

ASSEMBLY, No. 2562

STATE OF NEW JERSEY

INTRODUCED DECEMBER 9, 1996

By Assemblyman DiGAETANO

1 AN ACT concerning the extension of certain recycling taxes and  
2 recycling tax credits, and amending P.L.1981, c.278 and P.L.1987,  
3 c.102.

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

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

10 4. a. There is levied upon the owner or operator of every solid  
11 waste facility a recycling tax of \$1.50 per ton of all solid waste  
12 accepted for disposal or transfer at the solid waste facility. In the  
13 event that any solid waste is measured upon acceptance for disposal  
14 or transfer by other than tons, the tax shall be levied on the equivalents  
15 thereof as shall be determined by the director. The recycling tax shall  
16 not be imposed on the owner or operator of a resource recovery  
17 facility, upon the acceptance of solid waste for disposal at that facility,  
18 or on the owner or operator of a solid waste [transfer station facility  
19 which is designed and operated solely for receiving and transferring  
20 solid waste from collection vehicles to haulage vehicles for the  
21 purposes of facilitating the transportation of solid waste, upon the  
22 acceptance of solid waste for transfer to an in-State solid waste facility  
23 for permanent disposal] facility at which solid waste is received from  
24 outside sources for the purpose of onsite transfer utilizing equipment  
25 or vehicles belonging to the facility and operated therefor, and the  
26 transfer activities are incidental to the processing or disposal  
27 operations of the facility.

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

**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 (2) Every owner or operator of a registered solid waste facility,  
2 which accepts solid waste for disposal or transfer, and which is subject  
3 to the tax under subsection a. of this section, shall register with the  
4 director on forms prescribed by the director, within 20 days after the  
5 first acceptance of this waste, register with the director on forms  
6 prescribed by him.

7 c. If a return required by this [act] section is not filed, or if a return  
8 when filed is incorrect or insufficient in the opinion of the director, the  
9 amount of tax due shall be determined by the director from such  
10 information as may be available. Notice of such determination shall be  
11 given to the taxpayer liable for the payment of the recycling tax. Such  
12 determination shall finally and irrevocably fix the tax unless the person  
13 against whom it is assessed, within 30 days after receiving notice of  
14 such determination, shall apply to the director for a hearing, or unless  
15 the director on his own motion shall redetermine the same. After such  
16 hearing the director shall give notice of his determination to the person  
17 to whom the recycling tax is assessed.

18 d. Any taxpayer who shall fail to file his return when due or to pay  
19 any tax when the same becomes due, as herein provided, shall be  
20 subject to such penalties and interest as provided in the "State Tax  
21 Uniform Procedure Law," R.S.54:48-1 et seq. If the Division of  
22 Taxation determines that the failure to comply with any provision of  
23 this section was excusable under the circumstances, it may remit such  
24 part or all of the penalty as shall be appropriate under such  
25 circumstances.

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

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

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

30 (1) To delegate to any officer or employee of his division such of  
31 his powers and duties as he may deem necessary to carry out  
32 efficiently the provisions of this section, and the person or persons to  
33 whom such power has been delegated shall possess and may exercise  
34 all of said powers and perform all of the duties delegated by the  
35 director;

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

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

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

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

46 5 a. The State Recycling Fund (hereinafter referred to as the

1 "fund") is established as a nonlapsing, revolving fund. The fund shall  
2 be administered by the Department of Environmental Protection, and  
3 shall be credited with all recycling tax revenue collected by the  
4 division pursuant to section 4 of P.L.1981, c.278 (C.13:1E-95).  
5 Interest received on moneys in the fund and sums received as  
6 repayment of principal and interest on outstanding loans made from  
7 the fund shall be credited to the fund. The Department of  
8 Environmental Protection, in the administration of the fund, is  
9 authorized to assign to the New Jersey Economic Development  
10 Authority the responsibility for making credit evaluations of applicants  
11 for loans, for servicing loans on behalf of the department, and, the  
12 provisions of any other law to the contrary notwithstanding, for  
13 making recommendations as to the approval or denial of loans  
14 pursuant to this section. The department is further authorized to pay  
15 or reimburse the authority in the amounts as the department agrees are  
16 appropriate for all services rendered by the authority in connection  
17 with any assignment of responsibility under the terms of this section  
18 out of moneys held in the fund for loans and the loan guarantee  
19 program.

20 b. Moneys in the fund shall be allocated and used for the following  
21 purposes and no others:

22 (1) Not less than 40% of the estimated annual balance of the fund  
23 shall be used for the annual expenses of a program for recycling grants  
24 to municipalities or counties in those instances where a county, at its  
25 own expense, provides for the collection, processing and marketing of  
26 recyclable materials on a regional basis. The amount of these grants  
27 shall be calculated on the basis of the total number of tons of  
28 recyclable materials annually recycled from residential, commercial and  
29 institutional sources within that municipality, or group of  
30 municipalities in the case of a county recycling program, except that  
31 no such grant shall exceed \$10.00 per ton of recyclable materials  
32 recycled. The department may allocate a portion of these grant  
33 moneys as bonus grants to municipalities and counties in those  
34 instances where a municipality or county, at its own expense, provides  
35 for the collection of recyclable materials in its recycling program. The  
36 department shall announce each year the total amount of moneys  
37 available in the bonus grant fund.

38 A municipality may distribute a portion of its grant moneys to  
39 nonprofit groups that are located within that municipality and which  
40 have contributed to the receipt of the recycling grant, except that this  
41 distribution shall not exceed the value of approved documented  
42 tonnage contributed by a nonprofit group.

43 A municipality may designate any nonprofit group as a recycling  
44 agent. A recycling agent shall receive that part of the municipality's  
45 recycling grant under this subsection that represents the percentage of  
46 the grant received by the municipality due to the documented tonnage

1 contributed by that recycling agent. Moneys received by a recycling  
2 agent shall be expended only for its recycling program. Any moneys  
3 not used for recycling shall be returned by the recycling agent to the  
4 municipality.

5 To be eligible for a grant pursuant to paragraph (1) of this  
6 subsection, a municipality or county in the case of a county recycling  
7 program shall demonstrate that the recyclable materials recycled by the  
8 municipal or county recycling program were not diverted from a  
9 commercial recycling program already in existence on the effective  
10 date of the ordinance or resolution establishing the municipal or  
11 county recycling program.

12 No recycling grant to any municipality shall be used for  
13 constructing or operating any facility for the baling of wastepaper or  
14 for the shearing, baling or shredding of ferrous or nonferrous  
15 materials;

16 (2) Not less than 35% of the estimated annual balance of the fund  
17 shall be used to provide low interest loans or loan guarantees to  
18 recycling businesses and industries, and to provide moneys for  
19 research into collection, market stimulation and reuse techniques  
20 applicable to recycling or the disposition of recyclable materials, or to  
21 contract for market studies, and to establish a sufficient reserve for a  
22 loan guarantee program for recycling businesses and industries;

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

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

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

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

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34 3. Section 10 of P.L.1981, c.278 is amended to read as follows:

35 10. This act shall take effect on January 1, 1982, except that  
36 section 6 of P.L.1981, c.278 (C.13:1E-97) shall take effect  
37 immediately. Section 4 of P.L.1981, c.278 (C.13:1E-95) shall expire  
38 on December 31, [1996] 2001.

39 (cf: P.L.1987, c.102, s.39)

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41 4. Section 53 of P.L.1987, c.102 is amended to read as follows:

42 53. This act shall take effect immediately except that section 35  
43 shall take effect the first day of the third month following enactment  
44 and except that section 42 shall be applicable on and after the first day

1 of the sixth month following enactment and shall expire on  
2 December 31, [1996] 2001, except that any unused credits claimed  
3 prior to January 1, [1997] 2002 shall be allowable after December 31,  
4 [1996] 2001 in accordance with the provisions of section 42.

5 (cf: P.L.1987, c.102, s.53)

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7 5. This act shall take effect immediately.

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10 STATEMENT

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12 This bill would extend for five years certain recycling taxes and  
13 recycling credits that expire December 31, 1996.

14 First, this bill would extend the State recycling tax. The recycling  
15 tax imposes a charge of \$1.50 per ton of solid waste accepted for  
16 disposal at a registered solid waste facility or for transfer at a transfer  
17 station, the revenues from which are deposited in the Recycling Fund.  
18 Not less than 40 percent of the estimated annual balance in the  
19 Recycling Fund is allocated for tonnage grants and bonus grants to  
20 municipalities and counties. The grants are awarded by the  
21 Department of Environmental Protection based on the total number of  
22 tons of recyclable materials annually recycled from residential,  
23 commercial and institutional sources within a municipality, or group  
24 of municipalities in a publicly-financed county recycling program. Of  
25 the remaining moneys in the Recycling Fund, not less than 35% of the  
26 estimated annual balance in the fund is allocated for low interest loans  
27 or loan guarantees to recycling businesses and industries; not more  
28 than 7% may be used for State recycling program planning and  
29 program funding; not more than 8% may be used for county recycling  
30 program planning and program funding; and not less than 10% may be  
31 used for a public information and education program concerning  
32 recycling activities.

33 Second, the bill would extend for five years the recycling equipment  
34 tax credit and thereby encourage further investment in recycling.  
35 Under current law, a taxpayer who purchases recycling equipment is  
36 entitled to a credit against the corporation business tax in amount  
37 equal to 50% of the cost of the recycling equipment less the amount  
38 of any loan received from the Recycling Fund.

39 In addition, the bill would make certain technical clarifications to  
40 current law.

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45 Extends certain recycling taxes and recycling tax credits.