

ASSEMBLY, No. 2398

STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED MARCH 4, 2010

Sponsored by:

Assemblyman JACK CONNERS
District 7 (Burlington and Camden)

SYNOPSIS

Prohibits DEP from requiring recycling coordinators to complete educational course on recycling.

CURRENT VERSION OF TEXT

As introduced.



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2

1 AN ACT concerning recycling coordinators, amending P.L.1981,
2 c.278 and P.L.2007, c.311, and amending and supplementing
3 P.L.1987, c.102.

4

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

7

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

10 5. a. The State Recycling Fund (hereinafter referred to as the
11 "fund") is established as a nonlapsing, revolving fund. The fund
12 shall be administered by the Department of Environmental
13 Protection, and shall be credited with all recycling tax revenue
14 collected pursuant to section 4 of P.L.2007, c.311 (C.13:1E-96.5),
15 and all interest received on moneys in the fund.

16 b. Moneys in the fund shall be appropriated annually solely for
17 the following purposes and no others:

18 (1) Not less than 60% of the estimated annual balance of the
19 fund shall be used for the annual expenses of a program for direct
20 recycling grants to municipalities or counties in those instances
21 where a county, at its own expense, provides for the collection,
22 processing and marketing of recyclable materials on a regional
23 basis. The amount of a direct recycling grant shall be calculated on
24 the basis of the total number of tons of recyclable materials
25 annually recycled from residential, commercial and institutional
26 sources within a particular municipality, or group of municipalities
27 in the case of a county recycling program. No direct recycling grant
28 shall exceed \$10 per ton of recyclable materials recycled. All grant
29 moneys received by a municipality shall be expended only for its
30 recycling program. The department may allocate a portion of the
31 direct recycling grant moneys as bonus grants to municipalities and
32 counties whenever a municipality or county, at its own expense,
33 provides for the collection of recyclable materials in its recycling
34 program. The department shall announce each year the total
35 amount of moneys available in the bonus grant fund.

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

42 A municipality may designate any nonprofit group as a recycling
43 agent. A recycling agent shall receive that part of the municipality's
44 direct recycling grant under this paragraph that represents the
45 percentage of the grant received by the municipality due to the
46 documented tonnage contributed by that recycling agent. Moneys
47 received by a recycling agent shall be expended only for its

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.

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1 recycling program. Any moneys not used for recycling shall be
2 returned by the recycling agent to the municipality.

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

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

22 No direct recycling grant to any municipality shall be used for
23 constructing or operating any facility for the baling of wastepaper
24 or for the shearing, baling or shredding of ferrous or nonferrous
25 materials.

26 Whenever a municipality operates a municipal service system for
27 solid waste collection pursuant to R.S.40:66-1, or provides for
28 regular solid waste collection service under a contract awarded
29 pursuant to the "Local Public Contracts Law," P.L.1971, c.198
30 (C.40A:11-1 et seq.), the amount of grant moneys received by the
31 municipality shall not be less than the annual amount of recycling
32 tax paid by the municipality pursuant to section 4 of P.L.2007,
33 c.311 (C.13:1E-96.5), except that all grant moneys received by the
34 municipality shall be expended only for its recycling program;

35 (2) 5% of the estimated annual balance of the fund shall be used
36 for State recycling program planning and program funding,
37 including the administrative expenses thereof;

38 (3) 25% of the estimated annual balance of the fund shall be
39 used to provide State aid to counties for preparing, revising, and
40 implementing solid waste management plans, including the
41 implementation of the goals of the State Recycling Plan. The
42 moneys may also be used by the counties to support community
43 oversight projects and to establish a citizens' advisory committee. A
44 county receiving State aid shall not expend more than 2% of the
45 amount of aid received in any year for the costs of administering the
46 aid. The State aid shall be distributed to the counties on the basis of
47 the total amount of solid waste generated from within each county
48 during the previous calendar year as determined by the department.

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1 In the event that the department determines that any county has
2 failed to fulfill its district solid waste management planning
3 responsibilities, the department may withhold for an entire year or
4 until the county fulfills its responsibilities, all or a portion of the
5 amount of moneys that county would have received in any year
6 pursuant to this paragraph. Any moneys withheld for an entire year
7 shall be distributed among the remaining counties in the same
8 proportion as the other moneys were distributed. The moneys may
9 also be used by the counties for household hazardous waste
10 collection, and for recycling program planning and program
11 funding, including the administrative expenses thereof;

12 (4) 5% of the estimated annual balance of the fund shall be used
13 by counties for public information and education programs
14 concerning recycling activities; and

15 (5) Not more than 5% of the estimated annual balance of the
16 fund shall be used by the department to provide grants to
17 institutions of higher education for recycling demonstration,
18 research or education, including professional training.

19 (cf: P.L.2008, c.6, s.3)

20

21 2. Section 3 of P.L.2007, c.311 (C.13:1E-96.4) is amended to
22 read as follows:

23 3. For the purposes of this act:

24 "Beverage container" means an individual, separate, hermetically
25 sealed, or made airtight with a metal or plastic cap, bottle or can
26 composed of glass, metal, plastic or any combination thereof,
27 containing a beverage.

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

31 "Commissioner" means the Commissioner of Environmental
32 Protection.

33 "Department" means the Department of Environmental
34 Protection.

35 "Director" means the Director of the Division of Taxation in the
36 Department of the Treasury.

37 "Division" means the Division of Taxation in the Department of
38 the Treasury.

39 "Materials recovery" means the processing and separation of
40 solid waste utilizing manual or mechanical methods for the
41 purposes of recovering recyclable materials for disposition and
42 recycling prior to the disposal of the residual solid waste at an
43 authorized solid waste facility.

44 "Materials recovery facility" means a transfer station or other
45 authorized solid waste facility at which nonhazardous solid waste,
46 which material is not source separated by the generator thereof prior
47 to collection, is received for onsite processing and separation
48 utilizing manual or mechanical methods for the purposes of

1 recovering recyclable materials for disposition and recycling prior
2 to the disposal of the residual solid waste at an authorized solid
3 waste facility.

4 "Post-consumer waste material" means a material or product that
5 would otherwise become solid waste, having completed its intended
6 end use and product life cycle; except that "post-consumer waste
7 material" shall not include secondary waste material or materials
8 and by-products generated from, and commonly used within, an
9 original manufacturing and fabrication process.

10 "Recycled product" means any product or commodity which is
11 manufactured or produced in whole or in part from post-consumer
12 waste material and which meets the recycled content standard of the
13 United States Environmental Protection Agency as published in the
14 Comprehensive Procurement Guidelines for Products Containing
15 Recovered Material.

16 "Recycling coordinator" means a person or persons designated as
17 such pursuant to section 3 of P.L.1987, c.102 (C.13:1E-99.13) or
18 section 6 of P.L.1987, c.102 (C.13:1E-99.16).

19 "Residue" means any solid waste generated as a result of the use
20 of post-consumer waste material in the manufacture of a recycled
21 product.

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

29 "Secondary waste material" means waste material generated after
30 the completion of a manufacturing process.

31 "Solid waste" means the same as that term is defined in section 3
32 of P.L.1970, c.39 (C.13:1E-3), except that, as used in the provisions
33 of P.L.2007, c.311 (C.13:1E-96.2 et al.), "solid waste" shall be
34 limited to the following solid waste ID types: Type 10 Municipal;
35 Type 13 Bulky waste; Type 13C Construction and Demolition
36 waste; Type 23 Vegetative waste; Type 25 Animal and food
37 processing wastes; and Type 27 Dry industrial waste, including
38 Type 27-A Asbestos-containing waste, as set forth in N.J.A.C.7:26-
39 1.6 and N.J.A.C.7:26-2.13.

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

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

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

3 "Solid waste facilities" means and includes the plants, structures
4 and other real and personal property acquired, constructed or
5 operated or to be acquired, constructed or operated by, or on behalf
6 of, any person, public authority or county pursuant to the provisions
7 of P.L.1970, c.39 (C.13:1E-1 et seq.) or any other act, including
8 transfer stations, incinerators, resource recovery facilities, sanitary
9 landfill facilities or other plants for the disposal of solid waste, and
10 all vehicles, equipment and other real and personal property and
11 rights therein and appurtenances necessary or useful and convenient
12 for the collection or disposal of solid waste in a sanitary manner.
13 (cf: P.L.2008, c.6, s.2)

14

15 3. 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
30 separated in each municipality which shall include, in addition to
31 leaves, at least three other recyclable materials separated from the
32 municipal 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

47 (5) Designation of countywide recovery targets to achieve the
48 maximum feasible recovery of recyclable materials from the total

1 solid waste stream which shall include, at a minimum, the recycling
2 of at least 60% of the total solid waste stream by December 31,
3 1995.

4 **【Within 24 months of the effective date of P.L.2007, c.311**
5 **(C.13:1E-96.2 et al.), each district recycling plan shall be modified**
6 **to include the designation of a district certified recycling**
7 **coordinator.】**

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

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

27 d. A district recycling plan may be modified to require that
28 each municipality within the county revise the ordinance adopted
29 pursuant to subsection b. of section 6 of P.L.1987, c.102 (C.13:1E-
30 99.16) to provide for the source separation and collection of used
31 dry cell batteries as a designated recyclable material.

32 e. (Deleted by amendment, P.L.2008, c. 130)
33 (cf: P.L.2008, c.130, s.19)

34
35 4. Section 6 of P.L.1987, c.102 (C.13:1E-99.16) is amended to
36 read as follows:

37 6. Each municipality in this State shall, by January 13, 2012,
38 designate one or more persons as the municipal **【certified】**
39 recycling coordinator. **【**For the purposes of this section, "municipal
40 certified recycling coordinator" means a person who shall have
41 completed the requirements of a course of instruction in various
42 aspects of recycling program management, as determined and
43 administered by the department.**】**

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

46 a. Each municipality shall provide for a collection system for
47 the recycling of the recyclable materials designated in the district

1 recycling plan as may be necessary to achieve the designated
2 recovery targets set forth in the plan in those instances where a
3 recycling collection system is not otherwise provided for by the
4 generator or by the county, interlocal service agreement or joint
5 service program, or other private or public recycling program
6 operator.

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

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

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

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

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

46 f. The governing body of each municipality shall, at least once
47 every six months, notify all persons occupying residential,
48 commercial, and institutional premises within its municipal

1 boundaries of local recycling opportunities, and the source
2 separation requirements of the ordinance. In order to fulfill the
3 notification requirements of this subsection, the governing body of
4 a municipality may, in its discretion, place an advertisement in a
5 newspaper circulating in the municipality, post a notice in public
6 places where public notices are customarily posted, include a notice
7 with other official notifications periodically mailed to residential
8 taxpayers, or any combination thereof, as the municipality deems
9 necessary and appropriate.

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

15 (cf: P.L.2009, c.164, s.1)

16

17 5. (New section) a. The Department of Environmental
18 Protection shall adopt, pursuant to the "Administrative Procedure
19 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations as
20 are necessary to implement the provisions of section 5 of P.L.1981,
21 c.278 (C.13:1E-96), P.L.1987, c.102 (C.13:1E-99.11 et al.) and
22 P.L.2007, c.311 (C.13:1E-96.2 et al.).

23 b. In adopting rules and regulations governing recycling, the
24 department shall not require any district or municipal recycling
25 coordinator to complete a course of instruction in various aspects of
26 recycling program management.

27

28 6. This act shall take effect immediately.

29

30

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STATEMENT

32

33 This bill prohibits the Department of Environmental Protection
34 (DEP) from requiring county and municipal recycling coordinators
35 to complete an educational course on recycling.

36 The provisions of the "Recycling Enhancement Act," P.L.2007,
37 c.311 (C.13:1E-96.2 et al.) require every county to designate a
38 district certified recycling coordinator no later than January 13,
39 2010, and every municipality to designate a municipal certified
40 recycling coordinator no later than January 13, 2012. The
41 designated county or municipal certified recycling coordinator is
42 required to have completed the requirements of a course of
43 instruction in various aspects of recycling program management, as
44 determined and administered by the Department of Environmental
45 Protection (DEP).

46 Recently, the DEP, in interpreting the requirements of the
47 statute, considered adopting rules and regulations that would
48 require a person with no previous formal training to take a 21-day

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1 training program. Under the same proposed rules, a person who has
2 been a municipal recycling coordinator but has fewer than 10 years
3 of experience would have had to take a four-day alternate training
4 program and pass the associated exam.

5 Such onerous and costly certification requirements place a real
6 burden on counties and municipalities, many of which have
7 employed seasoned recycling professionals for many years or, in the
8 case of smaller municipalities, often rely upon experienced
9 volunteer recycling coordinators.