

ASSEMBLY, No. 657

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblymen ZECKER and COHEN

1 AN ACT concerning municipal recycling activities, and amending and  
2 supplementing P.L.1981, c.278.

3  
4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6  
7 1. Section 4 of P.L.1981, c.278 (C.13:1E-95) is amended to read  
8 as follows:

9 4. a. There is levied upon the owner or operator of every  
10 registered solid waste facility a recycling tax of \$1.50 per ton of all  
11 solid waste accepted for disposal or transfer at the solid waste facility.  
12 In the event that any solid waste is measured upon acceptance for  
13 disposal or transfer by other than tons, the tax shall be levied on the  
14 equivalents thereof as shall be determined by the director. The  
15 recycling tax shall not be imposed on the owner or operator of [a  
16 resource recovery facility, upon the acceptance of solid waste for  
17 disposal at that facility, or on the owner or operator of]:

18 (1) a sanitary landfill facility that is designed and operated for the  
19 acceptance for disposal of residual ash or of solid waste delivered to  
20 a resource recovery facility that cannot be processed at the resource  
21 recovery facility;

22 (2) a solid waste transfer station facility [which] that is designed  
23 and operated solely for receiving and transferring solid waste from  
24 collection vehicles to haulage vehicles for the purposes of facilitating  
25 the transportation of solid waste[, upon the acceptance of solid waste  
26 for transfer] to an in-State solid waste facility for permanent disposal;

27 (3) a solid waste composting facility;

28 (4) a materials recovery facility, as defined in section 3 of  
29 P.L.1991, c.381 (C.48:13A-7.3);

30 (5) a privately-owned, noncommercial, onsite industrial solid waste  
31 facility that does not accept solid waste generated from any other  
32 source and that is dedicated solely to the disposal of solid waste.

**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 including hazardous wastes, generated by the owner or operator of the  
2 solid waste facility; or

3 (6) a solid waste facility for the acceptance for disposal of solid  
4 waste generated exclusively by an agency of the federal government  
5 if a solid waste collector submits to the owner or operator an itemized  
6 invoice, signed and verified by an authorized officer of the federal  
7 agency, indicating the number of tons of solid waste to be disposed of,  
8 and a copy of the contract with the federal agency for the collection  
9 of solid waste with an effective date prior to May 1, 1985, in the case  
10 of a sanitary landfill facility, or prior to January 1, 1996 in the case of  
11 any other solid waste facility.

12 The recycling tax shall be levied on the owner or operator for  
13 acceptance of solid waste generated by a federal agency if the contract  
14 between the federal agency and the solid waste collector was entered  
15 into, or renewed, on or after the applicable date.

16 b. (1) Every owner or operator of a registered solid waste facility  
17 shall, on or before the twentieth day of the month following the close  
18 of each tax period, render a return under oath to the director on such  
19 form as may be prescribed by the director indicating the number of  
20 tons of solid waste accepted for disposal or transfer, which is subject  
21 to the recycling tax pursuant to subsection a. of this section, and at  
22 [said] the same time the owner or operator shall pay the full amount  
23 of tax due.

24 (2) Every owner or operator of a registered solid waste facility,  
25 which accepts solid waste for disposal or transfer, and which is subject  
26 to the tax under subsection a. of this section, shall register with the  
27 director on forms prescribed by the director, within 20 days after the  
28 first acceptance of this waste[, register with the director on forms  
29 prescribed by him].

30 c. If a return required by this [act] section is not filed, or if a return  
31 when filed is incorrect or insufficient in the opinion of the director, the  
32 amount of tax due shall be determined by the director from such  
33 information as may be available. Notice of such determination shall be  
34 given to the taxpayer liable for the payment of the recycling tax. Such  
35 determination shall finally and irrevocably fix the tax unless the person  
36 against whom it is assessed, within 30 days after receiving notice of  
37 such determination, shall apply to the director for a hearing, or unless  
38 the director on his own motion shall redetermine the same. After such  
39 hearing the director shall give notice of his determination to the person  
40 to whom the recycling tax is assessed.

41 d. Any taxpayer who shall fail to file his return when due or to pay  
42 any tax when the same becomes due, as herein provided, shall be  
43 subject to such penalties and interest as provided in the "State Tax  
44 Uniform Procedure Law," R.S.54:48-1 et seq. If the Division of  
45 Taxation determines that the failure to comply with any provision of  
46 this section was excusable under the circumstances, it may remit such

1 part or all of the penalty as shall be appropriate under such  
2 circumstances.

3 e. (1) (Deleted by amendment, P.L.1987, c.76.)

4 (2) (Deleted by amendment, P.L.1987, c.76.)

5 f. In addition to the other powers granted to the director in this  
6 section, he is hereby authorized and empowered:

7 (1) To delegate to any officer or employee of his division such of  
8 his powers and duties as he may deem necessary to carry out  
9 efficiently the provisions of this section, and the person or persons to  
10 whom such power has been delegated shall possess and may exercise  
11 all of said powers and perform all of the duties delegated by the  
12 director;

13 (2) To prescribe and distribute all necessary forms for the  
14 implementation of this section.

15 g. The recycling tax imposed by this section shall be governed in  
16 all respects by the provisions of the "State Tax Uniform Procedure  
17 Law," R.S.54:48-1 et seq., except only to the extent that a specific  
18 provision of this section may be in conflict therewith.

19 (cf: P.L.1987, c.102, s.35)

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21 2. Section 5 of P.L.1981, c.278 (C.13:1E-96) is amended to read  
22 as follows:

23 5. a. The State Recycling Fund (hereinafter referred to as the  
24 "fund") is established as a nonlapsing, revolving fund. The fund shall  
25 be administered by the Department of Environmental Protection, and  
26 shall be credited with all recycling tax revenue collected by the  
27 division pursuant to section 4 of P.L.1981, c.278 (C.13:1E-95).  
28 Interest received on moneys in the fund and sums received as  
29 repayment of principal and interest on outstanding loans made from  
30 the fund shall be credited to the fund. The Department of  
31 Environmental Protection, in the administration of the fund, is  
32 authorized to assign to the New Jersey Economic Development  
33 Authority the responsibility for making credit evaluations of applicants  
34 for loans, for servicing loans on behalf of the department, and, the  
35 provisions of any other law to the contrary notwithstanding, for  
36 making recommendations as to the approval or denial of loans  
37 pursuant to this section. The department is further authorized to pay  
38 or reimburse the authority in the amounts as the department agrees are  
39 appropriate for all services rendered by the authority in connection  
40 with any assignment of responsibility under the terms of this section  
41 out of moneys held in the fund for loans and the loan guarantee  
42 program.

43 b. [Moneys] Unless otherwise expressly provided by the specific  
44 appropriation thereof by the Legislature, moneys in the fund shall be  
45 allocated and used for the following purposes and no others:

46 (1) Not less than 40% of the estimated annual balance of the fund

1 shall be used for the annual expenses of a program for recycling grants  
2 to municipalities or counties in those instances where a county, at its  
3 own expense, provides for the collection, processing and marketing of  
4 recyclable materials on a regional basis. The amount of these grants  
5 shall be calculated on the basis of the total number of tons of  
6 recyclable materials annually recycled from residential, commercial and  
7 institutional sources within that municipality, or group of  
8 municipalities in the case of a county recycling program, except that  
9 no such grant shall exceed \$10.00 per ton of recyclable materials  
10 recycled. The department may allocate a portion of these grant moneys  
11 as bonus grants to municipalities and counties in those instances where  
12 a municipality or county, at its own expense, provides for the  
13 collection of recyclable materials in its recycling program. The  
14 department shall announce each year the total amount of moneys  
15 available in the bonus grant fund.

16 A municipality may distribute a portion of its grant moneys to  
17 nonprofit groups that are located within that municipality and which  
18 have contributed to the receipt of the recycling grant, except that this  
19 distribution shall not exceed the value of approved documented  
20 tonnage contributed by a nonprofit group.

21 A municipality may designate any nonprofit group as a recycling  
22 agent. A recycling agent shall receive that part of the municipality's  
23 recycling grant under this subsection that represents the percentage of  
24 the grant received by the municipality due to the documented tonnage  
25 contributed by that recycling agent. Moneys received by a recycling  
26 agent shall be expended only for its recycling program. Any moneys  
27 not used for recycling shall be returned by the recycling agent to the  
28 municipality.

29 To be eligible for a grant pursuant to paragraph (1) of this  
30 subsection, a municipality or county in the case of a county recycling  
31 program shall demonstrate that the recyclable materials recycled by the  
32 municipal or county recycling program were not diverted from a  
33 commercial recycling program already in existence on the effective  
34 date of the ordinance or resolution establishing the municipal or  
35 county recycling program[.

36 No recycling grant to any municipality shall be used for  
37 constructing or operating any facility for the baling of wastepaper or  
38 for the shearing, baling or shredding of ferrous or nonferrous  
39 materials];

40 (2) Not less than 35% of the estimated annual balance of the fund  
41 shall be used to provide low interest loans or loan guarantees to  
42 recycling businesses and industries, and to provide moneys for  
43 research into collection, market stimulation and reuse techniques  
44 applicable to recycling or the disposition of recyclable materials, or to  
45 contract for market studies, and to establish a sufficient reserve for a  
46 loan guarantee program for recycling businesses and industries;

1 (3) Not more than 7% of the estimated annual balance of the fund  
2 shall be used for State recycling program planning and program  
3 funding, including the administrative expenses thereof;

4 (4) Not more than 8% of the estimated annual balance of the fund  
5 shall be used for county recycling program planning and program  
6 funding, including the administrative expenses thereof; and

7 (5) Not less than 10% of the estimated annual balance of the fund  
8 shall be used for a public information and education program  
9 concerning recycling activities.

10 (cf: P.L.1990, c.117, s.1)

11  
12 3. (New section) The provisions of any other law, rule or  
13 regulation to the contrary notwithstanding, moneys in the State  
14 Recycling Fund shall be allocated and used solely for the purposes  
15 prescribed in section 5 of P.L.1981, c.278 (C.13:1E-96), unless  
16 otherwise expressly provided by the specific appropriation thereof by  
17 the Legislature.

18  
19 4. This act shall take effect immediately.

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22 STATEMENT

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24 This bill would remove the tax exemption for solid waste accepted  
25 for disposal at a resource recovery facility, thereby extending the  
26 recycling tax to all registered solid waste facilities.

27 The bill would also expressly provide that the recycling tax  
28 revenues deposited in the Recycling Fund, which are used primarily for  
29 funding the municipal tonnage grant program, cannot be diverted for  
30 any extraneous purpose, except by the specific appropriation thereof  
31 by the Legislature.

32 In the State FY 1995 appropriations act (P.L.1994, c.67), \$14.3  
33 million in recycling tax revenues were diverted from the Recycling  
34 Fund to the General Fund by the Governor and Legislature for  
35 budgetary purposes. As a result, all municipalities, including those  
36 with cost-efficient, successful recycling efforts, have realized a  
37 considerable loss of needed funding in the form of annual tonnage  
38 grants. These moneys are needed by municipalities to assist them in  
39 financing costly State-mandated municipal recycling programs.

40 This bill would deter, in some measure, this kind of diversion in the  
41 future by making the funding of the municipal tonnage grant program  
42 the first statutorily-based priority of publicly-supported recycling  
43 programs.

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3 Prohibits use of moneys in the Recycling Fund except for statutorily  
4 authorized purposes.