

[First Reprint]  
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 <sup>1</sup>[, upon the acceptance of solid waste for disposal at that  
18 facility]<sup>1</sup>, or on the owner or operator of a solid waste [transfer  
19 station facility which is designed and operated solely for receiving and  
20 transferring solid waste from collection vehicles to haulage vehicles for  
21 the 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]<sup>1</sup> [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] transfer station facility that is designed and  
28 operated solely for receiving and transferring solid waste from  
29 collection vehicles to haulage vehicles for the purposes of facilitating  
30 the transportation of solid waste to an in-State solid waste facility for  
31 permanent disposal<sup>1</sup>.

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.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup> Assembly AAP committee amendments adopted December 16, 1996.

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

8       (2) Every owner or operator of a <sup>1</sup>[registered]<sup>1</sup> solid waste  
9 facility, which accepts solid waste for disposal or transfer, and which  
10 is subject to the tax under subsection a. of this section, shall register  
11 with the director on forms prescribed by the director, within 20 days  
12 after the first acceptance of this waste, register with the director on  
13 forms prescribed by him.

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

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

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

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

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

37       (1) To delegate to any officer or employee of his division such  
38 of his powers and duties as he may deem necessary to carry out  
39 efficiently the provisions of this section, and the person or persons to  
40 whom such power has been delegated shall possess and may exercise  
41 all of said powers and perform all of the duties delegated by the  
42 director;

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

45       g. The recycling tax imposed by this section shall be governed in  
46 all respects by the provisions of the "State Tax Uniform Procedure

1 Law," R.S.54:48-1 et seq., except only to the extent that a specific  
2 provision of this section may be in conflict therewith.  
3 (cf: P.L.1987, c.102, s.35)

4  
5 2. Section 5 of P.L.1981, c.278 (C.13:1E-96) is amended to read  
6 as follows:

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

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

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

45 A municipality may distribute a portion of its grant moneys to  
46 nonprofit groups that are located within that municipality and which

1 have contributed to the receipt of the recycling grant, except that this  
2 distribution shall not exceed the value of approved documented  
3 tonnage contributed by a nonprofit group.

4 A municipality may designate any nonprofit group as a recycling  
5 agent. A recycling agent shall receive that part of the municipality's  
6 recycling grant under this subsection that represents the percentage of  
7 the grant received by the municipality due to the documented tonnage  
8 contributed by that recycling agent. Moneys received by a recycling  
9 agent shall be expended only for its recycling program. Any moneys  
10 not used for recycling shall be returned by the recycling agent to the  
11 municipality.

12 To be eligible for a grant pursuant to paragraph (1) of this  
13 subsection, a municipality or county in the case of a county recycling  
14 program shall demonstrate that the recyclable materials recycled by the  
15 municipal or county recycling program were not diverted from a  
16 commercial recycling program already in existence on the effective  
17 date of the ordinance or resolution establishing the municipal or  
18 county recycling program.

19 No recycling grant to any municipality shall be used for  
20 constructing or operating any facility for the baling of wastepaper or  
21 for the shearing, baling or shredding of ferrous or nonferrous  
22 materials;

23 (2) Not less than 35% of the estimated annual balance of the fund  
24 shall be used to provide low interest loans or loan guarantees to  
25 recycling businesses and industries, and to provide moneys for  
26 research into collection, market stimulation and reuse techniques  
27 applicable to recycling or the disposition of recyclable materials, or to  
28 contract for market studies, and to establish a sufficient reserve for a  
29 loan guarantee program for recycling businesses and industries;

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

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

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

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

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

42 10. This act shall take effect on January 1, 1982, except that  
43 section 6 of P.L.1981, c.278 (C.13:1E-97) shall take effect  
44 immediately. Section 4 of P.L.1981, c.278 (C.13:1E-95) shall expire

1 on December 31, [1996] 2001.

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

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

5 53. This act shall take effect immediately except that section 35  
6 shall take effect the first day of the third month following enactment  
7 and except that section 42 <sup>1</sup>of P.L.1987, c.102 (C.54:10A-5.3)<sup>1</sup> shall  
8 be applicable on and after the first day of the sixth month following  
9 enactment and shall expire on December 31, [1996] 2001, except that  
10 any unused credits claimed prior to January 1, [1997] 2002 shall be  
11 allowable after December 31, [1996] 2001 in accordance with the  
12 provisions of section 42 <sup>1</sup>of P.L.1987, c.102 (C.54:10A-5.3)<sup>1</sup> .

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

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15 5. This act shall take effect immediately.

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20 Extends certain recycling taxes and recycling tax credits.