

SENATE, No. 1465

STATE OF NEW JERSEY

INTRODUCED SEPTEMBER 19, 1996

By Senator BRYANT

1 AN ACT concerning certain host municipality benefits and amending
2 P.L.1985, c.38.

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

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7 1. Section 40 of P.L.1985, c.38 (C.48:13A-5.1) is amended to read
8 as follows:

9 40. a. The person holding the franchise for a resource recovery
10 facility pursuant to the provisions of section 6 of P.L.1970, c.40
11 (C.48:13A-5) shall, on or before January 25 of each year, file with the
12 chief fiscal officer of the municipality wherein the resource recovery
13 facility is located a statement, verified by oath, showing the total
14 number of tons of solid waste accepted for disposal at the resource
15 recovery facility during the preceding calendar year, and shall at the
16 time pay to the chief fiscal officer a sum equal to at least \$1.00 per ton
17 of all solid waste accepted for disposal at the resource recovery
18 facility. A municipality may negotiate with the person holding the
19 franchise for a resource recovery facility or the contracting unit, or
20 both as the case may be, for an amount exceeding the amount provided
21 for in this section.

22 b. If any municipality borders a municipality wherein a resource
23 recovery facility is located and the municipal boundary of the
24 contiguous municipality is within one-half mile of the incinerator
25 building of the resource recovery facility, the contiguous municipality
26 shall be entitled to an annual economic benefit to be agreed upon by
27 the governing body of the contiguous municipality and the person
28 holding the franchise for the resource recovery facility or the
29 contracting unit, or both, as the case may be. The governing body of
30 the contiguous municipality, and the person holding the franchise for
31 the resource recovery facility or the contracting unit, or both, as the
32 case may be, shall consider the level of truck traffic in the contiguous
33 municipality, the proximity of the incinerator building to inhabited
34 areas of the contiguous municipality and the type of land use in the

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 contiguous municipality surrounding the facility in negotiating the
2 annual economic benefit.

3 If the governing body of the contiguous municipality and the person
4 holding the franchise for the resource recovery facility or the
5 contracting unit, or both, as the case may be, fail to agree upon an
6 annual economic benefit as provided in this subsection, any party to
7 the failed negotiations may request the Department of Environmental
8 Protection to determine an appropriate benefit, in which case the
9 Commissioner of Environmental Protection shall make that
10 determination and the terms and conditions of any annual economic
11 benefit so determined shall remain subject to the continuing
12 jurisdiction of the department. In making the determination of the
13 annual economic benefit, the commissioner shall consider the level of
14 truck traffic in the contiguous municipality, the proximity of the
15 incinerator building to inhabited areas of the contiguous municipality
16 and the type of land use in the contiguous municipality surrounding the
17 facility. For the purposes of this subsection, "contiguous municipality"
18 shall mean a municipality in which is located the only public roads or
19 highways providing vehicular access to the resource recovery facility.

20 c. If more than one contiguous municipality is to receive an annual
21 economic benefit as provided in subsection b. of this section, the
22 person holding the franchise for the resource recovery facility shall
23 provide each affected municipality with the annual statement of
24 tonnage accepted at the facility required by subsection a. of this
25 section, and shall pay to the chief fiscal officer of the appropriate
26 municipality the amount due as provided in subsection b. of this
27 section.

28 d. The provisions of subsections b. and c. of this section shall not
29 apply to (1) any contracting unit which has negotiated a contract for
30 resource recovery facilities or services with a vendor prior to January
31 25, 1986, and has held a public hearing on the contract pursuant to the
32 provisions of sections 26 and 27 of P.L.1985, c.38 (C.13:1E-161 and
33 13:1E-162); (2) any publicly-owned resource recovery facility; (3)
34 any person holding the franchise for the resource recovery facility
35 which is a pollution control financing authority created pursuant to the
36 "New Jersey Pollution Control Financing Law," P.L.1973, c.376
37 (C.40:37C-1 et seq.); or (4) any contracting unit which has negotiated
38 a contract for resource recovery facilities or services with a vendor
39 pursuant to the provisions of P.L.1985, c.38 (C.13:1E-136 et al.).
40 (cf: P.L.1985, c.38, s.4)

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42 2. This act shall take effect immediately.

STATEMENT

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3 This bill would provide that any municipality bordering on a
4 municipality wherein a resource recovery facility is located shall be
5 entitled to an annual economic benefit, provided that the municipal
6 boundary of the contiguous municipality is within one-half mile of the
7 incinerator building of the facility. The bill defines "contiguous
8 municipality" as the municipality which public roads or highways
9 provides the only vehicular access to the resource recovery facility.

10 The amount of the annual economic benefit accorded a contiguous
11 municipality would be negotiated by its governing body and the person
12 holding the franchise for the facility and the contracting unit, or both,
13 as the case may be. If the parties fail to agree upon an annual
14 economic benefit, any party to the failed negotiations may request the
15 Department of Environmental Protection to determine an appropriate
16 benefit, in which case the Commissioner of Environmental Protection
17 would determine the amount and the terms and conditions of the
18 annual economic benefit. In making that determination, the
19 commissioner would consider the level of truck traffic in the
20 contiguous municipality, the proximity of the incinerator building to
21 inhabited areas of the contiguous municipality and the type of land use
22 in the contiguous municipality surrounding the facility.

23 The contiguous municipality's annual economic benefit would be
24 separate and distinct from the "host municipality" benefit provided by
25 existing law (i.e. subsection a. of the bill). The bill would also exempt
26 those contracting units which have already negotiated contracts for
27 resource recovery facilities and services, and held public hearings
28 thereon, from the contiguous municipality benefit provisions of the
29 bill.

30 Finally, the bill would exempt from its provisions: any publicly-
31 owned resource recovery facility; any person holding the franchise for
32 the resource recovery facility which is a pollution control financing
33 authority created pursuant to the "New Jersey Pollution Control
34 Financing Law," P.L.1973, c.376 (C.40:37C-1 et seq.); and any
35 contracting unit which has negotiated a contract for resource recovery
36 facilities or services with a vendor pursuant to the provisions of
37 P.L.1985, c.38 (C.13:1E-136 et al.).

38 This bill would provide an annual economic benefit for the Borough
39 of Westville, Gloucester county.

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44 Provides annual economic benefit to municipality contiguous to host
45 municipality of resource recovery facility.