

[First Reprint]

ASSEMBLY COMMITTEE SUBSTITUTE FOR
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STATE OF NEW JERSEY
212th LEGISLATURE

ADOPTED DECEMBER 6, 2007

Sponsored by:

Assemblyman JOHN F. MCKEON

District 27 (Essex)

Assemblyman REED GUSCIORA

District 15 (Mercer)

Co-Sponsored by:

**Assemblymen Hackett, Giblin, Diegnan, Chivukula, Epps,
Assemblywomen Evans, Jasey, Assemblyman Egan, Senators B.Smith and
Martin**

SYNOPSIS

“Recycling Enhancement Act.”

CURRENT VERSION OF TEXT

As reported by the Assembly Appropriations Committee on January 3, 2008,
with amendments.



(Sponsorship Updated As Of: 1/8/2008)

1 AN ACT concerning the recycling of solid waste, imposing a
2 recycling tax on solid waste generation, amending,
3 supplementing and repealing various sections of statutory law,
4 and making an appropriation.
5

6 **BE IT ENACTED** *by the Senate and General Assembly of the State*
7 *of New Jersey:*
8

9 1. (New section) This act shall be known and may be cited as
10 the "Recycling Enhancement Act."
11

12 2. (New section) The Legislature finds and declares that the
13 State Recycling plan goals, which provide for the recycling of 50%
14 of the municipal solid waste stream and 60% of the total solid
15 waste stream, are perhaps the most ambitious in the nation; that
16 since the expiration of the recycling tax on December 31, 1996 the
17 State of New Jersey provides less public support to recycling than
18 at least 25 other states; that this lack of public financial support,
19 especially for local public information and recycling education
20 programs, is at least partly responsible for the steady decline in the
21 New Jersey's recycling rates over the past decade, from a high of
22 45% recycling of the municipal solid waste stream in 1995 to a
23 recycling rate of 33% in 2003; and that it is unacceptable that the
24 State which enacted the nation's first statewide mandatory recycling
25 law has been unable to sustain its heretofore exemplary recycling
26 efforts due to inadequate public funding.

27 The Legislature further finds that the recycling of waste
28 materials decreases waste flow to county solid waste facilities and
29 out-of-State disposal sites, and that by achieving the statutory
30 recycling goals a disposal facility capacity savings equal to the
31 annual utilization of 3.5 solid waste incinerators or 4.5 solid waste
32 landfills can be realized; that recycling reduces waste flow to the
33 State's solid waste incinerators while contributing to their overall
34 combustion efficiency through the removal of noncombustible and
35 nonprocessable materials at the source, recovers or saves valuable
36 resources, including over 3 million tons of iron, coal and limestone
37 in the production of new ferrous metals and over 9 million trees in
38 the production of virgin paper from the ferrous metals and paper
39 recycling by New Jersey residents and businesses in 2003 alone,
40 conserves an estimated 86 trillion BTU's, or the equivalent of 700
41 million gallons of gasoline in the manufacturing process, and offers
42 a supply of domestic raw materials for the State's recycling-related
43 industries, which include over 2,000 businesses with over 27,000
44 employees; that recycling reduces air and water pollutants emitted

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is 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 January 3, 2008.

1 during the manufacturing process by more than 134,000 metric
2 tons; that economically viable municipal and county recycling
3 programs are necessary to achieve the maximum practicable
4 recovery of reusable materials from solid waste in this State; and
5 that such programs will reduce the amount of solid waste disposed
6 at county solid waste facilities, result in more efficient solid waste
7 incinerators, conserve energy and resources, and recover materials
8 for industrial uses.

9 The Legislature, therefore, declares it to be in the environmental
10 and economic interests of the State of New Jersey to provide
11 financial support for municipal and county recycling programs
12 through the imposition of a tax on solid waste generation.

13
14 3. (New section) For the purposes of this act:

15 "Beverage container" means an individual, separate, hermetically
16 sealed, or made airtight with a metal or plastic cap, bottle or can
17 composed of glass, metal, plastic or any combination thereof,
18 containing a beverage.

19 "Certified recycling coordinator" means a person or persons
20 designated as such pursuant to section 3 of P.L.1987, c.102
21 (C.13:1E-99.13) or section 6 of P.L.1987, c.102 (C.13:1E-99.16).

22 "Commissioner" means the Commissioner of Environmental
23 Protection.

24 "Department" means the Department of Environmental
25 Protection.

26 "Director" means the Director of the Division of Taxation in the
27 Department of the Treasury.

28 "Division" means the Division of Taxation in the Department of
29 the Treasury.

30 "Materials recovery" means the processing and separation of
31 solid waste utilizing manual or mechanical methods for the
32 purposes of recovering recyclable materials for disposition and
33 recycling prior to the disposal of the residual solid waste at an
34 authorized solid waste facility.

35 "Materials recovery facility" means a transfer station or other
36 authorized solid waste facility at which nonhazardous solid waste,
37 which material is not source separated by the generator thereof prior
38 to collection, is received for onsite processing and separation
39 utilizing manual or mechanical methods for the purposes of
40 recovering recyclable materials for disposition and recycling prior
41 to the disposal of the residual solid waste at an authorized solid
42 waste facility.

43 "Post-consumer waste material" means a material or product that
44 would otherwise become solid waste, having completed its intended
45 end use and product life cycle; except that "post-consumer waste
46 material" shall not include secondary waste material or materials

1 and by-products generated from, and commonly used within, an
2 original manufacturing and fabrication process.

3 "Recycled product" means any product or commodity which is
4 manufactured or produced in whole or in part from post-consumer
5 waste material and which meets the recycled content standard of the
6 United States Environmental Protection Agency as published in the
7 Comprehensive Procurement Guidelines for Products Containing
8 Recovered Material.

9 "Residue" means any solid waste generated as a result of the use
10 of post-consumer waste material in the manufacture of a recycled
11 product.

12 "Resource recovery facility" means a solid waste facility
13 constructed and operated for the incineration of solid waste for
14 energy production and the recovery of metals and other materials
15 for reuse; or a mechanized composting facility, or any other solid
16 waste facility constructed or operated for the collection, separation,
17 recycling, and recovery of metals, glass, paper, and other materials
18 for reuse or for energy production.

19 "Secondary waste material" means waste material generated after
20 the completion of a manufacturing process.

21 "Solid waste" means the same as that term is defined in section 3
22 of P.L.1970, c.39 (C.13:1E-3), except that, as used in the provisions
23 of P.L. , c. (C.) (pending in the Legislature as this bill),
24 "solid waste" shall be limited to the following solid waste ID types:
25 Type 10 Municipal; Type 12 Dry sewage sludge; Type 13 Bulky
26 waste; Type 13C Construction and Demolition waste; Type 23
27 Vegetative waste; Type 25 Animal and food processing wastes; and
28 Type 27 Dry industrial waste, as set forth in N.J.A.C.7:26-1.6 and
29 N.J.A.C.7:26-2.13.

30 "Solid waste collection" means the activity related to pick-up and
31 transportation of solid waste from its source or location to a solid
32 waste facility or other destination.

33 "Solid waste collector" means a person engaged in the collection
34 of solid waste and registered pursuant to sections 4 and 5 of
35 P.L.1970, c.39 (C.13:1E-4 and 13:1E-5); or any municipality
36 wherein the municipal governing body has established and operates
37 a municipal service system for solid waste collection pursuant to
38 R.S.40:66-1.

39 "Solid waste disposal" means the storage, treatment, utilization,
40 processing, transfer, or final disposal of solid waste.

41 "Solid waste facilities" means and includes the plants, structures
42 and other real and personal property acquired, constructed or
43 operated or to be acquired, constructed or operated by, or on behalf
44 of, any person, public authority or county pursuant to the provisions
45 of P.L.1970, c.39 (C.13:1E-1 et seq.) or any other act, including
46 transfer stations, incinerators, resource recovery facilities, sanitary
47 landfill facilities or other plants for the disposal of solid waste, and

1 all vehicles, equipment and other real and personal property and
2 rights therein and appurtenances necessary or useful and convenient
3 for the collection or disposal of solid waste in a sanitary manner.

4
5 4. (New section) a. (1) There is levied upon the owner or
6 operator of every solid waste facility a recycling tax of \$3.00 per
7 ton on all solid waste accepted for disposal or transfer at the solid
8 waste facility.

9 The recycling tax shall not be imposed on solid waste transported
10 from an in-state transfer station from which the recycling tax has
11 been levied on the owner or operator thereof to an in-state solid
12 waste facility for final disposal.

13 (a) The recycling tax shall not be imposed on the owner or
14 operator of a railroad transfer station or other facility designed
15 exclusively to transport waste on railroads.

16 (b) The recycling tax shall not be imposed on the owner or
17 operator of a sanitary landfill facility for the acceptance for disposal
18 of the ash residue resulting from the incineration of solid waste at a
19 resource recovery facility.

20 (c) The recycling tax shall not be imposed on the owner or
21 operator of a solid waste facility for the acceptance for disposal of
22 solid waste originating from out-of-state sources under a contract
23 awarded prior to December 31, 2007 if the contract ¹expressly
24 prohibits the imposition of does not include a change-in-law or
25 similar mechanism by which the recycling tax imposed by this
26 section may be passed through as¹ a fee or surcharge on the rates
27 and charges set forth in the contract.

28 ¹(d) The recycling tax shall not be imposed on the owner or
29 operator of a resource recovery facility for the acceptance for
30 disposal of solid waste originating from in-state sources under a
31 contract awarded prior to December 31, 2007 if the contract does
32 not include a change-in-law or similar mechanism by which the
33 recycling tax imposed by this section may be passed through as a
34 fee or surcharge on the rates and charges set forth in the contract.¹

35 The recycling tax shall be imposed on the owner or operator of a
36 solid waste facility for the acceptance for disposal of solid waste
37 originating from out-of-state sources under any contract awarded
38 after December 31, 2007.

39 (2) There is levied upon every solid waste collector that
40 transports solid waste for transshipment or direct transportation to
41 an out-of-state disposal site a recycling tax. The recycling tax shall
42 be levied on the solid waste collector at the rate of \$3.00 per ton on
43 all solid waste collected for transportation to a railroad transfer
44 station or other facility designed to transport waste on railroads or
45 directly to an out-of-state disposal site.

- 1 b. (1) Every person subject to the recycling tax shall, within 30
2 days of the effective date of this act, register with the director on
3 forms prescribed by the director.
- 4 (2) Every person subject to the recycling tax shall, on or before
5 the first day of the first full fiscal quarter following the effective
6 date of this act, and quarterly thereafter, render a return under oath
7 to the director, on such forms as may be prescribed by the director,
8 indicating the number of tons of solid waste accepted for disposal
9 or transfer, or collected, as appropriate, and at that time shall pay
10 the full amount due.
- 11 c. If a return required by this section is not filed, or if a return
12 when filed is incorrect or insufficient in the opinion of the director,
13 the amount due shall be determined by the director from such
14 information as may be available. Notice of the determination shall
15 be given to the person subject to the recycling tax. The
16 determination shall finally and irrevocably fix the amount due,
17 unless the person on whom it is imposed, within 90 days after the
18 giving of the notice of the determination, shall file a protest in
19 writing as provided in R.S.54:49-18 and request a hearing, or unless
20 the director on the director's own motion shall redetermine the
21 same. After the hearing the director shall give notice of the
22 determination to the person on whom the recycling tax is imposed.
- 23 d. Any person subject to the recycling tax who fails to file a
24 return when due or to pay any tax when it becomes due, as herein
25 provided, shall be subject to such penalties and interest as provided
26 in the "State Tax Uniform Procedure Law," R.S.54:48-1 et seq. If
27 the director determines that the failure to comply with any provision
28 of this section was excusable under the circumstances, the director
29 may remit that part or all of the penalty as shall be appropriate
30 under the circumstances.
- 31 e. The director shall deposit all revenues collected pursuant to
32 this section in the State Recycling Fund established pursuant to
33 section 5 of P.L.1981, c.278 (C.13:1E-96).
- 34 f. In addition to the other powers granted to the director in this
35 section, the director is authorized:
- 36 (1) To delegate to any officer or employee of the division those
37 powers and duties as the director deems necessary to carry out
38 efficiently the provisions of this section, and the person to whom
39 the power has been delegated shall possess and may exercise all of
40 these powers and perform all of the duties delegated by the director;
- 41 (2) To prescribe and distribute all necessary forms for the
42 implementation of this section.
- 43 g. (1) Every owner or operator of a solid waste facility may
44 collect the recycling tax imposed by this section by (a) including
45 the amount of recycling tax due as a separate line item on every
46 customer bill or other statement presented to a solid waste collector
47 or solid waste generator; (b) including the amount of recycling tax

1 due as a fee or surcharge on any amount collected under a contract
2 awarded pursuant to the "Local Public Contracts Law," P.L.1971,
3 c.198 (C.40A:11-1 et seq.) or any other law for the provision of
4 solid waste collection or solid waste disposal services; or (c)
5 imposing an automatic surcharge on any tariff established pursuant
6 to law for the solid waste disposal or transfer operations of the solid
7 waste facility.

8 (2) Every solid waste collector is hereby authorized to calculate,
9 charge and collect rates, fees or surcharges from all solid waste
10 generators serviced by the solid waste collector sufficient to recover
11 the recycling tax collected by the owner or operator of the solid
12 waste facility.

13 (3) Every solid waste collector subject to the recycling tax is
14 hereby authorized to calculate, charge and collect rates, fees or
15 surcharges from all solid waste generators serviced by the solid
16 waste collector sufficient to recover the recycling tax imposed by
17 this section.

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

22 i. (1) The recycling tax imposed by this section shall not be
23 imposed on the owner or operator of a materials recovery facility
24 for the acceptance of Type 13C Construction and Demolition waste,
25 provided that the facility meets or exceeds recyclable materials
26 extraction rates as established by the department.

27 (2) The recycling tax imposed by this section shall not be
28 imposed on a solid waste collector or the owner or operator of a
29 solid waste facility for the collection or acceptance for disposal or
30 transfer of residue resulting from the operations of a scrap
31 processing facility as defined in section 2 of P.L.1987, c.102
32 (C.13:1E-99.12).

33 j. The recycling tax imposed by this section shall not be imposed
34 on a solid waste collector or the owner or operator of a solid waste
35 facility for the collection or acceptance for disposal or transfer of
36 residue, provided that the residue is generated as a result of the use
37 of post-consumer waste material in the manufacture of a recycled
38 product which constitutes at least 75% of total annual sales dollar
39 volume of the products manufactured by a manufacturer in this
40 State as determined by the director.

41 k. The registration issued to any person subject to the recycling
42 tax who violates the provisions of this section may be subject to
43 revocation or suspension pursuant to section 12 of P.L.1970, c.39
44 (C.13:1E-12).

45 l. Subsections a. through k. of this section shall be without effect
46 on and after the tenth day following a certification by the Director
47 of the Division of Budget and Accounting in the Department of the

1 Treasury pursuant to subsection b. of section 6 of P.L. ,
2 c. (C.) (pending in the Legislature as this bill).
3

4 5. (New section) The recycling tax imposed pursuant to section
5 4 of P.L. , c. (C.) (pending in the Legislature as this bill)
6 shall not be due and payable if, and as long as, any State of New
7 Jersey or federal law, or any rule or regulation adopted pursuant
8 thereto, requiring a deposit on, or establishing a refund value for,
9 any beverage container shall be in effect.
10

11 6. (New section) a. The annual appropriations act for each
12 State fiscal year shall, without other conditions, limitations or
13 restrictions on the following:

14 (1) appropriate the amounts specified pursuant to paragraph (1)
15 of subsection b. of section 5 of P.L.1981, c.278 (C.13:1E-96) for
16 use by the Department of Environmental Protection for direct
17 recycling grants to counties and municipalities; and

18 (2) appropriate the balance of the State Recycling Fund
19 established pursuant to section 5 of P.L.1981, c.278 (C.13:1E-96)
20 for the purposes set forth in paragraphs (2), (3) and (4) of
21 subsection b. of that section.

22 b. If the requirements of subsection a. of this section are not met
23 on the effective date of an annual appropriations act for the State
24 fiscal year, or if an amendment or supplement to an annual
25 appropriations act for the State fiscal year should violate any of the
26 requirements of subsection a. of this section, the Director of the
27 Division of Budget and Accounting in the Department of the
28 Treasury shall, not later than five days after the enactment of the
29 annual appropriations act, or an amendment or supplement thereto,
30 that violates any of the requirements of subsection a. of this section,
31 certify to the Director of the Division of Taxation that the
32 requirements of subsection a. of this section have not been met.
33

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

36 5. a. The State Recycling Fund (hereinafter referred to as the
37 "fund") is established as a nonlapsing, revolving fund. The fund
38 shall be administered by the Department of Environmental
39 Protection, and shall be credited with all [sums received from the
40 Clean Communities Program Fund established pursuant to section 5
41 of P.L.2002, c.128 (C.13:1E-217)] recycling tax revenue collected
42 pursuant to section 4 of P.L. , c. (C.) (pending in the
43 Legislature as this bill), and all interest received on moneys in the
44 fund . [Interest received on moneys in the fund and sums received
45 as repayment of principal and interest on outstanding loans made
46 from the fund shall be credited to the fund.]

1 b. ¹["Unless otherwise expressly provided by the specific
2 appropriation thereof by the Legislature, which shall take the form
3 of a discrete legislative appropriations act and shall not be included
4 within the annual appropriations act, all available moneys]
5 Moneys¹ in the fund shall be [allocated and used as follows:

6 Moneys in the fund received from the Clean Communities
7 Program Fund established pursuant to section 5 of P.L.2002, c.128
8 (C.13:1E-217)] appropriated annually solely for the following
9 purposes and no others:

10 (1) 60% of the estimated annual balance of the fund shall be used
11 for the annual expenses of a program for direct recycling grants to
12 municipalities or counties in those instances where a county, at its
13 own expense, provides for the collection, processing and marketing
14 of recyclable materials on a regional basis. The amount of [these
15 grants] a direct recycling grant shall be calculated on the basis of
16 the total number of tons of recyclable materials annually recycled
17 from residential, commercial and institutional sources within [that]
18 a particular municipality, or group of municipalities in the case of a
19 county recycling program[, except that no such]. No direct
20 recycling grant shall exceed \$10 per ton of recyclable materials
21 recycled. All grant moneys received by a municipality shall be
22 expended only for its recycling program. The department may
23 allocate a portion of [these] the direct recycling grant moneys as
24 bonus grants to municipalities and counties [in those instances
25 where] whenever a municipality or county, at its own expense,
26 provides for the collection of recyclable materials in its recycling
27 program. The department shall announce each year the total
28 amount of moneys available in the bonus grant fund.

29 A municipality may distribute a portion of its direct recycling
30 grant moneys to nonprofit groups that are located within that
31 municipality and which have contributed to the receipt of the direct
32 recycling grant, except that this distribution shall not exceed the
33 value of approved documented tonnage contributed by a nonprofit
34 group.

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

43 To be eligible for a direct recycling grant pursuant to this
44 [subsection] paragraph, a municipality or county in the case of a
45 county recycling program shall demonstrate that the recyclable
46 materials recycled by the municipal or county recycling program

1 were not diverted from a commercial recycling program already in
2 existence on the effective date of the ordinance or resolution
3 establishing the municipal or county recycling program.

4 To remain eligible for a direct recycling grant pursuant to this
5 paragraph, a municipality or county in the case of a county
6 recycling program shall submit an annual recycling tonnage report
7 to the department in accordance with rules and regulations adopted
8 by the department therefor. Following the designation of a district
9 certified recycling coordinator pursuant to section 3 of P.L.1987,
10 c.102 (C.13:1E-99.13) and the designation of a municipal certified
11 recycling coordinator pursuant to section 6 of P.L.1987, c.102
12 (C.13:1E-99.16), the department shall not accept an annual
13 recycling tonnage report from a county or municipality unless the
14 report has been signed by a certified recycling coordinator.

15 No direct recycling grant to any municipality shall be used for
16 constructing or operating any facility for the baling of wastepaper
17 or for the shearing, baling or shredding of ferrous or nonferrous
18 materials.

19 Whenever a municipality operates a municipal service system for
20 solid waste collection pursuant to R.S.40:66-1, or provides for
21 regular solid waste collection service under a contract awarded
22 pursuant to the "Local Public Contracts Law," P.L.1971, c.198
23 (C.40A:11-1 et seq.), the amount of grant moneys received by the
24 municipality shall not be less than the annual amount of recycling
25 tax paid by the municipality pursuant to section 4 of P.L. _____,
26 c. (C. _____) (pending in the Legislature as this bill), except that
27 all grant moneys received by the municipality shall be expended
28 only for its recycling program;

29 (2) 5% of the estimated annual balance of the fund shall be used
30 for State recycling program planning and program funding,
31 including the administrative expenses thereof;

32 (3) 25% of the estimated annual balance of the fund shall be used
33 to provide State aid to counties for preparing, revising, and
34 implementing solid waste management plans, including the
35 implementation of the goals of the State Recycling Plan. The
36 moneys may also be used by the counties to support community
37 oversight projects and to establish a citizens' advisory committee. A
38 county receiving State aid shall not expend more than 2% of the
39 amount of aid received in any year for the costs of administering the
40 aid. The State aid shall be distributed to the counties on the basis of
41 the total amount of solid waste generated from within each county
42 during the previous calendar year as determined by the department.
43 In the event that the department determines that any county has
44 failed to fulfill its district solid waste management planning
45 responsibilities, the department may withhold for an entire year or
46 until the county fulfills its responsibilities, all or a portion of the
47 amount of moneys that county would have received in any year

1 pursuant to this paragraph. Any moneys withheld for an entire year
2 shall be distributed among the remaining counties in the same
3 proportion as the other moneys were distributed. The moneys may
4 also be used by the counties for household hazardous waste
5 collection, and for recycling program planning and program
6 funding, including the administrative expenses thereof;

7 (4) 5% of the estimated annual balance of the fund shall be used
8 by counties for public information and education programs
9 concerning recycling activities; and

10 (5) 5% of the estimated annual balance of the fund shall be used
11 by the department to provide grants to institutions of higher
12 education to conduct research in recycling.

13 (cf: P.L.2002, c.128, s.11)

14
15 8. Section 3 of P.L.1987, c.102 (C.13:1E-99.13) is amended to
16 read as follows:

17 3. a. Each county shall prepare and adopt a district recycling
18 plan to implement the State Recycling Plan goals. Each district
19 recycling plan shall be adopted as an amendment to the district
20 solid waste management plan required pursuant to the provisions of
21 the "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et
22 seq.) and subject to the approval of the department. Each district
23 recycling plan may be modified after adoption pursuant to a
24 procedure set forth in the adopted plan as approved by the
25 department.

26 b. Each district recycling plan required pursuant to this section
27 shall include, but need not be limited to:

28 (1) Designation of a district recycling coordinator;

29 (2) Designation of the recyclable materials to be source separated
30 in each municipality which shall include, in addition to leaves, at
31 least three other recyclable materials separated from the municipal
32 solid waste stream;

33 (3) Designation of the strategy for the collection, marketing and
34 disposition of designated source separated recyclable materials in
35 each municipality;

36 (4) Designation of recovery targets in each municipality to
37 achieve the maximum feasible recovery of recyclable materials
38 from the municipal solid waste stream which shall include, at a
39 minimum, the following schedule:

40 (a) The recycling of at least 15% of the total municipal solid
41 waste stream by December 31, 1989;

42 (b) The recycling of at least 25% of the total municipal solid
43 waste stream by December 31, 1990; and

44 (c) The recycling of at least 50% of the total municipal solid
45 waste stream, including yard waste and vegetative waste, by
46 December 31, 1995; and

1 (5) Designation of countywide recovery targets to achieve the
2 maximum feasible recovery of recyclable materials from the total
3 solid waste stream which shall include, at a minimum, the recycling
4 of at least 60% of the total solid waste stream by December 31,
5 1995.

6 Within 24 months of the effective date of P.L. , c. (C.)
7 (pending in the Legislature as this bill), each district recycling plan
8 shall be modified to include the designation of a district certified
9 recycling coordinator.

10 For the purposes of this subsection, "district certified recycling
11 coordinator" means a person who shall have completed the
12 requirements of a course of instruction in various aspects of
13 recycling program management, as determined and administered by
14 the department; "total municipal solid waste stream" means the sum
15 of the municipal solid waste stream disposed of as solid waste, as
16 measured in tons, plus the total number of tons of recyclable
17 materials recycled; and "total solid waste stream" means the
18 aggregate amount of solid waste generated within the boundaries of
19 any county from all sources of generation, including the municipal
20 solid waste stream.

21 c. Each district recycling plan, in designating a strategy for the
22 collection, marketing and disposition of designated recyclable
23 materials in each municipality, shall authorize municipalities that
24 adopt a recycling ordinance pursuant to subsection b. of section 6 of
25 P.L.1987, c.102 (C.13:1E-99.16) to limit the collection of
26 designated recyclable materials to specified operating hours in order
27 to preserve the peace and quiet in neighborhoods during the hours
28 when most residents are asleep.

29 **【Each district recycling plan may be modified after adoption**
30 **pursuant to a procedure set forth in the adopted plan as approved by**
31 **the department.】**

32 d. A district recycling plan may be modified to require that each
33 municipality within the county revise the ordinance adopted
34 pursuant to subsection b. of section 6 of P.L.1987, c.102
35 (C.13:1E-99.16) to provide for the source separation and collection
36 of used dry cell batteries as a designated recyclable material.
37 (cf: P.L.2001, c.92, s.7)

38
39 9. Section 6 of P.L.1987, c.102 (C.13:1E-99.16) is amended to
40 read as follows:

41 6. Each municipality in this State shall, within 24 months of the
42 effective date of P.L. , c. (C.) (pending in the Legislature
43 as this bill), designate one or more persons as the municipal
44 certified recycling coordinator. For the purposes of this section,
45 "municipal certified recycling coordinator" means a person who
46 shall have completed the requirements of a course of instruction in

1 various aspects of recycling program management, as determined
2 and administered by the department.

3 Each municipality shall establish and implement a municipal
4 recycling program in accordance with the following requirements:

5 a. Each municipality shall provide for a collection system for the
6 recycling of the recyclable materials designated in the district
7 recycling plan as may be necessary to achieve the designated
8 recovery targets set forth in the plan in those instances where a
9 recycling collection system is not otherwise provided for by the
10 generator or by the county, interlocal service agreement or joint
11 service program, or other private or public recycling program
12 operator.

13 b. The governing body of each municipality shall adopt an
14 ordinance which requires persons generating municipal solid waste
15 within its municipal boundaries to source separate from the
16 municipal solid waste stream, in addition to leaves, the specified
17 recyclable materials for which markets have been secured and,
18 unless recycling is otherwise provided for by the generator, place
19 these specified recyclable materials for collection in the manner
20 provided by the ordinance.

21 c. The governing body of each municipality shall, at least once
22 every 36 months, conduct a review and make necessary revisions to
23 the master plan and development regulations adopted pursuant to
24 P.L.1975, c.291 (C.40:55D-1 et seq.), which revisions shall reflect
25 changes in federal, State, county and municipal laws, policies and
26 objectives concerning the collection, disposition and recycling of
27 designated recyclable materials.

28 The revised master plan shall include provisions for the
29 collection, disposition and recycling of recyclable materials
30 designated in the municipal recycling ordinance adopted pursuant to
31 subsection b. of this section, and for the collection, disposition and
32 recycling of designated recyclable materials within any
33 development proposal for the construction of 50 or more units of
34 single-family residential housing or 25 or more units of
35 multi-family residential housing and any commercial or industrial
36 development proposal for the utilization of 1,000 square feet or
37 more of land.

38 d. The governing body of a municipality may exempt persons
39 occupying commercial and institutional premises within its
40 municipal boundaries from the source separation requirements of
41 the ordinance adopted pursuant to subsection b. of this section if
42 those persons have otherwise provided for the recycling of the
43 recyclable materials designated in the district recycling plan from
44 solid waste generated at those premises. To be eligible for an
45 exemption pursuant to this subsection, a commercial or institutional
46 solid waste generator annually shall provide written documentation
47 to the municipality of the total number of tons recycled.

1 e. The governing body of each municipality shall, on or before
2 July 1 of each year, submit a recycling tonnage report to the New
3 Jersey Office of Recycling in accordance with rules and regulations
4 adopted by the department therefor.

5 f. The governing body of each municipality shall, at least once
6 every six months, notify all persons occupying residential,
7 commercial, and institutional premises within its municipal
8 boundaries of local recycling opportunities, and the source
9 separation requirements of the ordinance. In order to fulfill the
10 notification requirements of this subsection, the governing body of
11 a municipality may, in its discretion, place an advertisement in a
12 newspaper circulating in the municipality, post a notice in public
13 places where public notices are customarily posted, include a notice
14 with other official notifications periodically mailed to residential
15 taxpayers, or any combination thereof, as the municipality deems
16 necessary and appropriate.

17 The governing body of a municipality that adopts a recycling
18 ordinance pursuant to subsection b. of this section may limit the
19 collection of designated recyclable materials to specified operating
20 hours in order to preserve the peace and quiet in neighborhoods
21 during the hours when most residents are asleep.

22 (cf: P.L.2001, c.92, s.8)

23

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

26 2. As used in this **【amendatory and supplementary】** act:

27 **【a.】** "Contract file" means a file established and maintained by a
28 contracting unit, in which the contracting unit shall maintain a copy
29 of its request for qualifications issued pursuant to section 19 of
30 **【this amendatory and supplementary act】** P.L.1985, c.38
31 (C.13:1E-154), a list of vendors responding to its request for
32 qualifications, a copy of its request for proposals issued pursuant to
33 section 20 of **【this amendatory and supplementary act】** P.L.1985,
34 c.38 (C.13:1E-155), a list of qualified vendors submitting proposals,
35 and a document outlining the general criteria used by the
36 contracting unit in selecting a proposal;

37 **【b.】** "Contracting unit" means any county; any municipality;
38 any bistate authority; or any **【board, commission, committee,**
39 **authority or agency, which is not a State board, commission,**
40 **committee, authority or agency, and which has administrative**
41 **jurisdiction over any district other than a school district, project, or**
42 **facility, included or operating in whole or in part, within the**
43 **territorial boundaries of any county or municipality, which**
44 **exercises functions which are appropriate for the exercise by one or**
45 **more units of local government, and】** public authority which has
46 statutory power to **【make purchases and】** enter into contracts or
47 agreements **【for the performance of any work or the furnishing or**

1 hiring of any materials or supplies usually required] for the design,
2 financing, construction, operation, or maintenance, or any
3 combination thereof, of a resource recovery facility;

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

5 [d.] "Department" means the Department of Environmental
6 Protection;

7 [e.] "Director" means the Director of the Division of Taxation
8 in the Department of Treasury;

9 [f. "District" means a solid waste management district as
10 designated by section 10 of P.L.1975, c.326 (C.13:1E-19), except
11 that, as used in the provisions of this amendatory and
12 supplementary act, "district" shall not include the Hackensack
13 Meadowlands District;]

14 [g. "District investment tax fund" means a District Resource
15 Recovery Investment Tax Fund established pursuant to subsection
16 a. of section 15 of this amendatory and supplementary act;]

17 [h.] "Division" means the Division of Taxation in the
18 Department of Treasury;

19 [i.] "Division of Local Government Services" means the
20 Division of Local Government Services in the Department of
21 Community Affairs;

22 [j. "Division of Rate Counsel" means the Division of Rate
23 Counsel in the Department of the Public Advocate;]

24 [k.] "Franchise" means the exclusive right to control and
25 provide for the disposal of solid waste, except for recyclable
26 material whenever markets for those materials are available, within
27 a district [or districts] as awarded by the Board of Public Utilities
28 or the department prior to November 10, 1997;

29 [l.] "Independent public accountant" means a certified public
30 accountant, a licensed public accountant or a registered municipal
31 accountant;

32 [m. "Investment tax" means the resource recovery investment
33 tax imposed pursuant to subsection b. of section 3 of this
34 amendatory and supplementary act;]

35 [n. "Investment tax fund" means the Resource Recovery
36 Investment Tax Fund containing sub-accounts for each county
37 established pursuant to the provisions of section 14 of this
38 amendatory and supplementary act;]

39 [o. "Out-of-district solid waste" means any solid waste accepted
40 for disposal in a district which was generated outside the receiving
41 district;]

42 [p.] "Person or party" means any individual, public or private
43 corporation, company, partnership, firm, association, political
44 subdivision of this State, or any State, bistate, or interstate agency
45 or public authority;

1 **[q.]** "Proposed contract" means a contract negotiated by a
2 contracting unit pursuant to the provisions of **[this amendatory and**
3 **supplementary act, or a substantial renegotiation of a contract**
4 **approved pursuant to the provisions of this amendatory and**
5 **supplementary act if the renegotiation is determined to be**
6 **substantial by the department, the Board of Public Utilities, or the**
7 **Division of Local Government Services]** P.L.1985, c.38 (C.13:1E-
8 136 et al.);

9 "Public authority" means any municipal or county utilities
10 authority created pursuant to the "municipal and county utilities
11 authorities law," P.L.1957, c.183 (C.40:14B-1 et seq.); county
12 improvement authority created pursuant to the "county
13 improvement authorities law," P.L.1960, c.183 (C.40:37A-44 et
14 seq.); pollution control financing authority created pursuant to the
15 "New Jersey Pollution Control Financing Law," P.L.1973, c.376
16 (C.40:37C-1 et seq.), or any other public body corporate and politic
17 created for solid waste management purposes in any county,
18 pursuant to the provisions of any law;

19 **[r.]** "Qualified vendor" means any person or party financially
20 qualified for, and technically and administratively capable of,
21 undertaking the design, financing, construction, operation, or
22 maintenance, or any combination thereof, of a resource recovery
23 facility or of providing resource recovery services, as provided in
24 section 19 of **[this amendatory and supplementary act]** P.L.1985,
25 c.38 (C.13:1E-154);

26 **[s.]** "Recyclable material" means those materials which would
27 otherwise become solid waste, which may be collected, separated or
28 processed and returned to the economic mainstream in the form of
29 raw materials or products;

30 **[t.]** "Recycling" means any process by which materials which
31 would otherwise become solid waste are collected, separated or
32 processed and returned to the economic mainstream in the form of
33 raw materials or products;

34 **[u.]** "Recycling facility" means a facility at which materials
35 which would otherwise become solid waste are collected, separated
36 or processed and returned to the economic mainstream in the form
37 of raw materials or products;

38 **[v.]** "Resource recovery facility" means a solid waste facility
39 constructed and operated for the incineration of solid waste for
40 energy production and the recovery of metals and other materials
41 for reuse; or a mechanized composting facility, or any other solid
42 waste facility constructed or operated for the collection, separation,
43 recycling, and recovery of metals, glass, paper, and other materials
44 for reuse or for energy production;

45 **[w.]** "Sanitary landfill facility" means a solid waste facility at
46 which solid waste is deposited on or in the land as fill for the

1 purpose of permanent disposal or storage for a period exceeding six
2 months, except that it shall not include any waste facility approved
3 for disposal of hazardous waste;

4 [x. "Services tax" means the solid waste services tax imposed
5 pursuant to subsection a. of section 3 of this amendatory and
6 supplementary act;]

7 [y. "Services tax fund" means the Solid Waste Services Tax
8 Fund established pursuant to section 12 of this amendatory and
9 supplementary act;]

10 [z.] "Vendor" means any person or party proposing to
11 undertake the design, financing, construction, operation, or
12 maintenance, or any combination thereof, of a resource recovery
13 facility or of providing resource recovery services;

14 [aa. "Waste importation tax" means the solid waste importation
15 tax imposed pursuant to subsection c. of section 3 of this
16 amendatory and supplementary act.]

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

18
19 11. Section 3 of P.L.1985, c.38 (C.13:1E-138) is amended to
20 read as follows:

21 3. a. There is levied upon the owner or operator of every
22 sanitary landfill facility a solid waste services tax. The services tax
23 shall be imposed on the owner or operator at the [initial] rate of
24 [\$0.50] '[\$1.55] \$1.65' per ton of [solids and \$0.002 per gallon of
25 liquids] solid waste on all solid waste accepted for disposal at a
26 sanitary landfill facility. [On the first day of the first calendar year
27 following the imposition of the services tax, and annually
28 thereafter, the rate of the services tax shall be increased by \$0.05
29 per ton of solids.] No services tax shall be levied on the owner or
30 operator of a sanitary landfill facility for the acceptance for disposal
31 of the waste products resulting from the operation of a resource
32 recovery facility.

33 The services tax imposed by this subsection shall expire on the
34 first day of the first month after the effective date of P.L. _____,
35 c. (C. _____) (pending in the Legislature as this bill). However, this
36 expiration shall not affect any obligation, lien or duty to pay taxes
37 that may be due with respect to the imposition of any levy, or
38 interest or penalties that may accrue by virtue of any assessment,
39 which may be made with respect to taxes levied for any taxable year
40 or part of a taxable year, prior to the first day of the first month
41 after the effective date of P.L. _____, c. (C. _____) (pending in the
42 Legislature as this bill), nor shall this expiration affect the legal
43 authority to assess and collect the taxes that may be due and
44 payable under subsection a. of section 3 of P.L.1985, c.38
45 (C.13:1E-138), as the case may be, together with such interest and
46 penalties as would accrue thereon under section 6 of P.L.1985, c.38

1 (C.13:1E-141), nor shall the expiration invalidate any assessment or
2 affect any proceeding for the enforcement thereof.

3 b. [(1) There is levied upon the owner or operator of every
4 sanitary landfill facility a resource recovery investment tax. The
5 investment tax shall be levied on the owner or operator at the initial
6 rate of \$1.00 per ton of solids and \$0.004 per gallon of liquids on
7 all solid waste accepted for disposal at a sanitary landfill facility.
8 No investment tax shall be levied on the owner or operator of a
9 sanitary landfill facility for the acceptance for disposal of the waste
10 products resulting from the operation of a resource recovery
11 facility.

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

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

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

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

24 The investment tax shall no longer be levied on the owner or
25 operator of a sanitary landfill on and after the first day of the 11th
26 calendar year following the imposition of the investment tax.]

27 (Deleted by amendment, P.L. , c.)

28 c. [There is levied upon the owner or operator of every sanitary
29 landfill facility which accepts out-of-district solid waste a solid
30 waste importation tax. The waste importation tax shall be imposed
31 on the owner or operator at the initial rate of \$1.00 per ton of solids
32 and \$0.004 per gallon of liquids on all out-of-district solid waste
33 accepted for disposal at a sanitary landfill facility. On the first day
34 of the third calendar year following the imposition of the waste
35 importation tax, the rate of the waste importation tax shall be
36 increased to \$4.00 per ton of solids, and annually thereafter the rate
37 of the waste importation tax shall be increased by \$2.00 per ton of
38 solids. No waste importation tax shall be levied on the owner or
39 operator of a sanitary landfill facility for the acceptance for disposal
40 of the waste products resulting from the operation of a resource
41 recovery facility.

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

1 d. If any owner or operator of a sanitary landfill facility
2 determines the quantity of solid waste accepted for disposal by a
3 measure other than tons **【or gallons】**, the taxes imposed pursuant to
4 the provisions of this section shall be levied at an equivalent rate as
5 determined by the director.

6 e. No taxes shall be levied on the owner or operator of a sanitary
7 landfill facility for the acceptance of solid waste generated
8 exclusively by an agency of the federal government if a solid waste
9 collector submits to the owner or operator an itemized invoice,
10 signed and verified by an authorized officer of the federal agency,
11 indicating the number of tons of solid waste to be disposed of, and a
12 copy of the contract with the federal agency for the collection of
13 solid waste with an effective date prior to **【the effective date of this
14 amendatory and supplementary act】** May 1, 1985. Taxes shall be
15 levied on the owner or operator for acceptance of solid waste
16 generated by a federal agency if the contract between the federal
17 agency and the solid waste collector was entered into, or renewed,
18 on or after **【the effective date of this amendatory and
19 supplementary act】** May 1, 1985.

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

21
22 12. Section 12 of P.L.1985, c.38 (C.13:1E-147) is amended to
23 read as follows:

24 12. The Solid Waste Services Tax Fund is established as a
25 nonlapsing, revolving fund in the Department of Environmental
26 Protection. The services tax fund shall be administered by the
27 department and shall be the depository for the revenues generated
28 by the solid waste services tax levied and imposed pursuant to
29 section 3 of P.L.1985, c.38 (C.13:1E-138), and any interest earned
30 thereon.

31 No later than 30 days following the effective date of P.L. ,
32 c. (C.) (pending in the Legislature as this bill), the remaining
33 moneys in the services tax fund shall be appropriated to the State
34 Recycling Fund established pursuant to section 5 of P.L.1981, c.278
35 (C.13:1E-96).

36 (cf: P.L.1985, c.38, s.12)

37
38 13. Section 1 of P.L.2002, c.128 (C.13:1E-213) is amended to
39 read as follows:

40 1. Sections 1 through 10 and section 13 of P.L.2002, c.128
41 (C.13:1E-213 et seq.) shall be known and may be cited as the
42 "Clean Communities **【and Recycling Grant】** Program Act."

43 (cf: P.L.2002, c.128, s.1)

44
45 14. Section 2 of P.L.2002, c.128 (C.13:1E-214) is amended to
46 read as follows:

1 2. The Legislature finds that an uncluttered landscape is among
2 the most priceless heritages which New Jersey can bequeath to
3 posterity; that it is the duty of government to promote and
4 encourage a clean and safe environment; that the proliferation and
5 accumulation of carelessly discarded litter may pose a threat to the
6 public health and safety; that the litter problem is especially serious
7 in a State as densely populated and heavily traveled as New Jersey;
8 and that unseemly litter has an adverse economic effect on New
9 Jersey by making the State less attractive to tourists and new
10 industry and residents.

11 【The Legislature further finds that the recycling of waste
12 materials decreases waste flow to county solid waste facilities and
13 out-of-State disposal sites, reduces waste flow to the State's solid
14 waste incinerators while contributing to their overall combustion
15 efficiency through the removal of noncombustible and
16 nonprocessable materials at the source, recovers valuable resources,
17 conserves energy in the manufacturing process, and offers a supply
18 of domestic raw materials for the State's industries; that
19 economically viable municipal and county recycling programs are
20 necessary to achieve the maximum practicable recovery of reusable
21 materials from solid waste in this State; and that such programs will
22 reduce the amount of solid waste disposed at county solid waste
23 facilities, result in more efficient solid waste incinerators, conserve
24 energy and resources, and recover materials for industrial uses.】

25 The Legislature, therefore, declares it to be in the aesthetic,
26 environmental, and economic interests of the State of New Jersey to
27 support a Clean Communities Program 【and to maintain support for
28 municipal and county recycling programs】.

29 (cf: P.L.2002, c.128, s.2)

30

31 15. Section 5 of P.L.2002, c.128 (C.13:1E-217) is amended to
32 read as follows:

33 5. The Clean Communities Program Fund is established as a
34 nonlapsing, revolving fund in the Department of the Treasury. The
35 Clean Communities Program Fund shall be administered by the
36 Department of Environmental Protection and credited, in addition to
37 any appropriations made thereto, with all user fees imposed
38 pursuant to section 4 of P.L.2002, c.128 (C.13:1E-216) or penalties
39 imposed pursuant to section 10 of P.L.2002, c.128 (C.13:1E-222),
40 and any sums received as voluntary contributions from private
41 sources. Interest received on moneys in the Clean Communities
42 Program Fund shall be credited to the fund. Unless otherwise
43 expressly provided by the specific appropriation thereof by the
44 Legislature, which shall take the form of a discrete legislative
45 appropriations act and shall not be included within the annual
46 appropriations act, all available moneys in the Clean Communities

1 Program Fund shall be appropriated annually solely for the
2 following purposes and no others:

3 a. 10% of the estimated annual balance of the Clean
4 Communities Program Fund shall be used for a State program of
5 litter pickup and removal and of enforcement of litter-related laws
6 and ordinances in State owned places and areas that are accessible
7 to the public. Moneys in the fund may also be used by the State to
8 abate graffiti;

9 b. 50% of the estimated annual balance of the Clean
10 Communities Program Fund shall be distributed as State aid to
11 eligible municipalities with total housing units of 200 or more for
12 programs of litter pickup and removal, including establishing an
13 "Adopt-A-Highway" program, of public education and information
14 relating to litter abatement and of enforcement of litter-related laws
15 and ordinances. The amount of State aid due each municipality
16 shall be solely calculated based on the proportion which the housing
17 units of a qualifying municipality bear to the total housing units in
18 the State. Total housing units shall be determined using the most
19 recent federal decennial population estimates for New Jersey and its
20 municipalities, filed in the office of the Secretary of State. Moneys
21 in the fund may also be used by an eligible municipality to abate
22 graffiti;

23 c. 30% of the estimated annual balance of the Clean
24 Communities Program Fund shall be distributed as State aid to
25 eligible municipalities with total housing units of 200 or more for
26 programs of litter pickup and removal, including establishing an
27 "Adopt-A-Highway" program, of public education and information
28 relating to litter abatement and of enforcement of litter-related laws
29 and ordinances. The amount of State aid due each municipality
30 shall be solely calculated based on the proportion which the
31 municipal road mileage of a qualifying municipality bears to the
32 total municipal road mileage within the State. For the purposes of
33 this subsection, "municipal road mileage" means that road mileage
34 under the jurisdiction of municipalities, as determined by the
35 Department of Transportation. Moneys in the fund may also be
36 used by an eligible municipality to abate graffiti;

37 d. 10% of the estimated annual balance of the Clean
38 Communities Program Fund shall be distributed as State aid to
39 eligible counties for programs of litter pickup and removal,
40 including establishing an "Adopt-A-Highway" program, of public
41 education and information relating to litter abatement and of
42 enforcement of litter-related laws and ordinances. The amount of
43 State aid due each county shall be solely calculated based on the
44 proportion which the county road mileage of an eligible county
45 bears to the total county road mileage within the State. For the
46 purposes of this subsection, "county road mileage" means that road
47 mileage under the jurisdiction of counties, as determined by the

1 Department of Transportation. Moneys in the fund may also be
2 used by an eligible county to abate graffiti;

3 e. No eligible municipality shall receive less than \$4,000 in
4 State aid as apportioned pursuant to subsections b. and c. of this
5 section. A municipality or county may use up to 5% of its State aid
6 for administrative expenses;

7 f. Prior to the distribution of funds pursuant to subsections a.
8 through d. of this section [:

9 (1) 25% of the estimated annual balance of the Clean
10 Communities Program Fund shall be annually appropriated to the
11 State Recycling Fund established pursuant to section 5 of P.L.1981,
12 c.278 (C.13:1E-96). These moneys shall be used by the Department
13 of Environmental Protection for direct recycling grants to counties
14 and municipalities, up to a maximum appropriation of \$4,000,000
15 per year. The moneys made available to the department from the
16 Clean Communities Program Fund for direct recycling grants shall
17 be annually appropriated to the State Recycling Fund until such
18 time as an alternative funding mechanism for direct recycling grants
19 is enacted into law; and

20 (2) \$300,000] , \$375,000 of the estimated annual balance of the
21 Clean Communities Program Fund shall be annually appropriated to
22 the department and made available on July 1 of every year to the
23 organization under contract with the department pursuant to section
24 6 of P.L.2002, c.128 (C.13:1E-218) for a Statewide public
25 information and education program concerning antilittering
26 activities and other aspects of responsible solid waste handling
27 behavior , of which up to \$75,000 shall be used exclusively to
28 finance an annual statewide television, radio, newspaper and other
29 media advertising campaign to promote antilittering and responsible
30 solid waste handling behavior .

31 The organization under contract with the department pursuant to
32 section 6 of P.L.2002, c.128 (C.13:1E-218) shall, no later than the
33 date on which the contract period concludes, submit a report to the
34 Governor and the Legislature concerning its activities during the
35 contract period and any recommendations concerning improving the
36 program. Every eligible municipality and county shall cooperate
37 with the organization under contract with the department pursuant
38 to section 6 of P.L.2002, c.128 (C.13:1E-218) in providing
39 information concerning its program of litter pickup and removal.

40 No later than May 31, 2008, 25% of the estimated annual balance
41 of the Clean Communities Program Fund shall be appropriated to
42 the State Recycling Fund established pursuant to section 5 of
43 P.L.1981, c.278 (C.13:1E-96). These moneys shall be used by the
44 Department of Environmental Protection for direct recycling grants
45 to counties and municipalities, up to a maximum appropriation of
46 \$4,000,000.

1 g. As used in this section, "graffiti" means any inscription
2 drawn, painted or otherwise made on a bridge, building, public
3 transportation vehicle, rock, wall, sidewalk, street or other exposed
4 surface on public property.

5 The department may carry forward any unexpended balances in
6 the Clean Communities Program Fund as of June 30 of each year.
7 (cf: P.L.2006, c.31, s.3)

8
9 16. Section 13 of P.L.2002, c.128 (C.13:1E-223) is amended to
10 read as follows:

11 13. a. The annual appropriations act for each State fiscal year
12 shall, without other conditions, limitations or restrictions on the
13 following:

14 (1) ~~appropriate the amounts specified pursuant to paragraph (1)~~
15 ~~of subsection f. of section 5 of P.L.2002, c.128 (C.13:1E-217) to the~~
16 ~~State Recycling Fund established pursuant to section 5 of P.L.1981,~~
17 ~~c.278 (C.13:1E-96) for use by the Department of Environmental~~
18 ~~Protection for direct recycling grants to counties and~~
19 ~~municipalities;] (Deleted by amendment, P.L. , c.) (pending in~~
20 ~~the Legislature as this bill)~~

21 (2) appropriate the amount specified pursuant to paragraph (2) of
22 subsection f. of section 5 of P.L.2002, c.128 (C.13:1E-217) to the
23 Department of Environmental Protection for use by the organization
24 under contract with the department pursuant to section 6 of
25 P.L.2002, c.128 (C.13:1E-218) for a Statewide public information
26 and education program concerning antilittering activities and other
27 aspects of responsible solid waste handling behavior; and

28 (3) appropriate the balance of the Clean Communities Program
29 Fund established pursuant to section 5 of P.L.2002, c.128
30 (C.13:1E-217) for the purposes set forth in subsections a., b., c. and
31 d. of that section.

32 b. If the requirements of subsection a. of this section are not met
33 on the effective date of an annual appropriations act for the State
34 fiscal year, or if an amendment or supplement to an annual
35 appropriations act for the State fiscal year should violate any of the
36 requirements of subsection a. of this section, the Director of the
37 Division of Budget and Accounting in the Department of the
38 Treasury shall, not later than five days after the enactment of the
39 annual appropriations act, or an amendment or supplement thereto,
40 that violates any of the requirements of subsection a. of this section,
41 certify to the Director of the Division of Taxation that the
42 requirements of subsection a. of this section have not been met.

43 (cf: P.L.2002, c.128, s.13)

44
45 17. Section 3 of P.L.1976, c.68 (C.40A:4-45.3) is amended to
46 read as follows:

1 3. In the preparation of its budget a municipality shall limit any
2 increase in said budget to 2.5% or the cost-of-living adjustment,
3 whichever is less, over the previous year's final appropriations
4 subject to the following exceptions:
5 a. (Deleted by amendment, P.L.1990, c.89.)
6 b. Capital expenditures, including appropriations for current
7 capital expenditures, whether in the capital improvement fund or as
8 a component of a line item elsewhere in the budget, provided that
9 any such current capital expenditure would be otherwise bondable
10 under the requirements of N.J.S.40A:2-21 and 40A:2-22;
11 c. (1) An increase based upon emergency temporary
12 appropriations made pursuant to N.J.S.40A:4-20 to meet an urgent
13 situation or event which immediately endangers the health, safety or
14 property of the residents of the municipality, and over which the
15 governing body had no control and for which it could not plan and
16 emergency appropriations made pursuant to N.J.S.40A:4-46.
17 Emergency temporary appropriations and emergency appropriations
18 shall be approved by at least two-thirds of the governing body and
19 by the Director of the Division of Local Government Services, and
20 shall not exceed in the aggregate 3% of the previous year's final
21 current operating appropriations.
22 (2) (Deleted by amendment, P.L.1990, c.89.)
23 The approval procedure in this subsection shall not apply to
24 appropriations adopted for a purpose referred to in subsection d. or
25 j. below;
26 d. All debt service, including that of a Type I school district;
27 e. Upon the approval of the Local Finance Board in the Division
28 of Local Government Services, amounts required for funding a
29 preceding year's deficit;
30 f. Amounts reserved for uncollected taxes;
31 g. (Deleted by amendment, P.L.1990, c.89.)
32 h. Expenditure of amounts derived from new or increased
33 construction, housing, health or fire safety inspection or other
34 service fees imposed by State law, rule or regulation or by local
35 ordinance;
36 i. Any amount approved by any referendum;
37 j. Amounts required to be paid pursuant to (1) any contract with
38 respect to use, service or provision of any project, facility or public
39 improvement for water, sewerage, parking, senior citizen housing or
40 any similar purpose, or payments on account of debt service
41 therefor, between a municipality and any other municipality,
42 county, school or other district, agency, authority, commission,
43 instrumentality, public corporation, body corporate and politic or
44 political subdivision of this State; (2) the provisions of article 9 of
45 P.L.1968, c.404 (C.13:17-60 through 13:17-76) by a constituent
46 municipality to the intermunicipal account; (3) any lease of a
47 facility owned by a county improvement authority when the lease

- 1 payment represents the proportionate amount necessary to amortize
2 the debt incurred by the authority in providing the facility which is
3 leased, in whole or in part; and (4) any repayments under a loan
4 agreement entered into in accordance with the provisions of section
5 5 of P.L.1992, c.89;
- 6 k. (Deleted by amendment, P.L.1987, c.74.)
- 7 l. Appropriations of federal, county, independent authority or
8 State funds, or by grants from private parties or nonprofit
9 organizations for a specific purpose, and amounts received or to be
10 received from such sources in reimbursement for local
11 expenditures. If a municipality provides matching funds in order to
12 receive the federal, county, independent authority or State funds, or
13 the grants from private parties or nonprofit organizations for a
14 specific purpose, the amount of the match which is required by law
15 or agreement to be provided by the municipality shall be excepted;
- 16 m. (Deleted by amendment, P.L.1987, c.74.)
- 17 n. (Deleted by amendment, P.L.1987, c.74.)
- 18 o. (Deleted by amendment, P.L.1990, c.89.)
- 19 p. (Deleted by amendment, P.L.1987, c.74.)
- 20 q. (Deleted by amendment, P.L.1990, c.89.)
- 21 r. Amounts expended to fund a free public library established
22 pursuant to the provisions of R.S.40:54-1 through 40:54-29,
23 inclusive;
- 24 s. (Deleted by amendment, P.L.1990, c.89.)
- 25 t. Amounts expended in preparing and implementing a housing
26 element and fair share plan pursuant to the provisions of P.L.1985,
27 c.222 (C.52:27D-301 et al.) and any amounts received by a
28 municipality under a regional contribution agreement pursuant to
29 section 12 of that act;
- 30 u. (Deleted by amendment, P.L.2004, c.74.)
- 31 v. (Deleted by amendment, P.L.1990, c.89.)
- 32 w. (Deleted by amendment, P.L.2004, c.74.)
- 33 x. Amounts expended to aid privately owned libraries and
34 reading rooms, pursuant to R.S.40:54-35;
- 35 y. (Deleted by amendment, P.L.1990, c.89.)
- 36 z. (Deleted by amendment, P.L.1990, c.89.)
- 37 aa. Extraordinary expenses, approved by the Local Finance
38 Board, required for the implementation of an interlocal services
39 agreement;
- 40 bb. Any expenditure mandated as a result of a natural disaster,
41 civil disturbance or other emergency that is specifically authorized
42 pursuant to a declaration of an emergency by the President of the
43 United States or by the Governor;
- 44 cc. Expenditures for the cost of services mandated by any order
45 of court, by any federal or State statute, or by administrative rule,
46 directive, order, or other legally binding device issued by a State

- 1 agency which has identified such cost as mandated expenditures on
2 certification to the Local Finance Board by the State agency;
- 3 dd. Expenditures of amounts actually realized in the local
4 budget year from the sale of municipal assets in extraordinary cases
5 and with the permission of the Local Finance Board;
- 6 ee. Any local unit which is determined to be experiencing fiscal
7 distress pursuant to the provisions of P.L.1987, c.75
8 (C.52:27D-118.24 et seq.), whether or not a local unit is an "eligible
9 municipality" as defined in section 3 of P.L.1987, c.75
10 (C.52:27D-118.26), and which has available surplus pursuant to the
11 spending limitations imposed by P.L.1976, c.68 (C.40A:4-45.1 et
12 seq.), may appropriate and expend an amount of that surplus
13 approved by the director and the Local Finance Board as an
14 exception to the spending limitation. Any determination approving
15 the appropriation and expenditure of surplus as an exception to the
16 spending limitations shall be based upon:
- 17 1) the local unit's revenue needs for the current local budget year
18 and its revenue raising capacity;
- 19 2) the intended actions of the governing body of the local unit to
20 meet the local unit's revenue needs;
- 21 3) the intended actions of the governing body of the local unit to
22 expand its revenue generating capacity for subsequent local budget
23 years;
- 24 4) the local unit's ability to demonstrate the source and existence
25 of sufficient surplus as would be prudent to appropriate as an
26 exception to the spending limitations to meet the operating expenses
27 for the local unit's current budget year; and
- 28 5) the impact of utilization of surplus upon succeeding budgets
29 of the local unit;
- 30 ff. Newly authorized operating appropriations for the municipal
31 court or violation's bureau when approved by the vicinage Presiding
32 Judge of the Municipal Court after consultation with the mayor and
33 governing body of the municipality;
- 34 gg. (Deleted by amendment, P.L.2004, c.74.)
- 35 hh. (Deleted by amendment, P.L.2004, c.74.)
- 36 ii. Subject to the approval of the Local Finance Board,
37 expenditures related to the cost of conducting and implementing a
38 total property tax levy sale pursuant to section 16 of P.L.1997, c.99
39 (C.54:5-113.5);
- 40 jj. Amounts expended for a length of service award program
41 pursuant to P.L.1997, c.388 (C.40A:14-183 et al.);
- 42 kk. Amounts expended to provide municipal services or
43 reimbursement amounts to multifamily dwellings for the collection
44 and disposal of solid waste generated by the residents of the
45 multifamily dwellings. This subsection shall cease to be operative
46 at the end of the first local budget year in which the municipality
47 has fully phased in its reimbursement amount expenses;

- 1 ll. Amounts expended by a municipality under an interlocal
2 services agreement entered into pursuant to the "Interlocal Services
3 Act," P.L.1973, c.208 (C.40:8A-1 et seq.) entered into after the
4 effective date of P.L.2000, c.126 (C.52:13H-21 et al.). The
5 governing body of the municipality that will receive the service
6 may choose to allow the amount of projected annual savings to be
7 added to the amount of final appropriations upon which its
8 permissible expenditures are calculated pursuant to section 2 of
9 P.L.1976, c.68 (C.40A:4-45.2);
- 10 mm. Amounts expended under a joint contract pursuant to the
11 "Consolidated Municipal Service Act," P.L.1952, c.72 (C.40:48B-1
12 et seq.) entered into after the effective date of P.L.2000, c.126
13 (C.52:13H-21 et al.). The governing body of each participating
14 municipality may choose to allow the amount of projected annual
15 savings to be added to the amount of final appropriations upon
16 which its permissible expenditures are calculated pursuant to
17 section 2 of P.L.1976, c.68 (C.40A:4-45.2);
- 18 nn. (Deleted by amendment, P.L.2004, c.74.)
- 19 oo. Amounts appropriated in the first three years after the
20 effective date of P.L.2003, c.92 (C.18A:7F-5b et al.) for liability
21 insurance, workers' compensation insurance and employee group
22 insurance;
- 23 pp. Amounts appropriated in the first three years after the
24 effective date of P.L.2003, c.92 (C.18A:7F-5b et al.) for costs of
25 domestic security preparedness and responses to incidents and
26 threats to domestic security;
- 27 qq. Amounts required to be paid by a municipality pursuant to
28 the provisions of section 4 of P.L. , c. (C.) (pending in the
29 Legislature as this bill).
- 30 In the first full year when an existing appropriation or
31 expenditure that is subject to budget limitations is made an
32 exception to budget limitations, a municipality shall deduct from its
33 final appropriations upon which its permissible expenditures are
34 calculated pursuant to section 2 of P.L.1976, c.68 (C.40A:4-45.2),
35 the amount which the municipality expended for that purpose
36 during the last full budget year, or portion thereof, in which the
37 purpose so excepted was funded from appropriations in the
38 municipal budget.
- 39 In the first full year when an existing appropriation or
40 expenditure that is not subject to budget limitations is made subject
41 to budget limitations, a municipality shall add to its final
42 appropriations upon which its permissible expenditures are
43 calculated pursuant to section 2 of P.L.1976, c.68 (C.40A:4-45.2),
44 the amount which the municipality expended for that purpose
45 during the last full budget year, or portion thereof, in which the
46 purpose so excepted was funded from appropriations in the

1 municipal budget.
2 (cf: P.L.2004, c.74, s.3)

3
4 18. Section 4 of P.L.1976, c.68 (C.40A:4-45.4) is amended to
5 read as follows:

6 4. In the preparation of its budget, a county may not increase the
7 county tax levy to be apportioned among its constituent
8 municipalities in excess of 2.5% or the cost-of-living adjustment,
9 whichever is less, of the previous year's county tax levy, subject to
10 the following exceptions:

11 a. The amount of revenue generated by the increase in
12 valuations within the county, based solely on applying the
13 preceding year's county tax rate to the apportionment valuation of
14 new construction or improvements within the county, and such
15 increase shall be levied in direct proportion to said valuation;

16 b. Capital expenditures, including appropriations for current
17 capital expenditures, whether in the capital improvement fund or as
18 a component of a line item elsewhere in the budget, provided that
19 any such current capital expenditures would be otherwise bondable
20 under the requirements of N.J.S.40A:2-21 and 40A:2-22;

21 c. (1) An increase based upon emergency temporary
22 appropriations made pursuant to N.J.S.40A:4-20 to meet an urgent
23 situation or event which immediately endangers the health, safety or
24 property of the residents of the county, and over which the
25 governing body had no control and for which it could not plan and
26 emergency appropriations made pursuant to N.J.S.40A:4-46.
27 Emergency temporary appropriations and emergency appropriations
28 shall be approved by at least two-thirds of the governing body and
29 by the Director of the Division of Local Government Services, and
30 shall not exceed in the aggregate 3% of the previous year's final
31 current operating appropriations.

32 (2) (Deleted by amendment, P.L.1990, c.89.)

33 The approval procedure in this subsection shall not apply to
34 appropriations adopted for a purpose referred to in subsection d. or
35 f. below;

36 d. All debt service;

37 e. (Deleted by amendment, P.L.1990, c.89.)

38 f. Amounts required to be paid pursuant to (1) any contract with
39 respect to use, service or provision of any project, facility or public
40 improvement for water, sewerage, parking, senior citizen housing or
41 any similar purpose, or payments on account of debt service
42 therefor, between a county and any other county, municipality,
43 school or other district, agency, authority, commission,
44 instrumentality, public corporation, body corporate and politic or
45 political subdivision of this State; and (2) any lease of a facility
46 owned by a county improvement authority when the lease payment
47 represents the proportionate amount necessary to amortize the debt

- 1 incurred by the authority in providing the facility which is leased, in
2 whole or in part;
- 3 g. That portion of the county tax levy which represents funding
4 to participate in any federal or State aid program and amounts
5 received or to be received from federal, State or other funds in
6 reimbursement for local expenditures. If a county provides
7 matching funds in order to receive the federal or State or other
8 funds, only the amount of the match which is required by law or
9 agreement to be provided by the county shall be excepted;
- 10 h. (Deleted by amendment, P.L.1987, c.74.)
- 11 i. (Deleted by amendment, P.L.1990, c.89.)
- 12 j. (Deleted by amendment, P.L.1990, c.89.)
- 13 k. (Deleted by amendment, P.L.1990, c.89.)
- 14 l. (Deleted by amendment, P.L.2004, c.74.)
- 15 m. (Deleted by amendment, P.L.1990, c.89.)
- 16 n. (Deleted by amendment, P.L.1990, c.89.)
- 17 o. (Deleted by amendment, P.L.1990, c.89.)
- 18 p. Extraordinary expenses, approved by the Local Finance
19 Board, required for the implementation of an interlocal services
20 agreement;
- 21 q. Any expenditure mandated as a result of a natural disaster,
22 civil disturbance or other emergency that is specifically authorized
23 pursuant to a declaration of an emergency by the President of the
24 United States or by the Governor;
- 25 r. Expenditures for the cost of services mandated by any order of
26 court, by any federal or State statute, or by administrative rule,
27 directive, order, or other legally binding device issued by a State
28 agency which has identified such cost as mandated expenditures on
29 certification to the Local Finance Board by the State agency;
- 30 s. That portion of the county tax levy which represents funding
31 to a county college in excess of the county tax levy required to fund
32 the county college in local budget year 1992;
- 33 t. (Deleted by amendment, P.L.2004, c.74.)
- 34 u. Expenditures for the administration of general public
35 assistance pursuant to P.L.1995, c.259 (C.40A:4-6.1 et al.);
- 36 v. Amounts in a separate line item of a county budget that are
37 expended on tick-borne disease vector management activities
38 undertaken pursuant to P.L.1997, c.52 (C.26:2P-7 et al.);
- 39 w. Amounts expended by a county under an interlocal services
40 agreement entered into pursuant to the "Interlocal Services Act,"
41 P.L.1973, c.208 (C.40:8A-1 et seq.) entered into after the effective
42 date of P.L.2000, c.126 (C.52:13H-21 et al.) or amounts expended
43 under a joint contract pursuant to the "Consolidated Municipal
44 Service Act," P.L.1952, c.72 (C.40:48B-1 et seq.) entered into after
45 the effective date of P.L.2000, c.126 (C.52:13H-21 et al.);
- 46 x. Amounts appropriated in the first three years after the
47 effective date of P.L.2003, c.92 (C.18A:7F-5b et al.) for liability

1 insurance, workers' compensation insurance and employee group
2 insurance;

3 y. Amounts appropriated in the first three years after the
4 effective date of P.L.2003, c.92 (C.18A:7F-5b et al.) for costs of
5 domestic security preparedness and responses to incidents and
6 threats to domestic security;

7 z. Expenditures of amounts received pursuant to section 5 of
8 P.L.1981, c.278 (C.13:1E-96).

9 In the first full year where an existing appropriation or
10 expenditure that is subject to budget limitations is made an
11 exception to budget limitations, a county shall deduct from its final
12 appropriations upon which its permissible expenditures are
13 calculated pursuant to section 2 of P.L.1976, c.68 (C.40A:4-45.2)
14 the amount which the county expended for that purpose during the
15 last full budget year, or portion thereof, in which the purpose so
16 excepted was funded from appropriations in the county budget.

17 In the first full year where an existing appropriation or
18 expenditure that is not subject to budget limitations is made subject
19 to budget limitations, a county shall add to its final appropriations
20 upon which its permissible expenditures are calculated pursuant to
21 section 2 of P.L.1976, c.68 (C.40A:4-45.2) the amount which the
22 county expended for that purpose during the last full budget year, or
23 portion thereof, in which the purpose so excepted was funded from
24 appropriations in the county budget.

25 (cf: P.L.2004, c.74, s.7)

26

27 19. (New section) There is appropriated from the General Fund
28 to the State Recycling Fund established pursuant to section 5 of
29 P.L.1981, c.278 (C.13:1E-96) the sum of \$8,000,000. These
30 moneys shall be used by the Department of Environmental
31 Protection to provide direct recycling grants to counties and
32 municipalities within 12 months following the effective date
33 of P.L. , c. (C.) (pending in the Legislature as this bill). The
34 grants shall be used solely for the purposes set forth in the adopted
35 and approved district solid waste management plans required
36 pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.) and the district
37 recycling plans required pursuant to section 3 of P.L.1987, c.102
38 (C.13:1E-99.13), including the municipal source separation and
39 recycling ordinances required pursuant to section 6 of P.L.1987,
40 c.102 (C.13:1E-99.16), as those plans and ordinances may be
41 revised or modified pursuant to the Statewide Solid Waste
42 Management Plan. The amount appropriated pursuant to this
43 section shall be repaid to the General Fund from moneys deposited
44 in the State Recycling Fund in annual installments not to exceed
45 \$1,000,000 per fiscal year beginning July 1, 2009 and annually
46 thereafter until the full amount is repaid according to a schedule of
47 repayments determined by the State Treasurer.

- 1 20. The following are repealed:
2 Sections 4 through 9 inclusive of P.L.1985, c.38 (C.13:1E-139
3 through 13:1E-144);
4 Section 11 of P.L.1985, c.38 (C.13:1E-146);
5 Sections 13 through 17 inclusive of P.L.1985, c.38 (C.13:1E-148
6 through 13:1E-152);
7 Sections 30 and 31 of P.L.1985, c.38 (C.13:1E-165 and
8 13:1E-166).
9
10 21. This act shall take effect immediately.