorized to calculate, charge and collect environmental investment
29 charges to recover the environmental investment costs of the public
30 authority or county.

31 Environmental investment charges may be imposed and collected
32 by a public authority or county: (1) as the environmental investment
33 cost component of a consolidated bill comprised of solid waste
34 disposal charges and environmental investment charges collected from
35 users at the district solid waste facility; (2) as a separate bill to all
36 previous users of the district solid waste facility; (3) as a separate bill
37 to the constituent municipality or county for inclusion as an item in the
38 municipal budget or county budget, or any combination thereof, for
39 the payment of environmental investment costs; or (4) in any other
40 manner reasonably established by the public authority or county.

41 b. Every public authority may enter into an agreement with the
42 governing body of the county wherein the district solid waste facility
43 is located providing for the assumption by the county of the
44 responsibility for the collection of environmental investment charges.

45 c. Environmental investment charges may be collected by a public
46 authority or county, without limitation, from:

1 (1) every responsible solid waste generator included within the
2 jurisdiction of the public authority or county, regardless of whether a
3 particular responsible solid waste generator utilizes the district solid
4 waste facility for solid waste disposal, through the implementation of
5 a unit charge based upon: (a) the average annual amount of solid
6 waste generated by a particular responsible solid waste generator, as
7 measured in tons or cubic yards, during the previous five years; (b) the
8 average annual amount of solid waste accepted for disposal at the
9 district solid waste facility from a particular responsible solid waste
10 generator, as measured in tons or cubic yards, during the previous five
11 years; or (c) any other criteria reasonably established by the public
12 authority or county;

13 (2) every constituent municipality that utilizes or has previously
14 utilized the district solid waste facility, through the implementation of
15 an assessment against constituent municipalities based upon: (a) the
16 average annual aggregate amount of solid waste generated within the
17 boundaries of a particular constituent municipality from all sources of
18 generation, as measured in tons or cubic yards, during the previous
19 five years; (b) the average annual amount of solid waste accepted for
20 disposal at the district solid waste facility from all sources of
21 generation within the boundaries of a particular constituent
22 municipality, as measured in tons or cubic yards, during the previous
23 five years; or (c) any other criteria reasonably established by the public
24 authority or county; or

25 (3) the county wherein the district solid waste facility is located,
26 through the implementation of an assessment against the county based
27 upon: (a) the average annual aggregate amount of solid waste
28 generated within the boundaries of the county from all sources of
29 generation, as measured in tons or cubic yards, during the previous
30 five years; (b) the average annual amount of solid waste accepted for
31 disposal at the district solid waste facility from all sources of
32 generation within the boundaries of the county, as measured in tons or
33 cubic yards, during the previous five years; or (c) any other criteria
34 reasonably established by the public authority or county.

35 For the purposes of this subsection, "solid waste" means any
36 nonhazardous solid waste derived from all sources of generation
37 within a county or municipality, including Type 10 Municipal
38 (commercial, household or institutional); Type 13 Bulky waste; Type
39 13C Construction and demolition waste; Type 23 Vegetative waste;
40 Type 25 Animal and food processing wastes; and Type 27 Dry
41 industrial waste, all as identified and defined in rules and regulations
42 adopted by the department pursuant to the "Solid Waste Management
43 Act," P.L.1970, c.39 (C.13:1E-1 et seq.). As used herein, "Type 27
44 Dry industrial waste" shall not include the residue from the operations
45 of a scrap metal shredding facility; and "scrap metal shredding facility"
46 means a commercial industrial facility designed and operated for

1 receiving, storing, processing and transferring scrap automobiles,
2 appliances or other source separated, nonputrescible ferrous and
3 nonferrous metals, which materials are purchased by the owner or
4 operator thereof, and which are altered or reduced in volume or
5 physical characteristics onsite by mechanical methods, including but
6 not limited to baling, cutting, torching, crushing, or shredding, for the
7 purposes of resale for remelting, refining, smelting or remanufacturing
8 into raw materials or products.

9 d. A public authority or county that intends to establish a system
10 for the collection of environmental investment charges shall hold a
11 public hearing thereon at least 20 days after notice of the proposed
12 system has been mailed to the clerk of each constituent municipality
13 located within the boundaries of the county wherein the district solid
14 waste facility is located, and after publication of the notice of the
15 proposed system and the time and place of the public hearing in at
16 least two newspapers of general circulation within the county.

17 (1) The publication shall include notice of the date, time and place
18 of the public hearing, notice of the place at which written summaries
19 of the proposed system will be available for public inspection, and the
20 times during which such inspection will be permitted.

21 (2) At the public hearing, the public authority or county shall
22 explain the proposed billing mechanism for the collection of
23 environmental investment charges and shall answer questions raised by
24 prospective payers, including responsible solid waste generators,
25 constituent municipalities and other interested parties. The public
26 authority or county shall identify and explain during the public hearing
27 the environmental investment costs to be recovered through the
28 imposition and collection of environmental investment charges.

29 (3) The public authority or county shall produce a verbatim record
30 of the public hearing. The record of the public hearing shall be kept
31 open for a period of seven days following the conclusion of the
32 hearing, during which time interested parties may submit written
33 statements to be included in the hearing report. The public authority
34 or county shall prepare a written hearing report, which shall include a
35 written summary of the proposed system, the verbatim record of the
36 public hearing, written statements submitted by interested parties, and
37 a statement prepared by the public authority or county summarizing
38 the major issues raised at the public hearing and the public authority's
39 or county governing body's specific responses to those issues. The
40 public authority or county shall make copies of the hearing report
41 available to interested parties, upon request, at a cost not to exceed
42 the actual cost of printing or copying.

43 (4) The governing body of the public authority or county that
44 intends to establish a system for the collection of environmental
45 investment charges shall adopt a resolution establishing the proposed
46 system. The resolution may be introduced at the first meeting of the

1 governing body of the public authority or county held after the public
2 hearing on the proposed system, and shall acknowledge that the law
3 requires a public hearing to be held prior to the implementation of the
4 system pursuant to the provisions of section 14 of P.L. , c.
5 (C.) (pending in the Legislature as this bill).

6
7 12. (New section) a. Every public authority, or county that has
8 assumed responsibility for the collection of environmental investment
9 charges, as appropriate, may negotiate agreements on the preferred
10 billing mechanism for the collection of environmental investment
11 charges with the governing body of each constituent municipality. To
12 the maximum extent practicable, the public authority or county shall
13 employ a standardized billing mechanism.

14 b. Every public authority, or county that has assumed
15 responsibility for the collection of environmental investment charges,
16 as appropriate, may negotiate agreements on the preferred billing
17 mechanism for the collection of environmental investment charges with
18 all responsible solid waste generators and, as appropriate, the
19 governing body of the county.

20 c. Every public authority, or county that has assumed
21 responsibility for the collection of environmental investment charges,
22 as appropriate, shall, within six months of the effective date of P.L. ,
23 c. (C.) (pending in the Legislature as this bill), and at least
24 once every twelve months thereafter, submit a report to the Local
25 Finance Board related to environmental investment costs of the public
26 authority or county. The report shall summarize individual schedules
27 of outstanding debt related to the environmental investment costs
28 incurred by the public authority or county, including the status of:
29 installment requirements for the payment of interest and principal on
30 bonds; plans to refund or refinance bonds; an updated environmental
31 investment cost recovery analysis; proposed debt service coverage
32 options; and any other information that the Local Finance Board may
33 require.

34
35 13. (New section) a. The governing body of any constituent
36 municipality may negotiate an agreement with the public authority, or
37 county that has assumed responsibility for the collection of
38 environmental investment charges, as appropriate, on the preferred
39 billing mechanism for the collection of environmental investment
40 charges, or establish and implement a separate billing mechanism for
41 the collection of environmental investment charges. To the maximum
42 extent practicable, the governing body of the constituent municipality
43 and the public authority or county shall employ a standardized billing
44 mechanism.

45 b. (1) The governing body of a constituent municipality may, by
46 ordinance, determine the amount of money necessary for the collection

1 of environmental investment charges. Thereupon, the ordinance shall
2 provide that the amount so determined shall be assessed on the value
3 of all taxable property within the constituent municipality and
4 collected as taxes are collected and be controlled and expended by the
5 constituent municipality for the purposes herein specified. The
6 ordinance shall specify that any assessment made pursuant to this
7 subsection is to be used solely to provide for the collection of
8 environmental investment charges.

9 (2) The governing body of a constituent municipality adopting an
10 ordinance pursuant to paragraph (1) of this subsection shall order and
11 cause to be raised within the boundaries of the constituent municipality
12 sufficient money to provide for the payment of environmental
13 investment charges. The sum ordered to be raised shall be levied and
14 collected at the same time and in the same manner as other municipal
15 taxes, except that any tax levied and collected to provide for the
16 payment of environmental investment charges shall appear as a
17 separate item on the municipal tax bill. The collector shall pay the
18 same to the chief fiscal officer of the constituent municipality, to be
19 applied only to the purposes for which it is raised.

20 (3) All moneys assessed and levied pursuant to this subsection
21 shall be a lien upon the land against which they are assessed in the
22 same manner that taxes are made a lien against land pursuant to Title
23 54 of the Revised Statutes, and the payment thereof shall be enforced
24 within the same time and in the same manner and by the same
25 proceedings as the payment of taxes is otherwise provided under Title
26 54 of the Revised Statutes.

27
28 14. (New section) Upon the establishment of a system to
29 calculate, charge and collect environmental investment charges to
30 recover the environmental investment costs of the public authority or
31 county pursuant to section 11 of P.L. , c. (C.) (pending in
32 the Legislature as this bill), but prior to the implementation thereof,
33 the public authority or county shall hold a public hearing thereon at
34 least 20 days after notice of the proposed implementation has been
35 mailed to the clerk of each constituent municipality located within the
36 boundaries of the county wherein the district solid waste facility is
37 located, and after publication of the notice of the proposed
38 implementation and the time and place of the public hearing in at least
39 two newspapers of general circulation within the county.

40
41 15. (New section) The provisions of any other law to the contrary
42 notwithstanding, any person, public authority or county that entered
43 into an interdistrict agreement with another public authority or county
44 for the shared use of a district solid waste facility prior to the effective
45 date of P.L. , c. (C.) (pending in the Legislature as this bill)
46 may provide for a reduction of the solid waste charges due and

1 payable under the terms and conditions of the interdistrict agreement
2 for the out-of-county solid waste accepted for disposal at the district
3 solid waste facility from the sending public authority or county
4 whenever the sending public authority or county agrees to the payment
5 of environmental investment charges on a voluntary basis.

6
7 16. (New section) a. Environmental investment charges may be
8 collected by a public authority or county from any responsible solid
9 waste generator, constituent municipality or county enumerated in
10 subsection c. of section 11 of P.L. , c. (C.) (pending in the
11 Legislature as this bill) and the relevant responsible solid waste
12 generator, constituent municipality or county shall be liable for and
13 shall pay the environmental investment charges to the public authority
14 or county at the time when and place where the environmental
15 investment charges are due and payable.

16 b. In the event that the environmental investment charges of a
17 public authority or county with regard to any parcel of real property
18 owned by any person shall not be paid as and when due, the unpaid
19 balance thereof, and all interest accruing thereon, shall be a lien on the
20 parcel. The lien shall be superior and paramount to the interest in the
21 parcel of any owner, lessee, tenant, mortgagee or other person except
22 the lien of municipal taxes and shall be on a parity with and deemed
23 equal to the lien on the parcel of the municipality wherein the parcel
24 is situated for taxes thereon due in the same year and not paid as and
25 when due. Whenever the environmental investment charges, and any
26 interest accrued thereon, shall have been fully paid to the public
27 authority or county, the lien shall be promptly withdrawn or canceled
28 by the public authority or county.

29 The collector or other officer of every municipality charged by law
30 with the duty of enforcing municipal liens on real property shall
31 enforce, in the same manner as with any other municipal lien on real
32 property in the municipality, all environmental investment charges and
33 the lien thereof shown in any statement filed with the collector or
34 officer by a public authority or county pursuant to the provisions of
35 this subsection, and shall pay over to the public authority or county the
36 sums or a pro rata share of the sums realized upon the enforcement or
37 liquidation of any property acquired by the municipality by virtue of
38 the enforcement action.

39 In the event that the environmental investment charges of a public
40 authority or county shall not be paid as and when due, notwithstanding
41 any other remedies available to the public authority or county, the
42 unpaid balance thereof, and any interest accrued thereon, together with
43 attorney's fees and costs, may be recovered by the public authority or
44 county in a civil action, and any lien on real property for the
45 environmental investment charges, and any interest accrued thereon,
46 may be foreclosed or otherwise enforced by the public authority or

1 county by action or suit in equity as for the foreclosure of a mortgage
2 on the real property.

3 All rights and remedies provided in this subsection for the
4 collection and enforcement of environmental investment charges shall
5 be cumulative and concurrent.

6
7 17. (New section) Any public authority or county may establish
8 and implement a program for the inspection of all solid waste
9 collection activities or solid waste disposal operations and a program
10 to enforce the provisions of the system established pursuant to section
11 11 of P.L. , c. (C.)(pending in the Legislature as this bill)
12 for the collection of environmental investment charges, or the
13 provisions of any interdistrict agreement, municipal solid waste
14 services agreement, contract or instrument executed in connection
15 with the implementation of a district solid waste management plan or
16 use of any district solid waste facility.

17
18 18. (New section) Any public authority or county is authorized to
19 exercise the enforcement powers conferred on local boards of health
20 or county health departments pursuant to the provisions of the
21 "County Environmental Health Act," P.L.1977, c.443 (C.26:3A2-21
22 et seq.) and section 9 of P.L.1970, c.39 (C.13:1E-9), and may exercise
23 these powers directly in the manner provided by the aforementioned
24 acts to local boards of health or county health departments, for the
25 purposes of enforcing the provisions of the system established
26 pursuant to section 11 of P.L. , c. (C.)(pending in the
27 Legislature as this bill) for the collection of environmental investment
28 charges.

29
30 19. (New section) a. The provisions of any other law to the
31 contrary notwithstanding, any person, public authority or county may
32 enter into an interdistrict agreement with any other public authority or
33 county for the shared use of a district solid waste facility. Any
34 interdistrict agreement shall be reflected in the district solid waste
35 management plan adopted by the boards of chosen freeholders of each
36 county to be served under the terms and conditions of the proposed
37 interdistrict agreement.

38 b. The provisions of any other law to the contrary
39 notwithstanding, any county may negotiate with the owner or operator
40 of a district solid waste facility pursuant to the provisions of the
41 "Local Lands and Buildings Law," P.L.1971, c.199 (C.40A:12-1 et
42 seq.) for the acquisition by purchase of an interest in real property and
43 acquisition thereby of air rights for the disposal of solid waste
44 generated within the boundaries of the county for a period not to
45 exceed 20 years. After the acquisition by the county, the real property
46 interest shall be recorded in the manner required by law.

1 20. (New section) A public authority or county shall provide
2 public notice of any renegotiation of a contract previously awarded to
3 a qualified vendor pursuant to the provisions of P.L.1985, c.38
4 (C.13:1E-136 et al.) for the use of a resource recovery facility or the
5 provision of resource recovery services.

6 a. Upon the renegotiation of a contract previously awarded to a
7 qualified vendor pursuant to the provisions of P.L.1985, c.38
8 (C.13:1E-136 et al.), but prior to the implementation thereof, the
9 public authority or county shall notify all responsible solid waste
10 generators within the boundaries of each county to be served under the
11 terms and conditions of the renegotiated contract. In order to fulfill
12 the notification requirements of this subsection, the public authority or
13 county shall publish a notice for two consecutive weeks in at least one
14 newspaper of general circulation in each county to be served under the
15 terms and conditions of the renegotiated contract. The renegotiated
16 contract may take effect 20 days thereafter.

17 b. Any public authority or county that has renegotiated a contract
18 previously awarded to a qualified vendor pursuant to the provisions of
19 P.L.1985, c.38 (C.13:1E-136 et al.) shall submit a copy thereof to the
20 department for public inspection.

21
22 21. (New section) The commissioner shall maintain on file in the
23 department for public inspection copies of any renegotiated contract
24 received by the department pursuant to the provisions of
25 section 20 of P.L. , c. (C.) (now before the Legislature as this
26 bill). The department shall provide a copy of the renegotiated contract
27 to any person upon request at a cost not to exceed the cost of
28 reproduction.

29
30 22. Section 12 of P.L.1970, c.33 (C.13:1D-9) is amended to read
31 as follows:

32 12. The department shall formulate comprehensive policies for the
33 conservation of the natural resources of the State, the promotion of
34 environmental protection and the prevention of pollution of the
35 environment of the State. The department shall in addition to the
36 powers and duties vested in it by this act or by any other law have the
37 power to:

38 a. Conduct and supervise research programs for the purpose of
39 determining the causes, effects and hazards to the environment and its
40 ecology;

41 b. Conduct and supervise Statewide programs of education,
42 including the preparation and distribution of information relating to
43 conservation, environmental protection and ecology;

44 c. Require the registration of persons engaged in operations which
45 may result in pollution of the environment and the filing of reports by
46 them containing such information as the department may prescribe to

- 1 be filed relative to pollution of the environment, all in accordance with
2 applicable codes, rules or regulations established by the department;
- 3 d. Enter and inspect any building or place for the purpose of
4 investigating an actual or suspected source of pollution of the
5 environment and ascertaining compliance or noncompliance with any
6 codes, rules and regulations of the department. Any information
7 relating to secret processes concerning methods of manufacture or
8 production, obtained in the course of such inspection, investigation or
9 determination, shall be kept confidential, except this information shall
10 be available to the department for use, when relevant, in any
11 administrative or judicial proceedings undertaken to administer,
12 implement, and enforce State environmental law, but shall remain
13 subject only to those confidentiality protections otherwise afforded by
14 federal law and by the specific State environmental laws and
15 regulations that the department is administering, implementing and
16 enforcing in that particular case or instance. In addition, this
17 information shall be available upon request to the United States
18 Government for use in administering, implementing, and enforcing
19 federal environmental law, but shall remain subject to the
20 confidentiality protection afforded by federal law. If samples are taken
21 for analysis, a duplicate of the analytical report shall be furnished
22 promptly to the person suspected of causing pollution of the
23 environment;
- 24 e. Receive or initiate complaints of pollution of the environment,
25 including thermal pollution, hold hearings in connection therewith and
26 institute legal proceedings for the prevention of pollution of the
27 environment and abatement of nuisances in connection therewith and
28 shall have the authority to seek and obtain injunctive relief and the
29 recovery of fines and penalties in summary proceedings in the Superior
30 Court;
- 31 f. Prepare, administer and supervise Statewide, regional and local
32 programs of conservation and environmental protection, giving due
33 regard for the ecology of the varied areas of the State and the
34 relationship thereof to the environment, and in connection therewith
35 prepare and make available to appropriate agencies in the State
36 technical information concerning conservation and environmental
37 protection, cooperate with the Commissioner of Health in the
38 preparation and distribution of environmental protection and health
39 bulletins for the purpose of educating the public, and cooperate with
40 the Commissioner of Health in the preparation of a program of
41 environmental protection;
- 42 g. Encourage, direct and aid in coordinating State, regional and
43 local plans and programs concerning conservation and environmental
44 protection in accordance with a unified Statewide plan which shall be
45 formulated, approved and supervised by the department. In reviewing
46 such plans and programs and in determining conditions under which

1 such plans may be approved, the department shall give due
2 consideration to the development of a comprehensive ecological and
3 environmental plan in order to be assured insofar as is practicable that
4 all proposed plans and programs shall conform to reasonably
5 contemplated conservation and environmental protection plans for the
6 State and the varied areas thereof;

7 h. Administer or supervise programs of conservation and
8 environmental protection, prescribe the minimum qualifications of all
9 persons engaged in official environmental protection work, and
10 encourage and aid in coordinating local environmental protection
11 services;

12 i. Establish and maintain adequate bacteriological, radiological and
13 chemical laboratories with such expert assistance and such facilities as
14 are necessary for routine examinations and analyses, and for original
15 investigations and research in matters affecting the environment and
16 ecology;

17 j. Administer or supervise a program of industrial planning for
18 environmental protection; encourage industrial plants in the State to
19 undertake environmental and ecological engineering programs; and
20 cooperate with the State Departments of Health, Labor, and
21 Commerce and Economic Development in formulating rules and
22 regulations concerning industrial sanitary conditions;

23 k. Supervise sanitary engineering facilities and projects within the
24 State, authority for which is now or may hereafter be vested by law in
25 the department, and shall, in the exercise of such supervision, make
26 and enforce rules and regulations concerning plans and specifications,
27 or either, for the construction, improvement, alteration or operation
28 of all public water supplies, all public bathing places, landfill
29 operations and of sewerage systems and disposal plants for treatment
30 of sewage, wastes and other deleterious matter, liquid, solid or
31 gaseous, require all such plans or specifications, or either, to be first
32 approved by it before any work thereunder shall be commenced,
33 inspect all such projects during the progress thereof and enforce
34 compliance with such approved plans and specifications;

35 l. Undertake programs of research and development for the
36 purpose of determining the most efficient, sanitary and economical
37 ways of collecting, disposing, recycling or utilizing of solid waste;

38 m. [Construct and operate, on an experimental basis, incinerators
39 or other facilities for the disposal of solid waste, provide the various
40 municipalities and counties of this State, the Board of Public Utilities,
41 and the Division of Local Government Services in the Department of
42 Community Affairs with statistical data on costs and methods of solid
43 waste collection, disposal and utilization;] (deleted by amendment,
44 P.L. , c.)

45 n. Enforce the State air pollution, water pollution, conservation,
46 environmental protection, solid and hazardous waste [and refuse

- 1 disposal] management laws, rules and regulations, including the
2 making and signing of a complaint and summons for their violation by
3 serving the summons upon the violator and thereafter filing the
4 complaint promptly with a court having jurisdiction;
- 5 o. [Acquire by purchase, grant, contract or condemnation, title to
6 real property, for the purpose of demonstrating new methods and
7 techniques for the collection or disposal of solid waste;] (deleted by
8 amendment, P.L. , c.)
- 9 p. Purchase, operate and maintain, pursuant to the provisions of
10 this act, any facility, site, laboratory, equipment or machinery
11 necessary to the performance of its duties pursuant to this act;
- 12 q. Contract with any other public agency or corporation
13 incorporated under the laws of this or any other state for the
14 performance of any function under this act;
- 15 r. With the approval of the Governor, cooperate with, apply for,
16 receive and expend funds from, the federal government, the State
17 Government, or any county or municipal government or from any
18 public or private sources for any of the objects of this act;
- 19 s. Make annual and such other reports as it may deem proper to
20 the Governor and the Legislature, evaluating the demonstrations
21 conducted during each calendar year;
- 22 t. Keep complete and accurate minutes of all hearings held before
23 the commissioner or any member of the department pursuant to the
24 provisions of this act. All such minutes shall be retained in a permanent
25 record, and shall be available for public inspection at all times during
26 the office hours of the department;
- 27 u. Require any person subject to a lawful order of the department,
28 which provides for a period of time during which such person subject
29 to the order is permitted to correct a violation, to post a performance
30 bond or other security with the department in such form and amount
31 as shall be determined by the department. Such bond need not be for
32 the full amount of the estimated cost to correct the violation but may
33 be in such amount as will tend to insure good faith compliance with
34 said order. The department shall not require such a bond or security
35 from any public body, agency or authority. In the event of a failure to
36 meet the schedule prescribed by the department, the sum named in the
37 bond or other security shall be forfeited unless the department shall
38 find that the failure is excusable in whole or in part for good cause
39 shown, in which case the department shall determine what amount of
40 said bond or security, if any, is a reasonable forfeiture under the
41 circumstances. Any amount so forfeited shall be utilized by the
42 department for the correction of the violation or violations, or for any

1 other action required to insure compliance with the order.
2 (cf: P.L.1984, c.5, s.1)

3
4 23. Section 2 of P.L.1970, c.39 (C.13:1E-2) is amended to read
5 as follows:

6 2. [a.] The Legislature finds that the collection, disposal and
7 utilization of solid waste is a matter of grave concern to all citizens
8 and is an activity thoroughly affected with the public interest; that the
9 health, safety and welfare of the people and quality of natural
10 resources of this State require efficient and reasonable solid waste
11 collection and disposal service [or] and efficient utilization of [such]
12 solid waste; that the management of solid waste in New Jersey
13 [consists] , historically, consisted largely of piecemeal, uncoordinated
14 activities developed to meet the immediate needs of local governments
15 with little, if any, regard for regional planning and coordination; that
16 local units of government acting on their own, despite the most
17 dedicated and sincere efforts, [lack] lacked the financial resources,
18 scope of alternatives and expertise to plan, develop and implement
19 efficient and effective solutions to their solid waste problems; and that,
20 for the most part, the solid waste planning and management process
21 [is] was adversely affected by the absence of area-wide structures, the
22 limitations of local initiative, the general inadequacy of State technical
23 assistance, the paucity of State grants for solid waste experimentation,
24 the failure of the State to establish guidelines for the preparation of
25 county and intercounty plans, and the failure to implement county and
26 intercounty solid waste collection, disposal and utilization operations.

27 The Legislature further finds that recycling, beneficial use, and the
28 source separation of waste materials are an integral part of the State's
29 solid waste management program and that these solid waste
30 management strategies have not only substantially conserved solid
31 waste disposal capacity and natural resources, but have contributed to
32 the State's economy through the development of many jobs, small
33 businesses and the stimulation and commercialization of innovative
34 technologies.

35 [b.] The Legislature, therefore, [declares that it is the policy of
36 this State] enacted the "Solid Waste Management Act," P.L.1970, c.39
37 (C.13:1E-1 et seq.) to:

38 (1) Establish a statutory framework within which all solid waste
39 collection, disposal and utilization activity in this State may be
40 coordinated;

41 (2) Designate each county in this State and the Hackensack
42 Meadowlands District as a Solid Waste Management District, and
43 [provide] require each county and the Hackensack Meadowlands
44 Development Commission [with the power,] either singly or jointly
45 with one or more other districts, to develop and implement a
46 comprehensive district solid waste management plan which meets the

1 needs of every municipality within each [such] county and within the
2 Hackensack Meadowlands District;

3 (3) Provide citizens and municipalities with opportunities to
4 contribute to the development and implementation of Statewide and
5 district solid waste management plans by requiring public hearings
6 prior to their adoption and by the creation of advisory solid waste
7 councils;

8 (4) Protect the bondholders of the [several incinerator authorities,
9 solid waste management authorities, municipal public utility
10 authorities, county improvement authorities, and other] various public
11 authorities concerned with solid waste management functions and solid
12 waste facilities, while coordinating their activities under Statewide and
13 district solid waste management plans;

14 (5) Expand and strengthen the existing relationships between the
15 solid waste industry, representing the free enterprise system and the
16 public sector, including the State and municipal governments and the
17 districts established by this act, in order that both may most effectively
18 contribute to an efficient and economical solution to the problem of
19 solid waste management and to take into account the long term
20 financial commitments entered into by the private sector, counties and
21 public authorities in the acquisition, construction and operation of
22 solid waste facilities [and to recognize, through the Public Utilities
23 Commission the added cost of compliance with environmental
24 standards by the provision of equitable rate increases];

25 (6) Establish a meaningful and responsible role for the State in the
26 solution of solid waste management problems by granting the
27 Department of Environmental Protection and the Solid Waste
28 Advisory Council the power, not only to regulate and supervise all
29 solid waste collection [and disposal] activities, solid waste facilities
30 and disposal operations and to register all persons engaged in the
31 collection or disposal of solid waste in this State, but also to develop
32 through a Statewide solid waste management plan objectives, criteria
33 and procedures to assure the orderly preparation and evaluation of the
34 district solid waste management plans developed by every solid waste
35 management district, and to approve, modify, or reject [such] district
36 solid waste management plans on the basis of their conformity with
37 [such] these objectives, criteria and procedures, to develop and
38 implement [such] a district solid waste management plan where none
39 is approved or forthcoming from [any solid waste management] a
40 particular district, to arbitrate disputes between solid waste
41 management districts in the development and implementation of
42 district solid waste management plans, to utilize the funds received by
43 the department from registration fees and [such] any other funds as
44 may be from time to time appropriated to it to [support and undertake
45 experimental projects and programs of research and development to
46 determine the most efficient, sanitary and economical ways of

1 collecting, disposing, limiting and utilizing solid waste, to grant funds
2 to the districts for the formulation and development of solid waste
3 management plans, and to take such other actions in accordance with]
4 implement the policies and programs set forth in this act, all in the
5 manner and extent hereinafter provided;

6 (7) [Encourage resource recovery through the development of
7 systems to collect, separate, recycle and recover metals, glass, paper
8 and other] Maintain a commitment by the State and local governments
9 to the recycling of waste materials [of value for] by continuing and
10 expanding programs for the source separation, collection, marketing,
11 recycling, and beneficial reuse [or for energy production] of waste
12 materials.

13 [c.] The Legislature [recognizes that solid waste and recycling
14 facilities will be financed through long term borrowing which requires
15 the negotiation of long term contracts with municipalities and other
16 solid waste collectors to guarantee the flow of solid waste to such
17 facilities. The Legislature, however, does not intend to encourage or
18 permit the public entity, or its designees, that holds these contracts to
19 establish or charge rates to municipalities or other solid waste
20 collectors within its jurisdiction which discriminate on the basis of the
21 cost of disposal at a particular facility which has been designated as
22 the place of disposal for the solid waste of such municipality or other
23 solid waste collector pursuant to an approved solid waste
24 management plan for that district] affirms the continuing role of the
25 Department of Environmental Protection as hereinbefore set forth and
26 therefore determines that it is the public policy of the State of New
27 Jersey to ensure that activities related to solid waste disposal are
28 conducted in a way as to minimize negative impacts to public health
29 attributable to poor air quality and that the natural resources of this
30 State are protected from pollution; in particular, the Legislature
31 determines that the transportation of solid waste must be accomplished
32 in a way as to ensure that no undue air pollution is generated thereby,
33 and that solid waste facilities continue to operate in an efficient, safe
34 and environmentally-sound manner.

35 The Legislature further finds and declares that in furtherance of
36 State mandates, each county or public authority has entered into
37 contracts, acquired real and personal property, incurred administrative
38 and other operating expenses, and issued debt obligations, and the
39 Department of Environmental Protection has issued waste flow orders
40 requiring constituent municipalities and local haulers to use designated
41 in-county solid waste facilities for solid waste processing or disposal,
42 all in furtherance of district solid waste management plan
43 implementation.

44 The Legislature further finds and declares that the ability of each
45 county or public authority to fulfill its lawful responsibilities with
46 respect to district solid waste management plan implementation,

1 including the ability to raise revenues sufficient to provide funds for
2 payment of the costs of developing self-sufficient solid waste
3 management systems, has been predicated on its legal authority to
4 direct the flow of solid waste generated within the geographic
5 boundaries of the county to designated solid waste facilities, thereby
6 ensuring the economic viability of these facilities; and that waste flow
7 control by counties and public authorities has been supported by
8 statute, rules and regulations adopted by the Department of
9 Environmental Protection and franchises awarded by the Board of
10 Public Utilities, and was upheld as a valid exercise of State power by
11 the federal courts in J. Filberto Sanitation, Inc. v. New Jersey Dept. of
12 Envtl. Protection.

13 The Legislature further finds and declares that in the case of C &
14 A Carbone, Inc. v. Town of Clarkstown, N.Y. the U.S. Supreme Court
15 held that the challenged ordinance, which mandated that haulers use
16 the facility designated by the town for solid waste processing and
17 disposal, impermissibly discriminated against interstate commerce in
18 violation of the U.S. Constitution; that the holding in Carbone was
19 subsequently interpreted by the appellate court in Atlantic Coast
20 Demolition & Recycling, Inc., et al. v. Board of Chosen Freeholders
21 of Atlantic County et al. to require reversal of the prior ruling in J.
22 Filberto Sanitation; on July 15, 1996, the U.S. District Court for the
23 district of New Jersey in its Atlantic Coast decision invalidated New
24 Jersey's waste flow rules to the extent that they discriminate against
25 interstate commerce; and that on May 1, 1997, the U.S. Court of
26 Appeals in its second Atlantic Coast decision affirmed the district
27 court's findings that New Jersey's waste flow laws, rules and
28 regulations are unconstitutional insofar as they discriminate against
29 out-of-state solid waste facilities, while rejecting its two-year post-
30 appeal stay, thereby affording the State, counties and public authorities
31 a limited interval within which to implement a constitutionally
32 acceptable system for solid waste management.

33 The Legislature further finds that in the Waste Management of
34 Pennsylvania, Inc. v. Shinn decision, the U.S. District Court for the
35 district of New Jersey determined that the self-sufficiency goals used
36 by the Department of Environmental Protection in the evaluation of
37 contracts for long-term disposal of the State's solid waste
38 impermissibly discriminated against interstate commerce in violation
39 of the U.S. Constitution.

40 The Legislature further finds and declares that counties and public
41 authorities must be able, under all circumstances, to collect revenues
42 sufficient to recover the environmental investment costs incurred in
43 developing and implementing State-mandated district solid waste
44 management plans, whether through the acquisition, construction and
45 operation of solid waste facilities or through execution of interdistrict
46 agreements or implementation of solid waste disposal or recycling

1 programs.

2 The Legislature therefore determines that it is the public policy of
3 the State of New Jersey to authorize and empower every county and
4 public authority to establish and implement a program to recover the
5 environmental investment costs associated with developing and
6 implementing solid waste management systems, including debt service
7 on bonds, or payment for solid waste disposal or recycling services
8 under lawfully executed contracts or agreements; and that it is
9 necessary to revise the solid waste management statutes to reflect
10 these changes, all as hereinafter provided.

11 (cf: P.L.1975, c.326, s.3)

12

13 24. Section 3 of P.L.1970, c.39 (C.13:1E-3) is amended to read
14 as follows:

15 3. [For purposes of this act, unless the context clearly requires a
16 different meaning] As used in this act:

17 [a.] "Solid waste" means garbage, refuse, and other discarded
18 materials resulting from industrial, commercial and agricultural
19 operations, and from domestic and community activities, and shall
20 include all other waste materials including liquids, except for [solid
21 animal and vegetable wastes] source separated recyclable materials or
22 source separated food waste collected by [swine] livestock producers
23 [licensed] approved by the State Department of Agriculture to collect,
24 prepare and feed such wastes to [swine] livestock on their own farms.

25 [b.] "Solid waste collection" means the activity related to pick-up
26 and transportation of solid waste from its source or location to a
27 [transfer station or other authorized] solid waste facility or other
28 destination.

29 [c.] "Disposal" means the storage, treatment, utilization,
30 processing, resource recovery of, or the discharge, deposit, injection,
31 dumping, spilling, leaking or placing of any solid or hazardous waste
32 into or on any land or water, so that the solid or hazardous waste or
33 any constituent thereof may enter the environment or be emitted into
34 the air or discharged into any waters, including groundwaters.

35 [d.] "Solid waste management" includes all activities related to the
36 collection [and] or disposal of solid waste by any person engaging in
37 any such process.

38 "Business concern" means any corporation, association, firm,
39 partnership, sole proprietorship, trust or other form of commercial
40 organization.

41 "Constituent municipality" means any municipality located within
42 the territorial boundaries of a county; any municipality located within
43 the territorial boundaries of a county that has created a public
44 authority; any municipality included within the jurisdiction of a public
45 authority pursuant to law; or any combination thereof.

46 [e.] "Council" means the Advisory Council on Solid Waste

1 Management.

2 [f.] "Department" means the State Department of Environmental
3 Protection.

4 "District solid waste facility" means a solid waste facility that is
5 designated by a public authority or county in its adopted district solid
6 waste management plan as approved by the department prior to the
7 effective date of P.L. , c. (C.) (pending in the Legislature
8 as this bill) as the in-county facility to which solid waste generated
9 within the boundaries of the county is transported for final disposal, or
10 transfer for transportation to an offsite solid waste facility or
11 designated out-of-state disposal site for disposal, as appropriate.

12 [g.] "Commissioner" means the Commissioner of Environmental
13 Protection in the State Department of Environmental Protection.

14 [h.] "Solid waste facilities" [mean] means and [include] includes
15 the plants, structures and other real and personal property acquired,
16 constructed or operated or to be acquired, constructed or operated by,
17 or on behalf of, any person, public authority or county pursuant to the
18 provisions of P.L.1970, c.39 (C.13:1E-1 et seq.)[, P.L.1970, c.40
19 (C.48:13A-1 et seq.)] or any other act, including transfer stations,
20 incinerators, resource recovery facilities, sanitary landfill facilities or
21 other plants for the disposal of solid waste, and all vehicles, equipment
22 and other real and personal property and rights therein and
23 appurtenances necessary or useful and convenient for the collection or
24 disposal of solid waste in a sanitary manner.

25 "Person" means any individual or business concern.

26 [i.] "Public authority" means [any solid waste management
27 authority created pursuant to the "solid waste management authorities
28 law," P.L.1968, c.249 (C.40:66A-32 et seq.);] a municipal or county
29 utilities authority created pursuant to the "municipal and county
30 utilities authorities law," P.L.1957, c.183 (C.40:14B-1 et seq.);
31 [incinerator authority created pursuant to the "incinerator authorities
32 law," P.L.1948, c.348 (C.40:66A-1 et seq.);] a county improvement
33 authority created pursuant to the "county improvement authorities
34 law," P.L.1960, c.183 (C.40:37A-44 et seq.)[,] ; a pollution control
35 financing authority created pursuant to the "New Jersey Pollution
36 Control Financing Law," P.L.1973, c.376 (C.40:37C-1 et seq.); or any
37 other public body corporate and politic created for solid waste
38 management purposes in any county [or municipality], pursuant to the
39 provisions of any law.

40 [j.] "Hackensack Meadowlands District" means the area within the
41 jurisdiction of the Hackensack Meadowlands Development
42 Commission created pursuant to the provisions of the "Hackensack
43 Meadowlands Reclamation and Development Act," P.L.1968, c.404
44 (C.13:17-1 et seq.).

45 [k.] "Hackensack Commission" means the Hackensack
46 Meadowlands Development Commission created pursuant to the

1 provisions of the "Hackensack Meadowlands Reclamation and
2 Development Act," P.L.1968, c.404 (C.13:17-1 et seq.).

3 [l. (Deleted by amendment, P.L.1990, c.113)

4 m. (Deleted by amendment, P.L.1990, c.113)

5 n.] "Public sewage treatment plant" means any structure or
6 structures required to be approved by the department pursuant to
7 P.L.1977, c.224 (C.58:12A-1 et seq.) or P.L.1977, c.74 (C.58:10A-1
8 et seq.), by means of which domestic wastes are subjected to any
9 artificial process in order to remove or so alter constituents as to
10 render the waste less offensive or dangerous to the public health,
11 comfort or property of any of the inhabitants of this State, before the
12 discharge of the plant effluent into any of the waters of this State; this
13 definition includes plants for the treatment of industrial wastes, as well
14 as a combination of domestic and industrial wastes.

15 "Recyclable material" means those materials which would
16 otherwise become solid waste, and which may be collected, separated
17 or processed and returned to the economic mainstream in the form of
18 raw materials or products.

19 "Recycling" means any process by which materials which would
20 otherwise become solid waste are collected, separated or processed
21 and returned to the economic mainstream in the form of raw materials
22 or products.

23 [o.] "Resource recovery" means the collection, separation,
24 recycling and recovery of metals, glass, paper and other materials for
25 reuse; or the incineration of solid waste for energy production and the
26 recovery of metals and other materials for reuse.

27 "Resource recovery facility" means a solid waste facility
28 constructed and operated for the incineration of solid waste for energy
29 production and the recovery of metals and other materials for reuse;
30 or a mechanized composting facility, or any other solid waste facility.

31 [p. (Deleted by amendment, P.L.1990, c.113)

32 q.] "Sanitary landfill facility" means a solid waste facility at which
33 solid waste is deposited on or in the land as fill for the purpose of
34 permanent disposal or storage for a period exceeding six months,
35 except that it shall not include any waste facility approved for disposal
36 of hazardous waste.

37 "Source separated recyclable materials" means recyclable materials
38 which are separated at the point of generation by the generator thereof
39 from solid waste for the purposes of recycling.

40 "Source separation" or "source separated" means the process by
41 which recyclable materials are separated at the point of generation by
42 the generator thereof from solid waste for the purposes of recycling.

43 [r.] "Transfer station" means a solid waste facility at which solid
44 waste is transferred from a solid waste collection vehicle to a
45 [licensed] registered solid waste haulage vehicle, including a rail car,
46 for transportation to an offsite sanitary landfill facility, resource

1 recovery facility, or [other destination] designated out-of-state
2 disposal site for disposal[, except that a "transfer station" shall not
3 include any solid waste facility at which solid waste is received for
4 onsite transfer, and processing or disposal utilizing facility-owned or
5 operated equipment and vehicles operated therefor].

6 (cf: P.L.1990, c.113, s.4)

7

8 25. Section 4 of P.L.1970, c.39 (C.13:1E-4) is amended to read
9 as follows:

10 4. a. The department shall have power to supervise solid waste
11 collection activities, solid waste facilities and disposal [facilities or]
12 operations, and shall in the exercise of such supervision require the
13 registration of new and existing solid waste collection activities, solid
14 waste facilities and disposal [facilities and] operations; and may
15 exempt from the requirement of registration any class of solid waste
16 collection activity, solid waste facility or disposal [facility or]
17 operation.

18 b. The department in reviewing the registration statement for a
19 new solid waste collection [operation] activity or solid waste
20 [disposal] facility or disposal operation and in determining the
21 conditions under which it may be approved, shall not approve the
22 registration of any new [operation or facility] solid waste collection
23 activity or solid waste facility or disposal operation that does not
24 conform to the district solid waste management plan of the solid waste
25 management district in which [such operation or facility] the solid
26 waste collection activity or solid waste facility or disposal operation
27 is to be located, as [such] the district plan shall have been approved by
28 the department as hereinafter provided. [Prior to the approval by the
29 department of the solid waste management plan of any solid waste
30 management district, the department may grant approval to any new
31 solid waste collection or disposal operation or facility planned to be
32 located in any such district and that district shall include said operation
33 or facility in its plan.]

34 (cf: P.L.1975, c.326, s.5)

35

36 26. Section 5 of P.L.1970, c.39 (C.13:1E-5) is amended to read
37 as follows:

38 5. a. Unless exempted by the department, no person shall
39 hereafter engage or continue to engage in the collection or disposal of
40 solid waste in this State without first filing a registration statement and
41 obtaining approval thereof from the department. A person engaging
42 in solid waste disposal shall file a separate registration statement and
43 an engineering design for each [disposal] solid waste facility which he
44 operates. [The registration statement and engineering design for each
45 disposal facility and approval of same shall be for the duration of the
46 plan.]

1 b. The registration statement and the engineering design shall be
2 made on forms provided by the department and shall contain such
3 information as may be prescribed by the department. The State and
4 any of its political subdivisions, public agencies and public authorities
5 shall be deemed a person within the meaning of [this act] P.L.1970,
6 c.39 (C.13:1E-1 et seq.).

7 c. No registration shall be approved by the department when in the
8 opinion of the department [such] the solid waste collection activity or
9 [disposal] solid waste facility or disposal operation will not meet the
10 standards or criteria set forth in [this amendatory and supplementary
11 act] P.L.1970, c.39 (C.13:1E-1 et seq.) or in rules or regulations as
12 may be [promulgated under authority of this act or this amendatory
13 and supplementary act] adopted pursuant thereto. The department
14 may require the amendment of an approved registration when, in its
15 opinion, continued operation of a solid waste facility in accordance
16 with its approved registration would not meet the standards, criteria
17 or regulations described herein.
18 (cf: P.L.1975, c.326, s.6)

19

20 27. Section 1 of P.L.1983, c.464 (C.13:1E-5.1) is amended to
21 read as follows:

22 1. In addition to all other standards, conditions and procedures
23 required pursuant to law for the approval of applications for
24 registration statements and engineering designs for new solid waste
25 [disposal] facilities:

26 a. The department shall transmit, by certified mail, a complete
27 copy of any application for a registration statement or engineering
28 design approval for a new solid waste [disposal] facility to the
29 governing body of the affected municipality;

30 b. Within 6 months of the receipt of a complete application, the
31 department shall reject the application or grant tentative approval
32 thereof, which tentative approval shall establish design and operating
33 conditions for the proposed solid waste [disposal] facility,
34 requirements for the monitoring thereof, and any other conditions
35 required under federal or State laws or rules and regulations;

36 c. All tentative approvals of applications granted pursuant to
37 subsection b. of this section shall be transmitted to the applicant and
38 to the affected municipality and shall be accompanied by a fact sheet
39 setting forth the principal facts and the significant factual, legal,
40 methodological, and policy questions considered in granting the
41 tentative approval. The fact sheet shall include a description of the
42 solid waste facility which is the subject of the tentative approval; the
43 type and quantities of solid waste [or sludge] which may be disposed
44 of at the proposed solid waste facility; and a brief summary of the
45 basis for the conditions of the tentative approval; and

46 d. Within 45 days of the granting of a tentative approval of an

1 application, a public hearing on the proposed solid waste facility and
2 operator shall be conducted by the department. The department shall
3 adopt [and promulgate] rules and regulations necessary to ensure that
4 the public hearing is full and impartial and that the applicant is present
5 to answer questions relating to the proposed solid waste facility which
6 are posed by interested parties.

7 e. In the event that any application review by the department
8 pursuant to this section is for a registration statement and engineering
9 design approval for a proposed solid waste facility on a site located
10 in more than one municipality, the notices required herein shall be
11 transmitted to each affected municipality, and all of the affected
12 municipalities shall be considered a single party for the purposes of the
13 public hearing held concerning the application.

14 (cf: P.L.1983, c.464, s.1)

15
16 28. Section 6 of P.L.1970, c.39 (C.13:1E-6) is amended to read
17 as follows:

18 6. a. The department shall [, in addition to such other powers as
19 it may possess by law]:

20 (1) Undertake a program of research and development for the
21 purpose of determining the most efficient, sanitary,
22 environmentally-sound and economical way of collecting, disposing
23 [and], utilizing or recycling solid waste.

24 (2) Formulate and [promulgate] adopt, amend and repeal codes,
25 rules and regulations concerning solid waste collection and solid waste
26 disposal activities. [Such] These codes, rules and regulations shall
27 establish the procedures relating to the preparation and submission of
28 environmental impact statements prior to the construction, acquisition,
29 or operation of any solid waste facility, and shall establish standards
30 for the construction and operation of solid waste facilities, which
31 standards shall include, but need not be limited to, provisions
32 requiring: the maintenance of ground water quality monitoring wells
33 to check water pollution; periodic monitoring of water quality by
34 chemical analysis; measures to monitor methane gas production at
35 sanitary [landfills] landfill facilities; plans for erosion control;
36 revegetation procedures and plans for the maintenance, upkeep, and
37 reuse of any [sanitary] landfill site; adequate cover material; safety
38 measures; rodent, insect, bird, dust, fire and odor control programs;
39 and such other measures as shall be deemed necessary to protect the
40 public health and safety and the natural environment.

41 All codes, rules and regulations heretofore adopted by the Public
42 Health Council relating to refuse disposal shall continue in full force
43 and effect and be enforceable by the department, subject to its power
44 as herein provided to amend or repeal the same.

45 (3) Develop, formulate, [promulgate] adopt and review for the
46 purpose of revising or updating not less than once every 2 years, a

1 Statewide solid waste management plan which shall not discriminate
2 against the utilization of an out-of-state disposal site by a district or
3 constituent municipality for the disposal of solid waste, provided that
4 the relevant public authority, county or municipality produce evidence
5 that the designated disposal site is permitted by the appropriate state
6 regulatory agency having jurisdiction over solid waste management to
7 accept solid waste for disposal and is in compliance with all relevant
8 Federal or state laws, rules or regulations, but shall encourage the
9 maximum practicable use of [resource recovery procedures] all
10 existing district solid waste facilities and which shall provide the
11 objectives, criteria and standards for the evaluation of district solid
12 waste management plans prepared pursuant to the provisions of [this
13 amendatory and supplementary act] P.L.1970, c.39 (C.13:1E-1 et
14 seq.) for solid waste management districts in this State; and to the
15 extent practicable, encourage and assist in the development and
16 formulation of [such] district solid waste management plans and
17 guidelines to implement such plans. [Such objectives, criteria and
18 standards shall be promulgated within 180 days of the effective date
19 of this act; provided, however, that general guidelines sufficient to
20 initiate the solid waste management planning process by solid waste
21 management districts in this State shall be promulgated within 30 days
22 of the effective date of this act.] In the development and formulation
23 of the Statewide solid waste management plan the department shall
24 consult with relevant agencies and instrumentalities of the Federal
25 Government, and the aforesaid objectives, criteria and standards
26 provided by said Statewide solid waste management plan shall
27 conform, to the extent practicable, or as may be required, to the
28 provisions of any Federal law concerning such objectives, criteria and
29 standards.

30 (4) Make an annual report to the Governor and the Legislature
31 evaluating the operation of [this amendatory and supplementary act]
32 P.L.1970, c.39 (C.13:1E-1 et seq.), including any recommendations
33 deemed necessary by the department to better effectuate the purposes
34 hereof.

35 b. The department may, in addition:

36 (1) [Order any district, pursuant to the Statewide solid waste
37 management plan, the objectives, criteria and standards contained
38 therein, the environmental and economic studies conducted by the
39 department therefor and in a manner designed to enhance the
40 environment within the concerned districts, (a) to plan for the
41 construction of resource recovery facilities, (b) to specify what
42 processes should be utilized therein, (c) to develop a joint program
43 with one or more adjacent districts for providing resource recovery
44 facilities, and (d) for those districts affected by the guarantee provided
45 in section 9.1 of P.L.1968, c.404 (C.13:17-10), to cooperate on a
46 continuing basis with the department and with the other districts so

1 affected in the development of a combined approach to solid waste
2 management in northeastern New Jersey and make the final
3 determination in the event of any overlap or conflict between the
4 Hackensack Commission and any board of chosen freeholders pursuant
5 to their respective responsibilities under this amendatory and
6 supplementary act or pursuant to the Hackensack Commission's
7 responsibilities under P.L.1968, c.404 (C.13:17-1 et seq.].] (Deleted
8 by amendment, P.L. , c.)

9 (2) [Acquire, by purchase, grant, contract or condemnation, title
10 to real property, for the purpose of demonstrating new methods and
11 techniques for the collection, disposal and utilization of solid waste;]
12 (Deleted by amendment, P.L. , c.)

13 (3) Purchase, operate and maintain, pursuant to the provisions of
14 this act, any facility, site, laboratory equipment or machinery necessary
15 to the performance of its duties pursuant to this act;

16 (4) Apply for, receive and expend funds from any public or private
17 source; or

18 (5) Contract with any other public agency, including a local board
19 of health or county [and municipal boards of] health department, or
20 corporation incorporated under the laws of this or any other state for
21 the performance of any function under this act. Any such contract with
22 a local board of health or county [or municipal board of] health
23 department may provide for the inspection and monitoring of solid
24 waste facilities; the enforcement of the department's standards
25 therefor; and the training of county or [municipal] local health officers
26 engaged in such inspection, monitoring or enforcement[;].

27 (6) [Make grants to assist in experimenting with new methods of
28 solid waste collection, disposal, or utilization, pursuant to the
29 provisions of sections 21 through 25 of this amendatory and
30 supplementary act;] (Deleted by amendment, P.L. , c.)

31 (7) [Construct and operate, on an experimental basis, incinerators
32 or other facilities for the disposal or utilization of solid waste, to
33 provide the various municipalities and counties of this State, the Board
34 of Public Utility Commissioners, the Hackensack Commission, and the
35 Division of Local Government Services in the Department of
36 Community Affairs with statistical data on costs and methods of solid
37 waste collection and disposal;] (Deleted by amendment, P.L. , c.)

38 (8) [Make annual and such other reports as it may deem proper to
39 the Governor and the Legislature evaluating the demonstrations and
40 experiments conducted during each calendar year.] (Deleted by
41 amendment, P.L. , c.)

42 (cf: P.L.1975, c.326, s.7)

43

44 29. Section 7 of P.L.1970, c.39 (C.13:1E-7) is amended to read
45 as follows:

46 7. a. There is hereby created in the department an Advisory

1 Council on Solid Waste Management which shall consist of [14] 13
2 members, [four] three of whom shall be [the President of the Board of
3 Public Utilities,] the Commissioner of Community Affairs, the
4 Secretary of Agriculture and the Commissioner of Health, or their
5 designees, who shall serve ex officio, and ten citizens of the State, four
6 of whom shall be actively engaged in [the] solid waste collection,
7 recycling or solid waste disposal [industries] activities or operations,
8 of whom one shall be a representative of the Institute for Scrap
9 Recycling Industries who shall represent the scrap recycling or
10 processing industry in the State, two health professionals of whom one
11 shall be a representative of the New Jersey Hospital Association and
12 the other a licensed practitioner selected from the medical or dental
13 communities in the State who shall represent the regulated medical
14 waste generators in the State, and four of whom shall be representing
15 the general public to be appointed by the Governor, with the advice
16 and consent of the Senate. The Governor shall designate a chairman
17 and vice chairman of the council from the public members who shall
18 serve at the will of the Governor.

19 b. All public members shall be appointed for terms of 4 years. All
20 appointed members shall serve after the expiration of their terms until
21 their respective successors are appointed and shall qualify, and any
22 vacancy occurring in the appointed membership of the council by
23 expiration of term or otherwise, shall be filled in the same manner as
24 the original appointment for the unexpired term only, notwithstanding
25 that the previous incumbent may have held over and continued in
26 office as aforesaid.

27 c. Members of the council shall serve without compensation but
28 shall be reimbursed for expenses actually incurred in attending
29 meetings of the council and in performance of their duties as members
30 thereof.

31 (cf: P.L.1991, c.292, s.1)

32

33 30. Section 2 of P.L.1989, c.118 (C.13:1E-9.3) is amended to
34 read as follows:

35 2. a. No person shall, regardless of intent, engage, or be
36 permitted to engage, in the [collection or] disposal of solid waste in
37 excess of 0.148 cubic yards of solids or 30 United States gallons of
38 liquids, whether for profit or otherwise, except at a solid waste facility
39 or an out-of-state disposal site which has authorization from the
40 appropriate state regulatory agency having jurisdiction over solid
41 waste management to accept solid waste for disposal, or any other
42 place in this State which has authorization from the Department of
43 Environmental Protection to accept solid waste for disposal, as the
44 case may be.

45 b. No person shall, regardless of intent, transport or cause or
46 permit to be transported any solid waste in excess of 0.148 cubic yards

1 of solids or 30 United States gallons of liquids, whether for profit or
2 otherwise, except to a solid waste facility or an out-of-state disposal
3 site which has authorization from the appropriate state regulatory
4 agency having jurisdiction over solid waste management to accept
5 solid waste for disposal, or to any other place in this State which [does
6 not have] has authorization from the Department of Environmental
7 Protection to accept solid waste for disposal, as the case may be.

8 c. No person shall, regardless of intent, cause, engage in or be
9 permitted to engage in, the disposal of any amount of solid waste on
10 real property subject to the use, control or ownership of a railroad
11 company, unless such disposal is expressly authorized by the railroad
12 company and approved by the Department of Environmental
13 Protection.

14 d. The provisions of this section shall be enforced by the
15 Department of Environmental Protection and by every relevant public
16 authority, county, municipality, local board of health, or county health
17 department, as the case may be.

18 (cf: P.L.1995, c.11, s.1)

19

20 31. Section 12 of P.L.1970, c.39 (C.13:1E-12) is amended to read
21 as follows:

22 12. a. The department, after a hearing held pursuant to the
23 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
24 seq.), may revoke or suspend the registration issued to any person
25 engaged in [the] solid waste collection or solid waste disposal upon a
26 finding that such person:

27 [a.] (1) Has violated any provision of [this act] the "Solid Waste
28 Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.) or P.L.1981,
29 c.306 (C.13:1E-100 et seq.), or any rule, regulation, or administrative
30 order [promulgated hereunder] adopted or issued thereunder; [or]

31 [b.] (2) Has violated any provision of any laws related to pollution
32 of the waters, air or land surfaces of the State; or

33 [c.] (3) Has refused or failed to comply with any lawful order of
34 the department pursuant to section 5 of P.L.1970, c.39 (C.13:1E-5).

35 b. The department, after a hearing held pursuant to the
36 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
37 seq.), may revoke or suspend the registration issued to the owner or
38 operator of any sanitary landfill facility who has refused or failed to
39 ensure that sufficient funds are available for the closure and post-
40 closure costs of the sanitary landfill facility as provided in section 8 of
41 P.L.1985, c.368 (C.13:1E-176).

42 (cf: P.L.1970, c.39, s.12)

43

44 32. Section 11 of P.L.1975, c.326 (C.13:1E-20) is amended to
45 read as follows:

46 11. a. (1) [Within 360 days after the effective date of this

1 amendatory and supplementary act, the] The respective boards of
2 chosen freeholders, in the case of counties, and the Hackensack
3 Commission, in the case of the Hackensack Meadowlands District,
4 shall develop and formulate, pursuant to the procedures herein
5 contained, a district solid waste management plan for each respective
6 solid waste management district[; provided, however, that the
7 commissioner may extend such period for a maximum of 45 additional
8 days upon the certification of the board of chosen freeholders or the
9 Hackensack Commission, as the case may be, of the causes of the
10 delay in developing and formulating a plan, and upon the
11 commissioner's determination that an extension will permit the
12 development and formulation of a solid waste management plan as
13 required herein. Within 90 days of the effective date of this act, each
14 district shall make the necessary personnel, financial and legal
15 arrangements to assure the development and formulation of the plan
16 within 360 days of the effective date of this act].

17 Every district solid waste management plan shall be developed and
18 formulated to be in force and effect for a period of not less than 10
19 years, upon the expiration of which a new plan shall be developed and
20 formulated pursuant to the procedures herein contained[; provided,
21 however, that every such].

22 Every district solid waste management plan shall contain provisions
23 for automatic review thereof not less than once every two years
24 following the approval thereof by the department, which review shall
25 be undertaken by the board of chosen freeholders or the Hackensack
26 Commission, as the case may be[; and provided further, however, that
27 every such].

28 Every district solid waste management plan may be reviewed at any
29 time by the department. Upon [such] the review, if the board of
30 chosen freeholders, the Hackensack Commission, or the department,
31 as the case may be, determines that any district solid waste
32 management plan, or any part thereof, is inadequate for the purposes
33 for which it was intended, [such] the board of chosen freeholders or
34 the Hackensack Commission, as the case may be, shall develop and
35 formulate a new district solid waste management plan, or any part
36 thereof, and [such] the new district solid waste management plan, or
37 part thereof, shall be adopted thereby pursuant to the procedures
38 contained in section 14 of P.L.1975, c.326 (C.13:1E-23).

39 Every district solid waste management plan shall be amended to
40 reflect any revisions to the strategy for the collection or disposal of
41 solid waste utilized in any constituent municipality in the district based
42 on changes necessitated by revisions in State or federal laws, rules or
43 regulations, or court decisions, including any changes in solid waste
44 collection activities, solid waste facilities or solid waste disposal
45 operations in any constituent municipality in the district as heretofore
46 reported in the district solid waste management plan as required

1 pursuant to section 12 of P.L.1975, c.326 (C.13:1E-21).

2 Nothing herein contained shall be construed as to prevent any
3 board of chosen freeholders or the Hackensack Commission from
4 readopting a district solid waste management plan upon the expiration
5 of same in a [solid waste management] district; provided, however,
6 that any such readoption shall be pursuant to the provisions of section
7 14 of P.L.1975, c.326 (C.13:1E-23).

8 (2) Any two or more districts may formulate and adopt a [single]
9 regional solid waste management plan which shall meet all the
10 requirements of [this act] P.L.1970, c.39 (C.13:1E-1 et seq.) for the
11 combined area of the cooperating [solid waste management] districts.

12 b. (1) To assist each board of chosen freeholders in the
13 development and formulation of the district solid waste management
14 plans required herein, an advisory solid waste council shall be
15 constituted in every county and shall include municipal mayors or their
16 designees, persons engaged in the collection or disposal of solid waste
17 and environmentalists. The respective size, composition and
18 membership of each such council shall be designated by the respective
19 boards of chosen freeholders. In the Hackensack Meadowlands
20 District, the Hackensack Meadowlands Municipal Committee,
21 established pursuant to [article 4] sections 7 and 8 of P.L.1968, c.404
22 (C.13:17-7 and 13:17-8), is hereby designated an advisory solid waste
23 council for the purposes of this [amendatory and supplementary act]
24 subsection; provided, however, that nothing herein contained shall be
25 construed as in any way altering the powers, duties and responsibilities
26 of the Hackensack Meadowlands Municipal Committee except as
27 herein specifically provided.

28 The respective boards of chosen freeholders and the Hackensack
29 Commission shall consult with the relevant advisory solid waste
30 council at such stages in the development and formulation of the
31 district solid waste management plan as each such board of chosen
32 freeholders or the Hackensack Commission, as the case may be, shall
33 determine; provided, however, that a district solid waste management
34 plan shall be adopted as hereinafter provided only after consultation
35 with the relevant advisory solid waste council.

36 (2) In the development and formulation of a district solid waste
37 management plan for any [solid waste management] district, the board
38 of chosen freeholders or the Hackensack Commission, as the case may
39 be, shall:

40 (a) Consult with the county or municipal government agencies
41 concerned with, or responsible for, water pollution control, water
42 policy, water supply, or zoning or land use within the [solid waste
43 management] district;

44 (b) Review such plans for solid waste collection and disposal
45 proposed by, or in force in, any municipality or municipalities within
46 the [solid waste management] district, to determine the suitability of

1 any such plan, or any part thereof, for inclusion within the district solid
2 waste management plan of the [solid waste management] district; and

3 (c) Consult with persons engaged in solid waste collection and
4 disposal in the [solid waste management] district.

5 (cf: P.L.1985, c.38, s.35)

6

7 33. Section 12 of P.L.1975, c.326 (C.13:1E-21) is amended to
8 read as follows:

9 12. a. Every district solid waste management plan shall be based
10 upon and shall be accompanied by a report containing the following
11 information:

12 (1) An inventory of the sources, composition, and quantity of solid
13 waste generated within the [solid waste management] district in the
14 year in which the report is prepared;

15 (2) Projections of the amounts and composition of solid waste to
16 be generated within the district in each of the 10 years following the
17 year in which the report is prepared[; provided, however, that in the
18 formulation of its solid waste management plan every board of chosen
19 freeholders may deduct from the actual amount of solid waste
20 generated within the solid waste management district in the year in
21 which the report is prepared, and projected for each of the 10 years
22 following said year, the total solid waste tonnage treated and disposed
23 on a daily basis in the Hackensack Meadowlands District by every
24 municipality within said solid waste management district as of July 1,
25 1968, which deduction shall be pursuant to the guarantee provided in
26 P.L.1968, c.404, section 9.1 (C.13:17-10)];

27 (3) An inventory and appraisal, including the identity, location,
28 and life expectancy, of all solid waste facilities within the [solid waste
29 management] district, including [such] any district solid waste
30 facilities owned or operated by any person, public authority or county,
31 and the identity of every person engaging in solid waste collection
32 activities or solid waste disposal operations within the district, and the
33 identity and location of any district solid waste facility, designated out-
34 of-state disposal site or other solid waste facility located within or
35 outside of the district to be utilized by the district, or any constituent
36 municipality thereof, for the disposal of solid waste generated within
37 the district, including evidence that the designated disposal site is
38 permitted by the appropriate state regulatory agency having
39 jurisdiction over solid waste management to accept solid waste for
40 disposal, and is in compliance with all relevant Federal or state laws,
41 rules or regulations; and

42 (4) An analysis of existing solid waste collection systems and
43 transportation routes within the [solid waste management] district.

44 b. Every district solid waste management plan shall include:

45 (1) The designation of a public authority or department, unit or
46 committee of the county government, in the case of counties, or of the

1 Hackensack Commission, in the case of the Hackensack Meadowlands
2 District, to supervise the implementation of the district solid waste
3 management plan and to report thereon at such times as may be
4 required by the board of chosen freeholders or the Hackensack
5 Commission, as the case may be;

6 (2) A statement of the solid waste disposal strategy to be applied
7 in the [solid waste management] district, which strategy shall [include]
8 not discriminate against the use of out-of-state disposal sites, but shall
9 encourage the maximum practicable use of [resource recovery
10 procedures] all existing district solid waste facilities located within the
11 district; the strategy may include the use of a district solid waste
12 facility or other solid waste facility located outside of the district or a
13 designated out-of-state disposal site, provided that the statement
14 includes evidence that the designated disposal site is permitted by the
15 appropriate state regulatory agency having jurisdiction over solid
16 waste management to accept solid waste for disposal, and is in
17 compliance with all relevant Federal or state laws, rules or regulations;
18 and a plan for using terminated landfill disposal sites, if any, in the
19 [solid waste management] district;

20 (3) A site plan, which shall include all existing solid waste
21 facilities located within the [solid waste management] district,
22 provided that they are operated and maintained in accordance with all
23 applicable health and environmental standards[, and sufficient
24 additional available suitable sites to provide solid waste facilities to
25 treat and dispose of the actual and projected amounts of solid waste
26 contained in the report accompanying the plan].

27 [Upon a certification to the commissioner by the board of chosen
28 freeholders or the Hackensack Commission, as the case may be, of the
29 absence of sufficient existing or available suitable sites for such solid
30 waste facilities within the solid waste management district, the site
31 plan shall identify sufficient additional existing or available suitable
32 sites for such facilities located in another solid waste management
33 district; provided, however, that such certification shall be
34 accompanied by a copy of the contract or agreement entered into by
35 the concerned boards of chosen freeholders or the Hackensack
36 Commission, as the case may be, authorizing the use by a solid waste
37 management district of solid waste facilities located in another solid
38 waste management district, and providing for the acquisition of such
39 lands and rights and interests therein as may be required within the
40 solid waste management district in which the solid waste facilities are
41 to be located.]

42 [Notwithstanding the above, however, a] A board of chosen
43 freeholders or the Hackensack Commission, as the case may be, may
44 enter into an interdistrict agreement with any person engaged in solid
45 waste disposal in [an adjacent solid waste management] any district
46 with the approval of [said adjacent] that district, which interdistrict

1 agreement shall be reflected in the [plans for said adjacent districts, to
2 treat and dispose of the amount of solid waste from their district that
3 said person treats and disposes of in that adjacent district on the
4 effective date of this act] district solid waste management plan
5 adopted by each district to be served under the terms of the proposed
6 interdistrict agreement.

7 [Upon the failure for any reason of the concerned boards of chosen
8 freeholders or the Hackensack Commission, as the case may be, to
9 make such a contract or to reach such an agreement, the board of
10 chosen freeholders or the Hackensack Commission, as the case may
11 be, seeking to locate said solid waste facilities in another solid waste
12 management district shall certify such failure to the commissioner.

13 Upon the receipt of any such certification of failure, the
14 commissioner shall cause a study to be made by the department to
15 determine the suitable location of solid waste facilities for the use of
16 the solid waste management district for which such certification was
17 made. In such study, the commissioner may request the submission of
18 any specifications or other information he deems necessary from any
19 solid waste management district, and the board of chosen freeholders
20 or the Hackensack Commission, as the case may be, shall submit all
21 such material so requested. In determining the suitable location of
22 solid waste facilities, the commissioner shall weigh the relative
23 feasibility of alternative locations in terms of such factors as
24 environmental impact, transportation patterns and their comparative
25 costs, compatibility with the current land use policies in the immediate
26 area of the alternative locations, as well as with the Statewide solid
27 waste management plan and such other master plans and planning
28 policies as may exist at the municipal, county, regional or State levels,
29 and such other criteria as the commissioner deems relevant.

30 Upon the completion of said study the commissioner shall:

31 (a) Require the certifying board of chosen freeholders or the
32 Hackensack Commission, as the case may be, to locate the required
33 solid waste facilities within its own solid waste management district
34 and as part of the solid waste management plan therefor; or

35 (b) Require any other board of chosen freeholders or the
36 Hackensack Commission, as the case may be to provide solid waste
37 facilities, or parts thereof, within its solid waste management district
38 and as part of the solid waste management plan therefor, for the use
39 of the certifying solid waste management district; provided, however,
40 that the full cost of any such solid waste facilities, or of any part
41 thereof to the extent of use thereof, shall be borne by the solid waste
42 management district making use of same.

43 In the adoption of any solid waste management plan pursuant to
44 the provisions of section 14 of this amendatory and supplementary act,
45 no board of chosen freeholders nor the Hackensack Commission, as
46 the case may be, shall alter any part required by a determination made

1 by the commissioner as herein provided concerning the location of any
2 solid waste facilities.

3 Notwithstanding the provisions of section 11 of this amendatory
4 and supplementary act, the time taken by the commissioner from the
5 receipt of any certification of failure pursuant to this section to the
6 completion of the study required herein concerning such certification
7 of failure, shall be in addition to, and shall not count towards, the 360
8 days permitted in said section 11 for the development and formulation
9 of a solid waste management plan.]

10 (4) A [survey] designation of proposed collection [districts] and
11 transportation routes, which routes shall, in the case of solid waste
12 facilities to the maximum extent practicable, avoid roads or highways
13 in residential or congested areas, with projected transportation costs
14 from collection [districts] routes to existing or available suitable sites
15 for solid waste facilities;

16 (5) The procedures for coordinating all activities related to the
17 collection [and] or disposal of solid waste by every person engaging
18 in [such process] these activities within the [solid waste management]
19 district, which procedures shall include the interdistrict agreements
20 entered into as provided herein between the board of chosen
21 freeholders or the Hackensack Commission, as the case may be, and
22 every such person; and the procedures for furnishing the solid waste
23 facilities contained in the district solid waste management plan; [and]

24 (6) A statement of the solid waste disposal strategy to be utilized
25 by each constituent municipality in the district, which strategy shall not
26 discriminate against the use of out-of-state disposal sites, but shall
27 encourage the maximum practicable use of all existing district solid
28 waste facilities located within the district; the strategy may include the
29 use of a district solid waste facility or other solid waste facility located
30 within or outside of the district, or the use of a designated out-of-state
31 disposal site, provided that the statement includes evidence that the
32 designated disposal site is permitted by the appropriate state
33 regulatory agency having jurisdiction over solid waste management to
34 accept solid waste for disposal, and is in compliance with all relevant
35 Federal or state laws, rules or regulations; and

36 (7) The method or methods of financing solid waste management
37 activities in the [solid waste management] district pursuant to the
38 district solid waste management plan.

39 c. Any existing joint meeting formed for the construction or
40 operation of solid waste facilities pursuant to the "[consolidated
41 municipal services act" (Consolidated Municipal Services Act,
42 P.L.1952, c.72[;](C.40:48B-1 et seq.))]or any existing authority
43 composed of two or more municipalities formed pursuant to the "solid
44 waste management authorities law, "[P.L.1968,
45 c.249[;](C.40:66A-32 et seq.))]may request the commissioner to
46 review its solid waste management plan. The commissioner may direct

1 the concerned [solid waste management] district to incorporate all or
2 part of said plan into the district solid waste management plan of that
3 district.

4 (cf: P.L.1975, c.326, s.12)

5
6 34. Section 13 of P.L.1975, c.326 (C.13:1E-22) is amended to
7 read as follows:

8 13. [In order to preserve and maintain the State's pledges and
9 covenants with the holders of any bonds issued by any public
10 authority, no solid waste management plan shall include provisions for
11 establishing any solid waste facility in competition with such facilities
12 operated, or for which bonds have been issued, by any such public
13 authority; provided, however, that every] Every board of chosen
14 freeholders and the Hackensack Commission is hereby authorized and
15 empowered in the development [and], formulation or amendment of
16 a district solid waste management plan, to enter into any [contract or]
17 interdistrict agreement with any public authority within any [solid
18 waste management] district providing for or relating to [solid waste
19 collection and] solid waste disposal. Any [such contract or]
20 interdistrict agreement may provide for the furnishing of solid waste
21 facilities either by or to the [solid waste management] district, or the
22 joint [construction or operation] use of district solid waste facilities.
23 Every [such contract or] interdistrict agreement shall conform to all
24 the requirements of law for [contracts or] interdistrict agreements
25 made by any person, public authority or county, and may include
26 [such] provisions for rates [and] , fees or charges, [and] including the
27 solid waste charges to be received at the district solid waste facility for
28 solid waste disposal, including any portion of the rates, fees or charges
29 allocated for environmental investment charges as defined in section
30 3 of P.L. , c. (C.)(pending in the Legislature as this bill),
31 for the furnishing of solid waste facilities, as the board of chosen
32 freeholders or the Hackensack Commission, as the case may be, deems
33 necessary in the development [and], formulation or amendment of a
34 district solid waste management plan to coordinate all activities
35 relating to solid waste collection [and] or solid waste disposal within
36 the [solid waste management] district, and for the furnishing of
37 adequate and suitable solid waste facilities therein. Every board of
38 chosen freeholders and the Hackensack Commission, as the case may
39 be, is hereby further authorized and empowered to purchase the bonds
40 of any public authority, and to purchase any solid waste facilities of
41 any public authority upon [a contract or] an interdistrict agreement
42 [therewith for any such solid waste facility purchase] therefor.

43 (cf: P.L.1975, c.326, s.13)

44
45 35. Section 14 of P.L.1975, c.326 (C.13:1E-23) is amended to
46 read as follows:

1 14. a. [Pursuant to the procedures herein contained, the] The
2 respective boards of chosen freeholders, in the case of counties, and
3 the Hackensack Commission, in the case of the Hackensack
4 Meadowlands District, shall have the power, after consultation with
5 the relevant advisory solid waste council, to adopt a district solid
6 waste management plan for the relevant [solid waste management]
7 district[; provided, however, that if in any solid waste management
8 district the procedures contained in this section are not commenced
9 within 361 days after the effective date of this amendatory and
10 supplementary act, unless the commissioner shall have extended the
11 time for the development and formulation of a solid waste management
12 plan pursuant to section 11 of this amendatory and supplementary act,
13 and unless a certification of failure shall have been received by the
14 commissioner pursuant to 12 b.(3) of this amendatory and
15 supplementary act, the department shall have the power to develop,
16 formulate and, pursuant to the procedures herein contained, adopt and
17 promulgate a solid waste management plan for any such solid waste
18 management every district].

19 b. Upon the development and formulation of a district solid waste
20 management plan, and after consultation with the relevant advisory
21 solid waste council, the relevant board of chosen freeholders, in the
22 case of counties, or the Hackensack Commission, in the case of the
23 Hackensack Meadowlands District, shall prepare a map showing the
24 boundaries of the [solid waste management] district and the location
25 of all existing and proposed solid waste facilities. In the event such
26 district solid waste management plan proposes to locate solid waste
27 facilities in another [solid waste management] district, a map of such
28 other district, showing the location of the proposed facilities, shall be
29 prepared. Said map shall be appended to a copy of the district's solid
30 waste management plan, to which shall also be appended a copy of the
31 report accompanying said plan. Said map, plan and report shall be sent
32 by mail to the mayor of each municipality within the county, in the
33 case of counties, and in the case of the Hackensack Meadowlands
34 District, said map, plan and report shall be maintained at the main
35 office of the Hackensack Commission.

36 c. The board of chosen freeholders, or the Hackensack
37 Commission, as the case may be, shall thereupon cause a hearing to be
38 held at an appointed time and place for the purpose of hearing persons
39 interested in, or who would be affected by, the adoption of the district
40 solid waste management plan for the relevant [solid waste
41 management] district, and who are in favor of or are opposed to such
42 adoption.

43 d. A notice of such hearing shall be given setting forth the purpose
44 thereof and stating that a map, plan and report have been prepared and
45 can be inspected at the offices of every municipality within the county,
46 or at the main office of the Hackensack Commission, as the case may

1 be. A copy of such notice shall be published in a newspaper of general
2 circulation in the [solid waste management] district once each week
3 for 2 consecutive weeks, and the last publication shall be not less than
4 10 days prior to the date set for the hearing. A copy of the notice shall
5 be mailed at least 10 days prior to the date set for the hearing to the
6 last owner, if any, of each parcel of property within or without the
7 district on which it is proposed to locate any solid waste facilities
8 pursuant to the district's solid waste management plan. Such mailing
9 shall be according to the assessment records of the municipality where
10 such parcel is located and shall be sent to the last known postal
11 address of such owners. A notice shall also be sent to any and all
12 persons at his, or their, last known address, if any, whose names are
13 noted on said assessment records as claimants of an interest in any
14 such parcel. The assessor of such municipality shall make a notation
15 upon the said records when requested so to do by any person claiming
16 to have an interest in any parcel of property in such municipality.
17 Failure to mail any such notice shall not invalidate the adoption of any
18 district solid waste management plan.

19 e. At the hearing, which may be adjourned from time to time, the
20 board of chosen freeholders, or the Hackensack Commission, as the
21 case may be, shall hear all persons interested in the district solid waste
22 management plan and shall consider any, and all, written objections
23 that may be filed and any evidence which may be introduced in support
24 of the objections, or any opposition to the adoption of the district solid
25 waste management plan for the [solid waste management] district.
26 After the hearing the board of chosen freeholders, or the Hackensack
27 Commission, as the case may be, shall, by resolution, adopt or reject,
28 in whole or in part, the district solid waste management plan for the
29 [solid waste management] district. The adoption of all or a part of a
30 district solid waste management plan, if supported by substantial
31 evidence, shall be binding and conclusive upon all persons affected by
32 the adoption. If all or any part of the district solid waste management
33 plan is adopted, the board of chosen freeholders, or the Hackensack
34 Commission, as the case may be, within 10 days after such adoption,
35 shall cause to be served a copy of the resolution of adoption upon each
36 person who filed a written objection at or prior to the hearing;
37 provided, the address of the objector was stated in, or upon, the
38 written objection.

39 Such service may be made (1) by delivering a copy of the
40 resolution personally to the objector, (2) by mailing such copy
41 addressed to the objector according to his said stated address, or (3)
42 leaving such copy at said stated address for the objector with a person
43 of suitable age and discretion.

44 f. Any person who shall have filed such a written objection with
45 the board of chosen freeholders, or the Hackensack Commission, as
46 the case may be, may have the adoption of a district solid waste

1 management plan reviewed by the Superior Court of New Jersey by
2 procedure in lieu of prerogative writs. An action for such review shall
3 be commenced within 30 days after the adoption by the board of
4 chosen freeholders, or by the Hackensack Commission, as the case
5 may be. In any such action, the said court may make any incidental
6 order that shall be deemed by the court to be appropriate and proper.

7 g. Upon the adoption of a district solid waste management plan in
8 its entirety, the board of chosen freeholders or the Hackensack
9 Commission, as the case may be, shall forthwith submit such plan, and
10 a copy of the transcript of every public hearing held thereon, and a
11 complete record of the dates and results of all consultation with
12 governmental agencies and the relevant advisory solid waste council,
13 to the commissioner. Upon the adoption of a part or parts of a district
14 solid waste management plan, the board of chosen freeholders or the
15 Hackensack Commission, as the case may be, shall certify the fact of
16 such partial adoption to the commissioner, and such board of chosen
17 freeholders or the Hackensack Commission, as the case may be, shall[,
18 notwithstanding any previous extension granted pursuant to any of the
19 provisions of this amendatory and supplementary act,] have [an
20 additional] 45 days from the date of such certification to adopt a
21 district solid waste management plan in its entirety, which adoption
22 shall be pursuant to all the procedures contained herein for the
23 adoption of district solid waste management plans.

24 h. Every board of chosen freeholders and the Hackensack
25 Commission shall adopt a district solid waste management plan in its
26 entirety and submit same to the commissioner, with a copy of the
27 transcript of every public hearing held thereon, and a complete record
28 of the dates and results of all consultation with governmental agencies
29 and the relevant advisory solid waste council[, within 450 days after
30 the effective date of this amendatory and supplementary act; provided,
31 however, that if the commissioner shall have granted an extension of
32 time for the development and formulation of such plan pursuant to
33 section 11 of this amendatory and supplementary act, or an extension
34 of time for the adoption of any such plan in its entirety pursuant to this
35 section, or both, the time for adoption and submission to the
36 commissioner as required herein shall be increased to a maximum of
37 495 days in the case of either such extension, or 540 days in the case
38 of both such extensions; and, provided further, however, that if the
39 commissioner shall have received a certification of failure pursuant to
40 section 12 b. of this amendatory and supplementary act, the time for
41 adoption and submission to the commissioner, notwithstanding any
42 other increase authorized in this amendatory and supplementary act,
43 shall be increased by the number of days taken by the commissioner
44 from the date of such receipt to the completion of his study concerning
45 such certification of failure].

46 i. [Upon the failure of any board of chosen freeholders or the

1 Hackensack Commission, as the case may be, to adopt a solid waste
2 management plan in its entirety and to submit same to the
3 commissioner, with a copy of the transcript of every public hearing
4 held thereon, and a complete record of the dates and results of all
5 consultation with governmental agencies and the relevant advisory
6 solid waste council, within the time prescribed in subsection h. of this
7 section, the department shall have the power to develop and formulate
8 a solid waste management plan in its entirety for any such solid waste
9 management district, either including therein or excluding therefrom
10 any part or parts of such plan as may have been adopted by the board
11 of chosen freeholders or the Hackensack Commission, as the case may
12 be. Following the holding of a public hearing pursuant to the
13 procedures contained herein, the department shall have the power to
14 adopt and promulgate such solid waste management plan in its entirety
15 for any such solid waste management district. Any solid waste
16 management plan so adopted and promulgated by the department for
17 any solid waste management district shall be subject to the same
18 review by the Superior Court as solid waste management plans
19 otherwise adopted pursuant to this section.] (Deleted by amendment,
20 P.L. , c.)

21 (cf: P.L.1975, c.326, s.14)

22

23 36. Section 15 of P.L.1975, c.326 (C.13:1E-24) is amended to
24 read as follows:

25 15. a. Upon receipt by the commissioner of a district solid waste
26 management plan adopted in its entirety, and a copy of the transcript
27 of every public hearing held thereon, as required pursuant to section
28 14 of [this amendatory and supplementary act] P.L.1975, c.326
29 (C.13:1E-23), [he] the commissioner shall:

30 (1) Study and review the district solid waste management plan
31 according to the objectives, criteria and standards developed in the
32 Statewide solid waste management plan developed and formulated by
33 the department pursuant to the provisions of section 6 of [the act to
34 which this act is amendatory and supplementary] P.L.1970, c.39
35 (C.13:1E-6); and

36 (2) Submit a copy of [said] the district plan for review and
37 recommendations to the Advisory Council on Solid Waste
38 Management in the department, and to the agencies, bureaus and
39 divisions within the department concerned with, or responsible for,
40 environmental quality, including, but not limited to, the Bureau of
41 Solid Waste Management, Bureau of Air Pollution Control, Bureau of
42 Geology, and the Bureau of Water Pollution Control, or their
43 successors[; and].

44 (3) [Submit a copy of said plan to the Board of Public Utility
45 Commissioners for review and recommendations on the economic
46 aspect of the plan.](Deleted by amendment, P.L. , c.)

1 b. After completing [his] the study and review of the district solid
2 waste management plan, and upon receipt of the recommendations
3 thereon provided for in subsection a. (2) of this section, if any, but in
4 no event later than 150 days after [his] the receipt of [said] the district
5 plan, the commissioner shall determine whether to approve, modify, or
6 reject [any such] the district solid waste management plan, and shall
7 certify [such] that determination to the board of chosen freeholders or
8 to the Hackensack Commission, as the case may be, which submitted
9 [such] the district plan.

10 c. If the commissioner determines to approve [any] a district solid
11 waste management plan, or if the commissioner has made no
12 determination within 150 days after [his] the receipt of [any such] a
13 district plan, the relevant board of chosen freeholders or the
14 Hackensack Commission, as the case may be, shall proceed, pursuant
15 to the requirements of [this amendatory and supplementary act]
16 P.L.1970, c.39 (C.13:1E-1 et seq.), to implement [such] the district
17 solid waste management plan [in the relevant solid waste management
18 district].

19 d. If the commissioner determines to modify or reject [any] a
20 district solid waste management plan, or any part thereof, the
21 certification required [of him] herein shall be accompanied by a
22 detailed statement prepared by the commissioner indicating the reasons
23 for any modification or rejection, and outlining the action to be taken
24 thereon.

25 The provisions of this subsection to the contrary notwithstanding,
26 the commissioner shall not reject or require the modification of a
27 district solid waste management plan, or any part thereof, providing
28 for the long-term use of a designated out-of-state disposal site for the
29 disposal of solid waste generated within the district solely on the
30 grounds that the designated disposal site is located out-of-state.

31 In outlining [such] the action the commissioner shall direct the
32 board of chosen freeholders or the Hackensack Commission, as the
33 case may be, to make any modification in, or replace any rejected part
34 of, a district solid waste management plan, either with or without
35 holding another public hearing in the [solid waste management]
36 district. [Such] The direction shall be based upon the commissioner's
37 determination[, in his] and discretion, that [such] the modification, or
38 the part rejected, is or is not minor, and that [such] the modification
39 or replacement may or may not be made without substantially
40 modifying or altering other aspects of the district solid waste
41 management plan; provided, however, that a public hearing shall be
42 required upon a rejection by the commissioner of any district solid
43 waste management plan in its entirety.

44 e. (1) If the commissioner directs the holding of another public
45 hearing in the [solid waste management] district, [such] the hearing
46 shall be held within 45 days [after such direction] thereafter and shall

1 be conducted pursuant to the procedures contained in section 14 of
2 [this amendatory and supplementary act] P.L.1975, c.326
3 (C.13:1E-23) for the conduct of public hearings held prior to the
4 adoption of district solid waste management plans. Following [any
5 such] the public hearing on any modification to, or replacement of,
6 [any] the district solid waste management plan, or any part thereof, the
7 relevant board of chosen freeholders or the Hackensack Commission,
8 as the case may be, [holding same] shall formally adopt a modification
9 to, or replacement of, the district solid waste management plan, or any
10 part thereof, and shall submit [same] the district plan to the
11 commissioner within the time limit set by the commissioner in the
12 public hearing order.

13 (2) If the commissioner directs that the modification or
14 replacement may be made without the holding of another public
15 hearing, the board of chosen freeholders or the Hackensack
16 Commission, as the case may be, shall have 45 days [after such
17 direction] thereafter within which to adopt [any such] the modification
18 or replacement, and to submit [same] the district plan to the
19 commissioner.

20 f. The commissioner shall have 30 days from the date of receipt of
21 any submission under subsection e. herein to approve [such] or reject
22 the modification or replacement [or to reject same], and [he] the
23 commissioner shall certify [such] the approval or rejection to the
24 relevant board of chosen freeholders or the Hackensack Commission,
25 as the case may be[, which submitted same].

26 The provisions of this subsection to the contrary notwithstanding,
27 the commissioner shall not reject any modification or replacement
28 providing for the long-term use of a designated out-of-state disposal
29 site for the disposal of solid waste generated within the district solely
30 on the grounds that the designated disposal site is located out-of-state.

31 If the commissioner approves [such] the modification or
32 replacement, or if the commissioner has made no [such] certification
33 within 30 days after [his] receipt thereof, the relevant board of chosen
34 freeholders or the Hackensack Commission, as the case may be, shall
35 proceed, pursuant to the requirements of [this amendatory and
36 supplementary act] P.L.1970, c.39 (C.13:1E-1 et seq.), to implement
37 the district solid waste management plan [in the relevant solid waste
38 management district].

39 Upon a rejection of any modification or replacement submitted to
40 [him] the commissioner pursuant to this section, or upon the failure of
41 a board of chosen freeholders or the Hackensack Commission, as the
42 case may be, to submit any modification or replacement as required
43 herein, the commissioner shall have the power to adopt [and
44 promulgate] any modification or replacement [he] the commissioner
45 deems necessary with respect to the district solid waste management
46 plan, and upon the certification of the commissioner, the relevant

1 board of chosen freeholders or the Hackensack Commission, as the
2 case may be, shall proceed, pursuant to the requirements of [this
3 amendatory and supplementary act] P.L.1970, c.39 (C.13:1E-1 et
4 seq.), to implement the district solid waste management plan [in the
5 relevant solid waste management district] with the modifications or
6 replacements adopted by the commissioner.

7 g. Every district solid waste management plan shall be modified to
8 reflect any revisions to the strategy for the collection or disposal of
9 solid waste utilized in any constituent municipality in the district based
10 on changes necessitated by revisions in State or federal laws, rules or
11 regulations, or court decisions, including any changes in solid waste
12 collection activities, solid waste facilities or solid waste disposal
13 operations in any constituent municipality in the district as heretofore
14 reported in the district solid waste management plan as required
15 pursuant to section 12 of P.L.1975, c.326 (C.13:1E-21).

16 h. The commissioner shall maintain on file in the department a
17 copy of [the Statewide] every district solid waste management plan
18 [developed proved] approved pursuant to this [amendatory and
19 supplementary act] section, and a copy of the Statewide solid waste
20 management plan developed and formulated by the department
21 pursuant to section 6 of P.L.1970, c.39 (C.13:1E-6). [Such] These
22 plans are hereby declared to be public records and shall be subject to
23 all the provisions of P.L.1963, c.73 (C.47:1A-1 et seq.) concerning
24 [such] public records.

25 (cf: P.L.1975, c.326, s.15)

26

27 36.1. Section 18 of P.L.1975, c.326 (C.13:1E-27) is amended to
28 read as follows:

29 18. Any solid waste facility constructed, acquired or operated
30 pursuant to the provisions of the "Solid Waste Management Act,"
31 P.L.1970, c.39 (C.13:1E-1 et seq.) shall be deemed a public utility and
32 the owner or operator thereof shall be subject to [such rules and
33 regulations as may be adopted by the Board of Public Utilities] the
34 supervision of the Department of Environmental Protection with
35 respect to the public utility aspects of its solid waste disposal
36 operations in accordance with the provisions of the "Solid Waste
37 Utility Control Act," P.L.1970, c.40 (C.48:13A-1 et seq.) and
38 P.L.1991, c.381 (C.48:13A-7.1 et al.).

39 (cf: P.L.1991, c.381, s.38)

40

41 37. Section 19 of P.L.1975, c.326 (C.13:1E-28) is amended to
42 read as follows:

43 19. a. Any municipality within which a registered sanitary landfill
44 facility is located pursuant to an adopted and approved district solid
45 waste management plan shall be entitled to an annual economic benefit
46 not less than the equivalent of \$1.00 per ton, and not more than the

1 equivalent of \$3.00 per ton, of [solids on] all solid waste accepted for
2 disposal at the sanitary landfill facility during the previous calendar
3 year [as determined by the department] , unless the parties had
4 negotiated and entered into an agreement on a higher dollar amount
5 prior to the effective date of P.L. , c. (C.) (pending in the
6 Legislature as this bill).

7 The owner or operator of the sanitary landfill facility shall annually
8 pay to the relevant municipality the full amount due under this
9 subsection and each relevant municipality is empowered to anticipate
10 this amount for the purposes of preparing its annual budget. For the
11 purposes of calculating the payments, the owner or operator of the
12 sanitary landfill facility may, subject to the prior agreement of the
13 relevant municipality [and the approval of the Department of
14 Environmental Protection], provide the municipality with any of the
15 following benefits in consideration for the use of land within its
16 municipal boundaries as the location of a sanitary landfill facility:

17 (1) The receipt of annual sums of money in lieu of taxes on the
18 land used for the sanitary landfill facility;

19 (2) The exemption from all fees and charges for the disposal of
20 solid waste generated within its boundaries;

21 (3) The receipt of a lump sum cash payment; or

22 (4) Any combination thereof.

23 b. (Deleted by amendment, P.L.1994, c.27)

24 c. [Every owner or operator of a sanitary landfill facility required
25 to make annual payments to a municipality pursuant to subsection a.
26 of this section may petition the Department of Environmental
27 Protection for an increase in its tariff which reflects these payments.
28 The department, within 60 days of the receipt of the petition, shall
29 issue an appropriate order that these payments shall be passed along
30 to the users of the sanitary landfill facility as an automatic surcharge
31 on any tariff filed with, and recorded by, the department for the solid
32 waste disposal operations of the facility.] (Deleted by amendment, P.L.
33 , c.)

34 d. [In issuing any order required by this section, the Department
35 of Environmental Protection shall be exempt from the provisions of
36 R.S.48:2-21.] (Deleted by amendment, P.L. , c.)
37 (cf: P.L.1994, c.27, s.1)

38

39 38. Section 2 of P.L.1987, c.449 (C.13:1E-28.1) is amended to
40 read as follows:

41 2. a. Any municipality within which a registered transfer station
42 is located pursuant to an adopted and approved district solid waste
43 management plan shall be entitled to an annual economic benefit to be
44 paid or adjusted not less than quarterly in an amount established by
45 agreement with the owner or operator of the transfer station [or by
46 order of the Board of Public Utilities], but not less than the equivalent

1 of \$0.50 per ton, and not more than the equivalent of \$2.50 per ton,
2 of all solid waste accepted for transfer at the transfer station during
3 the [1987] previous calendar year [and each year thereafter] , unless
4 the parties had negotiated and entered into an agreement on a higher
5 dollar amount prior to the effective date of P.L. , c. (C.)
6 (pending in the Legislature as this bill).

7 The owner or operator of the transfer station shall, not less
8 frequently than quarterly, pay to the relevant municipality the full
9 amount due under this subsection and each relevant municipality is
10 empowered to anticipate this amount for the purposes of preparing its
11 annual budget. For the purposes of calculating the payments, the
12 owner or operator of the transfer station may, subject to the prior
13 agreement of the relevant municipality [and the approval of the Board
14 of Public Utilities], provide the municipality with any of the following
15 benefits in consideration for the use of land within its municipal
16 boundaries as the location of a transfer station:

17 (1) The receipt of quarterly payments of annual sums of money in
18 lieu of taxes on the land used for the transfer station;

19 (2) The exemption from all fees and charges for the acceptance for
20 transfer of solid waste generated within its boundaries;

21 (3) The receipt of quarterly lump sum cash payments; or

22 (4) Any combination thereof.

23 b. [Every owner or operator of a transfer station required to
24 make payments not less frequently than quarterly to a municipality
25 pursuant to subsection a. of this section may petition the Board of
26 Public Utilities for an increase in its tariff which reflects these
27 payments. The board, within 60 days of the receipt of the petition,
28 shall issue an order that these payments shall be passed along to the
29 users of the transfer station as an automatic surcharge on any tariff
30 filed with, and recorded by, the board for the solid waste disposal
31 operations of the transfer station.] (Deleted by amendment, P.L. ,
32 c.)

33 c. [In issuing any order required by this section, the Board of
34 Public Utilities shall be exempt from the provisions of R.S.48:2-21.]
35 (Deleted by amendment, P.L. , c.)

36 (cf: P.L.1991, c.381, s.40)

37

38 39. Section 2 of P.L.1994, c.27 (C.13:1E-28.3) is amended to
39 read as follows:

40 2. a. Any municipality with a population density of more than
41 1,500 persons per square mile, according to the latest federal decennial
42 census, that shares a common boundary with a municipality within
43 which is located, pursuant to an adopted and approved district solid
44 waste management plan, a registered sanitary landfill facility:

45 (1) any part of which lies within 1,300 feet of the common
46 boundary between the municipalities[, as determined by the

1 Department of Environmental Protection];

2 (2) that received more than 700,000 tons of solid waste in the
3 1992 calendar year or in any calendar year thereafter; and

4 (3) that is owned or operated by a county or by a county utilities
5 authority created pursuant to the "municipal and county utilities
6 authorities law," P.L.1957, c.183 (C.40:14B-1 et seq.), shall be
7 entitled to an annual economic benefit in consideration for the
8 proximity of the sanitary landfill facility. The annual economic benefit
9 shall be not less than the equivalent of \$0.50 per ton, and not more
10 than the equivalent of \$1.50 per ton, of all solid waste accepted for
11 disposal at the sanitary landfill facility[, as determined by the
12 department,] during the [1993] previous calendar year [and each year
13 thereafter] , unless the parties had negotiated and entered into an
14 agreement on a higher dollar amount prior to the effective date of
15 P.L. , c. (C.)(pending in the Legislature as this bill).

16 b. A municipality that qualifies for an economic benefit pursuant
17 to subsection a. of this section may negotiate with the owner or
18 operator of the sanitary landfill facility to determine the actual dollar
19 amount of the annual economic benefit to be paid to that municipality.

20 The owner or operator of the sanitary landfill facility shall annually
21 pay to every municipality qualifying under subsection a. of this section
22 the full amount due under this subsection, except that the owner or
23 operator shall pay the 1993 economic benefit by the last day of the
24 first quarter of the 1994 calendar year. Each municipality qualifying
25 under subsection a. of this section may anticipate the annual economic
26 benefit for the purposes of preparing its 1994 budget and each annual
27 budget thereafter. For the purposes of calculating the method of
28 payment, the owner or operator of the sanitary landfill facility may,
29 subject to the prior agreement of a municipality qualifying under
30 subsection a. of this section [and to the approval of the Department of
31 Environmental Protection], provide that municipality with any of the
32 following benefits in consideration for the proximity of the sanitary
33 landfill facility:

34 (1) The exemption from all fees and charges for the disposal of
35 solid waste generated within the boundaries of the municipality;

36 (2) The receipt of a lump sum cash payment; or

37 (3) Any combination thereof.

38 c. [Every owner or operator of a sanitary landfill facility required
39 to make annual payments to a municipality qualifying pursuant to
40 subsection a. of this section may petition the Department of
41 Environmental Protection for an increase in its tariff which reflects
42 these payments. The department, within 60 days of the receipt of the
43 petition, shall issue an appropriate order that these payments shall be
44 passed along to the users of the sanitary landfill facility as an
45 automatic surcharge on any tariff filed with, and recorded by, the
46 department for the solid waste disposal operations of the facility.]

1 (Deleted by amendment, P.L. , c.)

2 d. [In issuing any order required by this section, the Department
3 of Environmental Protection shall be exempt from the provisions of
4 R.S.48:2-21.] (Deleted by amendment, P.L. , c.)

5 (cf: P.L.1994, c.27, s.2)

6

7 40. Section 18 of P.L.1989, c.34 (C.13:1E-48.18) is amended to
8 read as follows:

9 18. a. Any county within which a solid waste facility is located
10 pursuant to an adopted and approved district solid waste management
11 plan, which facility is a designated recipient of regulated medical waste
12 [pursuant to an interdistrict or intradistrict waste flow order issued by
13 the Board of Public Utilities, in conjunction with the Department of
14 Environmental Protection], may be entitled to an annual economic
15 benefit in an amount established by agreement with the owner or
16 operator of the solid waste facility. The governing body of the
17 relevant county may negotiate with the owner or operator of the solid
18 waste facility for the payment of an annual economic benefit.

19 b. [If the parties reach an agreement on the amount of an annual
20 economic benefit, the owner or operator of the solid waste facility
21 shall petition the board for an adjustment in its disposal tariff. The
22 petition shall be accompanied by a copy of the agreement which
23 reflects the proposed annual payments and shall be filed with the board
24 prior to its implementation. The board, within 60 days of the receipt
25 of the petition, shall issue an appropriate order that these payments
26 shall be paid by the users of the facility as an automatic surcharge on
27 any tariff filed with, and recorded by, the board for the regulated
28 medical waste disposal operations of the facility. The surcharge shall
29 be calculated and itemized in all appropriate tariffs on a per ton basis.
30 In the event that any regulated medical waste is measured, upon
31 acceptance for disposal, by other than tons, the surcharge shall be
32 calculated and itemized by using the equivalents thereof as shall be
33 determined by the board.] (Deleted by amendment, P.L. , c.)

34 c. [In issuing any order required by this section, the Board of
35 Public Utilities shall be exempt from the provisions of R.S.48:2-21.]

36 (Deleted by amendment, P.L. , c.)

37 (cf: P.L.1989, c.34, s.18)

38

39 41. Section 2 of P.L.1987, c.102 (C.13:1E-99.12) is amended to
40 read as follows:

41 2. As used in sections 1 through 24 and sections 40 and 41 of
42 P.L.1987, c.102 (C.13:1E-99.11 through 13:1E-99.32 and
43 13:1E-99.33 and 13:1E-99.34):

44 "Agricultural or horticultural land" means land deemed actively
45 devoted to agricultural or horticultural use pursuant to the "Farmland
46 Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.);

1 "Beverage" means milk, alcoholic beverages, including beer or
2 other malt beverages, liquor, wine, vermouth and sparkling wine, and
3 nonalcoholic beverages, including fruit juice, mineral water and soda
4 water and similar nonalcoholic carbonated and noncarbonated drinks
5 intended for human consumption;

6 "Beverage container" means an individual, separate, hermetically
7 sealed, or made airtight with a metal or plastic cap, bottle or can
8 composed of glass, metal, plastic or any combination thereof,
9 containing a beverage;

10 "Class A recyclable material" means a source separated
11 nonputrescible recyclable material which is specifically excluded from
12 approval of the department prior to receipt, storage, processing or
13 transfer at a recycling center pursuant to subsection b. of section 41
14 of P.L.1987, c.102 (C.13:1E-99.34), which material includes source
15 separated nonputrescible metal, glass, paper, plastic containers, and
16 corrugated and other cardboard;

17 "Class B recyclable material" means a source separated recyclable
18 material which is subject to approval of the department prior to
19 receipt, storage, processing or transfer at a recycling center pursuant
20 to subsection b. of section 41 of P.L.1987, c.102 (C.13:1E-99.34) and
21 which includes, but need not be limited to, scrap tires, wood waste,
22 tree stumps, and certain construction or demolition debris, including
23 waste asphalt, bricks, cinder blocks and concrete;

24 "Class C recyclable material" means a source separated
25 compostable material which is subject to approval of the department
26 prior to receipt, storage, processing or transfer at a recycling center
27 pursuant to subsection b. of section 41 of P.L.1987, c.102
28 (C.13:1E-99.34) and which includes, but need not be limited to,
29 organic materials such as food waste, vegetative food waste and yard
30 trimmings;

31 "Class D recyclable material" means and includes, but need not be
32 limited to, used oil which is subject to approval of the department
33 prior to receipt, storage, processing or transfer at a recycling center
34 pursuant to subsection b. of section 41 of P.L.1987, c.102
35 (C.13:1E-99.34) and which includes, but need not be limited to, used
36 lubricant oil, used coolant oil, used emulsion oil and any other
37 synthetic oil or oil refined from crude oil, which material has been
38 used, and as a result of such use is contaminated by physical or
39 chemical impurities; batteries; pesticides; thermostats; latex paint; oil
40 base paints from household or small quantity generators; or antifreeze;

41 "Commingled" means a combining of nonputrescible source
42 separated recyclable materials of the same class for the purpose of
43 recycling;

44 "Compostable" means able to undergo physical, chemical, thermal
45 or biological degradation under aerobic conditions such that the
46 material to be composted enters into and is physically indistinguishable

1 from the finished compost, and which ultimately mineralizes in the
2 environment at a rate similar to known compostable materials such as
3 paper and yard trimmings;

4 "Composting" means the controlled biological degradation of
5 organic matter to make compost;

6 "Contaminant" means solid waste which adheres to, or which is
7 otherwise contained on or in, source separated recyclable materials;

8 "County" means any county of this State of whatever class;

9 "Department" means the Department of Environmental Protection;

10 "Designated recyclable materials" means those recyclable materials,
11 including metal, glass, paper, or plastic, polycoated paperboard
12 packaging, including beverage containers and aseptic packaging, food
13 waste, corrugated and other cardboard, newspaper, magazines, or
14 high-grade office paper designated in a district recycling plan to be
15 source separated in a municipality pursuant to section 3 of P.L.1987,
16 c.102 (C.13:1E-99.13);

17 "Disposition" or "disposition of designated recyclable materials"
18 means the transportation, placement, reuse, sale, donation, transfer or
19 temporary storage for a period not exceeding six months of designated
20 recyclable materials for all possible uses except for disposal as solid
21 waste;

22 "District" means a solid waste management district as designated
23 by section 10 of P.L.1975, c.326 (C.13:1E-19), except that, as used
24 in the provisions of P.L.1987, c.102 (C.13:1E-99.11 et seq.), "district"
25 shall not include the Hackensack Meadowlands District;

26 "District recycling plan" means the plan prepared and adopted by
27 the governing body of a county and approved by the department to
28 implement the State Recycling Plan goals pursuant to section 3 of
29 P.L.1987, c.102 (C.13:1E-99.13);

30 "Food waste" means food processing byproducts, vegetative waste,
31 off-specification food products, food product overruns, and similar
32 food waste materials;

33 "Leaf composting facility" means a solid waste facility which is
34 designed and operated solely for the purpose of composting leaves and
35 shall also include leaf mulching operations on land deemed actively
36 devoted to agricultural or horticultural use as defined in section 5 of
37 P.L.1964, c.48 (C.54:4-23.5);

38 "Market" or "markets" means the disposition of designated
39 recyclable materials;

40 "Municipality" means any city, borough, town, township or village
41 situated within the boundaries of this State;

42 "Municipal solid waste stream" means all residential, commercial
43 and institutional solid waste generated within the boundaries of any
44 municipality;

45 "Paper" means all paper grades, including but not limited to,
46 newspaper, corrugated and other cardboard, high-grade office paper,

1 fine paper, bond paper, offset paper, xerographic paper, mimeo paper,
2 duplicator paper, and related types of cellulosic material containing not
3 more than 10% by weight or volume of non-cellulosic material such as
4 laminates, binders, coatings, or saturants;

5 "Paper product" means any paper items or commodities, including
6 but not limited to, paper napkins, towels, construction material, toilet
7 tissue, paper and related types of cellulosic products containing not
8 more than 10% by weight or volume of non-cellulosic material such as
9 laminates, binders, coatings, or saturants;

10 "Plastic container" means any formed or molded and hermetically
11 sealed, or made airtight with a metal or plastic cap, rigid container
12 with a minimum wall thickness of not less than 0.010 inches, and
13 composed primarily of thermoplastic synthetic polymeric material;

14 "Post-consumer waste material" means any finished product
15 generated by a business or consumer which has served its intended end
16 use, and which has been separated from solid waste for the purposes
17 of collection, recycling and disposition and which does not include
18 secondary waste material;

19 "Recognized academic institution" means any of the following
20 educational or research institutions located in this State: a duly
21 authorized institution of higher education licensed by the Board of
22 Higher Education; a public school operated by a local school district;
23 a private vocational school; or a nonpublic school satisfying the State's
24 compulsory attendance requirements;

25 "Recyclable material" means those materials which would
26 otherwise become solid waste, and which may be collected, separated
27 or processed and returned to the economic mainstream in the form of
28 raw materials or products;

29 "Recycled paper" means any paper having a total weight consisting
30 of not less than 50% secondary waste paper material and with not less
31 than 10% of its total weight consisting of post-consumer waste
32 material;

33 "Recycled paper product" means any paper product consisting of
34 not less than 50% secondary waste paper material and with not less
35 than 10% of its total weight consisting of post-consumer waste
36 material;

37 "Recycled product" or "product made from recycled material"
38 means any nonpaper item or commodity which is manufactured or
39 produced in whole or in part from post-consumer waste material;

40 "Recycling" means any process by which materials which would
41 otherwise become solid waste are collected, separated or processed
42 and returned to the economic mainstream in the form of raw materials
43 or products;

44 "Recycling center" means any facility designed and operated solely
45 for receiving, storing, processing or transferring source separated
46 recyclable materials; except that "recycling center" shall not include a

1 scrap [processing] metal shredding facility;

2 "Recycling services" means the services provided by persons
3 engaging in the business of recycling, including the collection,
4 transportation, processing, storage, purchase, sale or disposition, or
5 any combination thereof, of recyclable materials;

6 "Residue" means any solid waste generated as a result of
7 processing source separated recyclable materials at a recycling center;

8 "Scrap [processing] metal shredding facility" means a commercial
9 industrial facility designed and operated for receiving, storing,
10 processing and transferring scrap automobiles, appliances or other
11 source separated, nonputrescible ferrous and nonferrous metal, which
12 materials are purchased by the owner or operator thereof, and which
13 are altered or reduced in volume or physical characteristics onsite by
14 mechanical methods, including but not limited to baling, cutting,
15 torching, crushing, or shredding, for the purposes of resale for
16 remelting, refining, smelting or remanufacturing into raw materials or
17 products;

18 "Secondary waste material" means waste material generated after
19 the completion of a manufacturing process;

20 "Secondary waste paper material" means paper waste generated
21 after the completion of a paper making process, such as envelope
22 cuttings, bindery trimmings, printing waste, cutting and other
23 converting waste, butt rolls and mill wrappers; except that secondary
24 waste paper material shall not include fibrous waste generated during
25 the manufacturing process, such as fibers recovered from waste water
26 or trimmings of paper machine rolls, fibrous byproducts of harvesting,
27 extractive or woodcutting processes, or forest residue such as bark, or
28 mill broke;

29 "Solid waste" means garbage, refuse, and other discarded materials
30 resulting from industrial, commercial and agricultural operations, and
31 from domestic and community activities, and shall include all other
32 waste materials including liquids, except for source separated
33 recyclable materials or source separated food waste collected by
34 livestock producers approved by the State Department of Agriculture
35 to collect, prepare and feed such wastes to livestock on their own
36 farms;

37 "Source separated recyclable materials" means recyclable materials
38 which are separated at the point of generation by the generator thereof
39 from solid waste for the purposes of recycling;

40 "Source separation" or "source separated" means the process by
41 which recyclable materials are separated at the point of generation by
42 the generator thereof from solid waste for the purposes of recycling;

43 "Vegetative food waste" means food processing waste from
44 materials such as fruits, vegetables and grains, and similar vegetable
45 food waste materials;

46 "Vegetative waste composting facility" means a solid waste facility

1 which is designed and operated for the purpose of composting leaves,
2 either exclusively or in combination with other vegetative wastes
3 authorized by the department;

4 "Yard trimmings" means grass clippings, leaves and brush.

5 (cf: P.L.1994, c.122, s.1)

6
7 42. Section 3 of P.L.1987, c.102 (C.13:1E-99.13) is amended to
8 read as follows:

9 3. a. Each county shall[, no later than October 20, 1987 and after
10 consultation with each municipality within the county,] prepare and
11 adopt a district recycling plan to implement the State Recycling Plan
12 goals. Each district recycling plan shall be adopted as an amendment
13 to the district solid waste management plan required pursuant to the
14 provisions of the "Solid Waste Management Act," P.L.1970, c.39
15 (C.13:1E-1 et seq.) and subject to the approval of the department.

16 b. Each district recycling plan required pursuant to this section
17 shall include, but need not be limited to:

18 (1) Designation of a district recycling coordinator;

19 (2) Designation of the recyclable materials to be source separated
20 in each municipality which shall include, in addition to leaves, at least
21 three other recyclable materials separated from the municipal solid
22 waste stream;

23 (3) Designation of the strategy for the collection, marketing and
24 disposition of designated source separated recyclable materials in each
25 municipality;

26 (4) Designation of recovery targets in each municipality to achieve
27 the maximum feasible recovery of recyclable materials from the
28 municipal solid waste stream which shall include, at a minimum, the
29 following schedule:

30 (a) The recycling of at least 15% of the total municipal solid waste
31 stream by December 31, 1989;

32 (b) The recycling of at least 25% of the total municipal solid waste
33 stream by December 31, 1990; and

34 (c) The recycling of at least 50% of the total municipal solid waste
35 stream, including yard waste and vegetative waste, by December 31,
36 1995; and

37 (5) Designation of countywide recovery targets to achieve the
38 maximum feasible recovery of recyclable materials from the total solid
39 waste stream which shall include, at a minimum, the recycling of at
40 least 60% of the total solid waste stream by December 31, 1995.

41 For the purposes of this subsection, "total municipal solid waste
42 stream" means the sum of the municipal solid waste stream disposed
43 of as solid waste, as measured in tons, plus the total number of tons of
44 recyclable materials recycled; and "total solid waste stream" means the
45 aggregate amount of solid waste generated within the boundaries of
46 any county from all sources of generation, including the municipal

1 solid waste stream.

2 c. [Each district recycling plan, in designating a strategy for the
3 collection, marketing and disposition of designated recyclable
4 materials in each municipality, shall accord priority consideration to
5 persons engaging in the business of recycling or otherwise lawfully
6 providing recycling services on behalf of a county or municipality on
7 January 1, 1986, if that person continues to provide recycling services
8 prior to the adoption of the plan and that person has not discontinued
9 these services for a period of 90 days or more between January 1,
10 1986, and the date on which the plan is adopted.]

11 Each district recycling plan may be modified after adoption
12 pursuant to a procedure set forth in the adopted plan as approved by
13 the department.

14 d. A district recycling plan may be modified to require that each
15 municipality within the county revise the ordinance adopted pursuant
16 to subsection b. of section 6 of P.L.1987, c.102 (C.13:1E-99.16) to
17 provide for the source separation and collection of used dry cell
18 batteries as a designated recyclable material.

19 e. Each district recycling plan shall be modified to reflect a revised
20 strategy for the collection, marketing and disposition of designated
21 recyclable materials in any municipality within the county based on any
22 municipal solid waste services agreement entered into between the
23 municipality and any person, public authority or county pursuant to
24 section 8 of P.L. , c. (C.)(pending in the Legislature as

1 this bill).

2 (cf: P.L.1992, c.167)

3

4 43. Section 4 of P.L.1987, c.102 (C.13:1E-99.14) is amended to
5 read as follows:

6 4. a. Each county [shall, within six months of the adoption and
7 approval by the department of the district recycling plan required
8 pursuant to section 3 of this amendatory and supplementary act,] or
9 public authority as defined in section 3 of P.L. , c. (C.)
10 (pending in the Legislature as this bill) may solicit proposals from,
11 review the qualifications of, and enter into contracts or agreements on
12 behalf of municipalities with persons providing recycling services or
13 operating recycling centers for the collection, storage, processing, and
14 disposition of recyclable materials designated in the district recycling
15 plan [in those instances where these services are not otherwise
16 provided by the municipality, interlocal service agreement or joint
17 service program, or other private or public recycling program
18 operator], subject to the provisions of section 8 of P.L. , c.
19 (C.) (pending in the Legislature as this bill).

20 b. [In the event that a county is unable to enter into contracts or
21 otherwise execute agreements to market specific designated recyclable
22 materials in order to achieve the designated recovery targets set forth
23 in the district recycling plan, the county may petition the department
24 for a temporary exemption from the provisions of subsection a. of this
25 section for these specified materials. The department is authorized to
26 grant, deny or conditionally grant the exemption. If the exemption is
27 denied, the department shall assist the county in identifying and
28 securing markets for the recyclable materials designated in the district
29 recycling plan. Any exemption granted by the department shall not
30 exceed one year in duration, and shall be granted or renewed only
31 upon a finding that the county has made a good faith effort to identify
32 and secure markets for its recyclable materials. Each county shall
33 continue to solicit those recycling services necessary to achieve the
34 maximum feasible recovery targets in each municipality as set forth in
35 the district recycling plan.] (Deleted by amendment, P.L. , c.)

36 (cf: P.L.1987, c.102, s.4)

37

38 44. Section 6 of P.L.1987, c.102 (C.13:1E-99.16) is amended to
39 read as follows:

40 6. Each municipality in this State shall[, within 30 days of the
41 effective date of this amendatory and supplementary act,] designate
42 one or more persons as the municipal recycling coordinator. Each
43 municipality shall establish and implement a municipal recycling
44 program in accordance with the following requirements [and
45 schedule]:

46 a. [Within six months of the adoption by the county and approval

1 by the department of the district recycling plan required pursuant to
2 section 3 of this amendatory and supplementary act, each] Each
3 municipality shall provide for a collection system for the recycling of
4 the recyclable materials designated in the district recycling plan as may
5 be necessary to achieve the designated recovery targets set forth in the
6 plan in those instances where a recycling collection system is not
7 otherwise provided for by the generator or by the county, interlocal
8 service agreement or joint service program, or other private or public
9 recycling program operator.

10 b. The governing body of each municipality shall[, if it has not
11 already done so, within 30 days of the effective date of any contracts
12 or agreements entered into by the county or other local government
13 unit to market one or more of the specific designated recyclable
14 materials as required pursuant to section 4 of this amendatory and
15 supplementary act,] adopt an ordinance which requires persons
16 generating municipal solid waste within its municipal boundaries to
17 source separate from the municipal solid waste stream, in addition to
18 leaves, the specified recyclable materials for which markets have been
19 secured and, unless recycling is otherwise provided for by the
20 generator, place these specified recyclable materials for collection in
21 the manner provided by the ordinance.

22 c. The governing body of each municipality shall, [within 30 days
23 of the effective date of the ordinance adopted pursuant to subsection
24 b. of this section and] at least once every 36 months [thereafter],
25 conduct a review and make necessary revisions to the master plan and
26 development regulations adopted pursuant to P.L. 1975, c. 291 (C.
27 40:55D-1 et seq.), which revisions shall reflect changes in federal,
28 State, county and municipal laws, policies and objectives concerning
29 the collection, disposition and recycling of designated recyclable
30 materials.

31 The revised master plan shall include provisions for the collection,
32 disposition and recycling of recyclable materials designated in the
33 municipal recycling ordinance adopted pursuant to subsection b. of
34 this section, and for the collection, disposition and recycling of
35 designated recyclable materials within any development proposal for
36 the construction of 50 or more units of single-family residential
37 housing or 25 or more units of multi-family residential housing and any
38 commercial or industrial development proposal for the utilization of
39 1,000 square feet or more of land.

40 d. The governing body of a municipality may exempt persons
41 occupying commercial and institutional premises within its municipal
42 boundaries from the source separation requirements of the ordinance
43 adopted pursuant to subsection b. of this section if those persons have
44 otherwise provided for the recycling of the recyclable materials
45 designated in the district recycling plan from solid waste generated at
46 those premises. To be eligible for an exemption pursuant to this

1 subsection, a commercial or institutional solid waste generator
2 annually shall provide written documentation to the municipality of the
3 total number of tons recycled.

4 e. The governing body of each municipality shall, on or before
5 July 1, 1988 and on or before July 1 of each year thereafter, submit a
6 recycling tonnage report to the New Jersey Office of Recycling in
7 accordance with rules and regulations adopted by the department
8 therefor.

9 f. The governing body of each municipality shall, [within six
10 months of the effective date of the ordinance adopted pursuant to
11 subsection b. of this section and] at least once every six months
12 [thereafter], notify all persons occupying residential, commercial, and
13 institutional premises within its municipal boundaries of local recycling
14 opportunities, and the source separation requirements of the
15 ordinance. In order to fulfill the notification requirements of this
16 subsection, the governing body of a municipality may, in its discretion,
17 place an advertisement in a newspaper circulating in the municipality,
18 post a notice in public places where public notices are customarily
19 posted, include a notice with other official notifications periodically
20 mailed to residential taxpayers, or any combination thereof, as the
21 municipality deems necessary and appropriate.

22 (cf: P.L.1987, c.102, s.6)

23

24 45. Section 41 of P.L.1987, c.102 (C.13:1E-99.34) is amended to
25 read as follows:

26 41. a. [Notwithstanding the provisions of P.L.1970, c.39
27 (C.13:1E-1 et seq.) or any other law, rule or regulation to the
28 contrary, no] No owner or operator of a recycling center as defined
29 in section 2 of P.L.1987, c.102 (C.13:1E-99.12) shall be required by
30 the department to obtain a registration statement, engineering design
31 approval, or approval of an environmental and health impact statement
32 prior to the commencement of operations.

33 b. No recycling center shall receive, store, process or transfer any
34 [waste] recyclable material other than Class A recyclable material,
35 including source separated nonputrescible [or source separated
36 commingled nonputrescible] metal, glass, paper, or plastic containers,
37 and corrugated and other cardboard without the prior approval of the
38 department.

39 No recycling center shall receive, store, process or transfer any
40 Class B recyclable material unless the owner or operator thereof has
41 received prior approval of the department therefor.

42 No recycling center shall receive, store, process or transfer any
43 Class C recyclable material unless the owner or operator thereof has
44 received prior approval of the department therefor.

45 No recycling center for Class D recyclable material shall receive,
46 store, process or transfer any used oil unless the owner or operator

1 thereof has received prior approval of the department therefor.
2 (cf: P.L.1987, c.102, s.41)

3

4 46. Section 10 of P.L.1981, c.306 (C.13:1E-109) is amended to
5 read as follows:

6 10. a. The owner or operator of every sanitary landfill facility
7 shall deposit, on a monthly basis in an interest-bearing account with an
8 accredited financial institution, an amount equal to \$1.00 per ton of all
9 solid waste accepted for disposal during the preceding month at the
10 sanitary landfill facility. In the event that any solid waste is measured,
11 upon acceptance for disposal, by other than tons, the amount to be
12 deposited shall be calculated by using the equivalents thereof as shall
13 be determined by the division.

14 The account established pursuant to this subsection shall constitute
15 an escrow account for the closure of the particular sanitary landfill
16 facility, and no withdrawals therefrom may be made without written
17 approval of the department, except as otherwise authorized by the
18 department.

19 [b.] Any owner or operator of a sanitary landfill facility who shall
20 fail to deposit funds into an escrow account, as provided herein, or
21 uses those funds for any purpose other than closing costs, as approved
22 by the department, shall be guilty of a crime of the third degree.

23 b. The owner or operator of every sanitary landfill facility shall
24 submit for approval to the department a closure plan prepared in
25 accordance with the rules and regulations adopted by the department
26 pursuant to the "Solid Waste Management Act," P.L.1970, c.39
27 (C.13:1E-1 et seq.) or P.L.1981, c.306 (C.13:1E-100 et seq.).

28 Any owner or operator of a sanitary landfill facility who shall fail
29 to prepare or submit for approval to the department a closure plan, as
30 provided herein, shall be guilty of a crime of the third degree.

31 c. [The Board of Public Utilities] Any owner or operator of a
32 sanitary landfill facility may[, in accordance with the provisions of
33 P.L.1970, c.40 (C.48:13A-1 et seq.), issue an appropriate order
34 increasing current tariffs established pursuant to law for the solid
35 waste disposal operations] collect an additional, separate charge from
36 users of a sanitary landfill facility as may be necessary to purchase
37 general liability insurance, including environmental impairment liability
38 insurance, or to create a self-insurance fund sufficient to meet
39 anticipated present and future obligations for the closure and
40 post-closure period.

41 Any additional revenues specifically collected for this insurance or
42 fund shall be deposited in the escrow account established pursuant to
43 subsection a. of this section for the closure of the sanitary landfill
44 facility and shall be withdrawn only for the purchase of insurance or
45 the payment of claims or claims costs made against the owner or
46 operator of the sanitary landfill facility, as authorized by the

1 department.

2 No withdrawals from an escrow account shall be made for
3 insurance costs, claims or claims costs unless [and until the board
4 issues an appropriate order increasing the relevant tariff to provide
5 specifically for these costs] authorized by the department.
6 (cf: P.L.1987, c.347, s.2)

7

8 47. Section 2 of P.L.1985, c.38 (C.13:1E-137) is amended to read
9 as follows:

10 2. As used in [this amendatory and supplementary act] the
11 provisions of P.L.1985, c.38 (C.13:1E-136 et seq.):

12 [a.] "Contract file" means a file established and maintained by a
13 contracting unit, in which the contracting unit shall maintain a copy of
14 its request for qualifications issued pursuant to section 19 of [this
15 amendatory and supplementary act] P.L.1985, c.38 (C.13:1E-154), a
16 list of vendors responding to its request for qualifications, a copy of
17 its request for proposals issued pursuant to section 20 of [this
18 amendatory and supplementary act] P.L.1985, c.38 (C.13:1E-155), a
19 list of qualified vendors submitting proposals, and a document
20 outlining the general criteria used by the contracting unit in selecting
21 a proposal;

22 [b.] "Contracting unit" means any county; any municipality; any
23 bistrate authority; or any board, commission, committee, authority or
24 agency, which is not a State board, commission, committee, authority
25 or agency, and which has administrative jurisdiction over any district
26 other than a school district, project, or facility, included or operating
27 in whole or in part, within the territorial boundaries of any county or
28 municipality, which exercises functions which are appropriate for the
29 exercise by one or more units of local government, and public
30 authority which has statutory power to [make purchases and] enter
31 into contracts or agreements [for the performance of any work or the
32 furnishing or hiring of any materials or supplies usually required] for
33 the design, financing, construction, operation, or maintenance, or any
34 combination thereof, of a resource recovery facility;

35 [c.] "County" means any county of this State of whatever class;

36 [d.] "Department" means the Department of Environmental
37 Protection;

38 [e.] "Director" means the Director of the Division of Taxation in
39 the Department of Treasury;

40 [f.] "District" means a solid waste management district as
41 designated by section 10 of P.L.1975, c.326 (C.13:1E-19), except
42 that, as used in the provisions of [this amendatory and supplementary
43 act] sections 3 through 17 of P.L.1985, c.38 (C.13:1E-138 through
44 13:1E-152), "district" shall not include the Hackensack Meadowlands
45 District;

46 [g.] "District investment tax fund" means a District Resource

1 Recovery Investment Tax Fund established pursuant to subsection a.
2 of section 15 of [this amendatory and supplementary act] P.L.1985,
3 c.38 (C.13:1E-150);

4 [h.] "Division" means the Division of Taxation in the Department
5 of Treasury;

6 [i.] "Division of Local Government Services" means the Division
7 of Local Government Services in the Department of Community
8 Affairs;

9 [j. "Division of Rate Counsel" means the Division of Rate Counsel
10 in the Department of the Public Advocate;]

11 [k "Franchise" means the exclusive right to control and provide
12 for the disposal of solid waste, except for recyclable material whenever
13 markets for those materials are available, within a district or districts
14 as awarded by the Board of Public Utilities;]

15 [l.] "Independent public accountant" means a certified public
16 accountant, a licensed public accountant or a registered municipal
17 accountant;

18 [m.] "Investment tax" means the resource recovery investment tax
19 imposed pursuant to subsection b. of section 3 of [this amendatory and
20 supplementary act] P.L.1985, c.38 (C.13:1E-138);

21 [n.] "Investment tax fund" means the Resource Recovery
22 Investment Tax Fund containing sub-accounts for each county
23 established pursuant to the provisions of section 14 of [this
24 amendatory and supplementary act] P.L.1985, c.38 (C.13:1E-149);

25 [o.] "Out-of-district solid waste" means any solid waste accepted
26 for disposal in a district which was generated outside the receiving
27 district;

28 [p.] "Person or party" means any individual, public or private
29 corporation, company, partnership, firm, association, political
30 subdivision of this State, or any State, bistate, or interstate agency or
31 authority;

32 [q.] "Proposed contract" means a contract negotiated by a
33 contracting unit pursuant to the provisions of [this amendatory and
34 supplementary act, or a substantial renegotiation of a contract
35 approved pursuant to the provisions of this amendatory and
36 supplementary act if the renegotiation is determined to be substantial
37 by the department, the Board of Public Utilities, or the Division of
38 Local Government Services] P.L.1985, c.38 (C.13:1E-136 et al.);

39 "Public authority" means any municipal or county utilities authority
40 created pursuant to the "municipal and county utilities authorities
41 law," P.L.1957, c.183 (C.40:14B-1 et seq.); county improvement
42 authority created pursuant to the "county improvement authorities
43 law," P.L.1960, c.183 (C.40:37A-44 et seq.); pollution control
44 financing authority created pursuant to the "New Jersey Pollution
45 Control Financing Law," P.L.1973, c.376 (C.40:37C-1 et seq.), or any
46 other public body corporate and politic created for solid waste

1 management purposes in any county, pursuant to the provisions of any
2 law;

3 [r.] "Qualified vendor" means any person or party financially
4 qualified for, and technically and administratively capable of,
5 undertaking the design, financing, construction, operation, or
6 maintenance, or any combination thereof, of a resource recovery
7 facility or of providing resource recovery services, as provided in
8 section 19 of [this amendatory and supplementary act] P.L.1985, c.38
9 (C.13:1E-154);

10 [s.] "Recyclable material" means those materials which would
11 otherwise become solid waste, which may be collected, separated or
12 processed and returned to the economic mainstream in the form of raw
13 materials or products;

14 [t.] "Recycling" means any process by which materials which
15 would otherwise become solid waste are collected, separated or
16 processed and returned to the economic mainstream in the form of raw
17 materials or products;

18 [u. "Recycling facility" means a facility at which materials which
19 would otherwise become solid waste are collected, separated or
20 processed and returned to the economic mainstream in the form of raw
21 materials or products;]

22 [v.] "Resource recovery facility" means a solid waste facility
23 constructed and operated for the incineration of solid waste for energy
24 production and the recovery of metals and other materials for reuse;
25 or a mechanized composting facility, or any other solid waste facility
26 [constructed or operated for the collection, separation, recycling, and
27 recovery of metals, glass, paper, and other materials for reuse or for
28 energy production];

29 "Resource recovery services" means any services provided by the
30 owner or operator of a resource recovery facility, including but not
31 limited to, solid waste disposal; the utilization of a resource recovery
32 facility for the disposal of out-of-county solid waste; the disposal of
33 residual ash or the solid waste delivered to a resource recovery facility
34 which cannot be processed at the resource recovery facility; the
35 utilization of a sanitary landfill facility for the disposal of solid waste
36 due to downtime or technical failure at a resource recovery facility; or
37 any combination thereof;

38 [w.] "Sanitary landfill facility" means a solid waste facility at
39 which solid waste is deposited on or in the land as fill for the purpose
40 of permanent disposal or storage for a period exceeding six months,
41 except that it shall not include any waste facility approved for disposal
42 of hazardous waste;

43 [x.] "Services tax" means the solid waste services tax imposed
44 pursuant to subsection a. of section 3 of [this amendatory and
45 supplementary act] P.L.1985, c.38 (C.13:1E-138);

46 [y.] "Services tax fund" means the Solid Waste Services Tax Fund

1 established pursuant to section 12 of [this amendatory and
2 supplementary act] P.L.1985, c.38 (C.13:1E-147);

3 [z.] "Vendor" means any person or party proposing to undertake
4 the design, financing, construction, operation, or maintenance, or any
5 combination thereof, of a resource recovery facility or of providing
6 resource recovery services;

7 [aa.] "Waste importation tax" means the solid waste importation
8 tax imposed pursuant to subsection c. of section 3 of [this amendatory
9 and supplementary act] P.L.1985, c.38 (C.13:1E-138).

10 (cf: P.L.1985, c.38, s.2)

11

12 48. Section 28 of P.L.1985, c.38 (C.13:1E-163) is amended to
13 read as follows:

14 28. a. Within 30 days of receipt of the hearing report submitted
15 by a contracting unit pursuant to the provisions of subsection b. of
16 section 27 of [this amendatory and supplementary act] P.L.1985, c.38
17 (C.13:1E-162), the department shall approve or conditionally approve
18 the proposed contract submitted for review by the contracting unit
19 pursuant to the provisions of [this amendatory and supplementary act]
20 P.L.1985, c.38 (C.13:1E-136 et al.). The department shall approve the
21 proposed contract if it finds that the terms of the proposed contract
22 are consistent with the district solid waste management plan adopted
23 pursuant to the provisions of the "Solid Waste Management Act,"
24 P.L.1970, c.39 (C.13:1E-1 et seq.) by the [solid waste] district to be
25 served under the terms of the proposed contract. If the department
26 conditionally approves the proposed contract, it shall state in writing
27 the revisions which must be made to the proposed contract to receive
28 approval, and the contracting unit may prepare and submit to the
29 department a revised proposed contract. If the department determines
30 that the revisions are substantial, the contracting unit shall hold a
31 public hearing on the revisions pursuant to the provisions of section 26
32 and section 27 of [this amendatory and supplementary act] P.L.1985,
33 c.38 (C.13:1E-161 and 13:1E-162). In the alternative, the district solid
34 waste management plan may be amended pursuant to law so as to be
35 consistent with the terms of the proposed contract.

36 b. Within 30 days of receipt of the hearing report submitted by a
37 contracting unit pursuant to the provisions of subsection b. of section
38 27 of [this amendatory and supplementary act] P.L.1985, c.38
39 (C.13:1E-162), the Division of Local Government Services shall
40 approve or conditionally approve the proposed contract submitted by
41 the contracting unit pursuant to the provisions of [this amendatory and
42 supplementary act] P.L.1985, c.38 (C.13:1E-136 et al.). The division
43 shall approve the proposed contract if it finds in writing that the terms
44 of the proposed contract are in compliance with the provisions of
45 section 29 of [this amendatory and supplementary act] P.L.1985, c.38
46 (C.13:1E-164), [and] that the terms of the proposed contract will

1 result in the provision of services or facilities necessary for the health,
2 safety, welfare, convenience or betterment of the recipients or users of
3 these services or facilities, that the terms and provisions of the
4 proposed contract are not unreasonable, exorbitant or impracticable,
5 would not impose an undue and unnecessary financial burden on the
6 citizens residing in or served by the contracting unit, and will not
7 materially impair the ability of the contracting unit to punctually pay
8 the principal and interest on its outstanding indebtedness and to supply
9 other essential public improvements and services, except that the
10 division, in its review of the proposed contract, shall be bound by any
11 applicable findings or determinations of the Local Finance Board made
12 pursuant to the provisions of subsection d. of N.J.S.40A:2-7 or section
13 7 of P.L.1983, c.313 (C.40A:5A-7). If the division conditionally
14 approves the proposed contract, it shall state in writing the revisions
15 which must be made to the proposed contract to receive approval, and
16 the contracting unit may prepare and submit to the division a revised
17 proposed contract. If the division determines that revisions are
18 substantial, the contracting unit shall hold a public hearing on the
19 revisions pursuant to the provisions of section 26 and section 27 of
20 [this amendatory and supplementary act] P.L.1985, c.38 (C.13:1E-161
21 and 13:1E-162).

22 c. [Within 30 days of receipt of the hearing report submitted by a
23 contracting unit pursuant to the provisions of subsection b. of section
24 27 of this amendatory and supplementary act, the Board of Public
25 Utilities shall approve or conditionally approve the proposed contract
26 submitted by the contracting unit pursuant to the provisions of this
27 amendatory and supplementary act. The board shall approve the
28 proposed contract if it finds in writing that the terms of the proposed
29 contract are in the public interest. If the board conditionally approves
30 the proposed contract it shall state in writing the revisions which must
31 be made to the proposed contract to receive approval, and the
32 contracting unit may prepare and submit to the board a revised
33 proposed contract. If the board determines that the revisions are
34 substantial, the contracting unit shall hold a public hearing on the
35 revisions pursuant to the provisions of section 26 and section 27 of
36 this amendatory and supplementary act. In reviewing and approving
37 the contract, the Board of Public Utilities shall not determine a rate
38 base for, or otherwise regulate the tariffs or return of, the proposed
39 resource recovery facility. The board shall not, thereafter, conduct
40 any further review of the contract.] (Deleted by amendment, P.L. .
41 c.)

42 d. [Notwithstanding the provisions of subsection c. of this section,
43 all parties to any contract may request the board to determine a rate
44 base for the proposed resource recovery facility, in which case the
45 board may make that determination and the terms of any contract so
46 approved shall remain subject to the continuing jurisdiction of the

1 board.] (Deleted by amendment, P.L. , c.)

2 (cf: P.L.1985, c.38, s.28)

3

4 49. Section 33 of P.L.1985, c.38 (C.13:1E-168) is amended to
5 read as follows:

6 33. a. (1) The department may adopt, pursuant to the provisions
7 of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1
8 et seq.), any rules and regulations necessary to implement the
9 provisions of [this amendatory and supplementary act] P.L.1985, c.38
10 (C.13:1E-136 et al.).

11 (2) The department shall adopt rules and regulations for the
12 engineering design of resource recovery facilities, to include a
13 requirement that state-of-the-art air emission technology be installed
14 to control the emission of hydrocarbons, particulates, dioxins, nitrogen
15 oxides, carbon monoxide, heavy metals, hydrochloric acid, sulfur
16 oxides and other acid gases and pollutants from each resource
17 recovery facility which is expected to emit these pollutants.

18 b. [The Board of Public Utilities may adopt, pursuant to the
19 provisions of the "Administrative Procedure Act," P.L.1968, c.410
20 (C.52:14B-1 et seq.), any rules and regulations necessary to implement
21 the provisions of this amendatory and supplementary act.] (Deleted by
22 amendment, P.L. , c.)

23 c. The Division of Local Government Services may adopt,
24 pursuant to the provisions of the "Administrative Procedure Act,"
25 P.L.1968, c.410 (C.52:14B-1 et seq.), any rules and regulations
26 necessary to implement the provisions of [this amendatory and
27 supplementary act] P.L.1985, c.38 (C.13:1E-136 et al.).

28 (cf: P.L.1985, c.38, s.33)

29

30 50. Section 8 of P.L.1985, c.368 (C.13:1E-176) is amended to
31 read as follows:

32 8. [It] The provisions of any other law, or of any rule or
33 regulation adopted pursuant thereto, to the contrary notwithstanding,
34 it shall remain the continuing responsibility of the owner or operator
35 of every sanitary landfill facility to [insure] ensure that the rates or
36 charges received at the sanitary landfill facility[, whether or not these
37 rates or charges are subject to the jurisdiction of the Board of Public
38 Utilities pursuant to P.L.1970, c.40 (C.48:13A-1 et seq.),] will
39 provide sufficient revenues for all costs, including closure and post-
40 closure costs, as identified and defined in rules and regulations
41 adopted by the department pursuant to the "Solid Waste Management
42 Act," P.L.1970, c.39 (C.13:1E-1 et seq.) or P.L.1981, c.306
43 (C.13:1E-100 et seq.), likely to be incurred by the sanitary landfill
44 facility.

45 In order to [insure] ensure the integrity of financial planning for
46 closure, the owner or operator of every sanitary landfill facility[,

1 whether or not the rates or charges received by the facility are subject
2 to the jurisdiction of the Board of Public Utilities,] shall submit for
3 approval to the department [and, where relevant, the board,] a
4 financial plan addressing all aspects of closure. [The owner or
5 operator of every existing sanitary landfill facility for which a
6 registration statement and engineering design have been filed with, and
7 approved by, the department prior to June 1, 1985 shall submit a
8 financial plan for closure within 180 days of the effective date of this
9 act, except that the department, or the board, as the case may be, may
10 grant an extension of up to 180 days, if sufficient reason exists to
11 grant the extension. The owner or operator of every new sanitary
12 landfill facility for which a registration statement and engineering
13 statement have been filed with the department subsequent to June 1,
14 1985 shall submit for approval to the department and, where relevant,
15 the board, a financial plan for closure prior to commencement of
16 operations, except that the department, or the board, as the case may
17 be, may grant an extension of up to 180 days, if sufficient reason exists
18 to grant the extension.]

19 The owner or operator of every sanitary landfill facility shall
20 submit for approval to the department a financial plan for closure
21 prepared in accordance with the rules and regulations adopted by the
22 department pursuant to the "Solid Waste Management Act," P.L.1970,
23 c.39 (C.13:1E-1 et seq.) or P.L.1981, c.306 (C.13:1E-100 et seq.).

24 Any owner or operator of a sanitary landfill facility who shall fail
25 to prepare or submit for approval to the department a financial plan for
26 closure, as provided herein, shall be guilty of a crime of the third
27 degree.

28 (cf: P.L.1985, c.368, s.8)

29

30 51. Section 3 of P.L.1957, c.183 (C.40:14B-3) is amended to read
31 as follows:

32 3. As used in this act[, unless a different meaning clearly appears
33 from the context]:

34 (1) "Municipality" shall mean any city of any class, any borough,
35 village, town, township, or any other municipality other than a county
36 or a school district, and except when used in section 4, 5, 6, 11, 12,
37 13, 42 or 45 of [this act] P.L.1957, c.183 (C.40:14B-4 through
38 40:14B-6, 40:14B-11 through 40:14B-13, 40:14B-42 or 40:14B-45),
39 any agency thereof or any two or more thereof acting jointly or any
40 joint meeting or other agency of any two or more thereof;

41 (2) "County" shall mean any county of any class;

42 (3) "Governing body" shall mean, in the case of a county, the
43 board of chosen freeholders, or in the case of those counties organized
44 pursuant to the provisions of the "Optional County Charter Law"
45 (P.L.1972, c.154; C.40:41A-1 et seq.), the board of chosen
46 freeholders and the county executive, the county supervisor or the

1 county manager, as appropriate, and, in the case of a municipality, the
2 commission, council, board or body, by whatever name it may be
3 known, having charge of the finances of the municipality;

4 (4) "Person" shall mean any person, association, corporation,
5 nation, state or any agency or subdivision thereof, other than a county
6 or municipality of the State or a municipal authority;

7 (5) "Municipal authority" shall mean a public body created or
8 organized pursuant to section 4, 5 or 6 of [this act] P.L.1957, c.183
9 (C.40:14B-4, 40:14B-5 or 40:14B-6) and shall include a municipal
10 utilities authority created by one or more municipalities and a county
11 utilities authority created by a county;

12 (6) Subject to the exceptions provided in section 10, 11 or 12 of
13 [this act] P.L.1957, c.183 (C.40:14B-10, 40:14B-11 or 40:14B-12),
14 "district" shall mean the area within the territorial boundaries of the
15 county, or of the municipality or municipalities, which created or
16 joined in or caused the creation or organization of a municipal
17 authority;

18 (7) "Local unit" shall mean the county, or any municipality, which
19 created or joined in or caused the creation or organization of a
20 municipal authority;

21 (8) "Water system" shall mean the plants, structures and other real
22 and personal property acquired, constructed or operated or to be
23 acquired, constructed or operated by a municipal authority or by any
24 person to whom a municipal authority has extended credit for this
25 purpose for the purposes of the municipal authority, including
26 reservoirs, basins, dams, canals, aqueducts, standpipes, conduits,
27 pipelines, mains, pumping stations, water distribution systems,
28 compensating reservoirs, waterworks or sources of water supply,
29 wells, purification or filtration plants or other plants and works,
30 connections, rights of flowage or division, and other plants, structures,
31 boats, conveyances, and other real and personal property, and rights
32 therein, and appurtenances necessary or useful and convenient for the
33 accumulation, supply or distribution of water;

34 (9) "Sewerage system" shall mean the plants, structures, on-site
35 wastewater systems and other real and personal property acquired,
36 constructed or operated or to be acquired, constructed, maintained or
37 operated by a municipal authority or by any person to whom a
38 municipal authority has extended credit for this purpose for the
39 purposes of the municipal authority, including sewers, conduits,
40 pipelines, mains, pumping and ventilating stations, sewage treatment
41 or disposal systems, plants and works, connections, outfalls,
42 compensating reservoirs, and other plants, structures, boats,
43 conveyances, and other real and personal property, and rights therein,
44 and appurtenances necessary or useful and convenient for [the
45 collection, treatment, purification or disposal in a sanitary manner of
46 any sewage, liquid or solid wastes, night soil or industrial wastes] their

1 use or operation;

2 (10) "Utility system" shall mean a water system, solid waste
3 [system] facilities, sewerage system, or a hydroelectric system or any
4 combination of such facilities or systems, acquired, constructed or
5 operated or to be acquired, constructed or operated by a municipal
6 authority or by any person to whom a municipal authority has
7 extended credit for this purpose;

8 (11) "Cost" shall mean, in addition to the usual connotations
9 thereof, the cost of planning, acquisition or construction of all or any
10 part of a utility system by or on behalf of a municipal authority and of
11 all or any property, rights, easements, privileges, agreements and
12 franchises deemed by the municipal authority to be necessary or useful
13 and convenient therefor or in connection therewith, including interest
14 or discount on bonds, cost of issuance of bonds, architectural,
15 engineering and inspection costs and legal expenses, cost of financial,
16 professional and other estimates and advice, organization,
17 administrative, operating and other expenses of the municipal
18 authority prior to and during such acquisition or construction, and all
19 such other expenses as may be necessary or incident to the financing,
20 acquisition, construction and completion of [said] the utility system or
21 part thereof and the placing of the same in operation or the disposition
22 of the same, and also such provision or reserves for working capital,
23 operating, maintenance or replacement expenses or for payment or
24 security of principal of or interest on bonds during or after such
25 acquisition or construction as the municipal authority may determine,
26 and also reimbursements to the municipal authority or any county,
27 municipality or other person of any moneys theretofore expended for
28 the purposes of the municipal authority or to any county or
29 municipality of any moneys theretofore expended for or in connection
30 with a utility system, including water supply, solid waste facilities,
31 water distribution, sanitation or hydroelectric facilities; except that,
32 in connection with solid waste facilities, "cost" means, in addition to
33 the aforementioned connotations thereof, any expenses related to: (1)
34 the planning, acquisition or construction of solid waste facilities,
35 including debt service on bonds issued prior to the effective date of
36 P.L. , c. (C.)(pending in the Legislature as this bill) to
37 finance solid waste facilities, including abandoned or canceled solid
38 waste facility projects, or debt service on bonds associated with a
39 refinancing of bonds issued prior to the effective date of P.L. , c.
40 (C.)(pending in the Legislature as this bill) to finance solid
41 waste facilities, including abandoned or canceled solid waste facility
42 projects; (2) the fulfillment of interdistrict agreements or lawfully
43 executed solid waste disposal contracts; (3) the establishment and
44 implementation of solid waste management programs adopted prior to
45 the effective date of P.L. , c. (C.)(pending in the
46 Legislature as this bill); (4) the payment of solid waste taxes or other

1 payments mandated by State law, rule, directive or order; or (5) the
2 payment of host municipality benefits. As used herein, "cost" shall not
3 include the debt service on the unexpended balance of bond proceeds
4 on bonds or refinancing bonds authorized but not expended prior to
5 the effective date of P.L. , c. (C.)(pending in the
6 Legislature as this bill);

7 (12) "Real property" shall mean lands both within or without the
8 State, and improvements thereof or thereon, or any rights or interests
9 therein;

10 (13) "Construct" and "construction" shall connote and include acts
11 of construction, reconstruction, replacement, extension, improvement
12 and betterment of a utility system;

13 (14) "Industrial wastes" shall mean liquid or other wastes resulting
14 from any processes of industry, manufacture, trade or business or
15 from the development of any natural resource, and shall include any
16 chemical wastes or hazardous wastes;

17 (15) "Sewage" shall mean the water-carried wastes created in and
18 carried, or to be carried, away from, or to be processed by on-site
19 wastewater systems, residences, hotels, apartments, schools, hospitals,
20 industrial establishments, or any other public or private building,
21 together with such surface or ground water and industrial wastes and
22 leachate as may be present;

23 (16) "On-site wastewater system" means any of several facilities,
24 septic tanks or other devices, used to collect, treat, reclaim, or dispose
25 of wastewater or sewage on or adjacent to the property on which the
26 wastewater or sewage is produced, or to convey such wastewater or
27 sewage from said property to such facilities as the authority may
28 establish for its disposal;

29 (17) "Pollution" means the condition of water resulting from the
30 introduction therein of substances of a kind and in quantities rendering
31 it detrimental or immediately or potentially dangerous to the public
32 health, or unfit for public or commercial use;

33 (18) "Bonds" shall mean bonds or other obligations issued
34 pursuant to [this act] the provisions of P.L.1957, c.183 (C.40:14B-1
35 et seq.);

36 (19) "Service charges" shall mean water service charges, solid
37 waste [service] charges, sewer service charges, hydroelectric service
38 charges or any combination of such charges, as said terms are defined
39 in section 21 or 22 of [this act] P.L.1957, c.183 (C.40:14B-21 or
40 40:14B-22) or in section 7 of [this amendatory and supplementary act]
41 P.L.1980, c.34 (C.40:14B-21.1);

42 (20) "Compensating reservoir" shall mean the structures, facilities
43 and appurtenances for the impounding, transportation and release of
44 water for the replenishment in periods of drought or at other necessary
45 times of all or a part of waters in or bordering the State diverted into
46 a utility system operated by a municipal authority;

1 (21) "Sewage authority" shall mean a public body created pursuant
2 to the Sewerage Authorities Law (P.L.1946, c.138) or the acts
3 amendatory thereof or supplemental thereto;

4 (22) "County sewer authority" shall mean a sanitary sewer district
5 authority created pursuant to the act entitled "An act relating to the
6 establishment of sewerage districts in first- and second-class counties,
7 the creation of Sanitary Sewer District Authorities by the establishing
8 of such districts, prescribing the powers and duties of any such
9 authority and of other public bodies in connection with the
10 construction of sewers and sewage disposal facilities in any such
11 district, and providing the ways and means for paying the costs of
12 construction and operation thereof," approved April 23, 1946
13 (P.L.1946, c.123), or the acts amendatory thereof or supplemental
14 thereto;

15 (23) "Chemical waste" shall mean a material normally generated
16 by or used in chemical, petrochemical, plastic, pharmaceutical,
17 biochemical or microbiological manufacturing processes or petroleum
18 refining processes, which has been selected for waste disposal and
19 which is known to hydrolize, ionize or decompose, which is soluble,
20 burns or oxidizes, or which may react with any of the waste materials
21 which are introduced into the landfill, or which is buoyant on water,
22 or which has a viscosity less than that of water or which produces a
23 foul odor. Chemical waste may be either hazardous or nonhazardous;

24 (24) "Effluent" shall mean liquids which are treated in and
25 discharged by sewage treatment plants;

26 (25) "Hazardous wastes" shall mean any waste or combination of
27 waste which poses a present or potential threat to human health, living
28 organisms or the environment. "Hazardous waste" shall include, but
29 not be limited to, waste material that is toxic, corrosive, irritating,
30 sensitizing, radioactive, biologically infectious, explosive or
31 flammable;

32 (26) "Leachate" shall mean a liquid that has been in contact with
33 solid waste and contains dissolved or suspended materials from that
34 solid waste;

35 (27) ["Recycling"] "Resource recovery" shall mean the
36 [separation,] collection, [processing or] separation, recycling and
37 recovery of metals, glass, paper[, solid waste] and other materials for
38 reuse; or the incineration of solid waste for energy production and
39 [shall include resource recovery] the recovery of metals and other
40 materials for reuse;

41 (28) "Sludge" shall mean any solid, semisolid, or liquid waste
42 generated from a municipal, industrial or other sewage treatment plant,
43 water supply treatment plant, or air pollution control facility, or any
44 other such waste having similar characteristics and effects; "sludge"
45 shall not include effluent;

46 (29) "Solid waste" shall mean garbage, refuse, and other discarded

1 materials resulting from industrial, commercial and agricultural
2 operations, and from domestic and community activities, and shall
3 include all other waste materials including [sludge, chemical waste,
4 hazardous wastes and] liquids, except for [liquids which are treated in
5 public sewage treatment plants and except for solid animal and
6 vegetable wastes] source separated recyclable materials or source
7 separated food waste collected by [swine] livestock producers
8 [licensed] approved by the State Department of Agriculture to collect,
9 prepare and feed such wastes to [swine] livestock on their own farms;

10 (30) "Solid waste [system] facilities" shall mean and include the
11 plants, structures and other real and personal property acquired,
12 constructed or operated or to be acquired, constructed or operated by
13 [an] , or on behalf of, any person, municipal authority or county
14 pursuant to the provisions of the "Solid Waste Management Act,"
15 P.L.1970, c.39 (C.13:1E-1 et seq.) or by any person to whom a
16 municipal authority has extended credit for this purpose pursuant to
17 the provisions of [this act] P.L.1984, c.178, including transfer
18 stations, incinerators, [recycling] resource recovery facilities,
19 [including facilities for the generation, transmission and distribution of
20 energy derived from the processing of solid waste,] sanitary landfill
21 facilities or other property or plants for the collection, recycling,
22 transfer or disposal of solid waste and all vehicles, equipment and
23 other real and personal property and rights thereon and appurtenances
24 necessary or useful and convenient for the collection, recycling, or
25 disposal of solid waste in a sanitary manner;

26 (31) "Hydroelectric system" shall mean the plants, structures and
27 other real and personal property acquired, constructed or operated or
28 to be acquired, constructed or operated by an authority pursuant to the
29 provisions of [this act] P.L.1980, c.34, including all that which is
30 necessary or useful and convenient for the generation, transmission
31 and sale of hydroelectric power at wholesale;

32 (32) "Hydroelectric power" shall mean the production of electric
33 current by the energy of moving water;

34 (33) "Sale of hydroelectric power at wholesale" shall mean any
35 sale of hydroelectric power to any person for purposes of resale of
36 such power;

37 (34) "Constituent municipality" means any municipality located
38 within the territorial boundaries of a county; any municipality located
39 within the territorial boundaries of a county that has created a
40 municipal authority, or any municipality included within the
41 jurisdiction of a municipal authority pursuant to the provisions of
42 P.L.1957, c.183 (C.40:14B-1 et seq.), or any combination thereof;

43 (35) "District solid waste facility" means a solid waste facility that
44 is designated by a municipal authority or county in its adopted district
45 solid waste management plan as approved by the department prior to
46 the effective date of P.L. , c. (C.)(pending in the

1 Legislature as this bill) as the in-county facility to which solid waste
2 generated within the boundaries of the county is transported for final
3 disposal, or transfer for transportation to an offsite solid waste facility
4 or designated out-of-state disposal site for disposal, as appropriate;

5 (36) "Environmental investments" means any: (a) solid waste
6 facilities; (b) solid waste management programs; (c) obligation to
7 fulfill interdistrict agreements or lawfully executed solid waste disposal
8 contracts; (d) obligation to pay solid waste taxes or other payments
9 mandated by State law, rule, directive or order; or (e) obligation to
10 pay host municipality benefits;

11 (37) "Environmental investment charges" means the rates, fees or
12 other charges imposed and collected by a municipal authority for the
13 payment of environmental investment costs;

14 (38) "Environmental investment costs" means the cost of
15 environmental investments;

16 (39) "Host municipality benefits" means the payment of annual
17 economic benefits made to host municipalities required pursuant to
18 section 19 of P.L.1975, c.326 (C.13:1E-28), section 2 of P.L.1987,
19 c.449 (C.13:1E-28.1), P.L.1994, c.27 (C.13:1E-28.3) or section 40 of
20 P.L.1985, c.38 (C.48:13A-5.1);

21 (40) "Interdistrict agreement" means a contract or agreement
22 entered into between the concerned boards of chosen freeholders, the
23 Hackensack Commission, any person, municipal authority, or any
24 combination thereof, for the shared use of district solid waste facilities;

25 (41) "Local Finance Board" means the Local Finance Board in the
26 Division of Local Government Services in the Department of
27 Community Affairs.

28 (42) "Municipal solid waste services agreement" means a contract
29 or agreement entered into between any person, municipal authority or
30 county and a municipal governing body for the use of a district solid
31 waste facility by the municipality for the disposal of solid waste
32 generated within its municipal boundaries;

33 (43) "Recycling" shall mean any process by which materials which
34 would otherwise become solid waste are collected, separated or
35 processed and returned to the economic mainstream in the form of raw
36 materials or products;

37 (44) "Responsible solid waste generator" means any property
38 owner, tenant or occupant of any single-family residential dwelling or
39 multi-family multiple dwelling, or the owner, tenant or occupant of any
40 industrial, commercial or institutional building or structure located
41 within the boundaries of any municipality, who generates solid waste
42 at those premises;

43 (45) "Resource recovery facility" means a solid waste facility
44 constructed and operated for the incineration of solid waste for energy
45 production and the recovery of metals and other materials for reuse;
46 or a mechanized composting facility, or any other solid waste facility;

1 (46) "Resource recovery services" means any services provided by
2 the owner or operator of a resource recovery facility, including but not
3 limited to, solid waste disposal; the utilization of a resource recovery
4 facility for the disposal of out-of-county solid waste; the disposal of
5 residual ash or the solid waste delivered to a resource recovery facility
6 which cannot be processed at the resource recovery facility; the
7 utilization of a sanitary landfill facility for the disposal of solid waste
8 due to downtime or technical failure at a resource recovery facility; or
9 any combination thereof;

10 (47) "Solid waste management program" means any program
11 established by, or on behalf of, a municipal authority for sanitary
12 landfill facility closure, enforcement, household hazardous waste
13 management, recycling or other purposes related to the
14 implementation of a district solid waste management plan required
15 pursuant to the provisions of the "Solid Waste Management Act,"
16 P.L.1970, c.39 (C.13:1E-1 et seq.) or a district recycling plan required
17 pursuant to section 3 of P.L.1987, c.102 (C.13:1E-99.13);

18 (48) "Solid waste taxes" means the taxes imposed pursuant to
19 section 5 of P.L.1981, c.306 (C.13:1E-104) or section 3 of P.L.1985,
20 c.38 (C.13:1E-138);

21 (49) "Transfer station" means a solid waste facility at which solid
22 waste is transferred from a solid waste collection vehicle to a
23 registered solid waste haulage vehicle, including a rail car, for
24 transportation to an offsite solid waste facility or designated out-of-
25 state disposal site for disposal.

26 (cf: P.L.1984, c.178, s.1)

27
28 52. Section 19 of P.L.1957, c.183 (C.40:14B-19) is amended to
29 read as follows:

30 19. [(a)] a. The purposes of every municipal authority shall be (1)
31 the provision and distribution of an adequate supply of water for the
32 public and private uses of the local units, and their inhabitants, within
33 the district, [and] (2) the relief of waters in or bordering the State
34 from pollution arising from causes within the district and the relief of
35 waters in, bordering or entering the district from pollution or
36 threatened pollution, and the consequent improvement of conditions
37 affecting the public health, (3) the provision of sewage collection and
38 disposal service within or without the district,[and] (4) the provision
39 of water supply and distribution service in such areas without the
40 district as are permitted by the provisions of this act, [and] (5) the
41 provision of solid waste disposal services [and] or solid waste facilities
42 within or without the district in a manner consistent with the "Solid
43 Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.) and in
44 conformance with the district solid waste management plans adopted
45 by the solid waste management districts created therein, [and] (6) the
46 generation, transmission and sale of hydroelectric power at wholesale,

1 and (7) the operation and maintenance of utility systems owned by
2 other governments located within the district through contracts with
3 ~~[said] those~~ governments.

4 b. (1) Every municipal authority is authorized to establish and
5 implement a program for the inspection of all solid waste collection
6 activities or solid waste disposal operations and a program to enforce
7 the provisions of the system established pursuant to subsection e. of
8 this section for the collection of environmental investment charges, or
9 the provisions of any interdistrict agreements, municipal solid waste
10 services agreements, contracts or instruments executed in connection
11 with the implementation of a district solid waste management plan or
12 use of any district solid waste facility.

13 (2) Any municipal authority is authorized to exercise the
14 enforcement powers conferred on local boards of health or county
15 health departments pursuant to the provisions of the "County
16 Environmental Health Act," P.L.1977, c.443 (C.26:3A2-21 et seq.)
17 and section 9 of P.L.1970, c.39 (C.13:1E-9), and may exercise these
18 powers directly in the manner provided by the aforementioned acts to
19 local boards of health or county health departments, for the purposes
20 of enforcing the provisions of the system established pursuant to
21 subsection e. of this section for the collection of environmental
22 investment charges.

23 ~~[(b)]~~ c. Every municipal authority is hereby authorized, subject to
24 the limitations of ~~[this act]~~ P.L.1957, c.183 (C.40:14B-1 et seq.), to
25 acquire, in its own name but for the local unit or units, by purchase,
26 gift, condemnation or otherwise, lease as lessee, and, notwithstanding
27 the provisions of any charter, ordinance or resolution of any county or
28 municipality to the contrary, to construct, maintain, operate and use
29 such reservoirs, basins, dams, canals, aqueducts, standpipes, conduits,
30 pipelines, mains, pumping and ventilating stations, treatment,
31 purification and filtration plants or works, trunk, intercepting and
32 outlet sewers, water distribution systems, waterworks, sources of
33 water supply and wells at such places within or without the district,
34 such compensating reservoirs within a county in which any part of the
35 district lies, and such other plants, structures, boats and conveyances,
36 as in the judgment of the municipal authority will provide an effective
37 and satisfactory method for promoting purposes of the municipal
38 authority.

39 ~~[(c)]~~ d. Every municipal authority is hereby authorized and
40 directed, when in its judgment its sewerage system or any part thereof
41 will permit, to collect from any and all public systems within the
42 district all sewage and treat and dispose of the same in such manner as
43 to promote purposes of the municipal authority.

44 e. Every municipal authority is hereby authorized to calculate,
45 charge and collect environmental investment charges to recover the
46 environmental investment costs of the municipal authority.

1 A municipal authority may enter into an agreement with the
2 governing body of the county wherein the district solid waste facility
3 is located providing for the assumption by the county of the
4 responsibility for the collection of environmental investment charges.

5 Environmental investment charges may be imposed and collected
6 by a municipal authority or county: (1) as the environmental
7 investment cost component of a consolidated bill comprised of solid
8 waste disposal charges and environmental investment charges collected
9 from users at the district solid waste facility; (2) as a separate bill to
10 all previous users of the district solid waste facility; (3) as a separate
11 bill to the constituent municipality or county for inclusion as an item
12 in the municipal budget or county budget, or any combination thereof,
13 for the payment of environmental investment costs; or (4) in any other
14 manner reasonably established by the municipal authority or county.

15 f. Environmental investment charges may be collected by a
16 municipal authority or county, without limitation, from:

17 (1) every responsible solid waste generator included within the
18 jurisdiction of the municipal authority or county, regardless of whether
19 a particular responsible solid waste generator utilizes the district solid
20 waste facility for solid waste disposal, through the implementation of
21 a unit charge based upon: (a) the average annual amount of solid
22 waste generated by a particular responsible solid waste generator, as
23 measured in tons or cubic yards, during the previous five years; (b) the
24 average annual amount of solid waste accepted for disposal at the
25 district solid waste facility from a particular responsible solid waste
26 generator, as measured in tons or cubic yards, during the previous five
27 years; or (c) any other criteria reasonably established by the municipal
28 authority or county;

29 (2) every constituent municipality that utilizes or has previously
30 utilized the district solid waste facility, through the implementation of
31 an assessment against constituent municipalities based upon: (a) the
32 average annual aggregate amount of solid waste generated within the
33 boundaries of a particular constituent municipality from all sources of
34 generation, as measured in tons or cubic yards, during the previous
35 five years; (b) the average annual amount of solid waste accepted for
36 disposal at the district solid waste facility from all sources of
37 generation within the boundaries of a particular constituent
38 municipality, as measured in tons or cubic yards, during the previous
39 five years; or (c) any other criteria reasonably established by the
40 municipal authority or county; or

41 (3) the county wherein the district solid waste facility is located,
42 through the implementation of an assessment against the county based
43 upon: (a) the average annual aggregate amount of solid waste
44 generated within the boundaries of the county from all sources of
45 generation, as measured in tons or cubic yards, during the previous
46 five years; (b) the average annual amount of solid waste accepted for

1 disposal at the district solid waste facility from all sources of
2 generation within the boundaries of the county, as measured in tons
3 or cubic yards, during the previous five years; or (c) any other criteria
4 reasonably established by the municipal authority or county.

5 For the purposes of this subsection, "solid waste" means any
6 nonhazardous solid waste derived from all sources of generation
7 within a county or municipality, including Type 10 Municipal
8 (commercial, household or institutional); Type 13 Bulky waste; Type
9 13C Construction and demolition waste; Type 23 Vegetative waste;
10 Type 25 Animal and food processing wastes; and Type 27 Dry
11 industrial waste, all as identified and defined in rules and regulations
12 adopted by the department pursuant to the "Solid Waste Management
13 Act," P.L.1970, c.39 (C.13:1E-1 et seq.). As used herein, "Type 27
14 Dry industrial waste" shall not include the residue from the operations
15 of a scrap metal shredding facility; and "scrap metal shredding facility"
16 means a commercial industrial facility designed and operated for
17 receiving, storing, processing and transferring scrap automobiles,
18 appliances or other source separated, nonputrescible ferrous and
19 nonferrous metals, which materials are purchased by the owner or
20 operator thereof, and which are altered or reduced in volume or
21 physical characteristics onsite by mechanical methods, including but
22 not limited to baling, cutting, torching, crushing, or shredding, for the
23 purposes of resale for remelting, refining, smelting or remanufacturing
24 into raw materials or products.

25 g. A municipal authority or county that intends to establish a
26 system for the collection of environmental investment charges shall
27 hold a public hearing thereon at least 20 days after notice of the
28 proposed system has been mailed to the clerk of each constituent
29 municipality located within the boundaries of the county wherein the
30 district solid waste facility is located, and after publication of the
31 notice of the proposed system and the time and place of the public
32 hearing in at least two newspapers of general circulation within the
33 county.

34 (1) The publication shall include notice of the date, time and place
35 of the public hearing, notice of the place at which written summaries
36 of the proposed system will be available for public inspection, and the
37 times during which such inspection will be permitted.

38 (2) At the public hearing, the municipal authority or county shall
39 explain the proposed billing mechanism for the collection of
40 environmental investment charges and shall answer questions raised by
41 prospective payers, including responsible solid waste generators,
42 constituent municipalities and other interested parties. The municipal
43 authority or county shall identify and explain during the public hearing
44 the environmental investment costs to be recovered through the
45 imposition and collection of environmental investment charges.

46 (3) The municipal authority or county shall produce a verbatim

1 record of the public hearing. The record of the public hearing shall be
2 kept open for a period of seven days following the conclusion of the
3 hearing, during which time interested parties may submit written
4 statements to be included in the hearing report. The municipal
5 authority or county shall prepare a written hearing report, which shall
6 include a written summary of the proposed system, the verbatim
7 record of the public hearing, written statements submitted by
8 interested parties, and a statement prepared by the municipal authority
9 or county summarizing the major issues raised at the public hearing
10 and the municipal authority's or county governing body's specific
11 responses to those issues. The municipal authority or county shall
12 make copies of the hearing report available to interested parties, upon
13 request, at a cost not to exceed the actual cost of printing or copying.

14 (4) The governing body of the municipal authority or county that
15 intends to establish a system for the collection of environmental
16 investment charges shall adopt a resolution establishing the proposed
17 system. The resolution may be introduced at the first meeting of the
18 governing body of the municipal authority or county held after the
19 public hearing on the proposed system, and shall acknowledge that the
20 law requires a public hearing to be held prior to the implementation of
21 the system pursuant to the provisions of subsection d. of section 15 of
22 P.L.1977, c.384 (C.40:14B-22.1).

23 h. Every municipal authority, or county that has assumed
24 responsibility for the collection of environmental investment charges
25 pursuant to subsection e. of this section, as appropriate, shall, within
26 six months of the effective date of P.L. , c. (C.) (pending
27 in the Legislature as this bill), and at least once every twelve months
28 thereafter, submit a report to the Local Finance Board related to
29 environmental investment costs of the municipal authority or county.
30 The report shall summarize individual schedules of outstanding debt
31 related to the environmental investment costs incurred by the
32 municipal authority or county, including the status of: installment
33 requirements for the payment of interest and principal on bonds; plans
34 to refund or refinance bonds; an updated environmental investment
35 cost recovery analysis; and proposed debt service coverage options.
36 (cf: P.L.1980, c.34, s.6)

37

38 53. Section 20 of P.L.1957, c.183 (C.40:14B-20) is amended to
39 read as follows:

40 20. Every municipal authority shall be a public body politic and
41 corporate constituting a political subdivision of the State established
42 as an instrumentality exercising public and essential governmental
43 functions to provide for the public health and welfare and shall have
44 perpetual succession and have the following powers:

45 (1) To adopt and have a common seal and to alter the same at
46 pleasure;

- 1 (2) To sue and be sued;
- 2 (3) In the name of the municipal authority and on its behalf, to
3 acquire, hold, use and dispose of its service charges and other
4 revenues and other moneys;
- 5 (4) In the name of the municipal authority but for the local unit or
6 units, to acquire, rent, hold, lease as lessor, use and dispose of other
7 personal property for the purposes of the municipal authority;
- 8 (5) In the name of the municipal authority but for the local unit or
9 units and subject to the limitations of this act, to acquire by purchase,
10 gift, condemnation or otherwise, or lease as lessee, real property and
11 easements therein, necessary or useful and convenient for the purposes
12 of the municipal authority, and subject to mortgages, deeds of trust or
13 other liens, or otherwise, and to hold, lease as lessor, and to use the
14 same, and to dispose of property so acquired no longer necessary for
15 the purposes of the municipal authority;
- 16 (6) To produce, develop, purchase, accumulate, distribute and sell
17 water and water services, facilities and products within or without the
18 district, provided that no water shall be sold at retail in any
19 municipality without the district unless the governing body of [such]
20 the municipality shall have adopted a resolution requesting the
21 municipal authority to sell water at retail in [such] the municipality,
22 and the [board of public utility commissioners] Board of Public
23 Utilities shall have approved [such] the resolution as necessary and
24 proper for the public convenience;
- 25 (7) To provide for and secure the payment of any bonds and the
26 rights of the holders thereof, and to purchase, hold and dispose of any
27 bonds;
- 28 (8) To accept gifts or grants of real or personal property, money,
29 material, labor or supplies for the purposes of the municipal authority,
30 and to make and perform such agreements and contracts as may be
31 necessary or convenient in connection with the procuring, acceptance
32 or disposition of such gifts or grants;
- 33 (9) To enter on any lands, waters or premises for the purpose of
34 making surveys, borings, soundings and examinations for the purposes
35 of the municipal authority, and whenever the operation of a septic tank
36 or other component of an on-site wastewater system shall result in the
37 creation of pollution or contamination source on private property such
38 that under the provisions of R.S.26:3-49, a local board of health would
39 have the authority to notify the owner and require said owner to abate
40 the same, representatives of an authority shall have the power to enter,
41 at all reasonable times, any premises on which [such] the pollution or
42 contamination source shall exist, for the purpose of inspecting,
43 rehabilitating, securing samples of any discharges, improving,
44 repairing, replacing, or upgrading [such] the septic tank or other
45 component of an on-site wastewater system;
- 46 (10) To establish an inspection program to be performed at least

1 once every three years on all on-site wastewater systems installed
2 within the district which inspection program shall contain the
3 following minimum notice provisions: (i) not less than 30 days prior
4 to the date of the inspection of any on-site wastewater system as
5 described herein, the authority shall notify the owner and resident of
6 the property that the inspection will occur; and (ii) not less than 60
7 days prior to the date of the performance of any work other than an
8 inspection, the municipal authority shall provide notice to the owner
9 and resident of the property in which the work will be performed. The
10 notice to be provided to such owner and resident under this subsection
11 shall include a description of the deficiency which necessitates the
12 work and the proposed remedial action, and the proposed date for
13 beginning and duration of the contemplated remedial action;

14 (11) To prepare and file in the office of the municipal authority
15 records of all inspections, rehabilitation, maintenance, and work,
16 performed with respect to on-site wastewater disposal systems;

17 (12) To make and enforce bylaws or rules and regulations for the
18 management and regulation of its business and affairs and for the use,
19 maintenance and operation of the utility system and any other of its
20 properties, and to amend the same;

21 (13) To do and perform any acts and things authorized by [this
22 act] the provisions of P.L.1957, c.183 (C.40:14B-1 et seq.) under,
23 through or by means of its own officers, agents and employees, or by
24 contracts with any person;

25 (14) To enter into any and all contracts, execute any and all
26 instruments, and do and perform any and all acts or things necessary,
27 convenient or desirable for the purposes of the municipal authority or
28 to carry out any power expressly given in [this act] the provisions of
29 P.L.1957, c.183 (C.40:14B-1 et seq.) subject to "Local Public
30 Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.); [and]

31 (15) To extend credit or make loans to any person for the
32 planning, designing, acquiring, constructing, reconstructing,
33 improving, equipping, furnishing, and operating by that person of any
34 part of [a solid waste system] solid waste facilities, or a sewage
35 treatment system, wastewater treatment or collection system for the
36 provision of services and facilities within or without the district, which
37 in the case of [a solid waste system] solid waste facilities shall be in a
38 manner consistent with the "Solid Waste Management Act,"
39 P.L.1970, c.39 (C.13:1E-1 et seq.) and in conformance with the
40 district solid waste management plans adopted by the solid waste
41 management districts created therein. The credits or loans may be
42 secured by loan and security agreements, mortgages, leases and any
43 other instruments, upon [such] the terms as the authority shall deem
44 reasonable, including provision for the establishment and maintenance
45 of reserve and insurance funds, and to require the inclusion in any
46 mortgage, lease, contract, loan and security agreement or other

1 instrument, provisions for the construction, use, operation and
2 maintenance and financing of that part of the aforementioned systems
3 as the municipal authority may deem necessary or desirable;

4 (16) To calculate, charge and collect environmental investment
5 charges to recover the environmental investment costs of the municipal
6 authority; and

7 (17) To establish and implement a program for the inspection of
8 all solid waste collection activities or solid waste disposal operations
9 and a program to enforce the provisions of the system established
10 pursuant to subsection e. of section 19 of P.L.1957, c.183 (C.40:14B-
11 19) for the collection of environmental investment charges, or the
12 provisions of any interdistrict agreements, municipal solid waste
13 services agreements, contracts or instruments executed in connection
14 with the implementation of a district solid waste management plan or
15 use of any district solid waste facility.

16 (cf: P.L.1984, c.178, s.2)

17

18 54. Section 15 of P.L.1977, c.384 (C.40:14B-22.1) is amended to
19 read as follows:

20 15. a. Every municipal authority is hereby authorized to calculate,
21 charge and collect rents, rates, fees or other charges ([in this act
22 sometimes] hereinafter referred to as "solid waste [service] charges")
23 for the use or services of [the solid waste system] solid waste facilities
24 acquired, constructed or operated or to be acquired, constructed or
25 operated by, or on behalf of, the municipal authority. [Such] The solid
26 waste [service] charges may be charged to and collected from any
27 constituent municipality or any person contracting for such use or
28 services or from the owner or occupant, or both of them, of any real
29 property from or on which originates or has originated any solid waste
30 to be [treated by] disposed at the solid waste [system] facilities of the
31 municipal authority, and the owner of any such real property shall be
32 liable for and shall pay [such] the solid waste [service] charges to the
33 municipal authority at the time when and place where [such] the solid
34 waste [service] charges are due and payable.

35 [Such rents, rates, fees and]

36 b. The solid waste charges, being in the nature of use or service
37 charges, shall as nearly as the municipal authority shall deem
38 practicable and equitable be uniform throughout the county for the
39 same type, class and amount of use or service of the solid waste
40 [system] facilities, except as permitted by section 1 of P.L.1992, c.215
41 (C.40:14B-22.2), and may be based or computed on any factors
42 determining the type, class and amount of use or service of the solid
43 waste [system] facilities, and may give weight to the characteristics of
44 the solid waste and any other special matter affecting the cost of
45 [treatment and disposal of the same] solid waste collection, disposal
46 or recycling.

1 Any person, municipal authority or county that entered into an
2 interdistrict agreement with another county or public authority as
3 defined in section 3 of P.L. , c. (C.)(pending in the
4 Legislature as this bill) for the shared use of district solid waste
5 facilities prior to the effective date of P.L. , c. (C.)(pending
6 in the Legislature as this bill) may provide for a reduction of the solid
7 waste charges due and payable under the terms and conditions of the
8 interdistrict agreement for the out-of-county solid waste accepted for
9 disposal at the district solid waste facility from the sending county or
10 public authority whenever the sending county or public authority
11 agrees to the payment of environmental investment charges on a
12 voluntary basis.

13 c. In the event that the environmental investment charges of a
14 municipal authority or county pursuant to subsection e. of section 19
15 of P.L.1957, c.183 (C.40:14B-19) with regard to any parcel of real
16 property owned by any person shall not be paid as and when due, the
17 unpaid balance thereof, and all interest accruing thereon, shall be a lien
18 on the parcel. The lien shall be superior and paramount to the interest
19 in the parcel of any owner, lessee, tenant, mortgagee or other person
20 except the lien of municipal taxes and shall be on a parity with and
21 deemed equal to the lien on the parcel of the municipality wherein the
22 parcel is situated for taxes thereon due in the same year and not paid
23 as and when due. Whenever the environmental investment charges,
24 and any interest accrued thereon, shall have been fully paid to the
25 municipal authority or county, the lien shall be promptly withdrawn or
26 canceled by the municipal authority or county.

27 The collector or other officer of every municipality charged by law
28 with the duty of enforcing municipal liens on real property shall
29 enforce, in the same manner as with any other municipal lien on real
30 property in the municipality, all environmental investment charges and
31 the lien thereof shown in any statement filed with the collector or
32 officer by a municipal authority or county pursuant to the provisions
33 of this subsection, and shall pay over to the municipal authority or
34 county the sums or a pro rata share of the sums realized upon the
35 enforcement or liquidation of any property acquired by the
36 municipality by virtue of the enforcement action.

37 In the event that the environmental investment charges of a
38 municipal authority or county shall not be paid as and when due,
39 notwithstanding any other remedies available to the municipal
40 authority or county, the unpaid balance thereof, and any interest
41 accrued thereon, together with attorney's fees and costs, may be
42 recovered by the municipal authority or county in a civil action, and
43 any lien on real property for the environmental investment charges,
44 and any interest accrued thereon, may be foreclosed or otherwise
45 enforced by the municipal authority or county by action or suit in
46 equity as for the foreclosure of a mortgage on the real property.

1 All rights and remedies provided in this subsection for the
2 collection and enforcement of environmental investment charges shall
3 be cumulative and concurrent.

4 d. Upon the establishment of a system to calculate, charge and
5 collect environmental investment charges to recover the environmental
6 investment costs of the municipal authority or county, but prior to the
7 implementation thereof, the municipal authority or county shall hold
8 a public hearing thereon at least 20 days after notice of the proposed
9 implementation has been mailed to the clerk of each constituent
10 municipality located within the boundaries of the county wherein the
11 district solid waste facility is located, and after publication of the
12 notice of the proposed implementation and the time and place of the
13 public hearing in at least two newspapers of general circulation within
14 the county.

15 (cf: P.L.1992, c.215, s.3)

16
17 55. Section 23 of P.L.1957, c.183 (C.40:14B-23) is amended to
18 read as follows:

19 23. a. Every municipal authority shall prescribe and from time to
20 time when necessary revise a schedule of all its service charges, which
21 may provide a single rent, rate, fee or charge for any of its utility
22 charges and which shall comply with the terms of any contract of the
23 municipal authority and may be such that the revenues of the municipal
24 authority will at all times be adequate to pay the expenses of operation
25 and maintenance of the utility system, including reserves, insurance,
26 extensions, and replacements, and to pay the principal of and interest
27 on any bonds and to maintain such reserves or sinking funds therefor
28 as may be required by the terms of any contract of the municipal
29 authority or as may be deemed necessary or desirable by the municipal
30 authority.

31 [Said] b. The schedule shall thus be prescribed and from time to
32 time revised by the municipal authority after public hearing thereon
33 which shall be held by the municipal authority at least 20 days after
34 notice of the proposed adjustment is mailed to the clerk of each
35 municipality serviced by the municipal authority and publication of
36 notice of the proposed adjustment of the service charges and of the
37 time and place of the public hearing in at least two newspapers of
38 general circulation in the area serviced by the municipal authority. The
39 municipal authority shall provide evidence at the hearing showing that
40 the proposed adjustment of the service charges is necessary and
41 reasonable, and shall provide the opportunity for cross-examination of
42 persons offering such evidence, and a transcript of the hearing shall be
43 made and a copy thereof shall be available upon request to any
44 interested party at a reasonable fee. The municipal authority shall
45 likewise fix and determine the time or times when and the place or
46 places where such service charges shall be due and payable and may

1 require that such service charges shall be paid in advance for periods
2 of not more than one year. A copy of such schedule of service charges
3 in effect shall at all times be kept on file at the principal office of the
4 municipal authority and shall at all reasonable times be open to public
5 inspection.

6 c. Notwithstanding the foregoing, the provisions of this section
7 shall not apply to the environmental investment charges authorized
8 and collected pursuant to subsection e. of section 19 of P.L.1957,
9 c.183 (C.40:14B-19).

10 (cf: P.L.1960, c.183, s.15)

11

12 56. Section 2 of P.L.1960, c.183 (C.40:37A-45) is amended to
13 read as follows:

14 2. As used in this act[, unless a different meaning clearly appears
15 from the context]:

16 (a) "Authority" shall mean a public body created pursuant to [this
17 act] the provisions of P.L.1960, c.183 (C.40:37A-44 et seq.);

18 (b) "Bond resolution" shall have the meaning ascribed thereto in
19 section 17 of P.L.1960, c.183 (C.40:37A-60);

20 (c) "Bonds" shall mean bonds, notes or other obligations issued
21 pursuant to [this act] the provisions of P.L.1960, c.183 (C.40:37A-44
22 et seq.);

23 (d) "Construct" and "construction" shall connote and include acts
24 of clearance, demolition, construction, development or redevelopment,
25 reconstruction, replacement, extension, improvement and betterment;

26 (e) "Cost" shall mean, in addition to the usual connotations
27 thereof, the cost of planning, acquisition or construction of all or any
28 part of any public facility or facilities of an authority and of all or any
29 property, rights, easements, privileges, agreements and franchises
30 deemed by the authority to be necessary or useful and convenient
31 therefor or in connection therewith, including interest or discount on
32 bonds, cost of issuance of bonds, architectural, engineering and
33 inspection costs and legal expenses, cost of financial, professional and
34 other estimates and advice, organization, administrative, operating and
35 other expenses of the authority prior to and during such acquisition or
36 construction, and all such other expenses as may be necessary or
37 incident to the financing, acquisition, construction and completion of
38 such public facility or facilities or part thereof and the placing of the
39 same fully in operation or the disposition of the same, and also such
40 provision or reserves for working capital, operating, maintenance or
41 replacement expenses or for payment or security of principal of or
42 interest on bonds during or after such acquisition or construction as
43 the authority may determine, and also reimbursements to the authority
44 or any governmental unit or person of any moneys theretofore
45 expended for the purposes of the authority; except that, in connection
46 with solid waste facilities, "cost" means, in addition to the

1 aforementioned connotations thereof, any expenses related to: (1) the
2 planning, acquisition or construction of solid waste facilities,
3 including debt service on bonds issued prior to the effective date of
4 P.L. , c. (C.)(pending in the Legislature as this bill) to
5 finance solid waste facilities, including abandoned or canceled solid
6 waste facility projects, or debt service on bonds associated with a
7 refinancing of bonds issued prior to the effective date of P.L. , c.
8 (C.)(pending in the Legislature as this bill) to finance solid
9 waste facilities, including abandoned or canceled solid waste facility
10 projects; (2) the fulfillment of interdistrict agreements or lawfully
11 executed solid waste disposal contracts; (3) the establishment and
12 implementation of solid waste management programs adopted prior to
13 the effective date of P.L. , c. (C.)(pending in the
14 Legislature as this bill); (4) the payment of solid waste taxes or other
15 payments mandated by State law, rule, directive or order; or (5) the
16 payment of host municipality benefits. As used herein, "cost" shall not
17 include the debt service on the unexpended balance of bond proceeds
18 on bonds or refinancing bonds authorized but not expended prior to
19 the effective date of P.L. , c. (C.)(pending in the
20 Legislature as this bill);

21 (f) The term "county" shall mean any county of any class of the
22 State and shall include, without limitation, the terms "the county" and
23 "beneficiary county" defined in this [act] section, and the term "the
24 county" shall mean the county which created an authority pursuant to
25 [this act] the provisions of P.L.1960, c.183 (C.40:37A-44 et seq.);

26 (g) "Development project" shall mean any lands, structures, or
27 property or facilities acquired or constructed or to be acquired or
28 constructed by an authority for the purposes of the authority described
29 in subsection (e) of section 11 of P.L.1960, c.183 (C.40:37A-54);

30 (h) "Facility charges" shall have the meaning ascribed to said term
31 in section 14 of P.L.1960, c.183 (C.40:37A-57);

32 (i) "Facility revenues" shall have the meaning ascribed to said term
33 in subsection (e) of section 20 of P.L.1960, c.183 (C.40:37A-63);

34 (j) "Governing body" shall mean, in the case of a county, the
35 board of chosen freeholders, or in the case of a county operating under
36 article 3 or 5 of the "Optional County Charter Law" (P.L.1972, c.154;
37 C.40:41A-1 et seq.) as defined thereunder, and, in the case of a
38 municipality, the commission, council, board or body, by whatever
39 name it may be known, having charge of the finances of the
40 municipality;

41 (k) "Governmental unit" shall mean the United States of America
42 or the State or any county or municipality or any subdivision,
43 department, agency, or instrumentality heretofore or hereafter created,
44 designated or established by or for the United States of America or the
45 State or any county or municipality;

46 (l) "Local bond law" shall mean chapter 2 of Title 40A,

1 Municipalities and Counties, of the New Jersey Statutes (N.J.S.) as
2 amended and supplemented;

3 (m) "Municipality" shall mean any city, borough, village, town, or
4 township of the State but not a county or a school district;

5 (n) "Person" shall mean any person, partnership, association,
6 corporation or entity other than a nation, state, county or municipality
7 or any subdivision, department, agency or instrumentality thereof;

8 (o) "Project" shall have the meaning ascribed to said term in
9 section 17 of P.L.1960, c.183 (C.40:37A-60);

10 (p) "Public facility" shall mean any lands, structures, franchises,
11 equipment, or other property or facilities acquired, constructed,
12 owned, financed, or leased by the authority or any other governmental
13 unit or person to accomplish any of the purposes of an authority
14 authorized by section 11 of P.L.1960, c.183 (C.40:37A-54);

15 (q) "Real property" shall mean lands within or without the State,
16 above or below water, and improvements thereof or thereon, or any
17 riparian or other rights or interests therein;

18 (r) "[Garbage and solid waste disposal system] Solid waste
19 facilities" shall mean the plants, structures and other real and personal
20 property acquired, constructed or operated or to be acquired,
21 constructed or operated by, or on behalf of, any person, county or a
22 county improvement authority pursuant to the provisions of the "Solid
23 Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.),
24 including transfer stations, incinerators, resource recovery facilities,
25 sanitary landfill facilities or other plants for the [treatment and]
26 transfer or disposal of [garbage,] solid waste [and refuse matter] and
27 all other real and personal property and rights therein and
28 appurtenances necessary or useful and convenient for the collection
29 [and treatment], recycling or disposal of solid waste in a sanitary
30 manner [of garbage, solid waste and refuse matter (but not including
31 sewage)];

32 (s) "[Garbage, solid] Solid waste [or refuse matter]" shall mean
33 garbage, refuse and other discarded materials resulting from industrial,
34 commercial and agricultural operations, and from domestic and
35 community activities, and shall include all other waste materials
36 including [sludge, chemical waste, hazardous wastes and] liquids,
37 [except for liquids which are treated in public sewage treatment plants
38 and] except for [solid animal and vegetable wastes] source separated
39 recyclable materials or source separated food waste collected by
40 [swine] livestock producers [licensed] approved by the State
41 Department of Agriculture to collect, prepare and feed such wastes to
42 [swine] livestock on their own farms;

43 (t) "Blighted, deteriorated or deteriorating area" may include an
44 area determined heretofore by the municipality to be blighted in
45 accordance with the provisions of P.L.1949, c.187, repealed by
46 P.L.1992, c.79 (C.40:55-21.1 et seq.) and, in addition, areas which are

1 determined by the municipality, pursuant to the same procedures as
2 provided in said law, to be blighted, deteriorated or deteriorating
3 because of structures or improvements which are dilapidated or
4 characterized by disrepair, lack of ventilation or light or sanitary
5 facilities, faulty arrangement, location, or design, or other unhealthful
6 or unsafe conditions;

7 (u) "Redevelopment" may include planning, replanning,
8 conservation, rehabilitation, clearance, development and
9 redevelopment; and the construction and rehabilitation and provision
10 for construction and rehabilitation of residential, commercial,
11 industrial, public or other structures and the grant or dedication or
12 rededication of spaces as may be appropriate or necessary in the
13 interest of the general welfare for streets, parks, playgrounds, or other
14 public purposes including recreational and other facilities incidental or
15 appurtenant thereto, in accordance with a redevelopment plan
16 approved by the governing body of a municipality;

17 (v) "Redevelopment plan" shall mean a plan as it exists from time
18 to time for the redevelopment of all or any part of a redevelopment
19 area, which plan shall be sufficiently complete to indicate such land
20 acquisition, demolition and removal of structures, redevelopment,
21 improvements, conservation or rehabilitation as may be proposed to
22 be carried out in the area of the project, zoning and planning changes,
23 if any, land uses, maximum densities, building requirements, the plan's
24 relationship to definite local objectives respecting appropriate land
25 uses, improved traffic, public transportation, public utilities,
26 recreational and community facilities, and other public improvements
27 and provision for relocation of any residents and occupants to be
28 displaced in a manner which has been or is likely to be approved by the
29 Department of Community Affairs pursuant to the "Relocation
30 Assistance Law of 1967," P.L.1967, c.79 (C.52:31B-1 et seq.) and the
31 "Relocation Assistance Act," P.L.1971, c.362 (C.20:4-1 et seq.) and
32 rules and regulations pursuant thereto;

33 (w) "Redevelopment project" shall mean any undertakings and
34 activities for the elimination, and for the prevention of the
35 development or spread, of blighted, deteriorated, or deteriorating
36 areas and may involve any work or undertaking pursuant to a
37 redevelopment plan; such undertaking may include: (1) acquisition of
38 real property and demolition, removal or rehabilitation of buildings and
39 improvements thereon; (2) carrying out plans for a program of
40 voluntary repair and rehabilitation of buildings or other improvements;
41 and (3) installation, construction or reconstruction of streets, utilities,
42 parks, playgrounds or other improvements necessary for carrying out
43 the objectives of the redevelopment project;

44 (x) "Redeveloper" shall mean any person or governmental unit that
45 shall enter into or propose to enter into a contract with an authority
46 for the redevelopment of an area or any part thereof under the

1 provisions of [this act] P.L.1960, c.183 (C.40:37A-44 et seq.);

2 (y) "Redevelopment area" shall mean an area of a municipality
3 which the governing body thereof finds is a blighted area or an area in
4 need of rehabilitation whose redevelopment is necessary to effectuate
5 the public purposes declared in [this act] the provisions of P.L.1960,
6 c.183 (C.40:37A-44 et seq.). A redevelopment area may include
7 lands, buildings, or improvements which of themselves are not
8 detrimental to the public health, safety or welfare, but whose inclusion
9 is found necessary, with or without change in their condition, for the
10 effective redevelopment of the area of which they are a part;

11 (z) ["Sludge" shall mean any solid, semisolid, or liquid waste
12 generated from a municipal, industrial or other sewage treatment plant,
13 water supply treatment plant, or air pollution control facility, or any
14 other such waste having similar characteristics and effects, but shall
15 not include effluent; and] (Deleted by amendment, P.L. , c.)
16 (pending in the Legislature as this bill)

17 (aa) "Beneficiary county" shall mean any county that has not
18 created an authority pursuant to [this act]the provisions of P.L.1960,
19 c.183 (C.40:37A-44 et seq.);

20 (bb) "Constituent municipality" means any municipality located
21 within the territorial boundaries of a county; any municipality located
22 within the territorial boundaries of a county that has created an
23 authority, or any municipality included within the jurisdiction of an
24 authority pursuant to the provisions of P.L.1960, c.183 (C.40:37A-44
25 et seq.), or any combination thereof;

26 (cc) "District solid waste facility" means a solid waste facility that
27 is designated by an authority or county in its adopted district solid
28 waste management plan as approved by the department prior to the
29 effective date of P.L. , c. (C.)(pending in the Legislature
30 as this bill) as the in-county facility to which solid waste generated
31 within the boundaries of the county is transported for final disposal, or
32 transfer for transportation to an offsite solid waste facility or
33 designated out-of-state disposal site for disposal, as appropriate;

34 (dd) "Environmental investments" means any: (a) solid waste
35 facilities; (b) solid waste management programs; (c) obligation to
36 fulfill interdistrict agreements or lawfully executed solid waste disposal
37 contracts; (d) obligation to pay solid waste taxes or other payments
38 mandated by State law, rule, directive or order; or (e) obligation to
39 pay host municipality benefits;

40 (ee) "Environmental investment charges" means the rates, fees or
41 other charges imposed and collected by an authority for the payment
42 of environmental investment costs;

43 (ff) "Environmental investment costs" means the cost of
44 environmental investments;

45 (gg) "Host municipality benefits" means the payment of annual
46 economic benefits made to host municipalities required pursuant to

1 section 19 of P.L.1975, c.326 (C.13:1E-28), section 2 of P.L.1987,
2 c.449 (C.13:1E-28.1), P.L.1994, c.27 (C.13:1E-28.3) or section 40 of
3 P.L.1985, c.38 (C.48:13A-5.1):

4 (hh) "Interdistrict agreement" means a contract or agreement
5 entered into between the concerned boards of chosen freeholders, the
6 Hackensack Commission, any person, an authority, or any combination
7 thereof, for the shared use of district solid waste facilities;

8 (ii) "Local Finance Board" means the Local Finance Board in the
9 Division of Local Government Services in the Department of
10 Community Affairs;

11 (jj) "Municipal solid waste services agreement" means a contract
12 or agreement entered into between any person, an authority or county
13 and a municipal governing body for the use of a district solid waste
14 facility by the municipality for the disposal of solid waste generated
15 within its municipal boundaries;

16 (kk) "Resource recovery facility" means a solid waste facility
17 constructed and operated for the incineration of solid waste for energy
18 production and the recovery of metals and other materials for reuse;
19 or a mechanized composting facility, or any other solid waste facility;

20 (ll) "Resource recovery services" means any services provided by
21 the owner or operator of a resource recovery facility, including but not
22 limited to, solid waste disposal; the utilization of a resource recovery
23 facility for the disposal of out-of-county solid waste; the disposal of
24 residual ash or the solid waste delivered to a resource recovery facility
25 which cannot be processed at the resource recovery facility; the
26 utilization of a sanitary landfill facility for the disposal of solid waste
27 due to downtime or technical failure at a resource recovery facility; or
28 any combination thereof;

29 (mm) "Responsible solid waste generator" means any property
30 owner, tenant or occupant of any single-family residential dwelling or
31 multi-family multiple dwelling, or the owner, tenant or occupant of any
32 industrial, commercial or institutional building or structure located
33 within the boundaries of any municipality, who generates solid waste
34 at those premises;

35 (nn) "Solid waste management program" means any program
36 established by, or on behalf of, an authority for sanitary landfill facility
37 closure, enforcement, household hazardous waste management,
38 recycling or other purposes related to the implementation of a district
39 solid waste management plan required pursuant to the provisions of
40 the "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et
41 seq.) or a district recycling plan required pursuant to section 3 of
42 P.L.1987, c.102 (C.13:1E-99.13);

43 (oo) "Solid waste taxes" means the taxes imposed pursuant to
44 section 5 of P.L.1981, c.306 (C.13:1E-104) or section 3 of P.L.1985,
45 c.38 (C.13:1E-138);

46 (pp) "Transfer station" means a solid waste facility at which solid

1 waste is transferred from a solid waste collection vehicle to a
2 registered solid waste haulage vehicle, including a rail car, for
3 transportation to an offsite solid waste facility or designated out-of-
4 state disposal site for disposal.

5 (cf: P.L.1994, c.76, s.1)

6

7 57. Section 11 of P.L.1960, c.183 (C.40:37A-54) is amended to
8 read as follows:

9 11. The purposes of every authority shall be (a) provision within
10 the county or any beneficiary county of public facilities for use by the
11 State, the county or any beneficiary county, or any municipality in any
12 such county, or any two or more or any subdivisions, departments,
13 agencies or instrumentalities of any of the foregoing for any of their
14 respective governmental purposes, including the authority to calculate,
15 charge and collect environmental investment charges to recover the
16 environmental investment costs of the authority. (b) provision within
17 the county or any beneficiary county of public facilities for use as
18 convention halls, or the rehabilitation, improvement or enlargement of
19 any convention hall, including appropriate and desirable appurtenances
20 located within the convention hall or near, adjacent to or over it within
21 boundaries determined at the discretion of the authority, including but
22 not limited to office facilities, commercial facilities, community service
23 facilities, parking facilities, hotel facilities and other facilities for the
24 accommodation and entertainment of tourists and visitors, (c)
25 provision within the county or any beneficiary county of structures,
26 franchises, equipment and facilities for operation of public
27 transportation or for terminal purposes, including development and
28 improvement of port terminal structures, facilities and equipment for
29 public use in counties in, along or through which a navigable river
30 flows, (d) provision within the county or any beneficiary county of
31 structures or other facilities used or operated by the authority or any
32 governmental unit in connection with, or relative to development and
33 improvement of, aviation for military or civilian purposes, including
34 research in connection therewith, and including structures or other
35 facilities for the accommodation of passengers, (e) provision within the
36 county or any beneficiary county of a public facility for a combination
37 of governmental and nongovernmental uses; provided that not more
38 than 50% of the usable space in any such facility shall be made
39 available for nongovernmental use under a lease or other agreement by
40 or with the authority, (f) acquisition of any real property within the
41 county or any beneficiary county, with or without the improvements
42 thereof or thereon or personal property appurtenant or incidental
43 thereto, from the United States of America or any department, agency
44 or instrumentality heretofore or hereafter created, designated or
45 established by or for it, and the clearance, development or
46 redevelopment, improvement, use or disposition of the acquired lands

1 and premises in accordance with the provisions and for the purposes
2 stated in this act, including the construction, reconstruction,
3 demolition, rehabilitation, conversion, repair or alteration of
4 improvements on or to said lands and premises, and structures and
5 facilities incidental to the foregoing as may be necessary, convenient
6 or desirable, (g) acquisition, construction, maintenance and operation
7 of [~~garbage and solid waste disposal systems~~] solid waste facilities for
8 the purpose of collecting [~~and~~], disposing or recycling of
9 [~~garbage,~~]solid waste [~~or refuse matter~~], whether owned or operated
10 by any person, the authority or any other governmental unit, within or
11 without the county or any beneficiary county, including the
12 establishment and implementation of a system to calculate, charge and
13 collect environmental investment charges to recover the environmental
14 investment costs of the authority, and establishment and
15 implementation of a program for the inspection of all solid waste
16 collection activities or solid waste disposal operations and a program
17 to enforce the provisions of the system established for the collection
18 of environmental investment charges pursuant to section 14 of
19 P.L.1960, c.183 (C.40:37A-57), (h) the improvement, furtherance and
20 promotion of the tourist industries and recreational attractiveness of
21 the county or any beneficiary county through the planning, acquisition,
22 construction, improvement, maintenance and operation of facilities for
23 the recreation and entertainment of the public, which facilities may
24 include, without being limited to, a center for the performing and
25 visual arts, (i) provision of loans and other financial assistance and
26 technical assistance for the construction, reconstruction, demolition,
27 rehabilitation, conversion, repair or alteration of buildings or facilities
28 designed to provide decent, safe and sanitary dwelling units for
29 persons of low and moderate income in need of housing, including the
30 acquisition of land, equipment or other real or personal properties
31 which the authority determines to be necessary, convenient or
32 desirable appurtenances, all in accordance with the provisions of this
33 act, as amended and supplemented, (j) planning, initiating and carrying
34 out redevelopment projects for the elimination, and for the prevention
35 of the development or spread of blighted, deteriorated or deteriorating
36 areas and the disposition, for uses in accordance with the objectives of
37 the redevelopment project, of any property or part thereof acquired in
38 the area of such project, (k) any combination or combinations of the
39 foregoing or following, and (l) subject to the prior approval of the
40 Local Finance Board, the planning, design, acquisition, construction,
41 improvement, renovation, installation, maintenance and operation of
42 facilities or any other type of real or personal property within the
43 county or any beneficiary county for a corporation or other person
44 organized for any one or more of the purposes described in subsection
45 a. of N.J.S.15A:2-1 except those facilities or any other type of real or
46 personal property which can be financed pursuant to the provisions of

1 P.L.1972, c.29 (C.26:2I-1 et seq.) as amended.

2 (cf: P.L.1994, c.110, s.1)

3

4 58. Section 12 of P.L.1960, c.183 (C.40:37A-55) is amended to
5 read as follows:

6 12. Every authority shall be a public body politic and corporate
7 constituting a political subdivision of the State established as an
8 instrumentality exercising public and essential governmental functions
9 to provide for the public convenience, benefit and welfare and shall
10 have perpetual succession and, for the effectuation of its purposes,
11 have the following additional powers:

12 (a) To adopt and have a common seal and to alter the same at
13 pleasure;

14 (b) To sue and be sued;

15 (c) To acquire, hold, use and dispose of its facility charges and
16 other revenues and other moneys;

17 (d) To acquire, rent, hold, use and dispose of other personal
18 property for the purposes of the authority;

19 (e) Subject to the provisions of section 26 of [this act] P.L.1960,
20 c.183 (C.40:37A-69), to acquire by purchase, gift, condemnation or
21 otherwise, or lease as lessee, real property and easements or interests
22 therein necessary or useful and convenient for the purposes of the
23 authority, whether subject to mortgages, deeds of trust or other liens
24 or otherwise, and to hold and to use the same, and to dispose of
25 property so acquired no longer necessary for the purposes of the
26 authority; provided that the authority may dispose of such property at
27 any time to any governmental unit or person if the authority shall
28 receive a leasehold interest in the property for such term as the
29 authority deems appropriate to fulfill its purposes;

30 (f) Subject to the provisions of section 13 of [this act] P.L.1960,
31 c.183 (C.40:37A-56), to lease to any governmental unit or person, all
32 or any part of any public facility for such consideration and for such
33 period or periods of time and upon such other terms and conditions as
34 it may fix and agree upon;

35 (g) To enter into agreements to lease, as lessee, public facilities
36 for such term and under such conditions as the authority may deem
37 necessary and desirable to fulfill its purposes, and to agree, pursuant
38 thereto, to be unconditionally obligated to make payments for the term
39 of the lease, without set-off or counterclaim, whether or not the public
40 facility is completed, operating or operable, and notwithstanding the
41 destruction of, damage to, or suspension, interruption, interference,
42 reduction or curtailment of the availability or output of the public
43 facility to which the agreement applies;

44 (h) To extend credit or make loans to any governmental unit or
45 person for the planning, design, acquisition, construction, equipping
46 and furnishing of a public facility, upon the terms and conditions that

1 the loans be secured by loan and security agreements, mortgages,
2 leases and other instruments, the payments on which shall be sufficient
3 to pay the principal of and interest on any bonds issued for the purpose
4 by the authority, and upon such other terms and conditions as the
5 authority shall deem reasonable;

6 (i) Subject to the provisions of section 13 of [this act] P.L.1960,
7 c.183 (C.40:37A-56), to make agreements of any kind with any
8 governmental unit or person for the use or operation of all or any part
9 of any public facility for such consideration and for such period or
10 periods of time and upon such other terms and conditions as it may fix
11 and agree upon;

12 (j) To borrow money and issue negotiable bonds or notes or other
13 obligations and provide for and secure the payment of any bonds and
14 the rights of the holders thereof, and to purchase, hold and dispose of
15 any bonds;

16 (k) To apply for and to accept gifts or grants of real or personal
17 property, money, material, labor or supplies for the purposes of the
18 authority from any governmental unit or person, and to make and
19 perform agreements and contracts and to do any and all things
20 necessary or useful and convenient in connection with the procuring,
21 acceptance or disposition of such gifts or grants;

22 (l) To determine the location, type and character of any public
23 facility and all other matters in connection with all or any part of any
24 public facility which it is authorized to own, construct, establish,
25 effectuate or control;

26 (m) To make and enforce bylaws or rules and regulations for the
27 management and regulation of its business and affairs and for the use,
28 maintenance and operation of any public facility, and to amend the
29 same;

30 (n) To do and perform any acts and things authorized by [this act]
31 the provisions of P.L.1960, c.183 (C.40:37A-44 et seq.) under,
32 through or by means of its own officers, agents and employees, or by
33 contract with any governmental unit or person;

34 (o) To acquire, purchase, construct, lease, operate, maintain and
35 undertake any project and to fix and collect facility charges for the use
36 thereof;

37 (p) To mortgage, pledge or assign or otherwise encumber all or
38 any portion of its revenues and other income, real and personal
39 property, projects and facilities for the purpose of securing its bonds,
40 notes and other obligations or otherwise in furtherance of the purpose
41 of [this act] P.L.1960, c.183 (C.40:37A-44 et seq.);

42 (q) To extend credit or make loans to redevelopers for the
43 planning, designing, acquiring, constructing, reconstructing,
44 improving, equipping and furnishing any redevelopment project or
45 redevelopment work;

46 (r) To conduct examinations and investigations, hear testimony

1 and take proof, under oath at public or private hearings of any material
2 matter, require the attendance of witnesses and the production of
3 books and papers and issue commissions for the examination of
4 witnesses who are out of the State, unable to attend, or excused from
5 attendance;

6 (s) To authorize a committee designated by it consisting of one or
7 more members, or counsel, or any officer or employee to conduct any
8 such investigation or examination, in which case such committee,
9 counsel, officer or employee shall have power to administer oaths,
10 take affidavits and issue [subpenas] subpoenas or commissions; [and]

11 (t) To establish and implement a system to calculate, charge and
12 collect environmental investment charges to recover the environmental
13 investment costs of the authority;

14 (u) To establish and implement a program for the inspection of all
15 solid waste collection activities or solid waste disposal operations and
16 a program to enforce the provisions of the system established for the
17 collection of environmental investment charges; and

18 (v) To enter into any and all agreements or contracts, execute any
19 and all instruments, and do and perform any and all acts or things
20 necessary, convenient or desirable for the purposes of the authority or
21 to carry out any power expressly given in [this act] the provisions of
22 P.L.1960, c.183 (C.40:37A-44 et seq.) subject to P.L.1971, c.198,
23 "Local Public Contracts Law" (C.40A:11-1 et seq.).

24 (cf: P.L.1982, c.113, s.8)

25

26 59. Section 13 of P.L.1960, c.183 (C.40:37A-56) is amended to
27 read as follows:

28 13. (1) Whenever an authority after investigation and study shall
29 plan to undertake any public facility or facilities (other than a
30 development project or redevelopment project) for the purposes of the
31 authority, the authority shall make to the governing body of the county
32 and if the public facility or facilities (including a development project
33 or redevelopment project) benefit any beneficiary county, to the
34 governing body of any such beneficiary county a detailed report
35 dealing with the proposed public facility or facilities. Notwithstanding
36 any other provision of [this act] P.L.1960, c.183 (C.40:37A-44 et
37 seq.), the authority shall not construct or acquire such public facility
38 or facilities (other than a development project or redevelopment
39 project within the county which created the authority), or make any
40 lease or other agreement relating to use by any governmental unit or
41 person of all or any part of any such public facility or facilities for a
42 term in excess of five years, until there has been filed with the
43 authority a copy of a resolution adopted by the governing body of the
44 county and, if applicable, by any beneficiary county, certified by its
45 clerk, describing such public facility or facilities in terms sufficient for
46 reasonable identification and consenting to the construction or

1 acquisition thereof by the authority or the making of such leases or
2 other agreements.

3 (2) Unless otherwise required by any agreement of the authority
4 with holders of its bonds, no authority shall sell any part of a
5 development project or make any lease or other agreement relating to
6 use by any governmental unit or person of said part for a term in
7 excess of five years (A) Until the Commissioner of Community Affairs
8 (hereinafter called the "commissioner") has approved a plan
9 (hereinafter called, with respect to such part, the "development plan")
10 prepared by the authority which provides an outline for the
11 development of said part sufficient, in the opinion of the
12 commissioner: (i) to indicate its relationship to appropriate land uses
13 in the area and proper traffic, public transportation, public utility,
14 recreational and community facilities, and other public improvements,
15 (ii) to indicate proposed land uses and building requirements and
16 restrictions in said part, and (iii) to provide reasonable assurance that
17 said part will not be in danger of becoming a blighted area and will be
18 developed in a manner reasonably designed in the public interest to
19 encourage industrial, commercial, residential or other proper uses
20 thereof or restore or increase employment opportunities for residents
21 of the State; or (B) Unless such sale, lease or other agreement, in the
22 opinion of the authority, is necessary or desirable in order to effectuate
23 and carry out the said development plan.

24 (3) Every authority shall have power, subject to the provisions of
25 subsection (2) of this section, to sell or otherwise dispose of all or any
26 part of any development project or to lease the same to any
27 governmental unit or person or make agreement of any kind with any
28 governmental unit or person for the use or operation thereof, for such
29 consideration and for such period or periods of time and upon such
30 other terms and conditions as it may fix and agree upon. In the
31 exercise of such power, the authority may make any land or structure
32 in the development project available for use by private enterprise or
33 governmental units in accordance with the development plan at its use
34 value, being the value (whether expressed in terms of rental or capital
35 price) at which the authority determines such land or structure should
36 be made available in order that it may be developed or used for the
37 purpose or purposes specified in such plan. In order to assure that
38 land or other property included in the development project is
39 developed or used in accordance with the development plan, the
40 authority, upon the sale, lease or other disposition of such land or
41 property, shall obligate purchasers, lessees or other users: (A) to use
42 the land or property for the purpose designated in such plan, (B) to
43 begin the building or installation of their improvements or other
44 property (if any), and to complete the same, within such periods of
45 time as the authority may fix as reasonable, and (C) to comply with
46 such other conditions as are necessary or desirable to carry out the

1 purposes stated in this act. Any such obligations imposed on a
2 purchaser of land shall be covenants and conditions running with the
3 land where the authority so stipulates.

4 (4) Notwithstanding the foregoing, the provisions of this section
5 shall not apply to the establishment and implementation of a system to
6 calculate, charge and collect environmental investment charges as
7 authorized pursuant to section 14 of P.L.1960, c.183 (C.40:37A-57).
8 (cf: P.L.1994, c.76, s.5)

9

10 60. (New section) a. An authority or county that intends to
11 establish a system for the collection of environmental investment
12 charges shall hold a public hearing thereon at least 20 days after notice
13 of the proposed system has been mailed to the clerk of each
14 constituent municipality located within the boundaries of the county
15 wherein the district solid waste facility is located, and after publication
16 of the notice of the proposed system and the time and place of the
17 public hearing in at least two newspapers of general circulation within
18 the county.

19 (1) The publication shall include notice of the date, time and place
20 of the public hearing, notice of the place at which written summaries
21 of the proposed system will be available for public inspection, and the
22 times during which such inspection will be permitted.

23 (2) At the public hearing, the authority or county shall explain the
24 proposed billing mechanism for the collection of environmental
25 investment charges and shall answer questions raised by prospective
26 payers, including responsible solid waste generators, constituent
27 municipalities and other interested parties. The authority or county
28 shall identify and explain during the public hearing the environmental
29 investment costs to be recovered through the imposition and collection
30 of environmental investment charges.

31 (3) The authority or county shall produce a verbatim record of the
32 public hearing. The record of the public hearing shall be kept open for
33 a period of seven days following the conclusion of the hearing, during
34 which time interested parties may submit written statements to be
35 included in the hearing report. The authority or county shall prepare
36 a written hearing report, which shall include a written summary of the
37 proposed system, the verbatim record of the public hearing, written
38 statements submitted by interested parties, and a statement prepared
39 by the authority or county summarizing the major issues raised at the
40 public hearing and the authority's or county governing body's specific
41 responses to those issues. The authority or county shall make copies
42 of the hearing report available to interested parties, upon request, at
43 a cost not to exceed the actual cost of printing or copying.

44 b. The governing body of the authority or county that intends to
45 establish a system for the collection of environmental investment
46 charges shall adopt a resolution establishing the proposed system. The

1 resolution may be introduced at the first meeting of the governing
2 body of the authority or county held after the public hearing on the
3 proposed system, and shall acknowledge that the law requires a public
4 hearing to be held prior to the implementation of the system pursuant
5 to the provisions of subsection e. of section 14 of P.L.1960, c.183
6 (C.40:37A-57).

7
8 61. Section 14 of P.L.1960, c.183 (C.40:37A-57) is amended to
9 read as follows:

10 14. a. Every authority is hereby authorized to calculate, charge
11 and collect tolls, rents, rates, fares, fees or other charges (in this act
12 sometimes referred to as "facility charges") in connection with, or for
13 the use or services of, or otherwise relating to, any public facility or
14 other property owned, leased or controlled by the authority. If the
15 public facility is a [system of] solid waste [disposal] facility,
16 including, but not limited to, a resource recovery facility, recycling
17 [plant] center or transfer station owned, leased or controlled by the
18 authority, the authority may charge and collect in connection with that
19 [system] solid waste facility from any governmental unit included
20 within the jurisdiction of the authority or any governmental unit which
21 contracts for service with that authority, or from any person utilizing
22 the solid waste facility, or from any owner or occupant of any real
23 property situated in a constituent municipality or in a municipality
24 which contracts for service with that authority. [Such] The facility
25 charges may be charged to and collected from any governmental unit
26 or person and [such] the governmental unit or person shall be liable
27 for and shall pay [such] the facility charges to the authority at the time
28 when and place where [such] the facility charges are due and payable.

29 Any person, authority or county that entered into an interdistrict
30 agreement with another county or public authority as defined in
31 section 3 of P.L. , c. (C.) (pending in the Legislature as this
32 bill) for the shared use of district solid waste facilities prior to the
33 effective date of P.L. , c. (C.) (pending in the Legislature
34 as this bill) may provide for a reduction of the solid waste charges due
35 and payable under the terms and conditions of the interdistrict
36 agreement for the out-of-county solid waste accepted for disposal at
37 the district solid waste facility whenever the sending county or public
38 authority agrees to the payment of environmental investment charges
39 on a voluntary basis.

40 b. Every authority is hereby authorized to calculate, charge and
41 collect environmental investment charges to recover the environmental
42 investment costs of the authority.

43 An authority may enter into an agreement with the governing body
44 of the county wherein the district solid waste facility is located
45 providing for the assumption by the county of the responsibility for the
46 collection of environmental investment charges.

1 Environmental investment charges may be imposed and collected
2 by an authority or county: (1) as the environmental investment cost
3 component of a consolidated bill comprised of solid waste disposal
4 charges and environmental investment charges collected from users at
5 the district solid waste facility; (2) as a separate bill to all previous
6 users of the district solid waste facility; (3) as a separate bill to the
7 constituent municipality or county for inclusion as an item in the
8 municipal budget or county budget, or any combination thereof, for
9 the payment of environmental investment costs; or (4) in any other
10 manner reasonably established by the authority or county.

11 c. Environmental investment charges may be collected by an
12 authority or county, without limitation, from:

13 (1) every responsible solid waste generator included within the
14 jurisdiction of the authority or county, regardless of whether a
15 particular responsible solid waste generator utilizes the district solid
16 waste facility for solid waste disposal, through the implementation of
17 a unit charge based upon: (a) the average annual amount of solid
18 waste generated by a particular responsible solid waste generator, as
19 measured in tons or cubic yards, during the previous five years; (b) the
20 average annual amount of solid waste accepted for disposal at the
21 district solid waste facility from a particular responsible solid waste
22 generator, as measured in tons or cubic yards, during the previous five
23 years; or (c) any other criteria reasonably established by the authority
24 or county;

25 (2) every constituent municipality that utilizes or has previously
26 utilized the district solid waste facility, through the implementation of
27 an assessment against constituent municipalities based upon: (a) the
28 average annual aggregate amount of solid waste generated within the
29 boundaries of a particular constituent municipality from all sources of
30 generation, as measured in tons or cubic yards, during the previous
31 five years; (b) the average annual amount of solid waste accepted for
32 disposal at the district solid waste facility from all sources of
33 generation within the boundaries of a particular constituent
34 municipality, as measured in tons or cubic yards, during the previous
35 five years; or (c) any other criteria reasonably established by the
36 authority or county; or

37 (3) the county wherein the district solid waste facility is located,
38 through the implementation of an assessment against the county based
39 upon: (a) the average annual aggregate amount of solid waste
40 generated within the boundaries of the county from all sources of
41 generation, as measured in tons or cubic yards, during the previous
42 five years; (b) the average annual amount of solid waste accepted for
43 disposal at the district solid waste facility from all sources of
44 generation within the boundaries of the county, as measured in tons
45 or cubic yards, during the previous five years; or (c) any other criteria
46 reasonably established by the authority or county.

1 For the purposes of this subsection, "solid waste" means any
2 nonhazardous solid waste derived from all sources of generation
3 within a county or municipality, including Type 10 Municipal
4 (commercial, household or institutional); Type 13 Bulky waste; Type
5 13C Construction and demolition waste; Type 23 Vegetative waste;
6 Type 25 Animal and food processing wastes; and Type 27 Dry
7 industrial waste, all as identified and defined in rules and regulations
8 adopted by the department pursuant to the "Solid Waste Management
9 Act," P.L.1970, c.39 (C.13:1E-1 et seq.). As used herein, "Type 27
10 Dry industrial waste" shall not include the residue from the operations
11 of a scrap metal shredding facility; and "scrap metal shredding facility"
12 means a commercial industrial facility designed and operated for
13 receiving, storing, processing and transferring scrap automobiles,
14 appliances or other source separated, nonputrescible ferrous and
15 nonferrous metals, which materials are purchased by the owner or
16 operator thereof, and which are altered or reduced in volume or
17 physical characteristics onsite by mechanical methods, including but
18 not limited to baling, cutting, torching, crushing, or shredding, for the
19 purposes of resale for remelting, refining, smelting or remanufacturing
20 into raw materials or products.

21 d. In the event that the environmental investment charges of an
22 authority or county with regard to any parcel of real property owned
23 by any person shall not be paid as and when due, the unpaid balance
24 thereof, and all interest accruing thereon, shall be a lien on the parcel.
25 The lien shall be superior and paramount to the interest in the parcel
26 of any owner, lessee, tenant, mortgagee or other person except the lien
27 of municipal taxes and shall be on a parity with and deemed equal to
28 the lien on the parcel of the municipality wherein the parcel is situated
29 for taxes thereon due in the same year and not paid as and when due.
30 Whenever the environmental investment charges, and any interest
31 accrued thereon, shall have been fully paid to the authority or county,
32 the lien shall be promptly withdrawn or canceled by the authority or
33 county.

34 The collector or other officer of every municipality charged by law
35 with the duty of enforcing municipal liens on real property shall
36 enforce, in the same manner as with any other municipal lien on real
37 property in the municipality, all environmental investment charges and
38 the lien thereof shown in any statement filed with the collector or
39 officer by an authority or county pursuant to the provisions of this
40 subsection, and shall pay over to the authority or county the sums or
41 a pro rata share of the sums realized upon the enforcement or
42 liquidation of any property acquired by the municipality by virtue of
43 the enforcement action.

44 In the event that the environmental investment charges of an
45 authority or county shall not be paid as and when due, notwithstanding
46 any other remedies available to the authority or county, the unpaid

1 balance thereof, and any interest accrued thereon, together with
2 attorney's fees and costs, may be recovered by the authority or county
3 in a civil action, and any lien on real property for the environmental
4 investment charges, and any interest accrued thereon, may be
5 foreclosed or otherwise enforced by the authority or county by action
6 or suit in equity as for the foreclosure of a mortgage on the real
7 property.

8 All rights and remedies provided in this subsection for the
9 collection and enforcement of environmental investment charges shall
10 be cumulative and concurrent.

11 e. Upon the establishment of a system to calculate, charge and
12 collect environmental investment charges to recover the environmental
13 investment costs of the authority or county pursuant to subsection c.
14 of this section, but prior to the implementation thereof, the authority
15 or county shall hold a public hearing thereon at least 20 days after
16 notice of the proposed implementation has been mailed to the clerk of
17 each constituent municipality located within the boundaries of the
18 county wherein the district solid waste facility is located, and after
19 publication of the notice of the proposed implementation and the time
20 and place of the public hearing in at least two newspapers of general
21 circulation within the county.

22 f. Every authority, or county that has assumed responsibility for
23 the collection of environmental investment charges pursuant to
24 subsection b. of this section, as appropriate, shall, within six months
25 of the effective date of P.L. , c. (C.)(pending in the
26 Legislature as this bill), and at least once every twelve months
27 thereafter, submit a report to the Local Finance Board related to
28 environmental investment costs of the authority or county. The report
29 shall summarize individual schedules of outstanding debt related to the
30 environmental investment costs incurred by the authority or county,
31 including the status of: installment requirements for the payment of
32 interest and principal on bonds; plans to refund or refinance bonds; an
33 updated environmental investment cost recovery analysis; and

1 proposed debt service coverage options.

2 (cf: P.L.1988, c.140, s.1)

3

4 62. Section 15 of P.L.1960, c.183 (C.40:37A-58) is amended to
5 read as follows:

6 15. a. The facility charges fixed, charged and collected by an
7 authority with respect to any public facility shall comply with the terms
8 of any lease or other agreement of the authority with regard to [such]
9 the public facility, and the facility charges fixed, charged and collected
10 by an authority may be so adjusted that the revenues of the authority
11 will at all times be adequate to pay all expenses of the authority,
12 including the expenses of operation and maintenance of any public
13 facility or other property owned or controlled by the authority,
14 including insurance, improvements, replacements, reconstruction and
15 any other required payments, and to pay the principal of and interest
16 on any bonds, and to maintain such reserves or sinking funds for any
17 of the foregoing purposes as may be required by the terms of any
18 lease or other agreement of the authority or as may be deemed
19 necessary or convenient and desirable by the authority.

20 b. Notwithstanding the foregoing, the provisions of this section
21 shall not apply to the environmental investment charges authorized
22 pursuant to section 14 of P.L.1960, c.183 (C.40:37A-57).

23 (cf: P.L.1960, c.183, s.15)

24

25 63. Section 3 of P.L.1973, c.330 (C.40:37A-100) is amended to
26 read as follows:

27 3. a. Any solid waste [disposal system] facilities owned or
28 operated by a county improvement authority shall be subject to the
29 provisions of the "Solid Waste Management Act [(1970)]" (P.L.1970,
30 c.39, C.13:1E-1 et seq.), and to any rules and regulations adopted
31 [thereunder] pursuant thereto by the State Department of
32 Environmental Protection.

33 b. Any county improvement authority is authorized to establish
34 and implement a program for the inspection of all solid waste
35 collection activities or solid waste disposal operations and a program
36 to enforce the provisions of the system established pursuant to section
37 14 of P.L.1960, c.183 (C.40:37A-57) for the collection of
38 environmental investment charges, or the provisions of any
39 interdistrict agreements, municipal solid waste services agreements,
40 contracts or instruments executed in connection with the
41 implementation of a district solid waste management plan or use of any
42 district solid waste facility.

43 c. Any county improvement authority is authorized to exercise the
44 enforcement powers conferred on local boards of health or county
45 health departments pursuant to the provisions of the "County
46 Environmental Health Act," P.L.1977, c.443 (C.26:3A2-21 et seq.)

1 and section 9 of P.L.1970, c.39 (C.13:1E-9), and may exercise these
2 powers directly in the manner provided by the aforementioned acts to
3 local boards of health or county health departments, for the purposes
4 of enforcing the provisions of the system established pursuant to
5 section 14 of P.L.1960, c.183 (C.40:37A-57) for the collection of
6 environmental investment charges.

7 (cf: P.L.1973, c.330, s.3)

8

9 64. Section 3 of P.L.1973, c.376 (C.40:37C-3) is amended to read
10 as follows:

11 3. [In] As used in this act [, unless the context otherwise clearly
12 requires, the terms used herein shall have the meanings ascribed to
13 them as follows]:

14 "Act" means [this] the "New Jersey Pollution Control Financing
15 Law," P.L.1973, c.376 (C.40:37C-1 et seq.), as supplemented by
16 sections 62 and 63 of P.L. , c. (C.40:37C-5.1 and 40:37C-5.2)
17 (pending in the Legislature as this bill).

18 "Authority" means a pollution control financing authority created
19 pursuant to [this act] the provisions of P.L.1973, c.376 (C.40:37C-1
20 et seq.).

21 "Bonds" means any notes, bonds and other evidences of
22 indebtedness or obligations of any agency.

23 "Constituent municipality" means any municipality located within
24 the territorial boundaries of a county; any municipality located within
25 the territorial boundaries of a county that has created an authority, or
26 any municipality included within the jurisdiction of an authority
27 pursuant to the provisions of P.L.1973, c.376 (C.40:37C-1 et seq.), or
28 any combination thereof.

29 "County" means any county of any class.

30 "District solid waste facility" means a solid waste facility that is
31 designated by an authority or county in its adopted district solid waste
32 management plan as approved by the department prior to the effective
33 date of P.L. , c. (C.) (pending in the Legislature as this bill)
34 as the in-county facility to which solid waste generated within the
35 boundaries of the county is transported for final disposal, or transfer
36 for transportation to an offsite solid waste facility or designated out-
37 of-state disposal site for disposal, as appropriate.

38 "Governing body" means the board of chosen freeholders.

39 "Environmental investments" means any: (1) solid waste facilities;
40 (2) solid waste management programs; (3) obligation to fulfill
41 interdistrict agreements or lawfully executed solid waste disposal
42 contracts; (4) obligation to pay solid waste taxes or other payments
43 mandated by State law, rule, directive or order; or (5) obligation to
44 pay host municipality benefits.

45 "Environmental investment charges" means the rates, fees or other
46 charges imposed and collected by an authority for the payment of

1 environmental investment costs.

2 "Environmental investment costs" means the cost of environmental
3 investments.

4 "Host municipality benefits" means the payment of annual
5 economic benefits made to host municipalities required pursuant to
6 section 19 of P.L.1975, c.326 (C.13:1E-28), section 2 of P.L.1987,
7 c.449 (C.13:1E-28.1), P.L.1994, c.27 (C.13:1E-28.3) or section 40 of
8 P.L.1985, c.38 (C.48:13A-5.1).

9 "Interdistrict agreement" means a contract or agreement entered
10 into between the concerned boards of chosen freeholders, the
11 Hackensack Commission, any person, an authority, or any combination
12 thereof, for the shared use of district solid waste facilities.

13 "Local Finance Board" means the Local Finance Board in the
14 Division of Local Government Services in the Department of
15 Community Affairs.

16 "Municipal solid waste services agreement" means a contract or
17 agreement entered into between a person, an authority or county and
18 a municipal governing body for the use of a district solid waste facility
19 by the municipality for the disposal of solid waste generated within its
20 municipal boundaries.

21 "Person" means any individual, partnership, firm, company,
22 corporation, public utility, association, trust, estate, or any other legal
23 entity, or their legal representative, agent or assigns.

24 "Pollution" means any form of environmental pollution deriving
25 from the operation of public utility, industrial, manufacturing,
26 warehousing, commercial, office or research facilities, or deriving from
27 the disposal of solid waste generated at residences, hotels, apartments
28 or any other public or private buildings, including, but not limited to,
29 water pollution, air pollution, pollution caused by solid waste disposal,
30 thermal pollution, radiation contamination, or noise pollution as
31 determined by the various standards prescribed by this State or the
32 Federal Government and including, but not limited to, anything which
33 is considered as pollution or environmental damage pursuant to the
34 laws, rules and regulations administered by the Department of
35 Environmental Protection as established by P.L.1970, c.33 (C.13:1D-1
36 et seq.), and any amendments and supplements thereto.

37 "Pollution control facilities" means any structures, facilities,
38 systems, fixtures, lands and rights in lands, improvements,
39 appurtenances, machinery, equipment or any combination thereof
40 designed and utilized for the purpose of resource recovery and in
41 connection with solid waste disposal, or for the purpose of reducing,
42 abating or preventing pollution, deriving from the operation of public
43 utility, industrial, manufacturing, warehousing, commercial, office or
44 research facilities; and provided that the State Department of
45 Environmental Protection and the governing body of the county certify
46 that any such facility does not conflict with, overlap or duplicate any

1 other planned or existing pollution control facilities undertaken or
2 planned by another public agency or authority.

3 "Project costs" as applied to pollution control facilities financed
4 under the provisions of this act means the sum total of all reasonable
5 or necessary costs incident to the acquisition, construction,
6 reconstruction, repair, alteration, improvement and extension of such
7 pollution control facilities including, but not limited to, the cost of
8 studies and surveys; plans, specifications, architectural and engineering
9 services; organization, marketing or other special services; legal
10 financing, acquisition, demolition, construction, equipment and site
11 development of new and rehabilitated buildings; rehabilitation,
12 reconstruction, repair or remodeling of existing buildings, fixtures,
13 machinery and equipment; insurance premiums; and all other necessary
14 and incidental expenses including an initial bond and interest reserve
15 together with interest on bonds issued to finance such pollution
16 control facilities to a date 6 months subsequent to the estimated date
17 of completion and such other reserves as may be required by
18 resolution of an agency; except that, in connection with solid waste
19 facilities, "cost" means, in addition to the aforementioned connotations
20 thereof, any expenses related to: (1) the planning, acquisition or
21 construction of solid waste facilities, including debt service on bonds
22 issued prior to the effective date of P.L. , c. (C.)(pending
23 in the Legislature as this bill) to finance solid waste facilities, including
24 abandoned or canceled solid waste facility projects, or debt service on
25 bonds associated with a refinancing of bonds issued prior to the
26 effective date of P.L. , c. (C.)(pending in the Legislature
27 as this bill) to finance solid waste facilities, including abandoned or
28 canceled solid waste facility projects; (2) the fulfillment of interdistrict
29 agreements or lawfully executed solid waste disposal contracts; (3) the
30 establishment and implementation of solid waste management
31 programs adopted prior to the effective date of P.L. , c. (C.)
32 (pending in the Legislature as this bill); (4) the payment of solid waste
33 taxes or other payments mandated by State law, rule, directive or
34 order; or (5) the payment of host municipality benefits. As used
35 herein, "cost" shall not include the debt service on the unexpended
36 balance of bond proceeds on bonds or refinancing bonds authorized
37 but not expended prior to the effective date of P.L. , c. (C.)
38 (pending in the Legislature as this bill).

39 "Resource recovery" means the collection, separation, recycling
40 and recovery of metals, glass, paper and other materials for reuse; or
41 the incineration of solid waste for energy production and the recovery
42 of metals and other materials for reuse.

43 "Resource recovery facility" means a solid waste facility
44 constructed and operated for the incineration of solid waste for energy
45 production and the recovery of metals and other materials for reuse;
46 or a mechanized composting facility, or any other solid waste facility.

1 “Resource recovery services” means any services provided by the
2 owner or operator of a resource recovery facility, including but not
3 limited to, solid waste disposal; the utilization of a resource recovery
4 facility for the disposal of out-of-county solid waste; the disposal of
5 residual ash or the solid waste delivered to a resource recovery facility
6 which cannot be processed at the resource recovery facility; the
7 utilization of a sanitary landfill facility for the disposal of solid waste
8 due to downtime or technical failure at a resource recovery facility; or
9 any combination thereof.

10 “Responsible solid waste generator” means any property owner,
11 tenant or occupant of any single-family residential dwelling or multi-
12 family multiple dwelling, or the owner, tenant or occupant of any
13 industrial, commercial or institutional building or structure located
14 within the boundaries of any municipality, who generates solid waste
15 at those premises.

16 “Solid waste” means garbage, refuse, and other discarded materials
17 resulting from industrial, commercial and agricultural operations, and
18 from domestic and community activities, and shall include all other
19 waste materials including liquids, except for source separated
20 recyclable materials or source separated food waste collected by
21 livestock producers approved by the State Department of Agriculture
22 to collect, prepare and feed such wastes to livestock on their own
23 farms.

24 “Solid waste facilities” means, and includes, the plants, structures
25 and other real and personal property acquired, constructed or operated
26 or to be acquired, constructed or operated by, or on behalf of, any
27 person, an authority or county pursuant to the provisions of the “Solid
28 Waste Management Act,” P.L.1970, c.39 (C.13:1E-1 et seq.), or for
29 the benefit or use by any governmental unit or person, including
30 transfer stations, incinerators, resource recovery facilities, sanitary
31 landfill facilities or other plants for the disposal of solid waste and all
32 other real and personal property and rights therein and appurtenances
33 necessary or useful and convenient for the collection, recycling or
34 disposal of solid waste in a sanitary manner.

35 “Solid waste management program” means any program
36 established by, or on behalf of, an authority for sanitary landfill facility
37 closure, enforcement, household hazardous waste management,
38 recycling or other purposes related to the implementation of a district
39 solid waste management plan required pursuant to the provisions of
40 the “Solid Waste Management Act,” P.L.1970, c.39 (C.13:1E-1 et
41 seq.) or a district recycling plan required pursuant to section 3 of
42 P.L.1987, c.102 (C.13:1E-99.13).

43 “Solid waste taxes” means the taxes imposed pursuant to section 5
44 of P.L.1981, c.306 (C.13:1E-104) or section 3 of P.L.1985, c.38
45 (C.13:1E-138).

46 (cf: P.L.1983, c.298, s. 4)

1 65. Section 4 of P.L.1973, c.376 (C.40:37C-4) is amended to read
2 as follows:

3 4. a. (1) Any county may create an authority under the provisions
4 of this act which shall be a public body corporate and politic and a
5 political subdivision of the State for the purpose of acquiring,
6 constructing, reconstructing, repairing, altering, improving, extending,
7 owning, leasing, financing, selling, maintaining, operating and
8 disposing of pollution control facilities within such county; provided
9 that, with respect to any pollution control facility which is not engaged
10 in resource recovery, the Department of Environmental Protection
11 certifies that the proposed undertaking of the authority is the proper
12 method of solving the problem under consideration; and provided
13 further that, with respect to any pollution control facility which is
14 engaged in resource recovery, the solid waste facilities, including the
15 resource recovery facility, conforms to the Statewide solid waste
16 management plan and the applicable district solid waste management
17 plan and has an approved registration statement and engineering
18 design pursuant to section 5 of P.L.1970, c.39 (C.13:1E-5).

19 (2) The purposes of every authority shall include the acquisition,
20 construction, maintenance and operation of solid waste facilities for
21 the purpose of collecting, disposing or recycling of solid waste,
22 whether owned or operated by any person, the authority or any other
23 governmental unit, within or without the county, including the
24 establishment and implementation of a system to calculate, charge and
25 collect environmental investment charges to recover environmental
26 investment costs.

27 b. The authority shall be created by resolution and shall be known
28 as the "Pollution Control Financing Authority of _____," inserting all
29 or any significant part of the name of the county creating the authority.
30 The authority shall constitute an agency and instrumentality of the
31 county creating it.

32 c. An authority shall consist of five members appointed by
33 resolution of the governing body of the county which created such
34 authority.

35 Members shall serve for terms of 5 years, provided that the
36 members first appointed shall be designated by the resolution of
37 appointment to serve for terms expiring on the first days of the first,
38 second, third, fourth and fifth Februarys next ensuing after such
39 appointment. Each member shall hold office for the term of his
40 appointment and until his successor shall have been appointed and
41 qualified. Any vacancy shall be filled in the same manner as the
42 original appointment but for the unexpired term only.

43 d. The governing body of any county which has created an
44 authority may dissolve the authority by resolution on condition that the
45 authority has no debts or obligations outstanding or that provision has
46 been made for the retirement of such debts or obligations. Upon any

1 such dissolution, all property, funds and assets of the authority shall
2 be vested in the county which created the authority.

3 e. A certified copy of each resolution creating or dissolving an
4 authority and each resolution appointing members thereto shall be filed
5 in the office of the Secretary of State. A copy of any such certified
6 resolution, certified by or on behalf of the Secretary of State, shall be
7 conclusive evidence of the due and proper creation or dissolution of
8 the authority or the due and proper appointment of the member or
9 members named therein.

10 f. The powers of an authority shall be vested in the members
11 thereof from time to time and three members shall constitute a
12 quorum. Action may be taken and motions and resolutions adopted by
13 an agency at any meeting thereof by the affirmative vote of at least
14 three members of the authority.

15 No vacancy in the membership of an authority shall impair the right
16 of a quorum of the members thereof to exercise all the powers and
17 perform all the duties of the authority.

18 g. At the first meeting of any authority and thereafter on or after
19 February 1 in each year, the members shall elect from among their
20 number a chairman and vice chairman who shall hold office until
21 February 1 next ensuing and until their respective successors have
22 been appointed and qualified. Every authority also may appoint,
23 without regard to the provisions of Title [11 of the Revised] 11A of
24 the New Jersey Statutes, a secretary, treasurer and such other officers,
25 agents and employees as it may require.

26 h. The members of an authority shall serve without compensation,
27 but the authority shall reimburse its members for actual expenses
28 necessarily incurred in the discharge of their official duties.

29 i. No member, officer or employee of an authority, nor member of
30 their family, shall have or acquire any interest, direct or indirect in any
31 pollution control facilities undertaken or planned by the authority or
32 in any contract or proposed contract for materials or services to be
33 furnished to or used by the authority, but neither the holding of any
34 office or employment in the government of any county or municipality
35 or under any law of the State shall be deemed a disqualification for
36 membership in or employment by an authority, except as may be
37 specifically provided by law, and members of the governing body of a
38 county may be appointed by such governing body and may serve as
39 members of the authority. A member may be removed only by the
40 governing body by which he was appointed for inefficiency or neglect
41 of duty or misconduct in office or conviction of a crime, and after he
42 shall have been given a copy of the charges against him and, not
43 sooner than 10 days thereafter, had the opportunity in person or by
44 counsel to be heard thereon by such governing body.

45 (cf: P.L1983, c.298, s.5)

1 66. Section 5 of P.L.1973, c.376 (C.40:37C-5) is amended to read
2 as follows:

3 5. The authority shall have the following powers together with all
4 powers incidental thereto or necessary for the performance thereof:

5 a. To have perpetual succession as a public body corporate and
6 politic;

7 b. to adopt bylaws for the regulation of its affairs and the conduct
8 of its business;

9 c. to sue and to be sued;

10 d. to have and to use a corporate seal and to alter the same at
11 pleasure;

12 e. to maintain an office at such place or places within the county
13 as it may designate;

14 f. to acquire after a public notice has been given at least 20 days
15 prior thereto in a newspaper of general circulation in the area served
16 by the authority, in the name of the authority by purchase or
17 otherwise, on such terms and conditions and in such manner as it may
18 deem proper any land and other property which it may determine is
19 reasonably necessary for any of its pollution control facilities;

20 g. to determine, with the approval of the State Department of
21 Environmental Protection, the location and manner of construction of
22 pollution control facilities to be financed under the provisions of this
23 act, and to acquire, construct, reconstruct, repair, alter, improve,
24 extend, own, lease, finance, sell, maintain and dispose of the same and
25 to enter into contracts for any and all of such purposes, and to
26 designate persons as its employees and agents to accomplish the same;

27 h. to lease to a person or persons any or all of the pollution
28 control facilities upon such terms, conditions and guarantees as the
29 authority shall deem proper, and to charge and collect rent and fees
30 therefor and to terminate any such lease upon the failure of the lessee
31 to comply with any of the obligations thereof; and to include in any
32 such lease, if desired, provisions that the lessee or lessees thereof, and
33 any guarantor of such lease, shall have upon the termination of the
34 lease term options to renew the term of the lease for such period or
35 periods and at such rent as shall be determined by the authority or to
36 purchase any or all of the pollution control facilities for a nominal
37 amount or otherwise or that upon payment of all of the indebtedness
38 incurred by the authority for the financing of such pollution control
39 facilities of the authority may convey any or all of the pollution control
40 facilities to the lessee or lessees thereof;

41 i. to sell to a person or persons any or all of the pollution control
42 facilities upon such terms and conditions as the authority shall deem
43 proper including the right to receive for such sale the note or notes of
44 the person or persons purchasing the facility;

45 j. to acquire, hold, pledge, mortgage and dispose of real and
46 personal property in the exercise of its powers and performance of its

1 duties under this act;

2 k. to invest and reinvest bond proceeds pending application to the
3 purposes for which such bonds were issued and other funds under its
4 control, subject only to the provisions of any bond resolution, lease or
5 other agreement entered into by such authority;

6 l. to issue bonds in such principal amounts as, in the opinion of
7 such authority, shall be necessary to provide sufficient funds to carry
8 out the purpose of this act, including the planning, financing,
9 acquisition, construction and other project costs of pollution control
10 facilities, the payment of interest on the bonds of the authority, the
11 provision for working capital and all other expenditures of the agency
12 incident to and necessary or convenient for carrying out its purposes
13 and powers and to refund the same, all as provided for in this act;

14 m. to employ engineers, architects, attorneys, accountants,
15 construction and financial experts, superintendents, managers and such
16 other employees and agents, without regard to the provisions of Title
17 [11 of the Revised] 11A of the New Jersey Statutes, as may be
18 necessary in its judgment and to fix their compensation;

19 n. to receive and accept from any public agency loans or grants for
20 or in aid of the construction of pollution control facilities and any
21 portion thereof, or for equipping the same, and to receive and accept
22 grants, gifts or other contributions from any source;

23 o. to refund, after public notice has been given, outstanding
24 obligations incurred by any agency or any person to finance the cost
25 of pollution control facilities, including obligations incurred for
26 pollution control facilities undertaken and completed after the
27 enactment of this act when the authority finds that such financing is in
28 the public interest;

29 p. to extend credit or make loans to any person in order to pay or
30 provide for the payment of any project costs of a pollution control
31 facility; [and]

32 q. to do all things necessary and convenient to carry out the
33 purposes of this act

34 r. to establish and implement a system to calculate, charge and
35 collect environmental investment charges to recover the environmental
36 investment costs of the authority; and

37 s. to establish and implement a program for the inspection of all
38 solid waste collection activities or solid waste disposal operations and
39 a program to enforce the provisions of the system established for the
40 collection of environmental investment charges.

41 (cf: P.L.1983, c.298, s.6)

42

43 67. (New section) a. An authority created pursuant to the
44 provisions of P.L.1973, c.376 (C.40:37C-1 et seq.) or county that
45 intends to establish a system for the collection of environmental
46 investment charges shall hold a public hearing thereon at least 20 days

1 after notice of the proposed system has been mailed to the clerk of
2 each constituent municipality located within the boundaries of the
3 county wherein the district solid waste facility is located, and after
4 publication of the notice of the proposed system and the time and
5 place of the public hearing in at least two newspapers of general
6 circulation within the county.

7 (1) The publication shall include notice of the date, time and place
8 of the public hearing, notice of the place at which written summaries
9 of the proposed system will be available for public inspection, and the
10 times during which such inspection will be permitted.

11 (2) At the public hearing, the authority or county shall explain the
12 proposed billing mechanism for the collection of environmental
13 investment charges and shall answer questions raised by prospective
14 payers, including responsible solid waste generators, constituent
15 municipalities and other interested parties. The authority or county
16 shall identify and explain during the public hearing the environmental
17 investment costs to be recovered through the imposition and collection
18 of environmental investment charges.

19 (3) The authority or county shall produce a verbatim record of the
20 public hearing. The record of the public hearing shall be kept open for
21 a period of seven days following the conclusion of the hearing, during
22 which time interested parties may submit written statements to be
23 included in the hearing report. The authority or county shall prepare
24 a written hearing report, which shall include a written summary of the
25 proposed system, the verbatim record of the public hearing, written
26 statements submitted by interested parties, and a statement prepared
27 by the authority or county summarizing the major issues raised at the
28 public hearing and the authority's or county governing body's specific
29 responses to those issues. The authority or county shall make copies
30 of the hearing report available to interested parties, upon request, at
31 a cost not to exceed the actual cost of printing or copying.

32 b. The governing body of the authority or county that intends to
33 establish a system for the collection of environmental investment
34 charges shall adopt a resolution establishing the proposed system. The
35 resolution may be introduced at the first meeting of the governing
36 body of the authority or county held after the public hearing on the
37 proposed system, and shall acknowledge that the law requires a public
38 hearing to be held prior to the implementation of the system pursuant
39 to the provisions of subsection e. of section 62 of P.L. c.
40 (C.40:37C-5.2) (pending in the Legislature as this bill).

41
42 68. (New section) a. (1) Every authority created pursuant to the
43 provisions of P.L.1973, c.376 (C.40:37C-1 et seq.) is hereby
44 authorized to calculate, charge and collect rates, fees or other charges
45 (hereinafter referred to as "solid waste charges") in connection with,
46 or for the use or services of, or otherwise relating to, any solid waste

1 facilities owned, sold, leased or controlled by the authority, including,
2 but not limited to, any recycling center, resource recovery facility,
3 transfer station or sanitary landfill facility. An authority may charge
4 and collect solid waste charges from any governmental unit included
5 within the jurisdiction of the authority, or any governmental unit which
6 contracts for service with the authority, or from any person utilizing
7 the solid waste facilities of the authority, or from any owner or
8 occupant of any real property situated in a municipality or county
9 which contracts for service with the authority. The solid waste
10 charges may be charged to and collected from any governmental unit
11 or person and the governmental unit or person shall be liable for and
12 shall pay the solid waste charges to the authority at the time when and
13 place where the solid waste charges are due and payable.

14 (2) Every person, county or authority created pursuant to the
15 provisions of P.L.1973, c.376 (C.40:37C-1 et seq.) that entered into
16 an interdistrict agreement with another county or public authority as
17 defined in section 3 of P.L. , c. (C.)(pending in the
18 Legislature as this bill) for the shared use of district solid waste
19 facilities prior to the effective date of P.L. , c. (C.)(pending
20 in the Legislature as this bill) may provide for a reduction of the solid
21 waste charges due and payable under the terms and conditions of the
22 interdistrict agreement for the out-of-county solid waste accepted for
23 disposal at the district solid waste facility from the sending county or
24 public authority whenever the sending county or public authority
25 agrees to the payment of environmental investment charges on a
26 voluntary basis.

27 b. Every authority created pursuant to the provisions of P.L.1973,
28 c.376 (C.40:37C-1 et seq.) is hereby authorized to calculate, charge
29 and collect environmental investment charges to recover the
30 environmental investment costs of the authority.

31 An authority may enter into an agreement with the governing body
32 of the county wherein the district solid waste facility is located
33 providing for the assumption by the county of the responsibility for the
34 collection of environmental investment charges.

35 Environmental investment charges may be imposed and collected
36 by an authority or county: (1) as the environmental investment cost
37 component of a consolidated bill comprised of solid waste disposal
38 charges and environmental investment charges collected from users at
39 the district solid waste facility; (2) as a separate bill to all previous
40 users of the district solid waste facility; (3) as a separate bill to the
41 constituent municipality or county for inclusion as an item in the
42 municipal budget or county budget, or any combination thereof, for
43 the payment of environmental investment costs; or (4) in any other
44 manner reasonably established by the authority or county.

45 Environmental investment charges may be collected by an authority
46 or county, without limitation, from:

1 (1) every responsible solid waste generator included within the
2 jurisdiction of the authority or county, regardless of whether a
3 particular responsible solid waste generator utilizes the district solid
4 waste facility for solid waste disposal, through the implementation of
5 a unit charge based upon: (a) the average annual amount of solid
6 waste generated by a particular responsible solid waste generator, as
7 measured in tons or cubic yards, during the previous five years; (b) the
8 average annual amount of solid waste accepted for disposal at the
9 district solid waste facility from a particular responsible solid waste
10 generator, as measured in tons or cubic yards, during the previous five
11 years; or (c) any other criteria reasonably established by the authority
12 or county;

13 (2) every constituent municipality that utilizes or has previously
14 utilized the district solid waste facility, through the implementation of
15 an assessment against constituent municipalities based upon: (a) the
16 average annual aggregate amount of solid waste generated within the
17 boundaries of a particular constituent municipality from all sources of
18 generation, as measured in tons or cubic yards, during the previous
19 five years; (b) the average annual amount of solid waste accepted for
20 disposal at the district solid waste facility from all sources of
21 generation within the boundaries of a particular constituent
22 municipality, as measured in tons or cubic yards, during the previous
23 five years; or (c) any other criteria reasonably established by the
24 authority or county; or

25 (3) the county wherein the district solid waste facility is located,
26 through the implementation of an assessment against the county based
27 upon: (a) the average annual aggregate amount of solid waste
28 generated within the boundaries of the county from all sources of
29 generation, as measured in tons or cubic yards, during the previous
30 five years; (b) the average annual amount of solid waste accepted for
31 disposal at the district solid waste facility from all sources of
32 generation within the boundaries of the county, as measured in tons or
33 cubic yards, during the previous five years; or (c) any other criteria
34 reasonably established by the authority or county.

35 For the purposes of this subsection, "solid waste" means any
36 nonhazardous solid waste derived from all sources of generation
37 within a county or municipality, including Type 10 Municipal
38 (commercial, household or institutional); Type 13 Bulky waste; Type
39 13C Construction and demolition waste; Type 23 Vegetative waste;
40 Type 25 Animal and food processing wastes; and Type 27 Dry
41 industrial waste, all as identified and defined in rules and regulations
42 adopted by the department pursuant to the "Solid Waste Management
43 Act," P.L.1970, c.39 (C.13:1E-1 et seq.). As used herein, "Type 27
44 Dry industrial waste" shall not include the residue from the operations
45 of a scrap metal shredding facility; and "scrap metal shredding facility"
46 means a commercial industrial facility designed and operated for

1 receiving, storing, processing and transferring scrap automobiles,
2 appliances or other source separated, nonputrescible ferrous and
3 nonferrous metals, which materials are purchased by the owner or
4 operator thereof, and which are altered or reduced in volume or
5 physical characteristics onsite by mechanical methods, including but
6 not limited to baling, cutting, torching, crushing, or shredding, for the
7 purposes of resale for remelting, refining, smelting or remanufacturing
8 into raw materials or products.

9 d. In the event that the environmental investment charges of an
10 authority or county with regard to any parcel of real property owned
11 by any person shall not be paid as and when due, the unpaid balance
12 thereof, and all interest accruing thereon, shall be a lien on the parcel.
13 The lien shall be superior and paramount to the interest in the parcel
14 of any owner, lessee, tenant, mortgagee or other person except the lien
15 of municipal taxes and shall be on a parity with and deemed equal to
16 the lien on the parcel of the municipality wherein the parcel is situated
17 for taxes thereon due in the same year and not paid as and when due.
18 Whenever the environmental investment charges, and any interest
19 accrued thereon, shall have been fully paid to the authority or county,
20 the lien shall be promptly withdrawn or canceled by the authority or
21 county.

22 The collector or other officer of every municipality charged by law
23 with the duty of enforcing municipal liens on real property shall
24 enforce, in the same manner as with any other municipal lien on real
25 property in the municipality, all environmental investment charges and
26 the lien thereof shown in any statement filed with the collector or
27 officer by an authority or county pursuant to the provisions of this
28 subsection, and shall pay over to the authority or county the sums or
29 a pro rata share of the sums realized upon the enforcement or
30 liquidation of any property acquired by the municipality by virtue of
31 the enforcement action.

32 In the event that the environmental investment charges of an
33 authority or county shall not be paid as and when due, notwithstanding
34 any other remedies available to the authority or county, the unpaid
35 balance thereof, and any interest accrued thereon, together with
36 attorney's fees and costs, may be recovered by the authority or county
37 in a civil action, and any lien on real property for the environmental
38 investment charges, and any interest accrued thereon, may be
39 foreclosed or otherwise enforced by the authority or county by action
40 or suit in equity as for the foreclosure of a mortgage on the real
41 property.

42 All rights and remedies provided in this subsection for the
43 collection and enforcement of environmental investment charges shall
44 be cumulative and concurrent.

45 e. Upon the establishment of a system to calculate, charge and
46 collect environmental investment charges to recover the environmental

1 investment costs of the authority or county, but prior to the
2 implementation thereof, the authority or county shall hold a public
3 hearing thereon at least 20 days after notice of the proposed
4 implementation has been mailed to the clerk of each constituent
5 municipality located within the boundaries of the county wherein the
6 district solid waste facility is located, and after publication of the
7 notice of the proposed implementation and the time and place of the
8 public hearing in at least two newspapers of general circulation within
9 the county.

10 f. Every authority, or county that has assumed responsibility for
11 the collection of environmental investment charges pursuant to
12 subsection b. of this section, as appropriate, shall, within six months
13 of the effective date of P.L. , c. (C.)(pending in the
14 Legislature as this bill), and at least once every twelve months
15 thereafter, submit a report to the Local Finance Board related to
16 environmental investment costs of the authority or county. The report
17 shall summarize individual schedules of outstanding debt related to the
18 environmental investment costs incurred by the authority or county,
19 including the status of: installment requirements for the payment of
20 interest and principal on bonds; plans to refund or refinance bonds; an
21 updated environmental investment cost recovery analysis; and
22 proposed debt service coverage options.

23

24 69. (New section) a. Every solid waste facility owned or operated
25 by, or on behalf of, an authority created pursuant to the provisions of
26 P.L.1973, c.376 (C.40:37C-1 et seq.) shall be subject to the provisions
27 of the "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et
28 seq.), and to any rules and regulations adopted pursuant thereto by the
29 Department of Environmental Protection.

30 b. Any county or authority created pursuant to the provisions of
31 P.L.1973, c.376 (C.40:37C-1 et seq.) may establish and implement a
32 program for the inspection of all solid waste collection activities or
33 solid waste disposal operations and a program to enforce the
34 provisions of the system established pursuant to section 61 of P.L. ,
35 c. (C.)(pending in the Legislature as this bill) for the
36 collection of environmental investment charges, or the provisions of
37 any interdistrict agreements, contracts or instruments executed in
38 connection with the implementation of a district solid waste
39 management plan or use of any district solid waste facility.

40 c. Any authority created pursuant to the provisions of P.L.1973,
41 c.376 (C.40:37C-1 et seq.) is authorized to exercise the enforcement
42 powers conferred on local boards of health or county health
43 departments pursuant to the provisions of the "County Environmental
44 Health Act," P.L.1977, c.443 (C.26:3A2-21 et seq.) and section 9 of
45 P.L.1970, c.39 (C.13:1E-9), and may exercise these powers directly
46 in the manner provided by the aforementioned acts to local boards of

1 health or county health departments, for the purposes of enforcing the
2 provisions of the system established pursuant to section 61 of
3 P.L. , c. (C.)(pending in the Legislature as this bill) for the
4 collection of environmental investment charges.

5
6 70. R.S.40:66-1 is amended to read as follows:

7 40:66-1. [a.] The governing body may provide for the cleaning of
8 the streets of the municipality, and establish and operate a system
9 therefor; purchase and operate any equipment necessary for the
10 cleaning of the streets; and make, amend, repeal and enforce any
11 ordinances, resolutions, rules or regulations as may be deemed
12 necessary and proper for the establishment, operation and management
13 of a street cleaning system, and the employees connected therewith.

14 a. The governing body may provide for the collection or disposal
15 of all nonhazardous solid waste or any portion thereof generated
16 within the boundaries of the municipality, and may establish and
17 operate a municipal service system therefor[;].

18 (1) In the case of single-family residential housing, the municipal
19 service system shall include the provision of regular solid waste
20 collection service;

21 (2) In the case of multi-family residential housing, the municipal
22 service system may include the provision of regular solid waste
23 collection service;

24 (3) In the case of any other source of generation within the
25 boundaries of the municipality, the municipal service system may:

26 (a) include the provision of regular solid waste collection service;

27 (b) permit the responsible solid waste generator to contract with
28 a solid waste collector on an individual basis for regular solid waste
29 collection service; or

30 (c) permit responsible solid waste generators to directly transport
31 the solid waste generated at their premises for disposal at a specified
32 solid waste facility or designated out-of-state disposal site.

33 A municipal governing body that establishes a municipal service
34 system for solid waste collection shall adopt a municipal service
35 ordinance pursuant to section 5 of P.L. , c. (C.13:1E-212)(pending
36 in the Legislature as this bill).

37 The governing body may purchase and operate [the necessary] any
38 equipment necessary for the [cleaning of streets, and for the]
39 collection or disposal of solid waste; and make, amend, repeal and
40 enforce [all such] any ordinances[, resolutions, rules and regulations]
41 as may be deemed necessary and proper for the [introduction]
42 establishment, operation and management of [such] a municipal
43 service system, [and for the maintenance and operation of a solid
44 waste facility,] and the employees connected therewith, subject to the
45 provisions of the "Solid Waste Management Act," P.L.1970, c.39
46 (C.13:1E-1 et seq.) [and the "Solid Waste Utility Control Act of

1 1970," P.L.1970, c.40 (C.48:13A-1 et al.), for the disposal of solid
2 waste, and for the government of employees connected therewith].

3 b. A municipal governing body that establishes a municipal service
4 system for the collection or disposal of solid waste pursuant to
5 subsection a. of this section and section 5 of P.L. , c. (C.13:1E-
6 212) (pending in the Legislature as this bill), in its discretion, may limit
7 the municipal service furnished by it to curbside collection along public
8 streets or roads that have been dedicated to and accepted by the
9 municipality. The municipal governing body may also refuse to enter
10 upon private property to remove solid waste from dumpsters or other
11 solid waste containers. The municipal governing body, in its sole
12 discretion, may choose to reimburse those property owners who do
13 not receive the municipal service, but such reimbursement shall not
14 exceed the cost that would be incurred by the municipality in providing
15 the solid waste collection or disposal service directly. Nothing
16 contained in this subsection shall be deemed to modify the provisions
17 of P.L.1989, c.299 (C.40:67-23.2 et seq.) with respect to qualified
18 private communities.

19 (cf: P.L.1993, c.6, s.3)

20

21 71. Section 6 of P.L.1989, c.244 (C.40:66-1.1) is amended to read
22 as follows:

23 6. As used in this chapter:

24 ["Proof of collection service" means a written record, log, bill or
25 document evidencing receipt of service for the collection of solid
26 waste for the preceding month from a person lawfully engaging in
27 private solid waste collection services within a municipality.]

28 "Department" means the Department of Environmental Protection.

29 "District solid waste facility" means a solid waste facility that is
30 designated by a public authority or county in its adopted district solid
31 waste management plan as approved by the department prior to the
32 effective date of P.L. , c. (C.) (pending in the Legislature
33 as this bill) as the in-county facility to which solid waste generated
34 within the boundaries of the county is transported for final disposal, or
35 transfer for transportation to an offsite solid waste facility or
36 designated out-of-state disposal site for disposal, as appropriate.

37 "Municipal solid waste services agreement" means a contract or
38 agreement entered into between any person, public authority or county
39 and a municipal governing body for the use of a district solid waste
40 facility by the municipality for the disposal of solid waste generated
41 within its municipal boundaries.

42 "Person" means any individual or business concern.

43 "Public authority" means a municipal or county utilities authority
44 created pursuant to the "municipal and county utilities authorities
45 law," P.L.1957, c.183 (C.40:14B-1 et seq.); a county improvement
46 authority created pursuant to the "county improvement authorities

1 law," P.L.1960, c.183 (C.40:37A-44 et seq.); a pollution control
2 financing authority created pursuant to the "New Jersey Pollution
3 Control Financing Law," P.L.1973, c.376 (C.40:37C-1 et seq.); or any
4 other public body corporate and politic created for solid waste
5 management purposes in any county, pursuant to the provisions of any
6 law.

7 "Regular solid waste collection service" means the scheduled
8 pick-up and removal of solid waste from [residential, commercial or
9 institutional premises located] a source of generation within the
10 boundaries of any municipality at least once a week.

11 "Responsible solid waste generator" means any property owner,
12 tenant or occupant of any single-family residential dwelling or multi-
13 family multiple dwelling, or the owner, tenant or occupant of any
14 industrial, commercial or institutional building or structure located
15 within the boundaries of any municipality, who generates solid waste
16 at those premises.

17 "Solid waste" means garbage, refuse, and other discarded materials
18 resulting from industrial, commercial and agricultural operations, and
19 from domestic and community activities, and shall include all other
20 waste materials including liquids, except for [solid animal and
21 vegetable wastes] source separated recyclable materials or source
22 separated food waste collected by [swine] livestock producers
23 [licensed] approved by the State Department of Agriculture to collect,
24 prepare and feed such wastes to [swine] livestock on their own farms.

25 "Solid waste collection" means the activity related to pick-up and
26 transportation of solid waste from its source or location to a solid
27 waste facility or other destination.

28 "Solid waste collector" means a person engaged in the collection
29 of solid waste and registered pursuant to sections 4 and 5 of P.L.1970,
30 c.39 (C.13:1E-4 and 13:1E-5)

31 "Solid waste container" means a receptacle, container or bag
32 suitable for the depositing of solid waste.

33 "Solid waste disposal" means the storage, treatment, utilization,
34 processing, or final disposal of solid waste.

35 "Solid waste facilities" [mean] means, and [include] includes, the
36 plants, structures and other real and personal property acquired,
37 constructed or operated or to be acquired, constructed or operated by,
38 or on behalf of, any person [pursuant to the provisions of this] , public
39 authority or county pursuant to the provisions of the "Solid Waste
40 Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.) or any other
41 act, including transfer stations, incinerators, resource recovery
42 facilities, sanitary landfill facilities or other plants for the disposal of
43 solid waste, and all vehicles, equipment and other real and personal
44 property and rights therein and appurtenances necessary or useful and
45 convenient for the collection or disposal of solid waste in a sanitary
46 manner.

1 (cf: P.L.1991, c.170, s.4)

2

3 72. R.S.40:66-4 is amended to read as follows:

4 40:66-4. a. The governing body may, if it deem it more
5 advantageous, contract with any person for the cleaning of the
6 streets[, or the collection or disposal of solid waste]. Before making
7 any such contract [or contracts] the governing body shall first adopt
8 specifications for the doing of the work in a sanitary and inoffensive
9 manner.

10 Any contract for the cleaning of the streets shall be awarded in the
11 manner provided in the "Local Public Contracts Law," P.L.1971, c.198
12 (C.40A:11-1 et seq).

13 b. The governing body, in its discretion, may:

14 (1) Enter into a municipal solid waste services agreement with any
15 person, public authority or county that owns or operates a district
16 solid waste facility pursuant to the provisions of the "Local Public
17 Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.);

18 (2) Enter into a contract for the collection or disposal of solid
19 waste with any person lawfully engaged in solid waste collection or
20 solid waste disposal pursuant to the provisions of the "Local Public
21 Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.);

22 (3) Permit responsible solid waste generators to contract for the
23 disposal of solid waste on an individual basis with any person, public
24 authority or county lawfully engaged in solid waste disposal;

25 (4) Permit responsible solid waste generators to directly transport
26 the solid waste generated at their premises for disposal at a specified
27 solid waste facility or designated out-of-state disposal site; or

28 (5) Any combination thereof.

29 A municipal governing body that establishes a municipal contract
30 system for solid waste collection shall adopt a municipal contract
31 ordinance pursuant to section 6 of P.L. , c. (C.13:1E-213)(pending
32 in the Legislature as this bill).

33 Any specifications adopted by the governing body for the
34 collection [or disposal] of solid waste shall conform to the uniform
35 bid specifications for municipal solid waste collection contracts
36 established pursuant to section 22 of P.L.1991, c.381
37 (C.48:13A-7.22).

38 Any [such contract or contracts] contract for solid waste collection
39 or solid waste disposal, including a municipal solid waste services
40 agreement, the total amount of which exceeds in the fiscal year the
41 amount set forth in, or the amount calculated by the Governor
42 pursuant to, section 3 of P.L.1971, c.198 (C.40A:11-3), shall be
43 entered into and made only after bids shall have been advertised
44 therefor, and awarded in the manner provided in the "Local Public
45 Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq).

46 [b.] c. Whenever the governing body adopts an ordinance to

1 provide for the collection or disposal of solid waste within its
2 municipal boundaries by imposing solid waste charges based on the
3 number of solid waste containers processed per [household] residential
4 premises pursuant to subsection b. of R.S.40:66-5, on or after the first
5 day of the 13th month following the effective date of that ordinance,
6 the governing body may request the relevant solid waste collector to
7 whom a multi-year contract has been awarded to renegotiate the
8 contract to reflect any reduction in the annual volume of solid waste
9 collected achieved as a result of the ordinance.

10 d. Whenever the governing body has entered into a municipal solid
11 waste services agreement with any person, public authority or county
12 for the use of a district solid waste facility and has awarded a contract
13 for regular solid waste collection service to a solid waste collector
14 pursuant to subsection a. of this section, the governing body shall, as
15 a condition of the municipal solid waste collection contract, require
16 the solid waste collector to utilize the district solid waste facility that
17 has been designated by the municipality for the disposal of solid waste
18 pursuant to the terms and conditions of the municipal solid waste
19 services agreement.

20 e. Whenever the governing body has awarded a contract for the
21 use of a designated out-of-state disposal site to a person lawfully
22 providing solid waste disposal service and has awarded a contract for
23 regular solid waste collection service to a solid waste collector
24 pursuant to subsection a. of this section, the governing body shall, as
25 a condition of the municipal solid waste collection contract, require
26 the solid waste collector to utilize the designated out-of-state disposal
27 site that has been selected by the municipality for the disposal of solid
28 waste pursuant to the terms and conditions of the contract for solid
29 waste disposal.

30 (cf: P.L.1991, c.381, s.47)

31
32 73. R.S.40:66-5 is amended to read as follows:

33 40:66-5. a. The governing body may provide for the collection or
34 disposal of solid waste generated within its municipal boundaries at the
35 general expense, or if deemed by it more advisable, impose rates, fees
36 or charges (hereinafter referred to as "solid waste charges") to be
37 charged by the municipality for the collection or disposal of solid
38 waste, provide for the manner of payment of the same, and maintain
39 an action at law to recover any moneys due therefor.

40 b. [Where] Whenever the governing body determines to provide
41 for the collection or disposal of solid waste by imposing solid waste
42 charges on a per container basis, the governing body shall adopt an
43 ordinance to:

44 (1) Establish a rate schedule of solid waste charges based on the
45 number of solid waste containers processed per [household]
46 residential, commercial or institutional premises; and

1 (2) Provide [residents] responsible solid waste generators with the
2 opportunity to purchase, on a prepaid basis, one or more solid waste
3 containers, or a voucher or sticker therefor, to facilitate the payment
4 of solid waste charges on a per container basis.

5 (cf: P.L.1989, c.244, s.5)

6
7 74. Section 2 of P.L.1991, c.54 (C.40:66-9) is amended to read
8 as follows:

9 2. The governing body of any municipality which operated a solid
10 waste collection district as of December 31, 1989, may [provide by]
11 establish a municipal contract system or a municipal service system for
12 the collection or disposal of solid waste within a solid waste collection
13 district, subject to the approval of the Local Finance Board of the
14 Department of Community Affairs and subject to the provisions of the
15 "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.).
16 (cf: P.L.1991, c.54, s.2)

17
18 75. Section 3 of P.L.1991, c.54 (C.40:66-10) is amended to read
19 as follows:

20 3. The governing body of any municipality which operated a solid
21 waste collection district as of December 31, 1989, shall, by ordinance
22 and subject to the approval of the Local Finance Board of the
23 Department of Community Affairs, determine the amount of money
24 necessary for the support of the solid waste collection district,
25 including the amount necessary for the collection of environmental
26 investment charges as defined in section 3 of P.L. , c. (C.)
27 (pending in the Legislature as this bill). The amount so determined
28 shall be assessed on the value of all taxable property within the district
29 and collected as taxes are collected and be controlled and expended by
30 the municipality for the purposes herein specified. The ordinance shall
31 specify that any assessment made pursuant to this section is to be used
32 solely to provide for the support of the solid waste collection district,
33 including the amount necessary for the collection of environmental
34 investment charges as defined in section 3 of P.L. , c. (C.)
35 (pending in the Legislature as this bill). Any municipality which
36 adopts an ordinance pursuant to this section shall, within 10 days
37 following the adoption of the ordinance, forward a copy to the
38 Division of Local Government Services in the Department of
39 Community Affairs.

40 (cf: P.L.1991, c.54, s.3)

41
42 76. Section 4 of P.L.1991, c.54 (C.40:66-11) is amended to read
43 as follows:

44 4. The governing body of any municipality which operated a solid
45 waste collection district as of December 31, 1989, may order and
46 cause to be raised within a solid waste collection district sufficient

1 money to provide for the payment of the cost of solid waste collection
2 or disposal in the district, including the amount necessary for the
3 collection of environmental investment charges as defined in section
4 3 of P.L. , c. (C.)(pending in the Legislature as this bill).
5 The sum ordered to be raised shall be levied and collected at the same
6 time and in the same manner as other municipal taxes, except that any
7 tax levied and collected to provide for the payment of the cost of solid
8 waste collection or disposal, including the payment of environmental
9 investment charges as defined in section 3 of P.L. , c. (C.)
10 (pending in the Legislature as this bill), shall appear as a separate item
11 on the municipal tax bill. The collector shall pay the same to the
12 municipal treasurer, to be applied only to the purposes for which it is
13 raised.

14 (cf: P.L.1991, c.54, s.4)

15

16 77. Section 5 of P.L.1991, c.54 (C.40:66-12) is amended to read
17 as follows:

18 5. All moneys assessed and levied pursuant to [this act] the
19 provisions of P.L.1991, c.54 (C.40:66-8 et seq.), including the amount
20 necessary for the collection of environmental investment charges as
21 defined in section 3 of P.L. , c. (C.)(pending in the
22 Legislature as this bill), shall be a lien upon the land against which they
23 are assessed in the same manner that taxes are made a lien against land
24 pursuant to Title 54 of the Revised Statutes, and the payment thereof
25 shall be enforced within the same time and in the same manner and by
26 the same proceedings as the payment of taxes is otherwise [enforced
27 by the Division of Taxation] provided under Title 54.

28 (cf: P.L.1991, c.54, s.5)

29

30 78. Section 1 of P.L.1975, c.243 (C.40:67-23.1) is amended to
31 read as follows:

32 1. a. The governing body of every municipality may make, amend,
33 repeal and enforce ordinances to cause the governing body of the
34 municipality to repair and maintain and provide for the removal of
35 snow, ice and other obstructions from, and provide for the lighting of,
36 any roads or streets upon which the travel is sufficient, in the opinion
37 of said governing body, to warrant such expenditures, even though
38 such roads or streets shall not have been taken over by said municipal
39 governing body or dedicated and accepted as public highways.

40 The municipality may also provide for the curbside collection of
41 [garbage placed at the curb of] solid waste along such streets, or for
42 the reimbursement of such [garbage] solid waste collection costs as
43 the municipality may determine to have been reasonably incurred by
44 persons residing adjacent to such streets. Roads or streets so serviced,
45 which are not shown on the official map of the municipality, may, at
46 the option of the governing body of said municipality, be suitably

1 improved in accordance with any requirements established pursuant to
2 article 5 of the "Municipal Land Use Law," P.L.1975, c.291, ss. 23-27
3 (C.40:55D-32 to C.40:55D-36) and the ordinance.

4 b. If, as a condition of providing services for any road or street
5 proposed to be serviced, the municipality notifies the owner that
6 dedication thereof to the municipality is required, the owner may
7 refuse to accept the services and benefits of the ordinance upon that
8 condition by so notifying the municipality within 60 days of receipt of
9 the notice. With respect to any road or street for which services are
10 provided, if the municipality notifies the owner that continuation of
11 provision of the services is conditioned upon the dedication thereof to
12 the municipality, the owner may refuse to accept continuance of the
13 services and benefits of the ordinance upon that condition by so
14 notifying the municipality within 60 days of receipt of the notice.
15 Notices to be given pursuant to this [act] section shall be in writing.
16 (cf: P.L.1983, c.12, s.1)

17

18 79. N.J.S.40A:4-21 is amended to read as follows:

19 40A:4-21. a. The budget shall provide separate sections for:

20 [a.] (1) Operation of local unit (current fund).

21 [b.] (2) Operation of any municipal public utility.

22 [c.] (3) Dedicated assessment budget.

23 [d.] (4) Dedicated by rider.

24 (5) Solid waste collection activities and solid waste disposal
25 operations.

26 b. The budget summary as provided in section 12 of P.L.1995,
27 c.259 (C.40A:4-6.1) shall include the anticipated revenues and
28 appropriations of a county or municipality related to solid waste
29 collection, solid waste disposal or recycling activities and the
30 operation of any recycling center or solid waste facility that are
31 included in the budget.

32 The revenues and appropriations and any surplus or deficit shall be
33 listed according to the solid waste collection activity, solid waste
34 disposal operation or solid waste facility, as appropriate, including, but
35 not limited to, recycling activities or operations, payment of
36 environmental investment charges as defined in section 3 of P.L.
37 c. (C.) (pending in the Legislature as this bill) or sanitary
38 landfill facility, transfer station, recycling center or resource recovery
39 facility operations; and the personnel salaries, benefits and insurance
40 costs; vehicle operation, maintenance, insurance and purchase costs;
41 and any other costs associated therewith.

42 (cf: N.J.S.40A:4-21)

43

44 80. Section 3 of P.L.1976, c.68 (C.40A:4-45.3) is amended to
45 read as follows:

46 3. In the preparation of its budget a municipality shall limit any

1 increase in said budget to 5% or the index rate, whichever is less, over
2 the previous year's final appropriations subject to the following
3 exceptions:

4 a. (Deleted by amendment, P.L.1990, c.89.)

5 b. Capital expenditures, including appropriations for current
6 capital expenditures, whether in the capital improvement fund or as a
7 component of a line item elsewhere in the budget, provided that any
8 such current capital expenditure would be otherwise bondable under
9 the requirements of N.J.S.40A:2-21 and 40A:2-22;

10 c. (1) An increase based upon emergency temporary
11 appropriations made pursuant to N.J.S.40A:4-20 to meet an urgent
12 situation or event which immediately endangers the health, safety or
13 property of the residents of the municipality, and over which the
14 governing body had no control and for which it could not plan and
15 emergency appropriations made pursuant to N.J.S.40A:4-46.
16 Emergency temporary appropriations and emergency appropriations
17 shall be approved by at least two-thirds of the governing body and by
18 the Director of the Division of Local Government Services, and shall
19 not exceed in the aggregate 3% of the previous year's final current
20 operating appropriations.

21 (2) (Deleted by amendment, P.L.1990, c.89.)

22 The approval procedure in this subsection shall not apply to
23 appropriations adopted for a purpose referred to in subsection d. or j.
24 below;

25 d. All debt service, including that of a Type I school district;

26 e. Upon the approval of the Local Finance Board in the Division
27 of Local Government Services, amounts required for funding a
28 preceding year's deficit;

29 f. Amounts reserved for uncollected taxes;

30 g. (Deleted by amendment, P.L.1990, c.89.)

31 h. Expenditure of amounts derived from new or increased
32 construction, housing, health or fire safety inspection or other service
33 fees imposed by State law, rule or regulation or by local ordinance;

34 i. Any amount approved by any referendum;

35 j. Amounts required to be paid pursuant to (1) any contract with
36 respect to use, service or provision of any project, facility or public
37 improvement for water, sewerage, parking, senior citizen housing or
38 any similar purpose, or payments on account of debt service therefor,
39 between a municipality and any other municipality, county, school or
40 other district, agency, authority, commission, instrumentality, public
41 corporation, body corporate and politic or political subdivision of this
42 State; (2) the provisions of article 9 of P.L.1968, c.404 (C.13:17-60
43 through 13:17-76) by a constituent municipality to the intermunicipal
44 account; (3) any lease of a facility owned by a county improvement
45 authority when the lease payment represents the proportionate amount
46 necessary to amortize the debt incurred by the authority in providing

- 1 the facility which is leased, in whole or in part; and (4) any repayments
2 under a loan agreement entered into in accordance with the provisions
3 of section 5 of P.L.1992, c.89.
- 4 k. (Deleted by amendment, P.L.1987, c.74.)
- 5 l. Appropriations of federal, county, independent authority or
6 State funds, or by grants from private parties or nonprofit
7 organizations for a specific purpose, and amounts received or to be
8 received from such sources in reimbursement for local expenditures.
9 If a municipality provides matching funds in order to receive the
10 federal, county, independent authority or State funds, or the grants
11 from private parties or nonprofit organizations for a specific purpose,
12 the amount of the match which is required by law or agreement to be
13 provided by the municipality shall be excepted;
- 14 m. (Deleted by amendment, P.L.1987, c.74.)
- 15 n. (Deleted by amendment, P.L.1987, c.74.)
- 16 o. (Deleted by amendment, P.L.1990, c.89.)
- 17 p. (Deleted by amendment, P.L.1987, c.74.)
- 18 q. (Deleted by amendment, P.L.1990, c.89.)
- 19 r. Amounts expended to fund a free public library established
20 pursuant to the provisions of R.S.40:54-1 through 40:54-29, inclusive;
- 21 s. (Deleted by amendment, P.L.1990, c.89.)
- 22 t. Amounts expended in preparing and implementing a housing
23 element and fair share plan pursuant to the provisions of P.L.1985,
24 c.222 (C.52:27D-301 et al.) and any amounts received by a
25 municipality under a regional contribution agreement pursuant to
26 section 12 of that act;
- 27 u. Amounts expended to meet the standards established pursuant
28 to the "New Jersey Public Employees' Occupational Safety and Health
29 Act," P.L.1983, c.516 (C.34:6A-25 et seq.);
- 30 v. (Deleted by amendment, P.L.1990, c.89.)
- 31 w. Amounts appropriated for expenditures resulting from the
32 impact of a hazardous waste facility as described in subsection c. of
33 section 32 of P.L.1981, c.279 (C.13:1E-80);
- 34 x. Amounts expended to aid privately owned libraries and reading
35 rooms, pursuant to R.S.40:54-35;
- 36 y. (Deleted by amendment, P.L.1990, c.89.)
- 37 z. (Deleted by amendment, P.L.1990, c.89.)
- 38 aa. Extraordinary expenses, approved by the Local Finance Board,
39 required for the implementation of an interlocal services agreement;
- 40 bb. Any expenditure mandated as a result of a natural disaster,
41 civil disturbance or other emergency that is specifically authorized
42 pursuant to a declaration of an emergency by the President of the
43 United States or by the Governor;
- 44 cc. Expenditures for the cost of services mandated by any order
45 of court, by any federal or State statute, or by administrative rule,
46 directive, order, or other legally binding device issued by a State

- 1 agency which has identified such cost as mandated expenditures on
2 certification to the Local Finance Board by the State agency;
- 3 dd. Expenditures of amounts actually realized in the local budget
4 year from the sale of municipal assets if appropriated for non-recurring
5 purposes or otherwise approved by the director;
- 6 ee. Any local unit which is determined to be experiencing fiscal
7 distress pursuant to the provisions of P.L.1987, c.75
8 (C.52:27D-118.24 et seq.), whether or not a local unit is an "eligible
9 municipality" as defined in section 3 of P.L.1987, c.75
10 (C.52:27D-118.26), and which has available surplus pursuant to the
11 spending limitations imposed by P.L.1976, c.68 (C.40A:4-45.1 et
12 seq.), may appropriate and expend an amount of that surplus approved
13 by the director and the Local Finance Board as an exception to the
14 spending limitation. Any determination approving the appropriation
15 and expenditure of surplus as an exception to the spending limitations
16 shall be based upon:
- 17 1) the local unit's revenue needs for the current local budget year
18 and its revenue raising capacity;
- 19 2) the intended actions of the governing body of the local unit to
20 meet the local unit's revenue needs;
- 21 3) the intended actions of the governing body of the local unit to
22 expand its revenue generating capacity for subsequent local budget
23 years;
- 24 4) the local unit's ability to demonstrate the source and existence
25 of sufficient surplus as would be prudent to appropriate as an
26 exception to the spending limitations to meet the operating expenses
27 for the local unit's current budget year; and
- 28 5) the impact of utilization of surplus upon succeeding budgets of
29 the local unit;
- 30 ff. Amounts expended for the staffing and operation of the
31 municipal court;
- 32 gg. Amounts appropriated for the cost of administering a joint
33 insurance fund established pursuant to subsection b. of section 1 of
34 P.L.1983, c.372 (C.40A:10-36), but not including appropriations for
35 claims payments by local member units;
- 36 hh. Amounts appropriated for the cost of implementing an
37 estimated tax billing system and the issuance of tax bills thereunder
38 pursuant to section 3 of P.L.1994, c.72 (C.54:4-66.2);
- 39 ii. Expenditures related to the cost of conducting and
40 implementing a total property tax levy sale pursuant to section 16 of
41 P.L.1997, c.99 (C.54:5-113.5);
- 42 jj. Expenditures related to the cost of solid waste collection or
43 solid waste disposal, including a municipal service system as provided
44 in section 5 of P.L. , c. (C.13:1E-212)(pending in the Legislature
45 as this bill) or a municipal contract system as provided in section 6 of
46 P.L. , c. (C.13:1E-213)(pending in the Legislature as this bill), or

1 the payment of environmental investment charges as defined in section
2 3 of P.L. , c. (C.13:1E-210)(pending in the Legislature as this bill);
3 kk. Any expenditures for the collection or disposition of
4 designated recyclable materials, or the procurement of recycling
5 services made by a municipality pursuant to the provisions of the "New
6 Jersey Statewide Mandatory Source Separation and Recycling Act,"
7 P.L.1987, c.102 (C.13:1E-99.11 et al.); any expenditures of amounts
8 received by a municipality pursuant to section 5 of P.L.1981, c.278
9 (C.13:1E-96); or any revenues received by a municipality from the sale
10 of recyclable materials and expended for the collection or disposition
11 of designated recyclable materials.

12 (cf: P.L.1997, c.99, s.9)

13

14 81. Section 4 of P.L.1976, c.68 (C.40A:4-45.4) is amended to
15 read as follows:

16 4. In the preparation of its budget, a county may not increase the
17 county tax levy to be apportioned among its constituent municipalities
18 in excess of 5% or the index rate, whichever is less, of the previous
19 year's county tax levy, subject to the following exceptions:

20 a. The amount of revenue generated by the increase in valuations
21 within the county, based solely on applying the preceding year's county
22 tax rate to the apportionment valuation of new construction or
23 improvements within the county, and such increase shall be levied in
24 direct proportion to said valuation;

25 b. Capital expenditures, including appropriations for current
26 capital expenditures, whether in the capital improvement fund or as a
27 component of a line item elsewhere in the budget, provided that any
28 such current capital expenditures would be otherwise bondable under
29 the requirements of N.J.S.40A:2-21 and 40A:2-22;

30 c. (1) An increase based upon emergency temporary
31 appropriations made pursuant to N.J.S.40A:4-20 to meet an urgent
32 situation or event which immediately endangers the health, safety or
33 property of the residents of the county, and over which the governing
34 body had no control and for which it could not plan and emergency
35 appropriations made pursuant to N.J.S.40A:4-46. Emergency
36 temporary appropriations and emergency appropriations shall be
37 approved by at least two-thirds of the governing body and by the
38 Director of the Division of Local Government Services, and shall not
39 exceed in the aggregate 3% of the previous year's final current
40 operating appropriations.

41 (2) (Deleted by amendment, P.L.1990, c.89.)

42 The approval procedure in this subsection shall not apply to
43 appropriations adopted for a purpose referred to in subsection d. or f.
44 below;

45 d. All debt service;

46 e. (Deleted by amendment, P.L.1990, c.89.)

1 f. Amounts required to be paid pursuant to (1) any contract with
2 respect to use, service or provision of any project, facility or public
3 improvement for water, sewerage, parking, senior citizen housing or
4 any similar purpose, or payments on account of debt service therefor,
5 between a county and any other county, municipality, school or other
6 district, agency, authority, commission, instrumentality, public
7 corporation, body corporate and politic or political subdivision of this
8 State; and (2) any lease of a facility owned by a county improvement
9 authority when the lease payment represents the proportionate amount
10 necessary to amortize the debt incurred by the authority in providing
11 the facility which is leased, in whole or in part;

12 g. That portion of the county tax levy which represents funding to
13 participate in any federal or State aid program and amounts received
14 or to be received from federal, State or other funds in reimbursement
15 for local expenditures. If a county provides matching funds in order
16 to receive the federal or State or other funds, only the amount of the
17 match which is required by law or agreement to be provided by the
18 county shall be excepted;

19 h. (Deleted by amendment, P.L.1987, c.74.)

20 i. (Deleted by amendment, P.L.1990, c.89.)

21 j. (Deleted by amendment, P.L.1990, c.89.)

22 k. (Deleted by amendment, P.L.1990, c.89.)

23 l. Amounts expended to meet the standards established pursuant
24 to the "New Jersey Public Employees' Occupational Safety and Health
25 Act," P.L.1983, c.516 (C.34:6A-25 et seq.);

26 m. (Deleted by amendment, P.L.1990, c.89.)

27 n. (Deleted by amendment, P.L.1990, c.89.)

28 o. (Deleted by amendment, P.L.1990, c.89.)

29 p. Extraordinary expenses, approved by the Local Finance Board,
30 required for the implementation of an interlocal services agreement;

31 q. Any expenditure mandated as a result of a natural disaster, civil
32 disturbance or other emergency that is specifically authorized pursuant
33 to a declaration of an emergency by the President of the United States
34 or by the Governor;

35 r. Expenditures for the cost of services mandated by any order of
36 court, by any federal or State statute, or by administrative rule,
37 directive, order, or other legally binding device issued by a State
38 agency which has identified such cost as mandated expenditures on
39 certification to the Local Finance Board by the State agency;

40 s. That portion of the county tax levy which represents funding to
41 a county college in excess of the county tax levy required to fund the
42 county college in local budget year 1992;

43 t. Amounts appropriated for the cost of administering a joint
44 insurance fund established pursuant to subsection b. of section 1 of
45 P.L.1983, c.372 (C.40A:10-36), but not including appropriations for
46 claims payments by local member units;

1 u. Expenditures for the administration of general public assistance
2 pursuant to P.L.1995, c.259 (C.40A:4-6.1 et al.);

3 v. Amounts in a separate line item of a county budget that are
4 expended on tick-borne disease vector management activities
5 undertaken pursuant to P.L.1997, c.52 (C.26:2P-7 et al.);

6 w. Expenditures for solid waste collection or solid waste disposal,
7 including payment of environmental investment charges as defined in
8 section 3 of P.L. , c. (C.) (pending in the Legislature as this
9 bill);

10 x. Expenditures for the collection or disposition of designated
11 recyclable materials, or the procurement of markets or recycling
12 services made by a county pursuant to the provisions of the "New
13 Jersey Statewide Mandatory Source Separation and Recycling Act,"
14 P.L.1987, c.102 (C.13:1E-99.11 et al.).

15 (cf: P.L.1997. c.52, s.3)

16
17 82. Section 12 of P.L.1983, c.313 (C.40A:5A-12) is amended to
18 read as follows:

19 12. a. The Local Finance Board shall have the power, in the case
20 of a service contract between an authority and a local unit or units, to
21 enforce, by appropriate order, the terms and provisions thereof with
22 respect to the funding of a deficit, whether in existence or anticipated.

23 (1) If the Local Finance Board has reason to believe that an
24 authority is faced with financial difficulty, it shall have the power to
25 order an increase in rents, rates, fees or other charges of the authority,
26 and this order shall be valid and enforceable, notwithstanding any
27 provisions to the contrary in R.S.48:2-1 et seq. The Local Finance
28 Board, before issuing this order, shall first hold a hearing consistent
29 with section 18 of [this act] P.L.1983, c.313 (C.40A:5A-18).

30 (2) The Local Finance Board also shall have authority to provide
31 that a requirement that a local unit or units pay a deficit under a
32 service contract be funded through the issuance of notes as provided
33 in section 14 of [this act] P.L.1983, c.313 (C.40A:5A-14). Any order
34 so issued shall be deemed conclusive and final, and upon receipt of this
35 order all persons shall be estopped from contesting the order or the
36 provisions thereof. Any authority or local unit or units affected by the
37 order shall promptly take the action necessary to comply with this
38 order.

39 b. If the Local Finance Board has reason to believe that a public
40 authority is faced with financial difficulty, due to a failure to establish
41 and implement a system to calculate, charge and collect environmental
42 investment charges to recover the environmental investment costs
43 incurred by the public authority in developing solid waste facilities as
44 provided in section 11 of P.L. , c. (C.) (pending in the
45 Legislature as this bill), the Local Finance Board shall have the
46 authority to order the public authority to establish and implement a

1 system for the recovery of its environmental investment costs in the
2 manner prescribed therein. The Local Finance Board, prior to issuing
3 this order, shall hold a hearing thereon consistent with section 18 of
4 P.L.1983, c.313 (C.40A:5A-18).

5 (cf: P.L.1987, c.319, s.6)

6
7 83. Section 18 of P.L.1983, c.313 (C.40A:5A-18) is amended to
8 read as follows:

9 18. If at any time, as a result of exercising [his] the responsibilities
10 of the Director of the Division of Local Government Services under
11 [this act] the provisions of P.L.1983, c.313 (C.40A:5A-1 et seq.), the
12 director has reason to believe that an authority is faced with financial
13 difficulty, including due to a failure to establish and implement a
14 system to calculate, charge and collect environmental investment
15 charges to recover the environmental investment costs incurred by the
16 public authority in developing solid waste facilities as provided in
17 section 11 of P.L. , c. (C.) (pending in the Legislature as
18 this bill), the director shall summon appropriate officials of the
19 authority and the local unit or units or either of the aforesaid to a
20 hearing before the Local Finance Board. The Local Finance Board may
21 require the production of papers, documents, witnesses or information
22 and may make or cause to be made an audit or investigation of the
23 circumstances with respect to which the hearing was called.

24 (cf: P.L.1983, c.313, s.18)

25
26 84. Section 19 of P.L.1983, c.313 (C.40A:5A-19) is amended to
27 read as follows:

28 19. a. If the Local Finance Board determines that financial
29 difficulties exist which (1) jeopardize the payment of operating
30 expenses and debt service on obligations of the authority or either of
31 the aforesaid; or place an undue financial burden on the inhabitants of
32 the local unit or units or the users of the system or facilities of an
33 authority; and (2) that these difficulties are likely to recur and, if they
34 continue, will impair the credit of the authority and local unit or units
35 or either of the aforesaid to the detriment of the inhabitants thereof;
36 and (3) no financial plan designed to prevent a recurrence of these
37 conditions and which is deemed to be practicable and feasible by the
38 director has been undertaken by the authority or the local unit or units,
39 the Local Finance Board shall order the implementation of a financial
40 plan which will assure the payment of debt service on obligations of
41 the authority, or provide relief from undue financial burden. The order
42 shall be deemed conclusive and final and upon receipt of the order all
43 persons shall be estopped from contesting the order or the provisions
44 thereof and the authority or local unit or units affected thereby shall
45 take the action to comply with the order.

46 b. In ordering the implementation of a financial plan which will

1 assure the payment of debt service on obligations of a public authority
2 related to the financing of solid waste facilities, the Local Finance
3 Board may order an increase in the solid waste charges received at the
4 solid waste facility for solid waste disposal.

5 (cf: P.L.1983, c.313, s.19)

6
7 85. Section 2 of P.L.1971, c.198 (C.40A:11-2) is amended to read
8 as follows:

9 2. As used herein the following words have the following
10 definitions, unless the context otherwise indicates:

11 (1) "Contracting unit" means:

12 (a) Any county; or

13 (b) Any municipality; or

14 (c) Any board, commission, committee, authority or agency,
15 which is not a State board, commission, committee, authority or
16 agency, and which has administrative jurisdiction over any district
17 other than a school district, project, or facility, included or operating
18 in whole or in part, within the territorial boundaries of any county or
19 municipality which exercises functions which are appropriate for the
20 exercise by one or more units of local government, and which has
21 statutory power to make purchases and enter into contracts or
22 agreements for the performance of any work or the furnishing or hiring
23 of any materials or supplies usually required, the cost or contract price
24 of which is to be paid with or out of public funds.

25 The term shall not include a private firm that has entered into a
26 contract with a public entity for the provision of water supply services
27 pursuant to P.L.1995, c.101 (C.58:26-19 et al.).

28 "Contracting unit" shall not include a private firm or public
29 authority that has entered into a contract with a public entity for the
30 provision of wastewater treatment services pursuant to P.L.1995,
31 c.216 (C.58:27-19 et al.).

32 (2) "Governing body" means:

33 (a) The governing body of the county, when the purchase is to be
34 made or the contract or agreement is to be entered into by, or in behalf
35 of, a county; or

36 (b) The governing body of the municipality, when the purchase is
37 to be made or the contract or agreement is to be entered into by, or on
38 behalf of, a municipality; or

39 (c) Any board, commission, committee, authority or agency of the
40 character described in subsection (1) (c) of this section.

41 (3) "Contracting agent" means the governing body of a
42 contracting unit, or any board, commission, committee, officer,
43 department, branch or agency which has the power to prepare the
44 advertisements, to advertise for and receive bids and, as permitted by
45 this act, to make awards for the contracting unit in connection with
46 purchases, contracts or agreements.

1 (4) "Purchase" is a transaction, for a valuable consideration,
2 creating or acquiring an interest in goods, services and property,
3 except real property or any interest therein.

4 (5) "Materials" includes goods and property subject to chapter 2
5 of Title 12A of the New Jersey Statutes, apparatus, or any other
6 tangible thing, except real property or any interest therein.

7 (6) "Professional services" means services rendered or performed
8 by a person authorized by law to practice a recognized profession,
9 whose practice is regulated by law, and the performance of which
10 services requires knowledge of an advanced type in a field of learning
11 acquired by a prolonged formal course of specialized instruction and
12 study as distinguished from general academic instruction or
13 apprenticeship and training. Professional services may also mean
14 services rendered in the performance of work that is original and
15 creative in character in a recognized field of artistic endeavor.

16 (7) "Extraordinary unspecifiable services" means services which
17 are specialized and qualitative in nature requiring expertise, extensive
18 training and proven reputation in the field of endeavor.

19 (8) "Project" means any work, undertaking, program, activity,
20 development, redevelopment, construction or reconstruction of any
21 area or areas.

22 (9) "Work" includes services and any other activity of a tangible
23 or intangible nature performed or assumed pursuant to a contract or
24 agreement with a contracting unit.

25 (10) "Homemaker--home health services" means at home personal
26 care and home management provided to an individual or members of
27 his family who reside with him, or both, necessitated by the individual's
28 illness or incapacity. "Homemaker--home health services" includes,
29 but is not limited to, the services of a trained homemaker.

30 (11) "Recyclable material" means those materials which would
31 otherwise become municipal solid waste, and which may be collected,
32 separated or processed and returned to the economic mainstream in
33 the form of raw materials or products.

34 (12) "Recycling" means any process by which materials which
35 would otherwise become solid waste are collected, separated or
36 processed and returned to the economic mainstream in the form of raw
37 materials or products.

38 (13) "Marketing" means the marketing of designated recyclable
39 materials source separated in a municipality which entails a marketing
40 cost less than the cost of transporting the recyclable materials to solid
41 waste facilities and disposing of the materials as municipal solid waste
42 at the facility utilized by the municipality.

43 (14) "Municipal solid waste" means all [residential, commercial
44 and institutional] nonhazardous solid waste or any portion thereof
45 generated within the boundaries of a municipality.

46 (15) "Distribution" (when used in relation to electricity) means the

1 process of conveying electricity from a contracting unit who is a
2 generator of electricity or a wholesale purchaser of electricity to retail
3 customers or other end users of electricity.

4 (16) "Transmission" (when used in relation to electricity) means
5 the conveyance of electricity from its point of generation to a
6 contracting unit who purchases it on a wholesale basis for resale.

7 (17) "Disposition" means the transportation, placement, reuse,
8 sale, donation, transfer or temporary storage of recyclable materials
9 for all possible uses except for disposal as municipal solid waste.

10 (18) "Cooperative marketing" means the joint marketing by two
11 or more contracting units within the same county, or adjacent or
12 proximate counties, of the source separated recyclable materials
13 designated in a district recycling plan required pursuant to section 3 of
14 P.L.1987, c.102 (C.13:1E-99.13) pursuant to a written cooperative
15 agreement entered into by the participating contracting units thereof.

16 (19) "District solid waste facility" means a solid waste facility that
17 is designated by a public authority or county in its adopted district
18 solid waste management plan as approved by the department prior to
19 the effective date of P.L. , c. (C.)(pending in the
20 Legislature as this bill) as the in-county facility to which solid waste
21 generated within the boundaries of the county is transported for final
22 disposal, or transfer for transportation to an offsite solid waste facility
23 or designated out-of-state disposal site for disposal, as appropriate.

24 (20) "Municipal solid waste services agreement" means a contract
25 or agreement entered into between any person, public authority or
26 county and a municipal governing body for the use of a district solid
27 waste facility by the municipality for the disposal of solid waste
28 generated within its municipal boundaries.

29 (21) "Public authority" means a municipal or county utilities
30 authority created pursuant to the "municipal and county utilities
31 authorities law," P.L.1957, c.183 (C.40:14B-1 et seq.); a county
32 improvement authority created pursuant to the "county improvement
33 authorities law," P.L.1960, c.183 (C.40:37A-44 et seq.); a pollution
34 control financing authority created pursuant to the "New Jersey
35 Pollution Control Financing Law," P.L.1973, c.376 (C.40:37C-1 et
36 seq.); or any other public body corporate and politic created for solid
37 waste management purposes in any county, pursuant to the provisions
38 of any law.

39 (22) "Solid waste" means garbage, refuse, and other discarded
40 materials resulting from industrial, commercial and agricultural
41 operations, and from domestic and community activities, and shall
42 include all other waste materials including liquids, except for source
43 separated recyclable materials or source separated food waste
44 collected by livestock producers approved by the State Department of
45 Agriculture to collect, prepare and feed such wastes to livestock on
46 their own farms.

1 (23) "Solid waste facilities" means, and includes, the plants,
2 structures and other real and personal property acquired, constructed
3 or operated or to be acquired, constructed or operated by, or on behalf
4 of, any person, public authority or county pursuant to the provisions
5 of the "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et
6 seq.) or any other act, including transfer stations, incinerators,
7 resource recovery facilities, sanitary landfill facilities or other plants
8 for the disposal of solid waste, and all vehicles, equipment and other
9 real and personal property and rights therein and appurtenances
10 necessary or useful and convenient for the collection or disposal of
11 solid waste in a sanitary manner.

12 (cf: P.L.1995, c.216, s.10)

13

14 86. Section 5 of P.L.1971, c.198 (C.40A:11-5) is amended to read
15 as follows:

16 5. Any purchase, contract or agreement of the character described
17 in section 4 of P.L.1971, c.198 (C.40A:11-4) may be made, negotiated
18 or awarded by the governing body without public advertising for bids
19 and bidding therefor if:

20 (1) The subject matter thereof consists of:

21 (a) (i) Professional services. The governing body shall in each
22 instance state supporting reasons for its action in the resolution
23 awarding each contract and shall forthwith cause to be printed once,
24 in a newspaper authorized by law to publish its legal advertisements,
25 a brief notice stating the nature, duration, service and amount of the
26 contract, and that the resolution and contract are on file and available
27 for public inspection in the office of the clerk of the county or
28 municipality, or, in the case of a contracting unit created by more than
29 one county or municipality, of the counties or municipalities creating
30 such contracting unit; or (ii) Extraordinary unspecifiable services. The
31 application of this exception shall be construed narrowly in favor of
32 open competitive bidding, where possible, and the Division of Local
33 Government Services is authorized to adopt and promulgate rules and
34 regulations limiting the use of this exception in accordance with the
35 intention herein expressed. The governing body shall in each instance
36 state supporting reasons for its action in the resolution awarding each
37 contract and shall forthwith cause to be printed, in the manner set
38 forth in subsection (1) (a) (i) of this section, a brief notice of the
39 award of such contract;

40 (b) The doing of any work by employees of the contracting unit;

41 (c) The printing of legal briefs, records and appendices to be used
42 in any legal proceeding in which the contracting party may be a party;

43 (d) The furnishing of a tax map or maps for the contracting party;

44 (e) The purchase of perishable foods as a subsistence supply;

45 (f) The supplying of any product or the rendering of any service
46 by a public utility, which is subject to the jurisdiction of the Board of

- 1 Public Utilities or the Federal Energy Regulatory Commission or its
2 successor, in accordance with tariffs and schedules of charges made,
3 charged or exacted, filed with the board or commission;
- 4 (g) The acquisition, subject to prior approval of the Attorney
5 General, of special equipment for confidential investigation;
- 6 (h) The printing of bonds and documents necessary to the issuance
7 and sale thereof by a contracting unit;
- 8 (i) Equipment repair service if in the nature of an extraordinary
9 unspecifiable service and necessary parts furnished in connection with
10 such service, which exception shall be in accordance with the
11 requirements for extraordinary unspecifiable services;
- 12 (j) The publishing of legal notices in newspapers as required by
13 law;
- 14 (k) The acquisition of artifacts or other items of unique intrinsic,
15 artistic or historical character;
- 16 (l) Election expenses;
- 17 (m) Insurance, including the purchase of insurance coverage and
18 consultant services, which exception shall be in accordance with the
19 requirements for extraordinary unspecifiable services;
- 20 (n) The doing of any work by handicapped persons employed by
21 a sheltered workshop;
- 22 (o) The provision of any service or the furnishing of materials
23 including those of a commercial nature, attendant upon the operation
24 of a restaurant by any nonprofit, duly incorporated, historical society
25 at or on any historical preservation site;
- 26 (p) Homemaker--home health services performed by voluntary,
27 nonprofit agencies;
- 28 (q) The purchase of materials and services for a law library
29 established pursuant to R.S.40:33-14, including books, periodicals,
30 newspapers, documents, pamphlets, photographs, reproductions,
31 microforms, pictorial or graphic works, copyright and patent materials,
32 maps, charts, globes, sound recordings, slides, films, filmstrips, video
33 and magnetic tapes, and other audiovisual, printed, or published
34 material of a similar nature; necessary binding or rebinding of law
35 library materials; and specialized library services;
- 36 (r) On-site inspections undertaken by private agencies pursuant to
37 the "State Uniform Construction Code Act," P.L.1975, c.217
38 (C.52:27D-119 et seq.) and the regulations adopted pursuant thereto;
- 39 (s) The marketing of recyclable materials recovered through a
40 recycling program, or the marketing of any product intentionally
41 produced or derived from solid waste received at a [resource
42 recovery] solid waste facility or recovered through a resource
43 recovery program, including, but not limited to, refuse-derived fuel,
44 compost materials, methane gas, and other similar products. The
45 application of this exception shall not be construed to include a solid
46 waste facility for the disposal of solid waste by incineration;

1 (t) Emergency medical services provided by a hospital to the
2 residents of a municipality or county, provided that: (a) such
3 exception be allowed only after the governing body determines that the
4 emergency services are available only from one provider; and (b) if the
5 contract is awarded without advertising for bids or bidding the
6 governing body shall in each instance state supporting reasons for its
7 action in a resolution awarding the contract and cause to be printed
8 once in a newspaper authorized by law to publish its legal
9 advertisements a brief notice stating the nature, duration, service, and
10 amount of the contract; and (c) the contract shall be kept on file for
11 public inspection in the office of the clerk of the municipality;

12 (u) Contracting unit towing and storage contracts, provided that
13 all such contracts shall be pursuant to reasonable non-exclusionary and
14 non-discriminatory terms and conditions, which may include the
15 provision of such services on a rotating basis, at the rates and charges
16 set by the municipality pursuant to section 1 of P.L.1979, c.101
17 (C.40:48-2.49). All contracting unit towing and storage contracts for
18 services to be provided at rates and charges other than those
19 established pursuant to the terms of this paragraph shall only be
20 awarded to the lowest responsible bidder in accordance with the
21 provisions of the "Local Public Contracts Law" and without regard for
22 the value of the contract therefor. Each of the aforementioned means
23 of contracting shall be subject to any regulations adopted by the
24 Commissioner of Insurance pursuant to section 60 of P.L.1990, c.8
25 (C.17:33B-47);

26 (v) The purchase of steam or electricity from, or the rendering of
27 services directly related to the purchase of such steam or electricity
28 from a qualifying small power production facility or a qualifying
29 cogeneration facility as defined pursuant to 16 U.S.C.796;

30 (w) The purchase of electricity or administrative or dispatching
31 services directly related to the transmission of such purchased
32 electricity by a contracting unit engaged in the generation of
33 electricity;

34 (x) The printing of municipal ordinances or other services
35 necessarily incurred in connection with the revision and codification
36 of municipal ordinances;

37 (y) An agreement for the purchase of an equitable interest in a
38 water supply facility or for the provision of water supply services
39 entered into pursuant to section 2 of P.L.1993, c.381 (C.58:28-2), or
40 an agreement entered into pursuant to P.L.1989, c.109
41 (N.J.S.40A:31-1 et al.), so long as such agreement is entered into no
42 later than six months after the effective date of P.L.1993, c.381;

43 (z) A contract for the provision of water supply services entered
44 into pursuant to P.L.1995, c.101 (C.58:26-19 et al.);

45 (aa) The cooperative marketing of recyclable materials recovered
46 through a recycling program; or

1 (bb) A contract for the provision of wastewater treatment services
2 entered into pursuant to P.L.1995, c.216 (C.58:27-19 et al.).

3 (2) It is to be made or entered into with the United States of
4 America, the State of New Jersey, county or municipality or any
5 board, body, officer, agency or authority thereof and any other state
6 or subdivision thereof.

7 (3) The contracting agent has advertised for bids pursuant to
8 section 4 of P.L.1971, c.198 (C.40A:11-4) on two occasions and (a)
9 has received no bids on both occasions in response to its
10 advertisement, or (b) the governing body has rejected such bids on two
11 occasions because the contracting agent has determined that they are
12 not reasonable as to price, on the basis of cost estimates prepared for
13 or by the contracting agent prior to the advertising therefor, or have
14 not been independently arrived at in open competition, or (c) on one
15 occasion no bids were received pursuant to (a) and on one occasion all
16 bids were rejected pursuant to (b), in whatever sequence; any such
17 contract or agreement may then be negotiated and may be awarded
18 upon adoption of a resolution by a two-thirds affirmative vote of the
19 authorized membership of the governing body authorizing such
20 contract or agreement; provided, however, that:

21 (i) A reasonable effort is first made by the contracting agent to
22 determine that the same or equivalent materials or supplies, at a cost
23 which is lower than the negotiated price, are not available from an
24 agency or authority of the United States, the State of New Jersey or
25 of the county in which the contracting unit is located, or any
26 municipality in close proximity to the contracting unit;

27 (ii) The terms, conditions, restrictions and specifications set forth
28 in the negotiated contract or agreement are not substantially different
29 from those which were the subject of competitive bidding pursuant to
30 section 4 of P.L.1971, c.198 (C.40A:11-4); and

31 (iii) Any minor amendment or modification of any of the terms,
32 conditions, restrictions and specifications, which were the subject of
33 competitive bidding pursuant to section 4 of P.L.1971, c.198
34 (C.40A:11-4), shall be stated in the resolution awarding such contract
35 or agreement; provided further, however, that if on the second
36 occasion the bids received are rejected as unreasonable as to price, the
37 contracting agent shall notify each responsible bidder submitting bids
38 on the second occasion of its intention to negotiate, and afford each
39 bidder a reasonable opportunity to negotiate, but the governing body
40 shall not award such contract or agreement unless the negotiated price
41 is lower than the lowest rejected bid price submitted on the second
42 occasion by a responsible bidder, is the lowest negotiated price offered
43 by any responsible supplier, and is a reasonable price for such work,
44 materials, supplies or services.

45 Whenever a contracting unit shall determine that a bid was not
46 arrived at independently in open competition pursuant to subsection

1 (3) of this section it shall thereupon notify the county prosecutor of
2 the county in which the contracting unit is located and the Attorney
3 General of the facts upon which its determination is based, and when
4 appropriate, it may institute appropriate proceedings in any State or
5 federal court of competent jurisdiction for a violation of any State or
6 federal antitrust law or laws relating to the unlawful restraint of trade.
7 (cf: P.L.1995, c.216, s.11)

8
9 87. Section 13 of P.L.1971, c.198 (C.40A:11-13) is amended to
10 read as follows:

11 13. Any specifications for an acquisition under [this act] the
12 provisions of P.L.1971, c.198 (C.40A:11-1 et seq.), whether by
13 purchase, contract or agreement, shall be drafted in a manner to
14 encourage free, open and competitive bidding. In particular, no
15 specifications under [this act] the provisions of P.L.1971, c.198
16 (C.40A:11-1 et seq.) may:

17 (a) Require any standard, restriction, condition or limitation not
18 directly related to the purpose, function or activity for which the
19 purchase, contract or agreement is made; or

20 (b) Require that any bidder be a resident of, or that [his] the
21 bidder's place of business be located in, the county or municipality in
22 which the purchase will be made or the contract or agreement
23 performed, unless the physical proximity of the bidder is requisite to
24 the efficient and economical purchase or performance of the contract
25 or agreement; except that no specification for a contract for the
26 collection [and] or disposal of municipal solid waste shall require any
27 bidder to be a resident of, or that [his] the bidder's place of business
28 be located in, the state, county or municipality in which the contract
29 will be performed; or

30 (c) Discriminate on the basis of race, religion, sex, national origin;
31 or

32 (d) Require, with regard to any purchase, contract or agreement,
33 the furnishing of any "brand name," but may in all cases require "brand
34 name or equivalent," except that if the materials to be supplied or
35 purchased are patented or copyrighted, such materials or supplies may
36 be purchased by specification in any case in which the ordinance or
37 resolution authorizing the purchase, contract, sale or agreement so
38 indicates, and the special need for such patented or copyrighted
39 materials or supplies is directly related to the performance, completion
40 or undertaking of the purpose for which the purchase, contract or
41 agreement is made; or

42 (e) Fail to include any option for renewal, extension, or release
43 which the contracting unit may intend to exercise or require; or any
44 terms and conditions necessary for the performance of any extra work;
45 or fail to disclose any matter necessary to the substantial performance
46 of the contract or agreement.

1 Any specification adopted by the governing body, which knowingly
2 excludes prospective bidders by reason of the impossibility of
3 performance, bidding or qualification by any but one bidder, except as
4 provided herein, shall be null and void and of no effect and subject
5 purchase, contract or agreement shall be readvertised, and the original
6 purchase, contract or agreement shall be set aside by the governing
7 body.

8 Any specification adopted by the governing body for a contract for
9 the collection [and] ~~or~~ disposal of municipal solid waste shall conform
10 to the uniform bid specifications for municipal solid waste collection
11 contracts established pursuant to section 22 of P.L.1991, c.381
12 (C.48:13A-7.22).

13 Any specification adopted by the governing body may include an
14 item for the cost, which shall be paid by the contractor, of creating a
15 file to maintain the notices of the delivery of labor or materials
16 required by N.J.S.2A:44-128.

17 (cf: P.L.1996, c.81, s.7)

18

19 88. Section 15 of P.L.1971, c.198 (C.40A:11-15) is amended to
20 read as follows:

21 15. All purchases, contracts or agreements for the performing of
22 work or the furnishing of materials, supplies or services shall be made
23 for a period not to exceed 24 consecutive months, except that
24 contracts for professional services pursuant to subparagraph (i) of
25 paragraph (a) of subsection (1) of section 5 of P.L.1971, c.198
26 (C.40A:11-5) shall be made for a period not to exceed 12 consecutive
27 months. Contracts or agreements may be entered into for longer
28 periods of time as follows:

29 (1) Supplying of:

30 (a) (Deleted by amendment, P.L.1996, c.113.)

31 (b) (Deleted by amendment, P.L.1996, c.113.)

32 (c) Thermal energy produced by a cogeneration facility, for use
33 for heating or air conditioning or both, for any term not exceeding 40
34 years, when the contract is approved by the Board of Public Utilities.
35 For the purposes of this paragraph, "cogeneration" means the
36 simultaneous production in one facility of electric power and other
37 forms of useful energy such as heating or process steam;

38 (2) (Deleted by amendment, P.L.1977, c.53.)

39 (3) ~~(a)~~ The collection [and disposal] of municipal solid waste, the
40 collection and disposition of recyclable material, or the disposal of
41 sewage sludge, for any term not exceeding in the aggregate, five years;

42 ~~(b) The disposal of municipal solid waste, for any term not~~
43 ~~exceeding in the aggregate, 20 years;~~

44 (4) The collection [and] ~~or~~ recycling of methane gas from a
45 sanitary landfill facility, for any term not exceeding 25 years, when
46 such contract is in conformance with a district solid waste

1 management plan approved pursuant to P.L.1970, c.39 (C.13:1E-1 et
2 seq.), and with the approval of the Division of Local Government
3 Services in the Department of Community Affairs and the Department
4 of Environmental Protection. The contracting unit shall award the
5 contract to the highest responsible bidder, notwithstanding that the
6 contract price may be in excess of the amount of any necessarily
7 related administrative expenses; except that if the contract requires the
8 contracting unit to expend funds only, the contracting unit shall award
9 the contract to the lowest responsible bidder. The approval by the
10 Division of Local Government Services of public bidding requirements
11 shall not be required for those contracts exempted therefrom pursuant
12 to section 5 of P.L.1971, c.198 (C.40A:11-5);

13 (5) Data processing service, for any term of not more than three
14 years;

15 (6) Insurance, for any term of not more than three years;

16 (7) Leasing or servicing of automobiles, motor vehicles, machinery
17 and equipment of every nature and kind, for a period not to exceed
18 three years; provided, however, such contracts shall be entered into
19 only subject to and in accordance with the rules and regulations
20 promulgated by the Director of the Division of Local Government
21 Services of the Department of Community Affairs;

22 (8) The supplying of any product or the rendering of any service
23 by a telephone company which is subject to the jurisdiction of the
24 Board of Public Utilities for a term not exceeding five years;

25 (9) Any single project for the construction, reconstruction or
26 rehabilitation of any public building, structure or facility, or any public
27 works project, including the retention of the services of any architect
28 or engineer in connection therewith, for the length of time authorized
29 and necessary for the completion of the actual construction;

30 (10) The providing of food services for any term not exceeding
31 three years;

32 (11) On-site inspections undertaken by private agencies pursuant
33 to the "State Uniform Construction Code Act," P.L.1975, c.217
34 (C.52:27D-119 et seq.) for any term of not more than three years;

35 (12) The performance of work or services or the furnishing of
36 materials or supplies for the purpose of conserving energy in buildings
37 owned by, or operations conducted by, the contracting unit, the entire
38 price of which to be established as a percentage of the resultant
39 savings in energy costs, for a term not to exceed 10 years; provided,
40 however, that such contracts shall be entered into only subject to and
41 in accordance with rules and regulations promulgated by the
42 Department of Environmental Protection establishing a methodology
43 for computing energy cost savings;

44 (13) The performance of work or services or the furnishing of
45 materials or supplies for the purpose of elevator maintenance for any
46 term not exceeding three years;

1 (14) Leasing or servicing of electronic communications equipment
2 for a period not to exceed five years; provided, however, such contract
3 shall be entered into only subject to and in accordance with the rules
4 and regulations promulgated by the Director of the Division of Local
5 Government Services of the Department of Community Affairs;

6 (15) Leasing of motor vehicles, machinery and other equipment
7 primarily used to fight fires, for a term not to exceed seven years,
8 when the contract includes an option to purchase, subject to and in
9 accordance with rules and regulations promulgated by the Director of
10 the Division of Local Government Services of the Department of
11 Community Affairs;

12 (16) The provision of water supply services or the designing,
13 financing, construction, operation, or maintenance, or any combination
14 thereof, of a water supply facility, or any component part or parts
15 thereof, including a water filtration system, for a period not to exceed
16 40 years, when the contract for these services is approved by the
17 Division of Local Government Services in the Department of
18 Community Affairs, the Board of Public Utilities, and the Department
19 of Environmental Protection pursuant to P.L.1985, c.37 (C.58:26-1 et
20 al.), except for those contracts otherwise exempted pursuant to
21 subsection (30), (31), (34) or (35) of this section. For the purposes
22 of this subsection, "water supply services" means any service provided
23 by a water supply facility; "water filtration system" means any
24 equipment, plants, structures, machinery, apparatus, or land, or any
25 combination thereof, acquired, used, constructed, rehabilitated, or
26 operated for the collection, impoundment, storage, improvement,
27 filtration, or other treatment of drinking water for the purposes of
28 purifying and enhancing water quality and insuring its potability prior
29 to the distribution of the drinking water to the general public for
30 human consumption, including plants and works, and other personal
31 property and appurtenances necessary for their use or operation; and
32 "water supply facility" means and refers to the real property and the
33 plants, structures, interconnections between existing water supply
34 facilities, machinery and equipment and other property, real, personal
35 and mixed, acquired, constructed or operated, or to be acquired,
36 constructed or operated, in whole or in part by or on behalf of a
37 political subdivision of the State or any agency thereof, for the
38 purpose of augmenting the natural water resources of the State and
39 making available an increased supply of water for all uses, or of
40 conserving existing water resources, and any and all appurtenances
41 necessary, useful or convenient for the collecting, impounding, storing,
42 improving, treating, filtering, conserving or transmitting of water and
43 for the preservation and protection of these resources and facilities and
44 providing for the conservation and development of future water supply
45 resources;

46 (17) The provision of resource recovery services by a qualified

1 vendor, the disposal of the solid waste delivered for disposal which
2 cannot be processed by a resource recovery facility or the residual ash
3 generated at a resource recovery facility, including hazardous waste
4 and recovered metals and other materials for reuse, or the design,
5 financing, construction, operation or maintenance of a resource
6 recovery facility for a period not to exceed 40 years when the contract
7 is approved by the Division of Local Government Services in the
8 Department of Community Affairs, and the Department of
9 Environmental Protection pursuant to P.L.1985, c.38 (C.13:1E-136 et
10 al.); and when the resource recovery facility is in conformance with a
11 district solid waste management plan approved pursuant to P.L.1970,
12 c.39 (C.13:1E-1 et seq.). For the purposes of this subsection,
13 "resource recovery facility" means a solid waste facility constructed
14 and operated for the incineration of solid waste for energy production
15 and the recovery of metals and other materials for reuse; or a
16 mechanized composting facility, or any other solid waste facility
17 [constructed or operated for the collection, separation, recycling, and
18 recovery of metals, glass, paper, and other materials for reuse or for
19 energy production]; "resource recovery services" means any services
20 provided by the owner or operator of a resource recovery facility,
21 including but not limited to, solid waste disposal; the utilization of a
22 resource recovery facility for the disposal of out-of-county solid
23 waste; the disposal of residual ash or the solid waste delivered to a
24 resource recovery facility which cannot be processed at the resource
25 recovery facility; the utilization of a sanitary landfill facility for the
26 disposal of solid waste due to downtime or technical failure at a
27 resource recovery facility; or any combination thereof; and "residual
28 ash" means the bottom ash, fly ash, or any combination thereof,
29 resulting from the combustion of solid waste at a resource recovery
30 facility;

31 (18) The sale of electricity or thermal energy, or both, produced
32 by a resource recovery facility for a period not to exceed 40 years
33 when the contract is approved by the Board of Public Utilities, and
34 when the resource recovery facility is in conformance with a district
35 solid waste management plan approved pursuant to P.L.1970, c.39
36 (C.13:1E-1 et seq.). For the purposes of this subsection, "resource
37 recovery facility" means a solid waste facility constructed and operated
38 for the incineration of solid waste for energy production and the
39 recovery of metals and other materials for reuse; or a mechanized
40 composting facility, or any other solid waste facility [constructed or
41 operated for the collection, separation, recycling, and recovery of
42 metals, glass, paper, and other materials for reuse or for energy
43 production];

44 (19) The provision of wastewater treatment services or the
45 designing, financing, construction, operation, or maintenance, or any
46 combination thereof, of a wastewater treatment system, or any

1 component part or parts thereof, for a period not to exceed 40 years,
2 when the contract for these services is approved by the Division of
3 Local Government Services in the Department of Community Affairs
4 and the Department of Environmental Protection pursuant to
5 P.L.1985, c.72 (C.58:27-1 et al.), except for those contracts otherwise
6 exempted pursuant to subsection (36) of this section. For the purposes
7 of this subsection, "wastewater treatment services" means any services
8 provided by a wastewater treatment system, and "wastewater
9 treatment system" means equipment, plants, structures, machinery,
10 apparatus, or land, or any combination thereof, acquired, used,
11 constructed, or operated for the storage, collection, reduction,
12 recycling, reclamation, disposal, separation, or other treatment of
13 wastewater or sewage sludge, or for the final disposal of residues
14 resulting from the treatment of wastewater, including, but not limited
15 to, pumping and ventilating stations, facilities, plants and works,
16 connections, outfall sewers, interceptors, trunk lines, and other
17 personal property and appurtenances necessary for their operation;

18 (20) The supplying of materials or services for the purpose of
19 lighting public streets, for a term not to exceed five years, provided
20 that the rates, fares, tariffs or charges for the supplying of electricity
21 for that purpose are approved by the Board of Public Utilities;

22 (21) In the case of a contracting unit which is a county or
23 municipality, the provision of emergency medical services by a hospital
24 to residents of a municipality or county as appropriate for a term not
25 to exceed five years;

26 (22) Towing and storage contracts, awarded pursuant to
27 paragraph u. of subsection (1) of section 5 of P.L.1971, c.198
28 (C.40A:11-5) for any term not exceeding three years;

29 (23) Fuel for the purpose of generating electricity for a term not
30 to exceed eight years;

31 (24) The purchase of electricity or administrative or dispatching
32 services related to the transmission of such electricity, from a public
33 utility company subject to the jurisdiction of the Board of Public
34 Utilities, a similar regulatory body of another state, or a federal
35 regulatory agency, or from a qualifying small power producing facility
36 or qualifying cogeneration facility, as defined by 16 U.S.C. s.796, by
37 a contracting unit engaged in the generation of electricity for retail
38 sale, as of May 24,1991, for a term not to exceed 40 years;

39 (25) Basic life support services, for a period not to exceed five
40 years. For the purposes of this subsection, "basic life support" means
41 a basic level of prehospital care, which includes but need not be limited
42 to patient stabilization, airway clearance, cardiopulmonary
43 resuscitation, hemorrhage control, initial wound care and fracture
44 stabilization;

45 (26) Claims administration services, for any term not to exceed
46 three years;

1 (27) The provision of transportation services to elderly, disabled
2 or indigent persons for any term of not more than three years. For the
3 purposes of this subsection, "elderly persons" means persons who are
4 60 years of age or older. "Disabled persons" means persons of any age
5 who, by reason of illness, injury, age, congenital malfunction, or other
6 permanent or temporary incapacity or disability, are unable, without
7 special facilities or special planning or design to utilize mass
8 transportation facilities and services as effectively as persons who are
9 not so affected. "Indigent persons" means persons of any age whose
10 income does not exceed 100 percent of the poverty level, adjusted for
11 family size, established and adjusted under section 673(2) of subtitle
12 B, the "Community Services Block Grant Act," Pub.L.97-35
13 (42 U.S.C. s.9902 (2));

14 (28) The supplying of liquid oxygen or other chemicals, for a term
15 not to exceed five years, when the contract includes the installation of
16 tanks or other storage facilities by the supplier, on or near the
17 premises of the contracting unit;

18 (29) The performance of patient care services by contracted
19 medical staff at county hospitals, correction facilities and long term
20 care facilities, for any term of not more than three years;

21 (30) The acquisition of an equitable interest in a water supply
22 facility pursuant to section 2 of P.L.1993, c.381 (C.58:28-2), or an
23 agreement entered into pursuant to the "County and Municipal Water
24 Supply Act," N.J.S.40A:31-1 et seq., if the agreement is entered into
25 no later than January 7, 1995, for any term of not more than forty
26 years;

27 (31) The provision of water supply services or the financing,
28 construction, operation or maintenance or any combination thereof, of
29 a water supply facility or any component part or parts thereof, by a
30 partnership or copartnership established pursuant to a contract
31 authorized under section 2 of P.L.1993, c.381 (C.58:28-2), for a
32 period not to exceed 40 years;

33 (32) Laundry service and the rental, supply and cleaning of
34 uniforms for any term of not more than three years;

35 (33) The supplying of any product or the rendering of any service,
36 including consulting services, by a cemetery management company for
37 the maintenance and preservation of a municipal cemetery operating
38 pursuant to the "New Jersey Cemetery Act," N.J.S.8A:1-1 et seq., for
39 a term not exceeding 15 years;

40 (34) A contract between a public entity and a person pursuant to
41 P.L.1995, c.101 (C.58:26-19 et al.) for the provision of water supply
42 services may be entered into for any term which, when all optional
43 extension periods are added, may not exceed 40 years;

44 (35) An agreement for the purchase of a supply of water from a
45 public utility company subject to the jurisdiction of the Board of Public
46 Utilities in accordance with tariffs and schedules of charges made,

1 charged or exacted or contracts filed with the Board of Public
2 Utilities, for any term of not more than 40 years;

3 (36) A contract between a public entity and a person or public
4 authority pursuant to P.L.1995, c.216 (C.58:27-19 et al.) for the
5 provision of wastewater treatment services may be entered into for any
6 term of not more than 40 years, including all optional extension
7 periods; and

8 (37) The operation and management of a facility under a license
9 issued or permit approved by the Department of Environmental
10 Protection, including a wastewater treatment system or a water supply
11 or distribution facility, as the case may be, for any term of not more
12 than seven years. For the purposes of this subsection, "wastewater
13 treatment system" refers to facilities operated or maintained for the
14 storage, collection, reduction, disposal, or other treatment of
15 wastewater or sewage sludge, remediation of groundwater
16 contamination, stormwater runoff, or the final disposal of residues
17 resulting from the treatment of wastewater; and "water supply or
18 distribution facility" refers to facilities operated or maintained for
19 augmenting the natural water resources of the State, increasing the
20 supply of water, conserving existing water resources, or distributing
21 water to users.

22 All multiyear leases and contracts entered into pursuant to this
23 section, except contracts for the leasing or servicing of equipment
24 supplied by a telephone company which is subject to the jurisdiction
25 of the Board of Public Utilities, contracts involving the supplying of
26 electricity for the purpose of lighting public streets and contracts for
27 thermal energy authorized pursuant to subsection (1) above,
28 construction contracts authorized pursuant to subsection (9) above,
29 contracts and agreements for the provision of work or the supplying
30 of equipment to promote energy conservation authorized pursuant to
31 subsection (12) above, contracts for water supply services or for a
32 water supply facility, or any component part or parts thereof
33 authorized pursuant to subsection (16), (30), (31), (34), (35) or (37)
34 above, contracts for resource recovery services or a resource recovery
35 facility authorized pursuant to subsection (17) above, contracts for the
36 sale of energy produced by a resource recovery facility authorized
37 pursuant to subsection (18) above, contracts for wastewater treatment
38 services or for a wastewater treatment system or any component part
39 or parts thereof authorized pursuant to subsection (19), (36) or (37)
40 above, and contracts for the purchase of electricity or administrative
41 or dispatching services related to the transmission of such electricity
42 authorized pursuant to subsection (24) above, shall contain a clause
43 making them subject to the availability and appropriation annually of
44 sufficient funds as may be required to meet the extended obligation, or
45 contain an annual cancellation clause.

46 The Division of Local Government Services shall adopt and

1 promulgate rules and regulations concerning the methods of
2 accounting for all contracts that do not coincide with the fiscal year.
3 (cf: P.L.1996, c.113, s.19)

4

5 89. Section 1 of P.L.1968, c.173 (C.48:2-59) is amended to read
6 as follows:

7 1. a. To enable the Board [of Public Utility Commissioners in the
8 Department] of Public Utilities to better perform its lawful duties
9 relating to service, classifications to be used, rates and charges to be
10 made and collected, rules and regulations to be prescribed, and
11 supervision over all public utilities [and public movers] under its
12 jurisdiction, the Board of Public [Utility Commissioners] Utilities shall
13 annually make an assessment against each public utility [and public
14 mover].

15 b. After August 19, 1991, the Board of Public Utilities shall not
16 make an assessment against any person engaging in the business of
17 solid waste collection or solid waste disposal pursuant to P.L.1970,
18 c.40 (C.48:13A-1 et seq.). The provisions of this subsection shall not
19 affect any obligation to pay an assessment made by the Board prior to
20 August 19, 1991, nor shall these provisions affect the legal authority
21 of the Board under subsection a. of this section or section 2 of
22 P.L.1968, c.173 (C.48:2-60) to make an assessment against any person
23 engaging in the business of solid waste collection or solid waste
24 disposal prior to that date.

25 c. The provisions of subsection b. of this section shall not affect
26 the legal authority of the State Treasurer under section 12 of
27 P.L.1968, c.173 (C.48:2-70) to collect the amount stated to be due,
28 including any interest which may accrue by virtue of the neglect or
29 refusal of the public utility to pay an assessment made by the Board
30 prior to August 19, 1991, nor shall these provisions invalidate or affect
31 any proceeding for the enforcement thereof.

32 (cf: P.L.1972, c.36, s.1)

33

34 90. Section 2 of P.L.1968, c.173 (C.48:2-60) is amended to read
35 as follows:

36 2. a. The assessment shall be equal to a percentage of the gross
37 operating revenue of the public utilities under the jurisdiction of the
38 board derived from intrastate operations during the preceding calendar
39 year at a rate to be determined annually by the board on or before June
40 30 in the following manner:

41 The total amount appropriated to the Board of Public Utilities by
42 law for its general purposes for its next fiscal year shall be divided by
43 the total amount of the gross operating revenues of all public utilities
44 under the jurisdiction of the board derived from intrastate operations
45 during the preceding calendar year. The quotient resulting shall
46 constitute the percentage rate of the assessment for the calendar year

1 in which such computation is made. The total amount so assessed to
2 any particular public utility shall not exceed 1/4 of 1% of the gross
3 operating revenue subject to assessment hereunder of that utility
4 derived from its intrastate operation during the preceding calendar
5 year, except that the minimum assessment for any public utility shall
6 be \$500.[00.]

7 b. After August 19, 1991, the provisions of P.L.1968, c.173
8 (C.48:2-59 et seq.) relating to the annual assessment made by the
9 Board of Public Utilities shall not apply to any person engaging in the
10 business of solid waste collection or solid waste disposal pursuant to
11 P.L.1970, c.40 (C.48:13A-1 et seq.) or P.L.1991, c.381
12 (C.48:13A-7.1 et seq.).

13 (cf: P.L.1989, c.281, s.1)

14
15 91. Section 4 of P.L.1968, c.173 (C.48:2-62) is amended to read
16 as follows:

17 4. The assessment prescribed by sections 1 and 2 of P.L.1968
18 c.173 (C.48:2-59 and 48:2-60) shall be levied by the Board of Public
19 [Utility Commissioners] Utilities not later than July 1, and shall be
20 paid within 30 days after mailing by first class mail to any public utility
21 [or public mover] notice thereof and a statement of the amount.

22 Each public utility [and public mover] shall on or before June 1,
23 file with the Board of Public [Utility Commissioners] Utilities, under
24 oath, a statement showing its gross operating revenues derived from
25 intrastate operations during the preceding calendar year.

26 (cf: P.L.1972, c.36, s.3)

27
28 92. Section 5 of P.L.1968, c.173 (C.48:2-63) is amended to read
29 as follows:

30 5. Within 15 days after the date of mailing a statement as provided
31 in [this act] section 4 of P.L.1968, c.173 (C.48:2-62) or section 105
32 of P.L. , c. (C.48:13A-15) and section 106 of P.L. c.
33 (C.48:13A-16)(pending in the Legislature as this bill), the public utility
34 [or public mover] , solid waste disposal public utility or solid waste
35 collector against which the statement is rendered may file with the
36 board or department, as applicable, its objections thereto. Not less
37 than 30 nor more than 60 days after giving notice thereof to the
38 objector, the board or department, as applicable, shall hold a hearing
39 on the objections.

40 (cf: P.L.1972, c.36, s.4)

41
42 93. Section 6 of P.L.1968, c.173 (C.48:2-64) is amended to read
43 as follows:

44 6. If after the hearing the board or department, as applicable, finds
45 any part of the charge against the objecting public utility [or public
46 mover] , solid waste disposal public utility or solid waste collector

1 excessive, erroneous, unlawful or invalid, [it] the relevant State
2 agency shall record its findings upon its minutes and transmit to the
3 objector, by registered mail, an amended statement in accordance with
4 the findings, which shall have the same force and effect as an original
5 statement. If the board or department, as applicable, finds the entire
6 statement unlawful or invalid, [it] the relevant State agency shall
7 notify the objector, by registered mail, of such determination, and the
8 original statement shall be null and void. If the board or department,
9 as applicable, finds that the statement as rendered is neither excessive,
10 erroneous, unlawful nor invalid, in whole or in part, [it] the relevant
11 State agency shall record its findings upon its minutes and transmit
12 notice thereof to the objector by registered mail.

13 (cf: P.L.1972, c.36, s.5)

14

15 94. Section 7 of P.L.1968, c.173 (C.48:2-65) is amended to read
16 as follows:

17 7. If a statement against which objections are filed is not paid
18 within 30 days after mailing to the objector notice of a finding that the
19 objections have been disallowed, or in case an amended statement is
20 not paid within 30 days after a copy thereof is mailed to the objector,
21 the [board] the relevant State agency shall give notice of the
22 delinquency to the State Treasurer and to the objector, and the State
23 Treasurer shall proceed to make the collection.

24 (cf: P.L.1968, c.173)

25

26 95. Section 8 of P.L.1968, c.173 (C.48:2-66) is amended to read
27 as follows:

28 8. No action for recovery of an amount paid under the terms of
29 this act shall be maintained in any court unless objections have been
30 filed with the [board] the relevant State agency. In an action for
31 recovery of any payments, plaintiff may raise any relevant issue of law,
32 but the [board's] State agency's findings of fact shall be prima facie
33 evidence of the facts therein stated.

34 (cf: P.L.1968, c.173, s.8)

35

36 96. Section 9 of P.L.1968, c.173 (C.48:2-67) is amended to read
37 as follows:

38 9. No action or proceeding shall be maintained in any court for the
39 purpose of restraining or delaying the collection or payment of a
40 statement rendered in accordance with the provisions of [this act]
41 P.L.1968, c.173 (C.48:2-59 et seq.), section 105 of P.L. , c.
42 (C.48:13A-15) or section 106 of P.L. c. (C.48:13A-16)(pending
43 in the Legislature as this bill). A public utility [or public mover] ,
44 solid waste disposal public utility or solid waste collector against
45 which a statement is rendered shall pay the amount thereof, and after
46 the payment may in the manner provided by [this act] the provisions

1 of P.L.1968, c.173 (C.48:2-59 et seq.) at any time within 2 years from
2 the date of the payment, bring against the State an action at law to
3 recover the amount paid, with legal interest thereon from the date of
4 payment, upon the ground that the assessment was excessive,
5 erroneous, unlawful or invalid in whole or in part.

6 (cf: P.L.1972, c.36, s.6)

7

8 97. Section 10 of P.L.1968, c.173 (C.48:2-68) is amended to read
9 as follows:

10 10. The procedure provided in [this act] the provisions of
11 P.L.1968, c.173 (C.48:2-59 et seq.) for determining the lawfulness of
12 statements and the recovery of payments made pursuant to statements
13 of assessments shall be exclusive of all other remedies and procedures.

14 (cf: P.L.1968, c.173, s.10)

15

16 98. Section 11 of P.L.1968, c.173 (C.48:2-69) is amended to read
17 as follows:

18 11. If any public utility [or public mover] , solid waste disposal
19 public utility or solid waste collector to which a statement for the
20 amount assessed against it as provided in [this act] the provisions of
21 P.L.1968, c.173 (C.48:2-59 et seq.), section 105 of P.L. , c.
22 (C.48:13A-15) or section 106 of P.L. , c. (C.48:13A-16)(pending
23 in the Legislature as this bill) has been rendered fails or refuses to pay
24 the amount within 15 days, or fails to file with the [board] relevant
25 State agency objections to the statement as provided herein, the
26 [board] State agency shall transmit to the State Treasurer a certified
27 copy of the statement of the assessment together with notice of the
28 neglect or refusal of the public utility [or public mover] , solid waste
29 disposal public utility or solid waste collector, as the case may be, to
30 pay the amount thereof, and at the same time shall mail to the public
31 utility [or public mover] , solid waste disposal public utility or solid
32 waste collector, as applicable, a copy of the notice transmitted to the
33 State Treasurer.

34 (cf: P.L.1972, c.36, s.7)

35

36 99. Section 12 of P.L.1968, c.173 (C.48:2-70) is amended to read
37 as follows:

38 12. Within 10 days after receipt of the notice and certified copy of
39 the statement, the State Treasurer shall proceed to collect the amount
40 stated to be due, with legal interest, by seizure and sale of any goods
41 or chattels, including stocks, securities, bank accounts, evidences of
42 debt and accounts receivable belonging to the public utility [or public
43 mover] , solid waste disposal public utility or solid waste collector, as
44 the case may be, anywhere within the State.

45 (cf: P.L.1972, c.36, s.8)

46

1 100. Section 13 of P.L.1968, c.173 (C.48:2-71) is amended to
2 read as follows:

3 13. All moneys received by the board or the department, as
4 applicable, under the provisions of [this act] P.L.1968, c.173
5 (C.48:2-59 et seq.) or sections 105 and 106 of P.L. , c.
6 (C.48:13A-15 and 48:13A-16)(pending in the Legislature as this bill)
7 shall be paid to the State Treasurer.
8 (cf: P.L.1968, c.73, s.13)

9

10 101. Section 14 of P.L.1968, c.173 (C.48:2-72) is amended to
11 read as follows:

12 14. The provisions of sections 1 of P.L.1959, c. 43 (C. 48:2-56)
13 and 11 of P.L.1968, c.375 (C.48:22-11) relating to the collections of
14 fees and charges by the Board of Public [Utility Commissioners]
15 Utilities, shall be inapplicable to public utility companies [and public
16 movers] subject to assessment pursuant to [this act] the provisions of
17 P.L.1968, c.173 (C.48:2-59 et seq.).
18 (cf: P.L.1972, c.36, s.9)

19

20 102. R.S.48:3-3 is amended to read as follows:

21 48:3-3. a. No public utility shall provide or maintain any service
22 that is unsafe, improper or inadequate, or withhold or refuse any
23 service which reasonably can be demanded or furnished when ordered
24 by the board.

25 b. (1) No solid waste collector as defined in section 3 of
26 P.L.1970, c.40 (C.48:13A-3) shall provide any solid waste collection
27 services that are unsafe, improper or inadequate, or withhold or refuse
28 any solid waste collection services which reasonably can be demanded
29 or furnished when ordered by the Department of Environmental
30 Protection.

31 (2) The [board] Department of Environmental Protection, upon
32 receipt of a notification of refusal to provide solid waste collection
33 services within a municipality pursuant to section 2 of P.L.1991, c.170
34 (C.40:66-5.2), may order the solid waste collector to provide these
35 services in accordance with the provisions of R.S.48:2-23.

36 (cf: P.L.1991, c.170, s.5)

37

38 103. R.S.48:3-7 is amended to read as follows:

39 48:3-7. a. No public utility shall, without the approval of the
40 board, sell, lease, mortgage or otherwise dispose of or encumber its
41 property, franchises, privileges or rights, or any part thereof; or merge
42 or consolidate its property, franchises, privileges or rights, or any part
43 thereof, with that of any other public utility.

44 Where, by the proposed sale, lease or other disposition of all or a
45 substantial portion of its property, any franchise or franchises,
46 privileges or rights, or any part thereof or merger or consolidation

1 thereof as set forth herein, it appears that the public utility or a wholly
2 owned subsidiary thereof may be unable to fulfill its obligation to any
3 employees thereof with respect to pension benefits previously enjoyed,
4 whether vested or contingent, the board shall not grant its approval
5 unless the public utility seeking the board's approval for such sale,
6 lease or other disposition assumes such responsibility as will be
7 sufficient to provide that all such obligations to employees will be
8 satisfied as they become due.

9 Every sale, mortgage, lease, disposition, encumbrance, merger or
10 consolidation made in violation of this section shall be void.

11 Nothing herein shall prevent the sale, lease or other disposition by
12 any public utility of any of its property in the ordinary course of
13 business, nor require the approval of the board to any grant,
14 conveyance or release of any property or interest therein heretofore
15 made or hereafter to be made by any public utility to the United States,
16 State or any county or municipality or any agency, authority or
17 subdivision thereof, for public use.

18 The approval of the board shall not be required to validate the title
19 of the United States, State or any county or municipality or any
20 agency, authority or subdivision thereof, to any lands or interest
21 therein heretofore condemned or hereafter to be condemned by the
22 United States, State or any county or municipality or any agency,
23 authority or subdivision thereof for public use.

24 b. Notwithstanding any law, rule, regulation or order to the
25 contrary, an autobus public utility regulated by and subject to the
26 provisions of Title 48 of the Revised Statutes may, without the
27 approval of the Department of Transportation, sell, lease, mortgage
28 or otherwise dispose of or encumber its property, or any part thereof,
29 except that approval of the Department of Transportation shall be
30 required for the following:

31 (1) the sale of 60% or more of its property within a 12-month
32 period;

33 (2) a merger or consolidation of its property, franchises, privileges
34 or rights; or

35 (3) the sale of any of its franchises, privileges or rights.

36 Notice of the sale, purchase or lease of any autobus or other
37 vehicle subject to regulation under Title 48 of the Revised Statutes
38 shall be provided to the Department of Transportation as the
39 department shall require.

40 c. Except as otherwise provided in subsection e. of this section, no
41 solid waste collector as defined in section 3 of P.L.1970, c.40
42 (C.48:13A-3) shall, without the approval of the [board] Department
43 of Environmental Protection:

44 (1) sell, lease, mortgage or otherwise dispose of or encumber its
45 property, including customer lists; or

46 (2) merge or consolidate its property, including customer lists,

1 with that of any other person or business concern, whether or not that
2 person or business concern is engaged in the business of solid waste
3 collection or solid waste disposal pursuant to the provisions of
4 P.L.1970 c.39 (C.13:1E-1 et seq.), P.L.1970, c.40 (C.48:13A-1 et
5 seq.), P.L.1991, c.381 (C.48:13A-7.1 et al.) or any other act.

6 d. Any solid waste collector seeking approval for any transaction
7 enumerated in subsection c. of this section shall file with the [board]
8 department, on forms and in a manner prescribed by the [board]
9 department, a notice of intent at least 30 days prior to the completion
10 of the transaction.

11 (1) The [board] department shall promptly review all notices filed
12 pursuant to this subsection. The [board] department may, within 30
13 days of receipt of a notice of intent, request that the solid waste
14 collector submit additional information to assist in its review if it
15 deems that such information is necessary. If no such request is made,
16 the transaction shall be deemed to have been approved. In the event
17 that additional information is requested, the [board] department shall
18 outline, in writing, why it deems such information necessary to make
19 an informed decision on the impact of the transaction on effective
20 competition.

21 (2) The [board] department shall approve or deny a transaction
22 within 60 days of receipt of all requested information. In the event that
23 the [board] department fails to take action on a transaction within the
24 60-day period specified herein, then the transaction shall be deemed to
25 have been approved.

26 (3) The [board] department shall approve a transaction unless it
27 makes a determination pursuant to the provisions of section 19 of
28 P.L.1991, c.381 (C.48:13A-7.19) that the proposed sale, lease,
29 mortgage, disposition, encumbrance, merger or consolidation would
30 result in a lack of effective competition.

31 The [Board of Public Utilities] department shall prescribe and
32 provide upon request all necessary forms for the implementation of the
33 notification requirements of this subsection.

34 e. (1) Any solid waste collector may, without the approval of the
35 [board] department, purchase, finance or lease any equipment,
36 including collection or haulage vehicles.

37 (2) Any solid waste collector may, without the approval of the
38 [board] department, sell or otherwise dispose of its collection or
39 haulage vehicles; except that no solid waste collector shall, without the
40 approval of the [board] department in the manner provided in
41 subsection d. of this section, sell or dispose of 33% or more of its
42 collection or haulage vehicles within a 12-month period.

43 As used in this section, "business concern" means any corporation,
44 association, firm, partnership, sole proprietorship, trust or other form
45 of commercial organization.

46 (cf: P.L.1991, c.381, s.35)

1 104. (New section) a. (1) All of the functions, powers and duties
2 heretofore exercised by the Board of Public Utilities for supervision
3 over the public utility aspects of solid waste disposal operations and
4 solid waste facilities pursuant to section 18 of P.L.1975, c.326
5 (C.13:1E-27), P.L.1970, c.40 (C.48:13A-1 et seq.), P.L.1991, c.381
6 (C.48:13A-7.1 et seq.), Title 48 of the Revised Statutes, or any other
7 law, and the responsibility and authority to review and approve
8 proposed contracts pursuant to the provisions of P.L.1985, c.38
9 (C.13:1E-136 et seq.), are hereby continued and transferred to and
10 vested in the Department of Environmental Protection and the
11 Commissioner thereof.

12 (2) All of the functions, powers and duties heretofore exercised by
13 the Board of Public Utilities for supervision over the public utility
14 aspects of solid waste collection pursuant to P.L.1970, c.40
15 (C.48:13A-1 et seq.), P.L.1991, c.381 (C.48:13A-7.1 et seq.), Title 48
16 of the Revised Statutes, or any other law, are hereby continued and
17 transferred to and vested in the Department of Environmental
18 Protection and the Commissioner thereof.

19 b. Whenever in any law, rule, regulation, order, contract, tariff,
20 document, judicial or administrative proceeding or otherwise relating
21 to recycling, solid waste collection or solid waste disposal, reference
22 is made to the Board of Public Utilities, the same shall mean and refer
23 to the Department of Environmental Protection and the Commissioner
24 thereof.

25

26 105. (New section) a. To enable the Department of
27 Environmental Protection to better perform its lawful duties relating
28 to maintaining supervision over the public utility aspects of solid
29 waste disposal operations and solid waste facilities pursuant to section
30 18 of P.L.1975, c.326 (C.13:1E-27), P.L.1970, c.40 (C.48:13A-1 et
31 seq.), P.L.1991, c.381 (C.48:13A-7.1 et seq.), Title 48 of the Revised
32 Statutes, or any other law, the Department of Environmental
33 Protection shall annually make an assessment against each person
34 engaging in the business of solid waste disposal pursuant to P.L.1970,
35 c.40 (C.48:13A-1 et seq.) or P.L.1991, c.381 (C.48:13A-7.1 et seq.).

36 b. The solid waste disposal assessment shall be equal to a
37 percentage of the gross operating revenue of the person engaging in
38 the business of solid waste disposal under the jurisdiction of the
39 department derived from intrastate operations during the preceding
40 calendar year at a rate to be determined annually by the department on
41 or before June 30 in the following manner:

42 (1) The total amount appropriated to the department by law for its
43 general purposes for its next fiscal year shall be divided by the total
44 amount of the gross operating revenues of all persons engaging in the
45 business of solid waste disposal under the jurisdiction of the
46 department derived from intrastate operations during the preceding

1 calendar year. The quotient resulting shall constitute the percentage
2 rate of the assessment for the calendar year in which such computation
3 is made.

4 (2) The total amount so assessed to any person engaging in the
5 business of solid waste disposal pursuant to P.L.1970, c.40
6 (C.48:13A-1 et seq.) or P.L.1991, c.381 (C.48:13A-7.1 et seq.) shall
7 not exceed 1/4 of 1% of the gross operating revenue subject to
8 assessment hereunder of that solid waste disposal public utility derived
9 from its intrastate operation during the preceding calendar year, except
10 that the minimum assessment for any person engaging in the business
11 of solid waste disposal shall be \$500.

12 c. The solid waste disposal assessment shall be levied by the
13 department not later than July 1, and shall be paid within 30 days after
14 mailing by first class mail to any solid waste disposal public utility
15 notice thereof and a statement of the amount.

16 d. Each solid waste disposal public utility shall on or before June
17 1, file with the department, under oath, a statement showing its gross
18 operating revenues derived from intrastate operations during the
19 preceding calendar year.

20

21 106. (New section) a. To enable the Department of
22 Environmental Protection to better perform its lawful duties relating
23 to maintaining supervision over the public utility aspects of solid waste
24 collection pursuant to P.L.1970, c.40 (C.48:13A-1 et seq.), P.L.1991,
25 c.381 (C.48:13A-7.1 et seq.), Title 48 of the Revised Statutes, or any
26 other law, the Department of Environmental Protection shall annually
27 make an assessment against each solid waste collector engaging in the
28 business of solid waste collection pursuant to P.L.1970, c.40
29 (C.48:13A-1 et seq.) or P.L.1991, c.381 (C.48:13A-7.1 et seq.).

30 b. The solid waste collection assessment shall be equal to a
31 percentage of the gross operating revenue of the solid waste collector
32 under the jurisdiction of the department derived from intrastate
33 operations during the preceding calendar year at a rate to be
34 determined annually by the department on or before June 30 in the
35 following manner:

36 (1) The total amount appropriated to the department by law for its
37 general purposes for its next fiscal year shall be divided by the total
38 amount of the gross operating revenues of all solid waste collectors
39 derived from intrastate operations during the preceding calendar year.
40 The quotient resulting shall constitute the percentage rate of the
41 assessment for the calendar year in which such computation is made.

42 (2) The total amount so assessed to any solid waste collector
43 engaging in the business of solid waste collection pursuant to
44 P.L.1970, c.40 (C.48:13A-1 et seq.) or P.L.1991, c.381
45 (C.48:13A-7.1 et seq.) shall not exceed 1/4 of 1% of the gross
46 operating revenue subject to assessment hereunder of the solid waste

1 collector derived from its intrastate operation during the preceding
2 calendar year, except that the minimum assessment for any solid waste
3 collector shall be \$150.

4 c. The solid waste collection assessment shall be levied by the
5 department not later than July 1, and shall be paid within 30 days after
6 mailing by first class mail to any solid waste collector notice thereof
7 and a statement of the amount.

8 d. Each solid waste collector shall on or before June 1, file with
9 the department, under oath, a statement showing its gross operating
10 revenues derived from intrastate operations during the preceding
11 calendar year.

12
13 107. (New section) The solid waste disposal rates or charges
14 received at solid waste facilities, or fees, rates or charges for the
15 disposal of solid waste received by any county, public authority as
16 defined in section 3 of P.L. , c. (C.)(pending in the
17 Legislature as this bill) or any other person engaged in the business of
18 solid waste disposal in this State shall not be subject to the regulation
19 of the Board of Public Utilities, the Department of Environmental
20 Protection or any other State agency.

21
22 108. Section 2 of P.L.1970, c.40 (C.48:13A-2) is amended to read
23 as follows:

24 2. The Legislature finds and declares that the disposal of solid
25 waste is a matter of grave concern to all citizens and is an activity
26 thoroughly affected with the public interest; that the health, safety and
27 welfare of the people of this State require efficient and reasonable
28 solid waste disposal service; that safe, adequate and proper solid waste
29 disposal service at [just and reasonable] competitive rates cannot be
30 achieved unless the [Board of Public Utilities] Department of
31 Environmental Protection is charged with the duty of [setting and
32 enforcing standards and rates for regulating] maintaining supervision
33 over the economic and public utility aspects of all solid waste disposal
34 [service] operations and solid waste facilities; and that the exercise of
35 any power herein provided for shall be deemed to be in the public
36 interest and for a public purpose.

37 (cf: P.L.1991, c.381, s.25)

38
39 109. Section 3 of P.L.1970, c.40 (C.48:13A-3) is amended to read
40 as follows:

41 3. As used in this act:

42 "Solid waste" means garbage, refuse, and other discarded materials
43 resulting from industrial, commercial and agricultural operations, and
44 from domestic and community activities, and shall include all other
45 waste materials including liquids, except for [solid animal and
46 vegetable wastes] source separated recyclable materials or source

1 separated food waste collected by [swine] livestock producers
2 [licensed] approved by the State Department of Agriculture to collect,
3 prepare and feed such wastes to [swine] livestock on their own farms.

4 "Solid waste collection" means the activity related to pickup and
5 transportation of solid waste from its source or location to a [transfer
6 station or other authorized] solid waste facility or other destination,
7 but does not include activity related to the pickup, transportation or
8 unloading of septic waste.

9 "Solid waste collector" means a person engaged in the collection
10 of solid waste and holding a certificate of public convenience and
11 necessity pursuant to sections 7 and 10 of P.L.1970, c.40 (C.48:13A-6
12 and 48:13A-9).

13 "Solid waste disposal" means the storage, treatment, utilization,
14 processing, transfer, or final disposal of solid waste.

15 "Septic waste" means pumpings from septic tanks and cesspools,
16 but shall not include wastes from a sewage treatment plant.

17 "Solid waste container" means a receptacle, container or bag
18 suitable for the depositing of solid waste.

19 "Solid waste collection services" means the services provided by
20 persons engaging in the business of solid waste collection.

21 "Solid waste disposal services" means the services provided by
22 persons engaging in the business of solid waste disposal.

23 "Solid waste facilities" mean and include the plants, structures and
24 other real and personal property acquired, constructed or operated or
25 to be acquired, constructed or operated by, or on behalf of, any
26 person, public authority or county pursuant to the provisions of
27 P.L.1970 c.39 (C.13:1E-1 et seq.) and P.L.1970, c.40 (C.48:13A-1 et
28 seq.) or any other act, including transfer stations, incinerators,
29 resource recovery facilities, sanitary landfill facilities or other plants
30 for the disposal of solid waste, and all vehicles, equipment and other
31 real and personal property and rights therein and appurtenances
32 necessary or useful and convenient for the collection or disposal of
33 solid waste in a sanitary manner.

34 "Solid waste transfer operations" mean the activity related to the
35 transfer of solid waste from solid waste collection vehicles to solid
36 waste haulage vehicles, including rail cars, for transportation to an
37 offsite sanitary landfill facility, resource recovery facility, or other
38 destination for disposal.

39 "Transfer station" means a solid waste facility at which solid waste
40 is transferred from a solid waste collection vehicle to a [licensed] solid
41 waste haulage vehicle, including a rail car, for transportation to an
42 offsite sanitary landfill facility, resource recovery facility, or other
43 destination for disposal, except that a "transfer station" shall not
44 include any solid waste facility at which solid waste is received for
45 onsite transfer, and processing or disposal utilizing facility-owned or
46 operated equipment and vehicles operated therefor.

1 "Department" means the Department of Environmental Protection.

2 "Public authority" means a municipal or county utilities authority
3 created pursuant to the "municipal and county utilities authorities
4 law," P.L.1957, c.183 (C.40:14B-1 et seq.); a county improvement
5 authority created pursuant to the "county improvement authorities
6 law," P.L.1960, c.183 (C.40:37A-44 et seq.); a pollution control
7 financing authority created pursuant to the "New Jersey Pollution
8 Control Financing Law," P.L.1973, c.376 (C.40:37C-1 et seq.); or any
9 other public body corporate and politic created for solid waste
10 management purposes in any county, pursuant to the provisions of any
11 law.

12 (cf: P.L.1991, c.381, s.26)

13

14 110. Section 5 of P.L.1970, c.40 (C.48:13A-4) is amended to read
15 as follows:

16 5. a. The [Board of Public Utilities] Department of
17 Environmental Protection shall, after hearing, by order in writing,
18 adopt appropriate rules, regulations or administrative orders for the
19 [regulation of rates and] supervision of the economic and public utility
20 aspects of the solid waste disposal industry.

21 b. The [Board of Public Utilities] Department of Environmental
22 Protection shall, after hearing, by order in writing, adopt appropriate
23 rules, regulations or administrative orders for the supervision of the
24 public utility aspects of the solid waste collection industry.

25 c. [The Board of Public Utilities shall, in conjunction with the
26 Department of Environmental Protection, after hearing, by order in
27 writing, adopt appropriate rules, regulations or administrative orders
28 providing for the interdistrict, intradistrict and interstate flow of solid
29 waste. The rules, regulations, or administrative orders shall establish
30 the manner in which the board and the department jointly direct the
31 flow of solid waste in this State pursuant to P.L.1970, c.40
32 (C.48:13A-1 et seq.) and P.L.1970, c.39 (C.13:1E-1 et seq.).

33 The provisions of this subsection shall not apply to designated
34 recyclable materials as defined in section 2 of P.L.1987, c.102
35 (C.13:1E-99.12) or any other recyclable material whenever markets
36 for those materials are available.] (Deleted by amendment, P.L. __,
37 c. __)

38 (cf: P.L.1991, c.381, s.27)

1 111. Section 2 of P.L.1983, c.123 (C.48:13A-4.1) is amended to
2 read as follows:

3 2. Notwithstanding the provisions of P.L.1970, c. 40 or any other
4 law, the [Board of Public Utilities] Department of Environmental
5 Protection shall not have any jurisdiction over charges or rates
6 received by persons engaging in the business of picking up,
7 transporting or unloading of septic waste in this State.

8 (cf: P.L.1983, c.123, s.2)

9

10 112. Section 40 of P.L.1985, c.38 (C.48:13A-5.1) is amended to
11 read as follows:

12 40. Any municipality within which is located, pursuant to an
13 adopted and approved district solid waste management plan, a
14 resource recovery facility at which solid waste is accepted for disposal
15 by incineration, shall be entitled to an annual economic benefit in
16 consideration for the use of land within its municipal boundaries as the
17 location of a resource recovery facility.

18 The annual economic benefit shall be not less than the equivalent
19 of \$1.00 per ton of all solid waste accepted for disposal at the
20 resource recovery facility during the 1997 calendar year and each year
21 thereafter.

22 The [person holding the franchise for a resource recovery facility
23 pursuant to the provisions of section 6 of P.L.1970, c.40
24 (C.48:13A-5)] owner or operator of the resource recovery facility
25 shall, no later than January 25, 1998 and on or before January 25 of
26 each year thereafter, file with the chief fiscal officer of the municipality
27 wherein the resource recovery facility is located a statement, verified
28 by oath, showing the total number of tons of solid waste accepted for
29 disposal by incineration at the resource recovery facility during the
30 preceding calendar year, and shall at the time pay to the chief fiscal
31 officer a sum equal to at least \$1.00 per ton of all solid waste accepted
32 for disposal by incineration at the resource recovery facility.

33 A municipality that qualifies for an annual economic benefit
34 pursuant to this section may negotiate with the [person holding the
35 franchise for a] owner or operator of the resource recovery facility [or
36 the contracting unit, or both as the case may be,] for an amount
37 exceeding the amount of the annual economic benefit provided for in
38 this section.

39 The provisions of this section shall not apply to any municipality
40 that receives an annual economic benefit in an amount equal to or
41 exceeding the amount of the annual economic benefit provided for in
42 this section, which is paid by a person or party other than the owner
43 or operator of the resource recovery facility, in consideration for the
44 use of land within its municipal boundaries as the location of a
45 resource recovery facility.

46 For the purposes of this section, "person or party" means any

1 individual, public or private corporation, company, partnership, firm,
2 association, political subdivision of the State, or any State, bistate, or
3 interstate agency or authority; and "resource recovery facility" means
4 a solid waste facility constructed and operated for the incineration of
5 solid waste for energy production and the recovery of metals and other
6 materials for reuse.

7 (cf: P.L.1985, c.38, s.40)

8

9 113. Section 7 of P.L.1970, c.40 (C.48:13A-6) is amended to read
10 as follows:

11 7. a. No person shall engage, or be permitted to engage, in the
12 business of solid waste collection or solid waste disposal until found
13 by the [board] Department of Environmental Protection to be qualified
14 by experience, training or education to engage in such business, is able
15 to furnish proof of financial responsibility, and unless that person holds
16 a certificate of public convenience and necessity issued by the [Board
17 of Public Utilities] Department of Environmental Protection.

18 (1) No certificate shall be issued for solid waste collection or solid
19 waste disposal until the person proposing to engage in solid waste
20 collection or solid waste disposal, as the case may be, has been
21 registered with and approved by the Department of Environmental
22 Protection as provided by section 5 of P.L.1970, c.39 (C.13:1E-5).

23 (2) No certificate of public convenience and necessity shall be
24 issued by the [Board of Public Utilities] Department of Environmental
25 Protection to any person who has been denied approval of a license
26 under the provisions of P.L.1983, c.392 (C.13:1E-126 et seq.), or
27 whose license has been revoked by the Department of Environmental
28 Protection, as the case may be.

29 b. No person shall transport regulated medical waste until found
30 by the [Board of Public Utilities] Department of Environmental
31 Protection to be qualified by experience, training or education to
32 engage in such business, and is able to furnish proof of financial
33 responsibility, and holds a certificate of public convenience and
34 necessity issued by the [board] Department of Environmental
35 Protection. No certificate shall be issued for the transportation of
36 regulated medical waste until the proposed transporter has obtained a
37 registration statement required by section 5 of P.L.1970, c.39
38 (C.13:1E-5) and paid the fee imposed under section 9 of P.L.1989,
39 c.34 (C.13:1E-48.9).

40 c. Notwithstanding the provisions of subsection b. of this section,
41 the [board] department shall not have jurisdiction over rates or
42 charges for the transportation of regulated medical waste.

43 (cf: P.L.1991, c.381, s.28)

44

45 114. Section 1 of P.L.1981, c.221 (C.48:13A-6.1) is amended to
46 read as follows:

1 1. Notwithstanding the provision of any other law, rule or
2 regulation to the contrary, no sanitary landfill facility shall commence
3 or continue operation unless a solid waste disposal tariff therefor has
4 been filed and approved by the [Board of Public Utilities] Department
5 of Environmental Protection pursuant to the "Solid Waste Utility
6 Control Act [of 1970] ." [(P.L.1970, c.40[,] (C.48:13A-1 et seq.).
7 No sanitary landfill facility shall operate under any conditions contrary
8 to those specifically set forth in its approved solid waste disposal
9 tariff.

10 [This act] The provisions of this section shall not apply to sanitary
11 landfill facilities operated by [an] a public authority created [under
12 P.L.1946, c. 138 (C. 40:14A-1 et seq.) or] pursuant to the "municipal
13 and county utilities authorities law," P.L.1957, c.183 (C.40:14B-1 et
14 seq.).

15 (cf: P.L.1981, c.221, s.1)

16
17 115. Section 2 of P.L.1990, c.113 (C.48:13A-6.2) is amended to
18 read as follows:

19 2. a. The provisions of P.L.1957, c.183 (C.40:14B-1 et seq.),
20 P.L.1985, c.38 (C.13:1E-136 et al.) or any other law, or any rules and
21 regulations adopted pursuant thereto to the contrary notwithstanding,
22 any transfer station constructed or operated in this State shall be
23 deemed a public utility and shall be subject to the [rate regulation and
24 continuing jurisdiction] supervision of the [Board of Public Utilities]
25 Department of Environmental Protection. No transfer station shall
26 commence or continue solid waste transfer operations and no person
27 may own or operate a transfer station in this State unless the person
28 has:

29 (1) filed a registration statement and engineering design
30 application and obtained approval thereof from the Department of
31 Environmental Protection as required by section 5 of P.L.1970, c.39
32 (C.13:1E-5);

33 (2) obtained a certificate of public convenience and necessity from
34 the [Board of Public Utilities] Department of Environmental
35 Protection as required by section 7 of P.L.1970, c.40 (C.48:13A-6);
36 and

37 (3) filed an initial solid waste disposal tariff or lawfully negotiated
38 contract for solid waste transfer operations and obtained approval
39 thereof from the [Board of Public Utilities] Department of
40 Environmental Protection, which tariff or contract shall include the
41 formulas to be used to determine the charges, rates, or fees to be
42 charged for the utilization of the transfer station, and the methodology
43 or methodologies used to develop these formulas.

44 b. [It shall remain the continuing responsibility of the owner or
45 operator of every transfer station to file a revised tariff, or any
46 proposed revisions to a lawfully negotiated contract for solid waste

1 transfer operations, and obtain approval thereof from the Board of
2 Public Utilities, whenever the owner or operator of a transfer station
3 seeks to adjust the charges, rates, or fees charged for the utilization of
4 the transfer station.] (Deleted by amendment, P.L. , c.)

5 c. [No adjustment to the charges, rates, or fees charged for the
6 utilization of any transfer station operated in this State shall take effect
7 prior to the approval thereof by the Board of Public Utilities.]
8 (Deleted by amendment, P.L. , c.)

9 (cf: P.L.1990, c.113, s.2)

10

11 116. Section 2 of P.L.1991, c.381 (C.48:13A-7.2) is amended to
12 read as follows:

13 2. The Legislature finds and declares that the collection of solid
14 waste is an activity thoroughly affected with the public interest; that
15 the health, safety and welfare of the people of this State require
16 efficient and reasonable solid waste collection services; and that
17 efficient solid waste collection services at competitive rates will more
18 likely be achieved if the solid waste collection industry is under the
19 supervision of, but not subject to traditional public utility rate
20 regulation by, the [Board of Public Utilities] Department of
21 Environmental Protection.

22 The Legislature further finds and declares that it is imperative that
23 the State ensure the economic viability and competitiveness of the
24 solid waste collection industry in order to safeguard the integrity of
25 the State's long-term solid waste management strategy; that it is
26 equally imperative to safeguard the interests of consumers as well as
27 the interests of those providing solid waste collection services; and
28 that to provide for ratepayer and consumer protection it is necessary
29 to foster competition within the industry and to establish a responsible
30 State supervisory role to ensure safe, adequate and proper solid waste
31 collection service [at competitive rates; and that to achieve these ends
32 in the most efficient and reasonable manner, it is necessary to establish
33 procedures for regulatory reform and the eventual termination of
34 traditional public utility rate regulation of the solid waste collection
35 industry].

36 [The Legislature further finds and declares that the Legislature
37 through enactment of P.L.1983, c.392 (C.13:1E-126 et seq.) has
38 established a licensing system which is designed to prevent persons
39 with criminal backgrounds from engaging in the solid waste collection
40 business, thereby promoting free and open competition within the solid
41 waste collection industry; and that terminating traditional public utility
42 rate regulation of the solid waste collection industry can be achieved
43 without compromising the State's role in protecting the public
44 interest.]

45 The Legislature therefore determines that it is in the public interest
46 to [establish procedures for the eventual termination of public utility

1 rate regulation of solid waste collectors while at the same time
2 maintaining Board of Public Utilities] maintain supervision by the
3 Department of Environmental Protection over the solid waste
4 collection industry.

5 (cf: P.L.1991, c.381, s.2)

6
7 117. Section 3 of P.L.1991, c.381 (C.48:13A-7.3) is amended to
8 read as follows:

9 3. As used in sections 1 through 23 of P.L.1991, c.381
10 (C.48:13A-7.1 et al.):

11 "Applicant" means any person seeking to obtain an initial
12 certificate of public convenience and necessity pursuant to sections 7
13 and 10 of P.L.1970, c.40 (C.48:13A-6 and 48:13A-9) in order to
14 provide solid waste collection services in this State.

15 ["Board" means the Board of Public Utilities.]

16 "Department" means the Department of Environmental Protection.

17 "Materials recovery" means the processing and separation of solid
18 waste utilizing manual or mechanical methods for the purposes of
19 recovering recyclable materials for disposition and recycling prior to
20 the disposal of the residual solid waste at an authorized solid waste
21 facility.

22 "Materials recovery facility" means a transfer station or other
23 authorized solid waste facility at which nonhazardous solid waste,
24 which material is not source separated by the generator thereof prior
25 to collection, is received for onsite processing and separation utilizing
26 manual or mechanical methods for the purposes of recovering
27 recyclable materials for disposition and recycling prior to the disposal
28 of the residual solid waste at an authorized solid waste facility.

29 "Public authority" means a municipal or county utilities authority
30 created pursuant to the "municipal and county utilities authorities
31 law," P.L.1957, c.183 (C.40:14B-1 et seq.); a county improvement
32 authority created pursuant to the "county improvement authorities
33 law," P.L.1960, c.183 (C.40:37A-44 et seq.); a pollution control
34 financing authority created pursuant to the "New Jersey Pollution
35 Control Financing Law," P.L.1973, c.376 (C.40:37C-1 et seq.); or any
36 other public body corporate and politic created for solid waste
37 management purposes in any county, pursuant to the provisions of any
38 law.

39 "Recyclable material" means those materials which would
40 otherwise become solid waste, and which may be collected, separated
41 or processed and returned to the economic mainstream in the form of
42 raw materials or products.

43 "Recycling" means any process by which materials which would
44 otherwise become solid waste are collected, separated or processed
45 and returned to the economic mainstream in the form of raw materials
46 or products.

1 "Regular solid waste collection service" means the scheduled
2 pick-up and removal of solid waste from a source of generation within
3 the boundaries of any municipality at least once a week.

4 "Responsible solid waste generator" means any property owner,
5 tenant or occupant of any single-family residential dwelling or multi-
6 family multiple dwelling, or the owner, tenant or occupant of any
7 industrial, commercial or institutional building or structure located
8 within the boundaries of any municipality, who generates solid waste
9 at those premises.

10 "Septic waste" means pumpings from septic tanks and cesspools,
11 but shall not include wastes from a sewage treatment plant.

12 "Solid waste" means garbage, refuse, and other discarded materials
13 resulting from industrial, commercial and agricultural operations, and
14 from domestic and community activities, and shall include all other
15 waste materials including liquids, except for [solid animal and
16 vegetable wastes] source separated recyclable materials or source
17 separated food waste collected by [swine] livestock producers
18 [licensed] approved by the State Department of Agriculture to collect,
19 prepare and feed such wastes to [swine] livestock on their own farms.

20 "Solid waste collection" means the activity related to pickup and
21 transportation of solid waste from its source or location to an
22 authorized solid waste facility, but does not include activity related to
23 the pickup, transportation or unloading of septic waste.

24 "Solid waste collection services" means the services provided by
25 persons engaging in the business of solid waste collection.

26 "Solid waste collector" means a person engaged in the collection
27 of solid waste and holding a certificate of public convenience and
28 necessity pursuant to sections 7 and 10 of P.L.1970, c.40 (C.48:13A-6
29 and 48:13A-9).

30 "Solid waste container" means a receptacle, container or bag
31 suitable for the depositing of solid waste.

32 "Solid waste disposal" means the storage, treatment, utilization,
33 processing, or final disposal of solid waste.

34 "Solid waste disposal services" means the services provided by
35 persons engaging in the business of solid waste disposal.

36 "Solid waste facilities" [mean] means and [include] includes the
37 plants, structures and other real and personal property acquired,
38 constructed or operated or to be acquired, constructed or operated by,
39 or on behalf of, any person, public authority or county pursuant to the
40 provisions of P.L.1970 c.39 (C.13:1E-1 et seq.) and P.L.1970, c.40
41 (C.48:13A-1 et seq.) or any other act, including transfer stations,
42 incinerators, resource recovery facilities, sanitary landfill facilities or
43 other plants for the disposal of solid waste, and all vehicles, equipment
44 and other real and personal property and rights therein and
45 appurtenances necessary or useful and convenient for the collection or
46 disposal of solid waste in a sanitary manner.

1 "Source separated recyclable materials" means recyclable materials
2 which are separated at the point of generation by the generator thereof
3 from solid waste for the purposes of recycling.

4 "Source separation" or "source separated" means the process by
5 which recyclable materials are separated at the point of generation by
6 the generator thereof from solid waste for the purposes of recycling.

7 ["Transition year" means any of the four successive 12-month
8 periods commencing on the effective date of P.L.1991, c.381
9 (C.48:13A-7.1 et al.).]

10 (cf: P.L.1991, c.381, s.3)

11
12 118. Section 4 of P.L.1991, c.381 (C.48:13A-7.4) is amended to
13 read as follows:

14 4. a. Every solid waste collector shall pay an annual fee of
15 \$100.00 to cover the costs of supervising the solid waste collection
16 industry. The fee imposed pursuant to this section shall be in addition
17 to the annual solid waste collection assessment made by the [board]
18 department pursuant to [P.L.1968, c.173 (C.48:2-59 et seq.)] section
19 106 of P.L. , c. (C.48:13A-16)(pending in the Legislature as this
20 bill).

21 b. The provisions of section 1 of P.L.1959, c.43 (C.48:2-56) or
22 any other law, or any rules or regulations adopted pursuant thereto, or
23 the contrary notwithstanding, the [board] department may charge and
24 collect a filing fee of up to \$500.00 per applicant from persons seeking
25 to obtain a certificate of public convenience and necessity pursuant to
26 sections 7 and 10 of P.L.1970, c.40 (C.48:13A-6 and 48:13A-9).

27 (cf: P.L.1991, c.381, s.4)

28
29 119. Section 11 of P.L.1991, c.381 (C.48:13A-7.11) is amended
30 to read as follows:

31 11. Every solid waste collector shall notify customers at least once
32 every year that solid waste collection services in this State are
33 available on a competitive basis, as provided in the customer bill of
34 rights established by the [board] department in rules and regulations
35 adopted pursuant to the "Administrative Procedure Act," P.L.1968,
36 c.410 (C.52:14B-1 et seq.), and shall provide every customer with a
37 copy thereof.

38 (cf: P.L.1991, c.381, s.11)

39
40 120. Section 15 of P.L.1991, c.381 (C.48:13A-7.15) is amended
41 to read as follows:

42 15. The rates or charges imposed by solid waste collectors, or
43 fees, rates or charges for solid waste collection services provided by
44 persons engaged in the business of solid waste collection in this State
45 shall not be subject to the regulation of the Board of Public Utilities,
46 the Department of Environmental Protection or any other State

1 agency, except as provided in section 20 of P.L.1991, c.381
2 (C.48:13A-7.20). Nothing herein provided shall be construed to limit
3 the authority of the [board] Department of Environmental Protection
4 with respect to the supervision of the solid waste collection industry.
5 (cf: P.L.1991, c.381, s.15)

6
7 121. Section 16 of P.L.1991, c.381 (C.48:13A-7.16) is amended
8 to read as follows:

9 16. a. The [board] department may compel any person engaged
10 in the business of solid waste collection or otherwise providing solid
11 waste collection services to furnish and file with the [board]
12 department a consolidated annual report or other documents as may
13 be necessary to enable the [board] department to administer its duties
14 as prescribed by law and this act.

15 b. Should any person engaged in the business of solid waste
16 collection or otherwise providing solid waste collection services fail
17 or refuse to comply with any provision of this section, the [board]
18 department may revoke or suspend the certificate of public
19 convenience and necessity issued to that person.

20 (cf: P.L.1991, c.381, s.16)

21
22 122. Section 17 of P.L.1991, c.381 (C.48:13A-7.17) is amended
23 to read as follows:

24 17. a. The [board] department may compel any solid waste
25 collector to furnish and file with the [board] department any records,
26 including, but not limited to, manifests, origin and destination forms,
27 customer lists, financial or operational information, contracts, books,
28 accounts and records of affiliated business concerns, including any
29 affiliated or parent corporation or organization, or any wholly or
30 partially owned subsidiary thereof, directly or indirectly involved
31 therewith, or having a direct or indirect financial interest in the solid
32 waste collection services provided by the solid waste collector, and all
33 financial transactions between these parties related to the solid waste
34 collection services provided by the solid waste collector, and any other
35 documents related to solid waste collection or solid waste disposal
36 activities, at any time or place in order to determine compliance with
37 the provisions of this act or P.L.1970, c.40 (C.48:13A-1 et seq.) or
38 any rule, regulation or administrative order adopted or issued pursuant
39 thereto, and to enable the [board] department to administer its duties
40 as prescribed by law and this act.

41 b. Should any solid waste collector fail or refuse to comply with
42 any provision of this section, the [board] department may revoke or
43 suspend the certificate of public convenience and necessity issued to
44 that person.

45 (cf: P.L.1991, c.381, s.17)

46

1 123. Section 18 of P.L.1991, c.381 (C.48:13A-7.18) is amended
2 to read as follows:

3 18. a. Should any person engaged in the solid waste collection
4 business fail or refuse to complete, execute or perform any contract or
5 agreement obligating [such] the person to provide solid waste
6 collection services, the [board] department may order any solid waste
7 collector to extend solid waste collection services into any area where
8 the collection of solid waste has been discontinued.

9 b. Should the [board] department find that any class of customers
10 within a specific geographic area is unable to secure solid waste
11 collection services, or that any person seeking a specific type of solid
12 waste collection service is unable to secure solid waste collection
13 services, or that the [board] department has received complaints
14 pertaining to the adequacy of existing solid waste collection services,
15 the [board] department may order any solid waste collector to extend
16 solid waste collection services to that geographic area, class of
17 customers or person.

18 c. [(1) Prior to the effective date of section 15 of P.L.1991, c.381
19 (C.48:13A-7.15), should the board order any solid waste collector to
20 extend solid waste collection services to any area, class of customers
21 or person, the rates and charges for the extended solid waste
22 collection services shall be determined in accordance with the
23 provisions of sections 7, 9 and 10 of P.L.1991, c.381 (C.48:13A-7.7,
24 48:13A-7.9 and 48:13A-7.10).

25 (2) After the effective date of section 15 of P.L.1991, c.381
26 (C.48:13A-7.15), should the board] Should the department order any
27 solid waste collector to extend solid waste collection services to any
28 area, class of customers or person, the rates and charges for the
29 extended solid waste collection services shall be determined by the
30 person ordered by the [board] department to extend those services.

31 d. Should any solid waste collector fail or refuse to comply with
32 any provision of this section, the [board] department may revoke or
33 suspend the certificate of public convenience and necessity issued to
34 that person.

35 (cf: P.L.1991, c.381, s.18)

36
37 124. Section 19 of P.L.1991, c.381 (C.48:13A-7.19) is amended
38 to read as follows:

39 19. [Within 180 days of the effective date of this amendatory and
40 supplementary act] No later than October 14, 1992, the [Board of
41 Public Utilities] Department of Environmental Protection shall
42 establish, in rules and regulations adopted pursuant to the provisions
43 of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1
44 et seq.), the criteria and procedures to be utilized by the [board]
45 department in making a determination of effective competition.

46 a. The [board] department shall utilize the criteria in making a

1 determination as to whether a lack of effective competition is likely to
2 occur if the [board] department approves a transaction pursuant to the
3 provisions of R.S.48:3-7 [, or in making a determination as to whether
4 a lack of effective competition exists within a specific geographic area,
5 class of customers or type of solid waste collection services].

6 b. The criteria shall include, but need not be limited to, the
7 following:

8 (1) the existence of barriers to entry of persons seeking to provide
9 solid waste collection services within a specific geographic area, class
10 of customers or type of service;

11 (2) the structure of the solid waste collection industry within a
12 specific geographic area, class of customers or type of service,
13 including the number of participating solid waste collectors, the
14 intensity of competition, or the concentration in ownership of
15 collection or haulage vehicles or other equipment; and

16 (3) the existence of patterns of anti-competitive behavior by
17 persons providing solid waste collection services within a specific
18 geographic area, class of customers or type of service.

19 c. The [board] department shall utilize the criteria in conjunction
20 with generally accepted economic indicators which shall be identified
21 in rules and regulations adopted pursuant to the provisions of the
22 "Administrative Procedure Act." These indicators may include an
23 evaluation of capital investment costs, economies of scale,
24 differentiation of service, technological barriers facing entrants,
25 financial requirements, including capital entry or exit costs, regulatory
26 barriers, and business characteristics, including number of customers,
27 customer turnover, annual gross revenues, class or type of service
28 provided, and annual net income.

29 d. [The board shall establish procedures to be utilized in reviewing
30 the rates or charges received by a solid waste collector pursuant to
31 sections 6 and 20 of P.L.1991, c.381 (C.48:13A-7.6 and
32 48:13A-7.20).] (Deleted by amendment, P.L. ., c.)
33 (cf: P.L.1991, c.381, s.19)

34
35 125. Section 21 of P.L.1991, c.381 (C.48:13A-7.21) is amended
36 to read as follows:

37 21. a. There is created in the [Board of Public Utilities]
38 Department of Environmental Protection a special nonlapsing fund to
39 be known as the "Solid Waste Enforcement Fund." All monies from
40 penalties collected by the [board] department pursuant to section 13
41 of P.L.1970, c.40 (C.48:13A-12) shall be deposited in the fund.

42 b. Unless otherwise expressly provided by the specific
43 appropriation thereof by the Legislature, which shall take the form of
44 a discrete legislative appropriations act and shall not be included
45 within the annual appropriations act, monies in the fund shall be
46 utilized exclusively by the [Division of Solid Waste in the Board of

1 Public Utilities] Department of Environmental Protection for
2 enforcement and implementation of the provisions of P.L.1970, c.40
3 (C.48:13A-1 et seq.) and P.L.1991, c.381 (C.48:13A-7.1 et al.).
4 (cf: P.L.1991, c.381, s.21)

5

6 126. Section 22 of P.L.1991, c.381 (C.48:13A-7.22) is amended
7 to read as follows:

8 22. The [Board of Public Utilities] Department of Environmental
9 Protection shall establish, in rules and regulations adopted pursuant to
10 the provisions of the "Administrative Procedure Act," P.L.1968, c.410
11 (C.52:14B-1 et seq.), uniform bid specifications for municipal solid
12 waste collection contracts.
13 (cf: P.L.1991, c.381, s.22)

14

15 127. Section 9 of P.L.1970, c.40 (C.48:13A-8) is amended to read
16 as follows:

17 9. Should any person engaged in the solid waste disposal business
18 fail or refuse to complete, execute or perform any contract or
19 agreement obligating [such] the person to provide solid waste disposal
20 services, the [board] department may order any person engaged in the
21 solid waste disposal business to extend solid waste disposal services
22 into any area where solid waste disposal service has been discontinued
23 [in accordance with the provisions of R.S.48:2-27, and the board
24 shall:] _

25 [(1) fix an appropriate initial rate for solid waste collection
26 service; or

27 (2) fix and exercise continuing jurisdiction over just and
28 reasonable rates and charges for solid waste disposal service in the
29 extended area.]

30 [c. Should any person engaged in the solid waste collection
31 business refuse to furnish solid waste collection services within a
32 municipality pursuant to section 2 of P.L.1991, c.170 (C.40:66-5.2),
33 the board may order the solid waste collector to provide these services
34 in accordance with the provisions of R.S.48:2-23.]

35 (cf: P.L.1991, c.381, s.30)

36

37 128. Section 10 of P.L.1970, c.40 (C.48:13A-9) is amended to
38 read as follows:

39 10. The [board, on its own initiative or upon complaint by the]
40 Department of Environmental Protection shall revoke or suspend the
41 certificate of public convenience and necessity issued to any person
42 engaged in the solid waste collection business or the solid waste
43 disposal business upon the finding that [such] the person:

44 a. Has violated any provision of P.L.1970, c.40 (C.48:13A-1 et
45 seq.) or P.L.1991, c.381 (C.48:13A-7.1 et al.), or any rule, regulation
46 or administrative order adopted or issued pursuant thereto; or

- 1 b. Has violated any provision of any laws related to pollution of
2 the air, water or lands of this State; or
- 3 c. Has refused or failed to comply with any lawful order of the
4 [board] Department of Environmental Protection; or
- 5 d. Has had its registration revoked by the Department of
6 Environmental Protection; or
- 7 e. Has been denied approval of a license under the provisions of
8 P.L.1983, c.392 (C.13:1E-126 et seq.), or has had its license revoked
9 by the Department of Environmental Protection, as the case may be.
10 (cf: P.L.1991, c.381, s.31)

11

12 129. Section 12 of P.L.1970, c.40 (C.48:13A-11) is amended to
13 read as follows:

14 12. a. The [board] Department of Environmental Protection may
15 compel the attendance of witnesses and the production of tariffs,
16 contracts, papers, books, accounts and all the documents necessary to
17 enable the [board] department to administer its duties as prescribed by
18 law and this act.

19 b. The [board] Department of Environmental Protection may
20 compel any person engaged in the business of solid waste collection or
21 solid waste disposal or otherwise providing solid waste collection or
22 transfer, transportation or disposal services in this State to furnish and
23 file with the [board] department any annual reports, federal or State
24 tax returns, contracts, papers, books, accounts, customer lists,
25 financial or operational information, or contracts, books, accounts and
26 records of affiliated business concerns, including any affiliated or
27 parent corporation or organization, or any wholly or partially owned
28 subsidiary thereof, directly or indirectly involved therewith, or having
29 a direct or indirect financial interest in the solid waste disposal services
30 provided by that person, and all financial transactions between these
31 parties related to the solid waste disposal services provided by that
32 person, or other documents as may be necessary to enable the [board]
33 department to administer its duties as prescribed by law and this act.

34 c. Should any person engaged in the business of solid waste
35 collection or solid waste disposal or otherwise providing solid waste
36 collection or transfer, transportation or disposal services fail or refuse
37 to comply with any provision of this section, or any applicable
38 provision of Title 48 of the Revised Statutes, the [board] Department
39 of Environmental Protection may revoke or suspend the certificate of
40 public convenience and necessity issued to that person.
41 (cf: P.L.1991, c.381, s.33)

42

43 130. Section 13 of P.L.1970, c.40 (C.48:13A-12) is amended to
44 read as follows:

45 13. a. Any person or any officer or agent thereof who shall
46 knowingly violate any of the provisions of [this act] P.L.1970, c.40

1 (C.48:13A-1 et seq.) or P.L.1991, c.381 (C.48:13A-7.1 et al.) or aid
2 or advise in such violation, or who, as principal, manager, director,
3 agent, servant or employee knowingly does any act comprising a part
4 of such violation, is guilty of a crime of the fourth degree and shall be
5 punished by imprisonment for not more than 18 months or,
6 notwithstanding the provisions of N.J.S.2C:43-3, by a fine of not more
7 than \$50,000.00, or both; and if a corporation by a fine of not more
8 than \$100,000.00. Each day during which the violation continues
9 constitutes an additional, separate and distinct offense.

10 b. Any person who shall violate any provision of P.L.1970, c.40
11 (C.48:13A-1 et seq.) [or] , P.L. , c. (C.48:13A-14 et seq.)
12 (pending in the Legislature as this bill) or P.L.1991, c.381
13 (C.48:13A-7.1 et al.), or any rule, regulation or administrative order
14 adopted or issued pursuant thereto, [including an interdistrict,
15 intradistrict or interstate waste flow order issued in conjunction with
16 the Department of Environmental Protection,] or under any applicable
17 provision of Title 48 of the Revised Statutes, or who shall engage in
18 the solid waste collection business or solid waste disposal business
19 without having been issued a certificate of public convenience and
20 necessity, shall be liable to a penalty of not more than \$10,000.00 for
21 a first offense, not more than \$25,000.00 for a second offense and not
22 more than \$50,000.00 for a third and every subsequent offense. Each
23 day during which the violation continues constitutes an additional,
24 separate and distinct offense. The penalties herein provided shall be
25 enforced by summary proceedings instituted by the [board]
26 Department of Environmental Protection under "the penalty
27 enforcement law" (N.J.S.2A:58-1 et seq.). The Superior Court and
28 the municipal courts shall all have jurisdiction to enforce "the penalty
29 enforcement law" in connection with this act.

30 c. Whenever it shall appear to the [board] Department of
31 Environmental Protection, a municipality, local board of health, or
32 county health department, as the case may be, that any person has
33 violated, intends to violate, or will violate any provision of P.L.1970,
34 c.40 (C.48:13A-1 et seq.), P.L. , c. (C.48:13A-14 et seq.)(pending
35 in the Legislature as this bill) or P.L.1991, c.381 (C.48:13A-7.1 et al.),
36 or any rule, regulation or administrative order adopted or issued
37 pursuant thereto, or under any applicable provision of Title 48 of the
38 Revised Statutes, the [board] department, the municipality, local board
39 of health or county health department may institute a civil action in the
40 Superior Court for injunctive relief and for such other relief as may be
41 appropriate in the circumstances, and the court may proceed in any
42 such action in a summary manner.

43 Notwithstanding the provisions of any other law, or any rule or
44 regulation adopted pursuant thereto to the contrary, all penalties
45 recovered pursuant to actions brought by the [board] department
46 under this section shall be paid to the "Solid Waste Enforcement Fund"

1 established pursuant to section 21 of P.L.1991, c.381 (C.48:13A-21).
2 If a money judgment is rendered against a defendant pursuant to
3 subsections a. or b. of this section, the payment made to the court shall
4 be remitted to the fund.

5 (cf: P.L.1991, s.381, s.34)

6

7 131. (New section) Except as otherwise expressly provided
8 herein, nothing contained in the provisions of P.L. , c. (C.13:1E-
9 208 et al.) (pending in the Legislature as this bill) shall be construed
10 to modify the county and municipal recycling program requirements or
11 other mandatory provisions of the "New Jersey Statewide Mandatory
12 Source Separation and Recycling Act," P.L.1987, c.102 (C.13:1E-
13 99.11 et seq.), or any rule or regulation adopted pursuant thereto.

14

15 132. (New section) Nothing contained in the provisions of
16 P.L. , c. (C.13:1E-208 et al.)(pending in the Legislature as this
17 bill) shall be construed to modify the provisions of the "Pinelands
18 Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.), or any rule or
19 regulation adopted pursuant thereto, or the comprehensive
20 management plan prepared and adopted by the Pinelands Commission
21 pursuant to section 7 of P.L.1979, c.111 (C.13:18A-8).

22

23 133. The following are repealed:

24 Section 1 of P.L.1984, c.221 (C.13:1E-5.3);

25 Section 2 of P.L.1981, c.438 (C.13:1E-9.1);

26 Section 2 of P.L.1990, c.70 (C.13:1E-9.5);

27 Section 20 of P.L.1975, c.326 (C.13:1E-29);

28 Sections 29 and 30 of P.L.1975, c.326 (C.13:1E-36 and
29 13:1E-37);

30 Section 9 of P.L.1989, c.34 (C.13:1E-48.9);

31 Section 12 of P.L.1989, c.34 (C.13:1E-48.12);

32 Section 7 of P.L.1981, c.278 (C.13:1E-98);

33 Section 5 of P.L.1987, c.102 (C.13:1E-99.15);

34 Section 9 of P.L.1987, c.102 (C.13:1E-99.17);

35 Section 11 of P.L.1989, c.151 (C.13:1E-99.21e);

36 Section 23 of P.L.1987, c.102 (C.13:1E-99.31);

37 Section 40 of P.L.1987, c.102 (C.13:1E-99.33);

38 Section 45 of P.L.1987, c.102 (C.13:1E-99.37);

39 Section 48 of P.L.1987, c.102 (C.13:1E-99.38);

40 Section 13 of P.L.1981, c.306 (C.13:1E-112);

41 Sections 2 and 3 of P.L.1983, c.93 (C.13:1E-118 and
42 13:1E-119);

43 Section 9 of P.L.1985, c.38 (C.13:1E-144);

44 Section 11 of P.L.1985, c.38 (C.13:1E-146);

45 Sections 16 and 17 of P.L.1985, c.38 (C.13:1E-151 and
46 13:1E-152);

1 Sections 30 and 31 of P.L.1985, c.38 (C.13:1E-165 and
2 13:1E-166);
3 Section 1 of P.L.1985, c.368 (C.13:1E-169);
4 Sections 3 through 7 inclusive of P.L.1985, c.368
5 (C.13:1E-171 through 13:1E-175);
6 Section 3 of P.L.1989, c.236 (C.27:2-9);
7 Section 4 of P.L.1973 c.330 (C.40:37A-101);
8 Section 5 of P.L.1973 c.330 (C.40:37A-102);
9 Section 6 of P.L.1973, c.330 (C.40:37A-103);
10 Section 7 of P.L.1973 c.330 (C.40:37A-104);
11 Section 8 of P.L.1973 c.330 (C.40:37A-105);
12 R.S.40:66-2;
13 R.S.40:66-3;
14 Sections 1 through 3 inclusive of P.L.1991, c.170
15 (C.40:66-5.1 through 40:66-5.3);
16 Section 1 of P.L.1989, c.236 (C.40A:11-16.5);
17 Section 6 of P.L.1970, c.40 (C.48:13A-5);
18 Section 1 of P.L.1991, c.35 (C.48:13A-6.3);
19 Section 8 of P.L.1970, c.40 (C.48:13A-7);
20 Section 14 of P.L.1991, c.381 (C.48:13A-7.14);
21 Section 20 of P.L.1991, c.381 (C.48:13A-7.20); and
22 Section 2 of P.L.1989, c.236, (C.52:34-13.1).

23

24 134. This act shall take effect immediately.

25

26

27

28

29 "Solid Waste Management and Environmental Investment Cost
30 Recovery Act."