

SENATE, No. 1729

STATE OF NEW JERSEY

INTRODUCED DECEMBER 16, 1996

By Senators KYRILLOS and CAFIERO

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:

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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
18 facility], or on the owner or operator of a solid waste transfer station
19 facility [which] that 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
22 the acceptance of solid waste for transfer] to an in-State solid waste
23 facility for permanent disposal.

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

31 (2) Every owner or operator of a solid waste facility, which
32 accepts solid waste for disposal or transfer, and which is subject to the
33 tax under subsection a. of this section, shall register with the director
34 on forms prescribed by the director, within 20 days after the first

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 acceptance of this waste, register with the director on forms prescribed
2 by him.

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

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

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

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

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

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

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

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

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

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

42 5 a. The State Recycling Fund (hereinafter referred to as the
43 "fund") is established as a nonlapsing, revolving fund. The fund shall
44 be administered by the Department of Environmental Protection, and
45 shall be credited with all recycling tax revenue collected by the
46 division pursuant to section 4 of P.L.1981, c.278 (C.13:1E-95).

1 Interest received on moneys in the fund and sums received as
2 repayment of principal and interest on outstanding loans made from
3 the fund shall be credited to the fund. The Department of
4 Environmental Protection, in the administration of the fund, is
5 authorized to assign to the New Jersey Economic Development
6 Authority the responsibility for making credit evaluations of applicants
7 for loans, for servicing loans on behalf of the department, and, the
8 provisions of any other law to the contrary notwithstanding, for
9 making recommendations as to the approval or denial of loans
10 pursuant to this section. The department is further authorized to pay
11 or reimburse the authority in the amounts as the department agrees are
12 appropriate for all services rendered by the authority in connection
13 with any assignment of responsibility under the terms of this section
14 out of moneys held in the fund for loans and the loan guarantee
15 program.

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

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

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

39 A municipality may designate any nonprofit group as a recycling
40 agent. A recycling agent shall receive that part of the municipality's
41 recycling grant under this subsection that represents the percentage of
42 the grant received by the municipality due to the documented tonnage
43 contributed by that recycling agent. Moneys received by a recycling
44 agent shall be expended only for its recycling program. Any moneys
45 not used for recycling shall be returned by the recycling agent to the
46 municipality.

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

8 No recycling grant to any municipality shall be used for
9 constructing or operating any facility for the baling of wastepaper or
10 for the shearing, baling or shredding of ferrous or nonferrous
11 materials;

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

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

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

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

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

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

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

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

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

38 53. This act shall take effect immediately except that section 35
39 shall take effect the first day of the third month following enactment
40 and except that section 42 of P.L.1987, c.102 (C.54:10A-5.3) shall be
41 applicable on and after the first day of the sixth month following
42 enactment and shall expire on December 31, [1996] 2001, except that
43 any unused credits claimed prior to January 1, [1997] 2002 shall be
44 allowable after December 31, [1996] 2001 in accordance with the

1 provisions of section 42 of P.L.1987, c.102 (C.54:10A-5.3).
2 (cf: P.L.1987, c.102, s.53)

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4 5. This act shall take effect immediately.

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STATEMENT

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

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

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

36 In addition, the bill would make certain technical clarifications to
37 current law.

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42 Extends certain recycling taxes and recycling tax credits.