

ASSEMBLY, No. 85

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblymen ROONEY and ROCCO

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

9 12. The department shall formulate comprehensive policies for the
10 conservation of the natural resources of the State, the promotion of
11 environmental protection and the prevention of pollution of the
12 environment of the State. The department shall in addition to the
13 powers and duties vested in it by this act or by any other law have the
14 power to:

15 a. Conduct and supervise research programs for the purpose of
16 determining the causes, effects and hazards to the environment and its
17 ecology;

18 b. Conduct and supervise Statewide programs of education,
19 including the preparation and distribution of information relating to
20 conservation, environmental protection and ecology;

21 c. Require the registration of persons engaged in operations which
22 may result in pollution of the environment and the filing of reports by
23 them containing such information as the department may prescribe to
24 be filed relative to pollution of the environment, all in accordance with
25 applicable codes, rules or regulations established by the department;

26 d. Enter and inspect any building or place for the purpose of
27 investigating an actual or suspected source of pollution of the
28 environment and ascertaining compliance or noncompliance with any
29 codes, rules and regulations of the department. Any information
30 relating to secret processes concerning methods of manufacture or
31 production, obtained in the course of such inspection, investigation or
32 determination, shall be kept confidential, except this information shall

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

Matter underlined thus is new matter.

1 be available to the department for use, when relevant, in any
2 administrative or judicial proceedings undertaken to administer,
3 implement, and enforce State environmental law, but shall remain
4 subject only to those confidentiality protections otherwise afforded by
5 federal law and by the specific State environmental laws and
6 regulations that the department is administering, implementing and
7 enforcing in that particular case or instance. In addition, this
8 information shall be available upon request to the United States
9 Government for use in administering, implementing, and enforcing
10 federal environmental law, but shall remain subject to the
11 confidentiality protection afforded by federal law. If samples are taken
12 for analysis, a duplicate of the analytical report shall be furnished
13 promptly to the person suspected of causing pollution of the
14 environment;

15 e. Receive or initiate complaints of pollution of the environment,
16 including thermal pollution, hold hearings in connection therewith and
17 institute legal proceedings for the prevention of pollution of the
18 environment and abatement of nuisances in connection therewith and
19 shall have the authority to seek and obtain injunctive relief and the
20 recovery of fines and penalties in summary proceedings in the Superior
21 Court;

22 f. Prepare, administer and supervise Statewide, regional and local
23 programs of conservation and environmental protection, giving due
24 regard for the ecology of the varied areas of the State and the
25 relationship thereof to the environment, and in connection therewith
26 prepare and make available to appropriate agencies in the State
27 technical information concerning conservation and environmental
28 protection, cooperate with the Commissioner of Health in the
29 preparation and distribution of environmental protection and health
30 bulletins for the purpose of educating the public, and cooperate with
31 the Commissioner of Health in the preparation of a program of
32 environmental protection;

33 g. Encourage, direct and aid in coordinating State, regional and
34 local plans and programs concerning conservation and environmental
35 protection in accordance with a unified Statewide plan which shall be
36 formulated, approved and supervised by the department. In reviewing
37 such plans and programs and in determining conditions under which
38 such plans may be approved, the department shall give due
39 consideration to the development of a comprehensive ecological and
40 environmental plan in order to be assured insofar as is practicable that
41 all proposed plans and programs shall conform to reasonably
42 contemplated conservation and environmental protection plans for the
43 State and the varied areas thereof;

44 h. Administer or supervise programs of conservation and
45 environmental protection, prescribe the minimum qualifications of all
46 persons engaged in official environmental protection work, and

- 1 encourage and aid in coordinating local environmental protection
2 services;
- 3 i. Establish and maintain adequate bacteriological, radiological and
4 chemical laboratories with such expert assistance and such facilities as
5 are necessary for routine examinations and analyses, and for original
6 investigations and research in matters affecting the environment and
7 ecology;
- 8 j. Administer or supervise a program of industrial planning for
9 environmental protection; encourage industrial plants in the State to
10 undertake environmental and ecological engineering programs; and
11 cooperate with the State Departments of Health, Labor, and
12 Commerce and Economic Development in formulating rules and
13 regulations concerning industrial sanitary conditions;
- 14 k. Supervise sanitary engineering facilities and projects within the
15 State, authority for which is now or may hereafter be vested by law
16 in the department, and shall, in the exercise of such supervision, make
17 and enforce rules and regulations concerning plans and specifications,
18 or either, for the construction, improvement, alteration or operation
19 of all public water supplies, all public bathing places, landfill
20 operations and of sewerage systems and disposal plants for treatment
21 of sewage, wastes and other deleterious matter, liquid, solid or
22 gaseous, require all such plans or specifications, or either, to be first
23 approved by it before any work thereunder shall be commenced,
24 inspect all such projects during the progress thereof and enforce
25 compliance with such approved plans and specifications;
- 26 l. Undertake programs of research and development for the
27 purpose of determining the most efficient, sanitary and economical
28 ways of collecting, disposing, utilizing or [utilizing] recycling of solid
29 waste;
- 30 m. [Construct and operate, on an experimental basis, incinerators
31 or other facilities for the disposal of solid waste, provide the various
32 municipalities and counties of this State, the Board of Public Utilities,
33 and the Division of Local Government Services in the Department of
34 Community Affairs with statistical data on costs and methods of solid
35 waste collection, disposal and utilization;] Provide the various
36 municipalities and counties of this State and the Division of Local
37 Government Services in the Department of Community Affairs with
38 statistical data on costs and methods of solid waste collection,
39 disposal, utilization and recycling;
- 40 n. Enforce the State air pollution, water pollution, conservation,
41 environmental protection, solid and hazardous waste [and refuse
42 disposal] management laws, rules and regulations, including the
43 making and signing of a complaint and summons for their violation by
44 serving the summons upon the violator and thereafter filing the
45 complaint promptly with a court having jurisdiction;
- 46 o. [Acquire by purchase, grant, contract or condemnation, title to

1 real property, for the purpose of demonstrating new methods and
2 techniques for the collection or disposal of solid waste;] (deleted by
3 amendment, P.L. , c.)

4 p. Purchase, operate and maintain, pursuant to the provisions of
5 this act, any facility, site, laboratory, equipment or machinery
6 necessary to the performance of its duties pursuant to this act;

7 q. Contract with any other public agency or corporation
8 incorporated under the laws of this or any other state for the
9 performance of any function under this act;

10 r. With the approval of the Governor, cooperate with, apply for,
11 receive and expend funds from, the federal government, the State
12 Government, or any county or municipal government or from any
13 public or private sources for any of the objects of this act;

14 s. Make annual and such other reports as it may deem proper to the
15 Governor and the Legislature, evaluating the demonstrations
16 conducted during each calendar year;

17 t. Keep complete and accurate minutes of all hearings held before
18 the commissioner or any member of the department pursuant to the
19 provisions of this act. All such minutes shall be retained in a
20 permanent record, and shall be available for public inspection at all
21 times during the office hours of the department;

22 u. Require any person subject to a lawful order of the department,
23 which provides for a period of time during which such person subject
24 to the order is permitted to correct a violation, to post a performance
25 bond or other security with the department in such form and amount
26 as shall be determined by the department. Such bond need not be for
27 the full amount of the estimated cost to correct the violation but may
28 be in such amount as will tend to insure good faith compliance with
29 said order. The department shall not require such a bond or security
30 from any public body, agency or authority. In the event of a failure to
31 meet the schedule prescribed by the department, the sum named in the
32 bond or other security shall be forfeited unless the department shall
33 find that the failure is excusable in whole or in part for good cause
34 shown, in which case the department shall determine what amount of
35 said bond or security, if any, is a reasonable forfeiture under the
36 circumstances. Any amount so forfeited shall be utilized by the
37 department for the correction of the violation or violations, or for any
38 other action required to insure compliance with the order.

39 (cf: P.L.1984, c.5, s.1)

40

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

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

45 [a.] "Solid waste" means garbage, refuse, and other discarded
46 materials resulting from industrial, commercial and agricultural

1 operations, and from domestic and community activities, and shall
2 include all other waste materials including liquids, except for solid
3 animal and vegetable wastes collected by swine producers licensed by
4 the State Department of Agriculture to collect, prepare and feed such
5 wastes to swine on their own farms.

6 [b.] "Solid waste collection" means the activity related to pick-up
7 and transportation of solid waste from its source or location to a
8 transfer station or other authorized solid waste facility.

9 [c.] "Disposal" means the storage, treatment, utilization,
10 processing, resource recovery of, or the discharge, deposit, injection,
11 dumping, spilling, leaking or placing of any solid or hazardous waste
12 into or on any land or water, so that the solid or hazardous waste or
13 any constituent thereof may enter the environment or be emitted into
14 the air or discharged into any waters, including groundwaters.

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

18 [e.] "Council" means the Advisory Council on Solid Waste
19 Management.

20 [f.] "Department" means the State Department of Environmental
21 Protection.

22 [g.] "Commissioner" means the Commissioner of Environmental
23 Protection in the State Department of Environmental Protection.

24 [h.] "Solid waste facilities" mean and include the plants, structures
25 and other real and personal property acquired, constructed or operated
26 or to be acquired, constructed or operated by any person pursuant to
27 the provisions of P.L.1970, c.39 (C.13:1E-1 et seq.), P.L.1970, c.40
28 (C.48:13A-1 et seq.) or any other act, including transfer stations,
29 incinerators, resource recovery facilities, sanitary landfill facilities or
30 other plants for the disposal of solid waste, and all vehicles, equipment
31 and other real and personal property and rights therein and
32 appurtenances necessary or useful and convenient for the collection or
33 disposal of solid waste in a sanitary manner.

34 [i.] "Public authority" means any solid waste management authority
35 created pursuant to the "solid waste management authorities law,"
36 P.L.1968, c.249 (C.40:66A-32 et seq.); municipal or county utilities
37 authority created pursuant to the "municipal and county utilities
38 authorities law," P.L.1957, c.183 (C.40:14B-1 et seq.); incinerator
39 authority created pursuant to the "incinerator authorities law,"
40 P.L.1948, c.348 (C.40:66A-1 et seq.); county improvement authority
41 created pursuant to the "county improvement authorities law,"
42 P.L.1960, c.183 (C.40:37A-44 et seq.), or any other public body
43 corporate and politic created for solid waste management purposes in
44 any county or municipality, pursuant to the provisions of any law.

45 [j.] "Hackensack Meadowlands District" means the area within the
46 jurisdiction of the Hackensack Meadowlands Development

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

4 [k.] "Hackensack Commission" means the Hackensack
5 Meadowlands Development Commission created pursuant to the
6 provisions of the "Hackensack Meadowlands Reclamation and
7 Development Act," P.L.1968, c.404 (C.13:17-1 et seq.).

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

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

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

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

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

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

30 r.] "Transfer station" means a solid waste facility at which solid
31 waste is transferred from a solid waste collection vehicle to a licensed
32 solid waste haulage vehicle, including a rail car, for transportation to
33 an offsite sanitary landfill facility, resource recovery facility, or other
34 destination for disposal, except that a "transfer station" shall not
35 include any solid waste facility at which solid waste is received for
36 onsite transfer, and processing or disposal utilizing facility-owned or
37 operated equipment and vehicles operated therefor.

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

39

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

42 4. a. The department shall have power to supervise solid waste
43 collection activities, solid waste facilities and disposal [facilities or]
44 operations, and shall in the exercise of such supervision require the
45 registration of new and existing solid waste collection activities, solid
46 waste facilities and disposal [facilities and] operations; and may

1 exempt from the requirement of registration any class of solid waste
2 collection activity, solid waste facility or disposal [facility or]
3 operation.

4 b. [The department in reviewing the registration statement for a
5 new solid waste collection operation or solid waste disposal facility or
6 operation and in determining the conditions under which it may be
7 approved, shall not approve the registration of any new operation or
8 facility that does not conform to the solid waste management plan of
9 the solid waste management district in which such operation or facility
10 is to be located, as such plan shall have been approved by the
11 department as hereinafter provided. Prior to the approval by the
12 department of the solid waste management plan of any solid waste
13 management district, the department may grant approval to any new
14 solid waste collection or disposal operation or facility planned to be
15 located in any such district and that district shall include said operation
16 or facility in its plan.] (Deleted by amendment, P.L. , c.)

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

18

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

21 5. a. Unless exempted by the department, no person shall hereafter
22 engage or continue to engage in the collection or disposal of solid
23 waste in this State without first filing a registration statement and
24 obtaining approval thereof from the department. A person engaging
25 in solid waste disposal shall file a separate registration statement and
26 an engineering design for each [disposal] solid waste facility which he
27 operates. [The registration statement and engineering design for each
28 disposal facility and approval of same shall be for the duration of the
29 plan.]

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

36 c. No registration shall be approved by the department when in the
37 opinion of the department [such] the solid waste collection activity or
38 [disposal] solid waste facility or disposal operation will not meet the
39 standards or criteria set forth in [this amendatory and supplementary
40 act] P.L.1970, c.39 (C.13:1E-1 et seq.) or in rules or regulations as
41 may be [promulgated under authority of this act or this amendatory
42 and supplementary act] adopted pursuant thereto. The department
43 may require the amendment of an approved registration when, in its
44 opinion, continued operation of a solid waste facility in accordance
45 with its approved registration would not meet the standards, criteria

1 or regulations described herein.

2 (cf: P.L.1975, c.326, s.6)

3

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

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

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

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

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

33 (3) Develop, formulate, [promulgate] adopt and review for the
34 purpose of revising or updating not less than once every 2 years, a
35 Statewide solid waste management plan which shall encourage the
36 maximum practicable use of [resource recovery procedures] instate
37 solid waste facilities and which shall provide the objectives, criteria
38 and standards for the evaluation of district solid waste management
39 plans prepared pursuant to the provisions of [this amendatory and
40 supplementary act] P.L.1970, c.39 (C.13:1E-1 et seq.) for solid waste
41 management districts in this State; and to the extent practicable,
42 encourage and assist in the development and formulation of [such]
43 district solid waste management plans and guidelines to implement
44 such plans. [Such objectives, criteria and standards shall be
45 promulgated within 180 days of the effective date of this act; provided,
46 however, that general guidelines sufficient to initiate the solid waste

1 management planning process by solid waste management districts in
2 this State shall be promulgated within 30 days of the effective date of
3 this act.] In the development and formulation of the Statewide solid
4 waste management plan the department shall consult with relevant
5 agencies and instrumentalities of the Federal Government, and the
6 aforesaid objectives, criteria and standards provided by said Statewide
7 solid waste management plan shall conform, to the extent practicable,
8 or as may be required, to the provisions of any Federal law concerning
9 such objectives, criteria and standards.

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

15 b. The department may, in addition:

16 (1) [Order any district, pursuant to the Statewide solid waste
17 management plan, the objectives, criteria and standards contained
18 therein, the environmental and economic studies conducted by the
19 department therefor and in a manner designed to enhance the
20 environment within the concerned districts, (a) to plan for the
21 construction of resource recovery facilities, (b) to specify what
22 processes should be utilized therein, (c) to develop a joint program
23 with one or more adjacent districts for providing resource recovery
24 facilities, and (d) for those districts affected by the guarantee provided
25 in section 9.1 of P.L.1968, c.404 (C.13:17-10), to cooperate on a
26 continuing basis with the department and with the other districts so
27 affected in the development of a combined approach to solid waste
28 management in northeastern New Jersey and make the final
29 determination in the event of any overlap or conflict between the
30 Hackensack Commission and any board of chosen freeholders pursuant
31 to their respective responsibilities under this amendatory and
32 supplementary act or pursuant to the Hackensack Commission's
33 responsibilities under P.L.1968, c.404 (C.13:17-1 et seq.).] (Deleted
34 by amendment, P.L. , c.)

35 (2) Acquire, by purchase, grant, contract or condemnation, title to
36 real property, for the purpose of demonstrating new methods and
37 techniques for the collection, disposal [and] utilization or recycling of
38 solid waste;

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

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

44 (5) Contract with any other public agency, including a local board
45 of health or county [and municipal boards of] health department, or
46 corporation incorporated under the laws of this or any other state for

1 the performance of any function under this act. Any such contract
2 with a local board of health or county [or municipal board of] health
3 department may provide for the inspection and monitoring of solid
4 waste facilities; the enforcement of the department's standards
5 therefor; and the training of county or [municipal] local health officers
6 engaged in such inspection, monitoring or enforcement[;].

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

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

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

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

23

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

26 7. a. There is hereby created in the department an Advisory
27 Council on Solid Waste Management which shall consist of [14] 13
28 members, [four] three of whom shall be [the President of the Board of
29 Public Utilities,] the Commissioner of Community Affairs, the
30 Secretary of Agriculture and the Commissioner of Health, or their
31 designees, who shall serve ex officio, and ten citizens of the State, four
32 of whom shall be actively engaged in the solid waste collection,
33 recycling or solid waste disposal industries, of whom one shall be a
34 representative of the Institute for Scrap Recycling Industries who shall
35 represent the scrap recycling or processing industry in the State, two
36 health professionals of whom one shall be a representative of the New
37 Jersey Hospital Association and the other a licensed practitioner
38 selected from the medical or dental communities in the State who shall
39 represent the regulated medical waste generators in the State, and four
40 of whom shall be representing the general public to be appointed by
41 the Governor, with the advice and consent of the Senate. The
42 Governor shall designate a chairman and vice chairman of the council
43 from the public members who shall serve at the will of the Governor.

44 b. All public members shall be appointed for terms of 4 years. All
45 appointed members shall serve after the expiration of their terms until
46 their respective successors are appointed and shall qualify, and any

1 vacancy occurring in the appointed membership of the council by
2 expiration of term or otherwise, shall be filled in the same manner as
3 the original appointment for the unexpired term only, notwithstanding
4 that the previous incumbent may have held over and continued in
5 office as aforesaid.

6 c. Members of the council shall serve without compensation but
7 shall be reimbursed for expenses actually incurred in attending
8 meetings of the council and in performance of their duties as members
9 thereof.

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

11

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

14 2. a. No person shall, regardless of intent, engage, or be permitted
15 to engage, in the collection or disposal of solid waste in excess of
16 0.148 cubic yards of solids or 30 United States gallons of liquids,
17 whether for profit or otherwise, except at a registered solid waste
18 facility or an out-of-state disposal site [or any other place] which has
19 authorization from the [Department of Environmental Protection]
20 appropriate state regulatory agency having jurisdiction over solid
21 waste management to accept out-of-state solid waste for disposal.

22 b. No person shall, regardless of intent, transport or cause or
23 permit to be transported any solid waste in excess of 0.148 cubic yards
24 of solids or 30 United States gallons of liquids, whether for profit or
25 otherwise, except to a registered solid waste facility or an out-of-state
26 disposal site [or any other place which does not have authorization
27 from the Department of Environmental Protection] which has
28 authorization from the appropriate state regulatory agency having
29 jurisdiction over solid waste management to accept out-of-state solid
30 waste for disposal.

31 c. No person shall, regardless of intent, cause, engage in or be
32 permitted to engage in, the disposal of any amount of solid waste on
33 real property subject to the use, control or ownership of a railroad
34 company, unless such disposal is expressly authorized by the railroad
35 company [and approved by the Department of Environmental
36 Protection].

37 d. The provisions of this section shall be enforced by [the
38 Department of Environmental Protection and by] every relevant
39 municipality, local board of health, or county health department, as the
40 case may be.

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

42

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

45 19. a. Any municipality within which a registered sanitary landfill
46 facility is located [pursuant to an adopted and approved district solid

1 waste management plan] shall be entitled to an annual economic
2 benefit not less than the equivalent of \$1.00 per ton of solids on all
3 solid waste accepted for disposal at the sanitary landfill facility during
4 the previous calendar year as determined by the department.

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

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

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

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

20 (4) Any combination thereof.

21 b. (deleted by amendment, P.L. , c.)

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

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

35 (cf: P.L.1994, c.27, s.1)

36

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

39 2. a. Any municipality within which a registered transfer station is
40 located [pursuant to an adopted and approved district solid waste
41 management plan] shall be entitled to an annual economic benefit to be
42 paid or adjusted not less than quarterly in an amount established by
43 agreement with the owner or operator of the transfer station or by
44 order of the [Board of Public Utilities] department, but not less than
45 the equivalent of \$0.50 per ton of all solid waste accepted for transfer
46 at the transfer station during the 1987 calendar year and each year

1 thereafter.

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

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

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

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

17 (4) Any combination thereof.

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

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

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

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

31

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

34 2. a. Any municipality with a population density of more than
35 1,500 persons per square mile, according to the latest federal decennial
36 census, that shares a common boundary with a municipality within
37 which is located[, pursuant to an adopted and approved district solid
38 waste management plan,] a registered sanitary landfill facility:

39 (1) any part of which lies within 1,300 feet of the common
40 boundary between the municipalities, as determined by the Department
41 of Environmental Protection;

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

44 (3) that is owned or operated by a county or by a county utilities
45 authority created pursuant to the "municipal and county utilities
46 authorities law," P.L.1957, c.183 (C.40:14B-1 et seq.), shall be

1 entitled to an annual economic benefit in consideration for the
2 proximity of the sanitary landfill facility. The annual economic benefit
3 shall be not less than the equivalent of \$0.50 per ton, and not more
4 than \$1.50 per ton, of all solid waste accepted for disposal at the
5 sanitary landfill facility, as determined by the department, during the
6 1993 calendar year and each year thereafter.

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

11 The owner or operator of the sanitary landfill facility shall annually
12 pay to every municipality qualifying under subsection a. of this section
13 the full amount due under this subsection, except that the owner or
14 operator shall pay the 1993 economic benefit by the last day of the
15 first quarter of the 1994 calendar year. Each municipality qualifying
16 under subsection a. of this section may anticipate the annual economic
17 benefit for the purposes of preparing its 1994 budget and each annual
18 budget thereafter. For the purposes of calculating the method of
19 payment, the owner or operator of the sanitary landfill facility may,
20 subject to the prior agreement of a municipality qualifying under
21 subsection a. of this section and to the approval of the Department of
22 Environmental Protection, provide that municipality with any of the
23 following benefits in consideration for the proximity of the sanitary
24 landfill facility:

25 (1) The exemption from all fees and charges for the disposal of
26 solid waste generated within the boundaries of the municipality;
27 (2) The receipt of a lump sum cash payment; or
28 (3) Any combination thereof.

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

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

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

43

44 11. Section 1 of P.L.1976, c.99 (C.13:1E-38) is amended to read
45 as follows:

46 1. As used in this act[, the following words and phrases shall have

1 the following meanings, unless the context clearly requires another
2 meaning]:

3 a. "Bulk liquids" means liquid or semiliquid waste, including
4 petroleum products, which is contained within, or is discharged from,
5 any one vessel, tank or other container which has a capacity of 20 or
6 more gallons;

7 b. "Chemical waste" means a material normally generated by or
8 used in chemical, petrochemical, plastic, pharmaceutical, biochemical
9 or microbiological manufacturing processes or petroleum refining
10 processes, which has been selected for waste disposal and which is
11 known to hydrolize, ionize or decompose, which is soluble, burns or
12 oxidizes, or which may react with any of the waste materials which are
13 introduced into the landfill, or which is buoyant on water, or which has
14 a viscosity less than that of water or which produces a foul odor.
15 Chemical waste may be either hazardous or nonhazardous.

16 c. "Hazardous waste" means any waste or any combination of
17 waste which poses a present or potential threat to human health, living
18 organisms or the environment. "Hazardous waste" shall include, but
19 not be limited to, waste material that is toxic, corrosive, irritating,
20 sensitizing, radioactive, biologically infectious, explosive or
21 flammable;

22 d. "Leachate" is a liquid that has been in contact with solid waste
23 and contains dissolved or suspended materials from that solid waste.

24 e. "Pesticide" means and includes any substance or mixture of
25 substances labeled, designed, intended for or capable of use in
26 preventing, destroying, repelling, sterilizing or mitigating any insects,
27 rodents, nematodes, predatory animals, fungi, weeds and other forms
28 of plant or animal life or viruses, except viruses on or in living man or
29 other animals. "Pesticide" shall also include any substance or mixture
30 of substances labeled, designed or intended for use as a defoliant,
31 desiccant or plant regulator.

32 f. "Commercial solid waste facility" means any solid waste facility
33 operated for profit which accepts any solid waste generated from any
34 other source [and is subject to the jurisdiction of the Board of Public
35 Utilities pursuant to the provisions of P.L.1970, c.40 (C.48:13A-1 et
36 seq.)].

37 (cf: P.L.1979, c.395, s.2)

38

39 12. Section 8 of P.L.1989, c.34 (C.13:1E-48.8) is amended to read
40 as follows:

41 8. a. No person may transport regulated medical waste unless the
42 person has:

43 (1) satisfied all requirements prescribed by the Department of
44 Environmental Protection, and filed a registration statement and
45 obtained approval thereof from the department on a form provided,
46 and containing all information requested by the department;

1 (2) paid an annual registration fee in an amount set by the
2 Department of Environmental Protection pursuant to a rule or
3 regulation adopted in accordance with the "Administrative Procedure
4 Act;"

5 (3) received written instruction from the departments on the proper
6 and safe tracking, identification, packaging, storage, control,
7 monitoring, handling, collection, and disposal of regulated medical
8 waste;

9 (4) obtained a registration statement required by section 5 of
10 P.L.1970, c.39 (C.13:1E-5); and

11 (5) [obtained a certificate of public convenience and necessity
12 required by section 7 of P.L.1970, c.40 (C.48:13A-6);

13 (6)] complied with the requirements of P.L.1983, c.392
14 (C.13:1E-126 et seq.)[; and

15 (7) paid an annual fee to, and in an amount set by, the Board of
16 Public Utilities pursuant to section 9 of this act].

17 b. The provisions of subsection a. of this section shall not apply to
18 a generator who generates less than three cubic feet of regulated
19 medical waste per month and who transports that regulated medical
20 waste to another generator for storage or disposal.

21 (cf: P.L.1989, c.34, s.8)

22

23 13. Section 13 of P.L.1989, c.34 (C.13:1E-48.13) is amended to
24 read as follows:

25 13. a. The departments shall study the issue of regulated medical
26 waste in the State and prepare a comprehensive State regulated
27 medical waste management plan addressing the immediate, interim,
28 and long-term needs of the State with respect to the disposal of
29 regulated medical waste in a manner that will protect the public health
30 and the environment. The departments, [within one year of the
31 effective date of this act] no later than March 6, 1990, shall transmit
32 to the Governor and the Legislature the comprehensive State regulated
33 medical waste management plan.

34 b. The comprehensive State regulated medical waste management
35 plan shall include:

36 (1) an inventory of the number and types of generators of regulated
37 medical waste within the State, and of the composition and quantities
38 of regulated medical waste generated thereby, together with a
39 recommendation with respect to the advisability, practicability and
40 feasibility of exempting certain small quantity generators from the
41 manifest requirements imposed by this act;

42 (2) a projection of the number and types of generators of regulated
43 medical waste within the State for the next 30 years following
44 enactment of this act, and the composition and quantities of regulated
45 medical waste to be generated thereby;

46 (3) an evaluation of the impact of out-of-state generators upon the

1 present and future regulated medical waste disposal capacity within the
2 State;

3 (4) an evaluation[, to be undertaken in conjunction with the Board
4 of Public Utilities,] of the status of the regulated medical waste
5 collection and disposal industries, and whether they are of sufficient
6 size and competitiveness to meet the needs of the State, and, if not,
7 recommendations of ways to increase the size and competitiveness
8 thereof;

9 (5) an inventory and appraisal, including the identity, location, and
10 life expectancy, of all existing and approved incineration or
11 non-incineration disposal capacity which is anticipated to be available
12 to each county in this State for its regulated medical waste disposal
13 needs, including all commercial and noncommercial regulated medical
14 waste disposal facilities, and solid waste facilities within the State and
15 in nearby states permitted to accept regulated medical waste for
16 disposal;

17 (6) an updated projection of the anticipated regulated medical
18 waste disposal capacity shortfall in each county in this State in the next
19 5 years from the date of enactment of this act;

20 (7) a recommendation of the regulated medical waste disposal
21 strategy to be applied in the State, which strategy shall include the
22 maximum practicable use of existing and approved incineration
23 capacity for regulated medical waste, particularly pathology
24 specimens, resource recovery procedures, recycling, and consideration
25 of the establishment of regional regulated medical waste disposal
26 facilities;

27 (8) recommendations of any statutory and regulatory changes
28 deemed necessary to implement the comprehensive State regulated
29 medical waste management plan and assure utilization of the most
30 sanitary, efficient, and economical methods for the tracking,
31 identification, packaging, storage, control, monitoring, handling,
32 collection, and disposal of regulated medical waste; and

33 (9) an evaluation of the environmental and public health impacts of
34 all reasonably available regulated medical waste treatment and disposal
35 technologies, and a recommendation concerning the extent to which
36 non-incineration technologies may be utilized as an alternative to
37 incineration technologies.

38 (cf: P.L.1989, c.34, s.13)

39

40 14. Section 15 of P.L.1989, c.34 (C.13:1E-48.15) is amended to
41 read as follows:

42 15. a. Upon the submission to the Governor and the Legislature
43 of the comprehensive State regulated medical waste management plan
44 prepared by the departments pursuant to section 13 of [this act]
45 P.L.1989, c.34 (C.13:1E-48.13), the Department of Environmental
46 Protection shall:

1 (1) transmit, by certified mail, a written determination of need to
2 the governing body of each county in this State in which the
3 department has determined that there exists or impends an anticipated
4 regulated medical waste disposal capacity shortfall; and

5 (2) issue[, in conjunction with the Board of Public Utilities,] appropriate administrative orders providing for the interdistrict or
6 intradistrict flow of regulated medical waste. The administrative orders
7 shall direct the flow of regulated medical waste generated within each
8 county in this State to designated commercial regulated medical waste
9 disposal facilities and, subject to the prior approval of the owner or
10 operator thereof, to designated noncommercial facilities for disposal.

12 b. In the event that appropriate rules and regulations to implement
13 the Federal Act have not been adopted by the United States
14 Environmental Protection Agency prior to the submission to the
15 Governor and the Legislature of the comprehensive State regulated
16 medical waste management plan, the departments may adopt, by rule
17 or regulation, regulated medical waste management requirements to
18 provide for the proper and safe segregation, identification, packaging,
19 storage, labeling, control, monitoring, handling, collection, and
20 disposal of regulated medical waste consistent with those set forth in
21 this act.

22 (cf: P.L.1989, c.34, s.15)

23

24 15. Section 16 of P.L.1989, c.34 (C.13:1E-48.16) is amended to
25 read as follows:

26 16. a. Within 12 months of the receipt of a written determination
27 of need and notification of a regulated medical waste disposal capacity
28 shortfall pursuant to section 15 of [this act] P.L.1989, c.34
29 (C.13:1E-48.15), the governing body of the affected county shall
30 provide for the regulated medical waste disposal requirements of the
31 county as determined by the department.

32 b. A county may provide for its regulated medical waste disposal
33 requirements in accordance with any of the following arrangements:

34 (1) the development of one or more new commercial regulated
35 medical waste disposal facilities, which facilities may utilize
36 incineration or non-incineration technologies, within the county;

37 (2) the development of one or more new noncommercial regulated
38 medical waste disposal facilities within the county;

39 (3) the more efficient utilization of existing operational incinerators
40 or facilities, which incinerators and facilities accept regulated medical
41 waste for disposal and are located within the county; or

42 (4) the negotiation of an interdistrict agreement providing for the
43 disposal of regulated medical waste generated within the county at an
44 out-of-district incinerator, facility or proposed new commercial
45 regulated medical waste disposal facility, as the case may be.

46 c. In the event that a county has negotiated an interdistrict

1 agreement pursuant to subsection b. of this section, the governing
2 body of the county that is the designated recipient of out-of-district
3 regulated medical waste shall transmit to the department, by certified
4 mail, a copy of the negotiated or proposed interdistrict agreement and
5 any other agreements therefor, including evidence of the intent of the
6 parties to adopt the agreement, and the terms and conditions thereof.

7 d. [Each affected county shall prepare and adopt an amendment to
8 the district solid waste management plan required pursuant to the
9 provisions of the "Solid Waste Management Act," P.L.1970, c.39
10 (C.13:1E-1 et seq.) to incorporate the regulated medical waste
11 disposal arrangement selected pursuant to subsection b. of this
12 section.] (Deleted by amendment, P.L. , c.)

13 (cf: P.L.1989, c.34, s.16)

14

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

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

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

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

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

1 17. Section 20 of P.L.1989, c.34 (C.13:1E-48.20) is amended to
2 read as follows:

3 20. a. This act, and any rule or regulation adopted pursuant
4 thereto, shall be enforced by the departments and by every local board
5 of health, or county health department, as the case may be.

6 The departments and the local board of health, or the county health
7 department, as the case may be, shall have the right to enter the
8 premises of a generator, transporter, or facility at any time in order to
9 determine compliance with this act.

10 The municipal attorney or an attorney retained by a municipality in
11 which a violation of this act is alleged to have occurred shall act as
12 counsel to a local board of health.

13 The county counsel or an attorney retained by a county in which a
14 violation of this act is alleged to have occurred shall act as counsel to
15 the county health department.

16 All enforcement activities undertaken by county health departments
17 pursuant to this subsection shall conform to all applicable performance
18 and administrative standards adopted pursuant to section 10 of the
19 "County Environmental Health Act," P.L.1977, c.443 (C.26:3A2-28).

20 b. Whenever the Commissioner of Environmental Protection or the
21 Commissioner of Health finds that a person has violated this act, or
22 any rule or regulation adopted pursuant thereto, that commissioner
23 shall:

24 (1) issue an order requiring the person found to be in violation to
25 comply in accordance with subsection c. of this section;

26 (2) bring a civil action in accordance with subsection d. of this
27 section;

28 (3) levy a civil administrative penalty in accordance with subsection
29 e. of this section;

30 (4) bring an action for a civil penalty in accordance with subsection
31 f. of this section; or

32 (5) petition the Attorney General to bring a criminal action in
33 accordance with subsections g. through l. of this section.

34 Pursuit of any of the remedies specified under this section shall not
35 preclude the seeking of any other remedy specified.

36 c. Whenever the Commissioner of Environmental Protection or the
37 Commissioner of Health finds that a person has violated this act, or
38 any rule or regulation adopted pursuant thereto, that commissioner
39 may issue an order specifying the provision or provisions of this act,
40 or the rule or regulation adopted pursuant thereto, of which the person
41 is in violation, citing the action that constituted the violation, ordering
42 abatement of the violation, and giving notice to the person of the
43 person's right to a hearing on the matters contained in the order. The
44 ordered party shall have 20 days from receipt of the order within
45 which to deliver to the commissioner a written request for a hearing.
46 After the hearing and upon finding that a violation has occurred, the

1 commissioner may issue a final order. If no hearing is requested, the
2 order shall become final after the expiration of the 20-day period. A
3 request for hearing shall not automatically stay the effect of the order.

4 d. The Commissioner of Environmental Protection, the
5 Commissioner of Health, a local board of health, or a county health
6 department may institute an action or proceeding in the Superior Court
7 for injunctive and other relief, including the appointment of a receiver
8 for any violation of this act, or of any rule or regulation adopted
9 pursuant thereto, and the court may proceed in the action in a
10 summary manner. In any such proceeding the court may grant
11 temporary or interlocutory relief.

12 Such relief may include, singly or in combination:

13 (1) a temporary or permanent injunction;

14 (2) assessment of the violator for the costs of any investigation,
15 inspection, or monitoring survey that led to the establishment of the
16 violation, and for the reasonable costs of preparing and litigating the
17 case under this subsection;

18 (3) assessment of the violator for any cost incurred by the State in
19 removing, correcting, or terminating the adverse effects upon
20 environmental quality or public health resulting from any violation of
21 this act, or any rule or regulation adopted pursuant thereto, for which
22 the action under this subsection may have been brought;

23 (4) assessment against the violator of compensatory damages for
24 any loss or destruction of wildlife, fish or aquatic life, and for any
25 other actual damages caused by any violation of this act, or any rule
26 or regulation adopted pursuant thereto, for which the action under this
27 subsection may have been brought.

28 Assessments under this subsection shall be paid to the State
29 Treasurer, or to the local board of health, or to the county health
30 department, as the case may be, except that compensatory damages
31 may be paid by specific order of the court to any persons who have
32 been aggrieved by the violation.

33 If a proceeding is instituted by a local board of health or county
34 health department, notice thereof shall be served upon the
35 commissioners in the same manner as if the commissioners were named
36 parties to the action or proceeding. Either of the departments may
37 intervene as a matter of right in any proceeding brought by a local
38 board of health or county health department.

39 e. Either of the commissioners, as the case may be, may assess a
40 civil administrative penalty of not more than \$50,000 for each
41 violation. Each day that a violation continues shall constitute an
42 additional, separate, and distinct offense. A commissioner may not
43 assess a civil administrative penalty in excess of \$25,000 for a single
44 violation, or in excess of \$2,500 for each day during which a violation
45 continues, until the departments have respectively adopted, pursuant
46 to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1

1 et seq.), regulations requiring the appropriate commissioner, in
2 assessing a civil administrative penalty, to consider the operational
3 history of the violator, the severity of the violation, the measures taken
4 to mitigate or prevent further violations, and whether the penalty will
5 maintain an appropriate deterrent. No assessment may be levied
6 pursuant to this section until after the violator has been notified by
7 certified mail or personal service. The notice shall include a reference
8 to the section of the statute, rule, regulation, or order violated, a
9 concise statement of the facts alleged to constitute a violation, a
10 statement of the amount of the civil administrative penalties to be
11 imposed, and a statement of the party's right to a hearing. The ordered
12 party shall have 20 calendar days from receipt of the notice within
13 which to deliver to the appropriate commissioner a written request for
14 a hearing. After the hearing and upon finding that a violation has
15 occurred, that commissioner may issue a final order after assessing the
16 amount of the fine specified in the notice. If no hearing is requested,
17 the notice shall become a final order after the expiration of the 20-day
18 period. Payment of the assessment is due when a final order is issued
19 or the notice becomes a final order. The authority to levy a civil
20 administrative penalty is in addition to all other enforcement provisions
21 in this act, and the payment of any assessment shall not be deemed to
22 affect the availability of any other enforcement provisions in
23 connection with the violation for which the assessment is levied. Each
24 department may compromise any civil administrative penalty assessed
25 under this section in an amount the department determines
26 appropriate.

27 f. A person who violates this act, or any rule or regulation adopted
28 pursuant thereto, shall be liable for a penalty of not more than \$50,000
29 per day, to be collected in a civil action commenced by the
30 Commissioner of Environmental Protection, the Commissioner of
31 Health, a local board of health, or a county health department.

32 A person who violates an administrative order issued pursuant to
33 subsection c. of this section, or a court order issued pursuant to
34 subsection d. of this section, or who fails to pay an administrative
35 assessment in full pursuant to subsection e. of this section is subject
36 upon order of a court to a civil penalty not to exceed \$100,000 per
37 day of each violation.

38 Of the penalty imposed pursuant to this subsection, 10% or \$250,
39 whichever is greater, shall be paid to the appropriate department from
40 the General Fund if the Attorney General determines that a person is
41 entitled to a reward pursuant to section 24 of [this act] P.L.1989, c.34
(C.13:1E-48.24).

43 Any penalty imposed pursuant to this subsection may be collected,
44 with costs, in a summary proceeding pursuant to "the penalty
45 enforcement law" (N.J.S.2A:58-1 et seq.). The Superior Court and the
46 municipal court shall have jurisdiction to enforce the provisions of "the

1 penalty enforcement law" in connection with this act.

2 g. A person who purposely or knowingly:

3 (1) disposes or stores regulated medical waste without
4 authorization from either the Department of Environmental Protection
5 or the Department of Health, as appropriate, or in violation of this act,
6 or any rule or regulation adopted pursuant thereto;

7 (2) makes any false or misleading statement to any person who
8 prepares any regulated medical waste application, registration, form,
9 label, certification, manifest, record, report, or other document
10 required by this act, or any rule or regulation adopted pursuant
11 thereto;

12 (3) makes any false or misleading statement on any regulated
13 medical waste application, registration, form, label, certification,
14 manifest, record, report, or other document required by this act, or any
15 rule or regulation adopted pursuant thereto; or

16 (4) fails to properly treat certain types of regulated medical waste
17 designated by the Department of Health in a prescribed manner; shall,
18 upon conviction, be guilty of a crime of the third degree and,
19 notwithstanding the provisions of N.J.S.2C:43-3, shall be subject to
20 a fine of not more than \$50,000 for the first offense, and not more
21 than \$100,000 for each subsequent offense, and restitution, in addition
22 to any other appropriate disposition authorized by subsection b. of
23 N.J.S.2C:43-2.

24 h. A person who recklessly or negligently:

25 (1) disposes or stores regulated medical waste without
26 authorization from either the Department of Environmental Protection
27 or the Department of Health, as appropriate, or in violation of this act,
28 or any rule or regulation adopted pursuant thereto;

29 (2) makes any false or misleading statement to any person who
30 prepares any regulated medical waste application, registration, form,
31 label, certification, manifest, record, report, or other document
32 required by this act, or any rule or regulation adopted pursuant
33 thereto;

34 (3) makes any false or misleading statement on any regulated
35 medical waste application, registration, form, label, certification,
36 manifest, record, report, or other document required by this act, or any
37 rule or regulation adopted pursuant thereto; or

38 (4) fails to properly treat certain types of regulated medical waste
39 designated by the Department of Health in a manner prescribed
40 thereby;

41 shall, upon conviction, be guilty of a crime of the fourth degree.

42 i. A person who, regardless of intent:

43 (1) transports any regulated medical waste to a facility or any other
44 place in the State that does not have authorization from the
45 Department of Environmental Protection [and the Board of Public
46 Utilities] to accept such waste, or in violation of this act, or any rule

1 or regulation adopted pursuant thereto; or
2 (2) transports, or receives transported, regulated medical waste
3 without completing and submitting a manifest in accordance with this
4 act, or any rule or regulation adopted pursuant thereto;
5 shall, upon conviction, be guilty of a crime of the fourth degree.
6 j. A person who purposely, knowingly, or recklessly:
7 (1) generates and causes or permits to be transported any regulated
8 medical waste to a facility or any other place in the State that does not
9 have authorization from the Department of Environmental Protection
10 [and the Board of Public Utilities] to accept such waste, or in violation
11 of this act, or any rule or regulation adopted pursuant thereto; or
12 (2) violates any other provision of this act, or any rule or
13 regulation adopted pursuant thereto, for which no other criminal
14 penalty has been specifically provided for; shall, upon conviction, be
15 guilty of a crime of the fourth degree.
16 k. All conveyances used or intended for use in the willful
17 discharge, in violation of this act, or any rule or regulation adopted
18 pursuant thereto, of regulated medical waste are subject to forfeiture
19 to the State pursuant to P.L.1981, c.387 (C.13:1K-1 et seq.).
20 l. The provisions of N.J.S.2C:1-6 to the contrary notwithstanding,
21 a prosecution for violation of subsection g., subsection h., subsection
22 i., or subsection j. of this section shall be commenced within five years
23 of the date of discovery of the violation.
24 m. No prosecution for a violation under this act shall be deemed to
25 preclude a prosecution for the violation of any other applicable statute.
26 (cf: P.L.1989, c.34, s.20)
27
28 18. Section 3 of P.L.1981, c.306 (C.13:1E-102) is amended to
29 read as follows:
30 3. As used in this act:
31 a. "Closing costs" or "closure" means all activities and costs
32 associated with the design, purchase, construction or maintenance of
33 all measures required by the department, pursuant to law, in order to
34 prevent, minimize or monitor pollution or health hazards resulting
35 from sanitary landfill facilities subsequent to the termination of
36 operations at any portion thereof, including, but not necessarily limited
37 to, the costs of the placement of earthen or vegetative cover, the
38 installation of methane gas vents or monitors and leachate monitoring
39 wells or collection systems at the site of any sanitary landfill facility,
40 and the cost of general liability insurance, including environmental
41 impairment liability insurance, or an amount sufficient to create a
42 self-insurance fund as may be determined by the [Board of Public
43 Utilities] Department of Environmental Protection pursuant to section
44 10 of P.L.1981, c.306 (C.13:1E-109), to fund potential claims against
45 the owner or operator of the sanitary landfill facility during the closure
46 and post-closure period.

1 b. "Owner or operator" means and includes, in addition to the usual
2 meanings thereof, every owner of record of any interest in land
3 whereon a sanitary landfill facility is or has been located, and any
4 person or corporation which owns a majority interest in any other
5 corporation which is the owner or operator of any sanitary landfill
6 facility.

7 c. "Division" means the Division of Taxation in the Department of
8 the Treasury.

9 d. "Director" means the Director of the Division of Taxation in the
10 Department of the Treasury.

11 e. "Tax period" means every calendar month, or any other period
12 as may be prescribed by rule and regulation adopted by the director,
13 on the basis of which the owner or operator of a sanitary landfill
14 facility is required to report to the director pursuant to this act.

15 f. "Taxpayer" means the owner or operator of a sanitary landfill
16 facility subject to the tax provisions of this act.

17 (cf: P.L.1987, c.347, s.1)

18

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

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

29 The account established pursuant to this subsection shall constitute
30 an escrow account for the closure of the particular sanitary landfill
31 facility, and no withdrawals therefrom may be made without written
32 approval of the department, except as otherwise authorized by the
33 department.

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

38 c. [The Board of Public Utilities may, in accordance with the
39 provisions of P.L.1970, c.40 (C.48:13A-1 et seq.), issue an
40 appropriate order increasing current tariffs established pursuant to law
41 for the solid waste disposal operations of a sanitary landfill facility as
42 may be necessary to purchase general liability insurance, including
43 environmental impairment liability insurance, or to create a
44 self-insurance fund sufficient to meet anticipated present and future
45 obligations for the closure and post-closure period. Any additional
46 revenues specifically collected for this insurance or fund shall be

1 deposited in the escrow account established pursuant to subsection a.
2 of this section for the closure of the facility and shall be withdrawn
3 only for the purchase of insurance or the payment of claims or claims
4 costs made against the owner or operator of the sanitary landfill
5 facility, as authorized by the department. No withdrawals from an
6 escrow account shall be made for insurance costs, claims or claims
7 costs unless and until the board issues an appropriate order increasing
8 the relevant tariff to provide specifically for these costs.] (Deleted by
9 amendment, P.L. , c.)

10 (cf: P.L.1987, c.347, s.2)

11

12 20. Section 8 of P.L.1983, c.392 (C.13:1E-133) is amended to
13 read as follows:

14 8. The provisions of any law to the contrary notwithstanding, no
15 license shall be approved by the department:

16 a. Unless the department finds that the applicant, or the permittee,
17 as the case may be, in any prior performance record in the collection,
18 transportation, treatment, storage, transfer or disposal of solid waste
19 or hazardous waste, has exhibited sufficient integrity, reliability,
20 expertise, and competency to engage in the collection or
21 transportation of solid waste or hazardous waste, or to operate the
22 solid waste facility or hazardous waste facility, given the potential
23 economic consequences for affected counties, municipalities and
24 ratepayers or significant adverse impacts upon human health and the
25 environment which could result from the irresponsible participation
26 therein or operation thereof, or if no prior record exists, that the
27 applicant or the permittee is likely to exhibit that integrity, reliability,
28 expertise and competence.

29 b. If any person required to be listed in the disclosure statement,
30 or otherwise shown to have a beneficial interest in the business of the
31 applicant, the permittee or the licensee, has been convicted of any of
32 the following crimes under the laws of New Jersey or the equivalent
33 thereof under the laws of any other jurisdiction:

- 34 (1) Murder;
- 35 (2) Kidnapping;
- 36 (3) Gambling;
- 37 (4) Robbery;
- 38 (5) Bribery;
- 39 (6) Extortion;
- 40 (7) Criminal usury;
- 41 (8) Arson;
- 42 (9) Burglary;
- 43 (10) Theft and related crimes;
- 44 (11) Forgery and fraudulent practices;
- 45 (12) Fraud in the offering, sale or purchase of securities;
- 46 (13) Alteration of motor vehicle identification numbers;

- 1 (14) Unlawful manufacture, purchase, use or transfer of firearms;
2 (15) Unlawful possession or use of destructive devices or
3 explosives;
4 (16) Violation of N.J.S.2C:35-5, except possession of 84 grams or
5 less of marijuana, or of N.J.S.2C:35-10;
6 (17) Racketeering, P.L.1981, c.167 (C.2C:41-1 et seq.);
7 (18) Violation of criminal provisions of the "New Jersey Antitrust
8 Act," P.L.1970, c.73 (C.56:9-1 et seq.);
9 (19) Any purposeful or reckless violation of the criminal provisions
10 of any federal or state environmental protection laws, rules, or
11 regulations, including, but not limited to, solid waste or hazardous
12 waste management laws, rules, or regulations;
13 (20) Violation of N.J.S.2C:17-2; or
14 (21) Any offense specified in chapter 28 of Title 2C[; or].
15 (22) [Violation of the "Solid Waste Utility Control Act of 1970,"
16 P.L.1970, c.40 (C.48:13A-1 et seq.) or P.L.1981, c.221
17 (C.48:13A-6.1).] (Deleted by amendment, P.L. , c.)
18 c. If the Attorney General determines that there is a reasonable
19 suspicion to believe that a person required to be listed in the disclosure
20 statement, or otherwise shown to have a beneficial interest in the
21 business of the applicant, the permittee or the licensee, does not
22 possess a reputation for good character, honesty and integrity, and
23 that person or the applicant, the permittee or the licensee fails, by clear
24 and convincing evidence, to establish his reputation for good
25 character, honesty and integrity.
26 d. With respect to the approval of an initial license, if there are
27 current prosecutions or pending charges in any jurisdiction against any
28 person required to be listed in the disclosure statement, or otherwise
29 shown to have a beneficial interest in the business of the applicant or
30 the permittee, for any of the crimes enumerated in subsection b. of this
31 section, provided, however, that at the request of the applicant,
32 permittee, or the person charged, the department shall defer decision
33 upon such application during the pendency of such charge.
34 e. If any person required to be listed in the disclosure statement, or
35 otherwise shown to have a beneficial interest in the business of the
36 applicant, permittee or the licensee, has pursued economic gain in an
37 occupational manner or context which is in violation of the criminal or
38 civil public policies of this State, where such pursuit creates a
39 reasonable belief that the participation of that person in any activity
40 required to be licensed under this act would be inimical to the policies
41 of this act. For the purposes of this section, "occupational manner or
42 context" means the systematic planning, administration, management,
43 or execution of an activity for financial gain.
44 f. If the Attorney General determines that any person required to
45 be listed in the disclosure statement, or otherwise shown to have a
46 beneficial interest in the business of the applicant, permittee or the

1 licensee, has been identified by the State Commission of Investigation
2 or the Federal Bureau of Investigation as a career offender or a
3 member of a career offender cartel or an associate of a career offender
4 or career offender cartel, where such identification, membership or
5 association creates a reasonable belief that the participation of that
6 person in any activity required to be licensed under this act would be
7 inimical to the policies of this act. For the purposes of this section,
8 "career offender" means any person whose behavior is pursued in an
9 occupational manner or context for the purpose of economic gain,
10 utilizing such methods as are deemed criminal violations of the public
11 policy of this State; and a "career offender cartel" means any group of
12 persons who operate together as career offenders.

13 A license may be approved by the department for any applicant or
14 permittee if the information contained within the disclosure statement
15 and investigative report, including any determination made by the
16 Attorney General concerning the character, honesty and integrity of
17 any person required to be listed in the disclosure statement, or
18 otherwise shown to have a beneficial interest in the business of the
19 applicant or permittee, would not require disqualification pursuant to
20 subsection a., b. c., e. or f. of this section.

21 A license approved by the department for any applicant or permittee
22 pursuant to this section is non-transferable and shall be valid only for
23 the length of time for which it is given.

24 Any applicant or permittee who is denied an initial license pursuant
25 to this section shall, upon a written request transmitted to the
26 department within 30 days of that denial, be afforded the opportunity
27 for a hearing thereon in the manner provided for contested cases
28 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
29 (C.52:14B-1 et seq.).

30 (cf: P.L.1991, c.269, s.6)

31

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

34 2. As used in this [amendatory and supplementary] act:

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

45 [b.] "Contracting unit" means any county; any municipality; any
46 bistrate authority; or any [board, commission, committee, authority or

1 agency, which is not a State board, commission, committee, authority
2 or agency, and which has administrative jurisdiction over any district
3 other than a school district, project, or facility, included or operating
4 in whole or in part, within the territorial boundaries of any county or
5 municipality, which exercises functions which are appropriate for the
6 exercise by one or more units of local government, and] public
7 authority which has statutory power to [make purchases and] enter
8 into contracts or agreements [for the performance of any work or the
9 furnishing or hiring of any materials or supplies usually required] for
10 the design, financing, construction, operation, or maintenance, or any
11 combination thereof, of a resource recovery facility;

12 [c.] "County" means any county of this State of whatever class;
13 [d.] "Department" means the Department of Environmental
14 Protection;

15 [e.] "Director" means the Director of the Division of Taxation in
16 the Department of Treasury;

17 [f.] "District" means a solid waste management district as
18 designated by section 10 of P.L.1975, c.326 (C.13:1E-19), except
19 that, as used in the provisions of [this amendatory and supplementary
20 act] sections 3 through 17 of P.L.1985, c.38 (C.13:1E-138 through
21 13:1E-152), "district" shall not include the Hackensack Meadowlands
22 District;

23 [g.] "District investment tax fund" means a District Resource
24 Recovery Investment Tax Fund established pursuant to subsection a.
25 of section 15 of [this amendatory and supplementary act] P.L.1985,
26 c.38 (C.13:1E-150);

27 [h.] "Division" means the Division of Taxation in the Department
28 of Treasury;

29 [i.] "Division of Local Government Services" means the Division of
30 Local Government Services in the Department of Community Affairs;

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

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

37 [l.] "Independent public accountant" means a certified public
38 accountant, a licensed public accountant or a registered municipal
39 accountant;

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

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

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

4 [p.] "Person or party" means any individual, public or private
5 corporation, company, partnership, firm, association, political
6 subdivision of this State, or any State, bstate, or interstate agency or
7 public authority;

8 [q.] "Proposed contract" means a contract negotiated by a
9 contracting unit pursuant to the provisions of [this amendatory and
10 supplementary act] P.L.1985, c.38 (C.13:1E-136 et al.), or a
11 substantial renegotiation of a contract previously approved pursuant
12 to the provisions of [this amendatory and supplementary act] section
13 28 of P.L.1985, c.38 (C.13:1E-163) if the renegotiation is determined
14 to be substantial by the department[, the Board of Public Utilities,] or
15 the Division of Local Government Services;

16 "Public authority" means any solid waste management authority
17 created pursuant to the "solid waste management authorities law,"
18 P.L.1968, c.249 (C.40:66A-32 et seq.); municipal or county utilities
19 authority created pursuant to the "municipal and county utilities
20 authorities law," P.L.1957, c.183 (C.40:14B-1 et seq.); incinerator
21 authority created pursuant to the "incinerator authorities law,"
22 P.L.1948, c.348 (C.40:66A-1 et seq.); county improvement authority
23 created pursuant to the "county improvement authorities law,"
24 P.L.1960, c.183 (C.40:37A-44 et seq.); pollution control financing
25 authority created pursuant to the "New Jersey Pollution Control
26 Financing Law," P.L.1973, c.376 (C.40:37C-1 et seq.), or any other
27 public body corporate and politic created for solid waste management
28 purposes in any county or municipality, pursuant to the provisions of
29 any law:

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

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

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

45 [u.] "Recycling facility" means a facility at which materials which
46 would otherwise become solid waste are collected, separated or

1 processed and returned to the economic mainstream in the form of raw
2 materials or products;]

3 [v.] "Resource recovery facility" means a solid waste facility
4 constructed and operated for the incineration of solid waste for energy
5 production and the recovery of metals and other materials for reuse;
6 or a mechanized composting facility, or any other [solid waste]
7 facility constructed or operated for the collection, separation,
8 recycling, and recovery of metals, glass, paper, and other materials for
9 reuse or for energy production;

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

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

18 [y.] "Services tax fund" means the Solid Waste Services Tax Fund
19 established pursuant to section 12 of [this amendatory and
20 supplementary act] P.L.1985, c.38 (C.13:1E-147);

21 [z.] "Vendor" means any person or party proposing to undertake
22 the design, financing, construction, operation, or maintenance, or any
23 combination thereof, of a resource recovery facility or of providing
24 resource recovery services;

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

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

29

30 22. Section 13 of P.L.1985, c.38 (C.13:1E-148) is amended to
31 read as follows:

32 13. a. Prior to the disbursement of any moneys in the services tax
33 fund pursuant to the provisions of this section, the cost of
34 administration and collection of the services tax shall be paid to the
35 director out of the fund, up to an amount not to exceed 2% of the total
36 revenues deposited in the fund during the fiscal year.

37 b. The moneys in the services tax fund shall be allocated and used
38 to provide State aid to counties for [preparing, revising, and
39 implementing solid waste management plans, including the
40 implementation of the goals of the State Recycling Plan] implementing
41 the district recycling plan required pursuant to section 3 of P.L.1987,
42 c.102 (C.13:1E-99.13). The moneys may also be used by the counties
43 to support community oversight projects and to establish a citizens'
44 advisory committee. A county receiving State aid shall not expend
45 more than 2% of the amount of aid received in any year for the costs
46 of administering the aid. The State aid shall be distributed to the

1 counties on the basis of the total amount of solid waste generated from
2 within each county during the previous calendar year as determined by
3 the department, except that no county shall receive less than 2% of the
4 revenues deposited in the services tax fund during each calendar year.
5 [In the event that the department determines, pursuant to section 17
6 of this amendatory and supplementary act, that any county has failed
7 to fulfill its district solid waste management planning responsibilities,
8 the department may withhold for an entire year or until the county
9 fulfills its responsibilities, all or a portion of the amount of moneys that
10 county would have received in any year pursuant to this subsection.
11 Any moneys withheld for an entire year shall be distributed among the
12 remaining counties in the same proportion as the other moneys were
13 distributed.]

14 c. Any county may appoint a citizens' advisory committee
15 comprising interested local officials and citizens. An appointed
16 citizens' advisory committee or an existing advisory solid waste
17 committee may develop and implement oversight projects and conduct
18 community awareness programs regarding resource recovery facilities
19 in a district.

20 (cf: P.L.1985, c.38, s.13)

21

22 23. Section 18 of P.L.1985, c.38 (C.13:1E-153) is amended to
23 read as follows:

24 18. The provisions of any other law, rule or regulation to the
25 contrary notwithstanding, and as an alternative to any other procedure
26 provided for by law [or by order of the Board of Public Utilities], a
27 contracting unit may enter into a contract with a vendor for the design,
28 financing, construction, operation or maintenance, or any combination
29 thereof, of a resource recovery facility, or for the provision of
30 resource recovery services, pursuant to the provisions of [this
31 amendatory and supplementary act] P.L.1985, c.38 (C.13:1E-136 et
32 al.). Any contracting unit intending to enter into a contract with a
33 vendor pursuant to the provisions of [this amendatory and
34 supplementary act] P.L.1985, c.38 shall establish a contract file, which
35 shall be open to members of the public for inspection at the offices of
36 the contracting unit. Any contract entered into pursuant to the
37 provisions of [this amendatory and supplementary act] P.L.1985, c.38
38 may be awarded for a period not to exceed 40 years.

39 (cf: P.L.1985, c.38, s.18)

40

41 24. Section 23 of P.L.1985, c.38 (C.13:1E-158) is amended to
42 read as follows:

43 23. [a.] A contracting unit shall submit any proposed contract
44 negotiated with a qualified vendor pursuant to the provisions of [this
45 act] P.L.1985, c.38 (C.13:1E-136 et al.) to the [Division of Rate
46 Counsel for review, and to the] department[, the Board of Public

1 Utilities,] and the Division of Local Government Services for review
2 and approval pursuant to the provisions of section [24] 25 through
3 section 28 of [this amendatory and supplementary act] P.L.1985, c.38
4 (C.13:1E-160 through 13:1E-163).
5 (cf: P.L.1985, c.38, s.23)

6

7 25. Section 24 of P.L.1985, c.38 (C.13:1E-159) is amended to
8 read as follows:

9 24. Any contracting unit intending to submit a proposed contract
10 to the department[, the Board of Public Utilities,] and the Division of
11 Local Government Services for review and approval pursuant to the
12 provisions of [this amendatory and supplementary act] section 25
13 through section 28 of P.L.1985, c.38 (C.13:1E-160 through
14 13:1E-163) shall notify the department[, the Board of Public Utilities,]
15 and the Division of Local Government Services[, and the Division of
16 Rate Counsel] of its intention to submit its proposed contract for
17 review and approval at least 10 days prior to the submission.

18 (cf: P.L.1985, c.38, s.24)

19

20 26. Section 25 of P.L.1985, c.38 (C.13:1E-160) is amended to
21 read as follows:

22 25. The department[, the Board of Public Utilities,] and the
23 Division of Local Government Services[, and the Division of Rate
24 Counsel] shall have 15 days from the date of receipt of a proposed
25 contract submitted by a contracting unit for review and approval
26 pursuant to the provisions of [this amendatory and supplementary act]
27 P.L.1985, c.38 (C.13:1E-136 et al.) to request the contracting unit to
28 supply additional information or documentation concerning the
29 proposed contract. The contracting unit shall provide written
30 responses to these requests within 10 days of receipt of the request.
31 Any supplemental requests for information shall be made within five
32 days of receipt of the written responses to the initial requests. The
33 contracting unit shall provide written responses to any supplemental
34 requests within 10 days of receipt of the supplemental requests. The
35 schedule may be modified by the mutual consent of the contracting
36 unit and the department[,] or the Division of Local Government
37 Services, [the Board of Public Utilities, or the Division of Rate
38 Counsel,] as the case may be.

39 (cf: P.L.1985, c.38, s.25)

40

41 27. Section 26 of P.L.1985, c.38 (C.13:1E-161) is amended to
42 read as follows:

43 26. a. A contracting unit shall hold a public hearing on a proposed
44 contract submitted to the department[, the Board of Public Utilities]
45 and the Division of Local Government Services for review and
46 approval pursuant to the provisions of [this amendatory and

1 supplementary act] P.L.1985, c.38 (C.13:1E-136 et al.) no sooner than
2 30 days nor later than 45 days following submission of the proposed
3 contract for review and approval. This public hearing shall be held in
4 the area to be served under the terms of the proposed contract.

5 b. The contracting unit shall provide at least 20 days' advance
6 written notice of a public hearing to be held on a proposed contract
7 pursuant to the provisions of this section to the department, [the
8 Board of Public Utilities,] the Division of Local Government Services,
9 [the Division of Rate Counsel,] the clerk of each municipality within
10 the area to be served under the terms of the proposed contract, and to
11 the county clerk of each county in whole or in part within the area to
12 be served under the terms of the proposed contract.

13 c. A contracting unit shall provide advance notice to the public of
14 a public hearing to be held on a proposed contract pursuant to the
15 provisions of this section. This notice shall be published once a week
16 for two consecutive weeks in at least one newspaper of general
17 circulation in the area to be served under the terms of the proposed
18 contract. The second notice shall be published at least 10 days prior to
19 the date of the public hearing. These notices shall include the date,
20 time and location of the public hearing, a general description of the
21 proposed contract, and shall inform the public of the availability of
22 copies of the proposed contract for inspection by any interested party
23 at the offices of the contracting unit. Upon request, the contracting
24 unit shall provide any interested party with a copy of the proposed
25 contract at a cost not to exceed the actual cost of reproducing the
26 proposed contract and any supporting documentation.

27 (cf: P.L.1985, c.38, s.26)

28

29 28. Section 27 of P.L.1985, c.38 (C.13:1E-162) is amended to
30 read as follows:

31 27. a. At the public hearing on the proposed contract held by the
32 contracting unit pursuant to the provisions of section 26 of [this
33 amendatory and supplementary act] P.L.1985, c.38 (C.13:1E-161) any
34 interested party may present statements or questions concerning the
35 terms and conditions of the proposed contract. Prior to the conclusion
36 of the public hearing, the contracting unit shall respond to questions
37 concerning the proposed contract raised by any interested party. The
38 contracting unit shall provide that a verbatim record be kept of the
39 public hearing. The record of the public hearing shall be kept open for
40 a period of 15 days following the conclusion of the hearing, during
41 which interested parties may submit written statements to be included
42 in the hearing record. The contracting unit shall provide that a hearing
43 report be printed, which shall include the verbatim record of the public
44 hearing, written statements submitted by interested parties, and a
45 statement prepared by the contracting unit summarizing the major
46 issues raised at the public hearing and the contracting unit's specific

1 response to these issues. The contracting unit shall make copies of the
2 transcript of the hearing report available to interested parties upon
3 request at a cost not to exceed the actual cost of printing.

4 b. Within 45 days of the close of a public hearing on a proposed
5 contract held pursuant to this section, the contracting unit shall submit
6 a copy of the hearing report to the department[, the Board of Public
7 Utilities,] and the Division of Local Government Services[, and the
8 Division of Rate Counsel].

9 (cf: P.L.1985, c.38, s.27)

10

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

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

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

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

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

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

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

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

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

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

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

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

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

26

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

29 8. [It] The provisions of any other law, or of any rule or regulation
30 adopted pursuant thereto, to the contrary notwithstanding, it shall
31 remain the continuing responsibility of the owner or operator of every
32 sanitary landfill facility to insure that the rates or charges received at
33 the facility[, whether or not these rates or charges are subject to the
34 jurisdiction of the Board of Public Utilities pursuant to P.L.1970, c.40
35 (C.48:13A-1 et seq.),] will provide sufficient revenues for all costs,
36 including closure costs, likely to be incurred by the facility. In order
37 to insure the integrity of financial planning for closure, the owner or
38 operator of every sanitary landfill facility[, whether or not the rates or
39 charges received by the facility are subject to the jurisdiction of the
40 Board of Public Utilities,] shall submit for approval to the department
41 [and, where relevant, the board,] a financial plan addressing all
42 aspects of closure. The owner or operator of every existing sanitary
43 landfill facility for which a registration statement and engineering
44 design have been filed with, and approved by, the department prior to
45 June 1, 1985 shall submit a financial plan for closure [within 180 days
46 of the effective date of this act] by May 12, 1986, except that the

1 department[, or the board, as the case may be,] may grant an extension
2 [of up to 180 days] until November 12, 1986, if sufficient reason exists
3 to grant the extension. The owner or operator of every new sanitary
4 landfill facility for which a registration statement and engineering
5 statement have been filed with the department subsequent to June 1,
6 1985 shall submit for approval to the department [and, where relevant,
7 the board,] a financial plan for closure prior to commencement of
8 operations, except that the department[, or the board, as the case may
9 be,] may grant an extension [of up to 180 days] until May 12, 1986,
10 if sufficient reason exists to grant the extension.

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

12

13 32 (New section) a. The governing body of a municipality may
14 enter into an agreement or contract for the disposal of solid waste
15 from its municipal solid waste stream with any county, public authority
16 or other person in this State that owns or operates a registered solid
17 waste facility.

18 b. Any agreement or contract entered into between a county, public
19 authority or other person and the governing body of a municipality for
20 the use of a registered solid waste facility shall include, but need not
21 be limited to, provisions concerning:

22 (1) The charges, rates or fees to be charged at the registered solid
23 waste facility for the disposal of solid waste; or

24 (2) The formulas to be used to determine the charges, rates or fees
25 to be charged for the disposal of solid waste, and the methodology or
26 methodologies used to develop these formulas.

27

28 33. The following are repealed:

29 Section 2 of P.L.1970, c.39 (C.13:1E-2);

30 Section 1 of P.L.1984, c.221 (C.13:1E-5.3);

31 Section 2 of P.L.1981, c.438 (C.13:1E-9.1);

32 Section 2 of P.L.1990, c.70 (C.13:1E-9.5);

33 Sections 11 through 15 of P.L.1975, c.326 (C.13:1E-20
34 through 13:1E-24);

35 Section 18 of P.L.1975, c.326 (C.13:1E-27);

36 Section 20 of P.L.1975, c.326 (C.13:1E-29);

37 Section 26 of P.L.1975, c.326 (C.13:1E-35);

38 Sections 29 and 30 of P.L.1975, c.326 (C.13:1E-36 and
39 13:1E-37);

40 Section 1 of P.L.1977, c.328 (C.13:1E-43);

41 Sections 3 through 5 of P.L.1977, c.328 (C.13:1E-45
42 through 13:1E-47);

43 Section 9 of P.L.1989, c.34 (C.13:1E-48.9);

44 Section 12 of P.L.1989, c.34 (C.13:1E-48.12);

45 Section 14 of P.L.1989, c.34 (C.13:1E-48.14);

46 Section 7 of P.L.1981, c.278 (C.13:1E-98);

1 Section 13 of P.L.1981, c.306 (C.13:1E-112);
2 Sections 2 and 3 of P.L.1983, c.93 (C.13:1E-118 and
3 13:1E-119);
4 Section 9 of P.L.1985, c.38 (C.13:1E-144);
5 Section 11 of P.L.1985, c.38 (C.13:1E-146);
6 Sections 16 and 17 of P.L.1985, c.38 (C.13:1E-151 and
7 13:1E-152);
8 Sections 30 and 31 of P.L.1985, c.38 (C.13:1E-165 and
9 13:1E-166);
10 Section 1 of P.L.1985, c.368 (C.13:1E-169);
11 Sections 3 through 7 inclusive of P.L.1985, c.368
12 (C.13:1E-171 through 13:1E-175); and
13 Section 3 of P.L.1989, c.236 (C.27:2-9).

15 34. (New section) The provisions of any statute which are
16 inconsistent with P.L. , c. (C.) (pending in the Legislature as
17 this bill) shall be null and void.

19 35. This act shall take effect upon the enactment into law of
20 P.L...., c. (C.) (pending in the Legislature as Assembly Bill No.
21 2626 of 1995), but the Commissioner of the Department of
22 Environmental Protection may take such anticipatory administrative
23 action in advance as shall be necessary for the implementation of the
24 act.

STATEMENT

29 This bill would amend or repeal various provisions of the "Solid
30 Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.) in order
31 to eliminate the district (county) solid waste management planning and
32 implementation requirements therefrom, which have been rendered
33 obsolete by the Carbone decision.

34 On May 16, 1994, the U.S. Supreme Court, in its first-ever waste
35 flow control case, C & A Carbone v. Town of Clarkstown, held that,
36 in the absence of unambiguous congressional authorization, a state or
37 local government's regulation of where haulers must transport solid
38 waste for processing or disposal is a violation of the Commerce Clause
39 of the U.S. Constitution. The U.S. Supreme Court has decided that
40 state and local waste flow control measures are unconstitutional
41 because they discriminate against interstate commerce. In other words,
42 New Jersey cannot direct local haulers to use in-state designated, and
43 county owned or operated, disposal facilities, thereby depriving
44 out-of-state landfill owner-operators with the opportunity to provide
45 those disposal services at a lower cost. Thus, New Jersey's designated
46 county disposal facility waste flow rules have been invalidated.

1 Similarly, since the DEP's waste flow rules have been nullified by
2 Carbone, the exclusive right of franchise-holders to control and
3 dispose of solid waste directed to its designated solid waste disposal
4 facility by the waste flow rules has also been rendered unenforceable.

5 Accordingly, the bill makes numerous changes to existing law so
6 that the statutes conform to the new solid waste management strategy
7 resulting from the consequences of the Carbone decision, a strategy
8 which accords primary responsibility for solid waste collection and
9 solid waste disposal to municipalities, as provided in Assembly Bill
10 No. 2626 of 1995. The bill would take effect upon the enactment into
11 law of Assembly Bill No. 2626 of 1995, a companion measure that
12 requires municipalities to assume primary responsibility for the
13 collection and disposal of municipal solid waste.

14

15

16

17

18 Revises "Solid Waste Management Act" to eliminate county planning
19 and implementation requirements that have been rendered obsolete or
20 unenforceable by the Carbone decision.