

ASSEMBLY, No. 89

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 disposal, supplementing P.L.1970,
2 c.39 (13:1E-1 et seq.), and amending various parts of the statutory
3 law.

4

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

7

8 1. (New section) Sections 1 through 10 inclusive of this act shall
9 be known and may be cited as the "Solid Waste Facility Debt
10 Retirement Act."

11

12 2. (New section) As used in this act:

13 "Debt retirement surcharge" means the solid waste facility debt
14 retirement surcharge imposed pursuant to section 3 of this act.

15 "Debt retirement surcharge fund" means the Solid Waste Facility
16 Debt Retirement Surcharge Fund established pursuant to section 7 of
17 this act.

18 "Director" means the Director of the Division of Taxation.

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

22 "Public authority" means a solid waste management authority
23 created pursuant to the "solid waste management authorities law,"
24 P.L.1968, c.249 (C.40:66A-32 et seq.); a municipal or county utilities
25 authority created pursuant to the "municipal and county utilities
26 authorities law," P.L.1957, c.183 (C.40:14B-1 et seq.); an incinerator
27 authority created pursuant to the "incinerator authorities law,"
28 P.L.1948, c.348 (C.40:66A-1 et seq.); a county improvement authority
29 created pursuant to the "county improvement authorities law,"
30 P.L.1960, c.183 (C.40:37A-44 et seq.); a pollution control financing
31 authority created pursuant to the "New Jersey Pollution Control
32 Financing Law," P.L.1973, c.376 (C.40:37C-1 et seq.); or any other

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 public body corporate and politic created for solid waste management
2 purposes in any county or municipality pursuant to the provisions of
3 any law.

4 "Solid waste facility" means a solid waste facility as defined in
5 section 3 of P.L.1970, c.39 (C.13:1E-3).

6

7 3. (New section) a. There is levied upon the governing body of
8 every municipality a solid waste facility debt retirement surcharge of
9 \$10 per ton of solid waste generated from the municipal solid waste
10 stream within the municipality.

11 b. If any owner or operator of a registered solid waste facility
12 determines the quantity of solid waste accepted for disposal or transfer
13 by a measure other than tons, the surcharge imposed pursuant to this
14 section shall be levied at an equivalent rate as determined by the
15 director.

16

17 4. (New section) Every municipality shall, on or before March 15
18 of each year, prepare and file a report for the preceding calendar year
19 with the director on forms the director shall prescribe indicating the
20 number of tons of solid waste generated from the municipal solid
21 waste stream within the municipality. The municipality shall remit the
22 amount owed with the report.

23

24 5. (New section) The surcharge imposed on municipal solid waste
25 generation shall expire on December 31 next following the date all
26 outstanding principal and interest and administrative charges and other
27 charges incurred as of May 15, 1994 on the debt service have been
28 defeased. However, this expiration shall not affect any obligation, lien
29 or duty to pay surcharges that may be due with respect to the
30 imposition of any levy, or interest or penalties that may accrue by
31 virtue of any assessment, which may be made with respect to
32 surcharges levied for any year or part of a year prior to the first day of
33 the second calendar year following the imposition of the surcharge,
34 nor shall this expiration affect the legal authority to assess and collect
35 the surcharges that may be due and payable under this section, as the
36 case may be, together with such interest and penalties as would accrue
37 thereon under this section, nor shall the expiration invalidate any
38 assessment or affect any proceeding for the enforcement thereof.

39

40 6. (New section) If a report required by this act is not filed, or if
41 a report when filed is incorrect or insufficient in the opinion of the
42 director, the amount of the surcharge due shall be determined by the
43 director from such information as may be available. Notice of such
44 determination shall be given to the municipality liable for the payment
45 of the surcharge. Such determination shall finally and irrevocably fix
46 the surcharge unless the governing body of the municipality against

1 whom it is assessed, within 30 days after receiving notice of such
2 determination, shall apply to the director for a hearing, or unless the
3 director on his own motion shall redetermine the same. After such
4 hearing the director shall give notice of his determination to the
5 municipality to which the surcharge is assessed.

6
7 7. (New section) The Solid Waste Facility Debt Retirement
8 Surcharge Fund is established in the Department of Treasury. The
9 debt retirement surcharge fund shall be the depository for revenue
10 generated by the debt retirement surcharge imposed pursuant to
11 section 3 of this act, and any interest earned thereon, and shall be
12 disbursed pursuant to this 8 section of this act.

13
14 8. (New section) a. Prior to the disbursement of any moneys in
15 the fund, the costs of administering and collecting the surcharge shall
16 be paid to the director out of the fund, up to an amount not to exceed
17 2% of the total revenues deposited in the fund during the fiscal year.

18 b. The moneys in the debt retirement surcharge fund shall be
19 allocated and used to provide State aid to counties and public
20 authorities for retiring the debt service on bonds issued as of May 15,
21 1994 to finance solid waste facilities. The amount of this State aid
22 shall be calculated based on the proportion that the outstanding debt
23 of the county or public authority bears to the total outstanding debt of
24 all counties and public authorities that have issued bonds to finance the
25 development, operation and maintenance of solid waste facilities in the
26 State. The Local Finance Board in the Division of Local Government
27 Services in the Department of Community Affairs shall certify the
28 amount of bonded indebtedness.

29
30 9. (New section) Each county that has outstanding debt on bonds
31 issued to finance solid waste facilities shall establish a District Solid
32 Waste Facility Debt Retirement Surcharge Fund which shall be the
33 depository for the moneys appropriated to each county pursuant to
34 this act and shall be administered by the governing body of each
35 county.

36
37 10. (New section) The Division of Taxation shall adopt, pursuant
38 to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1
39 et seq.), any rules and regulations necessary to implement the
40 provisions of this act. The division shall adopt these rules and
41 regulations within 270 days of the effective date of this act.

42
43 11. Section 33 of P.L.1957, c.183 (C.40:14B-33) is amended to
44 read as follows:

45 33. Neither the members of the municipal authority nor any person
46 executing bonds issued pursuant to this act shall be liable personally

1 on the bonds by reason of the issuance thereof. Bonds or other
2 obligations issued pursuant to this act shall not be in any way a debt
3 or liability of the State, and bonds or other obligations issued by a
4 municipal authority pursuant to this act shall not be in any way a debt
5 or liability of the State or of any local unit or of any county or
6 municipality and shall not create or constitute any indebtedness,
7 liability or obligation of the State or of any such local unit, county or
8 municipality, either legal, moral or otherwise, and nothing in this act
9 contained shall be construed to authorize any municipal authority to
10 incur any indebtedness on behalf of or in any way to obligate the State
11 or any county or municipality. The authority may receive moneys
12 from the Solid Waste Facility Debt Retirement Surcharge Fund
13 pursuant to section 8 of P.L. , c. (C.) (now before the
14 Legislature as this bill).

15 (cf: P.L.1957, c.183, s.33)

16

17 12. Section 23 of P.L.1960, c.183 (C.40:37A-66) is amended to
18 read as follows:

19 23. Neither the members of an authority nor any person executing
20 bonds issued pursuant to this act shall be liable personally on the
21 bonds by reason of the issuance thereof. Bonds or other obligations
22 issued by an authority pursuant to this act shall not be in any way a
23 debt or liability of the State or any subdivision thereof and shall not
24 create or constitute any indebtedness, liability or obligation of the
25 State or any such subdivision, except the authority and any county
26 which in accordance with this act shall have guaranteed payment of the
27 principal of and interest on such bonds. The authority may receive
28 moneys from the Solid Waste Facility Debt Retirement Surcharge
29 Fund pursuant to section 8 of P.L. , c. (C.) (now before the
30 Legislature as this bill).

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

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33 13. Section 10 of P.L.1973, c.376 (C.40:37C-10) is amended to
34 read as follows:

35 10. Bonds issued under the provisions of this act shall not be
36 deemed to constitute a debt or liability of the State or of any political
37 subdivision thereof, but shall be payable solely from the funds herein
38 provided therefor. The issuance of bonds under the provisions of this
39 act shall not, directly, indirectly or contingently, obligate the State or
40 any political subdivision thereof to levy any form of taxation therefor
41 or to make any appropriation for their payment. Nothing in this act
42 shall be construed to authorize an agency to create a debt of the State
43 or any county or municipality within the meaning of the Constitution
44 or statutes of New Jersey and all bonds issued by such authority
45 pursuant to the provisions of this act, unless funded or refunded
46 pursuant to this act, are payable and shall state that they are payable

1 solely from the funds pledged for their payment in accordance with the
2 resolution authorizing their issuance or in any indenture executed as
3 security therefor. The State, county, and municipality shall not in any
4 event be liable for the payment of the principal of or interest or
5 premiums, if any, on any bonds of an authority or for the performance
6 of any pledge, obligation or agreement of any kind whatsoever which
7 may be undertaken by such authority. No breach by an authority of
8 any such pledge, obligation or agreement may impose any pecuniary
9 liability upon the State, county or municipality or any charge upon
10 their general credit or against their taxing power.

11 The State, however, does pledge and agree with the holders of any
12 bonds issued under this act that it will not limit or alter the rights
13 hereby vested in any authority to fulfill the terms of any agreements
14 made with the holders thereof consistent herewith, or in any way
15 impair the rights and remedies of such holders until such bonds,
16 together with the interest thereon, with interest on any unpaid
17 installments of interest, and all costs and expenses for which the
18 authority is liable in connection with any action or proceeding by or on
19 behalf of such holders, are fully met and discharged. Any authority is
20 authorized to include this pledge and agreement of the State in any
21 agreement it may make with the holders of such bonds. The authority
22 may receive moneys from the Solid Waste Facility Debt Retirement
23 Surcharge Fund pursuant to section 7 of P.L. , c. (C.) (now
24 before the Legislature as this bill).

25 (cf: P.L.1973, c.376, s.10)

26

27 14. Section 16 of P.L.1948, c.348 (C.40:66A-16) is amended to
28 read as follows:

29 16. Neither the members of the incinerator authority nor any
30 person executing bonds issued pursuant to this act shall be liable
31 personally on the bonds by reason of the issuance pursuant to this act
32 shall not be in any way a debt or liability of the State, and bonds or
33 other obligations issued by an incinerator authority pursuant to this act
34 shall not be in any way a debt or liability of the State or of any local
35 unit or municipality. The authority may receive moneys from the
36 Solid Waste Facility Debt Retirement Surcharge Fund pursuant to
37 section 8 of P.L. , c. (C.) (now before the Legislature as this
38 bill).

39 (cf: P.L.1948, c.348, s.16)

40

41 15. Section 16 of P.L.1968, c.249 (C.40:66A-49) is amended to
42 read as follows:

43 16. Neither the member of the solid waste management authority
44 nor any person executing bonds issued pursuant to this act shall be
45 liable personally on the bonds by reason of the issuance thereof.
46 Bonds or other obligations issued pursuant to this act shall not be in

1 any way a debt or liability of the State, and bonds or other obligations
2 issued by a solid waste management authority pursuant to this act shall
3 not be in any way a debt or liability of the State or of any local unit or
4 municipality. The authority may receive moneys from the Solid Waste
5 Facility Debt Retirement Surcharge Fund pursuant to section 8 of
6 P.L. , c. (C.) (now before the Legislature as this bill).
7 (cf: P.L.1968, c.249, s.16)

8
9 16. This act shall take effect upon enactment into law of P.L. ,
10 c. (C.) (now before the Legislature as Assembly Bill No. 2626 of
11 1995).

12 13 14 STATEMENT

15
16 This bill would impose a surcharge on solid waste generation. The
17 moneys would be used to offset the accumulated bonded indebtedness
18 incurred by counties and public authorities in constructing and
19 operating registered solid waste facilities. The aggregate bonded
20 indebtedness is approximately \$1.47 million.

21 Specifically, this bill, the "Solid Waste Facility Debt Retirement
22 Act," would impose a \$10 per ton surcharge on solid waste generated
23 from the municipal solid waste stream within each municipality. The
24 moneys collected would be deposited in the Solid Waste Facility Debt
25 Retirement Surcharge Fund. The moneys in the fund would be
26 allocated and used to provide State aid to counties and public
27 authorities for retiring the debt service on bonds issued as of May 15,
28 1994 to finance solid waste facilities. The amount of State aid shall be
29 calculated based on the proportion that the outstanding debt of the
30 county or public authority bears to the total outstanding debt of all
31 counties and public authorities that have issued bonds to finance the
32 development, operation and maintenance of solid waste facilities. The
33 Local Finance Board in the Department of Community Affairs would
34 certify the amount of bonded indebtedness. In addition, the bill would
35 amend sections of law concerning public authorities to provide that
36 they may receive moneys from the Solid Waste Facility Debt
37 Retirement Surcharge Fund to assist in retiring outstanding bond
38 obligations. Finally, the bill would not take effect until enactment of
39 Assembly Bill No. 2626 of 1995, which would require every
40 municipality to assume responsibility for the collection and disposal of
41 municipal solid waste.

42 _____
43
44 Creates debt retirement fund to defray cost of county solid waste
45 disposal facility bonded indebtedness.