

ASSEMBLY, No. 2569

STATE OF NEW JERSEY

INTRODUCED DECEMBER 12, 1996

By Assemblywoman MYERS

1 AN ACT concerning the payment of stranded investment costs, and
2 amending, supplementing and repealing parts of P.L.1985, c.38.

3

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

6

7 1. (New section) The Legislature finds and declares that in
8 response to the need to protect and enhance the quality of the State's
9 environment, and to provide for the environmentally-sound disposal of
10 solid waste, the Legislature in 1970 made a determination that these
11 goals would be best achieved through the development of a
12 comprehensive Statewide solid waste management strategy; that in
13 furtherance of these environmental goals and policies, and to provide
14 for a regulatory framework for the implementation thereof on a
15 Statewide basis, the Legislature enacted the "Solid Waste Management
16 Act," P.L.1970, c.39 (C.13:1E-1 et seq.), which designated every
17 county and the Hackensack Meadowlands District as a solid waste
18 management district for planning and implementation purposes and
19 required each county, or a public authority designated by the
20 governing body of the county, to develop, adopt and implement a
21 district solid waste management plan for disposal of solid waste
22 generated within its geographic boundaries.

23 The Legislature further finds and declares that in furtherance of this
24 State mandate, each county or public authority has entered into
25 contracts, acquired real and personal property, incurred administrative
26 and other operating expenses, and issued debt obligations, and the
27 Department of Environmental Protection has issued waste flow orders
28 directing constituent municipalities and local haulers to designated in-
29 county solid waste facilities for processing or disposal, all in the
30 service of district solid waste management plan implementation.

31 The Legislature further finds and declares that the ability of each
32 county or public authority to fulfill its lawful responsibilities with
33 respect to district solid waste management plan implementation,
34 including the ability to raise revenues sufficient to provide funds for

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 payment of the costs of developing self-sufficient solid waste
2 management systems, has been predicated on its legal authority to
3 direct the flow of solid waste generated within the geographic
4 boundaries of the county to designated solid waste facilities, thereby
5 ensuring the economic viability of these facilities; and that waste flow
6 control by counties and public authorities has been supported by
7 statute, rules and regulations adopted by the Department of
8 Environmental Protection, and franchises awarded by the Board of
9 Public Utilities.

10 The Legislature further finds and declares that in the case of C &
11 A Carbone, Inc. v. Town of Clarkstown, N.Y. the U.S. Supreme Court
12 has held that, without unambiguous congressional authorization, a
13 state or local government's designation of the destination to which
14 haulers must transport solid waste for processing or disposal is a
15 violation of the Commerce Clause of the U.S. Constitution; that the
16 Carbone decision has been reaffirmed by the Atlantic Coast Demolition
17 & Recycling, Inc., et al. v. Board of Chosen Freeholders of Atlantic
18 County et al. decision, which held that New Jersey's solid waste
19 management system, including the Department of Environmental
20 Protection's waste flow rules, interferes with interstate commerce, and
21 that the State cannot direct municipalities or haulers to designated
22 solid waste facilities in New Jersey due to the unconstitutional nature
23 of New Jersey's solid waste management system, including the waste
24 flow rules; and that the Atlantic Coast ruling on July 15, 1996 gives
25 the State, counties and public authorities two years to implement a
26 constitutionally acceptable system for solid waste management.

27 The Legislature further finds and declares that counties and public
28 authorities must be able, under all circumstances, to collect revenues
29 sufficient to recover the environmental investment costs incurred in
30 developing and implementing State-mandated district solid waste
31 management plans through the construction and operation of capital-
32 intensive resource recovery facilities for the environmentally-sound
33 incineration of municipal solid waste.

34 The Legislature therefore determines that it is the public policy of
35 the State of New Jersey to furnish financial assistance to counties and
36 public authorities for the payment of stranded investment costs by
37 means of a grant program hereinafter established therefor.

38

39 2. Section 2 of P.L.1985, c.38 (C.13:1E-137) is amended to read
40 as follows:

41 2. As used in [this amendatory and supplementary act] the
42 provisions of P.L.1985, c.38 (C.13:1E-136 et seq.) and P.L. , c.
43 (C.13:1E-168.1 et seq.):

44 “Business concern” means any corporation, association, firm,
45 partnership, sole proprietorship, trust or other form of commercial
46 organization;

1 "Commissioner" means the Commissioner of the Department of
2 Environmental Protection;

3 [a.] "Contract file" means a file established and maintained by a
4 contracting unit, in which the contracting unit shall maintain a copy of
5 its request for qualifications issued pursuant to section 19 of [this
6 amendatory and supplementary act] P.L.1985, c.38 (C.13:1E-154), a
7 list of vendors responding to its request for qualifications, a copy of
8 its request for proposals issued pursuant to section 20 of [this
9 amendatory and supplementary act] P.L.1985, c.38 (C.13:1E-155), a
10 list of qualified vendors submitting proposals, and a document
11 outlining the general criteria used by the contracting unit in selecting
12 a proposal;

13 [b.] "Contracting unit" means any county; any municipality; any
14 bistate authority; or any board, commission, committee, authority or
15 agency, which is not a State board, commission, committee, authority
16 or agency, and which has administrative jurisdiction over any district
17 other than a school district, project, or facility, included or operating
18 in whole or in part, within the territorial boundaries of any county or
19 municipality, which exercises functions which are appropriate for the
20 exercise by one or more units of local government, and public
21 authority which has statutory power to [make purchases and] enter
22 into contracts or agreements [for the performance of any work or the
23 furnishing or hiring of any materials or supplies usually required] for
24 the design, financing, construction, operation, or maintenance, or any
25 combination thereof, of a resource recovery facility;

26 "Cost" means, in addition to the usual connotations thereof, any
27 expenses related to the planning, acquisition, construction, operation
28 and maintenance of resource recovery facilities, including debt service
29 on bonds issued by public authorities to finance resource recovery
30 facilities;

31 [c.] "County" means any county of this State of whatever class;

32 [d.] "Department" means the Department of Environmental
33 Protection;

34 [e.] "Director" means the Director of the Division of Taxation in
35 the Department of Treasury;

36 [f.] "District" means a solid waste management district as
37 designated by section 10 of P.L.1975, c.326 (C.13:1E-19), except
38 that, as used in the provisions of [this amendatory and supplementary
39 act] sections 3 through 17 of P.L.1985, c.38 (C.13:1E-138 through
40 13:1E-152), "district" shall not include the Hackensack Meadowlands
41 District;

42 [g.] "District investment tax fund" means a District Resource
43 Recovery Investment Tax Fund established pursuant to subsection a.
44 of section 15 of [this amendatory and supplementary act] P.L.1985,
45 c.38 (C.13:1E-150);

46 [h.] "Division" means the Division of Taxation in the Department

- 1 of Treasury;
- 2 [i.] "Division of Local Government Services" means the Division
3 of Local Government Services in the Department of Community
4 Affairs;
- 5 [j.] "Division of Rate Counsel" means the Division of Rate Counsel
6 in the Department of the Public Advocate;]
- 7 [k] "Franchise" means the exclusive right to control and provide
8 for the disposal of solid waste, except for recyclable material whenever
9 markets for those materials are available, within a district or districts
10 as awarded by the Board of Public Utilities;
- 11 [l.] "Independent public accountant" means a certified public
12 accountant, a licensed public accountant or a registered municipal
13 accountant;
- 14 [m.] "Investment tax" means the resource recovery investment tax
15 imposed pursuant to subsection b. of section 3 of [this amendatory and
16 supplementary act] P.L.1985, c.38 (C.13:1E-138);
- 17 [n.] "Investment tax fund" means the Resource Recovery
18 Investment Tax Fund containing sub-accounts for each county
19 established pursuant to the provisions of section 14 of [this
20 amendatory and supplementary act] P.L.1985, c.38 (C.13:1E-149);
- 21 [o.] "Out-of-district solid waste" means any solid waste accepted
22 for disposal in a district which was generated outside the receiving
23 district;
- 24 [p.] "Person or party" means any individual, public or private
25 corporation, company, partnership, firm, association, political
26 subdivision of this State, or any State, bistate, or interstate agency or
27 authority] "Person" means any individual or business concern;
- 28 [q.] "Proposed contract" means a contract negotiated by a
29 contracting unit pursuant to the provisions of [this amendatory and
30 supplementary act] P.L.1985, c.38 (C.13:1E-136 et al.), or a
31 substantial renegotiation of a contract previously approved pursuant
32 to the provisions of [this amendatory and supplementary act] section
33 28 of P.L.1985, c.38 (C.13:1E-163) if the renegotiation is determined
34 to be substantial by the department[, the Board of Public Utilities,] or
35 the Division of Local Government Services;
- 36 "Public authority" means any municipal or county utilities authority
37 created pursuant to the "municipal and county utilities authorities
38 law," P.L.1957, c.183 (C.40:14B-1 et seq.); county improvement
39 authority created pursuant to the "county improvement authorities
40 law," P.L.1960, c.183 (C.40:37A-44 et seq.); pollution control
41 financing authority created pursuant to the "New Jersey Pollution
42 Control Financing Law," P.L.1973, c.376 (C.40:37C-1 et seq.), or any
43 other public body corporate and politic created for solid waste
44 management purposes in any county, pursuant to the provisions of any
45 law;
- 46 [r.] "Qualified vendor" means any person or party financially

1 qualified for, and technically and administratively capable of,
2 undertaking the design, financing, construction, operation, or
3 maintenance, or any combination thereof, of a resource recovery
4 facility or of providing resource recovery services, as provided in
5 section 19 of [this amendatory and supplementary act] P.L.1985, c.38
6 (C.13:1E-154);

7 [s.] "Recyclable material" means those materials which would
8 otherwise become solid waste, which may be collected, separated or
9 processed and returned to the economic mainstream in the form of raw
10 materials or products;

11 [t.] "Recycling" means any process by which materials which
12 would otherwise become solid waste are collected, separated or
13 processed and returned to the economic mainstream in the form of raw
14 materials or products;

15 [u.] "Recycling facility" means a facility at which materials which
16 would otherwise become solid waste are collected, separated or
17 processed and returned to the economic mainstream in the form of raw
18 materials or products;]

19 [v.] "Resource recovery facility" means a solid waste facility
20 constructed and operated for the incineration of solid waste for energy
21 production and the recovery of metals and other materials for reuse;
22 or a mechanized composting facility, or any other [solid waste] facility
23 constructed or operated for the collection, separation, recycling, and
24 recovery of metals, glass, paper, and other materials for reuse or for
25 energy production;

26 [w.] "Sanitary landfill facility" means a solid waste facility at which
27 solid waste is deposited on or in the land as fill for the purpose of
28 permanent disposal or storage for a period exceeding six months,
29 except that it shall not include any waste facility approved for disposal
30 of hazardous waste;

31 [x.] "Services tax" means the solid waste services tax imposed
32 pursuant to subsection a. of section 3 of [this amendatory and
33 supplementary act] P.L.1985, c.38 (C.13:1E-138);

34 [y.] "Services tax fund" means the Solid Waste Services Tax Fund
35 established pursuant to section 12 of [this amendatory and
36 supplementary act] P.L.1985, c.38 (C.13:1E-147);

37 "Stranded investment costs" means the cost of stranded
38 investments;

39 "Stranded investments" means any resource recovery facility
40 acquired, constructed or operated or to be acquired, constructed or
41 operated by, or on behalf of, any person, public authority or county
42 for, or with respect to, the implementation of a district solid waste
43 management plan required pursuant to the provisions of the "Solid
44 Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.) or any
45 other act, which resource recovery facility has been financed, in whole
46 or in part, through a zero interest State loan made from the "Resource

1 Recovery and Solid Waste Disposal Facility Fund" established
2 pursuant to section 14 of P.L.1985, c.330;

3 "Stranded investment fund" means the Stranded Investment Cost
4 Recovery Fund established pursuant to section 5 of P.L. , c.
5 (C.13:1E-168.2);

6 [z.] "Vendor" means any person or party proposing to undertake
7 the design, financing, construction, operation, or maintenance, or any
8 combination thereof, of a resource recovery facility or of providing
9 resource recovery services;

10 [aa.] "Waste importation tax" means the solid waste importation
11 tax imposed pursuant to subsection c. of section 3 of [this amendatory
12 and supplementary act] P.L.1985, c.38 (C.13:1E-138).

13 (cf: P.L.1985, c.38, s.2)

14

15 3. Section 3 of P.L.1985, c.38 (C.13:1E-138) is amended to read
16 as follows:

17 3. a. There is levied upon the owner or operator of every sanitary
18 landfill facility a solid waste services tax of \$1.10 per ton on all solid
19 waste accepted for disposal at the sanitary landfill facility. [The
20 services tax shall be imposed on the owner or operator at the initial
21 rate of \$0.50 per ton of solids and \$0.002 per gallon of liquids on all
22 solid waste accepted for disposal at a sanitary landfill facility.]

23 On [the first day of the first calendar year following the imposition
24 of the services tax] January 1, 1998, and annually thereafter, the rate
25 of the services tax shall be increased by \$0.05 per ton [of solids] on
26 all solid waste accepted for disposal at the sanitary landfill facility. No
27 services tax shall be levied on the owner or operator of a sanitary
28 landfill facility for the acceptance for disposal of the waste products
29 resulting from the operation of a resource recovery facility.

30 b. [(1) There is levied upon the owner or operator of every sanitary
31 landfill facility a resource recovery investment tax. The investment tax
32 shall be levied on the owner or operator at the initial rate of \$1.00 per
33 ton of solids and \$0.004 per gallon of liquids on all solid waste
34 accepted for disposal at a sanitary landfill facility. No investment tax
35 shall be levied on the owner or operator of a sanitary landfill facility
36 for the acceptance for disposal of the waste products resulting from
37 the operation of a resource recovery facility.

38 (2) Unless the rate is otherwise adjusted pursuant to section 11 of
39 this amendatory and supplementary act, the rate of the investment tax
40 shall be increased in accordance with the following schedule:

41 (a) On the first day of the first calendar year following the
42 imposition of the investment tax, the rate of the investment tax shall
43 increase to \$2.00 per ton of solids;

44 (b) On the first day of the second calendar year following the
45 imposition of the investment tax, the rate of the investment tax shall
46 increase to \$3.00 per ton of solids; and

1 (c) On the first day of the third calendar year following the
2 imposition of the investment tax, the rate of the investment tax shall
3 increase to \$4.00 per ton of solids.

4 The investment tax shall no longer be levied on the owner or
5 operator of a sanitary landfill on and after the first day of the 11th
6 calendar year following the imposition of the investment tax.] (Deleted
7 by amendment, P.L. , c.)

8 c. [There is levied upon the owner or operator of every sanitary
9 landfill facility which accepts out-of-district solid waste a solid waste
10 importation tax. The waste importation tax shall be imposed on the
11 owner or operator at the initial rate of \$1.00 per ton of solids and
12 \$0.004 per gallon of liquids on all out-of-district solid waste accepted
13 for disposal at a sanitary landfill facility. On the first day of the third
14 calendar year following the imposition of the waste importation tax,
15 the rate of the waste importation tax shall be increased to \$4.00 per
16 ton of solids, and annually thereafter the rate of the waste importation
17 tax shall be increased by \$2.00 per ton of solids. No waste importation
18 tax shall be levied on the owner or operator of a sanitary landfill
19 facility for the acceptance for disposal of the waste products resulting
20 from the operation of a resource recovery facility.

21 The waste importation tax shall no longer be levied on the owner
22 or operator of a sanitary landfill facility which accepts out-of-district
23 solid waste on or after the first day of the 11th calendar year following
24 the imposition of the waste importation tax.] (Deleted by amendment,
25 P.L. , c.)

26 d. If any owner or operator of a sanitary landfill facility determines
27 the quantity of solid waste accepted for disposal by a measure other
28 than tons [or gallons], the taxes imposed pursuant to the provisions of
29 this section shall be levied at an equivalent rate as determined by the
30 director.

31 e. No taxes shall be levied on the owner or operator of a sanitary
32 landfill facility for the acceptance of solid waste generated exclusively
33 by an agency of the federal government if a solid waste collector
34 submits to the owner or operator an itemized invoice, signed and
35 verified by an authorized officer of the federal agency, indicating the
36 number of tons of solid waste to be disposed of, and a copy of the
37 contract with the federal agency for the collection of solid waste with
38 an effective date prior to [the effective date of this amendatory and
39 supplementary act] May 1, 1985 . Taxes shall be levied on the owner
40 or operator for acceptance of solid waste generated by a federal
41 agency if the contract between the federal agency and the solid waste
42 collector was entered into, or renewed, on or after [the effective date
43 of this amendatory and supplementary act] May 1, 1985.

44 (cf: P.L.1985, c.38, s.3)

45
46 4. Section 14 of P.L.1985, c.38 (13:1E-149) is amended to read as

1 follows:

2 14. a. The Resource Recovery Investment Tax Fund is established
3 in the Department of Treasury. The investment tax fund shall contain
4 sub-accounts for each county to be held by the State Treasurer and
5 shall be the depository for revenues generated by the investment tax
6 and the waste importation tax, and any interest earned thereon, and
7 prior to the expiration of those taxes shall be disbursed pursuant to the
8 provisions of this section.

9 b. Prior to the disbursement of any moneys in the investment tax
10 fund as provided hereunder, the cost of administration and collection
11 of the taxes shall be paid to the director out of that fund, up to an
12 amount not to exceed 2% of the total revenues deposited into the fund
13 during the fiscal year.

14 c. The director shall allocate the moneys in the investment tax fund
15 as follows:

16 (1) The investment tax revenues collected by the director resulting
17 from the amount of solid waste generated from within each county
18 shall be deposited in each county's sub-account;

19 (2) The investment tax revenues collected by the director and not
20 otherwise deposited in an investment tax fund sub-account pursuant
21 to paragraph (1) of this subsection shall be deposited in the receiving
22 county's sub-account; and

23 (3) The waste importation tax revenues collected by the director
24 resulting from the acceptance of out-of-district solid waste shall be
25 deposited in the receiving county's sub-account, except that the waste
26 importation tax revenues resulting from the disposal of out-of-district
27 solid waste at sanitary landfill facilities operated and maintained by the
28 Hackensack Meadowlands Development Commission shall be
29 deposited in the sub-account of the county within which the sanitary
30 landfill facility is located.

31 d. Commencing on January 1, 1997, all moneys accruing to the
32 investment tax fund, and any interest earned on the management of
33 moneys in the investment tax fund, shall be paid by the director into
34 the stranded investment fund.

35 (cf: P.L.1985, c.38, s.14)

36

37 5. (New section) a. The Stranded Investment Cost Recovery Fund
38 is established as a nonlapsing fund in the Department of Environmental
39 Protection. The stranded investment fund shall be administered by the
40 department and shall be the depository for those revenues paid by the
41 director into the stranded investment fund from the Resource
42 Recovery Investment Tax Fund pursuant to section 14 of P.L.1985,
43 c.38 (C.13:1E-149), and for any interest earned thereon.

44 b. The moneys in the stranded investment fund shall be utilized by
45 the commissioner solely for the purpose of providing grants to
46 counties and public authorities for the payment of stranded investment

1 costs associated with the construction and operation of resource
2 recovery facilities.

3 c. Procedures for the review and approval of, and eligibility criteria
4 for the awarding of grants shall be established by the commissioner
5 pursuant to section 6 of P.L. , c. (C.13:1E-168.3)(pending in the
6 Legislature as this bill).

7

8 6. (New section) a. The commissioner shall for each fiscal year
9 develop a priority system for providing grants to assist counties and
10 public authorities in the payment of stranded investment costs and
11 shall establish the ranking criteria and funding policies therefor. The
12 commissioner shall set forth a priority list for funding for each fiscal
13 year and shall include the aggregate amount of funds to be authorized
14 for these purposes. Eligibility of a county or public authority for a
15 grant to be included on the priority list shall be determined in
16 accordance with the provisions of subsection b. of this section. The
17 priority list shall include an explanation of the manner in which
18 priorities were established. The priority system and priority list for the
19 ensuing fiscal year shall be submitted to the Legislature on or before
20 January 15 of each year.

21 b. In order to be eligible for a grant, a county or public authority
22 shall prepare a plan to reduce the solid waste charges received at the
23 resource recovery facility for solid waste disposal. The plan shall
24 include, but not necessarily be limited to, provisions concerning:

25 (1) the assumption by the governing body of the county of some or
26 all of the administrative costs of implementing its district solid waste
27 management plan;

28 (2) the proper delegation to municipalities of the costs of certain
29 county solid waste services, including, but not limited to, recycling or
30 household hazardous waste management, which are currently part of
31 the solid waste charges received at the resource recovery facility for
32 solid waste disposal;

33 (3) the refinancing of debt to reduce the solid waste charges
34 received at the resource recovery facility for solid waste disposal;

35 (4) any other arrangements as may be necessary to reduce the solid
36 waste charges received at the resource recovery facility for solid waste
37 disposal; or

38 (5) the prudent application of grant moneys to the plan prepared
39 by the county or public authority to ensure the long-term
40 competitiveness of the resource recovery facility as well as the
41 payment of debt service obligations.

42 No moneys shall be expended for grants during a fiscal year for any
43 county or public authority unless the expenditure is authorized
44 pursuant to an appropriations act.

45 c. As part of the annual submission required by this section, the
46 department shall provide a financial accounting of all expenditures

1 made in the preceding year, and of all administrative expenses incurred
2 by the department in administering the "Stranded Investment Cost
3 Recovery Fund."

4
5 7. (New section) a. The department shall adopt, pursuant to the
6 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
7 seq.), any rules and regulations necessary to implement the provisions
8 of P.L. , c. (C.13:1E-168.1 et seq.)(pending in the Legislature as
9 this bill).

10 b. The Division of Taxation shall adopt, pursuant to the
11 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
12 seq.), any rules and regulations necessary to implement the provisions
13 of P.L. , c. (C.13:1E-168.1 et seq.)(pending in the Legislature as
14 this bill).

15
16 8. The following are repealed:
17 Section 11 of P.L.1985, c.38 (C.13:1E-146);
18 Section 15 of P.L.1985, c.38 (C.13:1E-150);
19 Section 16 of P.L.1985, c.38 (C.13:1E-151); and
20 Section 17 of P.L.1985, c.38 (C.13:1E-152).

21
22 9. This act shall take effect immediately.

23 24 25 STATEMENT

26
27 This bill would revise the purposes for which moneys deposited in
28 Resource Recovery Investment Tax Fund may be expended to provide
29 funding for a program to provide grants to counties and authorities for
30 the payment of stranded investment costs.

31 P.L.1985, c.38 imposed a resource recovery investment tax upon
32 all solid waste accepted for disposal at a registered sanitary landfill
33 facility on or after May 1, 1985 to provide funds to the counties to
34 subsidize the tipping fees charged at resource recovery incineration
35 facilities. The resource recovery investment tax was imposed at an
36 initial rate of \$1.00 per ton in 1985 with a built-in escalator to increase
37 the rate to \$2.00 per ton on January 1, 1986, \$3.00 per ton on January
38 1, 1987, and \$4.00 per ton on January 1, 1988. The resource recovery
39 investment tax generated \$11.8 million in 1992, \$10.5 million in 1993,
40 \$13.0 million in 1994, and approximately \$14.0 million in 1995. The
41 resource recovery investment tax expired on December 31, 1995.

42 P.L.1985, c.38 also imposed a solid waste importation tax on the
43 disposal of all "out-of-district" solid waste accepted for disposal at a
44 registered sanitary landfill facility on or after May 1, 1985 to provide
45 funds to several receiving counties to subsidize their respective solid
46 waste management programs. "Out-of-district" solid waste refers to

1 solid waste originating in a county that sends its solid waste to a
2 regional facility in a "receiving" county for disposal under the terms of
3 an interdistrict agreement. The solid waste importation tax was
4 imposed at an initial rate of \$1.00 per ton in 1985 with a built-in
5 escalator to increase the rate to \$4.00 per ton on January 1, 1988, and
6 thereafter to increase the rate by \$2.00 per ton on the first of January
7 each year. The tax rate in 1995 was \$18.00 per ton. The solid waste
8 importation tax generated \$3.9 million in 1992, \$4.8 million in 1993,
9 \$7.3 million in 1994, and approximately \$7.5 million in 1995. The
10 solid waste importation tax expired on December 31, 1995. The
11 revenues generated by the resource recovery investment tax and the
12 solid waste importation tax have been deposited into a separate
13 Resource Recovery Investment Tax Fund in the Department of
14 Treasury.

15 Under this legislation, the Director of the Division of Taxation
16 would deposit the remaining funds in the Resource Recovery
17 Investment Tax Fund into the Stranded Investment Cost Recovery
18 Fund established pursuant to section 5 of the bill.

19 The Stranded Investment Cost Recovery Fund would be
20 administered by the Department of Environmental Protection. The
21 moneys in the Stranded Investment Cost Recovery Fund would be
22 utilized by the Commissioner of Environmental Protection solely for
23 the purpose of providing grants to counties and public authorities for
24 the payment of stranded investment costs associated with the
25 construction and operation of resource recovery facilities.

26 The Commissioner would for each fiscal year develop a priority
27 system for providing grants to assist counties and public authorities in
28 the payment of stranded investment costs and is required to establish
29 the ranking criteria and funding policies therefor. The Commissioner
30 must set forth a priority list for funding for each fiscal year and would
31 include the aggregate amount of funds to be authorized for these
32 purposes. Eligibility of a county or public authority for a grant to be
33 included on the priority list would be determined in accordance with
34 criteria set forth in the bill. The priority list would include an
35 explanation of the manner in which priorities were established. The
36 priority system and priority list for the ensuing fiscal year must be
37 submitted to the Legislature on or before January 15 of each year.

38 The bill provides that in order to be eligible for a grant, a county or
39 public authority must prepare a plan to reduce the solid waste charges
40 received at the resource recovery facility for solid waste disposal. The
41 plan must include, but not necessarily be limited to, provisions
42 concerning: (1) the assumption by the governing body of the county
43 of some or all of the administrative costs of implementing its district
44 solid waste management plan; (2) the proper delegation to
45 municipalities of the costs of certain county solid waste services,
46 including, but not limited to, recycling or household hazardous waste

1 management, which are currently part of the solid waste charges
2 received at the resource recovery facility for solid waste disposal; (3)
3 the refinancing of debt to reduce the solid waste charges received at
4 the resource recovery facility for solid waste disposal; (4) any other
5 arrangements as may be necessary to reduce the solid waste charges
6 received at the resource recovery facility for solid waste disposal; or
7 (5) the prudent application of grant moneys to the plan prepared by the
8 county or public authority to ensure the long-term competitiveness of
9 the resource recovery facility as well as the payment of debt service
10 obligations.

11 No moneys could be expended for grants during a fiscal year for
12 any county or public authority unless the expenditure is authorized
13 pursuant to a legislative appropriations bill.

14 The department must annually provide a financial accounting to the
15 Legislature of all expenditures made in the preceding year, and of all
16 administrative expenses incurred by the department in administering
17 the Stranded Investment Cost Recovery Fund.

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22 Revises purposes for which moneys deposited in Resource Recovery
23 Investment Tax Fund may be expended.