

[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 ¹[, upon the acceptance of solid waste for disposal at that
18 facility]¹, 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]¹ [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 disposal¹.

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:

¹ 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 ¹[registered]¹ 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 ¹of P.L.1987, c.102 (C.54:10A-5.3)¹ 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 ¹of P.L.1987, c.102 (C.54:10A-5.3)¹ .

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

14

15 5. This act shall take effect immediately.

16

17

18

19

20 Extends certain recycling taxes and recycling tax credits.