ASSEMBLY, No. 86

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblymen ROONEY and ROCCO

AN ACT concerning solid waste collection and disposal, and amending, supplementing and repealing parts of the statutory law.

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

1. (New section) a. Each municipality in this State shall provide for the collection and disposal of solid waste from its municipal solid waste stream, including the provision of regular solid waste collection service. The governing body of a municipality may establish and operate a municipal service system for the collection or disposal of solid waste, or may contract with a solid waste collector or other person for regular solid waste collection service, solid waste collection or solid waste disposal services, or any combination thereof.

b. A municipal governing body may enter into an agreement or contract for the disposal of solid waste from its municipal solid waste stream with any county, public authority or other person in this State that owns or operates a registered solid waste facility. Any agreement or contract entered into between a municipal governing body and a county, public authority or other person for the use of a registered solid waste facility shall include, but need not be limited to, provisions concerning:

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

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

2. (New section) a. A municipal governing body that establishes a municipal service system for the collection or disposal of solid waste shall adopt a municipal service ordinance which requires all responsible solid waste generators to place solid waste generated at

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 <u>thus</u> is new matter.

those premises in dumpsters or other solid waste containers for collection in the manner provided by the ordinance.

b. Each municipal service ordinance, as appropriate, shall:

(1) Specify the registered solid waste facility or facilities located within this State to be utilized by the municipality for the disposal of solid waste from its municipal solid waste stream;

(2) Identify the designated out-of-state disposal site or sites to be utilized by the municipality for the disposal of solid waste from its municipal solid waste stream, and produce evidence that the designated disposal site or sites is permitted by the appropriate state regulatory agency having jurisdiction over solid waste management to accept out-of-state solid waste for disposal, and is in conformance with all relevant Federal or state laws, rules or regulations;

(3) Publish a consolidated schedule of the rates or charges to be charged by the municipality for the municipal service, including separate sections for the rates or charges to be charged by the municipality for regular solid waste collection service, and the solid waste disposal rates or charges to be received at the in-state registered solid waste facility, or the designated out-of-state disposal site or sites, as the case may be, for solid waste disposal;

(4) Provide for the manner of payment.

c. Each municipal service ordinance shall include:

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

(2) In the case of multi-family residential housing, a requirement that the responsible solid waste generator place solid waste generated at those premises in dumpsters or other solid waste containers for collection in the manner provided by the ordinance. It shall be the responsibility of the owner of the multiple dwelling to provide a sufficient number of appropriate solid waste containers for the deposit of nonrecyclable waste materials to be disposed of as solid waste; and

(3) In the case of any commercial or institutional building or structure located within the boundaries of the municipality, a requirement that the responsible solid waste generator place solid waste generated at those premises in dumpsters or other solid waste containers for collection in the manner provided by the ordinance.

3. (New section) a. A municipal governing body that determines to provide for the collection or disposal of solid waste from its municipal solid waste stream by contracting with a solid waste collector or other person for regular solid waste collection service, solid waste collection or solid waste disposal services, or any combination thereof, shall adopt a municipal contract ordinance which requires all responsible solid waste generators to place solid waste

generated at those premises in dumpsters or other solid waste containers for collection in the manner provided by the ordinance.

b. Each municipal contract ordinance, as appropriate, shall:

(1) Specify the registered solid waste facility or facilities located within this State to be utilized by the municipality for the disposal of solid waste from its municipal solid waste stream;

(2) Identify the designated out-of-state disposal site or sites to be utilized by the municipality for the disposal of solid waste from its municipal solid waste stream, and produce evidence that the designated disposal site or sites is permitted by the appropriate state regulatory agency having jurisdiction over solid waste management to accept out-of-state solid waste for disposal, and is in conformance with all relevant Federal or state laws, rules or regulations;

(3) Publish a consolidated schedule of the rates or charges to be charged by the solid waste collector or other person to whom a municipal contract or contracts has been awarded for solid waste collection or solid waste disposal services, including separate sections for the rates or charges to be charged for regular solid waste collection service, and the solid waste disposal rates or charges to be charged for solid waste disposal service;

(4) Provide for the manner of payment.

c. Each municipal contract ordinance shall include:

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

(2) In the case of multi-family residential housing, a requirement that the responsible solid waste generator place solid waste generated at those premises in dumpsters or other solid waste containers for collection in the manner provided by the ordinance. It shall be the responsibility of the owner of the multiple dwelling to provide a sufficient number of appropriate solid waste containers for the deposit of nonrecyclable waste materials to be disposed of as solid waste; and

(3) In the case of any commercial or institutional building or structure located within the boundaries of the municipality, a requirement that the responsible solid waste generator place solid waste generated at those premises in dumpsters or other solid waste containers for collection in the manner provided by the ordinance.

4. (New section) The provisions of any other law, rule or regulation to the contrary notwithstanding, the governing body of any municipality seeking to provide for the collection or disposal of solid waste from its municipal solid waste stream by contracting with a solid waste collector or other person for regular solid waste collection service, solid waste collection or solid waste disposal services, or any combination thereof, may request any solid waste collector to bid on

a contract for the provision of regular solid waste collection services, if the solid waste collector is actively engaged in solid waste collection within the county wherein the municipality is located.

5. (New section) No person engaging in solid waste collection shall knowingly collect any designated recyclable materials as defined in section 2 of P.L.1987, c.102 (C.13:1E-99.12), which are placed in a dumpster or other solid waste container for collection and disposal as solid waste, except in de minimus amounts.

A person engaging in solid waste collection may refuse to remove solid waste from dumpsters or other solid waste containers containing designated recyclable materials.

As used in this section, "de minimus amount" means less than 5% by volume of a dumpster or other solid waste container.

6. R.S.40:66-1 is amended to read as follows:

40:66-1. a. The governing body may provide for the cleaning of the streets of the municipality, and <u>shall provide</u> for the collection or disposal of solid waste, and may establish and operate a system therefor; purchase and operate the necessary equipment for the cleaning of streets, [and] <u>or</u> for the collection or disposal of solid waste; make, amend, repeal and enforce all such ordinances, resolutions, rules and regulations as may be deemed necessary and proper for the introduction, operation and management of such system, [and] <u>or</u> for the maintenance and operation of a solid waste facility, subject to the provisions of the "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.) [and the "Solid Waste Utility Control Act of 1970," P.L.1970, c.40 (C.48:13A-1 et al.)], for the disposal of solid waste, and for the government of employees connected therewith.

b. A municipal governing body that establishes a <u>municipal service</u> system for the collection or disposal of solid waste pursuant to subsection a. of this section <u>and sections 1 and 2 of P.L. , c. (C.) (pending in the Legislature as this bill)</u>, in its discretion, may limit <u>the municipal</u> service furnished by it to curbside collection along public streets or roads that have been dedicated to and accepted by the municipality. The municipal governing body may also refuse to enter upon private property to remove solid waste from dumpsters or other <u>solid waste</u> containers. The municipal governing body, in its sole discretion, may choose to reimburse those property owners who do not receive the municipal service, but such reimbursement shall not exceed the cost that would be incurred by the municipality in providing the <u>solid waste</u> collection or disposal service directly. Nothing contained in this subsection shall be deemed to modify the provisions

of P.L.1989, c.299 (C.40:67-23.2 et seq.) with respect to qualified private communities.
(cf: P.L.1993, c.6, s.3)

7. Section 6 of P.L.1989, c.244 (C.40:66-1.1) is amended to read as follows:

6. As used in this chapter:

"Municipal solid waste stream" means all residential, commercial and institutional solid waste generated within the boundaries of any municipality.

["Proof of collection service" means a written record, log, bill or document evidencing receipt of service for the collection of solid waste for the preceding month from a person lawfully engaging in private solid waste collection services within a municipality.]

"Registered solid waste facility" means a solid waste facility for which the owner or operator thereof has received registration statement and engineering design approval from the Department of Environmental Protection pursuant to section 5 of 1970, c.39 (C.13:1E-5).

"Regular solid waste collection service" means the scheduled pick-up and removal of solid waste from residential, commercial or institutional premises located within the boundaries of any municipality at least once a week.

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

"Solid waste" means garbage, refuse, and other discarded materials resulting from industrial, commercial and agricultural operations, and from domestic and community activities, and shall include all other waste materials including liquids, except for solid animal and vegetable wastes collected by swine producers licensed by the State Department of Agriculture to collect, prepare and feed such wastes to swine on their own farms.

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

"Solid waste collection services" means the services provided by persons engaging in the business of solid waste collection.

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

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

"Solid waste disposal" means the storage, treatment, utilization,

processing, or final disposal of solid waste.

"Solid waste disposal services" means the services provided by persons engaging in the business of solid waste disposal.

"Solid waste facilities" mean and include the plants, structures and other real and personal property acquired, constructed or operated or to be acquired, constructed or operated by any person pursuant to the provisions of this or any other act, including transfer stations, incinerators, resource recovery facilities, sanitary landfill facilities or other plants for the disposal of solid waste, and all vehicles, equipment and other real and personal property and rights therein and appurtenances necessary or useful and convenient for the collection or disposal of solid waste in a sanitary manner.

(cf: P.L.1991, c.170, s.4)

8. R.S.40:66-4 is amended to read as follows:

40:66-4. a. The governing body may, if it deem it more advantageous, contract with any person for the cleaning of the streets, or with a solid waste collector or other person for the collection or disposal of solid waste, including the provision of regular solid waste collection service. Before making any such contract or contracts the governing body shall first adopt specifications for the doing of the work in a sanitary and inoffensive manner. The specifications shall include, but need not be limited to:

(1) Designation of the solid waste facilities located within this State to be utilized for the disposal of solid waste;

(2) Designation of the out-of-state disposal sites to be utilized for the disposal of solid waste, including evidence that the designated disposal sites are permitted by the appropriate state regulatory agency having jurisdiction over solid waste management to accept out-of-state solid waste for disposal, and are in conformance with all relevant Federal or state laws, rules or regulations; and

(3) Identification of the rates or charges to be charged for solid waste collection services and the rates or charges to be received at designated solid waste facilities or disposal sites for solid waste disposal services.

Any specifications adopted by the governing body for the collection or disposal of solid waste shall conform to the uniform bid specifications for municipal solid waste collection contracts established pursuant to section 22 of P.L.1991, c.381 (C.48:13A-7.22).

Any such contract or contracts, the total amount of which exceeds in the fiscal year the amount set forth in, or the amount calculated by the Governor pursuant to, section 3 of P.L.1971, c.198 (C.40A:11-3), shall be entered into and made only after bids shall have been advertised therefor, and awarded in the manner provided in the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq).

b. Whenever the governing body adopts an ordinance to provide

for the collection or disposal of solid waste within its municipal boundaries by imposing solid waste charges based on the number of solid waste containers processed per household pursuant to subsection b. of R.S.40:66-5, on or after the first day of the 13th month following the effective date of that ordinance, the governing body may request the relevant solid waste collector to whom a multi-year contract has been awarded to renegotiate the contract to reflect any reduction in the annual volume of solid waste collected achieved as a result of the ordinance.
(cf: P.L.1991, c.381, s.47)

9. R.S.40:66-5 is amended to read as follows:

40:66-5. a. The governing body may provide for the collection or disposal of solid waste, including the provision of regular solid waste collection service, at the general expense, or if deemed by it more advisable, impose rates or charges (hereinafter referred to as "solid waste charges") to be charged by the municipality for the collection or disposal of solid waste, provide for the manner of payment of the same, and maintain an action at law to recover any moneys due therefor.

b. [Where] Whenever the governing body determines to provide for the collection or disposal of solid waste by imposing solid waste charges on a per container basis, the governing body shall adopt an ordinance to:

(1) Establish a rate schedule of solid waste charges based on the number of solid waste containers processed per household; and

(2) Provide residents with the opportunity to purchase, on a prepaid basis, one or more solid waste containers, or a voucher or sticker therefor, to facilitate the payment of solid waste charges on a per container basis.
(cf: P.L.1989, c.244, s.5.)

10. Section 1 of P.L.1975, c.243 (C.40:67-23.1) is amended to read as follows:

1. a. The governing body of every municipality may make, amend, repeal and enforce ordinances to cause the governing body of the municipality to repair and maintain and provide for the removal of snow, ice and other obstructions from, and provide for the lighting of, any roads or streets upon which the travel is sufficient, in the opinion of said governing body, to warrant such expenditures, even though such roads or streets shall not have been taken over by said municipal governing body or dedicated and accepted as public highways.

The municipality may also provide for the curbside collection of [garbage placed at the curb of] solid waste along such streets, or for the reimbursement of such [garbage] solid waste collection costs as the municipality may determine to have been reasonably incurred by

persons residing adjacent to such streets. Roads or streets so serviced, which are not shown on the official map of the municipality, may, at the option of the governing body of said municipality, be suitably improved in accordance with any requirements established pursuant to article 5 of the "Municipal Land Use Law," P.L.1975, c.291, ss. 23-27 (C.40:55D-32 to C.40:55D-36) and the ordinance.

b. If, as a condition of providing services for any road or street proposed to be serviced, the municipality notifies the owner that dedication thereof to the municipality is required, the owner may refuse to accept the services and benefits of the ordinance upon that condition by so notifying the municipality within 60 days of receipt of the notice. With respect to any road or street for which services are provided, if the municipality notifies the owner that continuation of provision of the services is conditioned upon the dedication thereof to the municipality, the owner may refuse to accept continuance of the services and benefits of the ordinance upon that condition by so notifying the municipality within 60 days of receipt of the notice. Notices to be given pursuant to this [act] section shall be in writing. (cf: P.L.1983, c.12, s.1)

11. N.J.S.40A:4-22. is amended to read as follows:

40A:4-22. a. Every budget shall be prefaced by an explanatory statement of its contents and shall be itemized according to the respective objects and purposes for which appropriations are made. Itemization shall be in the form, classification and detail prescribed by regulations of the local government board.

The itemization, form and arrangement of the budget shall be such as to facilitate the exercise of the comptroller function.

b. The budget shall consist of a tabulated statement of:

[a.] 1. all anticipated revenues applicable to the expenditures for which appropriations are made in the budget, and

[b.] 2. the appropriations to be made for all purposes for which such revenues are to be expended.

The total of anticipated revenues must equal the total of appropriations.

c. The explanatory statement shall also include an analysis showing the anticipated revenues and appropriations of a county or municipality related to solid waste collection, disposal or recycling activities and the operation of any recycling center or solid waste facility that are included in the budget. The revenues and appropriations and any surplus or deficit shall be listed according to the solid waste activity or facility, as appropriate, including but not limited to solid waste collection, disposal or recycling activities, or sanitary landfill facility, transfer station, recycling center or resource recovery facility operations and shall include the personnel salaries, benefits and insurance costs; vehicle operation, maintenance, insurance and

purchase costs; and any other costs associated therewith.
(cf: N.J.S.40A:4-22)

12. Section 3 of P.L.1976, c.68 (C.40A:4-45.3) is amended to read as follows:

3. In the preparation of its budget a municipality shall limit any increase in said budget to 5% or the index rate, whichever is less, over the previous year's final appropriations subject to the following exceptions:

a. (Deleted by amendment, P.L.1990, c.89.)

b. Capital expenditures, including appropriations for current capital expenditures, whether in the capital improvement fund or as a component of a line item elsewhere in the budget, provided that any such current capital expenditure would be otherwise bondable under the requirements of N.J.S.40A:2-21 and 40A:2-22;

c. (1) An increase based upon emergency temporary appropriations made pursuant to N.J.S.40A:4-20 to meet an urgent situation or event which immediately endangers the health, safety or property of the residents of the municipality, and over which the governing body had no control and for which it could not plan and emergency appropriations made pursuant to N.J.S.40A:4-46. Emergency temporary appropriations and emergency appropriations shall be approved by at least two-thirds of the governing body and by the Director of the Division of Local Government Services, and shall not exceed in the aggregate 3% of the previous year's final current operating appropriations.

(2) (Deleted by amendment, P.L.1990, c.89.)

The approval procedure in this subsection shall not apply to appropriations adopted for a purpose referred to in subsection d. or j. below;

d. All debt service, including that of a Type I school district;

e. Upon the approval of the Local Finance Board in the Division of Local Government Services, amounts required for funding a preceding year's deficit;

f. Amounts reserved for uncollected taxes;

g. (Deleted by amendment, P.L.1990, c.89.)

h. Expenditure of amounts derived from new or increased construction, housing, health or fire safety inspection or other service fees imposed by State law, rule or regulation or by local ordinance;

i. Any amount approved by any referendum;

j. Amounts required to be paid pursuant to (1) any contract with respect to use, service or provision of any project, facility or public improvement for water, sewerage, solid waste collection or solid waste disposal, parking, senior citizen housing or any similar purpose, or payments on account of debt service therefor, between a municipality and any other municipality, county, school or other

district, agency, authority, commission, instrumentality, public corporation, body corporate and politic or political subdivision of this State; (2) the provisions of article 9 of P.L.1968, c.404 (C.13:17-60 through 13:17-76) by a constituent municipality to the intermunicipal account; (3) any lease of a facility owned by a county improvement authority when the lease payment represents the proportionate amount necessary to amortize the debt incurred by the authority in providing the facility which is leased, in whole or in part; and (4) any repayments under a loan agreement entered into in accordance with the provisions of section 5 of P.L.1992, c.89.

k. (Deleted by amendment, P.L.1987, c.74.)

l. Appropriations of federal, county, independent authority or State funds, or by grants from private parties or nonprofit organizations for a specific purpose, and amounts received or to be received from such sources in reimbursement for local expenditures. If a municipality provides matching funds in order to receive the federal, county, independent authority or State funds, or the grants from private parties or nonprofit organizations for a specific purpose, the amount of the match which is required by law or agreement to be provided by the municipality shall be excepted;

m. (Deleted by amendment, P.L.1987, c.74.)

n. (Deleted by amendment, P.L.1987, c.74.)

o. (Deleted by amendment, P.L.1990, c.89.)

p. (Deleted by amendment, P.L.1987, c.74.)

q. (Deleted by amendment, P.L.1990, c.89.)

r. Amounts expended to fund a free public library established pursuant to the provisions of R.S.40:54-1 through 40:54-29, inclusive;

s. (Deleted by amendment, P.L.1990, c.89.)

t. Amounts expended in preparing and implementing a housing element and fair share plan pursuant to the provisions of P.L.1985, c.222 (C.52:27D-301 et al.) and any amounts received by a municipality under a regional contribution agreement pursuant to section 12 of that act;

u. Amounts expended to meet the standards established pursuant to the "New Jersey Public Employees' Occupational Safety and Health Act," P.L.1983, c.516 (C.34:6A-25 et seq.);

v. (Deleted by amendment, P.L.1990, c.89.)

w. Amounts appropriated for expenditures resulting from the impact of a hazardous waste facility as described in subsection c. of section 32 of P.L.1981, c.279 (C.13:1E-80);

x. Amounts expended to aid privately owned libraries and reading rooms, pursuant to R.S.40:54-35;

y. (Deleted by amendment, P.L.1990, c.89.)

z. (Deleted by amendment, P.L.1990, c.89.)

aa. Extraordinary expenses, approved by the Local Finance Board, required for the implementation of an interlocal services agreement;

bb. Any expenditure mandated as a result of a natural disaster, civil disturbance or other emergency that is specifically authorized pursuant to a declaration of an emergency by the President of the United States or by the Governor;

cc. Expenditures for the cost of services mandated by any order of court, by any federal or State statute, or by administrative rule, directive, order, or other legally binding device issued by a State agency which has identified such cost as mandated expenditures on certification to the Local Finance Board by the State agency;

dd. Expenditures of amounts actually realized in the local budget year from the sale of municipal assets if appropriated for non-recurring purposes or otherwise approved by the director;

ee. Any local unit which is determined to be experiencing fiscal distress pursuant to the provisions of P.L.1987, c.75 (C.52:27D-118.24 et seq.), whether or not a local unit is an "eligible municipality" as defined in section 3 of P.L.1987, c.75 (C.52:27D-118.26), and which has available surplus pursuant to the spending limitations imposed by P.L.1976, c.68 (C.40A:4-45.1 et seq.), may appropriate and expend an amount of that surplus approved by the director and the Local Finance Board as an exception to the spending limitation. Any determination approving the appropriation and expenditure of surplus as an exception to the spending limitations shall be based upon:

1) the local unit's revenue needs for the current local budget year and its revenue raising capacity;

2) the intended actions of the governing body of the local unit to meet the local unit's revenue needs;

3) the intended actions of the governing body of the local unit to expand its revenue generating capacity for subsequent local budget years;

4) the local unit's ability to demonstrate the source and existence of sufficient surplus as would be prudent to appropriate as an exception to the spending limitations to meet the operating expenses for the local unit's current budget year; and

5) the impact of utilization of surplus upon succeeding budgets of the local unit;

ff. Amounts expended for the staffing and operation of the municipal court;

gg. Amounts appropriated for the cost of administering a joint insurance fund established pursuant to subsection b. of section 1 of P.L.1983, c.372 (C.40A:10-36), but not including appropriations for claims payments by local member units;

hh. Amounts appropriated for the cost of implementing an estimated tax billing system and the issuance of tax bills thereunder pursuant to section 3 of P.L.1994, c.72 (C.54:4-66.2);

ii. Any expenditures for the collection or disposal of solid waste,

or the procurement of solid waste collection or solid waste disposal services made by a municipality as a result of the provisions of P.L....., c. (C.) (pending in the Legislature as this bill);

jj. Any expenditures for the collection or disposition of designated recyclable materials, or the procurement of recycling services made by a municipality as a result of the provisions of the "New Jersey Statewide Mandatory Source Separation and Recycling Act," P.L.1987, c.102 (C.13:1E-99.11 et al.); any expenditures of amounts received by a municipality pursuant to section 5 of P.L.1981, c.278 (C.13:1E-96); or any revenues received by a municipality from the sale of recyclable materials and expended for the collection or disposition of designated recyclable materials.

(cf: P.L.1994, c.72, s.6)

13. Section 4 of P.L.1976, c.68 (C.40A:4-45.4) is amended to read as follows:

4. In the preparation of its budget, a county may not increase the county tax levy to be apportioned among its constituent municipalities in excess of 5% or the index rate, whichever is less, of the previous year's county tax levy, subject to the following exceptions:

a. The amount of revenue generated by the increase in valuations within the county, based solely on applying the preceding year's county tax rate to the apportionment valuation of new construction or improvements within the county, and such increase shall be levied in direct proportion to said valuation;

b. Capital expenditures, including appropriations for current capital expenditures, whether in the capital improvement fund or as a component of a line item elsewhere in the budget, provided that any such current capital expenditures would be otherwise bondable under the requirements of N.J.S.40A:2-21 and 40A:2-22;

c. (1) An increase based upon emergency temporary appropriations made pursuant to N.J.S.40A:4-20 to meet an urgent situation or event which immediately endangers the health, safety or property of the residents of the county, and over which the governing body had no control and for which it could not plan and emergency appropriations made pursuant to N.J.S.40A:4-46. Emergency temporary appropriations and emergency appropriations shall be approved by at least two-thirds of the governing body and by the Director of the Division of Local Government Services, and shall not exceed in the aggregate 3% of the previous year's final current operating appropriations.

(2) (Deleted by amendment, P.L.1990, c.89.)

The approval procedure in this subsection shall not apply to appropriations adopted for a purpose referred to in subsection d. or f. below;

d. All debt service;

e. (Deleted by amendment, P.L.1990, c.89.)

f. Amounts required to be paid pursuant to (1) any contract with respect to use, service or provision of any project, facility or public improvement for water, sewerage, solid waste collection or solid waste disposal, parking, senior citizen housing or any similar purpose, or payments on account of debt service therefor, between a county and any other county, municipality, school or other district, agency, authority, commission, instrumentality, public corporation, body corporate and politic or political subdivision of this State; and (2) any lease of a facility owned by a county improvement authority when the lease payment represents the proportionate amount necessary to amortize the debt incurred by the authority in providing the facility which is leased, in whole or in part;

g. That portion of the county tax levy which represents funding to participate in any federal or State aid program and amounts received or to be received from federal, State or other funds in reimbursement for local expenditures. If a county provides matching funds in order to receive the federal or State or other funds, only the amount of the match which is required by law or agreement to be provided by the county shall be excepted;

h. (Deleted by amendment, P.L.1987, c.74.)

i. (Deleted by amendment, P.L.1990, c.89.)

j. (Deleted by amendment, P.L.1990, c.89.)

k. (Deleted by amendment, P.L.1990, c.89.)

l. Amounts expended to meet the standards established pursuant to the "New Jersey Public Employees' Occupational Safety and Health Act," P.L.1983, c.516 (C.34:6A-25 et seq.);

m. (Deleted by amendment, P.L.1990, c.89.)

n. (Deleted by amendment, P.L.1990, c.89.)

o. (Deleted by amendment, P.L.1990, c.89.)

p. Extraordinary expenses, approved by the Local Finance Board, required for the implementation of an interlocal services agreement;

q. Any expenditure mandated as a result of a natural disaster, civil disturbance or other emergency that is specifically authorized pursuant to a declaration of an emergency by the President of the United States or by the Governor;

r. Expenditures for the cost of services mandated by any order of court, by any federal or State statute, or by administrative rule, directive, order, or other legally binding device issued by a State agency which has identified such cost as mandated expenditures on certification to the Local Finance Board by the State agency;

s. That portion of the county tax levy which represents funding to a county college in excess of the county tax levy required to fund the county college in local budget year 1992;

t. Amounts appropriated for the cost of administering a joint insurance fund established pursuant to subsection b. of section 1 of

P.L.1983, c.372 (C.40A:10-36), but not including appropriations for claims payments by local member units;

u. Any expenditures for the collection or disposition of designated recyclable materials, or the procurement of recycling services made by a county as a result of the provisions of the "New Jersey Statewide Mandatory Source Separation and Recycling Act," P.L.1987, c.102 (C.13:1E-99.11 et al.).

(cf: P.L.1993, c.269, s.17)

14. Section 15 of P.L.1971, c.198 (C.40A:11-15) is amended to read as follows:

15. All purchases, contracts or agreements for the performing of work or the furnishing of materials, supplies or services shall be made for a period not to exceed 12 consecutive months, except that contracts or agreements may be entered into for longer periods of time as follows:

(1) Supplying of:

(a) Fuel for heating purposes, for any term not exceeding in the aggregate, two years;

(b) Fuel or oil for use of airplanes, automobiles, motor vehicles or equipment for any term not exceeding in the aggregate, two years;

(c) Thermal energy produced by a cogeneration facility, for use for heating or air conditioning or both, for any term not exceeding 40 years, when the contract is approved by the Board of [Regulatory Commissioners] Public Utilities. For the purposes of this paragraph, "cogeneration" means the simultaneous production in one facility of electric power and other forms of useful energy such as heating or process steam;

(2) (Deleted by amendment, P.L.1977, c.53.)

(3) The collection [and] or disposal of municipal solid waste, the collection and disposition of recyclable material, or the disposal of sewage sludge, for any term not exceeding in the aggregate, five years;

(4) The collection and recycling of methane gas from a sanitary landfill facility, for any term not exceeding 25 years, when such contract is in conformance with a solid waste management plan approved pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.), and with the approval of the Division of Local Government Services in the Department of Community Affairs and the Department of Environmental Protection. The contracting unit shall award the contract to the highest responsible bidder, notwithstanding that the contract price may be in excess of the amount of any necessarily related administrative expenses; except that if the contract requires the contracting unit to expend funds only, the contracting unit shall award the contract to the lowest responsible bidder. The approval by the Division of Local Government Services of public bidding requirements shall not be required for those contracts exempted therefrom pursuant

to section 5 of P.L.1971, c.198 (C.40A:11-5);

(5) Data processing service, for any term of not more than three years;

(6) Insurance, for any term of not more than three years;

(7) Leasing or servicing of automobiles, motor vehicles, machinery and equipment of every nature and kind, for a period not to exceed three years; provided, however, such contracts shall be entered into only subject to and in accordance with the rules and regulations promulgated by the Director of the Division of Local Government Services of the Department of Community Affairs;

(8) The supplying of any product or the rendering of any service by a telephone company which is subject to the jurisdiction of the Board of [Regulatory Commissioners] Public Utilities for a term not exceeding five years;

(9) Any single project for the construction, reconstruction or rehabilitation of any public building, structure or facility, or any public works project, including the retention of the services of any architect or engineer in connection therewith, for the length of time authorized and necessary for the completion of the actual construction;

(10) The providing of food services for any term not exceeding three years;

(11) On-site inspections undertaken by private agencies pursuant to the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.) for any term of not more than three years;

(12) The performance of work or services or the furnishing of materials or supplies for the purpose of conserving energy in buildings owned by, or operations conducted by, the contracting unit, the entire price of which to be established as a percentage of the resultant savings in energy costs, for a term not to exceed 10 years; provided, however, that such contracts shall be entered into only subject to and in accordance with rules and regulations promulgated by the Department of Environmental Protection establishing a methodology for computing energy cost savings;

(13) The performance of work or services or the furnishing of materials or supplies for the purpose of elevator maintenance for any term not exceeding three years;

(14) Leasing or servicing of electronic communications equipment for a period not to exceed five years; provided, however, such contract shall be entered into only subject to and in accordance with the rules and regulations promulgated by the Director of the Division of Local Government Services of the Department of Community Affairs;

(15) Leasing of motor vehicles, machinery and other equipment primarily used to fight fires, for a term not to exceed seven years, when the contract includes an option to purchase, subject to and in accordance with rules and regulations promulgated by the Director of the Division of Local Government Services of the Department of

Community Affairs;

(16) The provision of water supply services or the designing, financing, construction, operation, or maintenance, or any combination thereof, of a water supply facility, or any component part or parts thereof, including a water filtration system, for a period not to exceed 40 years, when the contract for these services is approved by the Division of Local Government Services in the Department of Community Affairs, the Board of [Regulatory Commissioners] Public Utilities, and the Department of Environmental Protection pursuant to P.L.1985, c.37 (C.58:26-1 et al.), except for those contracts otherwise exempted pursuant to subsection (30) or (31) of this section. For the purposes of this subsection, "water supply services" means any service provided by a water supply facility; "water filtration system" means any equipment, plants, structures, machinery, apparatus, or land, or any combination thereof, acquired, used, constructed, rehabilitated, or operated for the collection, impoundment, storage, improvement, filtration, or other treatment of drinking water for the purposes of purifying and enhancing water quality and insuring its potability prior to the distribution of the drinking water to the general public for human consumption, including plants and works, and other personal property and appurtenances necessary for their use or operation; and "water supply facility" means and refers to the real property and the plants, structures, interconnections between existing water supply facilities, machinery and equipment and other property, real, personal and mixed, acquired, constructed or operated, or to be acquired, constructed or operated, in whole or in part by or on behalf of a political subdivision of the State or any agency thereof, for the purpose of augmenting the natural water resources of the State and making available an increased supply of water for all uses, or of conserving existing water resources, and any and all appurtenances necessary, useful or convenient for the collecting, impounding, storing, improving, treating, filtering, conserving or transmitting of water and for the preservation and protection of these resources and facilities and providing for the conservation and development of future water supply resources;

(17) The provision of solid waste disposal services by a resource recovery facility, the furnishing of products of a resource recovery facility, the disposal of the solid waste delivered for disposal which cannot be processed by a resource recovery facility or the waste products resulting from the operation of a resource recovery facility, including hazardous waste and recovered metals and other materials for reuse, or the design, financing, construction, operation or maintenance of a resource recovery facility for a period not to exceed 40 years when the contract is approved by the Division of Local Government Services in the Department of Community Affairs[, the Board of Regulatory Commissioners,] and the Department of

Environmental Protection; and when the facility is in conformance with a solid waste management plan approved pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.). For the purposes of this subsection, "resource recovery facility" means a solid waste facility constructed and operated for the incineration of solid waste for energy production and the recovery of metals and other materials for reuse; or a mechanized composting facility, or any other [solid waste] facility constructed or operated for the collection, separation, recycling, and recovery of metals, glass, paper, and other materials for reuse or for energy production;

(18) The sale of electricity or thermal energy, or both, produced by a resource recovery facility for a period not to exceed 40 years when the contract is approved by the Board of [Regulatory Commissioners] Public Utilities, and when the facility is in conformance with a solid waste management plan approved pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.). For the purposes of this subsection, "resource recovery facility" means a solid waste facility constructed and operated for the incineration of solid waste for energy production and the recovery of metals and other materials for reuse; or a mechanized composting facility, or any other [solid waste] facility constructed or operated for the collection, separation, recycling, and recovery of metals, glass, paper, and other materials for reuse or for energy production;

(19) The provision of wastewater treatment services or the designing, financing, construction, operation, or maintenance, or any combination thereof, of a wastewater treatment system, or any component part or parts thereof, for a period not to exceed 40 years, when the contract for these services is approved by the Division of Local Government Services in the Department of Community Affairs and the Department of Environmental Protection pursuant to P.L.1985, c.72 (C.58:27-1 et al.). For the purposes of this subsection, "wastewater treatment services" means any services provided by a wastewater treatment system, and "wastewater treatment system" means equipment, plants, structures, machinery, apparatus, or land, or any combination thereof, acquired, used, constructed, or operated for the storage, collection, reduction, recycling, reclamation, disposal, separation, or other treatment of wastewater or sewage sludge, or for the final disposal of residues resulting from the treatment of wastewater, including, but not limited to, pumping and ventilating stations, facilities, plants and works, connections, outfall sewers, interceptors, trunk lines, and other personal property and appurtenances necessary for their operation;

(20) The supplying of materials or services for the purpose of lighting public streets, for a term not to exceed five years, provided that the rates, fares, tariffs or charges for the supplying of electricity for that purpose are approved by the Board of [Regulatory

Commissioners] Public Utilities;

(21) In the case of a contracting unit which is a county or municipality, the provision of emergency medical services by a hospital to residents of a municipality or county as appropriate for a term not to exceed five years;

(22) Towing and storage contracts, awarded pursuant to paragraph u. of subsection (1) of section 5 of P.L.1971, c.198 (C.40A:11-5) for any term not exceeding three years;

(23) Fuel for the purpose of generating electricity for a term not to exceed eight years;

(24) The purchase of electricity or administrative or dispatching services related to the transmission of such electricity, from a public utility company subject to the jurisdiction of the Board of [Regulatory Commissioners] Public Utilities, a similar regulatory body of another state, or a federal regulatory agency, or from a qualifying small power producing facility or qualifying cogeneration facility, as defined by 16 U.S.C. §796, by a contracting unit engaged in the generation of electricity for retail sale, as of the date of [this amendatory act] P.L.1991, c.407, for a term not to exceed 40 years;

(25) Basic life support services, for a period not to exceed five years. For the purposes of this subsection, "basic life support" means a basic level of prehospital care, which includes but need not be limited to patient stabilization, airway clearance, cardiopulmonary resuscitation, hemorrhage control, initial wound care and fracture stabilization;

(26) Claims administration services, for any term not to exceed three years;

(27) The provision of transportation services to elderly, disabled or indigent persons for any term of not more than three years. For the purposes of this subsection, "elderly persons" means persons who are 60 years of age or older. "Disabled persons" means persons of any age who, by reason of illness, injury, age, congenital malfunction, or other permanent or temporary incapacity or disability, are unable, without special facilities or special planning or design to utilize mass transportation facilities and services as effectively as persons who are not so affected. "Indigent persons" means persons of any age whose income does not exceed 100 percent of the poverty level, adjusted for family size, established and adjusted under section 673(2) of subtitle B, the "Community Services Block Grant Act," Pub.L.97-35 (42 U.S.C.§9902 (2));

(28) The supplying of liquid oxygen or other chemicals, for a term not to exceed five years, when the contract includes the installation of tanks or other storage facilities by the supplier, on or near the premises of the contracting unit;

(29) The performance of patient care services by contracted medical staff at county hospitals, correction facilities and long term

care facilities, for any term of not more than three years;

(30) The acquisition of an equitable interest in a water supply facility pursuant to section 2 of P.L.1993, c.381 (C.58:28-2), or an agreement entered into pursuant to the "County and Municipal Water Supply Act," N.J.S.40A:31-1 et seq., if the agreement is entered into no [more than six months after the effective date of this amendatory act, P.L.1994, c.71] later than January 7, 1995, for any term of not more than forty years;

(31) The provision of water supply services or the financing, construction, operation or maintenance or any combination thereof, of a water supply facility or any component part or parts thereof, by a partnership or copartnership established pursuant to a contract authorized under section 2 of P.L.1993, c.381 (C.58:28-2), for a period not to exceed 40 years; and

(32) Laundry service and the rental, supply and cleaning of uniforms for any term of not more than three years.

All multiyear leases and contracts entered into pursuant to this section, except contracts for the leasing or servicing of equipment supplied by a telephone company which is subject to the jurisdiction of the Board of [Regulatory Commissioners] Public Utilities, contracts involving the supplying of electricity for the purpose of lighting public streets and contracts for thermal energy authorized pursuant to subsection (1) above, construction contracts authorized pursuant to subsection (9) above, contracts and agreements for the provision of work or the supplying of equipment to promote energy conservation authorized pursuant to subsection (12) above, contracts for water supply services or for a water supply facility, or any component part or parts thereof authorized pursuant to [subsection] subsections (16), (30) or (31) above, contracts for resource recovery services or a resource recovery facility authorized pursuant to subsection (17) above, contracts for the sale of energy produced by a resource recovery facility authorized pursuant to subsection (18) above, contracts for wastewater treatment services or for a wastewater treatment system or any component part or parts thereof authorized pursuant to subsection (19) above, and contracts for the purchase of electricity or administrative or dispatching services related to the transmission of such electricity authorized pursuant to subsection (24) above, shall contain a clause making them subject to the availability and appropriation annually of sufficient funds as may be required to meet the extended obligation, or contain an annual cancellation clause.

The Division of Local Government Services shall adopt and promulgate rules and regulations concerning the methods of accounting for all contracts that do not coincide with the fiscal year.

(cf: P.L.1995, c.3, s.1)

15. The following are repealed:

R.S.40:66-2;
R.S.40:66-3;
Sections 1 through 3 inclusive of P.L.1991, c.170
(C.40:66-5.1 through 40:66-5.3).

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

17. This act shall take effect on the first day of the fourth month after enactment, but the Commissioner of the Department of Environmental Protection may take such anticipatory administrative action in advance as shall be necessary for the implementation of the act.

STATEMENT

This bill requires every municipality in this State to assume primary responsibility for the collection and disposal of solid waste from its municipal solid waste stream, including the provision of weekly solid waste collection service. A municipality may establish and operate a municipal service system for the collection or disposal of solid waste, or may contract with a solid waste collector or other person for solid waste collection or solid waste disposal services.

The bill also requires the explanatory statement to every local budget to include an analysis showing the anticipated revenues and appropriations related to solid waste collection, disposal and recycling activities and the operation of any recycling center or solid waste facility that are included in the local budget.

The anticipated revenues and appropriations and any surplus or deficit must be listed according to the solid waste activity or facility, as appropriate, including all solid waste collection, disposal or recycling activities, or sanitary landfill facility, transfer station, recycling center or resource recovery facility operations, and must also include the personnel salaries, benefits and insurance costs; vehicle operation, maintenance, insurance and purchase costs; and any other costs associated with the specified activity or facility.

A municipal governing body may enter into an agreement or contract for the disposal of solid waste from its municipal solid waste stream with any county, public authority or private firm in this State that owns or operates a registered solid waste facility. Any such agreement or contract must include provisions concerning: (1) the charges, rates or fees to be charged at the publicly owned or operated solid waste facility for solid waste disposal; or (2) the formulas to be used to determine the charges, rates or fees to be charged for solid

waste disposal services, and the methodology or methodologies used to develop these formulas.

A municipal governing body that establishes a municipal service system for the collection or disposal of solid waste must adopt a municipal service ordinance which requires all responsible solid waste generators to place solid waste generated at those premises in dumpsters or other solid waste containers for collection in the manner provided by the ordinance.

Every municipal service ordinance, as appropriate, must:

(1) specify the registered solid waste facility or facilities located within New Jersey to be utilized by the municipality for the disposal of its solid waste;

(2) identify the designated out-of-state disposal site or sites to be utilized by the municipality for the disposal of its solid waste, and produce evidence that the designated disposal site or sites is permitted by the appropriate state regulatory agency having jurisdiction over solid waste management to accept out-of-state solid waste for disposal, and is in conformance with all relevant Federal or state laws, rules or regulations;

(3) publish a consolidated schedule of the rates or charges to be charged by the municipality for the municipal service, including separate sections for the rates or charges to be charged by the municipality for regular solid waste collection service, and the solid waste disposal rates or charges to be received at the in-state registered solid waste facility, or the designated out-of-state disposal site or sites, as the case may be, for solid waste disposal; and

(4) provide for the manner of payment.

A municipal governing body that determines to provide for the collection or disposal of solid waste from its municipal solid waste stream by contracting with a solid waste collector or other person for weekly solid waste collection service, solid waste collection or solid waste disposal services, or any combination thereof, must adopt a municipal contract ordinance which requires all responsible solid waste generators to place solid waste generated at those premises in dumpsters or other solid waste containers for collection in the manner provided by the ordinance. The mandatory provisions of a municipal contract ordinance would be identical to those required to be contained in a municipal service ordinance.

Under existing law, a municipal governing body must adopt specifications for the doing of the work in a sanitary and inoffensive manner prior to contracting for the collection or disposal of solid waste. The bill requires that the specifications must include the following information:

(1) Designation of the solid waste facilities located within New Jersey to be utilized for the disposal of solid waste;

(2) Designation of the out-of-state disposal sites to be utilized for

the disposal of solid waste, including evidence that these sites are permitted by the appropriate state regulatory agency having jurisdiction over solid waste management to accept out-of-state solid waste for disposal, and are in conformance with all relevant Federal or state laws, rules or regulations; and

(3) Identification of the rates or charges to be charged for solid waste collection services and the rates or charges to be received at designated in-state solid waste facilities or out-of-state disposal sites for solid waste disposal services.

The bill provides that any municipal governing body seeking to provide for the collection or disposal of its solid waste by contracting with a solid waste collector or other person for these services may request any solid waste collector to bid on a contract for the provision of weekly solid waste collection services, if that solid waste collector is actively engaged in solid waste collection within the county wherein the municipality is located.

The bill also provides that no person engaging in solid waste collection may knowingly collect any designated recyclable materials which are placed in a dumpster or other solid waste container for collection and disposal as solid waste. A person engaging in solid waste collection may refuse to remove solid waste from dumpsters or other solid waste containers containing designated recyclable materials.

The bill also restores certain exceptions to the municipal and county cap laws for solid waste collection and disposal costs that were repealed pursuant to P.L.1987, c.74, and recycling costs that were repealed pursuant to P.L.1990, c.89. The bill provides local "cap" exceptions for amounts spent on municipal solid waste collection and disposal systems or contracts, and county and municipal recycling programs implemented pursuant to P.L.1987, c.102.

The bill also exempts amounts received by municipalities from the State recycling tonnage grant program, and revenues raised by municipalities from the sale of recyclable materials which are used to support municipal recycling programs.

Requires every municipality to assume primary responsibility for the collection and disposal of municipal solid waste.