

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 1056

STATE OF NEW JERSEY
208th LEGISLATURE

ADOPTED JUNE 22, 1998

Sponsored by:

Senator HENRY P. MCNAMARA

District 40 (Bergen and Passaic)

Senator JOHN H. ADLER

District 6 (Camden)

Co-Sponsored by:

Senator Matheussen

SYNOPSIS

Deregulates the Statewide solid waste management system, makes an appropriation.

CURRENT VERSION OF TEXT

Substitute as adopted by the Senate Environment Committee.



1 **AN ACT** concerning solid waste collection and disposal, revising and
2 repealing various sections of statutory law, and making an
3 appropriation.
4

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

8 1. (New section) Sections 1 through 14 inclusive of P.L. , c.
9 (C.13:1E-208 through 13:1E-221)(pending in the Legislature as this
10 bill) shall be known and may be cited as the "Solid Waste Collection
11 and Disposal Regulatory Reform and Debt Retirement Act."
12

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

30 The Legislature further finds and declares that in furtherance of
31 this State mandate, each county or public authority designated by the
32 county as responsible for solid waste management adopted a district
33 solid waste management plan which provided for designation of
34 specific solid waste facilities for the processing or disposal of the
35 district's solid waste; that the counties or their designated public
36 authorities entered into contracts, acquired real and personal property,
37 incurred administrative and other operating expenses, and issued debt
38 obligations to provide for these facilities, for the development of
39 district solid waste management plans and for the enforcement of
40 waste flow orders; that the rates, fees or charges paid by municipalities
41 and commercial generators of solid waste included a component to
42 allow for the recovery of the costs necessary to secure these capital-
43 intensive facilities; and that the Department of Environmental

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.

1 Protection issued waste flow orders which required all constituent
2 municipalities and local haulers to use the designated in-county solid
3 waste facilities for solid waste processing or disposal and which
4 effectively limited the short-term and virtually prohibited the long-term
5 use of out-of-state facilities.

6 The Legislature further finds and declares that while the
7 development of a comprehensive Statewide solid waste management
8 planning and implementation system as embodied in the "Solid Waste
9 Management Act" has ensured the availability of long-term disposal
10 capacity for most solid waste generated in this State, the system has
11 also resulted in the monopolization of waste processing and disposal
12 services by each county or public authority and has led to rates, fees
13 or charges for solid waste disposal that are among the highest in the
14 nation.

15 The Legislature further finds and declares that ability of each
16 county or public authority to fulfill its lawful responsibilities with
17 respect to district solid waste management plan implementation,
18 including the ability to raise revenues sufficient to provide funds for
19 payment of the costs of developing self-sufficient solid waste
20 management systems, had been predicated on its legal authority to
21 direct the flow of solid waste generated within the geographic
22 boundaries of the county to designated solid waste facilities, thereby
23 ensuring the economic viability of these facilities; and that waste flow
24 control by counties and public authorities had been supported by
25 statute, rules and regulations adopted by the Department of
26 Environmental Protection and franchises awarded by the Board of
27 Public Utilities, and was upheld as a valid exercise of State power by
28 the federal courts in 1988 under J. Filberto Sanitation, Inc. v. New
29 Jersey Dept. of Env'tl. Protection.

30 The Legislature further finds and declares that in the case of C &
31 A Carbone, Inc. v. Town of Clarkstown, N.Y. the U.S. Supreme Court
32 held on May 16, 1994 that the challenged ordinance, which mandated
33 that haulers use the facility designated by the town for solid waste
34 processing and disposal, impermissibly discriminated against interstate
35 commerce in violation of the U.S. Constitution; that the holding in
36 Carbone was subsequently interpreted by the appellate court in
37 Atlantic Coast Demolition & Recycling, Inc., et al. v. Board of Chosen
38 Freeholders of Atlantic County et al. to require reversal of the prior
39 ruling in J. Filberto Sanitation; on July 15, 1996, the U.S. District
40 Court for the district of New Jersey in its Atlantic Coast decision
41 invalidated New Jersey's waste flow rules to the extent that they
42 discriminate against interstate commerce; that on May 1, 1997, the
43 U.S. Court of Appeals in its second Atlantic Coast decision affirmed
44 the district court's findings that New Jersey's waste flow laws, rules
45 and regulations are unconstitutional insofar as they discriminate
46 against out-of-state solid waste facilities and reversed the two year

1 stay granted by Judge Irenas; that the State of New Jersey filed a
2 petition for certiorari to the U.S. Supreme Court on September 4,
3 1997; and that on November 10, 1997, the U.S. Supreme Court denied
4 the State's petition for certiorari in Atlantic Coast, thereby requiring
5 the State, the counties, public authorities and municipalities to
6 implement a constitutionally acceptable system for solid waste
7 management.

8 The Legislature further finds that in the Waste Management of
9 Pennsylvania, Inc. v. Shinn decision, the U.S. District Court for the
10 district of New Jersey determined on September 27, 1996 that the self-
11 sufficiency goals used by the Department of Environmental Protection
12 in the evaluation of contracts for long-term disposal of the State's solid
13 waste impermissibly discriminated against interstate commerce in
14 violation of the U.S. Constitution.

15 The Legislature further finds and declares that the counties and
16 public authorities must be able, under all circumstances, to secure
17 revenues sufficient to recover the stranded solid waste facility debt
18 incurred in constructing and operating State-mandated solid waste
19 disposal facilities, including sanitary landfills, transfer stations and
20 solid waste incinerators; and that the State is obligated to provide
21 financial assistance to counties and public authorities in the recovery
22 of these stranded costs as well as with the fiscally sound retirement of
23 solid waste facility debt.

24 The Legislature therefore determines that it is the public policy of
25 the State of New Jersey that the recovery of stranded solid waste
26 facility debt and the retirement of outstanding solid waste facility debt
27 incurred by counties, public authorities and qualified vendors in the
28 construction and operation of county solid waste facilities required
29 pursuant to the provisions of the "Solid Waste Management Act,"
30 P.L.1939, c.39 (C.13:1E-1 et seq.) shall be considered the shared
31 obligation of the State of New Jersey and the counties and public
32 authorities; that the now discredited solid waste regulatory framework
33 must be deregulated to provide for a free market and open competition
34 for solid waste collection and disposal services; and that it is necessary
35 to thoroughly revise the State's solid waste management laws to reflect
36 these purposes.

37
38 3. (New section) As used in sections 1 through 14 inclusive of
39 P.L. , c. (C.13:1E-208 through 13:1E-221)(pending in the
40 Legislature as this bill):

41 "Business concern" means any corporation, association, firm,
42 partnership, sole proprietorship, trust or other form of commercial
43 organization.

44 "County solid waste facility" means a solid waste facility that is
45 designated by a public authority or county in its adopted district solid
46 waste management plan as approved by the department prior to

1 November 10, 1997 as the in-county facility to which solid waste
2 generated within the boundaries of the county is transported for final
3 disposal, or transfer for transportation to an offsite solid waste facility
4 or designated out-of-district disposal site for disposal, as appropriate,
5 pursuant to interdistrict or intradistrict waste flow orders issued by the
6 department.

7 "Debt service" means amounts due and payable by any county,
8 public authority or qualified vendor for bonded indebtedness or other
9 financing commitments entered into or issued by a county or public
10 authority to finance a county solid waste facility, or an abandoned or
11 canceled county solid waste facility project, which are secured,
12 directly or indirectly, by revenues derived from the rates, fees or
13 charges received at the county solid waste facility for solid waste
14 disposal.

15 "Department" means the Department of Environmental Protection.

16 "Division of Local Government Services" means the Division of
17 Local Government Services in the Department of Community Affairs.

18 "Person" means any individual or business concern; or any county
19 or public authority.

20 "Public authority" means a municipal or county utilities authority
21 created pursuant to the "municipal and county utilities authorities
22 law," P.L.1957, c.183 (C.40:14B-1 et seq.); a county improvement
23 authority created pursuant to the "county improvement authorities
24 law," P.L.1960, c.183 (C.40:37A-44 et seq.); a pollution control
25 financing authority created pursuant to the "New Jersey Pollution
26 Control Financing Law," P.L.1973, c.376 (C.40:37C-1 et seq.); or any
27 other public body corporate and politic created for solid waste
28 management purposes in any county, pursuant to the provisions of any
29 law.

30 "Qualified vendor" means the owner of a resource recovery facility,
31 which is a county solid waste facility and for which the private owner
32 thereof has assumed the binding obligation to pay the debt service on
33 debt issued by a county or public authority to finance the construction
34 of the resource recovery facility.

35 "Regular solid waste collection service" means the scheduled pick-
36 up and removal of solid waste from a source of generation within the
37 boundaries of any municipality at least once a week.

38 "Resource recovery facility" means a solid waste facility
39 constructed and operated for the incineration of solid waste for energy
40 production and the recovery of metals and other materials for reuse;
41 or a mechanized composting facility, or any other solid waste facility.

42 "Responsible solid waste generator" means any property owner,
43 tenant or occupant of any single-family residential dwelling or multi-
44 family multiple dwelling, or the owner, tenant or occupant of any
45 industrial, commercial or institutional building or structure located
46 within the boundaries of any municipality, who generates solid waste

1 at those premises.

2 "Solid waste" means garbage, refuse, and other discarded materials
3 resulting from industrial, commercial and agricultural operations, and
4 from domestic and community activities, and shall include all other
5 waste materials including liquids, except for source separated
6 recyclable materials or source separated food waste collected by
7 livestock producers approved by the State Department of Agriculture
8 to collect, prepare and feed such wastes to livestock on their own
9 farms.

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

13 "Solid waste collector" means a person engaged in the collection
14 of solid waste and registered pursuant to sections 4 and 5 of P.L.1970,
15 c.39 (C.13:1E-4 and 13:1E-5).

16 "Solid waste disposal" means the storage, treatment, utilization,
17 processing, or final disposal of solid waste.

18 "Solid waste facilities" means, and includes, the plants, structures
19 and other real and personal property acquired, constructed or operated
20 or to be acquired, constructed or operated by, or on behalf of, any
21 person, public authority or county pursuant to the provisions of the
22 "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.)
23 or any other act, including transfer stations, incinerators, resource
24 recovery facilities, sanitary landfill facilities or other plants for the
25 disposal of solid waste, and all vehicles, equipment and other real and
26 personal property and rights therein and appurtenances necessary or
27 useful and convenient for the collection or disposal of solid waste in
28 a sanitary manner.

29 "Stranded solid waste facility debt" means those costs of debt
30 service which would not be recoverable by a county, public authority
31 or qualified vendor under a nondiscriminatory solid waste management
32 system in which solid waste disposal services are provided on a
33 competitive market basis.

34

35 4. (New section) a. The department shall not require any
36 municipality, solid waste collector or responsible solid waste generator
37 to utilize a specified county solid waste facility for solid waste
38 disposal, whether pursuant to the provisions of any rule, regulation,
39 administrative order or otherwise.

40 b. No county, public authority or owner or operator of a county
41 solid waste facility may require any municipality, solid waste collector
42 or responsible solid waste generator to utilize a specified county solid
43 waste facility for solid waste disposal, whether pursuant to the
44 provisions of any rule, regulation, adopted district solid waste
45 management plan or otherwise.

46 The provisions of this subsection shall not apply to any privately-

1 owned sanitary landfill facility, which is a county solid waste facility
2 for which the owner thereof has been awarded a franchise pursuant to
3 section 6 of P.L.1970, c.40 (C.48:13A-5).

4 c. No county or public authority may impose or collect user
5 charges from any municipality, responsible solid waste generator or
6 solid waste collector.

7 For the purposes of this subsection, "user charges" means any
8 rates, fees or other charges imposed and collected by a county or
9 public authority for the recovery of stranded solid waste facility debt.

10
11 5. (New section) a. The provisions of any other law to the
12 contrary notwithstanding, the recovery of stranded solid waste facility
13 debt and the retirement of outstanding solid waste facility debt
14 incurred by counties, public authorities and qualified vendors in the
15 planning, development, construction or operation of county solid
16 waste facilities, including abandoned or canceled county solid waste
17 facility projects, required pursuant to the provisions of the "Solid
18 Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.) shall
19 constitute the shared obligation of the State of New Jersey and the
20 counties and public authorities.

21 b. The provisions of any other law to the contrary notwithstanding,
22 every county, public authority or qualified vendor with outstanding
23 solid waste facility debt is eligible to apply to the State for financial
24 assistance in recovering the stranded solid waste facility debt incurred
25 in the planning, development, construction or operation of county
26 solid waste facilities, including abandoned or canceled county solid
27 waste facility projects, required pursuant to the "Solid Waste
28 Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.) pursuant to the
29 provisions of P.L. , c. (C.13:1E-208 et seq.)(pending in the
30 Legislature as this bill).

31 The total amount of financial assistance that may be secured by a
32 qualified vendor under the provisions of P.L. , c. (C.13:1E-208 et
33 seq.)(pending in the Legislature as this bill) shall not exceed 50
34 percent of the total and annual amount of the qualified vendor's
35 eligible stranded solid waste facility debt as determined by the director
36 pursuant to section 7 of P.L. , c. (C.13:1E-214)(pending in the
37 Legislature as this bill).

38
39 6. (New section) a. The obligation to review and the
40 responsibility for determining the eligibility of stranded solid waste
41 facility debt for subsidy under the provisions of P.L. , c. (C.13:1E-
42 208 et seq.)(pending in the Legislature as this bill) is hereby vested in
43 the Director of the Division of Local Government Services.

44 (1) The director shall be entitled to call upon the services,
45 technical assistance and administrative support of the officials and
46 employees of the Department Community Affairs, the Department of

1 Environmental Protection, the Department of Treasury, and any other
2 State departments, boards, bureaus, commissions and agencies as the
3 director may require and as may be available to the director for the
4 purpose of determining the eligibility of stranded solid waste facility
5 debt.

6 (2) The director may establish, in rules or regulations adopted
7 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
8 (C.52:14B-1 et seq.), the criteria and procedures to be utilized by the
9 director in making a determination of eligible stranded solid waste
10 facility debt.

11 b. Any county, public authority or qualified vendor seeking to
12 recover stranded solid waste facility debt may submit an application to
13 the director therefor as provided in section 7 of P.L. , c. (C.13:1E-
14 214)(pending in the Legislature as this bill).

15 c. Any county, public authority or qualified vendor submitting an
16 application to the director for the recovery of stranded solid waste
17 facility debt shall submit to an operational audit to be conducted or
18 contracted for by the State Treasurer if deemed necessary by the
19 director.

20 d. (1) The director shall review and approve the applications
21 submitted by counties, public authorities and qualified vendors to
22 assure that only reasonably incurred and mitigated stranded solid
23 waste facility debt are eligible for recovery pursuant to the provisions
24 of P.L. , c. (C.13:1E-208 et seq.)(pending in the Legislature as this
25 bill).

26 (2) The director may undertake any other analysis and receive any
27 other information from solid waste collectors, counties, public
28 authorities, qualified vendors or any other person as the director may
29 require for the purpose of determining the eligibility of stranded solid
30 waste facility debt.

31

32 7. (New section) a. Any county, public authority or qualified
33 vendor seeking to recover stranded solid waste facility debt shall
34 submit an application, in writing, to the Director of the Division of
35 Local Government Services for review and approval. The application
36 shall include, as appropriate, but need not be limited to, the following
37 information:

38 (1) Documentation indicating the costs incurred or assumed by, or
39 on behalf of, the county, public authority or qualified vendor that
40 should be considered stranded solid waste facility debt;

41 (2) Estimates of competitive market costs for the disposal of solid
42 waste generated within the geographic region served by the county
43 solid waste facility prior to November 10, 1997;

44 (3) An analysis of the costs incurred or assumed by, or on behalf
45 of, the county, public authority or qualified vendor which cause the
46 solid waste charges received at the county solid waste facility to be in

1 excess of competitive market costs;

2 (4) Evidence of the cost mitigation actions taken and savings
3 achieved by the county, public authority or qualified vendor in
4 reducing the solid waste charges received at the county solid waste
5 facility to solid waste charges which are closer to competitive market
6 costs; and

7 (5) Any other information that the director may require.

8 b. The director shall promptly review all applications submitted
9 pursuant to this section. The director shall, within 30 days of receipt
10 of an application, request that the county, public authority or qualified
11 vendor submit additional information to assist in the review if the
12 director deems that such information is necessary. If no such request
13 is made, the application shall be construed to be completed. In the
14 event that additional information is requested, the application shall be
15 construed to be completed when the additional information is received
16 by the director.

17 c. The director shall make an initial determination of eligible
18 stranded solid waste facility debt within 45 days of receipt of a
19 completed application in accordance with the following standards:

20 (1) The director shall consider the extent to which the county,
21 public authority or qualified vendor has undertaken, or proposes to
22 undertake, good faith efforts to mitigate its stranded solid waste
23 facility debt, including refinancing of debt; improved efficiency in the
24 operation and maintenance of the county solid waste facility and
25 reductions in the operation and maintenance expenditures therefor;
26 acceleration of depreciation and amortization of existing assets; sale
27 or lease of existing assets; voluntary renegotiation of contracts; or
28 increased business volumes.

29 Following the approval of its application, the county, public
30 authority or qualified vendor shall have the continuing obligation to
31 mitigate stranded solid waste facility debt to the maximum extent
32 practicable and feasible.

33 Every initial determination of eligible stranded solid waste facility
34 debt made by the director pursuant to this section shall be subject to
35 annual review and, if necessary, revision by the director.

36 (2) Stranded solid waste facility debt shall not include the cost of
37 any debt service obligation entered into after June 30, 1997, unless the
38 debt service obligation was incurred to mitigate the cost of any debt
39 service obligation entered into prior to June 30, 1997.

40 (3) Stranded solid waste facility debt shall not include any debt
41 service obligation representing capitalized operating expenses, other
42 than ordinary working capital not to exceed 120 days.

43 d. The director shall include as an eligible stranded solid waste
44 facility debt any debt service obligation which is not recoverable or
45 would not otherwise be recoverable by the county, public authority or
46 qualified vendor as a result of any reduction in revenues that may

1 occur due to current competitive market costs for solid waste disposal.

2 e. In approving an application for the recovery of eligible stranded
3 solid waste facility debt, the director shall establish a reasonable
4 timetable therefor, which shall provide the county, public authority or
5 qualified vendor, as appropriate, with a schedule indicating the total
6 and annual amount of eligible stranded solid waste facility debt to be
7 recovered under the provisions of P.L. , c. (C.13:1E-208 et
8 seq.)(pending in the Legislature as this bill).

9 (1) The total subsidy that may be obtained by a qualified vendor
10 under the provisions of P.L. , c. (C.13:1E-208 et seq.)(pending in
11 the Legislature as this bill) shall not exceed 50 percent of the total and
12 annual amount of the qualified vendor's eligible stranded solid waste
13 facility debt as determined by the director.

14 (2) Any timetable or schedule established by the director shall be
15 subject to annual review and, if necessary, revision by the director.

16 f. Within 10 days of making a determination of the eligible
17 stranded solid waste facility debt that may be recovered by the
18 counties, public authorities and qualified vendors that have submitted
19 applications therefor, the director shall compute and certify the
20 aggregate amount of eligible stranded solid waste facility debt
21 statewide, and the aggregate amount of annual debt service payments
22 required therefor, which shall be known as State stranded solid waste
23 facility debt. The director shall compute payments, rates and allocation
24 schedules for the total and annual recovery of State stranded solid
25 waste facility debt.

26 Any computation of payments, rates or allocation schedules made
27 by the director shall be subject to annual review and, if necessary,
28 revision by the director.

29

30 8. (New section) a. The State Solid Waste Facility Debt
31 Retirement Fund is established in the Department of Treasury. The
32 debt retirement fund shall contain sub-accounts for each county, public
33 authority and qualified vendor to be held by the State Treasurer.
34 Moneys in the debt retirement fund shall be paid on a quarterly basis
35 to counties, public authorities and qualified vendors for the recovery
36 of eligible stranded solid waste facility debt upon approval of an
37 application therefor by the director pursuant to section 7 of P.L. , c.
38 (C.13:1E-214)(pending in the Legislature as this bill).

39 Moneys in the debt retirement fund shall be used solely to subsidize
40 the debt service payments of counties, public authorities and qualified
41 vendors.

42 b. The debt retirement fund shall be the depository for the annual
43 appropriation made by the Legislature from the General Fund to
44 provide funding for the State obligation to make debt service payments
45 pursuant to section 9 of P.L. , c. (C.13:1E-216)(pending in the
46 Legislature as this bill).

1 c. Moneys in the debt retirement fund shall be disbursed in the
2 manner provided in section 10 of P.L. , c. (C.13:1E-217)(pending
3 in the Legislature as this bill).

4
5 9. (New section) a. The amount of State stranded solid waste
6 facility debt allocated to the State of New Jersey shall not be less than
7 50 percent of the aggregate amount of annual debt service payments
8 due and payable as certified by the Director of the Division of Local
9 Government Services pursuant to section 7 of P.L. , c. (C.13:1E-
10 214)(pending in the Legislature as this bill). Moneys in the General
11 Fund shall be used to provide funding for the State obligation to make
12 debt service payments.

13 b. The Legislature shall annually appropriate from the General
14 Fund to the State Solid Waste Facility Debt Retirement Fund created
15 pursuant to section 8 of P.L. , c. (C.13:1E-215)(pending in the
16 Legislature as this bill) not less than the sum of \$50,000,000.00, and
17 may appropriate such additional sums as may be necessary for this
18 purpose.

19
20 10. (New section) a. Each county, public authority and qualified
21 vendor shall establish a County Solid Waste Facility Debt Retirement
22 Fund which shall be the depository for the moneys appropriated to
23 each county, public authority or qualified vendor pursuant to this
24 section. Every county debt retirement fund shall be administered by the
25 governing body of the county, except that when a qualified vendor is
26 involved, a trustee shall be appointed to administer the fund.

27 b. All available moneys in each debt retirement fund sub-account
28 shall be appropriated to each county, public authority or qualified
29 vendor for deposit in its county debt retirement fund on a quarterly
30 basis. Moneys in each county debt retirement fund shall be used solely
31 to subsidize the debt service payments of the county, public authority
32 or qualified vendor.

33
34 11. (New section) a. No owner or operator of a county solid
35 waste facility, which has been financed, directly or indirectly, out of
36 public funds, in whole or in part, may withhold or refuse to provide,
37 on a temporary basis, for the disposal of solid waste generated within
38 any constituent municipality that has not entered into a contract for
39 solid waste disposal pursuant to the provisions of the "Local Public
40 Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.) or otherwise
41 secured solid waste disposal privileges at the county solid waste
42 facility or elsewhere, if requested to do so by the municipal governing
43 body.

44 b. It shall remain the continuing responsibility and obligation of
45 every owner or operator of a county solid waste facility, all or any
46 portion of which has been financed by public funds, including, but not

1 limited to, a zero-interest State loan from the "Resource Recovery and
2 Solid Waste Disposal Facility Fund" established pursuant to section 14
3 of the "Resource Recovery and Solid Waste Disposal Facility Bond
4 Act of 1985," P.L.1985, c.330, to provide sufficient solid waste
5 disposal capacity to accept and dispose of the nonhazardous solid
6 waste generated within the boundaries of any constituent municipality
7 on a temporary basis for periods not to exceed six months.

8
9 12. (New section) a. The provisions of any other law to the
10 contrary notwithstanding, any net savings in the payment of rates, fees
11 or charges for solid waste collection or solid waste disposal realized
12 by any municipality due to rate reductions at the solid waste facility
13 utilized by the municipality for solid waste disposal as a result of the
14 subsidies provided to counties, public authorities and qualified vendors
15 for debt service payments pursuant to the provisions of P.L. , c.
16 (C.13:1E-208 et seq.)(pending in the Legislature as this bill) shall be
17 used by the municipal governing body solely for municipal property
18 tax relief.

19 b. As a condition of a municipal solid waste collection contract
20 entered into pursuant to section 37 of P.L. , c. (C.13:1E-
21 28.8)(pending in the Legislature as this bill), any net savings in the
22 payment of rates, fees or charges for solid waste collection or solid
23 waste disposal realized by a solid waste collector due to rate
24 disparities at the solid waste facilities or designated out-of-state
25 disposal sites utilized by the solid waste collector shall be refunded
26 during the term of the contract. Any amounts received by a
27 municipality pursuant to this subsection shall be used by the municipal
28 governing body solely for municipal property tax relief.

29
30 13. (New section) a. The provisions of any other law to the
31 contrary notwithstanding, every public authority or county that owns
32 or operates a county solid waste facility, all or any portion of which
33 has been financed by a zero-interest State loan from the "Resource
34 Recovery and Solid Waste Disposal Facility Fund" established
35 pursuant to section 14 of the "Resource Recovery and Solid Waste
36 Disposal Facility Bond Act of 1985," P.L.1985, c.330, shall be subject
37 to a suspension of the obligation to make State solid waste facility
38 loan repayments, as provided in this section.

39 b. In furtherance of the provisions of P.L. , c. (C.13:1E-208
40 et seq.)(pending in the Legislature as this bill), the provisions of
41 section 2 of P.L.1985, c.332; section 2 of P.L.1985, c.335; section 2
42 of P.L.1988, c.84; section 2 of P.L.1988, c.86; section 2 of P.L.1988,
43 c.88; section 2 of P.L.1988, c.89; section 2 of P.L.1991, c.358; section
44 2 of P.L.1993, c.284; section 2 of P.L.1993, c.285; section 2 of
45 P.L.1993, c.352; or section 2 of P.L.1993, c.369, pertaining to the
46 repayment of loans made from the "Resource Recovery and Solid

1 Waste Disposal Facility Fund" in accordance with the terms of a
2 written loan agreement, to the contrary notwithstanding, local
3 government units hereinafter shall be absolved from the requirement
4 to make loan repayments prior to the date of the total recovery of
5 State stranded solid waste facility debt and retirement of all debt
6 service obligations incurred by counties and public authorities in the
7 planning, development, construction or operation of county solid
8 waste facilities, including abandoned or canceled county solid waste
9 facility projects, required pursuant to the provisions of the "Solid
10 Waste Management Act," P.L.1939, c.39 (C.13:1E-1 et seq.), as
11 determined by the Director of the Division of Local Government
12 Services.

13 c. The State Treasurer is authorized to use moneys in the General
14 Fund to cover the expenditures incurred in implementing the
15 provisions of this section, subject to the annual appropriation thereof
16 by the Legislature.

17

18 14. (New section) No public authority or county that entered into
19 an interdistrict agreement with another public authority or county for
20 the shared use of its county solid waste facility prior to the effective
21 date of P.L. , c. (C.13:1E-208 et seq.)(pending in the Legislature
22 as this bill) shall be eligible for moneys in the debt retirement fund
23 established pursuant to section 8 of P.L. , c. (C.13:1E-
24 215)(pending in the Legislature as this bill) for the recovery of eligible
25 stranded solid waste facility debt unless that county or public authority
26 has repudiated the interdistrict agreement, in writing, as no longer
27 valid and the terms and conditions thereof inoperative, and has waived
28 any claim of damages resulting therefrom or residual right of monetary
29 compensation or reimbursement with respect thereto.

30

31 15. Section 12 of P.L.1970, c.33 (C.13:1D-9) is amended to read
32 as follows:

33 12. The department shall formulate comprehensive policies for the
34 conservation of the natural resources of the State, the promotion of
35 environmental protection and the prevention of pollution of the
36 environment of the State. The department shall in addition to the
37 powers and duties vested in it by this act or by any other law have the
38 power to:

39 a. Conduct and supervise research programs for the purpose of
40 determining the causes, effects and hazards to the environment and its
41 ecology;

42 b. Conduct and supervise Statewide programs of education,
43 including the preparation and distribution of information relating to
44 conservation, environmental protection and ecology;

45 c. Require the registration of persons engaged in operations which
46 may result in pollution of the environment and the filing of reports by

1 them containing such information as the department may prescribe to
2 be filed relative to pollution of the environment, all in accordance with
3 applicable codes, rules or regulations established by the department;

4 d. Enter and inspect any building or place for the purpose of
5 investigating an actual or suspected source of pollution of the
6 environment and ascertaining compliance or noncompliance with any
7 codes, rules and regulations of the department. Any information
8 relating to secret processes concerning methods of manufacture or
9 production, obtained in the course of such inspection, investigation or
10 determination, shall be kept confidential, except this information shall
11 be available to the department for use, when relevant, in any
12 administrative or judicial proceedings undertaken to administer,
13 implement, and enforce State environmental law, but shall remain
14 subject only to those confidentiality protections otherwise afforded by
15 federal law and by the specific State environmental laws and
16 regulations that the department is administering, implementing and
17 enforcing in that particular case or instance. In addition, this
18 information shall be available upon request to the United States
19 Government for use in administering, implementing, and enforcing
20 federal environmental law, but shall remain subject to the
21 confidentiality protection afforded by federal law. If samples are taken
22 for analysis, a duplicate of the analytical report shall be furnished
23 promptly to the person suspected of causing pollution of the
24 environment;

25 e. Receive or initiate complaints of pollution of the environment,
26 including thermal pollution, hold hearings in connection therewith and
27 institute legal proceedings for the prevention of pollution of the
28 environment and abatement of nuisances in connection therewith and
29 shall have the authority to seek and obtain injunctive relief and the
30 recovery of fines and penalties in summary proceedings in the Superior
31 Court;

32 f. Prepare, administer and supervise Statewide, regional and local
33 programs of conservation and environmental protection, giving due
34 regard for the ecology of the varied areas of the State and the
35 relationship thereof to the environment, and in connection therewith
36 prepare and make available to appropriate agencies in the State
37 technical information concerning conservation and environmental
38 protection, cooperate with the Commissioner of Health in the
39 preparation and distribution of environmental protection and health
40 bulletins for the purpose of educating the public, and cooperate with
41 the Commissioner of Health in the preparation of a program of
42 environmental protection;

43 g. Encourage, direct and aid in coordinating State, regional and
44 local plans and programs concerning conservation and environmental
45 protection in accordance with a unified Statewide plan which shall be
46 formulated, approved and supervised by the department. In reviewing

1 such plans and programs and in determining conditions under which
2 such plans may be approved, the department shall give due
3 consideration to the development of a comprehensive ecological and
4 environmental plan in order to be assured insofar as is practicable that
5 all proposed plans and programs shall conform to reasonably
6 contemplated conservation and environmental protection plans for the
7 State and the varied areas thereof;

8 h. Administer or supervise programs of conservation and
9 environmental protection, prescribe the minimum qualifications of all
10 persons engaged in official environmental protection work, and
11 encourage and aid in coordinating local environmental protection
12 services;

13 i. Establish and maintain adequate bacteriological, radiological and
14 chemical laboratories with such expert assistance and such facilities as
15 are necessary for routine examinations and analyses, and for original
16 investigations and research in matters affecting the environment and
17 ecology;

18 j. Administer or supervise a program of industrial planning for
19 environmental protection; encourage industrial plants in the State to
20 undertake environmental and ecological engineering programs; and
21 cooperate with the State Departments of Health, Labor, and
22 Commerce and Economic Development in formulating rules and
23 regulations concerning industrial sanitary conditions;

24 k. Supervise sanitary engineering facilities and projects within the
25 State, authority for which is now or may hereafter be vested by law
26 in the department, and shall, in the exercise of such supervision, make
27 and enforce rules and regulations concerning plans and specifications,
28 or either, for the construction, improvement, alteration or operation
29 of all public water supplies, all public bathing places, landfill
30 operations and of sewerage systems and disposal plants for treatment
31 of sewage, wastes and other deleterious matter, liquid, solid or
32 gaseous, require all such plans or specifications, or either, to be first
33 approved by it before any work thereunder shall be commenced,
34 inspect all such projects during the progress thereof and enforce
35 compliance with such approved plans and specifications;

36 l. Undertake programs of research and development for the
37 purpose of determining the most efficient, sanitary and economical
38 ways of collecting, disposing, recycling or utilizing of solid waste;

39 m. **【Construct and operate, on an experimental basis, incinerators**
40 **or other facilities for the disposal of solid waste, provide the various**
41 **municipalities and counties of this State, the Board of Public Utilities,**
42 **and the Division of Local Government Services in the Department of**
43 **Community Affairs with statistical data on costs and methods of solid**
44 **waste collection, disposal and utilization;】** (deleted by amendment,
45 P.L. __, c. __)

46 n. Enforce the State air pollution, water pollution, conservation,

- 1 environmental protection, solid and hazardous waste [and refuse
2 disposal] management laws, rules and regulations, including the
3 making and signing of a complaint and summons for their violation by
4 serving the summons upon the violator and thereafter filing the
5 complaint promptly with a court having jurisdiction;
- 6 o. [Acquire by purchase, grant, contract or condemnation, title to
7 real property, for the purpose of demonstrating new methods and
8 techniques for the collection or disposal of solid waste;] (deleted by
9 amendment, P.L. , c.)
- 10 p. Purchase, operate and maintain, pursuant to the provisions of
11 this act, any facility, site, laboratory, equipment or machinery
12 necessary to the performance of its duties pursuant to this act;
- 13 q. Contract with any other public agency or corporation
14 incorporated under the laws of this or any other state for the
15 performance of any function under this act;
- 16 r. With the approval of the Governor, cooperate with, apply for,
17 receive and expend funds from, the federal government, the State
18 Government, or any county or municipal government or from any
19 public or private sources for any of the objects of this act;
- 20 s. Make annual and such other reports as it may deem proper to
21 the Governor and the Legislature, evaluating the demonstrations
22 conducted during each calendar year;
- 23 t. Keep complete and accurate minutes of all hearings held before
24 the commissioner or any member of the department pursuant to the
25 provisions of this act. All such minutes shall be retained in a permanent
26 record, and shall be available for public inspection at all times during
27 the office hours of the department;
- 28 u. Require any person subject to a lawful order of the department,
29 which provides for a period of time during which such person subject
30 to the order is permitted to correct a violation, to post a performance
31 bond or other security with the department in such form and amount
32 as shall be determined by the department. Such bond need not be for
33 the full amount of the estimated cost to correct the violation but may
34 be in such amount as will tend to insure good faith compliance with
35 said order. The department shall not require such a bond or security
36 from any public body, agency or authority. In the event of a failure to
37 meet the schedule prescribed by the department, the sum named in the
38 bond or other security shall be forfeited unless the department shall
39 find that the failure is excusable in whole or in part for good cause
40 shown, in which case the department shall determine what amount of
41 said bond or security, if any, is a reasonable forfeiture under the
42 circumstances. Any amount so forfeited shall be utilized by the
43 department for the correction of the violation or violations, or for any
44 other action required to insure compliance with the order; and
- 45 v. Encourage and aid in coordinating State, regional and local
46 plans, efforts and programs concerning the remediation and reuse of

1 former industrial or commercial properties that are currently
2 underutilized or abandoned and at which there has been, or is
3 perceived to have been, a discharge, or threat of a discharge, of a
4 contaminant. For the purposes of this subsection, "underutilized
5 property" shall not include properties undergoing a reasonably timely
6 remediation or redevelopment process.

7 (cf: P.L.1997, c.278, s.26)

8
9 16. Section 3 of P.L.1970, c.39 (C.13:1E-3) is amended to read
10 as follows:

11 3. **【For purposes of this act, unless the context clearly requires a**
12 **different meaning】** As used in this act:

13 **【a.】** "Solid waste" means garbage, refuse, and other discarded
14 materials resulting from industrial, commercial and agricultural
15 operations, and from domestic and community activities, and shall
16 include all other waste materials including liquids, except for **【solid**
17 **animal and vegetable wastes】** source separated recyclable materials or
18 source separated food waste collected by **【swine】** livestock producers
19 **【licensed】** approved by the State Department of Agriculture to collect,
20 prepare and feed such wastes to **【swine】** livestock on their own farms.

21 **【b.】** "Solid waste collection" means the activity related to pick-up
22 and transportation of solid waste from its source or location to a
23 **【transfer station or other authorized】** solid waste facility or other
24 destination.

25 **【c.】** "Disposal" means the storage, treatment, utilization,
26 processing, resource recovery of, or the discharge, deposit, injection,
27 dumping, spilling, leaking or placing of any solid or hazardous waste
28 into or on any land or water, so that the solid or hazardous waste or
29 any constituent thereof may enter the environment or be emitted into
30 the air or discharged into any waters, including groundwaters.

31 **【d.】** "Solid waste management" includes all activities related to
32 the collection **【and】** or disposal of solid waste by any person engaging
33 in any such process.

34 **【e.】** "Council" means the Advisory Council on Solid Waste
35 Management.

36 **【f.】** "Department" means the State Department of Environmental
37 Protection.

38 **【g.】** "Commissioner" means the Commissioner of Environmental
39 Protection in the State Department of Environmental Protection.

40 **【h.】** "Solid waste facilities" **【mean】** means and **【include】** includes
41 the plants, structures and other real and personal property acquired,
42 constructed or operated or to be acquired, constructed or operated by,
43 or on behalf of, any person, public authority or county pursuant to the
44 provisions of P.L.1970, c.39 (C.13:1E-1 et seq.)**【, P.L.1970, c.40**
45 **(C.48:13A-1 et seq.)】** or any other act, including transfer stations,

1 incinerators, resource recovery facilities, sanitary landfill facilities or
2 other plants for the disposal of solid waste, and all vehicles, equipment
3 and other real and personal property and rights therein and
4 appurtenances necessary or useful and convenient for the collection or
5 disposal of solid waste in a sanitary manner.

6 **[i.]** "Public authority" means **[any solid waste management**
7 **authority created pursuant to the "solid waste management authorities**
8 **law," P.L.1968, c.249 (C.40:66A-32 et seq.);] a municipal or county**
9 **utilities authority created pursuant to the "municipal and county**
10 **utilities authorities law," P.L.1957, c.183 (C.40:14B-1 et seq.);**
11 **[incinerator authority created pursuant to the "incinerator authorities**
12 **law," P.L.1948, c.348 (C.40:66A-1 et seq.);] a county improvement**
13 **authority created pursuant to the "county improvement authorities**
14 **law," P.L.1960, c.183 (C.40:37A-44 et seq.)[,] ; a pollution control**
15 **financing authority created pursuant to the "New Jersey Pollution**
16 **Control Financing Law," P.L.1973, c.376 (C.40:37C-1 et seq.); or any**
17 **other public body corporate and politic created for solid waste**
18 **management purposes in any county [or municipality], pursuant to the**
19 **provisions of any law.**

20 **[j.]** "Hackensack Meadowlands District" means the area within
21 the jurisdiction of the Hackensack Meadowlands Development
22 Commission created pursuant to the provisions of the "Hackensack
23 Meadowlands Reclamation and Development Act," P.L.1968, c.404
24 (C.13:17-1 et seq.).

25 **[k.]** "Hackensack Commission" means the Hackensack
26 Meadowlands Development Commission created pursuant to the
27 provisions of the "Hackensack Meadowlands Reclamation and
28 Development Act," P.L.1968, c.404 (C.13:17-1 et seq.).

29 **[l.]** (Deleted by amendment, P.L.1990, c.113)

30 **m.** (Deleted by amendment, P.L.1990, c.113)

31 **n.]** "Public sewage treatment plant" means any structure or
32 structures required to be approved by the department pursuant to
33 P.L.1977, c.224 (C.58:12A-1 et seq.) or P.L.1977, c.74 (C.58:10A-1
34 et seq.), by means of which domestic wastes are subjected to any
35 artificial process in order to remove or so alter constituents as to
36 render the waste less offensive or dangerous to the public health,
37 comfort or property of any of the inhabitants of this State, before the
38 discharge of the plant effluent into any of the waters of this State; this
39 definition includes plants for the treatment of industrial wastes, as well
40 as a combination of domestic and industrial wastes.

41 **[o.]** "Resource recovery" means the collection, separation,
42 recycling and recovery of metals, glass, paper and other materials for
43 reuse; or the incineration of solid waste for energy production and the
44 recovery of metals and other materials for reuse.

45 **"Resource recovery facility" means a solid waste facility**

1 constructed and operated for the incineration of solid waste for energy
2 production and the recovery of metals and other materials for reuse;
3 or a mechanized composting facility, or any other solid waste facility.

4 [p. (Deleted by amendment, P.L.1990, c.113)

5 q.] "Sanitary landfill facility" means a solid waste facility at which
6 solid waste is deposited on or in the land as fill for the purpose of
7 permanent disposal or storage for a period exceeding six months,
8 except that it shall not include any waste facility approved for disposal
9 of hazardous waste.

10 [r.] "Transfer station" means a solid waste facility at which solid
11 waste is transferred from a solid waste collection vehicle to a
12 [licensed] registered solid waste haulage vehicle, including a rail car,
13 for transportation to an offsite sanitary landfill facility, resource
14 recovery facility, or [other destination] designated out-of-state
15 disposal site for disposal[, except that a "transfer station" shall not
16 include any solid waste facility at which solid waste is received for
17 onsite transfer, and processing or disposal utilizing facility-owned or
18 operated equipment and vehicles operated therefor].

19 (cf: P.L.1990, c.113, s.4)

20
21 17. Section 4 of P.L.1970, c.39 (C.13:1E-4) is amended to read
22 as follows:

23 4. a. The department shall have power to supervise solid waste
24 collection activities, solid waste facilities and disposal [facilities or]
25 operations, and shall in the exercise of such supervision require the
26 registration of new and existing solid waste collection activities, solid
27 waste facilities and disposal [facilities and] operations; and may
28 exempt from the requirement of registration any class of solid waste
29 collection activity, solid waste facility or disposal [facility or]
30 operation.

31 (1) Should any person engaged in the collection of solid waste fail
32 or refuse to complete, execute or perform any contract or agreement
33 obligating the person to provide solid waste collection services, the
34 department may order any solid waste collector to extend solid waste
35 collection services into any area where the collection of solid waste
36 has been discontinued.

37 (2) Should the department find that any class of customers within
38 a specific geographic area is unable to secure solid waste collection
39 services, or that any person seeking a specific type of solid waste
40 collection service is unable to secure solid waste collection services,
41 or that the department has received complaints pertaining to the
42 adequacy of existing solid waste collection services, the department
43 may order any solid waste collector to extend solid waste collection
44 services to that geographic area, class of customers or person.

45 b. [The department in reviewing the registration statement for a

1 new solid waste collection operation or solid waste disposal facility or
2 operation and in determining the conditions under which it may be
3 approved, shall not approve the registration of any new operation or
4 facility that does not conform to the solid waste management plan of
5 the solid waste management district in which such operation or facility
6 is to be located, as such plan shall have been approved by the
7 department as hereinafter provided. Prior to the approval by the
8 department of the solid waste management plan of any solid waste
9 management district, the department may grant approval to any new
10 solid waste collection or disposal operation or facility planned to be
11 located in any such district and that district shall include said operation
12 or facility in its plan. **】** A solid waste collector shall not provide or
13 maintain any solid waste collection service that is unsafe, improper or
14 inadequate, or withhold or refuse any solid waste collection service
15 which reasonably can be demanded or furnished when ordered by the
16 department.

17 The department, upon receipt of a notification of refusal to provide
18 solid waste collection services within a municipality pursuant to
19 section 2 of P.L.1991, c.170 (C.40:66-5.2), may order the solid waste
20 collector to provide these services.

21 c. Every solid waste collector shall notify customers at least once
22 every year that solid waste collection services in this State are
23 available on a competitive basis, as provided in the customer bill of
24 rights established by the department in rules and regulations adopted
25 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
26 (C.52:14B-1 et seq.), and shall provide every customer with a copy
27 thereof.

28 (cf: P.L.1975, c.326, s.5)

29

30 18. Section 5 of P.L.1970, c.39 (C.13:1E-5) is amended to read
31 as follows:

32 5. a. Unless exempted by the department, no person shall
33 hereafter engage or continue to engage in the collection or disposal of
34 solid waste in this State without first filing a registration statement and
35 obtaining approval thereof from the department. A person engaging
36 in solid waste disposal shall file a separate registration statement and
37 an engineering design for each **】** solid waste facility which he
38 operates. **【**The registration statement and engineering design for each
39 disposal facility and approval of same shall be for the duration of the
40 plan. **】**

41 b. The registration statement and the engineering design shall be
42 made on forms provided by the department and shall contain such
43 information as may be prescribed by the department. The State and
44 any of its political subdivisions, public agencies and public authorities
45 shall be deemed a person within the meaning of **【**this act**】** P.L.1970,
46 c.39 (C.13:1E-1 et seq.).

1 c. No registration shall be approved by the department when in the
2 opinion of the department **【such】** the solid waste collection activity or
3 **【disposal】** solid waste facility or disposal operation will not meet the
4 standards or criteria set forth in **【this amendatory and supplementary**
5 **act】** P.L.1970, c.39 (C.13:1E-1 et seq.) or in rules or regulations as
6 may be **【promulgated under authority of this act or this amendatory**
7 **and supplementary act】** adopted pursuant thereto. The department
8 may require the amendment of an approved registration when, in its
9 opinion, the continued solid waste collection activity or continued
10 operation of a solid waste facility in accordance with its approved
11 registration would not meet the standards, criteria or regulations
12 described herein.

13 (cf: P.L.1975, c.326, s.6)

14

15 19. Section 1 of P.L.1983, c.464 (C.13:1E-5.1) is amended to
16 read as follows:

17 1. In addition to all other standards, conditions and procedures
18 required pursuant to law for the approval of applications for
19 registration statements and engineering designs for new solid waste
20 **【disposal】** facilities:

21 a. The department shall transmit, by certified mail, a complete
22 copy of any application for a registration statement or engineering
23 design approval for a new solid waste **【disposal】** facility to the
24 governing body of the affected municipality;

25 b. Within 6 months of the receipt of a complete application, the
26 department shall reject the application or grant tentative approval
27 thereof, which tentative approval shall establish design and operating
28 conditions for the proposed solid waste **【disposal】** facility,
29 requirements for the monitoring thereof, and any other conditions
30 required under federal or State laws or rules and regulations;

31 c. All tentative approvals of applications granted pursuant to
32 subsection b. of this section shall be transmitted to the applicant and
33 to the affected municipality and shall be accompanied by a fact sheet
34 setting forth the principal facts and the significant factual, legal,
35 methodological, and policy questions considered in granting the
36 tentative approval. The fact sheet shall include a description of the
37 solid waste facility which is the subject of the tentative approval; the
38 type and quantities of solid waste **【or sludge】** which may be disposed
39 of at the proposed solid waste facility; and a brief summary of the
40 basis for the conditions of the tentative approval; and

41 d. Within 45 days of the granting of a tentative approval of an
42 application, a public hearing on the proposed solid waste facility and
43 operator shall be conducted by the department. The department shall
44 adopt **【and promulgate】** rules and regulations necessary to ensure that
45 the public hearing is full and impartial and that the applicant is present

1 to answer questions relating to the proposed solid waste facility which
2 are posed by interested parties.

3 e. In the event that any application review by the department
4 pursuant to this section is for a registration statement and engineering
5 design approval for a proposed solid waste facility on a site located in
6 more than one municipality, the notices required herein shall be
7 transmitted to each affected municipality, and all of the affected
8 municipalities shall be considered a single party for the purposes of the
9 public hearing held concerning the application.

10 (cf: P.L.1983, c.464, s.1)

11
12 20. Section 6 of P.L.1970, c.39 (C.13:1E-6) is amended to read
13 as follows:

14 6. a. The department shall[, in addition to such other powers as
15 it may possess by law]:

16 (1) [Undertake a program of research and development for the
17 purpose of determining the most efficient, sanitary and economical
18 way of collecting, disposing and utilizing solid waste.] (~~Deleted by~~
19 ~~amendment, P.L. , c.)~~

20 (2) Formulate and [promulgate] adopt, amend and repeal codes,
21 rules and regulations concerning solid waste collection and solid waste
22 disposal activities. [Such] These codes, rules and regulations shall
23 establish the procedures relating to the preparation and submission of
24 environmental impact statements prior to the construction, acquisition,
25 or operation of any solid waste facility, and shall establish standards
26 for the construction and operation of solid waste facilities, which
27 standards shall include, but need not be limited to, provisions
28 requiring: the maintenance of ground water quality monitoring wells
29 to check water pollution; periodic monitoring of water quality by
30 chemical analysis; measures to monitor methane gas production at
31 sanitary landfills; plans for erosion control; revegetation procedures
32 and plans for the maintenance, upkeep, and reuse of any [sanitary]
33 landfill site; adequate cover material; safety measures; rodent, insect,
34 bird, dust, fire and odor control programs; and such other measures as
35 shall be deemed necessary to protect the public health and safety and
36 the natural environment.

37 All codes, rules and regulations heretofore adopted by the Public
38 Health Council relating to refuse disposal shall continue in full force
39 and effect and be enforceable by the department, subject to its power
40 as herein provided to amend or repeal the same.

41 (3) [Develop, formulate, promulgate and review for the purpose
42 of revising or updating] Revise or update, not less than once every 2
43 years, [a] the Statewide solid waste management plan [which shall
44 encourage the maximum practicable use of resource recovery
45 procedures and which shall provide the objectives, criteria and

1 standards for the evaluation of solid waste management plans prepared
2 pursuant to the provisions of this amendatory and supplementary act
3 for solid waste management districts in this State; and to the extent
4 practicable, encourage and assist in the development and formulation
5 of such solid waste management plans and guidelines to implement
6 such plans. Such objectives, criteria and standards shall be
7 promulgated within 180 days of the effective date of this act; provided,
8 however, that general guidelines sufficient to initiate the solid waste
9 management planning process by solid waste management districts in
10 this State shall be promulgated within 30 days of the effective date of
11 this act】.

12 The revised Statewide solid waste management plan shall consist
13 of a compilation of the district solid waste management plans prepared
14 pursuant to the provisions of P.L.1970, c.39 (C.13:1E-1 et seq.) for
15 solid waste management districts in this State.

16 The revised Statewide solid waste management plan shall
17 incorporate and reflect the revisions to the strategy for the collection
18 or disposal of solid waste utilized in each district based on changes
19 necessitated by revisions in State or federal laws, rules or regulations,
20 or court decisions, including any changes in solid waste collection
21 activities, solid waste facilities or solid waste disposal operations in
22 any district.

23 The revised Statewide solid waste management plan shall not
24 discriminate against the utilization of an out-of-district or out-of-state
25 disposal site by any public authority, county or municipality for the
26 disposal of solid waste, provided that the relevant public authority,
27 county or municipality produces evidence that the designated disposal
28 site is permitted by the appropriate state regulatory agency having
29 jurisdiction over solid waste management to accept solid waste for
30 disposal and is in compliance with all relevant Federal or state laws,
31 rules or regulations. In 【the development and formulation of】 revising
32 the Statewide solid waste management plan the department 【shall】
33 may consult with relevant agencies and instrumentalities of the Federal
34 Government, and the 【aforesaid objectives, criteria and standards
35 provided by said】 revised Statewide solid waste management plan shall
36 conform【, to the extent practicable, or as may be required,】 to the
37 provisions of any relevant Federal law 【concerning such objectives,
38 criteria and standards】.

39 (4) Make an annual report to the Governor and the Legislature
40 evaluating the operation of 【this amendatory and supplementary act】
41 P.L.1970, c.39 (C.13:1E-1 et seq.), including any recommendations
42 deemed necessary by the department to better effectuate the purposes
43 hereof.

44 b. The department may, in addition:

45 (1) 【Order any district, pursuant to the Statewide solid waste

1 management plan, the objectives, criteria and standards contained
2 therein, the environmental and economic studies conducted by the
3 department therefor and in a manner designed to enhance the
4 environment within the concerned districts, (a) to plan for the
5 construction of resource recovery facilities, (b) to specify what
6 processes should be utilized therein, (c) to develop a joint program
7 with one or more adjacent districts for providing resource recovery
8 facilities, and (d) for those districts affected by the guarantee provided
9 in section 9.1 of P.L.1968, c.404 (C.13:17-10), to cooperate on a
10 continuing basis with the department and with the other districts so
11 affected in the development of a combined approach to solid waste
12 management in northeastern New Jersey and make the final
13 determination in the event of any overlap or conflict between the
14 Hackensack Commission and any board of chosen freeholders pursuant
15 to their respective responsibilities under this amendatory and
16 supplementary act or pursuant to the Hackensack Commission's
17 responsibilities under P.L.1968, c.404 (C.13:17-1 et seq.).](Deleted
18 by amendment, P.L. , c.)

19 **[(2) Acquire, by purchase, grant, contract or condemnation, title**
20 **to real property, for the purpose of demonstrating new methods and**
21 **techniques for the collection, disposal and utilization of solid waste;]**
22 (Deleted by amendment, P.L. , c.)

23 (3) Purchase, operate and maintain~~],~~ pursuant to the provisions of
24 this act,] any facility, site, laboratory equipment or machinery
25 necessary to the performance of its duties pursuant to **[this act]** the
26 provisions of P.L.1970, c.39 (C.13:1E-1 et seq.);

27 (4) Apply for, receive and expend funds from any public or private
28 source; or

29 (5) Contract with any other public agency, including a local board
30 of health or county **[and municipal boards of]** health department, or
31 corporation incorporated under the laws of this or any other state for
32 the performance of any function under **[this act]** the provisions of
33 P.L.1970, c.39 (C.13:1E-1 et seq.). Any such contract with a local
34 board of health or county **[or municipal board of]** health department
35 may provide for the inspection and monitoring of solid waste facilities;
36 the enforcement of the department's standards therefor; and the
37 training of county or **[municipal]** local health officers engaged in such
38 inspection, monitoring or enforcement~~;~~].

39 (6) **[Make grants to assist in experimenting with new methods of**
40 **solid waste collection, disposal, or utilization, pursuant to the**
41 **provisions of sections 21 through 25 of this amendatory and**
42 **supplementary act;]** (Deleted by amendment, P.L. , c.)

43 (7) **[Construct and operate, on an experimental basis, incinerators**
44 **or other facilities for the disposal or utilization of solid waste, to**
45 **provide the various municipalities and counties of this State, the Board**

1 of Public Utility Commissioners, the Hackensack Commission, and the
2 Division of Local Government Services in the Department of
3 Community Affairs with statistical data on costs and methods of solid
4 waste collection and disposal;】 (~~Deleted by amendment, P.L. , c.)~~)

5 (8) 【Make annual and such other reports as it may deem proper
6 to the Governor and the Legislature evaluating the demonstrations and
7 experiments conducted during each calendar year.】 (~~Deleted by~~
8 ~~amendment, P.L. , c.)~~)

9 (cf: P.L.1975, c.326, s.7)

10
11 21. Section 7 of P.L.1970, c.39 (C.13:1E-7) is amended to read
12 as follows:

13 7. a. There is hereby created in the department an Advisory
14 Council on Solid Waste Management which shall consist of 【14】 13
15 members, 【four】 three of whom shall be 【the President of the Board
16 of Public Utilities,】the Commissioner of Community Affairs, the
17 Secretary of Agriculture and the Commissioner of Health, or their
18 designees, who shall serve ex officio, and ten citizens of the State, four
19 of whom shall be actively engaged in 【the】 solid waste collection,
20 recycling or solid waste disposal 【industries】 activities or operations,
21 of whom one shall be a representative of the Institute for Scrap
22 Recycling Industries who shall represent the scrap recycling or
23 processing industry in the State, two health professionals of whom one
24 shall be a representative of the New Jersey Hospital Association and
25 the other a licensed practitioner selected from the medical or dental
26 communities in the State who shall represent the regulated medical
27 waste generators in the State, and four of whom shall be representing
28 the general public to be appointed by the Governor, with the advice
29 and consent of the Senate. The Governor shall designate a chairman
30 and vice chairman of the council from the public members who shall
31 serve at the will of the Governor.

32 b. All public members shall be appointed for terms of 4 years. All
33 appointed members shall serve after the expiration of their terms until
34 their respective successors are appointed and shall qualify, and any
35 vacancy occurring in the appointed membership of the council by
36 expiration of term or otherwise, shall be filled in the same manner as
37 the original appointment for the unexpired term only, notwithstanding
38 that the previous incumbent may have held over and continued in
39 office as aforesaid.

40 c. Members of the council shall serve without compensation but
41 shall be reimbursed for expenses actually incurred in attending
42 meetings of the council and in performance of their duties as members
43 thereof.

44 (cf: P.L.1991, c.292, s.1)

45
46 21.1. Section 9 of P.L.1970, c.39 (C.13:1E-9) is amended to read

1 as follows:

2 9. a. All codes, rules and regulations adopted by the department
3 related to solid waste collection and disposal shall have the force and
4 effect of law. These codes, rules and regulations shall be observed
5 throughout the State and shall be enforced by the department and by
6 every local board of health, or county health department, as the case
7 may be.

8 The department and the local board of health, or the county health
9 department, as the case may be, shall have the right to enter a solid
10 waste facility at any time in order to determine compliance with the
11 registration statement and engineering design required pursuant to
12 section 5 of P.L.1970, c.39 (C.13:1E-5), and with the provisions of all
13 applicable laws or rules and regulations adopted pursuant thereto.

14 The municipal attorney or an attorney retained by a municipality in
15 which a violation of such laws or rules and regulations adopted
16 pursuant thereto is alleged to have occurred shall act as counsel to a
17 local board of health.

18 The county counsel or an attorney retained by a county in which
19 a violation of such laws or rules and regulations adopted pursuant
20 thereto is alleged to have occurred shall act as counsel to the county
21 health department.

22 Any county health department may charge and collect from the
23 owner or operator of any sanitary landfill facility within its jurisdiction
24 such fees for enforcement activities as may be established by ordinance
25 or resolution adopted by the governing body of any such county. The
26 fees shall be established in accordance with a fee schedule regulation
27 adopted by the department, pursuant to law, and shall be utilized
28 exclusively to fund such enforcement activities.

29 All enforcement activities undertaken by county health departments
30 pursuant to this subsection shall conform to all applicable performance
31 and administrative standards adopted pursuant to section 10 of the
32 "County Environmental Health Act," P.L.1977, c.443 (C.26:3A2-28).

33 b. Whenever the commissioner finds that a person has violated
34 any provision of P.L.1970, c.39 (C.13:1E-1 et seq.), or any rule or
35 regulation adopted, permit issued, or district solid waste management
36 plan adopted pursuant to P.L.1970, c.39, he shall:

37 (1) Issue an order requiring the person found to be in violation to
38 comply in accordance with subsection c. of this section;

39 (2) Bring a civil action in accordance with subsection d. of this
40 section;

41 (3) Levy a civil administrative penalty in accordance with
42 subsection e. of this section;

43 (4) Bring an action for a civil penalty in accordance with
44 subsection f. of this section; or

45 (5) Petition the Attorney General to bring a criminal action in
46 accordance with subsection g. of this section.

1 c. Whenever the commissioner finds that a person has violated
2 any provision of P.L.1970, c.39, or any rule or regulation adopted,
3 permit issued, or district solid waste management plan adopted
4 pursuant to P.L.1970, c.39, he may issue an order specifying the
5 provision or provisions of P.L.1970, c.39, or the rule, regulation,
6 permit or district solid waste management plan of which the person is
7 in violation, citing the action which constituted the violation, ordering
8 abatement of the violation, and giving notice to the person of his right
9 to a hearing on the matters contained in the order. The ordered party
10 shall have 20 calendar days from receipt of the order within which to
11 deliver to the commissioner a written request for a hearing. Such
12 order shall be effective upon receipt and any person to whom such
13 order is directed shall comply with the order immediately. A request
14 for hearing shall not automatically stay the effect of the order.

15 d. The commissioner, a local board of health or county health
16 department may institute an action or proceeding in the Superior Court
17 for injunctive and other relief, including the appointment of a receiver
18 for any violation of this act, or of any code, rule or regulation adopted,
19 permit issued, district solid waste management plan adopted or order
20 issued pursuant to this act and said court may proceed in the action in
21 a summary manner. In any such proceeding the court may grant
22 temporary or interlocutory relief, notwithstanding the provisions of
23 R.S.48:2-24.

24 Such relief may include, singly or in combination:

25 (1) A temporary or permanent injunction;

26 (2) Assessment of the violator for the costs of any investigation,
27 inspection, or monitoring survey which led to the establishment of the
28 violation, and for the reasonable costs of preparing and litigating the
29 case under this subsection;

30 (3) Assessment of the violator for any cost incurred by the State
31 in removing, correcting or terminating the adverse effects upon water
32 and air quality resulting from any violation of any provision of this act
33 or any rule, regulation or condition of approval for which the action
34 under this subsection may have been brought;

35 (4) Assessment against the violator of compensatory damages for
36 any loss or destruction of wildlife, fish or aquatic life, and for any
37 other actual damages caused by any violation of this act or any rule,
38 regulation or condition of approval established pursuant to this act for
39 which the action under this subsection may have been brought.
40 Assessments under this subsection shall be paid to the State Treasurer,
41 or to the local board of health, or to the county health department, as
42 the case may be, except that compensatory damages may be paid by
43 specific order of the court to any persons who have been aggrieved by
44 the violation.

45 If a proceeding is instituted by a local board of health or county
46 health department, notice thereof shall be served upon the

1 commissioner in the same manner as if the commissioner were a named
2 party to the action or proceeding. The department may intervene as a
3 matter of right in any proceeding brought by a local board of health or
4 county health department.

5 e. The commissioner is authorized to assess a civil administrative
6 penalty of not more than \$50,000.00 for each violation provided that
7 each day during which the violation continues shall constitute an
8 additional, separate and distinct offense. The commission shall not
9 assess a civil administrative penalty in excess of \$25,000.00 for a
10 single violation, or in excess of \$2,500.00 for each day during which
11 a violation continues, until the department has adopted, pursuant to
12 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
13 seq.), regulations requiring the commissioner, in assessing a civil
14 administrative penalty, to consider the operational history of the solid
15 waste facility at which the violation occurred, the severity of the
16 violation, the measures taken to mitigate or prevent further violations,
17 and whether the penalty will maintain an appropriate deterrent. No
18 assessment shall be levied pursuant to this section until after the
19 violator has been notified by certified mail or personal service. The
20 notice shall include a reference to the section of the statute, rule,
21 regulation, order, permit condition or district solid waste management
22 plan violated, a concise statement of the facts alleged to constitute a
23 violation, a statement of the amount of the civil administrative
24 penalties to be imposed, and a statement of the party's right to a
25 hearing. The ordered party shall have 20 calendar days from receipt
26 of the notice within which to deliver to the commissioner a written
27 request for a hearing. After the hearing and upon finding that a
28 violation has occurred, the commissioner may issue a final order after
29 assessing the amount of the fine specified in the notice. If no hearing
30 is requested, the notice shall become a final order after the expiration
31 of the 20-day period. Payment of the assessment is due when a final
32 order is issued or the notice becomes a final order. The authority to
33 levy a civil administrative penalty is in addition to all other
34 enforcement provisions in P.L.1970, c.39, and the payment of any
35 assessment shall not be deemed to affect the availability of any other
36 enforcement provisions in connection with the violation for which the
37 assessment is levied. The department may compromise any civil
38 administrative penalty assessed under this section in an amount the
39 department determines appropriate.

40 f. Any person who violates the provisions of P.L.1970, c.39, or
41 any code, rule or regulation adopted pursuant thereto shall be liable to
42 a penalty of not more than \$50,000.00 per day, to be collected in a
43 civil action commenced by a local board of health, a county health
44 department, or the commissioner.

45 Any person who violates an administrative order issued pursuant
46 to subsection c. of this section, or a court order issued pursuant to

1 subsection d. of this section, or who fails to pay an administrative
2 assessment in full pursuant to subsection e. of this section is subject
3 upon order of a court to a civil penalty not to exceed \$100,000.00 per
4 day of such violations.

5 Of the penalty imposed pursuant to this subsection, 10% or
6 \$250.00, whichever is greater, shall be paid to the department from the
7 General Fund if the Attorney General determines that a person is
8 entitled to a reward pursuant to section 2 of P.L.1987, c.158
9 (C.13:1E-9.2).

10 Any penalty imposed pursuant to this subsection may be collected
11 with costs in a summary proceeding pursuant to "the penalty
12 enforcement law" (N.J.S.2A:58-1 et seq.). The Superior Court and
13 the municipal court shall have jurisdiction to enforce the provisions of
14 "the penalty enforcement law" in connection with this act.

15 g. Any person who knowingly:

16 (1) Transports any hazardous waste to a facility or any other place
17 which does not have authorization from the department to accept such
18 waste;

19 (2) Generates and causes or permits to be transported any
20 hazardous waste to a facility or any other place which does not have
21 authorization from the department to accept such waste;

22 (3) Disposes, treats, stores or transports hazardous waste without
23 authorization from the department;

24 (4) Makes any false or misleading statement to any person who
25 prepares any hazardous waste application, label, manifest, record,
26 report, design or other document required to be submitted to the
27 department; or

28 (5) Makes any false or misleading statement on any hazardous
29 waste application, label, manifest, record, report, design or other
30 document required to be submitted to the department shall, upon
31 conviction, be guilty of a crime of the third degree and,
32 notwithstanding the provisions of N.J.S.2C:43-3, shall be subject to a
33 fine of not more than \$50,000.00 for the first offense and not more
34 than \$100,000.00 for the second and each subsequent offense and
35 restitution, in addition to any other appropriate disposition authorized
36 by subsection b. of N.J.S.2C:43-2.

37 h. Any person who recklessly:

38 (1) Transports any hazardous waste to a facility or any other place
39 which does not have authorization from the department to accept such
40 waste;

41 (2) Generates and causes or permits to be transported any
42 hazardous waste to a facility or any other place which does not have
43 authorization from the department to accept such waste;

44 (3) Disposes, treats, stores or transports hazardous waste without
45 authorization from the department;

46 (4) Makes any false or misleading statement to any person who

1 prepares any hazardous waste application, label, manifest, record,
2 report, design or other document required to be submitted to the
3 department; or

4 (5) Makes any false or misleading statement on any hazardous
5 waste application, label, manifest, record, report, design or other
6 document required to be submitted to the department, shall, upon
7 conviction, be guilty of a crime of the fourth degree.

8 i. Any person who, regardless of intent, generates and causes or
9 permits any hazardous waste to be transported, transports, or receives
10 transported hazardous waste without completing and submitting to the
11 department a hazardous waste manifest in accordance with the
12 provisions of this act or any rule or regulation adopted pursuant hereto
13 shall, upon conviction, be guilty of a crime of the fourth degree.

14 j. All conveyances used or intended for use in the willful
15 discharge, in violation of the provisions of P.L.1970, c.39 (C.13:1E-1
16 et seq.), of any solid waste, or hazardous waste as defined in
17 P.L.1976, c.99 (C.13:1E-38 et seq.) are subject to forfeiture to the
18 State pursuant to the provisions of P.L.1981, c.387 (C.13:1K-1 et
19 seq.).

20 k. (Deleted by amendment, P.L.1997, c.325.)

21 l. Pursuit of any remedy specified in this section shall not
22 preclude the pursuit of any other remedy provided by any other law.
23 Administrative and judicial remedies provided in this section may be
24 pursued simultaneously.

25 m. Any person or any officer or agent thereof who knowingly
26 violates any of the provisions of P.L.1970, c.39 (C.13:1E-1 et seq.) or
27 aids or advises in such violation, or who, as principal, manager,
28 director, agent, servant or employee knowingly does any act
29 comprising a part of such violation, is guilty of a crime of the fourth
30 degree and shall be punished by imprisonment for not more than 18
31 months or, notwithstanding the provisions of N.J.S.2C:43-3, by a fine
32 of not more than \$50,000.00, or both; and if a corporation by a fine of
33 not more than \$100,000.00. Each day during which the violation
34 continues constitutes an additional, separate and distinct offense.

35 As used in this subsection, "business concern" means any
36 corporation, association, firm, partnership, sole proprietorship, trust
37 or other form of commercial organization; and "person" means any
38 individual or business concern.

39 (cf: P.L.1997, c.325, s.3)

40

41 22. Section 2 of P.L.1989, c.118 (C.13:1E-9.3) is amended to
42 read as follows:

43 2. a. No person shall, regardless of intent, engage, or be
44 permitted to engage, in the [collection or] disposal of solid waste in
45 excess of 0.148 cubic yards of solids or 30 United States gallons of
46 liquids, whether for profit or otherwise, except at a solid waste facility

1 or an out-of-state disposal site which has authorization from the
2 appropriate state regulatory agency having jurisdiction over solid
3 waste management to accept solid waste for disposal, or any other
4 place in this State which has authorization from the Department of
5 Environmental Protection to accept solid waste for disposal, as the
6 case may be.

7 b. No person shall, regardless of intent, transport or cause or
8 permit to be transported any solid waste in excess of 0.148 cubic yards
9 of solids or 30 United States gallons of liquids, whether for profit or
10 otherwise, except to a solid waste facility or an out-of-state disposal
11 site which has authorization from the appropriate state regulatory
12 agency having jurisdiction over solid waste management to accept
13 solid waste for disposal, or to any other place in this State which
14 **【does not have】** has authorization from the Department of
15 Environmental Protection to accept solid waste for disposal, as the
16 case may be.

17 c. No person shall, regardless of intent, cause, engage in or be
18 permitted to engage in, the disposal of any amount of solid waste on
19 real property subject to the use, control or ownership of a railroad
20 company, unless such disposal is expressly authorized by the railroad
21 company and approved by the Department of Environmental
22 Protection.

23 d. The provisions of this section shall be enforced by the
24 Department of Environmental Protection and by every relevant
25 municipality, local board of health, or county health department, as the
26 case may be.

27 (cf: P.L.1995, c.11, s.1)

28
29 23. Section 12 of P.L.1970, c.39 (C.13:1E-12) is amended to read
30 as follows:

31 12. a. The department, after a hearing held pursuant to the
32 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
33 seq.), may revoke or suspend the registration issued to any person
34 engaged in **【the】** solid waste collection or solid waste disposal upon
35 a finding that such person:

36 **【a.】** (1) Has violated any provision of **【this act】** the "Solid Waste
37 Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.) or P.L.1981,
38 c.306 (C.13:1E-100 et seq.), or any rule, regulation, or administrative
39 order **【promulgated hereunder】** adopted or issued thereunder; 【or】

40 **【b.】** (2) Has violated any provision of any laws related to
41 pollution of the waters, air or land surfaces of the State; or

42 **【c.】** (3) Has refused or failed to comply with any lawful order of
43 the department pursuant to section 5 of P.L.1970, c.39 (C.13:1E-5).

44 b. The department, after a hearing held pursuant to the
45 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
46 seq.), may revoke or suspend the registration issued to the owner or

1 operator of any sanitary landfill facility who has refused or failed to
2 ensure that sufficient funds are available for the closure and post-
3 closure costs of the sanitary landfill facility as provided in section 8 of
4 P.L.1985, c.368 (C.13:1E-176).

5 (cf: P.L.1970, c.39, s.12)

6
7 24. Section 11 of P.L.1975, c.326 (C.13:1E-20) is amended to
8 read as follows:

9 11. a. (1) **【Within 360 days after the effective date of this**
10 **amendatory and supplementary act, the】** ~~The~~ respective boards of
11 chosen freeholders, in the case of counties, and the Hackensack
12 Commission, in the case of the Hackensack Meadowlands District,
13 shall develop and formulate, pursuant to the procedures herein
14 contained, a district solid waste management plan for each respective
15 solid waste management district**【; provided, however, that the**
16 **commissioner may extend such period for a maximum of 45 additional**
17 **days upon the certification of the board of chosen freeholders or the**
18 **Hackensack Commission, as the case may be, of the causes of the**
19 **delay in developing and formulating a plan, and upon the**
20 **commissioner's determination that an extension will permit the**
21 **development and formulation of a solid waste management plan as**
22 **required herein. Within 90 days of the effective date of this act, each**
23 **district shall make the necessary personnel, financial and legal**
24 **arrangements to assure the development and formulation of the plan**
25 **within 360 days of the effective date of this act】.**

26 **【Every solid waste management plan shall be developed and**
27 **formulated to be in force and effect for a period of not less than 10**
28 **years, upon the expiration of which a new plan shall be developed and**
29 **formulated pursuant to the procedures herein contained; provided,**
30 **however, that every such】**

31 Every district solid waste management plan shall contain provisions
32 for automatic review thereof not less than once every two years
33 following the approval thereof by the department, which review shall
34 be undertaken by the board of chosen freeholders or the Hackensack
35 Commission, as the case may be【; and provided further, however, that
36 every such】.

37 Every district solid waste management plan may be reviewed at any
38 time by the department. Upon 【such】 ~~the~~ review, if the board of
39 chosen freeholders, the Hackensack Commission, or the department,
40 as the case may be, determines that any district solid waste
41 management plan, or any part thereof, is inadequate for the purposes
42 for which it was intended, 【such】 ~~the~~ board of chosen freeholders or
43 the Hackensack Commission, as the case may be, shall 【develop and
44 formulate a new】 amend the district solid waste management plan, or
45 any part thereof, and 【such】 ~~the~~ 【new】 amended district solid waste

1 management plan, or part thereof, shall be adopted thereby pursuant
2 to the procedures contained in section 14 of P.L.1975, c.326
3 (C.13:1E-23).

4 **【Nothing herein contained shall be construed as to prevent any**
5 **board of chosen freeholders or the Hackensack Commission from**
6 **readopting a solid waste management plan upon the expiration of same**
7 **in a solid waste management district; provided, however, that any such**
8 **readoption shall be pursuant to the provisions of section 14 of**
9 **P.L.1975, c.326 (C.13:1E-23).】**

10 Every district solid waste management plan shall be amended to
11 reflect any revisions to the strategy for the collection or disposal of
12 solid waste utilized in any constituent municipality in the district based
13 on changes necessitated by revisions in State or federal laws, rules or
14 regulations, or court decisions, including any changes in solid waste
15 collection activities, solid waste facilities or solid waste disposal
16 operations in any constituent municipality in the district as heretofore
17 reported in the district solid waste management plan as required
18 pursuant to section 12 of P.L.1975, c.326 (C.13:1E-21).

19 (2) Any two or more districts may formulate and adopt a **【single】**
20 regional solid waste management plan which shall meet all the
21 requirements of **【this act】** P.L.1970, c.39 (C.13:1E-1 et seq.) for the
22 combined area of the cooperating **【solid waste management】** districts.

23 b. (1) To assist each board of chosen freeholders in the
24 development and formulation of the district solid waste management
25 plans required herein, an advisory solid waste council shall be
26 constituted in every county and shall include municipal mayors or their
27 designees, persons engaged in the collection or disposal of solid waste
28 and environmentalists. The respective size, composition and
29 membership of each such council shall be designated by the respective
30 boards of chosen freeholders. In the Hackensack Meadowlands
31 District, the Hackensack Meadowlands Municipal Committee,
32 established pursuant to **【article 4】** sections 7 and 8 of P.L.1968, c.404
33 (C.13:17-7 and 13:17-8), is hereby designated an advisory solid waste
34 council for the purposes of this **【amendatory and supplementary act】**
35 subsection; provided, however, that nothing herein contained shall be
36 construed as in any way altering the powers, duties and responsibilities
37 of the Hackensack Meadowlands Municipal Committee except as
38 herein specifically provided.

39 The respective boards of chosen freeholders and the Hackensack
40 Commission shall consult with the relevant advisory solid waste
41 council at such stages in the development and formulation of the
42 district solid waste management plan as each such board of chosen
43 freeholders or the Hackensack Commission, as the case may be, shall
44 determine; provided, however, that a district solid waste management
45 plan shall be adopted as hereinafter provided only after consultation
46 with the relevant advisory solid waste council.

1 (2) In the development and formulation of a district solid waste
2 management plan for any **【solid waste management】** district, the board
3 of chosen freeholders or the Hackensack Commission, as the case may
4 be, shall:

5 (a) Consult with the county or municipal government agencies
6 concerned with, or responsible for, water pollution control, water
7 policy, water supply, or zoning or land use within the **【solid waste**
8 **management】** district; and

9 (b) **【Review such plans for solid waste collection and disposal**
10 **proposed by, or in force in, any municipality or municipalities within**
11 **the solid waste management district, to determine the suitability of any**
12 **such plan, or any part thereof, for inclusion within the solid waste**
13 **management plan of the solid waste management district; and**

14 **(c)】** Consult with persons engaged in solid waste collection **【and】**
15 activities or solid waste disposal operations in the **【solid waste**
16 **management】** district.

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

18
19 25. Section 12 of P.L.1975, c.326 (C.13:1E-21) is amended to
20 read as follows:

21 12. a. Every district solid waste management plan shall be based
22 upon and shall be accompanied by a report containing the following
23 information:

24 (1) An inventory of the sources, composition, and quantity of solid
25 waste generated within the **【solid waste management】** district in the
26 year in which the report is prepared;

27 (2) **【Projections of the amounts and composition of solid waste to**
28 **be generated within the district in each of the 10 years following the**
29 **year in which the report is prepared; provided, however, that in the**
30 **formulation of its solid waste management plan every board of chosen**
31 **freeholders may deduct from the actual amount of solid waste**
32 **generated within the solid waste management district in the year in**
33 **which the report is prepared, and projected for each of the 10 years**
34 **following said year, the total solid waste tonnage treated and disposed**
35 **on a daily basis in the Hackensack Meadowlands District by every**
36 **municipality within said solid waste management district as of July 1,**
37 **1968, which deduction shall be pursuant to the guarantee provided in**
38 **P.L.1968, c.404, section 9.1 (C.13:17-10);】** (Deleted by amendment,
39 P.L. , c.)

40 (3) An inventory and appraisal, including the identity, location,
41 and life expectancy, of all solid waste facilities within the **【solid waste**
42 **management】** district, including **【such】** any solid waste facilities
43 owned or operated by any person, public authority or county, and the
44 identity of every person engaging in solid waste collection activities or
45 solid waste disposal operations within the district, and the identity and

1 location of any designated out-of-state disposal site or solid waste
2 facility located within or outside of the district to be utilized by the
3 district, or any constituent municipality thereof, for the disposal of
4 solid waste generated within the district, including evidence that the
5 designated disposal site is permitted by the appropriate state
6 regulatory agency having jurisdiction over solid waste management to
7 accept solid waste for disposal, and is in compliance with all relevant
8 Federal or state laws, rules or regulations; and

9 (4) An analysis of existing solid waste collection systems and
10 transportation routes within the [solid waste management] district.

11 b. Every district solid waste management plan shall include:

12 (1) The designation of a public authority or department, unit or
13 committee of the county government, in the case of counties, or of the
14 Hackensack Commission, in the case of the Hackensack Meadowlands
15 District, to supervise the implementation of the district solid waste
16 management plan and to report thereon at such times as may be
17 required by the board of chosen freeholders or the Hackensack
18 Commission, as the case may be;

19 (2) (a) A statement of the solid waste disposal strategy to be
20 applied in the [solid waste management] district, which strategy shall
21 [include] not discriminate against the use of out-of-district or out-of-
22 state disposal sites, but shall encourage the maximum practicable use
23 of [resource recovery procedures] all existing solid waste facilities
24 located within the district; the strategy may include the use of a solid
25 waste facility located within or outside of the district, including the use
26 of a currently operating county solid waste facility, which is a
27 privately-owned sanitary landfill facility for which the owner thereof
28 has been awarded a franchise pursuant to section 6 of P.L.1970, c.40
29 (C.48:13A-5), or a designated out-of-state disposal site, provided that
30 the statement includes evidence that the designated disposal site is
31 permitted by the appropriate state regulatory agency having
32 jurisdiction over solid waste management to accept solid waste for
33 disposal, and is in compliance with all relevant Federal or state laws,
34 rules or regulations; [and a plan for using terminated landfill disposal
35 sites, if any, in the solid waste management district;]

36 (b) A statement of the solid waste collection strategy to be applied
37 in the district, which strategy may include the operation and
38 maintenance of a solid waste collection system by the county or public
39 authority, as appropriate, or the use of persons currently engaging in
40 solid waste collection activities within the district;

41 (3) A site plan, which shall include all existing solid waste
42 facilities located within the [solid waste management] district,
43 provided that they are operated and maintained in accordance with all
44 applicable health and environmental standards[, and sufficient
45 additional available suitable sites to provide solid waste facilities to
46 treat and dispose of the actual and projected amounts of solid waste

1 contained in the report accompanying the plan].

2 **【Upon a certification to the commissioner by the board of chosen**
3 **freeholders or the Hackensack Commission, as the case may be, of the**
4 **absence of sufficient existing or available suitable sites for such solid**
5 **waste facilities within the solid waste management district, the site**
6 **plan shall identify sufficient additional existing or available suitable**
7 **sites for such facilities located in another solid waste management**
8 **district; provided, however, that such certification shall be**
9 **accompanied by a copy of the contract or agreement entered into by**
10 **the concerned boards of chosen freeholders or the Hackensack**
11 **Commission, as the case may be, authorizing the use by a solid waste**
12 **management district of solid waste facilities located in another solid**
13 **waste management district, and providing for the acquisition of such**
14 **lands and rights and interests therein as may be required within the**
15 **solid waste management district in which the solid waste facilities are**
16 **to be located.】**

17 **【Notwithstanding the above, however, a board of chosen**
18 **freeholders may enter into an agreement with any person engaged in**
19 **solid waste disposal in an adjacent solid waste management district**
20 **with the approval of said adjacent district, which shall be reflected in**
21 **the plans for said adjacent districts, to treat and dispose of the amount**
22 **of solid waste from their district that said person treats and disposes**
23 **of in that adjacent district on the effective date of this act.】**

24 **【Upon the failure for any reason of the concerned boards of chosen**
25 **freeholders or the Hackensack Commission, as the case may be, to**
26 **make such a contract or to reach such an agreement, the board of**
27 **chosen freeholders or the Hackensack Commission, as the case may**
28 **be, seeking to locate said solid waste facilities in another solid waste**
29 **management district shall certify such failure to the commissioner.】**

30 **【Upon the receipt of any such certification of failure, the**
31 **commissioner shall cause a study to be made by the department to**
32 **determine the suitable location of solid waste facilities for the use of**
33 **the solid waste management district for which such certification was**
34 **made. In such study, the commissioner may request the submission of**
35 **any specifications or other information he deems necessary from any**
36 **solid waste management district, and the board of chosen freeholders**
37 **or the Hackensack Commission, as the case may be, shall submit all**
38 **such material so requested. In determining the suitable location of**
39 **solid waste facilities, the commissioner shall weigh the relative**
40 **feasibility of alternative locations in terms of such factors as**
41 **environmental impact, transportation patterns and their comparative**
42 **costs, compatibility with the current land use policies in the immediate**
43 **area of the alternative locations, as well as with the Statewide solid**
44 **waste management plan and such other master plans and planning**
45 **policies as may exist at the municipal, county, regional or State levels,**

1 and such other criteria as the commissioner deems relevant.】

2 【Upon the completion of said study the commissioner shall:

3 (a) Require the certifying board of chosen freeholders or the
4 Hackensack Commission, as the case may be, to locate the required
5 solid waste facilities within its own solid waste management district
6 and as part of the solid waste management plan therefor; or

7 (b) Require any other board of chosen freeholders or the
8 Hackensack Commission, as the case may be to provide solid waste
9 facilities, or parts thereof, within its solid waste management district
10 and as part of the solid waste management plan therefor, for the use
11 of the certifying solid waste management district; provided, however,
12 that the full cost of any such solid waste facilities, or of any part
13 thereof to the extent of use thereof, shall be borne by the solid waste
14 management district making use of same.】

15 【In the adoption of any solid waste management plan pursuant to
16 the provisions of section 14 of this amendatory and supplementary act,
17 no board of chosen freeholders nor the Hackensack Commission, as
18 the case may be, shall alter any part required by a determination made
19 by the commissioner as herein provided concerning the location of any
20 solid waste facilities.】

21 【Notwithstanding the provisions of section 11 of this amendatory
22 and supplementary act, the time taken by the commissioner from the
23 receipt of any certification of failure pursuant to this section to the
24 completion of the study required herein concerning such certification
25 of failure, shall be in addition to, and shall not count towards, the
26 360 days permitted in said section 11 for the development and
27 formulation of a solid waste management plan.】

28 (4) A 【survey】 designation of proposed collection 【districts】 and
29 transportation routes, which routes shall, in the case of solid waste
30 facilities to the maximum extent practicable, avoid roads or highways
31 in residential or congested areas, with projected transportation costs
32 from collection 【districts】 routes to existing or available suitable sites
33 for solid waste facilities;

34 (5) The procedures for 【coordinating】 monitoring all activities
35 related to the collection 【and】 or disposal of solid waste by every
36 person engaging in 【such process】 these activities within the 【solid
37 waste management】 district【, which procedures shall include the
38 agreements entered into as provided herein between the board of
39 chosen freeholders or the Hackensack Commission, as the case may
40 be, and every such person; and the procedures for furnishing the solid
41 waste facilities contained in the solid waste management plan】; 【and】

42 (6) A statement of the solid waste disposal strategy to be utilized
43 by each constituent municipality in the district, which strategy shall not
44 discriminate against the use of out-of-district or out-of-state disposal
45 sites, but shall encourage the maximum practicable use of all existing

1 solid waste facilities located within the district; the strategy may
2 include the use of a solid waste facility located within or outside of the
3 district, including the use of a currently operating county solid waste
4 facility, which is a privately-owned sanitary landfill facility for which
5 the owner thereof has been awarded a franchise pursuant to section 6
6 of P.L.1970, c.40 (C.48:13A-5), or the use of a designated
7 out-of-state disposal site, provided that the statement includes
8 evidence that the designated disposal site is permitted by the
9 appropriate state regulatory agency having jurisdiction over solid
10 waste management to accept solid waste for disposal, and is in
11 compliance with all relevant Federal or state laws, rules or regulations;
12 and

13 (7) The method or methods of financing solid waste management
14 activities in the [solid waste management] district pursuant to the
15 district solid waste management plan.

16 c. Any existing joint meeting formed for the construction or
17 operation of solid waste facilities pursuant to the "[consolidated
18 municipal services act" (]Consolidated Municipal Services Act,"
19 P.L.1952, c.72[;](C.40:48B-1 et seq.))[)or any existing authority
20 composed of two or more municipalities formed pursuant to the "solid
21 waste management authorities law, "[P.L.1968,
22 c.249[;](C.40:66A-32 et seq.))[)may request the commissioner to
23 review its solid waste management plan. The commissioner may direct
24 the concerned [solid waste management] district to incorporate all or
25 part of said plan into the district solid waste management plan of that
26 district.

27 (cf: P.L.1975, c.326, s.12)

28

29 26. Section 13 of P.L.1975, c.326 (C.13:1E-22) is amended to
30 read as follows:

31 13. [In order to preserve and maintain the State's pledges and
32 covenants with the holders of any bonds issued by any public
33 authority, no solid waste management plan shall include provisions for
34 establishing any solid waste facility in competition with such facilities
35 operated, or for which bonds have been issued, by any such public
36 authority; provided, however, that every] Every board of chosen
37 freeholders and the Hackensack Commission is hereby authorized and
38 empowered in the [development and formulation] amendment of a
39 district solid waste management plan, to enter into any contract or
40 interdistrict agreement with any public authority within any [solid
41 waste management] district providing for or relating to [solid waste
42 collection and] solid waste disposal. Any [such] solid waste disposal
43 contract or interdistrict agreement may provide for the furnishing of
44 solid waste facilities either by or to the [solid waste management]
45 district, or the joint [construction or operation] use of solid waste

1 facilities. Every **[such]** solid waste disposal contract or interdistrict
2 agreement shall conform to all the requirements of law for contracts
3 or interdistrict agreements made by any person, public authority or
4 county, and may include **[such]** provisions for rates **[and]** , fees or
5 charges, **[and]** including the solid waste charges to be received at the
6 solid waste facility for solid waste disposal, for the furnishing of solid
7 waste facilities, as the board of chosen freeholders or the Hackensack
8 Commission, as the case may be, deems necessary in the **[development**
9 **and formulation]** amendment of a district solid waste management
10 plan **[to coordinate all activities relating to solid waste collection and**
11 **solid waste disposal within the solid waste management district, and**
12 **for the furnishing of adequate and suitable solid waste facilities**
13 **therein]**. Every board of chosen freeholders and the Hackensack
14 Commission, as the case may be, is hereby further authorized and
15 empowered to purchase the bonds of any public authority, and to
16 purchase any solid waste facilities of any public authority upon a
17 contract or interdistrict agreement **[therewith for any such solid waste**
18 **facility purchase]** therefor.
19 (cf: P.L.1975, c.326, s.13)
20

21 27. Section 14 of P.L.1975, c.326 (C.13:1E-23) is amended to
22 read as follows:

23 14. a. **[Pursuant to the procedures herein contained, the]** The
24 respective boards of chosen freeholders, in the case of counties, and
25 the Hackensack Commission, in the case of the Hackensack
26 Meadowlands District, shall have the power, after consultation with
27 the relevant advisory solid waste council, to adopt a district solid
28 waste management plan for the relevant **[solid waste management]**
29 **district****;** provided, however, that if in any solid waste management
30 district the procedures contained in this section are not commenced
31 within 361 days after the effective date of this amendatory and
32 supplementary act, unless the commissioner shall have extended the
33 time for the development and formulation of a solid waste management
34 plan pursuant to section 11 of this amendatory and supplementary act,
35 and unless a certification of failure shall have been received by the
36 commissioner pursuant to 12 b.(3) of this amendatory and
37 supplementary act, the department shall have the power to develop,
38 formulate and, pursuant to the procedures herein contained, adopt and
39 promulgate a solid waste management plan for any such solid waste
40 management every district**]**.

41 b. Upon the development and formulation of a district solid waste
42 management plan, and after consultation with the relevant advisory
43 solid waste council, the relevant board of chosen freeholders, in the
44 case of counties, or the Hackensack Commission, in the case of the
45 Hackensack Meadowlands District, shall prepare a map showing the

1 boundaries of the [solid waste management] district and the location
2 of all existing and proposed solid waste facilities. In the event such
3 district solid waste management plan proposes to locate solid waste
4 facilities in another [solid waste management] district, a map of such
5 other district, showing the location of the proposed facilities, shall be
6 prepared. Said map shall be appended to a copy of the district's solid
7 waste management plan, to which shall also be appended a copy of the
8 report accompanying said plan. Said map, plan and report shall be sent
9 by mail to the mayor of each municipality within the county, in the
10 case of counties, and in the case of the Hackensack Meadowlands
11 District, said map, plan and report shall be maintained at the main
12 office of the Hackensack Commission.

13 c. The board of chosen freeholders, or the Hackensack
14 Commission, as the case may be, shall thereupon cause a hearing to be
15 held at an appointed time and place for the purpose of hearing persons
16 interested in, or who would be affected by, the adoption of the district
17 solid waste management plan for the relevant [solid waste
18 management] district, and who are in favor of or are opposed to such
19 adoption.

20 d. A notice of such hearing shall be given setting forth the purpose
21 thereof and stating that a map, plan and report have been prepared and
22 can be inspected at the offices of every municipality within the county,
23 or at the main office of the Hackensack Commission, as the case may
24 be. A copy of such notice shall be published in a newspaper of general
25 circulation in the [solid waste management] district once each week
26 for 2 consecutive weeks, and the last publication shall be not less than
27 10 days prior to the date set for the hearing. A copy of the notice shall
28 be mailed at least 10 days prior to the date set for the hearing to the
29 last owner, if any, of each parcel of property within or without the
30 district on which it is proposed to locate any solid waste facilities
31 pursuant to the district's solid waste management plan. Such mailing
32 shall be according to the assessment records of the municipality where
33 such parcel is located and shall be sent to the last known postal
34 address of such owners. A notice shall also be sent to any and all
35 persons at his, or their, last known address, if any, whose names are
36 noted on said assessment records as claimants of an interest in any
37 such parcel. The assessor of such municipality shall make a notation
38 upon the said records when requested so to do by any person claiming
39 to have an interest in any parcel of property in such municipality.
40 Failure to mail any such notice shall not invalidate the adoption of any
41 district solid waste management plan.

42 e. At the hearing, which may be adjourned from time to time, the
43 board of chosen freeholders, or the Hackensack Commission, as the
44 case may be, shall hear all persons interested in the district solid waste
45 management plan and shall consider any, and all, written objections
46 that may be filed and any evidence which may be introduced in support

1 of the objections, or any opposition to the adoption of the district solid
2 waste management plan for the **【solid waste management】** district.
3 After the hearing the board of chosen freeholders, or the Hackensack
4 Commission, as the case may be, shall, by resolution, adopt or reject,
5 in whole or in part, the district solid waste management plan for the
6 **【solid waste management】** district. The adoption of all or a part of a
7 district solid waste management plan, if supported by substantial
8 evidence, shall be binding and conclusive upon all persons affected by
9 the adoption. If all or any part of the district solid waste management
10 plan is adopted, the board of chosen freeholders, or the Hackensack
11 Commission, as the case may be, within 10 days after such adoption,
12 shall cause to be served a copy of the resolution of adoption upon each
13 person who filed a written objection at or prior to the hearing;
14 provided, the address of the objector was stated in, or upon, the
15 written objection.

16 Such service may be made (1) by delivering a copy of the
17 resolution personally to the objector, (2) by mailing such copy
18 addressed to the objector according to his said stated address, or (3)
19 leaving such copy at said stated address for the objector with a person
20 of suitable age and discretion.

21 f. Any person who shall have filed such a written objection with
22 the board of chosen freeholders, or the Hackensack Commission, as
23 the case may be, may have the adoption of a district solid waste
24 management plan reviewed by the Superior Court of New Jersey by
25 procedure in lieu of prerogative writs. An action for such review shall
26 be commenced within 30 days after the adoption by the board of
27 chosen freeholders, or by the Hackensack Commission, as the case
28 may be. In any such action, the said court may make any incidental
29 order that shall be deemed by the court to be appropriate and proper.

30 g. Upon the adoption of a district solid waste management plan in
31 its entirety, the board of chosen freeholders or the Hackensack
32 Commission, as the case may be, shall forthwith submit such plan, and
33 a copy of the transcript of every public hearing held thereon, and a
34 complete record of the dates and results of all consultation with
35 governmental agencies and the relevant advisory solid waste council,
36 to the commissioner. Upon the adoption of a part or parts of a district
37 solid waste management plan, the board of chosen freeholders or the
38 Hackensack Commission, as the case may be, shall certify the fact of
39 such partial adoption to the commissioner, and such board of chosen
40 freeholders or the Hackensack Commission, as the case may be, shall¹,
41 notwithstanding any previous extension granted pursuant to any of the
42 provisions of this amendatory and supplementary act,² have **【an**
43 **additional】** 45 days from the date of such certification to adopt a
44 district solid waste management plan in its entirety, which adoption
45 shall be pursuant to all the procedures contained herein for the
46 adoption of district solid waste management plans.

1 h. Every board of chosen freeholders and the Hackensack
2 Commission shall adopt a district solid waste management plan in its
3 entirety and submit same to the commissioner, with a copy of the
4 transcript of every public hearing held thereon, and a complete record
5 of the dates and results of all consultation with governmental agencies
6 and the relevant advisory solid waste council], within 450 days after
7 the effective date of this amendatory and supplementary act; provided,
8 however, that if the commissioner shall have granted an extension of
9 time for the development and formulation of such plan pursuant to
10 section 11 of this amendatory and supplementary act, or an extension
11 of time for the adoption of any such plan in its entirety pursuant to this
12 section, or both, the time for adoption and submission to the
13 commissioner as required herein shall be increased to a maximum of
14 495 days in the case of either such extension, or 540 days in the case
15 of both such extensions; and, provided further, however, that if the
16 commissioner shall have received a certification of failure pursuant to
17 section 12 b. of this amendatory and supplementary act, the time for
18 adoption and submission to the commissioner, notwithstanding any
19 other increase authorized in this amendatory and supplementary act,
20 shall be increased by the number of days taken by the commissioner
21 from the date of such receipt to the completion of his study concerning
22 such certification of failure].

23 i. [Upon the failure of any board of chosen freeholders or the
24 Hackensack Commission, as the case may be, to adopt a solid waste
25 management plan in its entirety and to submit same to the
26 commissioner, with a copy of the transcript of every public hearing
27 held thereon, and a complete record of the dates and results of all
28 consultation with governmental agencies and the relevant advisory
29 solid waste council, within the time prescribed in subsection h. of this
30 section, the department shall have the power to develop and formulate
31 a solid waste management plan in its entirety for any such solid waste
32 management district, either including therein or excluding therefrom
33 any part or parts of such plan as may have been adopted by the board
34 of chosen freeholders or the Hackensack Commission, as the case may
35 be. Following the holding of a public hearing pursuant to the
36 procedures contained herein, the department shall have the power to
37 adopt and promulgate such solid waste management plan in its entirety
38 for any such solid waste management district. Any solid waste
39 management plan so adopted and promulgated by the department for
40 any solid waste management district shall be subject to the same
41 review by the Superior Court as solid waste management plans
42 otherwise adopted pursuant to this section.] The provisions of this
43 section to the contrary notwithstanding, after November 10, 1997,
44 every district solid waste management plan may be amended and
45 approved by the department pursuant to an expedited review process

1 adopted by the department by rule or regulation.

2 (cf: P.L.1975, c.326, s.14)

3

4 28. Section 15 of P.L.1975, c.326 (C.13:1E-24) is amended to
5 read as follows:

6 15. a. Upon receipt by the commissioner of a district solid waste
7 management plan adopted in its entirety, and a copy of the transcript
8 of every public hearing held thereon, as required pursuant to section
9 14 of **[this amendatory and supplementary act]** P.L.1975, c.326
10 (C.13:1E-23), **[he]** the commissioner shall:

11 (1) Study and review the district solid waste management plan
12 according to the objectives, criteria and standards developed in the
13 Statewide solid waste management plan developed and formulated by
14 the department pursuant to the provisions of section 6 of **[the act to**
15 **which this act is amendatory and supplementary]** P.L.1970, c.39
16 (C.13:1E-6); and

17 (2) Submit a copy of **[said]** the district plan for review and
18 recommendations to the Advisory Council on Solid Waste
19 Management in the department, and to the agencies, bureaus and
20 divisions within the department concerned with, or responsible for,
21 environmental quality, including, but not limited to, the Bureau of
22 Solid Waste Management, Bureau of Air Pollution Control, Bureau of
23 Geology, and the Bureau of Water Pollution Control, or their
24 successors**[; and]**.

25 (3) **[Submit a copy of said plan to the Board of Public Utility**
26 **Commissioners for review and recommendations on the economic**
27 **aspect of the plan.]**~~(Deleted by amendment, P.L. __, c. __)~~

28 b. After completing **[his]** the study and review of the district solid
29 waste management plan, and upon receipt of the recommendations
30 thereon provided for in subsection a. (2) of this section, if any, but in
31 no event later than 150 days after **[his]** the receipt of **[said]** the
32 district plan, the commissioner shall determine whether to approve,
33 modify, or reject **[any such]** the district solid waste management plan,
34 and shall certify **[such]** that determination to the board of chosen
35 freeholders or to the Hackensack Commission, as the case may be,
36 which submitted **[such]** the district plan.

37 c. If the commissioner determines to approve **[any]** a district solid
38 waste management plan, or if the commissioner has made no
39 determination within 150 days after **[his]** the receipt of **[any such]** a
40 district plan, the relevant board of chosen freeholders or the
41 Hackensack Commission, as the case may be, shall proceed, pursuant
42 to the requirements of **[this amendatory and supplementary act]**
43 P.L.1970, c.39 (C.13:1E-1 et seq.), to implement **[such]** the district
44 solid waste management plan **[in the relevant solid waste management**
45 **district]**.

1 d. If the commissioner determines to modify or reject ~~any~~ a
2 district solid waste management plan, or any part thereof, the
3 certification required ~~of him~~ herein shall be accompanied by a
4 detailed statement prepared by the commissioner indicating the reasons
5 for any modification or rejection, and outlining the action to be taken
6 thereon.

7 The provisions of this subsection to the contrary notwithstanding,
8 the commissioner shall not reject or require the modification of a
9 district solid waste management plan, or any part thereof, providing
10 for the long-term use of a solid waste facility located outside of the
11 district or a designated out-of-state disposal site for the disposal of
12 solid waste generated within the district solely on the grounds that the
13 solid waste facility is located outside of the district or the designated
14 disposal site is located out-of-state.

15 In outlining ~~such~~ the action the commissioner shall direct the
16 board of chosen freeholders or the Hackensack Commission, as the
17 case may be, to make any modification in, or replace any rejected part
18 of, a district solid waste management plan, either with or without
19 holding another public hearing in the ~~solid waste management~~
20 district. ~~Such~~ The direction shall be based upon the commissioner's
21 determination~~[, in his]~~ and discretion, that ~~such~~ the modification,
22 or the part rejected, is or is not minor, and that ~~such~~ the
23 modification or replacement may or may not be made without
24 substantially modifying or altering other aspects of the district solid
25 waste management plan; provided, however, that a public hearing shall
26 be required upon a rejection by the commissioner of any district solid
27 waste management plan in its entirety.

28 e. (1) If the commissioner directs the holding of another public
29 hearing in the ~~solid waste management~~ district, ~~such~~ the hearing
30 shall be held within 45 days ~~after such direction~~ thereafter and shall
31 be conducted pursuant to the procedures contained in section 14 of
32 ~~this amendatory and supplementary act~~ P.L.1975, c.326
33 (C.13:1E-23) for the conduct of public hearings held prior to the
34 adoption of district solid waste management plans. Following ~~any~~
35 such the public hearing on any modification to, or replacement of,
36 ~~any~~ the district solid waste management plan, or any part thereof,
37 the relevant board of chosen freeholders or the Hackensack
38 Commission, as the case may be, ~~holding same~~ shall formally adopt
39 a modification to, or replacement of, the district solid waste
40 management plan, or any part thereof, and shall submit ~~same~~ the
41 district plan to the commissioner within the time limit set by the
42 commissioner in the public hearing order.

43 (2) If the commissioner directs that the modification or
44 replacement may be made without the holding of another public
45 hearing, the board of chosen freeholders or the Hackensack

1 Commission, as the case may be, shall have 45 days [after such
2 direction] thereafter within which to adopt [any such] the
3 modification or replacement, and to submit [same] the district plan to
4 the commissioner.

5 f. The commissioner shall have 30 days from the date of receipt of
6 any submission under subsection e. herein to approve [such] or reject
7 the modification or replacement [or to reject same], and [he] the
8 commissioner shall certify [such] the approval or rejection to the
9 relevant board of chosen freeholders or the Hackensack Commission,
10 as the case may be[, which submitted same].

11 The provisions of this subsection to the contrary notwithstanding,
12 the commissioner shall not reject any modification or replacement
13 providing for the long-term use of a solid waste facility located outside
14 of the district or a designated out-of-state disposal site for the disposal
15 of solid waste generated within the district solely on the grounds that
16 the solid waste facility is located outside of the district or the
17 designated disposal site is located out-of-state.

18 If the commissioner approves [such] the modification or
19 replacement, or if the commissioner has made no [such] certification
20 within 30 days after [his] receipt thereof, the relevant board of chosen
21 freeholders or the Hackensack Commission, as the case may be, shall
22 proceed, pursuant to the requirements of [this amendatory and
23 supplementary act] P.L.1970, c.39 (C.13:1E-1 et seq.), to implement
24 the district solid waste management plan [in the relevant solid waste
25 management district].

26 Upon a rejection of any modification or replacement submitted to
27 [him] the commissioner pursuant to this section, or upon the failure
28 of a board of chosen freeholders or the Hackensack Commission, as
29 the case may be, to submit any modification or replacement as required
30 herein, the commissioner shall have the power to adopt [and
31 promulgate] any modification or replacement [he] the commissioner
32 deems necessary with respect to the district solid waste management
33 plan, and upon the certification of the commissioner, the relevant
34 board of chosen freeholders or the Hackensack Commission, as the
35 case may be, shall proceed, pursuant to the requirements of [this
36 amendatory and supplementary act] P.L.1970, c.39 (C.13:1E-1 et
37 seq.), to implement the district solid waste management plan [in the
38 relevant solid waste management district] with the modifications or
39 replacements adopted by the commissioner.

40 g. After November 10, 1997, every district solid waste
41 management plan shall be amended to reflect any revisions to the
42 strategy for the collection or disposal of solid waste utilized in any
43 constituent municipality in the district based on changes necessitated
44 by revisions in State or federal laws, rules or regulations, or court
45 decisions, including any changes in solid waste collection activities.

1 solid waste facilities or solid waste disposal operations in any
2 constituent municipality in the district as heretofore reported in the
3 district solid waste management plan as required pursuant to section
4 12 of P.L.1975, c.326 (C.13:1E-21).

5 h. The commissioner shall maintain on file in the department a
6 copy of ~~the Statewide~~ every district solid waste management plan
7 ~~developed proved~~ approved pursuant to this ~~amendatory and~~
8 ~~supplementary act~~ section, and a copy of the Statewide solid waste
9 management plan ~~developed and formulated~~ revised by the
10 department pursuant to section 6 of P.L.1970, c.39 (C.13:1E-6).
11 ~~Such~~ These plans are hereby declared to be public records and shall
12 be subject to all the provisions of P.L.1963, c.73 (C.47:1A-1 et seq.)
13 concerning ~~such~~ public records.

14 (cf: P.L.1975, c.326, s.15)

15
16 29. Section 19 of P.L.1975, c.326 (C.13:1E-28) is amended to
17 read as follows:

18 19. a. Any municipality within which a registered sanitary landfill
19 facility is located ~~pursuant to an adopted and approved district solid~~
20 ~~waste management plan~~ shall be entitled to an annual economic
21 benefit not less than the equivalent of \$1.00 per ton of ~~solids on~~ all
22 solid waste accepted for disposal at the sanitary landfill facility during
23 the previous calendar year ~~as determined by the department~~.

24 The owner or operator of the sanitary landfill facility shall annually
25 pay to the relevant municipality the full amount due under this
26 subsection and each relevant municipality is empowered to anticipate
27 this amount for the purposes of preparing its annual budget. For the
28 purposes of calculating the payments, the owner or operator of the
29 sanitary landfill facility may, subject to the prior agreement of the
30 relevant municipality ~~and the approval of the Department of~~
31 ~~Environmental Protection~~, provide the municipality with any of the
32 following benefits in consideration for the use of land within its
33 municipal boundaries as the location of a sanitary landfill facility:

34 (1) The receipt of annual sums of money in lieu of taxes on the
35 land used for the sanitary landfill facility;

36 (2) The exemption from all fees and charges for the disposal of
37 solid waste generated within its boundaries;

38 (3) The receipt of a lump sum cash payment; or

39 (4) Any combination thereof.

40 b. ~~(deleted by amendment, P.L. __, c. __)~~

41 c. ~~Every~~ owner or operator of a sanitary landfill facility required
42 to make annual payments to a municipality pursuant to subsection a.
43 of this section may petition the Department of Environmental
44 Protection for an increase in its tariff which reflects these payments.
45 The department, within 60 days of the receipt of the petition, shall

1 issue an appropriate order that these payments shall be passed along
2 to the users of the sanitary landfill facility as an automatic surcharge
3 on any tariff filed with, and recorded by, the department for the solid
4 waste disposal operations of the facility. ~~](Deleted by amendment,~~
5 ~~P.L. , c.)~~

6 d. ~~](In issuing any order required by this section, the Department~~
7 ~~of Environmental Protection shall be exempt from the provisions of~~
8 ~~R.S.48:2-21.](Deleted by amendment, P.L. , c.)~~
9 (cf: P.L.1994, c.27, s.1)

10
11 30. Section 2 of P.L.1987, c.449 (C.13:1E-28.1) is amended to
12 read as follows:

13 2. a. Any municipality within which a registered transfer station
14 is located ~~](pursuant to an adopted and approved district solid waste~~
15 ~~management plan)]~~ shall be entitled to an annual economic benefit to
16 be paid or adjusted not less than quarterly in an amount established by
17 agreement with the owner or operator of the transfer station ~~](or by~~
18 ~~order of the Board of Public Utilities)]~~, but not less than the equivalent
19 of \$0.50 per ton of all solid waste accepted for transfer at the transfer
20 station during the ~~](1987)]~~ previous calendar year and each year
21 thereafter.

22 The owner or operator of the transfer station shall, not less
23 frequently than quarterly, pay to the relevant municipality the full
24 amount due under this subsection and each relevant municipality is
25 empowered to anticipate this amount for the purposes of preparing its
26 annual budget. For the purposes of calculating the payments, the
27 owner or operator of the transfer station may, subject to the prior
28 agreement of the relevant municipality ~~](and the approval of the Board~~
29 ~~of Public Utilities)]~~, provide the municipality with any of the following
30 benefits in consideration for the use of land within its municipal
31 boundaries as the location of a transfer station:

32 (1) The receipt of quarterly payments of annual sums of money in
33 lieu of taxes on the land used for the transfer station;

34 (2) The exemption from all fees and charges for the acceptance for
35 transfer of solid waste generated within its boundaries;

36 (3) The receipt of quarterly lump sum cash payments; or

37 (4) Any combination thereof.

38 b. ~~](Every owner or operator of a transfer station required to~~
39 ~~make payments not less frequently than quarterly to a municipality~~
40 ~~pursuant to subsection a. of this section may petition the Board of~~
41 ~~Public Utilities for an increase in its tariff which reflects these~~
42 ~~payments. The board, within 60 days of the receipt of the petition,~~
43 ~~shall issue an order that these payments shall be passed along to the~~
44 ~~users of the transfer station as an automatic surcharge on any tariff~~
45 ~~filed with, and recorded by, the board for the solid waste disposal~~

1 operations of the transfer station.](Deleted by amendment, P.L. ,
2 c.)

3 c. [In issuing any order required by this section, the Board of
4 Public Utilities shall be exempt from the provisions of R.S.48:2-21.]
5 (Deleted by amendment, P.L. , c.)
6 (cf: P.L.1991, c.381, s.40)

7
8 31. Section 2 of P.L.1994, c.27 (C.13:1E-28.3) is amended to
9 read as follows:

10 2. a. Any municipality with a population density of more than
11 1,500 persons per square mile, according to the latest federal decennial
12 census, that shares a common boundary with a municipality within
13 which is located[, pursuant to an adopted and approved district solid
14 waste management plan,] a registered sanitary landfill facility:

15 (1) any part of which lies within 1,300 feet of the common
16 boundary between the municipalities[, as determined by the
17 Department of Environmental Protection];

18 (2) that received more than 700,000 tons of solid waste in the
19 1992 calendar year or in any calendar year thereafter; and

20 (3) that is owned or operated by a county or by a county utilities
21 authority created pursuant to the "municipal and county utilities
22 authorities law," P.L.1957, c.183 (C.40:14B-1 et seq.), shall be
23 entitled to an annual economic benefit in consideration for the
24 proximity of the sanitary landfill facility. The annual economic benefit
25 shall be not less than the equivalent of \$0.50 per ton, and not more
26 than \$1.50 per ton, of all solid waste accepted for disposal at the
27 sanitary landfill facility[, as determined by the department,] during the
28 [1993] previous calendar year [and each year thereafter].

29 b. A municipality that qualifies for an economic benefit pursuant
30 to subsection a. of this section may negotiate with the owner or
31 operator of the sanitary landfill facility to determine the actual dollar
32 amount of the annual economic benefit to be paid to that municipality.

33 The owner or operator of the sanitary landfill facility shall annually
34 pay to every municipality qualifying under subsection a. of this section
35 the full amount due under this subsection, except that the owner or
36 operator shall pay the 1993 economic benefit by the last day of the
37 first quarter of the 1994 calendar year. Each municipality qualifying
38 under subsection a. of this section may anticipate the annual economic
39 benefit for the purposes of preparing its 1994 budget and each annual
40 budget thereafter. For the purposes of calculating the method of
41 payment, the owner or operator of the sanitary landfill facility may,
42 subject to the prior agreement of a municipality qualifying under
43 subsection a. of this section [and to the approval of the Department
44 of Environmental Protection], provide that municipality with any of
45 the following benefits in consideration for the proximity of the

1 sanitary landfill facility:

2 (1) The exemption from all fees and charges for the disposal of
3 solid waste generated within the boundaries of the municipality;

4 (2) The receipt of a lump sum cash payment; or

5 (3) Any combination thereof.

6 c. **【**Every owner or operator of a sanitary landfill facility required
7 to make annual payments to a municipality qualifying pursuant to
8 subsection a. of this section may petition the Department of
9 Environmental Protection for an increase in its tariff which reflects
10 these payments. The department, within 60 days of the receipt of the
11 petition, shall issue an appropriate order that these payments shall be
12 passed along to the users of the sanitary landfill facility as an
13 automatic surcharge on any tariff filed with, and recorded by, the
14 department for the solid waste disposal operations of the facility.**】**

15 (Deleted by amendment, P.L. __, c. __)

16 d. **【**In issuing any order required by this section, the Department
17 of Environmental Protection shall be exempt from the provisions of
18 R.S.48:2-21.**】**(Deleted by amendment, P.L. __, c. __)

19 (cf: P.L.1994, c.27, s.2)

20

21 32. (New section) Any municipality within which is located a
22 resource recovery facility at which solid waste is accepted for disposal
23 by incineration, shall be entitled to an annual economic benefit in
24 consideration for the use of land within its municipal boundaries as the
25 location of a resource recovery facility.

26 The annual economic benefit shall be not less than the equivalent
27 of \$1.00 per ton of all solid waste accepted for disposal at the
28 resource recovery facility during the 1998 calendar year and each year
29 thereafter.

30 The owner or operator of the resource recovery facility shall, no
31 later than January 25, 1999 and on or before January 25 of each year
32 thereafter, file with the chief fiscal officer of the municipality wherein
33 the resource recovery facility is located a statement, verified by oath,
34 showing the total number of tons of solid waste accepted for disposal
35 by incineration at the resource recovery facility during the preceding
36 calendar year, and shall at the time pay to the chief fiscal officer a sum
37 equal to at least \$1.00 per ton of all solid waste accepted for disposal
38 by incineration at the resource recovery facility.

39 A municipality that qualifies for an annual economic benefit
40 pursuant to this section may negotiate with the owner or operator of
41 the resource recovery facility for an amount exceeding the amount of
42 the annual economic benefit provided for in this section.

43 For the purposes of this section, "resource recovery facility" means
44 a solid waste facility constructed and operated for the incineration of
45 solid waste for energy production and the recovery of metals and other
46 materials for reuse.

1 33. (New section) The provisions of section 32 of P.L. , c.
2 (C.13:1E-28.4)(pending in the Legislature as this bill) shall not apply
3 to any municipality that receives an annual economic benefit in an
4 amount equal to or exceeding the amount of the annual economic
5 benefit provided for in that section, which is paid by a person or party
6 other than the owner or operator of the resource recovery facility, in
7 consideration for the use of land within its municipal boundaries as the
8 location of a resource recovery facility.

9 For the purposes of this section, "person or party" means any
10 individual, public or private corporation, company, partnership, firm,
11 association, political subdivision of the State, or any State, bistate, or
12 interstate agency or authority; and "resource recovery facility" means
13 a solid waste facility constructed and operated for the incineration of
14 solid waste for energy production and the recovery of metals and other
15 materials for reuse.

16
17 34. (New section) As used in sections 34 through 43 inclusive of
18 P.L. , c. (C.13:1E-28.5 through 13:1E-28.14)(pending in the
19 Legislature as this bill):

20 "Business concern" means any corporation, association, firm,
21 partnership, sole proprietorship, trust or other form of commercial
22 organization.

23 "Commissioner" means the Commissioner of the Department of
24 Environmental Protection.

25 "County solid waste facility" means a solid waste facility that is
26 designated by a public authority or county in its adopted district solid
27 waste management plan as approved by the department prior to
28 November 10, 1997 as the in-county facility to which solid waste
29 generated within the boundaries of the county is transported for final
30 disposal, or transfer for transportation to an offsite solid waste facility
31 or designated out-of-district disposal site for disposal, as appropriate,
32 pursuant to interdistrict or intradistrict waste flow orders issued by the
33 department.

34 "Department" means the Department of Environmental Protection.

35 "Person" means any individual or business concern; or any county
36 or public authority.

37 "Proof of collection service" means a written record, log, bill or
38 document evidencing receipt of service for the collection of solid
39 waste for the preceding month from a person lawfully engaging in
40 private solid waste collection services within a municipality.

41 "Proof of direct disposal" means a written record, log, bill or
42 document evidencing receipt of disposal service for the disposal of
43 solid waste for the preceding month from the owner or operator of a
44 county solid waste facility or other solid waste facility located within
45 this State or a designated out-of-state disposal site, as the case may
46 be.

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

11 "Regular solid waste collection service" means the scheduled pick-
12 up and removal of solid waste from a source of generation within the
13 boundaries of any municipality at least once a week.

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

18 "Responsible solid waste generator" means any property owner,
19 tenant or occupant of any single-family residential dwelling or multi-
20 family multiple dwelling, or the owner, tenant or occupant of any
21 industrial, commercial or institutional building or structure located
22 within the boundaries of any municipality, who generates solid waste
23 at those premises.

24 "Solid waste" means garbage, refuse, and other discarded materials
25 resulting from industrial, commercial and agricultural operations, and
26 from domestic and community activities, and shall include all other
27 waste materials including liquids, except for source separated
28 recyclable materials or source separated food waste collected by
29 livestock producers approved by the State Department of Agriculture
30 to collect, prepare and feed such wastes to livestock on their own
31 farms.

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

35 "Solid waste collector" means a person engaged in the collection
36 of solid waste and registered pursuant to sections 4 and 5 of P.L.1970,
37 c.39 (C.13:1E-4 and 13:1E-5).

38 "Solid waste container" means a receptacle, container or bag
39 suitable for the depositing of solid waste.

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

42 "Solid waste facilities" means, and includes, the plants, structures
43 and other real and personal property acquired, constructed or operated
44 or to be acquired, constructed or operated by, or on behalf of, any
45 person, public authority or county pursuant to the provisions of the
46 "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.)

1 or any other act, including transfer stations, incinerators, resource
2 recovery facilities, sanitary landfill facilities or other plants for the
3 disposal of solid waste, and all vehicles, equipment and other real and
4 personal property and rights therein and appurtenances necessary or
5 useful and convenient for the collection or disposal of solid waste in
6 a sanitary manner.

7
8 35. (New section) Any municipality may provide for the
9 collection or disposal of all nonhazardous solid waste or any portion
10 thereof generated within its municipal boundaries.

11 a. A municipal governing body, in its discretion, may:

12 (1) Establish and operate a municipal service system for solid
13 waste collection;

14 (2) Enter into a contract for regular solid waste collection service
15 with a solid waste collector pursuant to the provisions of the "Local
16 Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.);

17 (3) Permit responsible solid waste generators to contract for
18 regular solid waste collection service on an individual basis with a
19 solid waste collector; or

20 (4) Any combination thereof.

21 b. A municipal governing body, in its discretion, may:

22 (1) Enter into a contract for solid waste disposal with any person,
23 public authority or county that owns or operates a county solid waste
24 facility pursuant to the provisions of the "Local Public Contracts
25 Law," P.L.1971, c.198 (C.40A:11-1 et seq.);

26 (2) Enter into a contract for solid waste collection or solid waste
27 disposal with any person lawfully engaged in solid waste collection or
28 solid waste disposal pursuant to the provisions of the "Local Public
29 Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.);

30 (3) Permit responsible solid waste generators to contract for solid
31 waste disposal on an individual basis with any person, public authority
32 or county lawfully engaged in solid waste disposal;

33 (4) Permit responsible solid waste generators to directly transport
34 the solid waste generated at their premises for disposal at a specified
35 solid waste facility or designated out-of-state disposal site; or

36 (5) Any combination thereof.

37
38 36. (New section) a. A municipal governing body may establish
39 and operate a municipal service system for solid waste collection.

40 (1) In the case of single-family residential housing, the municipal
41 service system shall include the provision of regular solid waste
42 collection service;

43 (2) In the case of multi-family residential housing, the municipal
44 service system may include the provision of regular solid waste
45 collection service;

46 (3) In the case of any other source of generation within the

1 boundaries of the municipality, the municipal service system may:

2 (a) include the provision of regular solid waste collection service;

3 (b) permit the responsible solid waste generator to contract with
4 a solid waste collector on an individual basis for regular solid waste
5 collection service; or

6 (c) permit responsible solid waste generators to directly transport
7 the solid waste generated at their premises for disposal at a specified
8 solid waste facility or designated out-of-state disposal site.

9 A municipal governing body that establishes a municipal service
10 system for solid waste collection shall adopt a municipal service
11 ordinance.

12 b. Every municipal service ordinance, as appropriate, shall:

13 (1) Specify the county solid waste facility to be utilized by the
14 municipality for the disposal of solid waste pursuant to the terms and
15 conditions of a contract entered into pursuant to the provisions of the
16 "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.);

17 (2) Specify the solid waste facility or designated out-of-state
18 disposal site to be utilized by the municipality for the disposal of solid
19 waste pursuant to the terms and conditions of a contract entered into
20 pursuant to the provisions of the "Local Public Contracts Law,"
21 P.L.1971, c.198 (C.40A:11-1 et seq.);

22 (3) Submit evidence satisfactory to the department that the
23 designated disposal site is permitted by the appropriate state
24 regulatory agency having jurisdiction over solid waste management to
25 accept solid waste for disposal and is in compliance with all relevant
26 Federal or state laws, rules or regulations;

27 (4) Publish a consolidated schedule of the rates, fees or charges
28 to be charged by the municipality for solid waste collection, including
29 a separate section for:

30 (a) the rates, fees or charges to be charged by the municipality for
31 regular solid waste collection service;

32 (b) the solid waste charges received at the county solid waste
33 facility or other solid waste facility for solid waste disposal; or

34 (c) the solid waste charges received at the designated out-of-state
35 disposal site for solid waste disposal;

36 (5) Specify the portion of municipal property taxes allocated for
37 the payment of the rates, fees or charges for solid waste collection or
38 solid waste disposal, or otherwise provide for the manner of payment
39 of the rates, fees or charges for solid waste collection or solid waste
40 disposal.

41 c. Every municipal service ordinance shall include:

42 (1) In the case of single-family residential housing, a requirement
43 that the responsible solid waste generator place solid waste generated
44 at those premises in solid waste containers for collection in the manner
45 provided by the ordinance;

46 (2) In the case of multi-family residential housing, as appropriate,

1 a requirement that the responsible solid waste generator place solid
2 waste generated at those premises in solid waste containers for
3 collection in the manner provided by the ordinance; and

4 (3) In the case of any other source of generation within the
5 boundaries of the municipality, a requirement that the responsible solid
6 waste generator place solid waste generated at those premises in solid
7 waste containers for collection in the manner provided by the
8 ordinance.

9 d. A municipal governing body may exempt the owner, tenant or
10 occupant of any multi-family residential housing, industrial,
11 commercial or institutional building or structure from the provisions
12 of the municipal service ordinance as provided in subsection c. of this
13 section.

14
15 37. (New section) a. A municipal governing body may establish
16 a municipal contract system for solid waste collection by entering into
17 a contract for regular solid waste collection service with a solid waste
18 collector pursuant to the provisions of the "Local Public Contracts
19 Law," P.L.1971, c.198 (C.40A:11-1 et seq.).

20 (1) In the case of single-family residential housing, the municipal
21 contract system shall include the provision of regular solid waste
22 collection service;

23 (2) In the case of multi-family residential housing, the municipal
24 contract system may include the provision of regular solid waste
25 collection service;

26 (3) In the case of any other source of generation within the
27 boundaries of the municipality, the municipal contract system may:

28 (a) include the provision of regular solid waste collection service;

29 (b) permit the responsible solid waste generator to contract with
30 a solid waste collector on an individual basis for regular solid waste
31 collection service; or

32 (c) permit responsible solid waste generators to directly transport
33 the solid waste generated at their premises for disposal at a specified
34 solid waste facility or designated out-of-state disposal site.

35 A municipal governing body that establishes a municipal contract
36 system for solid waste collection shall adopt a municipal contract
37 ordinance.

38 b. Every municipal contract ordinance, as appropriate, shall:

39 (1) Specify the county solid waste facility to be utilized by the
40 solid waste collector for solid waste disposal pursuant to the terms and
41 conditions of a contract entered into pursuant to the provisions of the
42 "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.);

43 (2) Specify the solid waste facility or designated out-of-state
44 disposal site to be utilized by the solid waste collector for the disposal
45 of solid waste pursuant to the terms and conditions of a contract
46 entered into pursuant to the provisions of the "Local Public Contracts

1 Law," P.L.1971, c.198 (C.40A:11-1 et seq.);

2 (3) Require the solid waste collector to submit evidence
3 satisfactory to the department that the designated disposal site is
4 permitted by the appropriate state regulatory agency having
5 jurisdiction over solid waste management to accept solid waste for
6 disposal and is in compliance with all relevant Federal or state laws,
7 rules or regulations;

8 (4) Provide for the publishing of a consolidated schedule of the
9 rates, fees or charges to be charged by the solid waste collector,
10 including a separate section for:

11 (a) the rates, fees or charges to be charged for regular solid waste
12 collection service;

13 (b) the solid waste charges received at the county solid waste
14 facility or other solid waste facility for solid waste disposal; or

15 (c) the solid waste charges received at the designated out-of-state
16 disposal site for solid waste disposal;

17 (5) Specify the portion of municipal property taxes allocated for
18 the payment of the rates, fees or charges for solid waste collection or
19 solid waste disposal, or otherwise provide for the manner of payment
20 of the rates, fees or charges for solid waste collection or solid waste
21 disposal.

22 c. Every municipal contract ordinance shall include:

23 (1) In the case of single-family residential housing, a requirement
24 that the responsible solid waste generator place solid waste generated
25 at those premises in solid waste containers for collection in the manner
26 provided by the ordinance;

27 (2) In the case of multi-family residential housing, as appropriate,
28 a requirement that the responsible solid waste generator place solid
29 waste generated at those premises in solid waste containers for
30 collection in the manner provided by the ordinance; and

31 (3) In the case of any other source of generation within the
32 boundaries of the municipality, a requirement that the responsible solid
33 waste generator place solid waste generated at those premises in solid
34 waste containers for collection in the manner provided by the
35 ordinance.

36 d. A municipal governing body may exempt the owner, tenant or
37 occupant of any multi-family residential housing, industrial,
38 commercial or institutional building or structure from the provisions
39 of the municipal contract ordinance as provided in subsection c. of this
40 section.

41

42 38. (New section) a. A municipal governing body may deem the
43 collection and disposal of the nonhazardous solid waste generated
44 within its municipal boundaries to be a private concern and the
45 individual obligation of responsible solid waste generators.

46 b. A municipal governing body that deems solid waste collection

1 and solid waste disposal to be the private concern and individual
2 obligation of responsible solid waste generators shall conduct a public
3 hearing thereon and adopt a municipal ordinance expressing that
4 perspective.

5 The municipal governing body shall provide advance notice to all
6 responsible solid waste generators and local solid waste collectors of
7 the public hearing. This notice shall be published once a week for two
8 consecutive weeks in at least one newspaper of general circulation
9 within the municipality. The second notice shall be published at least
10 10 days prior to the date of the public hearing. These notices shall
11 include the date, time and location of the public hearing, and shall
12 inform responsible solid waste generators and solid waste collectors
13 engaging in private solid waste collection services in the area of the
14 applicable provisions of the proposed municipal ordinance. At the
15 public hearing, any interested party may present statements or
16 questions concerning the proposed municipal ordinance.

17 c. Every municipal governing body that deems solid waste
18 collection and solid waste disposal to be the private concern and
19 individual obligation of responsible solid waste generators shall adopt
20 a proof of service ordinance pursuant to section 39 of P.L. , c.
21 (C.13:1E-28.10)(pending in the Legislature as this bill).

22
23 39. (New section) a. A municipal governing body that permits
24 responsible solid waste generators to contract for regular solid waste
25 collection service on an individual basis shall adopt a proof of service
26 ordinance.

27 b. Every proof of service ordinance shall include:

28 (1) In the case of single-family residential housing, a requirement
29 that the responsible solid waste generator enter into a contract for
30 regular solid waste collection service with a solid waste collector;
31 except that the ordinance shall include an exemption from this
32 requirement whenever the responsible solid waste generator is directly
33 transporting the solid waste generated at the residential premises for
34 disposal at a specified solid waste facility or designated out-of-state
35 disposal site;

36 (2) In the case of multi-family residential housing, a requirement
37 that the responsible solid waste generator enter into a contract for
38 regular solid waste collection service with a solid waste collector;
39 except that the ordinance shall include an exemption from this
40 requirement whenever the responsible solid waste generator is directly
41 transporting the solid waste generated at the residential premises for
42 disposal at a specified solid waste facility or designated out-of-state
43 disposal site;

44 (3) In the case of any other source of generation within the
45 boundaries of the municipality, a requirement that the responsible solid
46 waste generator enter into a contract for regular solid waste collection

1 service with a solid waste collector.

2 c. Every responsible solid waste generator that has entered into a
3 contract with a solid waste collector for regular solid waste collection
4 service on an individual basis shall furnish proof of collection service
5 to the municipal governing body at least once every 12 months. In
6 order to fulfill this requirement, the responsible solid waste generator
7 may include the proof of collection service with the municipal tax
8 payment mailed to the municipal tax collector.

9 d. Any responsible solid waste generator that is directly
10 transporting the solid waste generated at the residential premises for
11 disposal at a specified solid waste facility or designated out-of-state
12 disposal site shall furnish proof of direct disposal to the municipal
13 governing body at least once every 12 months. In order to fulfill this
14 requirement, the responsible solid waste generator may include the
15 proof of direct disposal with the municipal tax payment mailed to the
16 municipal tax collector.

17 Every proof of direct disposal, as appropriate, shall:

18 (1) Specify the county solid waste facility or other solid waste
19 facility to be utilized by the responsible solid waste generator for the
20 disposal of solid waste generated at the residential premises; or

21 (2) Identify the designated out-of-state disposal site to be utilized
22 by the responsible solid waste generator for the disposal of solid waste
23 generated at the residential premises, and submit evidence satisfactory
24 to the department that the designated disposal site is permitted by the
25 appropriate state regulatory agency having jurisdiction over solid
26 waste management to accept solid waste for disposal and is in
27 compliance with all relevant Federal or state laws, rules or regulations.

28 e. The municipal governing body shall, within six months of the
29 effective date of a proof of service ordinance adopted pursuant to this
30 section and at least once every six months thereafter, notify all
31 responsible solid waste generators of the requirements of the
32 ordinance.

33 In order to fulfill the notification requirements of this subsection,
34 the municipal governing body may, in its discretion, place an
35 advertisement in a newspaper circulating in the municipality, post a
36 notice in public places where public notices are customarily posted,
37 include a notice with other official notifications periodically mailed to
38 taxpayers, or any combination thereof, as the municipal governing
39 body deems necessary and appropriate.

40

41 40. (New section) A municipal governing body may enter into a
42 contract for solid waste disposal with any person, public authority or
43 county that owns or operates a county solid waste facility pursuant to
44 the provisions of the "Local Public Contracts Law," P.L.1971, c.198
45 (C.40A:11-1 et seq.).

46 a. Every municipal solid waste disposal contract shall include, but

1 need not be limited to, provisions concerning:

2 (1) The solid waste charges received at the county solid waste
3 facility for solid waste disposal; and

4 (2) The formulas to be used to determine the solid waste charges
5 for solid waste disposal and the methodology or methodologies used
6 to develop these formulas.

7 b. Any municipal solid waste disposal contract may include
8 optional arrangements for the provision of other solid waste
9 management programs or services, including the collection,
10 processing, disposition or marketing of source separated recyclable
11 materials, or inclusion within a district household hazardous waste
12 management program.

13 c. Prior to the implementation of a municipal solid waste disposal
14 contract, the municipal governing body shall notify all responsible
15 solid waste generators and local solid waste collectors of the
16 applicable provisions thereof. In order to fulfill the notification
17 requirements of this subsection, the municipal governing body may, in
18 its discretion, place an advertisement in a newspaper circulating in the
19 municipality, post a notice in public places where public notices are
20 customarily posted, include a notice with other official notifications
21 periodically mailed to local taxpayers, or any combination thereof, as
22 the municipal governing body deems necessary and appropriate. The
23 municipal solid waste disposal contract may take effect 20 days
24 thereafter.

25 d. A municipal governing body that has entered into a municipal
26 solid waste disposal contract shall submit a copy thereof to the
27 department for public inspection.

28 The commissioner shall maintain on file in the department for
29 public inspection a copy of any municipal solid waste disposal contract
30 received by the department pursuant to this subsection. The
31 department shall provide a copy to any person upon request at a cost
32 not to exceed the cost of reproduction.

33

34 41. (New section) a. As a condition of a municipal solid waste
35 collection contract entered into pursuant to section 37 of P.L. , c.
36 (C.13:1E-28.8)(pending in the Legislature as this bill), any municipal
37 governing body that has negotiated a municipal solid waste disposal
38 contract pursuant to section 40 of P.L. , c. (C.13:1E-
39 28.11)(pending in the Legislature as this bill) shall require the solid
40 waste collector to utilize the county solid waste facility that has been
41 selected by the municipality for the disposal of solid waste pursuant to
42 the terms and conditions of the municipal solid waste disposal
43 contract.

44 b. As a condition of a municipal solid waste collection contract
45 entered into pursuant to section 37 of P.L. , c. (C.13:1E-28.8)
46 (pending in the Legislature as this bill), any municipal governing body

1 that has entered into a contract for the use of a designated out-of-state
2 disposal site pursuant to section 42 of P.L. , c. (C.13:1E-
3 28.13)(pending in the Legislature as this bill) shall require the solid
4 waste collector to utilize the designated out-of-state disposal site that
5 has been selected by the municipality for the disposal of solid waste
6 pursuant to the terms and conditions of the municipal solid waste
7 disposal contract.

8
9 42. (New section) A municipal governing body may enter into a
10 contract for solid waste disposal with any person lawfully providing
11 solid waste disposal service pursuant to the provisions of the "Local
12 Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.).

13 a. Every contract for the use of a designated out-of-state disposal
14 site shall include, but need not be limited to, provisions concerning:

15 (1) The solid waste charges received at the designated out-of-state
16 disposal site for solid waste disposal; and

17 (2) The formulas to be used to determine the charges, rates or fees
18 to be charged for solid waste disposal services, and the methodology
19 or methodologies used to develop these formulas.

20 b. Prior to the implementation of a contract for the use of a
21 designated out-of-state disposal site, the municipal governing body
22 shall notify all responsible solid waste generators and local solid waste
23 collectors of the applicable provisions thereof. In order to fulfill the
24 notification requirements of this subsection, the municipal governing
25 body may, in its discretion, place an advertisement in a newspaper
26 circulating in the municipality, post a notice in public places where
27 public notices are customarily posted, include a notice with other
28 official notifications periodically mailed to local taxpayers, or any
29 combination thereof, as the municipal governing body deems necessary
30 and appropriate. The contract may take effect 20 days thereafter.

31 c. A municipal governing body that has entered into a contract for
32 the use of a designated out-of-state disposal site shall submit a copy
33 thereof to the department for public inspection.

34 The commissioner shall maintain on file in the department for
35 public inspection a copy of any solid waste disposal contract received
36 by the department pursuant to this subsection. The department shall
37 provide a copy to any person upon request at a cost not to exceed the
38 cost of reproduction.

39
40 43. (New section) a. Every bill or other statement presented by
41 a solid waste collector to a responsible solid waste generator for solid
42 waste collection services shall:

43 (1) Specify the county solid waste facility or other solid waste
44 facility to be utilized by the solid waste collector for solid waste
45 disposal;

46 (2) Identify the designated out-of-state disposal site to be utilized

- 1 by the solid waste collector for solid waste disposal;
- 2 (3) Enumerate the rates, fees or charges to be charged by the solid
- 3 waste collector, including a separate section for:
- 4 (a) the rates, fees or charges to be charged for regular solid waste
- 5 collection service; and
- 6 (b) the solid waste charges received at the solid waste facility or
- 7 designated out-of-state disposal site for solid waste disposal.
- 8 b. Every bill or other statement presented by a solid waste
- 9 collector to a responsible solid waste generator for solid waste
- 10 collection services shall include and list separately the following
- 11 information:
- 12 (1) The date of the bill;
- 13 (2) The time period for which the service is rendered;
- 14 (3) The size and number of solid waste containers;
- 15 (4) The frequency of service;
- 16 (5) The solid waste type;
- 17 (6) The solid waste facility or designated out-of-state disposal site
- 18 and solid waste disposal rate applied, including:
- 19 (a) The solid waste disposal component (actual weight for roll-off
- 20 services);
- 21 (b) The solid waste collection component; and
- 22 (c) The total charge for the service.
- 23
- 24 44. Section 1 of P.L.1976, c.99 (C.13:1E-38) is amended to read
- 25 as follows:
- 26 1. As used in this act[, the following words and phrases shall have
- 27 the following meanings, unless the context clearly requires another
- 28 meaning]:
- 29 a. "Bulk liquids" means liquid or semiliquid waste, including
- 30 petroleum products, which is contained within, or is discharged from,
- 31 any one vessel, tank or other container which has a capacity of 20 or
- 32 more gallons;
- 33 b. "Chemical waste" means a material normally generated by or
- 34 used in chemical, petrochemical, plastic, pharmaceutical, biochemical
- 35 or microbiological manufacturing processes or petroleum refining
- 36 processes, which has been selected for waste disposal and which is
- 37 known to hydrolize, ionize or decompose, which is soluble, burns or
- 38 oxidizes, or which may react with any of the waste materials which are
- 39 introduced into the landfill, or which is buoyant on water, or which has
- 40 a viscosity less than that of water or which produces a foul odor.
- 41 Chemical waste may be either hazardous or nonhazardous.
- 42 c. "Hazardous waste" means any waste or any combination of
- 43 waste which poses a present or potential threat to human health, living
- 44 organisms or the environment. "Hazardous waste" shall include, but
- 45 not be limited to, waste material that is toxic, corrosive, irritating,
- 46 sensitizing, radioactive, biologically infectious, explosive or

1 flammable;

2 d. "Leachate" is a liquid that has been in contact with solid waste
3 and contains dissolved or suspended materials from that solid waste.

4 e. "Pesticide" means and includes any substance or mixture of
5 substances labeled, designed, intended for or capable of use in
6 preventing, destroying, repelling, sterilizing or mitigating any insects,
7 rodents, nematodes, predatory animals, fungi, weeds and other forms
8 of plant or animal life or viruses, except viruses on or in living man or
9 other animals. "Pesticide" shall also include any substance or mixture
10 of substances labeled, designed or intended for use as a defoliant,
11 desiccant or plant regulator.

12 f. "Commercial solid waste facility" means any solid waste facility
13 operated for profit which accepts any solid waste generated from any
14 other source [and is subject to the jurisdiction of the Board of Public
15 Utilities pursuant to the provisions of P.L.1970, c.40 (C.48:13A-1 et
16 seq.)].

17 (cf: P.L.1979, c.395, s.2)

18

19 45. Section 8 of P.L.1989, c.34 (C.13:1E-48.8) is amended to
20 read as follows:

21 8. a. No person may transport regulated medical waste unless the
22 person has:

23 (1) satisfied all requirements prescribed by the Department of
24 Environmental Protection, and filed a registration statement and
25 obtained approval thereof from the department on a form provided,
26 and containing all information requested by the department;

27 (2) paid an annual registration fee in an amount set by the
28 Department of Environmental Protection pursuant to a rule or
29 regulation adopted in accordance with the "Administrative Procedure
30 Act;"

31 (3) received written instruction from the departments on the
32 proper and safe tracking, identification, packaging, storage, control,
33 monitoring, handling, collection, and disposal of regulated medical
34 waste;

35 (4) obtained a registration statement required by section 5 of
36 P.L.1970, c.39 (C.13:1E-5); and

37 (5) [obtained a certificate of public convenience and necessity
38 required by section 7 of P.L.1970, c.40 (C.48:13A-6);]

39 [(6)] complied with the requirements of P.L.1983, c.392
40 (C.13:1E-126 et seq.)]; and

41 (7) paid an annual fee to, and in an amount set by, the Board of
42 Public Utilities pursuant to section 9 of this act].

43 b. The provisions of subsection a. of this section shall not apply
44 to a generator who generates less than three cubic feet of regulated
45 medical waste per month and who transports that regulated medical

1 waste to another generator for storage or disposal.

2 (cf: P.L.1989, c.34, s.8)

3
4 46. Section 13 of P.L.1989, c.34 (C.13:1E-48.13) is amended to
5 read as follows:

6 13. a. The departments shall study the issue of regulated medical
7 waste in the State and prepare a comprehensive State regulated
8 medical waste management plan addressing the immediate, interim,
9 and long-term needs of the State with respect to the disposal of
10 regulated medical waste in a manner that will protect the public health
11 and the environment. The departments, **[within one year of the**
12 **effective date of this act]** no later than March 6, 1990, shall transmit
13 to the Governor and the Legislature the comprehensive State regulated
14 medical waste management plan.

15 b. The comprehensive State regulated medical waste management
16 plan shall include:

17 (1) an inventory of the number and types of generators of
18 regulated medical waste within the State, and of the composition and
19 quantities of regulated medical waste generated thereby, together with
20 a recommendation with respect to the advisability, practicability and
21 feasibility of exempting certain small quantity generators from the
22 manifest requirements imposed by this act;

23 (2) a projection of the number and types of generators of
24 regulated medical waste within the State for the next 30 years
25 following enactment of this act, and the composition and quantities of
26 regulated medical waste to be generated thereby;

27 (3) an evaluation of the impact of out-of-state generators upon the
28 present and future regulated medical waste disposal capacity within the
29 State;

30 (4) an evaluation**[**, to be undertaken in conjunction with the Board
31 of Public Utilities,**]**of the status of the regulated medical waste
32 collection and disposal industries, and whether they are of sufficient
33 size and competitiveness to meet the needs of the State, and, if not,
34 recommendations of ways to increase the size and competitiveness
35 thereof;

36 (5) an inventory and appraisal, including the identity, location, and
37 life expectancy, of all existing and approved incineration or
38 non-incineration disposal capacity which is anticipated to be available
39 to each county in this State for its regulated medical waste disposal
40 needs, including all commercial and noncommercial regulated medical
41 waste disposal facilities, and solid waste facilities within the State and
42 in nearby states permitted to accept regulated medical waste for
43 disposal;

44 (6) an updated projection of the anticipated regulated medical
45 waste disposal capacity shortfall in each county in this State in the next
46 5 years from the date of enactment of this act;

1 (7) a recommendation of the regulated medical waste disposal
2 strategy to be applied in the State, which strategy shall include the
3 maximum practicable use of existing and approved incineration
4 capacity for regulated medical waste, particularly pathology
5 specimens, resource recovery procedures, recycling, and consideration
6 of the establishment of regional regulated medical waste disposal
7 facilities;

8 (8) recommendations of any statutory and regulatory changes
9 deemed necessary to implement the comprehensive State regulated
10 medical waste management plan and assure utilization of the most
11 sanitary, efficient, and economical methods for the tracking,
12 identification, packaging, storage, control, monitoring, handling,
13 collection, and disposal of regulated medical waste; and

14 (9) an evaluation of the environmental and public health impacts
15 of all reasonably available regulated medical waste treatment and
16 disposal technologies, and a recommendation concerning the extent to
17 which non-incineration technologies may be utilized as an alternative
18 to incineration technologies.

19 (cf: P.L.1989, c.34, s.13)

20
21 47. Section 15 of P.L.1989, c.34 (C.13:1E-48.15) is amended to
22 read as follows:

23 15. a. Upon the submission to the Governor and the Legislature
24 of the comprehensive State regulated medical waste management plan
25 prepared by the departments pursuant to section 13 of **[this act]**
26 P.L.1989, c.34 (C.13:1E-48.13), the Department of Environmental
27 Protection shall~~]~~:

28 (1) ~~]~~ transmit, by certified mail, a written determination of need to
29 the governing body of each county in this State in which the
30 department has determined that there exists or impends an anticipated
31 regulated medical waste disposal capacity shortfall~~]~~; and

32 (2) issue, in conjunction with the Board of Public Utilities,
33 appropriate administrative orders providing for the interdistrict or
34 intradistrict flow of regulated medical waste. The administrative orders
35 shall direct the flow of regulated medical waste generated within each
36 county in this State to designated commercial regulated medical waste
37 disposal facilities and, subject to the prior approval of the owner or
38 operator thereof, to designated noncommercial facilities for disposal~~]~~.

39 b. In the event that appropriate rules and regulations to implement
40 the Federal Act have not been adopted by the United States
41 Environmental Protection Agency prior to the submission to the
42 Governor and the Legislature of the comprehensive State regulated
43 medical waste management plan, the departments may adopt, by rule
44 or regulation, regulated medical waste management requirements to
45 provide for the proper and safe segregation, identification, packaging,
46 storage, labeling, control, monitoring, handling, collection, and

1 disposal of regulated medical waste consistent with those set forth in
2 this act.

3 (cf: P.L.1989, c.34, s.15)

4
5 48. Section 18 of P.L.1989, c.34 (C.13:1E-48.18) is amended to
6 read as follows:

7 18. a. Any county within which a solid waste facility is located
8 **【pursuant to an adopted and approved district solid waste**
9 **management plan】**, which facility is a designated recipient of regulated
10 medical waste **【pursuant to an interdistrict or intradistrict waste flow**
11 **order issued by the Board of Public Utilities, in conjunction with the**
12 **Department of Environmental Protection】**, may be entitled to an
13 annual economic benefit in an amount established by agreement with
14 the owner or operator of the solid waste facility. The governing body
15 of the relevant county may negotiate with the owner or operator of the
16 solid waste facility for the payment of an annual economic benefit.

17 b. **【If the parties reach an agreement on the amount of an annual**
18 **economic benefit, the owner or operator of the solid waste facility**
19 **shall petition the board for an adjustment in its disposal tariff. The**
20 **petition shall be accompanied by a copy of the agreement which**
21 **reflects the proposed annual payments and shall be filed with the board**
22 **prior to its implementation. The board, within 60 days of the receipt**
23 **of the petition, shall issue an appropriate order that these payments**
24 **shall be paid by the users of the facility as an automatic surcharge on**
25 **any tariff filed with, and recorded by, the board for the regulated**
26 **medical waste disposal operations of the facility. The surcharge shall**
27 **be calculated and itemized in all appropriate tariffs on a per ton basis.**
28 **In the event that any regulated medical waste is measured, upon**
29 **acceptance for disposal, by other than tons, the surcharge shall be**
30 **calculated and itemized by using the equivalents thereof as shall be**
31 **determined by the board.】** (Deleted by amendment, P.L. , c.)

32 c. **【In issuing any order required by this section, the Board of**
33 **Public Utilities shall be exempt from the provisions of R.S.48:2-21.】**
34 (Deleted by amendment, P.L. , c.)

35 (cf: P.L.1989, c.34, s.18)

36
37 49. Section 20 of P.L.1989, c.34 (C.13:1E-48.20) is amended to
38 read as follows:

39 20. a. **【This act】** The provisions of P.L.1989, c.34
40 (C.13:1E-48.1 et seq.), and any rule or regulation adopted pursuant
41 thereto, shall be enforced by the departments and by every local board
42 of health, or county health department, as the case may be.

43 The departments and the local board of health, or the county health
44 department, as the case may be, shall have the right to enter the
45 premises of a generator, transporter, or facility at any time in order to

1 determine compliance with this act.

2 The municipal attorney or an attorney retained by a municipality in
3 which a violation of this act is alleged to have occurred shall act as
4 counsel to a local board of health.

5 The county counsel or an attorney retained by a county in which
6 a violation of this act is alleged to have occurred shall act as counsel
7 to the county health department.

8 All enforcement activities undertaken by county health departments
9 pursuant to this subsection shall conform to all applicable performance
10 and administrative standards adopted pursuant to section 10 of the
11 "County Environmental Health Act," P.L.1977, c.443 (C.26:3A2-28).

12 b. Whenever the Commissioner of Environmental Protection or
13 the Commissioner of Health and Senior Services finds that a person
14 has violated this act, or any rule or regulation adopted pursuant
15 thereto, that commissioner shall:

16 (1) issue an order requiring the person found to be in violation to
17 comply in accordance with subsection c. of this section;

18 (2) bring a civil action in accordance with subsection d. of this
19 section ;

20 (3) levy a civil administrative penalty in accordance with
21 subsection e. of this section;

22 (4) bring an action for a civil penalty in accordance with
23 subsection f. of this section; or

24 (5) petition the Attorney General to bring a criminal action in
25 accordance with subsections g. through l. of this section.

26 Pursuit of any of the remedies specified under this section shall not
27 preclude the seeking of any other remedy specified.

28 c. Whenever the Commissioner of Environmental Protection or the
29 Commissioner of Health and Senior Services finds that a person has
30 violated this act, or any rule or regulation adopted pursuant thereto,
31 that commissioner may issue an order specifying the provision or
32 provisions of this act, or the rule or regulation adopted pursuant
33 thereto, of which the person is in violation, citing the action that
34 constituted the violation, ordering abatement of the violation, and
35 giving notice to the person of the person's right to a hearing on the
36 matters contained in the order. The ordered party shall have 20 days
37 from receipt of the order within which to deliver to the commissioner
38 a written request for a hearing. After the hearing and upon finding that
39 a violation has occurred, the commissioner may issue a final order. If
40 no hearing is requested, the order shall become final after the
41 expiration of the 20-day period. A request for hearing shall not
42 automatically stay the effect of the order.

43 d. The Commissioner of Environmental Protection, the
44 Commissioner of Health and Senior Services, a local board of health,
45 or a county health department may institute an action or proceeding in
46 the Superior Court for injunctive and other relief, including the

1 appointment of a receiver for any violation of this act, or of any rule
2 or regulation adopted pursuant thereto, and the court may proceed in
3 the action in a summary manner. In any such proceeding the court may
4 grant temporary or interlocutory relief.

5 Such relief may include, singly or in combination:

6 (1) a temporary or permanent injunction;

7 (2) assessment of the violator for the costs of any investigation,
8 inspection, or monitoring survey that led to the establishment of the
9 violation, and for the reasonable costs of preparing and litigating the
10 case under this subsection;

11 (3) assessment of the violator for any cost incurred by the State
12 in removing, correcting, or terminating the adverse effects upon
13 environmental quality or public health resulting from any violation of
14 this act, or any rule or regulation adopted pursuant thereto, for which
15 the action under this subsection may have been brought;

16 (4) assessment against the violator of compensatory damages for
17 any loss or destruction of wildlife, fish or aquatic life, and for any
18 other actual damages caused by any violation of this act, or any rule
19 or regulation adopted pursuant thereto, for which the action under this
20 subsection may have been brought.

21 Assessments under this subsection shall be paid to the State
22 Treasurer, or to the local board of health, or to the county health
23 department, as the case may be, except that compensatory damages
24 may be paid by specific order of the court to any persons who have
25 been aggrieved by the violation.

26 If a proceeding is instituted by a local board of health or county
27 health department, notice thereof shall be served upon the
28 commissioners in the same manner as if the commissioners were named
29 parties to the action or proceeding. Either of the departments may
30 intervene as a matter of right in any proceeding brought by a local
31 board of health or county health department.

32 e. Either of the commissioners, as the case may be, may assess a
33 civil administrative penalty of not more than \$50,000 for each
34 violation. Each day that a violation continues shall constitute an
35 additional, separate, and distinct offense. A commissioner may not
36 assess a civil administrative penalty in excess of \$25,000 for a single
37 violation, or in excess of \$2,500 for each day during which a violation
38 continues, until the departments have respectively adopted, pursuant
39 to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1
40 et seq.), regulations requiring the appropriate commissioner, in
41 assessing a civil administrative penalty, to consider the operational
42 history of the violator, the severity of the violation, the measures taken
43 to mitigate or prevent further violations, and whether the penalty will
44 maintain an appropriate deterrent. No assessment may be levied
45 pursuant to this section until after the violator has been notified by
46 certified mail or personal service. The notice shall include a reference

1 to the section of the statute, rule, regulation, or order violated, a
2 concise statement of the facts alleged to constitute a violation, a
3 statement of the amount of the civil administrative penalties to be
4 imposed, and a statement of the party's right to a hearing. The
5 ordered party shall have 20 calendar days from receipt of the notice
6 within which to deliver to the appropriate commissioner a written
7 request for a hearing. After the hearing and upon finding that a
8 violation has occurred, that commissioner may issue a final order after
9 assessing the amount of the fine specified in the notice. If no hearing
10 is requested, the notice shall become a final order after the expiration
11 of the 20-day period. Payment of the assessment is due when a final
12 order is issued or the notice becomes a final order. The authority to
13 levy a civil administrative penalty is in addition to all other
14 enforcement provisions in this act, and the payment of any assessment
15 shall not be deemed to affect the availability of any other enforcement
16 provisions in connection with the violation for which the assessment
17 is levied. Each department may compromise any civil administrative
18 penalty assessed under this section in an amount the department
19 determines appropriate.

20 f. A person who violates this act, or any rule or regulation adopted
21 pursuant thereto, shall be liable for a penalty of not more than \$50,000
22 per day, to be collected in a civil action commenced by the
23 Commissioner of Environmental Protection, the Commissioner of
24 Health and Senior Services, a local board of health, or a county health
25 department.

26 A person who violates an administrative order issued pursuant to
27 subsection c. of this section, or a court order issued pursuant to
28 subsection d. of this section, or who fails to pay an administrative
29 assessment in full pursuant to subsection e. of this section is subject
30 upon order of a court to a civil penalty not to exceed \$100,000 per
31 day of each violation.

32 Of the penalty imposed pursuant to this subsection, 10% or \$250,
33 whichever is greater, shall be paid to the appropriate department from
34 the General Fund if the Attorney General determines that a person is
35 entitled to a reward pursuant to section 24 of **[this act]** P.L.1989,
36 c.34 (C.13:1E-48.24).

37 Any penalty imposed pursuant to this subsection may be collected,
38 with costs, in a summary proceeding pursuant to "the penalty
39 enforcement law" (N.J.S.2A:58-1 et seq.). The Superior Court and
40 the municipal court shall have jurisdiction to enforce the provisions of
41 "the penalty enforcement law" in connection with this act.

42 g. A person who purposely or knowingly:

43 (1) disposes or stores regulated medical waste without
44 authorization from either the Department of Environmental Protection
45 or the Department of Health and Senior Services, as appropriate, or
46 in violation of this act, or any rule or regulation adopted pursuant

1 thereto;

2 (2) makes any false or misleading statement to any person who
3 prepares any regulated medical waste application, registration, form,
4 label, certification, manifest, record, report, or other document
5 required by this act, or any rule or regulation adopted pursuant
6 thereto;

7 (3) makes any false or misleading statement on any regulated
8 medical waste application, registration, form, label, certification,
9 manifest, record, report, or other document required by this act, or any
10 rule or regulation adopted pursuant thereto; or

11 (4) fails to properly treat certain types of regulated medical waste
12 designated by the Department of Health and Senior Services in a
13 prescribed manner; shall, upon conviction, be guilty of a crime of the
14 third degree and, notwithstanding the provisions of N.J.S.2C:43-3,
15 shall be subject to a fine of not more than \$50,000 for the first offense,
16 and not more than \$100,000 for each subsequent offense, and
17 restitution, in addition to any other appropriate disposition authorized
18 by subsection b. of N.J.S.2C:43-2.

19 h. A person who recklessly or negligently:

20 (1) disposes or stores regulated medical waste without
21 authorization from either the Department of Environmental Protection
22 or the Department of Health and Senior Services, as appropriate, or
23 in violation of this act, or any rule or regulation adopted pursuant
24 thereto;

25 (2) makes any false or misleading statement to any person who
26 prepares any regulated medical waste application, registration, form,
27 label, certification, manifest, record, report, or other document
28 required by this act, or any rule or regulation adopted pursuant
29 thereto;

30 (3) makes any false or misleading statement on any regulated
31 medical waste application, registration, form, label, certification,
32 manifest, record, report, or other document required by this act, or any
33 rule or regulation adopted pursuant thereto; or

34 (4) fails to properly treat certain types of regulated medical waste
35 designated by the Department of Health and Senior Services in a
36 manner prescribed thereby; shall, upon conviction, be guilty of a crime
37 of the fourth degree.

38 i. A person who, regardless of intent:

39 (1) transports any regulated medical waste to a facility or any
40 other place in the State that does not have authorization from the
41 Department of Environmental Protection [and the Board of Public
42 Utilities] to accept such waste, or in violation of this act, or any rule
43 or regulation adopted pursuant thereto; or

44 (2) transports, or receives transported, regulated medical waste
45 without completing and submitting a manifest in accordance with this
46 act, or any rule or regulation adopted pursuant thereto; shall, upon

1 conviction, be guilty of a crime of the fourth degree.

2 j. A person who purposely, knowingly, or recklessly:

3 (1) generates and causes or permits to be transported any
4 regulated medical waste to a facility or any other place in the State
5 that does not have authorization from the Department of
6 Environmental Protection **and the Board of Public Utilities** to accept
7 such waste, or in violation of this act, or any rule or regulation
8 adopted pursuant thereto; or

9 (2) violates any other provision of this act, or any rule or
10 regulation adopted pursuant thereto, for which no other criminal
11 penalty has been specifically provided for; shall, upon conviction, be
12 guilty of a crime of the fourth degree.

13 k. All conveyances used or intended for use in the willful
14 discharge, in violation of this act, or any rule or regulation adopted
15 pursuant thereto, of regulated medical waste are subject to forfeiture
16 to the State pursuant to P.L.1981, c.387 (C.13:1K-1 et seq.).

17 l. (Deleted by amendment, P.L.1997, c.325.)

18 m. No prosecution for a violation under this act shall be deemed
19 to preclude a prosecution for the violation of any other applicable
20 statute.

21 (cf: P.L.1997, c.325, s.4)

22

23 50. Section 1 of P.L.1981, c.278 (C.13:1E-92) is amended to read
24 as follows:

25 1. This act shall be known and may be cited as the "Clean
26 Communities **and Recycling** Act."

27 (cf: P.L.1985, c.533, s.2)

28

29 51. Section 2 of P.L.1981, c.278 (C.13:1E-93) is amended to read
30 as follows:

31 2. **【The Legislature finds that New Jersey must continue to seek**
32 **solutions to its energy, environmental and economic problems; that**
33 **solutions to these problems require proper solid waste and resource**
34 **recovery management; that the generation of municipal solid waste is**
35 **increasing while landfill capacity is decreasing; that the siting of**
36 **environmentally secure landfills is an area of serious concern and**
37 **limited choice; that the planning and construction of waste-to-energy**
38 **resource recovery facilities requires substantial capital expenditures**
39 **and a guaranteed flow of processible and combustible waste; and that**
40 **the disposal of reusable waste materials is wasteful of valuable**
41 **resources.】**

42 **【The Legislature further finds that the recycling of waste materials**
43 **decreases waste flow to landfill sites, substantially reduces the**
44 **required capacity and cost of proposed waste-to-energy resource**
45 **recovery facilities while contributing to their overall combustion**
46 **efficiency through the removal of noncombustible and nonprocessable**

1 materials at the source, recovers valuable resources, conserves energy
2 in the manufacturing process, and offers a supply of domestic raw
3 materials for the State's industries; that a comprehensive recycling plan
4 and program is necessary to achieve the maximum practicable recovery
5 of reusable materials from solid waste in this State; and that such a
6 plan will reduce the amount of waste to landfills, result in significant
7 cost savings in the planning and construction of waste-to-energy
8 resource recovery facilities, conserve energy and resources, and
9 recover materials for industrial uses.】

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

19 The Legislature, therefore, declares it to be in the energy,
20 environmental, and economic interests of the State of New Jersey to
21 **【implement a comprehensive Statewide recycling plan and to】**
22 establish a clean communities account to develop resources to be used
23 in a litter abatement and removal pickup plan as provided for by law.
24 (cf: P.L.1987, c.102, s.33)

25

26 52. Section 3 of P.L.1981, c.278 (C.13:1E-94) is amended to read
27 as follows:

28 3. As used in this act:

29 a. "Department" means the State Department of Environmental
30 Protection;

31 b. "Division" means the Division of Taxation in the Department of
32 the Treasury;

33 c. "Director" means the Director of the Division of Taxation in the
34 Department of the Treasury;

35 d. "Litter" means any used or unconsumed substance or waste
36 material which has been discarded, whether made of aluminum, glass,
37 plastic, rubber, paper, or other natural or synthetic material, or any
38 combination thereof, including, but not limited to, any bottle, jar or
39 can, or any top, cap or detachable tab of any bottle, jar or can, any
40 unlighted cigarette, cigar, match or any flaming or glowing material or
41 any garbage, trash, refuse, debris, rubbish, grass clippings or other
42 lawn or garden waste, newspapers, magazines, glass, metal, plastic or
43 paper containers or other packaging or construction material, but does
44 not include the waste of the primary processes of mining or other
45 extraction processes, logging, sawmilling, farming or manufacturing;

46 e. "Litter-generating products" means the following specific goods

1 which are produced, distributed, or purchased in disposable containers,
2 packages or wrappings; or which are not usually sold in packages,
3 containers, or wrappings but which are commonly discarded in public
4 places; or which are of an unsightly or unsanitary nature, commonly
5 thrown, dropped, discarded, placed, or deposited by a person on
6 public property, or on private property not owned by him:

- 7 (1) Beer and other malt beverages;
- 8 (2) Cigarettes and tobacco products;
- 9 (3) Cleaning agents and toiletries;
- 10 (4) Distilled spirits;
- 11 (5) Food for human or pet consumption;
- 12 (6) Glass containers sold as such;
- 13 (7) Groceries;
- 14 (8) Metal containers sold as such;
- 15 (9) Motor vehicle tires;
- 16 (10) Newsprint and magazine paper stock;
- 17 (11) Drugstore sundry products, but not including prescription
18 drugs or nonprescription drugs;
- 19 (12) Paper products and household paper;
- 20 (13) Plastic or fiber containers made of synthetic material and sold
21 as such, but not including any container which is routinely reused, has
22 a useful life of more than one year and is ordinarily sold empty at
23 retail;
- 24 (14) Soft drinks and carbonated waters; and
- 25 (15) Wine;

26 f. "Litter receptacle" means a container suitable for the depositing
27 of litter;

28 g. "Municipality" means any city, borough, town, township or
29 village situated within the boundaries of this State;

30 h. "Public place" means any area that is used or held out for use
31 by the public, whether owned or operated by public or private
32 interests;

33 i. **["Recycling" means any process by which materials which**
34 **would otherwise become solid waste are collected, separated or**
35 **processed and returned to the economic mainstream in the form of raw**
36 **materials or products;]** (Deleted by amendment, P.L. __, c. __)

37 j. "Sold within the State" or "sales within the State" means all
38 sales of retailers engaged in business within the State and, in the case
39 of manufacturers, wholesalers and distributors, all sales of products for
40 use and consumption within the State. It shall be presumed that all
41 sales of manufacturers, wholesalers and distributors sold within the
42 State are for use and consumption within the State unless the taxpayer
43 shows that the products are shipped out of State for out-of-State use;

44 k. **["Tax period" means every calendar month or any other period**
45 **as may be prescribed by rule and regulation adopted by the director,**
46 **on the basis of which the owner or operator of a solid waste facility is**

1 required to report to the director pursuant to section 4 of P.L.1981,
2 c.278 (C.13:1E-95);] (Deleted by amendment, P.L. , c.)

3 l. "Taxpayer" means [the owner or operator of a solid waste
4 facility or] the manufacturer, wholesaler, distributor, or retailer of
5 litter-generating products subject to the tax provisions of [section 4
6 of P.L.1981, c.278 (C.13:1E-95) or] section 6 of P.L.1985, c.533
7 (C.13:1E-99.1)[, as the case may be].
8 (cf: P.L.1987, c.102, s.34)

9
10 53. Section 6 of P.L.1981, c.278 (C.13:1E-97) is amended to read
11 as follows:

12 6. [a.] The Commissioner of the Department of Environmental
13 Protection shall adopt, pursuant to the "Administrative Procedure
14 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), [such] rules and
15 regulations [as are necessary] to effectuate [this act] the provisions
16 of the "New Jersey Statewide Mandatory Source Separation and
17 Recycling Act," P.L.1987, c.102 (C.13:1E-99.11 et al.). [These rules
18 and regulations shall be proposed within 90 days of the effective date
19 of this section, and thereafter adopted as provided in the
20 "Administrative Procedure Act."]

21 [b. The director shall adopt, pursuant to the "Administrative
22 Procedure Act," such rules and regulations as are necessary to
23 effectuate this act.]

24 (cf: P.L.1987, c.102, s.37)

25
26 54. Section 2 of P.L.1987, c.102 (C.13:1E-99.12) is amended to
27 read as follows:

28 2. As used in sections 1 through 24 and sections 40 and 41 of
29 P.L.1987, c.102 (C.13:1E-99.11 through 13:1E-99.32 and
30 13:1E-99.33 and 13:1E-99.34):

31 "Agricultural or horticultural land" means land deemed actively
32 devoted to agricultural or horticultural use pursuant to the "Farmland
33 Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.);

34 "Beverage" means milk, alcoholic beverages, including beer or
35 other malt beverages, liquor, wine, vermouth and sparkling wine, and
36 nonalcoholic beverages, including fruit juice, mineral water and soda
37 water and similar nonalcoholic carbonated and noncarbonated drinks
38 intended for human consumption;

39 "Beverage container" means an individual, separate, hermetically
40 sealed, or made airtight with a metal or plastic cap, bottle or can
41 composed of glass, metal, plastic or any combination thereof,
42 containing a beverage;

43 "Class A recyclable material" means a source separated
44 nonputrescible recyclable material which is specifically excluded from
45 approval of the department prior to receipt, storage, processing or

1 transfer at a recycling center pursuant to subsection b. of section 41
2 of P.L.1987, c.102 (C.13:1E-99.34), which material includes source
3 separated nonputrescible metal, glass, paper, plastic containers, and
4 corrugated and other cardboard;

5 "Class B recyclable material" means a source separated recyclable
6 material which is subject to approval of the department prior to
7 receipt, storage, processing or transfer at a recycling center pursuant
8 to subsection b. of section 41 of P.L.1987, c.102 (C.13:1E-99.34) and
9 which includes, but need not be limited to, scrap tires, wood waste,
10 tree stumps, and certain construction or demolition debris, including
11 waste asphalt, bricks, cinder blocks and concrete;

12 "Class C recyclable material" means a source separated
13 compostable material which is subject to approval of the department
14 prior to receipt, storage, processing or transfer at a recycling center
15 pursuant to subsection b. of section 41 of P.L.1987, c.102
16 (C.13:1E-99.34) and which includes, but need not be limited to,
17 organic materials such as food waste, vegetative food waste and yard
18 trimmings;

19 "Commingled" means a combining of nonputrescible source
20 separated recyclable materials for the purpose of recycling;

21 "Compostable" means able to undergo physical, chemical, thermal
22 or biological degradation under aerobic conditions such that the
23 material to be composted enters into and is physically indistinguishable
24 from the finished compost, and which ultimately mineralizes in the
25 environment at a rate similar to known compostable materials such as
26 paper and yard trimmings;

27 "Composting" means the controlled biological degradation of
28 organic matter to make compost;

29 "Contaminant" means solid waste which adheres to, or which is
30 otherwise contained on or in, source separated recyclable materials;

31 "County" means any county of this State of whatever class;

32 "Department" means the Department of Environmental Protection;

33 "Designated recyclable materials" means those recyclable materials,
34 including metal, glass, paper, or plastic, polycoated paperboard
35 packaging, including beverage containers and aseptic packaging, food
36 waste, corrugated and other cardboard, newspaper, magazines, or
37 high-grade office paper designated in a district recycling plan to be
38 source separated in a municipality pursuant to section 3 of P.L.1987,
39 c.102 (C.13:1E-99.13);

40 "Disposition" or "disposition of designated recyclable materials"
41 means the transportation, placement, reuse, sale, donation, transfer or
42 temporary storage for a period not exceeding six months of designated
43 recyclable materials for all possible uses except for disposal as solid
44 waste;

45 "District" means a solid waste management district as designated
46 by section 10 of P.L.1975, c.326 (C.13:1E-19), except that, as used

1 in the provisions of P.L.1987, c.102 (C.13:1E-99.11 et seq.), "district"
2 shall not include the Hackensack Meadowlands District;

3 "District recycling plan" means the plan prepared and adopted by
4 the governing body of a county and approved by the department to
5 implement the State Recycling Plan goals pursuant to section 3 of
6 P.L.1987, c.102 (C.13:1E-99.13);

7 "Food waste" means food processing byproducts, vegetative waste,
8 off-specification food products, food product overruns, and similar
9 food waste materials;

10 "Leaf composting facility" means a solid waste facility which is
11 designed and operated solely for the purpose of composting leaves and
12 shall also include leaf mulching operations on land deemed actively
13 devoted to agricultural or horticultural use as defined in section 5 of
14 P.L.1964, c.48 (C.54:4-23.5);

15 "Market" or "markets" means the disposition of designated
16 recyclable materials;

17 "Municipality" means any city, borough, town, township or village
18 situated within the boundaries of this State;

19 "Municipal solid waste stream" means all residential, commercial
20 and institutional solid waste generated within the boundaries of any
21 municipality;

22 "Paper" means all paper grades, including but not limited to,
23 newspaper, corrugated and other cardboard, high-grade office paper,
24 fine paper, bond paper, offset paper, xerographic paper, mimeo paper,
25 duplicator paper, and related types of cellulosic material containing not
26 more than 10% by weight or volume of non-cellulosic material such as
27 laminates, binders, coatings, or saturants;

28 "Paper product" means any paper items or commodities, including
29 but not limited to, paper napkins, towels, construction material, toilet
30 tissue, paper and related types of cellulosic products containing not
31 more than 10% by weight or volume of non-cellulosic material such as
32 laminates, binders, coatings, or saturants;

33 "Plastic container" means any formed or molded and hermetically
34 sealed, or made airtight with a metal or plastic cap, rigid container
35 with a minimum wall thickness of not less than 0.010 inches, and
36 composed primarily of thermoplastic synthetic polymeric material;

37 "Post-consumer waste material" means any finished product
38 generated by a business or consumer which has served its intended end
39 use, and which has been separated from solid waste for the purposes
40 of collection, recycling and disposition and which does not include
41 secondary waste material;

42 "Recognized academic institution" means any of the following
43 educational or research institutions located in this State: a duly
44 authorized institution of higher education licensed by the Board of
45 Higher Education; a public school operated by a local school district;
46 a private vocational school; or a nonpublic school satisfying the State's

1 compulsory attendance requirements;

2 "Recyclable material" means those materials which would
3 otherwise become solid waste, and which may be collected, separated
4 or processed and returned to the economic mainstream in the form of
5 raw materials or products;

6 "Recycled paper" means any paper having a total weight consisting
7 of not less than 50% secondary waste paper material and with not less
8 than 10% of its total weight consisting of post-consumer waste
9 material;

10 "Recycled paper product" means any paper product consisting of
11 not less than 50% secondary waste paper material and with not less
12 than 10% of its total weight consisting of post-consumer waste
13 material;

14 "Recycled product" or "product made from recycled material"
15 means any nonpaper item or commodity which is manufactured or
16 produced in whole or in part from post-consumer waste material;

17 "Recycling" means any process by which materials which would
18 otherwise become solid waste are collected, separated or processed
19 and returned to the economic mainstream in the form of raw materials
20 or products;

21 "Recycling center" means any facility designed and operated solely
22 for receiving, storing, processing or transferring source separated
23 recyclable materials; except that "recycling center" shall not include a
24 scrap **【processing】** metal shredding facility;

25 "Recycling services" means the services provided by persons
26 engaging in the business of recycling, including the collection,
27 transportation, processing, storage, purchase, sale or disposition, or
28 any combination thereof, of recyclable materials;

29 "Residue" means any solid waste generated as a result of
30 processing source separated recyclable materials at a recycling center;

31 "Scrap **【processing】** metal shredding facility" means a
32 commercial industrial facility designed and operated for receiving,
33 storing, processing and transferring scrap automobiles, appliances or
34 other source separated, nonputrescible ferrous and nonferrous metal,
35 which materials are purchased by the owner or operator thereof, and
36 which are altered or reduced in volume or physical characteristics
37 onsite by mechanical methods, including but not limited to baling,
38 cutting, torching, crushing, or shredding, for the purposes of resale for
39 remelting, refining, smelting or remanufacturing into raw materials or
40 products;

41 "Secondary waste material" means waste material generated after
42 the completion of a manufacturing process;

43 "Secondary waste paper material" means paper waste generated
44 after the completion of a paper making process, such as envelope
45 cuttings, bindery trimmings, printing waste, cutting and other
46 converting waste, butt rolls and mill wrappers; except that secondary

1 waste paper material shall not include fibrous waste generated during
2 the manufacturing process, such as fibers recovered from waste water
3 or trimmings of paper machine rolls, fibrous byproducts of harvesting,
4 extractive or woodcutting processes, or forest residue such as bark, or
5 mill broke;

6 "Source separated recyclable materials" means recyclable materials
7 which are separated at the point of generation by the generator thereof
8 from solid waste for the purposes of recycling;

9 "Source separation" or "source separated" means the process by
10 which recyclable materials are separated at the point of generation by
11 the generator thereof from solid waste for the purposes of recycling;

12 "Vegetative food waste" means food processing waste from
13 materials such as fruits, vegetables and grains, and similar vegetable
14 food waste materials;

15 "Vegetative waste composting facility" means a solid waste facility
16 which is designed and operated for the purpose of composting leaves,
17 either exclusively or in combination with other vegetative wastes
18 authorized by the department;

19 "Yard trimmings" means grass clippings, leaves and brush.

20 (cf: P.L.1994, c.122, s.1)

21
22 55. Section 3 of P.L.1987, c.102 (C.13:1E-99.13) is amended to
23 read as follows:

24 3. a. Each county shall [, no later than October 20, 1987 and
25 after consultation with each municipality within the county,] prepare
26 and adopt a district recycling plan to implement the State Recycling
27 Plan goals. Each district recycling plan shall be adopted as an
28 amendment to the district solid waste management plan required
29 pursuant to the provisions of the "Solid Waste Management Act,"
30 P.L.1970, c.39 (C.13:1E-1 et seq.) and subject to the approval of the
31 department.

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

34 (1) Designation of a district recycling coordinator;

35 (2) Designation of the recyclable materials to be source separated
36 in each municipality which shall include, in addition to leaves, at least
37 three other recyclable materials separated from the municipal solid
38 waste stream;

39 (3) Designation of the strategy for the collection, marketing and
40 disposition of designated source separated recyclable materials in each
41 municipality;

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

46 (a) The recycling of at least 15% of the total municipal solid waste

1 stream by December 31, 1989;

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

4 (c) The recycling of at least 50% of the total municipal solid waste
5 stream, including yard waste and vegetative waste, by December 31,
6 1995; and

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

11 For the purposes of this subsection, "total municipal solid waste
12 stream" means the sum of the municipal solid waste stream disposed
13 of as solid waste, as measured in tons, plus the total number of tons of
14 recyclable materials recycled; and "total solid waste stream" means the
15 aggregate amount of solid waste generated within the boundaries of
16 any county from all sources of generation, including the municipal
17 solid waste stream.

18 c. [Each district recycling plan, in designating a strategy for the
19 collection, marketing and disposition of designated recyclable
20 materials in each municipality, shall accord priority consideration to
21 persons engaging in the business of recycling or otherwise lawfully
22 providing recycling services on behalf of a county or municipality on
23 January 1, 1986, if that person continues to provide recycling services
24 prior to the adoption of the plan and that person has not discontinued
25 these services for a period of 90 days or more between January 1,
26 1986, and the date on which the plan is adopted.]

27 Each district recycling plan may be modified after adoption
28 pursuant to a procedure set forth in the adopted plan as approved by
29 the department.

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

35 (cf: P.L.1992, c.167)

36

37 56. Section 4 of P.L.1987, c.102 (C.13:1E-99.14) is amended to
38 read as follows:

39 4. a. Each county [shall, within six months of the adoption and
40 approval by the department of the district recycling plan required
41 pursuant to section 3 of this amendatory and supplementary act,] or
42 public authority may solicit proposals from, review the qualifications
43 of, and enter into contracts or agreements on behalf of municipalities
44 with persons providing recycling services or operating recycling
45 centers for the collection, storage, processing, and disposition of
46 recyclable materials designated in the district recycling plan [in those

1 instances where these services are not otherwise provided by the
2 municipality, interlocal service agreement or joint service program, or
3 other private or public recycling program operator】.

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

14 b. 【In the event that a county is unable to enter into contracts or
15 otherwise execute agreements to market specific designated recyclable
16 materials in order to achieve the designated recovery targets set forth
17 in the district recycling plan, the county may petition the department
18 for a temporary exemption from the provisions of subsection a. of this
19 section for these specified materials. The department is authorized to
20 grant, deny or conditionally grant the exemption. If the exemption is
21 denied, the department shall assist the county in identifying and
22 securing markets for the recyclable materials designated in the district
23 recycling plan. Any exemption granted by the department shall not
24 exceed one year in duration, and shall be granted or renewed only
25 upon a finding that the county has made a good faith effort to identify
26 and secure markets for its recyclable materials. Each county shall
27 continue to solicit those recycling services necessary to achieve the
28 maximum feasible recovery targets in each municipality as set forth in
29 the district recycling plan.】 (Deleted by amendment, P.L. , c.)
30 (cf: P.L.1987, c.102, s.4)

31
32 57. Section 6 of P.L.1987, c.102 (C.13:1E-99.16) is amended to
33 read as follows:

34 6. Each municipality in this State shall【, within 30 days of the
35 effective date of this amendatory and supplementary act,】 designate
36 one or more persons as the municipal recycling coordinator. Each
37 municipality shall establish and implement a municipal recycling
38 program in accordance with the following requirements 【and
39 schedule】:

40 a. 【Within six months of the adoption by the county and approval
41 by the department of the district recycling plan required pursuant to
42 section 3 of this amendatory and supplementary act, each】 Each
43 municipality shall provide for a collection system for the recycling of
44 the recyclable materials designated in the district recycling plan as may
45 be necessary to achieve the designated recovery targets set forth in the

1 plan in those instances where a recycling collection system is not
2 otherwise provided for by the generator or by the county, interlocal
3 service agreement or joint service program, or other private or public
4 recycling program operator.

5 b. The governing body of each municipality shall[, if it has not
6 already done so, within 30 days of the effective date of any contracts
7 or agreements entered into by the county or other local government
8 unit to market one or more of the specific designated recyclable
9 materials as required pursuant to section 4 of this amendatory and
10 supplementary act,] adopt an ordinance which requires persons
11 generating municipal solid waste within its municipal boundaries to
12 source separate from the municipal solid waste stream, in addition to
13 leaves, the specified recyclable materials for which markets have been
14 secured and, unless recycling is otherwise provided for by the
15 generator, place these specified recyclable materials for collection in
16 the manner provided by the ordinance.

17 c. The governing body of each municipality shall, [within 30 days
18 of the effective date of the ordinance adopted pursuant to subsection
19 b. of this section and] at least once every 36 months [thereafter],
20 conduct a review and make necessary revisions to the master plan and
21 development regulations adopted pursuant to P.L.1975, c.291
22 (C.40:55D-1 et seq.), which revisions shall reflect changes in federal,
23 State, county and municipal laws, policies and objectives concerning
24 the collection, disposition and recycling of designated recyclable
25 materials.

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

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

45 e. The governing body of each municipality shall, [on or before
46 July 1, 1988 and] on or before July 1 of each year [thereafter] ,

1 submit a recycling tonnage report to the New Jersey Office of
2 Recycling in accordance with rules and regulations adopted by the
3 department therefor.

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

17 (cf: P.L.1987, c.102, s.6)

18
19 58. Section 2 of P.L.1981, c.306 (C.13:1E-101) is amended to
20 read as follows:

21 2. The Legislature finds and declares that the proper closure of
22 sanitary landfills is essential to the public health, safety and welfare;
23 that closure activities can require capital expenditures at a time when
24 revenues collected by sanitary landfill facilities are minimal or
25 nonexistent; and that it is necessary to guarantee that adequate funds
26 are reserved to insure such closure.

27 **[The Legislature further finds and declares that the improper**
28 **operation or closure of sanitary landfill facilities can result in the**
29 **contamination of surface and ground waters, including potable water**
30 **supplies; that the migration of methane gas from sanitary landfill**
31 **facilities poses a significant threat to life and property; that**
32 **compensation for the damage resulting from improper operation or**
33 **closure is, at best, inadequate; and that it is necessary to provide a**
34 **mechanism for the prompt and adequate compensation for these**
35 **damages.]**

36 (cf: P.L.1981, c.306, s.2)

37
38 59. Section 3 of P.L.1981, c.306 (C.13:1E-102) is amended to
39 read as follows:

40 3. As used in this act:

41 a. "Closing costs" or "closure" means all activities and costs
42 associated with the design, purchase, construction or maintenance of
43 all measures required by the department, pursuant to law, in order to
44 prevent, minimize or monitor pollution or health hazards resulting
45 from sanitary landfill facilities subsequent to the termination of
46 operations at any portion thereof, including, but not necessarily limited

1 to, the costs of the placement of earthen or vegetative cover, the
2 installation of methane gas vents or monitors and leachate monitoring
3 wells or collection systems at the site of any sanitary landfill facility,
4 and the cost of general liability insurance, including environmental
5 impairment liability insurance, or an amount sufficient to create a
6 self-insurance fund as may be determined by the [Board of Public
7 Utilities] Department of Environmental Protection pursuant to section
8 10 of P.L.1981, c.306 (C.13:1E-109), to fund potential claims against
9 the owner or operator of the sanitary landfill facility during the closure
10 and post-closure period.

11 b. "Owner or operator" means and includes, in addition to the
12 usual meanings thereof, every owner of record of any interest in land
13 whereon a sanitary landfill facility is or has been located, and any
14 person or corporation which owns a majority interest in any other
15 corporation which is the owner or operator of any sanitary landfill
16 facility.

17 c. "Division" means the Division of Taxation in the Department of
18 the Treasury.

19 d. ["Director" means the Director of the Division of Taxation in
20 the Department of the Treasury.] (Deleted by amendment, P.L. ____,
21 c. __)

22 e. ["Tax period" means every calendar month, or any other period
23 as may be prescribed by rule and regulation adopted by the director,
24 on the basis of which the owner or operator of a sanitary landfill
25 facility is required to report to the director pursuant to this act.]
26 (Deleted by amendment, P.L. __, c. __)

27 f. ["Taxpayer" means the owner or operator of a sanitary landfill
28 facility subject to the tax provisions of this act.] (Deleted by
29 amendment, P.L. __, c. __)
30 (cf: P.L.1987, c.347, s.1)

31

32 60. Section 5 of P.L.1981, c.306 (C.13:1E-104) is amended to
33 read as follows:

34 5. a. There is levied upon the owner or operator of every sanitary
35 landfill facility a tax to insure the proper closure thereof and to
36 provide funds to compensate for any damages resulting from the
37 operations or closure of the facility. The tax shall be levied on all solid
38 waste accepted for disposal, at the rate of \$0.15 per cubic yard of
39 solids and \$0.002 per gallon of liquids. In the event that any solid
40 waste is measured, upon acceptance for disposal, by other than cubic
41 yards or gallons, the tax shall be levied on the equivalents thereof as
42 shall be determined by the director.

43 b. (1) Every owner or operator of a sanitary landfill facility shall,
44 on or before the 20th day of the month following the close of each tax
45 period, render a return under oath to the director on such form as may
46 be prescribed by the director indicating the number of cubic yards of

1 solid waste and gallons of liquid waste accepted for disposal and at
2 said time the owner or operator shall pay the full amount of tax due.

3 (2) Every owner or operator of a sanitary landfill which accepts
4 solid or liquid waste for disposal and which is subject to the tax under
5 subsection a. of this section shall, within 20 days after the first
6 acceptance of this waste, register with the director on forms prescribed
7 by him.

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

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

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

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

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

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

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

39 g. The tax imposed by this section shall be governed in all respects
40 by the provisions of the State Tax Uniform Procedure Law, R.S.
41 54:48-1 et seq., except only to the extent that a specific provision of
42 this section may be in conflict therewith.

43 h. The tax imposed by this section shall expire on June 30, 1998.
44 However, this expiration shall not affect any obligation, lien or duty to
45 pay taxes that may be due with respect to the imposition of any levy,
46 or interest or penalties that may accrue by virtue of any assessment.

1 which may be made with respect to taxes levied for any taxable year
2 or part of a taxable year, prior to July 1, 1998, nor shall this expiration
3 affect the legal authority to assess and collect the taxes that may be
4 due and payable under section 5 of P.L.1981, c.306 (C.13:1E-104), as
5 the case may be, together with such interest and penalties as would
6 accrue thereon under section 5 of P.L.1981, c.306 (C.13:1E-104), nor
7 shall the expiration invalidate any assessment or affect any proceeding
8 for the enforcement thereof.

9 (cf: P.L.1987, c.76, s.47)

10
11 61. Section 6 of P.L.1981, c.306 (C.13:1E-105) is amended to
12 read as follows:

13 6. The Sanitary Landfill Facility Contingency Fund [(hereinafter
14 referred to as "the fund")] is established as a nonlapsing, revolving
15 fund in the Department of Environmental Protection. The fund shall
16 be administered by the department, and shall be credited with all tax
17 revenues collected by the division pursuant to section 5 of [this
18 supplementary act] P.L.1981, c.306 (C.13:1E-104). Interest received
19 on moneys in the fund shall be credited to the fund.

20 On or after June 30, 1998 all monies accruing to the fund, and any
21 interest earned on the management of monies in the fund, shall be paid
22 into the State Solid Waste Facility Debt Retirement Fund established
23 pursuant to section 8 of P.L. , c. (C.13:1E-215)(pending in the
24 Legislature as Senate Bill No. 1056 of 1998).

25 (cf: P.L.1981, c.306, s.6)

26
27 62. Section 10 of P.L.1981, c.306 (C.13:1E-109) is amended to
28 read as follows:

29 10. a. The owner or operator of every sanitary landfill facility
30 shall deposit, on a monthly basis in an interest-bearing account with an
31 accredited financial institution, an amount equal to \$1.00 per ton of all
32 solid waste accepted for disposal during the preceding month at the
33 sanitary landfill facility. In the event that any solid waste is measured,
34 upon acceptance for disposal, by other than tons, the amount to be
35 deposited shall be calculated by using the equivalents thereof as shall
36 be determined by the division.

37 The account established pursuant to this subsection shall constitute
38 an escrow account for the closure of the particular sanitary landfill
39 facility, and no withdrawals therefrom may be made without written
40 approval of the department, except as otherwise authorized by the
41 department.

42 [b.] Any owner or operator of a sanitary landfill facility who shall
43 fail to deposit funds into an escrow account, as provided herein, or
44 uses those funds for any purpose other than closing costs, as approved
45 by the department, shall be guilty of a crime of the third degree.

46 b. The owner or operator of every sanitary landfill facility shall

1 submit for approval to the department a closure plan prepared in
2 accordance with the rules and regulations adopted by the department
3 pursuant to the "Solid Waste Management Act," P.L.1970, c.39
4 (C.13:1E-1 et seq.) or P.L.1981, c.306 (C.13:1E-100 et seq.).

5 Any owner or operator of a sanitary landfill facility who shall fail
6 to prepare or submit for approval to the department a closure plan, as
7 provided herein, shall be guilty of a crime of the third degree.

8 c. **【The Board of Public Utilities】** Any owner or operator of a
9 sanitary landfill facility may【, in accordance with the provisions of
10 P.L.1970, c.40 (C.48:13A-1 et seq.), issue an appropriate order
11 increasing current tariffs established pursuant to law for the solid
12 waste disposal operations】 collect an additional, separate charge from
13 users of a sanitary landfill facility as may be necessary to purchase
14 general liability insurance, including environmental impairment liability
15 insurance, or to create a self-insurance fund sufficient to meet
16 anticipated present and future obligations for the closure and
17 post-closure period.

18 Any additional revenues specifically collected for this insurance or
19 fund shall be deposited in the escrow account established pursuant to
20 subsection a. of this section for the closure of the sanitary landfill
21 facility and shall be withdrawn only for the purchase of insurance or
22 the payment of claims or claims costs made against the owner or
23 operator of the sanitary landfill facility during the closure and post-
24 closure period, as authorized by the department.

25 No withdrawals from an escrow account shall be made for
26 insurance costs, claims or claims costs unless 【and until the board
27 issues an appropriate order increasing the relevant tariff to provide
28 specifically for these costs】 authorized by the department.

29 d. Any owner or operator of a sanitary landfill facility who has
30 been directed by the Board of Public Utilities or the department prior
31 to January 1, 1998 to reduce the rate of payments to an escrow
32 account established pursuant to subsection a. of this section to the
33 extent that (1) the current tariff established pursuant to law for the
34 solid waste disposal operations of the sanitary landfill facility
35 specifically allocates a portion thereof for closing costs; and (2) the
36 amount collected for closing costs pursuant to this tariff are deposited,
37 on a monthly basis, in the escrow account for the sanitary landfill
38 facility, shall continue to deposit funds into the escrow account, except
39 as otherwise authorized by the department.

40 No withdrawals from the escrow account shall be made unless
41 authorized by the department.

42 e. Any owner or operator of a privately-owned sanitary landfill
43 facility, which is a county solid waste facility and for which the Board
44 of Public Utilities or the department has authorized the allocation of
45 a portion of the rates, fees or charges received at the sanitary landfill
46 facility for solid waste disposal for capital improvements, and who has

1 been authorized by the Board of Public Utilities or the department
2 prior to January 1, 1998 to deposit, on a monthly basis, the amount
3 collected for capital improvements in an environmental escrow fund
4 for the sanitary landfill facility, may continue to deposit funds, if
5 necessary, into the environmental escrow fund, except as otherwise
6 authorized by the department.

7 No withdrawals from the environmental escrow fund shall be made
8 unless authorized by the department.

9 (cf: P.L.1987, c.347, s.2)

10
11 63. Section 11 of P.L.1981, c.306 (C.13:1E-110) is amended to
12 read as follows:

13 11. a. Every owner or operator of a sanitary landfill facility which
14 accepts more than 10,000 tons of solid waste per year, or whose
15 escrow account balance is in excess of \$100,000.00, shall file with the
16 department an annual audit of the escrow account established for the
17 closure of the particular sanitary landfill facility pursuant to **[this**
18 **supplementary act]** section 10 of P.L.1981, c.306 (C.13:1E-109). The
19 audit shall be conducted by a certified public accountant, a registered
20 municipal accountant, or a registered public accountant, and shall be
21 filed no later than October 31 of each year.

22 b. Any moneys remaining in the escrow account of any sanitary
23 landfill facility subsequent to the proper and complete closure thereof,
24 as determined by the department, shall be paid by the owner or
25 operator thereof into the **[fund]** State Solid Waste Facility Debt
26 Retirement Fund established pursuant to section 8 of P.L. , c.
27 (C.13:1E-215)(pending in the Legislature as Senate Bill No. 1056 of
28 1998).

29 (cf: P.L.1985, c.455, s.1)

30
31 64. Section 15 of P.L.1981, c.306 (C.13:1E-114) is amended to
32 read as follows:

33 15. The department **[shall]** may adopt, pursuant to the
34 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
35 seq.), such rules and regulations as **[are]** may be necessary to
36 effectuate **[this supplementary act]** the provisions of P.L.1981, c.306
37 (C.13:1E-100 et seq.).

38 (cf: P.L.1981, c.306, s.15)

39
40 65. Section 1 of P.L.1983, c.93 (C.13:1E-117) is amended to read
41 as follows:

42 1. All **[new]** solid waste facilities, other than privately-owned,
43 noncommercial, onsite industrial solid waste facilities which do not
44 accept solid waste generated from any other source and solid waste
45 facilities used exclusively for the land disposal of sludge, shall install
46 and use scales to determine the gross and net tare weight of all

1 vehicles disposing of solid waste at these facilities. The registered
2 operator of each **new** solid waste facility shall maintain a monthly
3 record of the weight and vehicle information for the solid waste
4 disposed of at the solid waste facility. This information shall be
5 forwarded to the department on a monthly basis and shall be made
6 available by the department for public inspection. For the purposes of
7 this **act** section, a "**new** solid waste facility" means any registered
8 solid waste facility for which a registration statement and engineering
9 design has been filed with the department **subsequent to the effective**
10 **date of this act** after May 10, 1983. The department may adopt
11 regulations or guidelines exempting any class of **new** solid waste
12 facility from this requirement, except that in no case shall the
13 department exempt any solid waste facility the total disposal design
14 capacity of which exceeds 100,000 tons of **non-liquid** nonhazardous
15 solid waste, as computed by the department. All **existing** registered
16 solid waste facilities **that are identified in an approved district solid**
17 **waste management plan for** in operation after January 1, 1985 and
18 which accept in excess of 31,200 tons of **non-liquid** nonhazardous
19 solid waste annually, as computed by the department, shall install and
20 utilize scales **within six months of the effective date of this act**. Any
21 **existing solid waste** transfer station[, or any solid waste transfer
22 station for which a registration statement and engineering design are
23 filed after the effective date of this act,] which accepts less than
24 31,200 tons of **non-liquid** nonhazardous solid waste annually, as
25 computed by the department, shall be exempt from the provisions of
26 this **act** section.

27 (cf: P.L.1983, c.93, s.1)

28

29 66. Section 8 of P.L.1983, c.392 (C.13:1E-133) is amended to
30 read as follows:

31 8. The provisions of any law to the contrary notwithstanding, no
32 license shall be approved by the department:

33 a. Unless the department finds that the applicant, or the permittee,
34 as the case may be, in any prior performance record in the collection,
35 transportation, treatment, storage, transfer or disposal of solid waste
36 or hazardous waste, has exhibited **sufficient** the integrity, reliability,
37 expertise, and competency to engage in the collection or
38 transportation of solid waste or hazardous waste, or to operate the
39 solid waste facility or hazardous waste facility, given the **potential**
40 economic consequences for affected counties, municipalities and
41 ratepayers or] significant adverse impacts upon human health and the
42 environment which could result from the irresponsible participation
43 therein or operation thereof, or if no prior record exists, that the
44 applicant or the permittee is likely to exhibit that integrity, reliability,
45 expertise and competence.

1 b. If any person required to be listed in the disclosure statement,
2 or otherwise shown to have a beneficial interest in the business of the
3 applicant, the permittee or the licensee, has been convicted of any of
4 the following crimes under the laws of New Jersey or the equivalent
5 thereof under the laws of any other jurisdiction:

- 6 (1) Murder;
- 7 (2) Kidnapping;
- 8 (3) Gambling;
- 9 (4) Robbery;
- 10 (5) Bribery;
- 11 (6) Extortion;
- 12 (7) Criminal usury;
- 13 (8) Arson;
- 14 (9) Burglary;
- 15 (10) Theft and related crimes;
- 16 (11) Forgery and fraudulent practices;
- 17 (12) Fraud in the offering, sale or purchase of securities;
- 18 (13) Alteration of motor vehicle identification numbers;
- 19 (14) Unlawful manufacture, purchase, use or transfer of firearms;
- 20 (15) Unlawful possession or use of destructive devices or
21 explosives;
- 22 (16) Violation of N.J.S.2C:35-5, except possession of 84 grams
23 or less of marijuana, or of N.J.S.2C:35-10;
- 24 (17) Racketeering, P.L.1981, c.167 (C.2C:41-1 et seq.);
- 25 (18) Violation of criminal provisions of the "New Jersey Antitrust
26 Act," P.L.1970, c.73 (C.56:9-1 et seq.);
- 27 (19) Any purposeful or reckless violation of the criminal
28 provisions of any federal or state environmental protection laws, rules,
29 or regulations, including, but not limited to, solid waste or hazardous
30 waste management laws, rules, or regulations;
- 31 (20) Violation of N.J.S.2C:17-2; or
- 32 (21) Any offense specified in chapter 28 of Title 2C[; or] .
- 33 [(22) Violation of the "Solid Waste Utility Control Act of 1970,"
34 P.L.1970, c.40 (C.48:13A-1 et seq.) or P.L.1981, c.221
35 (C.48:13A-6.1).]

36 c. If the Attorney General determines that there is a reasonable
37 suspicion to believe that a person required to be listed in the disclosure
38 statement, or otherwise shown to have a beneficial interest in the
39 business of the applicant, the permittee or the licensee, does not
40 possess a reputation for good character, honesty and integrity, and
41 that person or the applicant, the permittee or the licensee fails, by
42 clear and convincing evidence, to establish his reputation for good
43 character, honesty and integrity.

44 d. With respect to the approval of an initial license, if there are
45 current prosecutions or pending charges in any jurisdiction against any
46 person required to be listed in the disclosure statement, or otherwise

1 shown to have a beneficial interest in the business of the applicant or
2 the permittee, for any of the crimes enumerated in subsection b. of this
3 section, provided, however, that at the request of the applicant,
4 permittee, or the person charged, the department shall defer decision
5 upon **[such]** the application during the pendency of **[such charge]** the
6 charges.

7 e. If any person required to be listed in the disclosure statement,
8 or otherwise shown to have a beneficial interest in the business of the
9 applicant, permittee or the licensee, has pursued economic gain in an
10 occupational manner or context which is in violation of the criminal or
11 civil **[public policies]** statutes of this State, where such pursuit creates
12 a reasonable belief that the participation of that person in any activity
13 required to be licensed under this act would be inimical to the policies
14 of this act. For the purposes of this section, "occupational manner or
15 context" means the systematic planning, administration, management,
16 or execution of an activity for financial gain.

17 f. If the Attorney General determines that any person required to
18 be listed in the disclosure statement, or otherwise shown to have a
19 beneficial interest in the business of the applicant, permittee or the
20 licensee, has been identified by the State Commission of Investigation
21 or the Federal Bureau of Investigation as a career offender or a
22 member of a career offender cartel or an associate of a career offender
23 or career offender cartel, where such identification, membership or
24 association creates a reasonable belief that the participation of that
25 person in any activity required to be licensed under this act would be
26 inimical to the policies of this act. For the purposes of this section,
27 "career offender" means any person whose behavior is pursued in an
28 occupational manner or context for the purpose of economic gain,
29 utilizing such methods as are deemed criminal violations of the public
30 policy of this State; and a "career offender cartel" means any group of
31 persons who operate together as career offenders.

32 A license may be approved by the department for any applicant or
33 permittee if the information contained within the disclosure statement
34 and investigative report, including any determination made by the
35 Attorney General concerning the character, honesty and integrity of
36 any person required to be listed in the disclosure statement, or
37 otherwise shown to have a beneficial interest in the business of the
38 applicant or permittee, would not require disqualification pursuant to
39 subsection a., b., c., e. or f. of this section.

40 A license approved by the department for any applicant or
41 permittee pursuant to this section is non-transferable and shall be valid
42 only for the length of time for which it is given.

43 Any applicant or permittee who is denied an initial license pursuant
44 to this section shall, upon a written request transmitted to the
45 department within 30 days of that denial, be afforded the opportunity
46 for a hearing thereon in the manner provided for contested cases

1 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
2 (C.52:14B-1 et seq.).
3 (cf: P.L.1991, c.269, s.6)

4
5 67. Section 2 of P.L.1985, c.38 (C.13:1E-137) is amended to read
6 as follows:

7 2. As used in this [amendatory and supplementary] act:

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

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

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

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

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

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

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

1 **[h.]** "Division" means the Division of Taxation in the Department
2 of Treasury;

3 **[i.]** "Division of Local Government Services" means the Division
4 of Local Government Services in the Department of Community
5 Affairs;

6 **[j.]** "Division of Rate Counsel" means the Division of Rate Counsel
7 in the Department of the Public Advocate;]

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

13 **[l.]** "Independent public accountant" means a certified public
14 accountant, a licensed public accountant or a registered municipal
15 accountant;

16 **[m.]** "Investment tax" means the resource recovery investment tax
17 imposed pursuant to subsection b. of section 3 of [this amendatory
18 and supplementary act] P.L.1985, c.38 (C.13:1E-138);

19 **[n.]** "Investment tax fund" means the Resource Recovery
20 Investment Tax Fund containing sub-accounts for each county
21 established pursuant to the provisions of section 14 of [this
22 amendatory and supplementary act] P.L.1985, c.38 (C.13:1E-149);

23 **[o.]** "Out-of-district solid waste" means any solid waste accepted
24 for disposal in a district which was generated outside the receiving
25 district;]

26 **[p.]** "Person or party" means any individual, public or private
27 corporation, company, partnership, firm, association, political
28 subdivision of this State, or any State, bistate, or interstate agency or
29 public authority;

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

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

1 law:

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

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

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

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

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

28 "Resource recovery services" means any services provided by the
29 owner or operator of a resource recovery facility, including but not
30 limited to, solid waste disposal; the utilization of a resource recovery
31 facility for the disposal of out-of-county solid waste; the disposal of
32 residual ash or the solid waste delivered to a resource recovery facility
33 which cannot be processed at the resource recovery facility; the
34 utilization of a sanitary landfill facility for the disposal of solid waste
35 due to downtime or technical failure at a resource recovery facility; or
36 any combination thereof;

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

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

45 **[y.]** "Services tax fund" means the Solid Waste Services Tax

1 Fund established pursuant to section 12 of **[this amendatory and**
2 **supplementary act]** P.L.1985, c.38 (C.13:1E-147);

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

14 **[z.]** "Vendor" means any person or party proposing to undertake
15 the design, financing, construction, operation, or maintenance, or any
16 combination thereof, of a resource recovery facility or other solid
17 waste facility, or of providing resource recovery services or solid
18 waste facility services;

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

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

23
24 68. Section 3 of P.L.1985, c.38 (C.13:1E-138) is amended to read
25 as follows:

26 3. a. There is levied upon the owner or operator of every sanitary
27 landfill facility a solid waste services tax. The services tax shall be
28 imposed on the owner or operator at the **[initial]** rate of **[\$0.50]**
29 \$1.15 per ton of **[solids and \$0.002 per gallon of liquids]** solid waste
30 on all solid waste accepted for disposal at a sanitary landfill facility.
31 **[On the first day of the first calendar year following the imposition of**
32 **the services tax, and annually thereafter, the rate of the services tax**
33 **shall be increased by \$0.05 per ton of solids.]** No services tax shall be
34 levied on the owner or operator of a sanitary landfill facility for the
35 acceptance for disposal of the waste products resulting from the
36 operation of a resource recovery facility.

37 The services tax imposed by this subsection shall expire on June
38 30, 1998. However, this expiration shall not affect any obligation, lien
39 or duty to pay taxes that may be due with respect to the imposition of
40 any levy, or interest or penalties that may accrue by virtue of any
41 assessment, which may be made with respect to taxes levied for any
42 taxable year or part of a taxable year, prior to July 1, 1998, nor shall
43 this expiration affect the legal authority to assess and collect the taxes
44 that may be due and payable under subsection a. of section 3 of
45 P.L.1985, c.38 (C.13:1E-138), as the case may be, together with such

1 interest and penalties as would accrue thereon under section 6 of
2 P.L.1985, c.38 (C.13:1E-141), nor shall the expiration invalidate any
3 assessment or affect any proceeding for the enforcement thereof.

4 b. **[(1)** There is levied upon the owner or operator of every
5 sanitary landfill facility a resource recovery investment tax. The
6 investment tax shall be levied on the owner or operator at the initial
7 rate of \$1.00 per ton of solids and \$0.004 per gallon of liquids on all
8 solid waste accepted for disposal at a sanitary landfill facility. No
9 investment tax shall be levied on the owner or operator of a sanitary
10 landfill facility for the acceptance for disposal of the waste products
11 resulting from the operation of a resource recovery 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 tax
14 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 waste
30 importation tax. The waste importation tax shall be imposed on the
31 owner or operator at the initial rate of \$1.00 per ton of solids and
32 \$0.004 per gallon of liquids on all out-of-district solid waste accepted
33 for disposal at a sanitary landfill facility. On the first day of the third
34 calendar year following the imposition of the waste importation tax,
35 the rate of the waste importation tax shall be increased to \$4.00 per
36 ton of solids, and annually thereafter the rate of the waste importation
37 tax shall be increased by \$2.00 per ton of solids. No waste importation
38 tax shall be levied on the owner or operator of a sanitary landfill
39 facility for the acceptance for disposal of the waste products resulting
40 from the operation of a resource recovery facility.

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

46 d. If any owner or operator of a sanitary landfill facility determines

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

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

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

19
20 69. Section 4 of P.L.1985, c.38 (C.13:1E-139) is amended to read
21 as follows:

22 4. a. Every owner or operator of a sanitary landfill facility which
23 accepts solid waste for disposal and which is subject to the taxes
24 imposed pursuant to section 3 of **【this amendatory and supplementary
25 act】** P.L.1985, c.38 (C.13:1E-138), shall register with the director on
26 registration forms prescribed by him within 20 days after the first
27 acceptance of that solid waste.

28 b. The director shall prescribe and distribute all necessary forms
29 for the implementation of the tax provisions of **【this amendatory and
30 supplementary act】** section 3 of P.L.1985, c.38 (C.13:1E-138). The
31 tax return form shall require the following information, and any other
32 information the director may deem necessary to be rendered in the
33 return:

34 (1) The total number of tons of **【solids and gallons of liquids】**
35 solid waste accepted for disposal during the previous month; and

36 (2) **【The number of tons of solids and gallons of liquids accepted,
37 and the place of origin of out-of-district waste accepted for disposal
38 during the previous month, as reported to the owner or operator by
39 the solid waste transporter who transports that solid waste to the
40 sanitary landfill facility pursuant to rules and regulations adopted by
41 the department; and**

42 (3) **】** The amount of each tax paid based upon the amount of solid
43 waste accepted.

44 c. **【The director may prescribe a consolidated form for reporting
45 the taxes imposed under this amendatory and supplementary act and**

1 the taxes imposed pursuant to P.L.1981, c.278 (C.13:1E-92 et seq.)
2 and P.L.1981, c.306 (C.13:1E-100 et seq.). ~~】 (Deleted by amendment,~~
3 ~~P.L. , c.)~~
4 (cf: P.L.1985, c.38, s.4)

5
6 70. Section 13 of P.L.1985, c.38 (C.13:1E-148) is amended to
7 read as follows:

8 13. a. Prior to the disbursement of any moneys in the services tax
9 fund pursuant to the provisions of this section, the cost of
10 administration and collection of the services tax shall be paid to the
11 director out of the fund, up to an amount not to exceed 2% of the total
12 revenues deposited in the fund during the fiscal year.

13 b. The moneys in the services tax fund shall be allocated and used
14 to provide State aid to counties for preparing, revising, and
15 implementing district solid waste management plans, including the
16 ~~【implementation of the goals of the State Recycling Plan】~~ district
17 recycling plan required pursuant to section 3 of P.L.1987, c.102
18 (C.13:1E-99.13). ~~【The moneys may also be used by the counties to~~
19 ~~support community oversight projects and to establish a citizens'~~
20 ~~advisory committee.】~~ A county receiving State aid shall not expend
21 more than 2% of the amount of aid received in any year for the costs
22 of administering the aid. The State aid shall be distributed to the
23 counties on the basis of the total amount of solid waste generated from
24 within each county during the previous calendar year as determined by
25 the department, except that no county shall receive less than 2% of the
26 revenues deposited in the services tax fund during each calendar year.
27 ~~【In the event that the department determines, pursuant to section 17~~
28 ~~of this amendatory and supplementary act, that any county has failed~~
29 ~~to fulfill its district solid waste management planning responsibilities,~~
30 ~~the department may withhold for an entire year or until the county~~
31 ~~fulfills its responsibilities, all or a portion of the amount of moneys that~~
32 ~~county would have received in any year pursuant to this subsection.~~
33 ~~Any moneys withheld for an entire year shall be distributed among the~~
34 ~~remaining counties in the same proportion as the other moneys were~~
35 ~~distributed.】~~

36 c. ~~【Any county may appoint a citizens' advisory committee~~
37 ~~comprising interested local officials and citizens. An appointed~~
38 ~~citizens' advisory committee or an existing advisory solid waste~~
39 ~~committee may develop and implement oversight projects and conduct~~
40 ~~community awareness programs regarding resource recovery facilities~~
41 ~~in a district.】 (Deleted by amendment, P.L. , c.)~~
42 (cf: P.L.1985, c.38, s.13)

43
44 71. Section 18 of P.L.1985, c.38 (C.13:1E-153) is amended to
45 read as follows:

46 18. The provisions of any other law, rule or regulation to the

1 contrary notwithstanding, and as an alternative to any other procedure
2 provided for by law **【or by order of the Board of Public Utilities】**, a
3 contracting unit may enter into a contract with a vendor for the design,
4 financing, construction, operation, or maintenance, or any combination
5 thereof, of a resource recovery facility, or for the provision of
6 resource recovery services, pursuant to the provisions of **【this**
7 **amendatory and supplementary act】** P.L.1985, c.38 (C.13:1E-136 et
8 al.). Any contracting unit intending to enter into a contract with a
9 vendor pursuant to the provisions of **【this amendatory and**
10 **supplementary act】** P.L.1985, c.38 shall establish a contract file, which
11 shall be open to members of the public for inspection at the offices of
12 the contracting unit. Any contract entered into pursuant to the
13 provisions of **【this amendatory and supplementary act】** P.L.1985, c.38
14 may be awarded for a period not to exceed 40 years.
15 (cf: P.L.1985, c.38, s.18)

16
17 72. Section 19 of P.L.1985, c.38 (C.13:1E-154) is amended to
18 read as follows:

19 19. a. A contracting unit which intends to enter into a contract
20 with a vendor pursuant to the provisions of **【this amendatory and**
21 **supplementary act】** P.L.1985, c.38 (C.13:1E-136 et al.) shall issue a
22 request for qualifications of interested vendors. The request for
23 qualifications shall include a general description of the resource
24 recovery services required by the contracting unit, the minimum
25 acceptable qualifications to be possessed by a vendor proposing to
26 enter into a contract for the provision of these services, and the date
27 by which vendors must submit their qualifications. In addition to all
28 other factors bearing on qualifications, the contracting unit shall
29 consider the reputation and experience of the vendor, and may
30 consider information which might result in debarment or suspension of
31 a vendor from State contracting, and may disqualify a vendor if the
32 vendor has been debarred or suspended by any State agency. The
33 request for qualifications shall be published in at least one appropriate
34 professional or trade journal, and in at least one newspaper of general
35 circulation in the jurisdiction which would be served under the terms
36 of the proposed contract.

37 b. After reviewing the qualifications submitted by vendors
38 pursuant to subsection a. of this section, the contracting unit shall
39 establish a list of qualified vendors, which shall include the criteria
40 applied by the contracting unit in selecting the qualified vendors, and
41 shall publish the list in the same publications in which the requests for
42 qualifications were published pursuant to subsection a. of this section.
43 Any vendor designated by a contracting unit as a qualified vendor shall
44 be a person or party financially, technically and administratively
45 capable of undertaking the design, financing, construction, operation,
46 or maintenance, or any combination thereof, of a resource recovery

1 facility, or for providing resource recovery services.

2 (cf: P.L.1985, c.38, s.19)

3
4 73. Section 20 of P.L.1985, c.38 (C.13:1E-155) is amended to
5 read as follows:

6 20. Upon the selection of qualified vendors pursuant to the
7 provisions of section 19 of **[this amendatory and supplementary act]**
8 P.L.1985, c.38 (C.13:1E-154), the contracting unit shall issue a
9 request for proposals to the qualified vendors, which shall include a
10 detailed description of the resource recovery facility **[and]** or resource
11 recovery services required, the format and procedure to be followed
12 in submitting proposals, the specific information which qualified
13 vendors must provide in the proposal, a statement setting forth the
14 relative importance of factors**[, including cost,]** which the contracting
15 unit will consider in evaluating a proposal submitted by a qualified
16 vendor, and any other information which the contracting unit deems
17 appropriate. The request for proposals shall include the date and time
18 of day by which, and the place at which, the proposals shall be
19 submitted to the contracting unit. The contracting unit may extend the
20 deadline for submission of proposals, but this extension shall apply to
21 all qualified vendors, who shall be provided with simultaneous written
22 notification of this extension.

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

24
25 74. Section 21 of P.L.1985, c.38 (C.13:1E-156) is amended to
26 read as follows:

27 21. A contracting unit shall review proposals submitted by
28 vendors pursuant to section 20 of **[this amendatory and supplementary**
29 **act]** P.L.1985, c.38 (C.13:1E-155) in such a manner as to avoid
30 disclosure of the contents of any proposal to vendors submitting
31 competing proposals. If provided for in the request for proposals, the
32 contracting unit may conduct discussions with qualified vendors who
33 have submitted proposals for the purpose of clarifying any information
34 submitted in the proposal, or assuring that the vendor fully understood
35 and responded to the requirements set forth in the request for
36 proposals. If, as a result of these discussions, the contracting unit
37 decides to revise the request for proposals, it shall immediately notify
38 in writing each qualified vendor which has submitted a proposal of any
39 such revision or revisions to the request for proposals. In the event of
40 any revision in the request for proposals, a qualified vendor shall be
41 permitted to submit revisions to its proposal prior to contract
42 negotiations. In conducting discussions with qualified vendors, a
43 contracting unit shall not disclose information derived from proposals
44 submitted by competing qualified vendors.

45 (cf: P.L.1985, c.38, s.21)

1 75. Section 22 of P.L.1985, c.38 (C.13:1E-157) is amended to
2 read as follows:

3 22. Upon a review of the proposals submitted by qualified vendors
4 pursuant to section 21 of **[this amendatory and supplementary act]**
5 P.L.1985, c.38 (C.13:1E-156), a contracting unit shall designate one
6 or more qualified vendors whose proposal or proposals the contracting
7 unit finds in writing to be the most advantageous to the public, taking
8 into consideration price and the evaluation factors set forth in the
9 request for proposals. Upon making this designation, the contracting
10 unit may begin negotiations with the qualified vendor or vendors, and
11 may negotiate a proposed contract with a qualified vendor or vendors,
12 which shall include the accepted proposal.

13 (cf: P.L.1985, c.38, s.22)

14
15 76. Section 23 of P.L.1985, c.38 (C.13:1E-158) is amended to
16 read as follows:

17 23. **[a.]** A contracting unit shall submit any proposed contract
18 negotiated with a qualified vendor pursuant to the provisions of **[this**
19 **act]** P.L.1985, c.38 (C.13:1E-136 et al.) to the **[Division of Rate**
20 **Counsel for review, and to the]** department**[, the Board of Public**
21 **Utilities,]**and the Division of Local Government Services for review
22 and approval pursuant to the provisions of section **[24]** 25 through
23 section 28 of **[this amendatory and supplementary act]** P.L.1985, c.38
24 (C.13:1E-160 through 13:1E-163).

25 (cf: P.L.1985, c.38, s.23)

26
27 77. Section 24 of P.L.1985, c.38 (C.13:1E-159) is amended to
28 read as follows:

29 24. Any contracting unit intending to submit a proposed contract
30 to the department**[, the Board of Public Utilities,]**and the Division of
31 Local Government Services for review and approval pursuant to the
32 provisions of **[this amendatory and supplementary act]** section 25
33 through section 28 of P.L.1985, c.38 (C.13:1E-160 through
34 13:1E-163) shall notify the department**[, the Board of Public**
35 **Utilities,]** and the Division of Local Government Services**[, and the**
36 **Division of Rate Counsel]** of its intention to submit its proposed
37 contract for review and approval at least 10 days prior to the
38 submission.

39 (cf: P.L.1985, c.38, s.24)

40
41 78. Section 25 of P.L.1985, c.38 (C.13:1E-160) is amended to
42 read as follows:

43 25. The department**[, the Board of Public Utilities,]**and the
44 Division of Local Government Services**[, and the Division of Rate**
45 **Counsel]** shall have 15 days from the date of receipt of a proposed

1 contract submitted by a contracting unit for review and approval
2 pursuant to the provisions of **[this amendatory and supplementary act]**
3 P.L.1985, c.38 (C.13:1E-136 et al.) to request the contracting unit to
4 supply additional information or documentation concerning the
5 proposed contract. The contracting unit shall provide written
6 responses to these requests within 10 days of receipt of the request.
7 Any supplemental requests for information shall be made within five
8 days of receipt of the written responses to the initial requests. The
9 contracting unit shall provide written responses to any supplemental
10 requests within 10 days of receipt of the supplemental requests. The
11 schedule may be modified by the mutual consent of the contracting
12 unit and the department~~[],~~or the Division of Local Government
13 Services, **[the Board of Public Utilities, or the Division of Rate**
14 **Counsel,]** as the case may be.

15 (cf: P.L.1985, c.38, s.25)

16

17 79. Section 26 of P.L.1985, c.38 (C.13:1E-161) is amended to
18 read as follows:

19 26. a. A contracting unit shall hold a public hearing on a proposed
20 contract submitted to the department~~[],~~ **[the Board of Public Utilities]**
21 and the Division of Local Government Services for review and
22 approval pursuant to the provisions of **[this amendatory and**
23 **supplementary act]** P.L.1985, c.38 (C.13:1E-136 et al.) no sooner
24 than 30 days nor later than 45 days following submission of the
25 proposed contract for review and approval. This public hearing shall
26 be held in the area to be served under the terms of the proposed
27 contract.

28 b. The contracting unit shall provide at least 20 days' advance
29 written notice of a public hearing to be held on a proposed contract
30 pursuant to the provisions of this section to the department, **[the**
31 **Board of Public Utilities,]**the Division of Local Government Services,
32 **[the Division of Rate Counsel,]**the clerk of each municipality within
33 the area to be served under the terms of the proposed contract, and to
34 the county clerk of each county in whole or in part within the area to
35 be served under the terms of the proposed contract.

36 c. A contracting unit shall provide advance notice to the public of
37 a public hearing to be held on a proposed contract pursuant to the
38 provisions of this section. This notice shall be published once a week
39 for two consecutive weeks in at least one newspaper of general
40 circulation in the area to be served under the terms of the proposed
41 contract. The second notice shall be published at least 10 days prior to
42 the date of the public hearing. These notices shall include the date,
43 time and location of the public hearing, a general description of the
44 proposed contract, and shall inform the public of the availability of
45 copies of the proposed contract for inspection by any interested party

1 at the offices of the contracting unit. Upon request, the contracting
2 unit shall provide any interested party with a copy of the proposed
3 contract at a cost not to exceed the actual cost of reproducing the
4 proposed contract and any supporting documentation.

5 (cf: P.L.1985, c.38, s.26)

6
7 80. Section 27 of P.L.1985, c.38 (C.13:1E-162) is amended to
8 read as follows:

9 27. a. At the public hearing on the proposed contract held by the
10 contracting unit pursuant to the provisions of section 26 of [this
11 amendatory and supplementary act] P.L.1985, c.38 (C.13:1E-161) any
12 interested party may present statements or questions concerning the
13 terms and conditions of the proposed contract. Prior to the conclusion
14 of the public hearing, the contracting unit shall respond to questions
15 concerning the proposed contract raised by any interested party. The
16 contracting unit shall provide that a verbatim record be kept of the
17 public hearing. The record of the public hearing shall be kept open for
18 a period of 15 days following the conclusion of the hearing, during
19 which interested parties may submit written statements to be included
20 in the hearing record. The contracting unit shall provide that a hearing
21 report be printed, which shall include the verbatim record of the public
22 hearing, written statements submitted by interested parties, and a
23 statement prepared by the contracting unit summarizing the major
24 issues raised at the public hearing and the contracting unit's specific
25 response to these issues. The contracting unit shall make copies of the
26 transcript of the hearing report available to interested parties upon
27 request at a cost not to exceed the actual cost of printing.

28 b. Within 45 days of the close of a public hearing on a proposed
29 contract held pursuant to this section, the contracting unit shall submit
30 a copy of the hearing report to the department[, the Board of Public
31 Utilities,] and the Division of Local Government Services[, and the
32 Division of Rate Counsel].

33 (cf: P.L.1985, c.38, s.27)

34
35 81. Section 28 of P.L.1985, c.38 (C.13:1E-163) is amended to
36 read as follows:

37 28. a. Within 30 days of receipt of the hearing report submitted
38 by a contracting unit pursuant to the provisions of subsection b. of
39 section 27 of [this amendatory and supplementary act] P.L.1985, c.38
40 (C.13:1E-162), the department shall approve or conditionally approve
41 the proposed contract submitted for review by the contracting unit
42 pursuant to the provisions of [this amendatory and supplementary act]
43 P.L.1985, c.38 (C.13:1E-136 et al.). The department shall approve the
44 proposed contract if it finds that the terms of the proposed contract
45 are consistent with the [district solid waste management plan adopted

1 pursuant to the provisions of the "Solid Waste Management Act,"
2 P.L.1970, c.39 (C.13:1E-1 et seq.) [by the solid waste district to be
3 served under the terms of the proposed contract]. If the department
4 conditionally approves the proposed contract, it shall state in writing
5 the revisions which must be made to the proposed contract to receive
6 approval, and the contracting unit may prepare and submit to the
7 department a revised proposed contract. If the department determines
8 that the revisions are substantial, the contracting unit shall hold a
9 public hearing on the revisions pursuant to the provisions of section 26
10 and section 27 of [this amendatory and supplementary act] P.L.1985,
11 c.38 (C.13:1E-161 and 13:1E-162). [In the alternative, the district
12 solid waste management plan may be amended pursuant to law so as
13 to be consistent with the terms of the proposed contract.]

14 b. Within 30 days of receipt of the hearing report submitted by a
15 contracting unit pursuant to the provisions of subsection b. of section
16 27 of [this amendatory and supplementary act] P.L.1985, c.38
17 (C.13:1E-162), the Division of Local Government Services shall
18 approve or conditionally approve the proposed contract submitted by
19 the contracting unit pursuant to the provisions of [this amendatory and
20 supplementary act] P.L.1985, c.38 (C.13:1E-136 et al.). The division
21 shall approve the proposed contract if it finds in writing that the terms
22 of the proposed contract are in compliance with the provisions of
23 section 29 of [this amendatory and supplementary act] P.L.1985, c.38
24 (C.13:1E-164), [and] that the terms of the proposed contract will
25 result in the provision of services or facilities necessary for the health,
26 safety, welfare, convenience or betterment of the recipients or users of
27 these services or facilities, that the terms and provisions of the
28 proposed contract are not unreasonable, exorbitant or impracticable,
29 would not impose an undue and unnecessary financial burden on the
30 citizens residing in or served by the contracting unit, and will not
31 materially impair the ability of the contracting unit to punctually pay
32 the principal and interest on its outstanding indebtedness and to supply
33 other essential public improvements and services, except that the
34 division, in its review of the proposed contract, shall be bound by any
35 applicable findings or determinations of the Local Finance Board made
36 pursuant to the provisions of subsection d. of N.J.S.40A:2-7 or section
37 7 of P.L.1983, c.313 (C.40A:5A-7). If the division conditionally
38 approves the proposed contract, it shall state in writing the revisions
39 which must be made to the proposed contract to receive approval, and
40 the contracting unit may prepare and submit to the division a revised
41 proposed contract. If the division determines that revisions are
42 substantial, the contracting unit shall hold a public hearing on the
43 revisions pursuant to the provisions of section 26 and section 27 of
44 [this amendatory and supplementary act] P.L.1985, c.38
45 (C.13:1E-161 and 13:1E-162).

1 c. **【**Within 30 days of receipt of the hearing report submitted by
 2 a contracting unit pursuant to the provisions of subsection b. of
 3 section 27 of this amendatory and supplementary act, the Board of
 4 Public Utilities shall approve or conditionally approve the proposed
 5 contract submitted by the contracting unit pursuant to the provisions
 6 of this amendatory and supplementary act. The board shall approve the
 7 proposed contract if it finds in writing that the terms of the proposed
 8 contract are in the public interest. If the board conditionally approves
 9 the proposed contract it shall state in writing the revisions which must
 10 be made to the proposed contract to receive approval, and the
 11 contracting unit may prepare and submit to the board a revised
 12 proposed contract. If the board determines that the revisions are
 13 substantial, the contracting unit shall hold a public hearing on the
 14 revisions pursuant to the provisions of section 26 and section 27 of
 15 this amendatory and supplementary act. In reviewing and approving
 16 the contract, the Board of Public Utilities shall not determine a rate
 17 base for, or otherwise regulate the tariffs or return of, the proposed
 18 resource recovery facility. The board shall not, thereafter, conduct any
 19 further review of the contract. **】** (Deleted by amendment, P.L. , c.)

20 d. **【**Notwithstanding the provisions of subsection c. of this section,
 21 all parties to any contract may request the board to determine a rate
 22 base for the proposed resource recovery facility, in which case the
 23 board may make that determination and the terms of any contract so
 24 approved shall remain subject to the continuing jurisdiction of the
 25 board. **】** (Deleted by amendment, P.L. , c.)

26 (cf: P.L.1985, c.38, s.28)

27

28 82. Section 29 of P.L.1985, c.38 (C.13:1E-164) is amended to
 29 read as follows:

30 29. Any contract to be awarded to a vendor pursuant to the
 31 provisions of **【**this amendatory and supplementary act**】** P.L.1985,
 32 c.38 (C.13:1E-136 et al.), or pursuant to the "Local Public Contracts
 33 Law," P.L.1971, c.198 (C.40A:11-1 et seq.), or any other contracting
 34 procedure permitted by law for the design, financing, construction,
 35 operation, or maintenance, or any combination thereof, of resource
 36 recovery facilities or the provision of resource recovery services, shall
 37 include where applicable, but not be limited to, provisions concerning:

38 a. Allocation of the risks of financing **【**and**】** or constructing a
 39 resource recovery facility, such risks to include:

- 40 (1) Delays in project completion;
- 41 (2) Construction cost overruns and change orders;
- 42 (3) Changes necessitated by revisions in laws, rules or regulations;
- 43 (4) Failure to achieve the required operating performance;
- 44 (5) Loss of tax benefits; and
- 45 (6) The need for additional equity contributions;

46 b. Allocation of the risks of operating **【**and**】** or maintaining a

1 resource recovery facility, such risks to include:

2 (1) Excess downtime or technical failure;

3 (2) Excess labor or materials costs due to underestimation;

4 (3) Changes in operating procedure necessitated by revisions in
5 laws, rules or regulations;

6 (4) Changes in the amount or composition of the solid waste
7 delivered for disposal or;

8 (5) Excess operation or maintenance costs due to poor
9 management;

10 (6) Increased costs of disposal of [the resource recovery facility
11 residue] residual ash;

12 (7) The increased costs associated with the disposal of solid waste
13 delivered to a resource recovery facility which cannot be processed at
14 the resource recovery facility; and

15 (8) The costs of disposal of recovered material which cannot be
16 sold;

17 c. Allocation of the risks associated with circumstances beyond
18 the control of any party to the contract;

19 d. Allocation of the revenues from the sale of energy or other
20 recovered metals and other materials for reuse;

21 e. Default and termination of the contract;

22 f. The periodic preparation by the qualified vendor of an operating
23 performance report and an audited balance statement of the resource
24 recovery facility which shall be submitted to the contracting unit, the
25 department and the Division of Local Government Services in the
26 Department of Community Affairs;

27 g. The intervals at which the contract shall be renegotiated;

28 h. Employment of current employees of the contracting unit whose
29 positions will be affected by the terms of the contract;

30 i. Competitive bidding procedures, or other methods of cost
31 control, to be utilized by the qualified vendor in obtaining any goods
32 or services the cost of which will automatically be included, pursuant
33 to the terms of the contract, in the rates, fees or charges to be
34 [charged] received at the resource recovery facility; and

35 j. The formulas to be used to determine the [charges, rates, or
36 fees] rates, fees or charges to be charged for the resource recovery
37 services, and the methodology or methodologies used to develop
38 these formulas.

39 (cf: P.L.1985, c.38, s.29)

40

41 83. Section 32 of P.L.1985, c.38 (C.13:1E-167) is amended to
42 read as follows:

43 32. Notwithstanding the provisions of any other law, rule or
44 regulation to the contrary, a contracting unit, or State board,
45 commission, committee, public authority or agency may lease or sell
46 the site for a resource recovery facility to a qualified vendor which has

1 been awarded a contract pursuant to the provisions of [this
2 amendatory and supplementary act] P.L.1985, c.38 (C.13:1E-136 et
3 al.), or pursuant to the "Local Public Contracts Law," P.L.1971, c.198
4 (C.40A:11-1 et seq.), or any other contracting procedure permitted by
5 law for the design, financing, construction, operation, or maintenance,
6 or any combination thereof, of resource recovery facilities or the
7 provision of resource recovery services.

8 (cf: P.L.1985, c.38, s.32)

9

10 84. Section 33 of P.L.1985, c.38 (C.13:1E-168) is amended to
11 read as follows:

12 33. a. (1) The department may adopt, pursuant to the provisions
13 of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1
14 et seq.), any rules and regulations necessary to implement the
15 provisions of [this amendatory and supplementary act] P.L.1985, c.38
16 (C.13:1E-136 et al.).

17 (2) The department shall adopt rules and regulations for the
18 engineering design of resource recovery facilities, to include a
19 requirement that state-of-the-art air emission technology be installed
20 to control the emission of hydrocarbons, particulates, dioxins, nitrogen
21 oxides, carbon monoxide, heavy metals, hydrochloric acid, sulfur
22 oxides and other acid gases and pollutants from each resource
23 recovery facility which is expected to emit these pollutants.

24 b. [The Board of Public Utilities may adopt, pursuant to the
25 provisions of the "Administrative Procedure Act," P.L.1968, c.410
26 (C.52:14B-1 et seq.), any rules and regulations necessary to implement
27 the provisions of this amendatory and supplementary act.]~~(Deleted by~~
28 ~~amendment, P.L. , c.)~~

29 c. The Division of Local Government Services may adopt,
30 pursuant to the provisions of the "Administrative Procedure Act,"
31 P.L.1968, c.410 (C.52:14B-1 et seq.), any rules and regulations
32 necessary to implement the provisions of [this amendatory and
33 supplementary act] P.L.1985, c.38 (C.13:1E-136 et al.).

34 (cf: P.L.1985, c.38, s.33)

35

36 85. Section 8 of P.L.1985, c.368 (C.13:1E-176) is amended to
37 read as follows:

38 8. [It] The provisions of any other law, or of any rule or
39 regulation adopted pursuant thereto, to the contrary notwithstanding,
40 it shall remain the continuing responsibility of the owner or operator
41 of every sanitary landfill facility to [insure that the rates or charges
42 received at the facility, whether or not these rates or charges are
43 subject to the jurisdiction of the Board of Public Utilities pursuant to
44 P.L.1970, c.40 (C.48:13A-1 et seq.), will provide] set aside sufficient
45 revenues for all costs, including closure and post-closure costs, as

1 identified and defined in rules and regulations adopted by the
2 department pursuant to the "Solid Waste Management Act," P.L.1970,
3 c.39 (C.13:1E-1 et seq.) or P.L.1981, c.306 (C.13:1E-100 et seq.).
4 likely to be incurred by the sanitary landfill facility.

5 In order to ~~insure~~ ensure the integrity of financial planning for
6 closure, the owner or operator of every sanitary landfill facility[,
7 whether or not the rates or charges received by the facility are subject
8 to the jurisdiction of the Board of Public Utilities,] shall submit for
9 approval to the department [and, where relevant, the board,] a
10 financial plan addressing all aspects of closure. [The owner or
11 operator of every existing sanitary landfill facility for which a
12 registration statement and engineering design have been filed with, and
13 approved by, the department prior to June 1, 1985 shall submit a
14 financial plan for closure within 180 days of the effective date of this
15 act, except that the department, or the board, as the case may be, may
16 grant an extension of up to 180 days, if sufficient reason exists to
17 grant the extension. The owner or operator of every new sanitary
18 landfill facility for which a registration statement and engineering
19 statement have been filed with the department subsequent to June 1,
20 1985 shall submit for approval to the department and, where relevant,
21 the board, a financial plan for closure prior to commencement of
22 operations, except that the department, or the board, as the case may
23 be, may grant an extension of up to 180 days, if sufficient reason exists
24 to grant the extension.]

25 The owner or operator of every sanitary landfill facility shall
26 submit for approval to the department a financial plan for closure
27 prepared in accordance with the rules and regulations adopted by the
28 department pursuant to the "Solid Waste Management Act," P.L.1970,
29 c.39 (C.13:1E-1 et seq.) or P.L.1981, c.306 (C.13:1E-100 et seq.).

30 Any owner or operator of a sanitary landfill facility who shall fail
31 to prepare or submit for approval to the department a financial plan for
32 closure, as provided herein, shall be guilty of a crime of the third
33 degree.

34 (cf: P.L.1985, c.368, s.8)

35
36 86. Section 7 of P.L.1991, c.94 (C.13:1E-205) is amended to read
37 as follows:

38 7. No solid waste collector registered pursuant to sections 4 and
39 5 of P.L.1970, c.39 (C.13:1E-4 and 13:1E-5) [and holding a
40 certificate of public convenience and necessity pursuant to sections 7
41 and 10 of P.L.1970, c.40 (C.48:13A-6 and 48:13A-9)] shall
42 knowingly collect used lead acid batteries placed for collection and
43 disposal as solid waste. A solid waste collector may refuse to collect
44 a solid waste container containing a used lead acid battery.

45 (cf: P.L.1991, c.94, s.7)

1 87. Section 8 of P.L.1973, c.208 (C.40:8A-8) is amended to read
2 as follows:

3 8. If any party performing a service on behalf of another party or
4 parties to a contract utilizes the services of a private contractor to
5 perform all or most of **[such]** the service, or all or most of a specific
6 and separate segment of the services so contracted for, **[such]** the
7 party shall be required to award the contract for the work to be
8 performed by a private contractor under **[such]** the contract in
9 accordance with the provisions of the "Local Public Contracts Law,"
10 **[(N.J.S.) P.L.1971, c.198 (C.40A:11-1 et seq.)]**.

11 The provisions of this section shall apply to any contract for the
12 collection of municipal solid waste or for the disposal of municipal
13 solid waste, including a municipal solid waste disposal contract
14 entered into with any person, public authority or county that owns or
15 operates a county solid waste facility pursuant to section 40 of P.L. ,
16 c. (C.13:1E-28.11)(pending in the Legislature as this bill).
17 (cf: P.L.1973, c.208, s.8)

18
19 88. Section 3 of P.L.1957, c.183 (C.40:14B-3) is amended to read
20 as follows:

21 3. As used in this act**[**, unless a different meaning clearly appears
22 from the context**]**:

23 (1) "Municipality" shall mean any city of any class, any borough,
24 village, town, township, or any other municipality other than a county
25 or a school district, and except when used in section 4, 5, 6, 11, 12,
26 13, 42 or 45 of **[this act]** P.L.1957, c.183 (C.40:14B-4 through
27 40:14B-6, 40:14B-11 through 40:14B-13, 40:14B-42 or 40:14B-45),
28 any agency thereof or any two or more thereof acting jointly or any
29 joint meeting or other agency of any two or more thereof;

30 (2) "County" shall mean any county of any class;

31 (3) "Governing body" shall mean, in the case of a county, the
32 board of chosen freeholders, or in the case of those counties organized
33 pursuant to the provisions of the "Optional County Charter Law"
34 (P.L.1972, c.154; C.40:41A-1 et seq.), the board of chosen
35 freeholders and the county executive, the county supervisor or the
36 county manager, as appropriate, and, in the case of a municipality, the
37 commission, council, board or body, by whatever name it may be
38 known, having charge of the finances of the municipality;

39 (4) "Person" shall mean any person, association, corporation,
40 nation, state or any agency or subdivision thereof, other than a county
41 or municipality of the State or a municipal authority;

42 (5) "Municipal authority" shall mean a public body created or
43 organized pursuant to section 4, 5 or 6 of **[this act]** P.L.1957, c.183
44 (C.40:14B-4, 40:14B-5 or 40:14B-6) and shall include a municipal
45 utilities authority created by one or more municipalities and a county
46 utilities authority created by a county;

1 (6) Subject to the exceptions provided in section 10, 11 or 12 of
2 **【this act】** P.L.1957, c.183 (C.40:14B-10, 40:14B-11 or 40:14B-12),
3 "district" shall mean the area within the territorial boundaries of the
4 county, or of the municipality or municipalities, which created or
5 joined in or caused the creation or organization of a municipal
6 authority;

7 (7) "Local unit" shall mean the county, or any municipality, which
8 created or joined in or caused the creation or organization of a
9 municipal authority;

10 (8) "Water system" shall mean the plants, structures and other real
11 and personal property acquired, constructed or operated or to be
12 acquired, constructed or operated by a municipal authority or by any
13 person to whom a municipal authority has extended credit for this
14 purpose for the purposes of the municipal authority, including
15 reservoirs, basins, dams, canals, aqueducts, standpipes, conduits,
16 pipelines, mains, pumping stations, water distribution systems,
17 compensating reservoirs, waterworks or sources of water supply,
18 wells, purification or filtration plants or other plants and works,
19 connections, rights of flowage or division, and other plants, structures,
20 boats, conveyances, and other real and personal property, and rights
21 therein, and appurtenances necessary or useful and convenient for the
22 accumulation, supply or distribution of water;

23 (9) "Sewerage system" shall mean the plants, structures, on-site
24 wastewater systems and other real and personal property acquired,
25 constructed or operated or to be acquired, constructed, maintained or
26 operated by a municipal authority or by any person to whom a
27 municipal authority has extended credit for this purpose for the
28 purposes of the municipal authority, including sewers, conduits,
29 pipelines, mains, pumping and ventilating stations, sewage treatment
30 or disposal systems, plants and works, connections, outfalls,
31 compensating reservoirs, and other plants, structures, boats,
32 conveyances, and other real and personal property, and rights therein,
33 and appurtenances necessary or useful and convenient for **【the**
34 **collection, treatment, purification or disposal in a sanitary manner of**
35 **any sewage, liquid or solid wastes, night soil or industrial wastes】**
36 **their use or operation**;

37 (10) "Utility system" shall mean a water system, solid waste
38 **【system】** facilities, sewerage system, or a hydroelectric system or any
39 combination of such facilities or systems, acquired, constructed or
40 operated or to be acquired, constructed or operated by a municipal
41 authority or by any person to whom a municipal authority has
42 extended credit for this purpose;

43 (11) "Cost" shall mean, in addition to the usual connotations
44 thereof, the cost of planning, acquisition or construction of all or any
45 part of a utility system by or on behalf of a municipal authority and of
46 all or any property, rights, easements, privileges, agreements and

1 franchises deemed by the municipal authority to be necessary or useful
2 and convenient therefor or in connection therewith, including interest
3 or discount on bonds, cost of issuance of bonds, architectural,
4 engineering and inspection costs and legal expenses, cost of financial,
5 professional and other estimates and advice, organization,
6 administrative, operating and other expenses of the municipal
7 authority prior to and during such acquisition or construction, and all
8 such other expenses as may be necessary or incident to the financing,
9 acquisition, construction and completion of [said] the utility system
10 or part thereof and the placing of the same in operation or the
11 disposition of the same, and also such provision or reserves for
12 working capital, operating, maintenance or replacement expenses or
13 for payment or security of principal of or interest on bonds during or
14 after such acquisition or construction as the municipal authority may
15 determine, and also reimbursements to the municipal authority or any
16 county, municipality or other person of any moneys theretofore
17 expended for the purposes of the municipal authority or to any county
18 or municipality of any moneys theretofore expended for or in
19 connection with a utility system, including water supply, solid waste
20 facilities, water distribution, sanitation or hydroelectric facilities;

21 (12) "Real property" shall mean lands both within or without the
22 State, and improvements thereof or thereon, or any rights or interests
23 therein;

24 (13) "Construct" and "construction" shall connote and include acts
25 of construction, reconstruction, replacement, extension, improvement
26 and betterment of a utility system;

27 (14) "Industrial wastes" shall mean liquid or other wastes resulting
28 from any processes of industry, manufacture, trade or business or
29 from the development of any natural resource, and shall include any
30 chemical wastes or hazardous wastes;

31 (15) "Sewage" shall mean the water-carried wastes created in and
32 carried, or to be carried, away from, or to be processed by on-site
33 wastewater systems, residences, hotels, apartments, schools, hospitals,
34 industrial establishments, or any other public or private building,
35 together with such surface or ground water and industrial wastes and
36 leachate as may be present;

37 (16) "On-site wastewater system" means any of several facilities,
38 septic tanks or other devices, used to collect, treat, reclaim, or dispose
39 of wastewater or sewage on or adjacent to the property on which the
40 wastewater or sewage is produced, or to convey such wastewater or
41 sewage from said property to such facilities as the authority may
42 establish for its disposal;

43 (17) "Pollution" means the condition of water resulting from the
44 introduction therein of substances of a kind and in quantities rendering
45 it detrimental or immediately or potentially dangerous to the public
46 health, or unfit for public or commercial use;

1 (18) "Bonds" shall mean bonds or other obligations issued
2 pursuant to **[this act]** the provisions of P.L.1957, c.183 (C.40:14B-1
3 et seq.);

4 (19) "Service charges" shall mean water service charges, solid
5 waste **[service]** charges, sewer service charges, hydroelectric service
6 charges or any combination of such charges, as said terms are defined
7 in section 21 or 22 of **[this act]** P.L.1957, c.183 (C.40:14B-21 or
8 40:14B-22) or in section 7 of **[this amendatory and supplementary**
9 **act]** P.L.1980, c.34 (C.40:14B-21.1);

10 (20) "Compensating reservoir" shall mean the structures, facilities
11 and appurtenances for the impounding, transportation and release of
12 water for the replenishment in periods of drought or at other necessary
13 times of all or a part of waters in or bordering the State diverted into
14 a utility system operated by a municipal authority;

15 (21) "Sewage authority" shall mean a public body created pursuant
16 to the Sewerage Authorities Law (P.L.1946, c.138) or the acts
17 amendatory thereof or supplemental thereto;

18 (22) "County sewer authority" shall mean a sanitary sewer district
19 authority created pursuant to the act entitled "An act relating to the
20 establishment of sewerage districts in first- and second-class counties,
21 the creation of Sanitary Sewer District Authorities by the establishing
22 of such districts, prescribing the powers and duties of any such
23 authority and of other public bodies in connection with the
24 construction of sewers and sewage disposal facilities in any such
25 district, and providing the ways and means for paying the costs of
26 construction and operation thereof," approved April 23, 1946
27 (P.L.1946, c.123), or the acts amendatory thereof or supplemental
28 thereto;

29 (23) "Chemical waste" shall mean a material normally generated
30 by or used in chemical, petrochemical, plastic, pharmaceutical,
31 biochemical or microbiological manufacturing processes or petroleum
32 refining processes, which has been selected for waste disposal and
33 which is known to hydrolize, ionize or decompose, which is soluble,
34 burns or oxidizes, or which may react with any of the waste materials
35 which are introduced into the landfill, or which is buoyant on water,
36 or which has a viscosity less than that of water or which produces a
37 foul odor. Chemical waste may be either hazardous or nonhazardous;

38 (24) "Effluent" shall mean liquids which are treated in and
39 discharged by sewage treatment plants;

40 (25) "Hazardous wastes" shall mean any waste or combination of
41 waste which poses a present or potential threat to human health, living
42 organisms or the environment. "Hazardous waste" shall include, but
43 not be limited to, waste material that is toxic, corrosive, irritating,
44 sensitizing, radioactive, biologically infectious, explosive or
45 flammable;

46 (26) "Leachate" shall mean a liquid that has been in contact with

1 solid waste and contains dissolved or suspended materials from that
2 solid waste;

3 (27) **["Recycling"]** "Resource recovery" shall mean the
4 **[separation,]** collection, **[processing or]** separation, recycling and
5 recovery of metals, glass, paper**[, solid waste]** and other materials for
6 reuse; or the incineration of solid waste for energy production and
7 **[shall include resource recovery]** the recovery of metals and other
8 materials for reuse;

9 (28) "Sludge" shall mean any solid, semisolid, or liquid waste
10 generated from a municipal, industrial or other sewage treatment plant,
11 water supply treatment plant, or air pollution control facility, or any
12 other such waste having similar characteristics and effects; "sludge"
13 shall not include effluent;

14 (29) "Solid waste" shall mean garbage, refuse, and other discarded
15 materials resulting from industrial, commercial and agricultural
16 operations, and from domestic and community activities, and shall
17 include all other waste materials including **[sludge, chemical waste,**
18 **hazardous wastes and]** liquids, except for **[liquids which are treated**
19 **in public sewage treatment plants and except for solid animal and**
20 **vegetable wastes]** source separated recyclable materials or source
21 separated food waste collected by **[swine]** livestock producers
22 **[licensed]** approved by the State Department of Agriculture to collect,
23 prepare and feed such wastes to **[swine]** livestock on their own farms;

24 (30) "Solid waste **[system]** facilities" shall mean and include the
25 plants, structures and other real and personal property acquired,
26 constructed or operated or to be acquired, constructed or operated by
27 **[an]** , or on behalf of, any person, municipal authority or county
28 pursuant to the provisions of the "Solid Waste Management Act,"
29 P.L.1970, c.39 (C.13:1E-1 et seq.) or by any person to whom a
30 municipal authority has extended credit for this purpose pursuant to
31 the provisions of **[this act]** P.L.1984, c.178, including transfer
32 stations, incinerators, **[recycling]** resource recovery facilities,
33 **[including facilities for the generation, transmission and distribution**
34 **of energy derived from the processing of solid waste,]** sanitary landfill
35 facilities or other property or plants for the collection, recycling,
36 transfer or disposal of solid waste and all vehicles, equipment and
37 other real and personal property and rights thereon and appurtenances
38 necessary or useful and convenient for the collection, recycling, or
39 disposal of solid waste in a sanitary manner;

40 (31) "Hydroelectric system" shall mean the plants, structures and
41 other real and personal property acquired, constructed or operated or
42 to be acquired, constructed or operated by an authority pursuant to the
43 provisions of **[this act]** P.L.1980, c.34, including all that which is
44 necessary or useful and convenient for the generation, transmission
45 and sale of hydroelectric power at wholesale;

1 (32) "Hydroelectric power" shall mean the production of electric
2 current by the energy of moving water;

3 (33) "Sale of hydroelectric power at wholesale" shall mean any
4 sale of hydroelectric power to any person for purposes of resale of
5 such power;

6 (34) "County solid waste facility" means a solid waste facility that
7 is designated by a municipal authority or county in its adopted district
8 solid waste management plan as approved by the Department of
9 Environmental Protection prior to November 10, 1997 as the in-
10 county facility to which solid waste generated within the boundaries
11 of the county is transported for final disposal, or transfer for
12 transportation to an offsite solid waste facility or designated out-of-
13 district disposal site for disposal, as appropriate, pursuant to
14 interdistrict or intradistrict waste flow orders issued by the
15 department;

16 (35) "Debt service" means amounts due and payable by a
17 municipal authority for bonded indebtedness or other financing
18 commitments entered into or issued by a municipal authority to finance
19 a county solid waste facility, which are secured, directly or indirectly,
20 by revenues derived from the rates, fees or charges received at the
21 county solid waste facility for solid waste disposal;

22 (36) "Recycling" shall mean any process by which materials which
23 would otherwise become solid waste are collected, separated or
24 processed and returned to the economic mainstream in the form of raw
25 materials or products;

26 (37) "Resource recovery facility" means a solid waste facility
27 constructed and operated for the incineration of solid waste for energy
28 production and the recovery of metals and other materials for reuse;
29 or a mechanized composting facility, or any other solid waste facility;

30 (38) "Responsible solid waste generator" means any property
31 owner, tenant or occupant of any single-family residential dwelling or
32 multi-family multiple dwelling, or the owner, tenant or occupant of any
33 industrial, commercial or institutional building or structure located
34 within the boundaries of any municipality, who generates solid waste
35 at those premises;

36 (39) "Transfer station" means a solid waste facility at which solid
37 waste is transferred from a solid waste collection vehicle to a
38 registered solid waste haulage vehicle, including a rail car, for
39 transportation to an offsite solid waste facility or designated out-of-
40 state disposal site for disposal.

41 (cf: P.L.1984, c.178, s.1)

42
43 89. Section 19 of P.L.1957, c.183 (C.40:14B-19) is amended to
44 read as follows:

45 19. **[(a)] a.** The purposes of every municipal authority shall be
46 (1) the provision and distribution of an adequate supply of water for

1 the public and private uses of the local units, and their inhabitants,
2 within the district, [and] (2) the relief of waters in or bordering the
3 State from pollution arising from causes within the district and the
4 relief of waters in, bordering or entering the district from pollution or
5 threatened pollution, and the consequent improvement of conditions
6 affecting the public health, (3) the provision of sewage collection and
7 disposal service within or without the district, [and] (4) the provision
8 of water supply and distribution service in such areas without the
9 district as are permitted by the provisions of this act, [and] (5) the
10 provision of solid waste collection services, solid waste disposal
11 services [and] or solid waste facilities within or without the district in
12 a manner consistent with the "Solid Waste Management Act,"
13 P.L.1970, c.39 (C.13:1E-1 et seq.) and in conformance with the
14 district solid waste management plans adopted by the solid waste
15 management districts created therein, [and] (6) the generation,
16 transmission and sale of hydroelectric power at wholesale, and (7) the
17 operation and maintenance of utility systems owned by other
18 governments located within the district through contracts with [said]
19 those governments.

20 [(b)] b. Every municipal authority is hereby authorized, subject
21 to the limitations of [this act] P.L.1957, c.183 (C.40:14B-1 et seq.),
22 to acquire, in its own name but for the local unit or units, by purchase,
23 gift, condemnation or otherwise, lease as lessee, and, notwithstanding
24 the provisions of any charter, ordinance or resolution of any county or
25 municipality to the contrary, to construct, maintain, operate and use
26 such reservoirs, basins, dams, canals, aqueducts, standpipes, conduits,
27 pipelines, mains, pumping and ventilating stations, treatment,
28 purification and filtration plants or works, trunk, intercepting and
29 outlet sewers, water distribution systems, waterworks, sources of
30 water supply and wells at such places within or without the district,
31 such compensating reservoirs within a county in which any part of the
32 district lies, and such other plants, structures, boats and conveyances,
33 as in the judgment of the municipal authority will provide an effective
34 and satisfactory method for promoting purposes of the municipal
35 authority.

36 [(c)] c. Every municipal authority is hereby authorized and
37 directed, when in its judgment its sewerage system or any part thereof
38 will permit, to collect from any and all public systems within the
39 district all sewage and treat and dispose of the same in such manner as
40 to promote purposes of the municipal authority.

41 (cf: P.L.1980, c.34, s.6)

42

43 90. Section 20 of P.L.1957, c.183 (C.40:14B-20) is amended to
44 read as follows:

45 20. Every municipal authority shall be a public body politic and

1 corporate constituting a political subdivision of the State established
2 as an instrumentality exercising public and essential governmental
3 functions to provide for the public health and welfare and shall have
4 perpetual succession and have the following powers:

5 (1) To adopt and have a common seal and to alter the same at
6 pleasure;

7 (2) To sue and be sued;

8 (3) In the name of the municipal authority and on its behalf, to
9 acquire, hold, use and dispose of its service charges and other
10 revenues and other moneys;

11 (4) In the name of the municipal authority but for the local unit or
12 units, to acquire, rent, hold, lease as lessor, use and dispose of other
13 personal property for the purposes of the municipal authority;

14 (5) In the name of the municipal authority but for the local unit or
15 units and subject to the limitations of this act, to acquire by purchase,
16 gift, condemnation or otherwise, or lease as lessee, real property and
17 easements therein, necessary or useful and convenient for the purposes
18 of the municipal authority, and subject to mortgages, deeds of trust or
19 other liens, or otherwise, and to hold, lease as lessor, and to use the
20 same, and to dispose of property so acquired no longer necessary for
21 the purposes of the municipal authority;

22 (6) To produce, develop, purchase, accumulate, distribute and sell
23 water and water services, facilities and products within or without the
24 district, provided that no water shall be sold at retail in any
25 municipality without the district unless the governing body of **[such]**
26 the municipality shall have adopted a resolution requesting the
27 municipal authority to sell water at retail in **[such]** the municipality,
28 and the **[board of public utility commissioners]** Board of Public
29 Utilities shall have approved **[such]** the resolution as necessary and
30 proper for the public convenience;

31 (7) To provide for and secure the payment of any bonds and the
32 rights of the holders thereof, and to purchase, hold and dispose of any
33 bonds;

34 (8) To accept gifts or grants of real or personal property, money,
35 material, labor or supplies for the purposes of the municipal authority,
36 and to make and perform such agreements and contracts as may be
37 necessary or convenient in connection with the procuring, acceptance
38 or disposition of such gifts or grants;

39 (9) To enter on any lands, waters or premises for the purpose of
40 making surveys, borings, soundings and examinations for the purposes
41 of the municipal authority, and whenever the operation of a septic tank
42 or other component of an on-site wastewater system shall result in the
43 creation of pollution or contamination source on private property such
44 that under the provisions of R.S.26:3-49, a local board of health would
45 have the authority to notify the owner and require said owner to abate
46 the same, representatives of an authority shall have the power to enter,

1 at all reasonable times, any premises on which **such** the pollution or
2 contamination source shall exist, for the purpose of inspecting,
3 rehabilitating, securing samples of any discharges, improving,
4 repairing, replacing, or upgrading **such** the septic tank or other
5 component of an on-site wastewater system;

6 (10) To establish an inspection program to be performed at least
7 once every three years on all on-site wastewater systems installed
8 within the district which inspection program shall contain the
9 following minimum notice provisions: (i) not less than 30 days prior
10 to the date of the inspection of any on-site wastewater system as
11 described herein, the authority shall notify the owner and resident of
12 the property that the inspection will occur; and (ii) not less than
13 60 days prior to the date of the performance of any work other than
14 an inspection, the municipal authority shall provide notice to the
15 owner and resident of the property in which the work will be
16 performed. The notice to be provided to such owner and resident
17 under this subsection shall include a description of the deficiency
18 which necessitates the work and the proposed remedial action, and the
19 proposed date for beginning and duration of the contemplated remedial
20 action;

21 (11) To prepare and file in the office of the municipal authority
22 records of all inspections, rehabilitation, maintenance, and work,
23 performed with respect to on-site wastewater disposal systems;

24 (12) To make and enforce bylaws or rules and regulations for the
25 management and regulation of its business and affairs and for the use,
26 maintenance and operation of the utility system and any other of its
27 properties, and to amend the same;

28 (13) To do and perform any acts and things authorized by **this**
29 **act** the provisions of P.L.1957, c.183 (C.40:14B-1 et seq.) under,
30 through or by means of its own officers, agents and employees, or by
31 contracts with any person;

32 (14) To enter into any and all contracts, execute any and all
33 instruments, and do and perform any and all acts or things necessary,
34 convenient or desirable for the purposes of the municipal authority or
35 to carry out any power expressly given in **this act** the provisions of
36 P.L.1957, c.183 (C.40:14B-1 et seq.) subject to "Local Public
37 Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.); and

38 (15) To extend credit or make loans to any person for the
39 planning, designing, acquiring, constructing, reconstructing,
40 improving, equipping, furnishing, and operating by that person of any
41 part of **a solid waste system** solid waste collection system or solid
42 waste facilities, or a sewage treatment system, wastewater treatment
43 or collection system for the provision of services and facilities within
44 or without the district, which in the case of a solid waste system
45 solid waste collection services, solid waste disposal services or solid
46 waste facilities shall be in a manner consistent with the "Solid Waste

1 Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.) and in
2 conformance with the district solid waste management plans adopted
3 by the solid waste management districts created therein. The credits or
4 loans may be secured by loan and security agreements, mortgages,
5 leases and any other instruments, upon **[such]** the terms as the
6 authority shall deem reasonable, including provision for the
7 establishment and maintenance of reserve and insurance funds, and to
8 require the inclusion in any mortgage, lease, contract, loan and
9 security agreement or other instrument, provisions for the
10 construction, use, operation and maintenance and financing of that part
11 of the aforementioned systems as the municipal authority may deem
12 necessary or desirable.

13 (cf: P.L.1984, c.178, s.2)

14

15 91. Section 15 of P.L.1977, c.384 (C.40:14B-22.1) is amended to
16 read as follows:

17 15. a. Every municipal authority is hereby authorized to calculate,
18 charge and collect rents, rates, fees or other charges (**[in this act**
19 sometimes] hereinafter referred to as "solid waste **[service]** charges")
20 for the use or services of **[the solid waste system]** solid waste
21 collection services, solid waste disposal services or solid waste
22 facilities acquired, constructed or operated or to be acquired,
23 constructed or operated by, or on behalf of, the municipal authority.
24 **[Such]** The solid waste **[service]** charges may be charged to and
25 collected from any municipality or any person contracting for such use
26 or services or from the owner or occupant, or both of them, of any
27 real property from or on which originates or has originated any solid
28 waste to be **[treated by]** collected or disposed at the solid waste
29 **[system]** facilities of the municipal authority, and the owner of any
30 such real property shall be liable for and shall pay **[such]** the solid
31 waste **[service]** charges to the municipal authority at the time when
32 and place where **[such]** the solid waste **[service]** charges are due and
33 payable.

34 **[Such rents, rates, fees and]**

35 b. The solid waste charges, being in the nature of use or service
36 charges, shall as nearly as the municipal authority shall deem
37 practicable and equitable be uniform throughout the county for the
38 same type, class and amount of use or service of the solid waste
39 **[system]** collection services, solid waste disposal services or solid
40 waste facilities, except as permitted by section 1 of P.L.1992, c.215
41 (C.40:14B-22.2), and may be based or computed on any factors
42 determining the type, class and amount of use or service of the solid
43 waste **[system]** collection services, solid waste disposal services or
44 solid waste facilities, and may give weight to the characteristics of the
45 solid waste and any other special matter affecting the cost of

1 【treatment and disposal of the same】 solid waste collection, disposal
2 or recycling.

3 c. No municipal authority may impose or collect user charges from
4 any municipality, responsible solid waste generator or solid waste
5 collector. For the purposes of this subsection, "user charges" means
6 any rates, fees or other charges imposed and collected by a county or
7 municipal authority for the recovery of stranded solid waste facility
8 debt, as those costs are defined in section 3 of P.L. , c. (C.13:1E-
9 210)(pending in the Legislature as this bill).

10 (cf: P.L.1992, c.215, s.3)

11
12 92. Section 33 of P.L.1957, c.183 (C.40:14B-33) is amended to
13 read as follows:

14 33. Neither the members of the municipal authority nor any person
15 executing bonds issued pursuant to this act shall be liable personally
16 on the bonds by reason of the issuance thereof. Bonds or other
17 obligations issued pursuant to this act shall not be in any way a debt
18 or liability of the State, and bonds or other obligations issued by a
19 municipal authority pursuant to this act shall not be in any way a debt
20 or liability of the State or of any local unit or of any county or
21 municipality and shall not create or constitute any indebtedness,
22 liability or obligation of the State or of any such local unit, county or
23 municipality, either legal, moral or otherwise, and nothing in this act
24 contained shall be construed to authorize any municipal authority to
25 incur any indebtedness on behalf of or in any way to obligate the State
26 or any county or municipality. The authority may receive moneys from
27 the State Solid Waste Facility Debt Retirement Fund created pursuant
28 to section 8 of P.L. , c. (C.13:1E-215)(pending in the Legislature
29 as this bill).

30 (cf: P.L.1957, c.183, s.33)

31
32 93. Section 49 of P.L.1957, c.183 (C.40:14B-49) is amended to
33 read as follows:

34 49. Any municipal authority for the carrying out and effectuation
35 of its purposes, and (a) any of the local units (b) any other municipality
36 whether within or without the district and (c) any other municipal
37 authority, any sewerage authority or any other public body of the State
38 empowered to treat or dispose of sewage or solid waste (all such local
39 units, municipalities, other municipal authorities, sewerage authorities
40 and other bodies being hereinafter referred to individually as a
41 "governmental unit") for fostering the relief of waters in, bordering or
42 entering the territorial area of the governmental unit from pollution or
43 threatened pollution or assisting the municipal authority in carrying out
44 and effectuating its purposes, may enter into a contract or contracts
45 providing for or relating to the collection, treatment and disposal of
46 sewage or solid waste collection, disposal or recycling originating in

1 the district or received by the municipal authority, or originating in the
2 territorial area of or collected by the governmental unit, by means of
3 the sewerage or solid waste ~~【system】 collection system, solid waste~~
4 ~~disposal services or solid waste facilities~~ or any sewerage or solid
5 waste facilities of the governmental unit or both, and the cost and
6 expense of ~~【such】 the collection, treatment and disposal of sewage or~~
7 ~~solid waste collection, disposal or recycling.~~

8 Any municipal authority for the carrying out and effectuation of its
9 purposes, and (a) any of the local units (b) any other municipality
10 whether within or without the district and (c) any other municipal
11 authority, any sewerage authority or any other public body of the State
12 empowered to sell and supply water (all such local units,
13 municipalities, other municipal authorities, sewerage authorities and
14 other bodies being hereinafter referred to individually as a
15 "governmental unit") for fostering the provision and distribution of an
16 adequate supply of water within the territorial area of the
17 governmental unit or assisting the municipal authority in carrying out
18 and effectuating its purposes may enter into a contract or contracts
19 providing for or relating to the sale or supplying of water to such
20 municipal authority or to the governmental unit or to persons or
21 properties within the district or the governmental unit, and the cost
22 and expense of such sale or supplying of water. Any such contract may
23 provide for the payment to the municipal authority by the
24 governmental unit annually or otherwise of such sum or sums of
25 money, computed at fixed amounts or by a formula based on any
26 factors or other matters described in section 21 or section 22 of ~~【this~~
27 ~~act】 P.L.1957, c.183 (C.40:14B-21 or 40:14B-22)~~ or in any other
28 manner, as said contract or contracts may provide, and may provide
29 that the sum or sums so payable to the municipal authority shall be in
30 lieu of all or any part of the service charges which would otherwise be
31 charged and collected by the municipal authority with regard to
32 persons or real property within the territorial area of the governmental
33 unit.

34 Such contract or contracts may also contain provisions as to the
35 financing and payment of expenses to be incurred by the municipal
36 authority and determined by it to be necessary for its purposes prior
37 to the placing in operation of a sewerage ~~system,~~ solid waste
38 ~~collection services, solid waste disposal services or solid waste~~
39 ~~facilities~~ or water supply and distribution system and may provide for
40 the payment by the governmental unit to the municipal authority for
41 application to such expenses or indebtedness therefor such sum or
42 sums of money, computed as said contract or contracts may provide
43 and as the governing body (hereinafter described) of the governmental
44 unit shall, by virtue of its authorization of and entry into said contract
45 or contracts, determine to be necessary for the purposes of the
46 municipal authority.

1 Every such contract shall be authorized and entered into under and
2 pursuant to a resolution adopted by the authority in the case of
3 municipal or other authority, an ordinance of the governing body in the
4 case of a municipality, a resolution or ordinance of the governing body
5 in the case of a county, and, in the case of any other public body, a
6 resolution of the commission, council, board or body by whatever
7 name it may be known (in this section sometimes referred to as
8 "governing body") having charge of the finances of such public body,
9 but the terms or text of said contract need not be set forth in full or
10 stated in any such resolution or ordinance if the form of said contract
11 is on file in the office of the clerk or other recording officer of the
12 governmental unit or its governing body and the place in fact of such
13 filing is described in the resolution or ordinance.

14 Any such contract may be made with or without consideration and
15 for a specified or an unlimited time and on any terms and conditions
16 which may be approved by or on behalf of the governmental unit and
17 which may be agreed to by the municipal authority in conformity with
18 its contracts with the holders of any bonds, and shall be valid whether
19 or not an appropriation with respect thereto is made by the
20 governmental unit prior to authorization or execution thereof. Every
21 such governmental unit is hereby authorized and directed to do and
22 perform any and all acts or things necessary, convenient or desirable
23 to carry out and perform every such contract and to provide for the
24 payment or discharge of any obligation thereunder in the same manner
25 as other obligations of such governmental unit. Subject to any such
26 contracts with the holders of bonds, the municipal authority is hereby
27 authorized to do and perform any and all acts or things necessary,
28 convenient or desirable to carry out and perform every such contract
29 and, in accordance with any such contract, to waive, modify, suspend
30 or reduce the service charges which would otherwise be charged and
31 collected by the municipal authority with regard to persons or real
32 property within the territorial area of the governmental unit, but
33 nothing in this section or any such contract shall prevent the municipal
34 authority from charging and collecting, as if such contract had not
35 been made, service charges with regard to such persons and real
36 property sufficient to meet any default or deficiency in any payments
37 agreed in such contract to be made by such governmental unit.

38 No municipal authority may impose or collect user charges from
39 any municipality, responsible solid waste generator or solid waste
40 collector. For the purposes of this section, "user charges" means any
41 rates, fees or other charges imposed and collected by a county or
42 municipal authority for the recovery of stranded solid waste facility
43 debt as defined in section 3 of P.L. , c. (C.13:1E-210)(pending in
44 the Legislature as this bill).

45 (cf: P.L.1979, c.86, s.14)

1 94. Section 2 of P.L.1960, c.183 (C.40:37A-45) is amended to
2 read as follows:

3 2. As used in this act[, unless a different meaning clearly appears
4 from the context]:

5 (a) "Authority" shall mean a public body created pursuant to [this
6 act] the provisions of P.L.1960, c.183 (C.40:37A-44 et seq.);

7 (b) "Bond resolution" shall have the meaning ascribed thereto in
8 section 17 of P.L.1960, c.183 (C.40:37A-60);

9 (c) "Bonds" shall mean bonds, notes or other obligations issued
10 pursuant to [this act] the provisions of P.L.1960, c.183 (C.40:37A-44
11 et seq.);

12 (d) "Construct" and "construction" shall connote and include acts
13 of clearance, demolition, construction, development or redevelopment,
14 reconstruction, replacement, extension, improvement and betterment;

15 (e) "Cost" shall mean, in addition to the usual connotations
16 thereof, the cost of planning, acquisition or construction of all or any
17 part of any public facility or facilities of an authority and of all or any
18 property, rights, easements, privileges, agreements and franchises
19 deemed by the authority to be necessary or useful and convenient
20 therefor or in connection therewith, including interest or discount on
21 bonds, cost of issuance of bonds, architectural, engineering and
22 inspection costs and legal expenses, cost of financial, professional and
23 other estimates and advice, organization, administrative, operating and
24 other expenses of the authority prior to and during such acquisition or
25 construction, and all such other expenses as may be necessary or
26 incident to the financing, acquisition, construction and completion of
27 such public facility or facilities or part thereof and the placing of the
28 same fully in operation or the disposition of the same, and also such
29 provision or reserves for working capital, operating, maintenance or
30 replacement expenses or for payment or security of principal of or
31 interest on bonds during or after such acquisition or construction as
32 the authority may determine, and also reimbursements to the authority
33 or any governmental unit or person of any moneys theretofore
34 expended for the purposes of the authority;

35 (f) The term "county" shall mean any county of any class of the
36 State and shall include, without limitation, the terms "the county" and
37 "beneficiary county" defined in this [act] section, and the term "the
38 county" shall mean the county which created an authority pursuant to
39 [this act] the provisions of P.L.1960, c.183 (C.40:37A-44 et seq.);

40 (g) "Development project" shall mean any lands, structures, or
41 property or facilities acquired or constructed or to be acquired or
42 constructed by an authority for the purposes of the authority described
43 in subsection (e) of section 11 of P.L.1960, c.183 (C.40:37A-54);

44 (h) "Facility charges" shall have the meaning ascribed to said term
45 in section 14 of P.L.1960, c.183 (C.40:37A-57);

46 (i) "Facility revenues" shall have the meaning ascribed to said term

- 1 in subsection (e) of section 20 of P.L.1960, c.183 (C.40:37A-63);
- 2 (j) "Governing body" shall mean, in the case of a county, the
3 board of chosen freeholders, or in the case of a county operating under
4 article 3 or 5 of the "Optional County Charter Law" (P.L.1972, c.154;
5 C.40:41A-1 et seq.) as defined thereunder, and, in the case of a
6 municipality, the commission, council, board or body, by whatever
7 name it may be known, having charge of the finances of the
8 municipality;
- 9 (k) "Governmental unit" shall mean the United States of America
10 or the State or any county or municipality or any subdivision,
11 department, agency, or instrumentality heretofore or hereafter created,
12 designated or established by or for the United States of America or the
13 State or any county or municipality;
- 14 (l) "Local bond law" shall mean chapter 2 of Title 40A,
15 Municipalities and Counties, of the New Jersey Statutes (N.J.S.) as
16 amended and supplemented;
- 17 (m) "Municipality" shall mean any city, borough, village, town, or
18 township of the State but not a county or a school district;
- 19 (n) "Person" shall mean any person, partnership, association,
20 corporation or entity other than a nation, state, county or municipality
21 or any subdivision, department, agency or instrumentality thereof;
- 22 (o) "Project" shall have the meaning ascribed to said term in
23 section 17 of P.L.1960, c.183 (C.40:37A-60);
- 24 (p) "Public facility" shall mean any lands, structures, franchises,
25 equipment, or other property or facilities acquired, constructed,
26 owned, financed, or leased by the authority or any other governmental
27 unit or person to accomplish any of the purposes of an authority
28 authorized by section 11 of P.L.1960, c.183 (C.40:37A-54);
- 29 (q) "Real property" shall mean lands within or without the State,
30 above or below water, and improvements thereof or thereon, or any
31 riparian or other rights or interests therein;
- 32 (r) **"[Garbage and solid waste disposal system] Solid waste**
33 **facilities"** shall mean the plants, structures and other real and personal
34 property acquired, constructed or operated or to be acquired,
35 constructed or operated by, or on behalf of, any person, county or a
36 county improvement authority pursuant to the provisions of the "Solid
37 Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.),
38 including transfer stations, incinerators, resource recovery facilities,
39 sanitary landfill facilities or other plants for the [treatment and]
40 transfer or disposal of [garbage,] solid waste [and refuse matter] and
41 all other real and personal property and rights therein and
42 appurtenances necessary or useful and convenient for the collection
43 [and treatment], recycling or disposal of solid waste in a sanitary
44 manner [of garbage, solid waste and refuse matter (but not including
45 sewage)];
- 46 (s) **"[Garbage, solid] Solid waste [or refuse matter]"** shall mean

1 garbage, refuse and other discarded materials resulting from industrial,
2 commercial and agricultural operations, and from domestic and
3 community activities, and shall include all other waste materials
4 including [sludge, chemical waste, hazardous wastes and] liquids,
5 [except for liquids which are treated in public sewage treatment plants
6 and] except for [solid animal and vegetable wastes] source separated
7 recyclable materials or source separated food waste collected by
8 [swine] livestock producers [licensed] approved by the State
9 Department of Agriculture to collect, prepare and feed such wastes to
10 [swine] livestock on their own farms;

11 (t) "Blighted, deteriorated or deteriorating area" may include an
12 area determined heretofore by the municipality to be blighted in
13 accordance with the provisions of P.L.1949, c.187, repealed by
14 P.L.1992, c.79 (C.40:55-21.1 et seq.) and, in addition, areas which are
15 determined by the municipality, pursuant to the same procedures as
16 provided in said law, to be blighted, deteriorated or deteriorating
17 because of structures or improvements which are dilapidated or
18 characterized by disrepair, lack of ventilation or light or sanitary
19 facilities, faulty arrangement, location, or design, or other unhealthful
20 or unsafe conditions;

21 (u) "Redevelopment" may include planning, replanning,
22 conservation, rehabilitation, clearance, development and
23 redevelopment; and the construction and rehabilitation and provision
24 for construction and rehabilitation of residential, commercial,
25 industrial, public or other structures and the grant or dedication or
26 rededication of spaces as may be appropriate or necessary in the
27 interest of the general welfare for streets, parks, playgrounds, or other
28 public purposes including recreational and other facilities incidental or
29 appurtenant thereto, in accordance with a redevelopment plan
30 approved by the governing body of a municipality;

31 (v) "Redevelopment plan" shall mean a plan as it exists from time
32 to time for the redevelopment of all or any part of a redevelopment
33 area, which plan shall be sufficiently complete to indicate such land
34 acquisition, demolition and removal of structures, redevelopment,
35 improvements, conservation or rehabilitation as may be proposed to
36 be carried out in the area of the project, zoning and planning changes,
37 if any, land uses, maximum densities, building requirements, the plan's
38 relationship to definite local objectives respecting appropriate land
39 uses, improved traffic, public transportation, public utilities,
40 recreational and community facilities, and other public improvements
41 and provision for relocation of any residents and occupants to be
42 displaced in a manner which has been or is likely to be approved by the
43 Department of Community Affairs pursuant to the "Relocation
44 Assistance Law of 1967," P.L.1967, c.79 (C.52:31B-1 et seq.) and the
45 "Relocation Assistance Act," P.L.1971, c.362 (C.20:4-1 et seq.) and
46 rules and regulations pursuant thereto;

1 (w) "Redevelopment project" shall mean any undertakings and
2 activities for the elimination, and for the prevention of the
3 development or spread, of blighted, deteriorated, or deteriorating
4 areas and may involve any work or undertaking pursuant to a
5 redevelopment plan; such undertaking may include: (1) acquisition of
6 real property and demolition, removal or rehabilitation of buildings and
7 improvements thereon; (2) carrying out plans for a program of
8 voluntary repair and rehabilitation of buildings or other improvements;
9 and (3) installation, construction or reconstruction of streets, utilities,
10 parks, playgrounds or other improvements necessary for carrying out
11 the objectives of the redevelopment project;

12 (x) "Redeveloper" shall mean any person or governmental unit that
13 shall enter into or propose to enter into a contract with an authority
14 for the redevelopment of an area or any part thereof under the
15 provisions of **[this act]** P.L.1960, c.183 (C.40:37A-44 et seq.);

16 (y) "Redevelopment area" shall mean an area of a municipality
17 which the governing body thereof finds is a blighted area or an area in
18 need of rehabilitation whose redevelopment is necessary to effectuate
19 the public purposes declared in **[this act]** the provisions of P.L.1960,
20 c.183 (C.40:37A-44 et seq.). A redevelopment area may include
21 lands, buildings, or improvements which of themselves are not
22 detrimental to the public health, safety or welfare, but whose inclusion
23 is found necessary, with or without change in their condition, for the
24 effective redevelopment of the area of which they are a part;

25 (z) **["Sludge"** shall mean any solid, semisolid, or liquid waste
26 generated from a municipal, industrial or other sewage treatment plant,
27 water supply treatment plant, or air pollution control facility, or any
28 other such waste having similar characteristics and effects, but shall
29 not include effluent; and] (Deleted by amendment, P.L. , c.)
30 (pending in the Legislature as this bill)

31 (aa) "Beneficiary county" shall mean any county that has not
32 created an authority pursuant to **[this act]**the provisions of P.L.1960,
33 c.183 (C.40:37A-44 et seq.);

34 (bb) "County solid waste facility" means a solid waste facility that
35 is designated by an authority or county in its adopted district solid
36 waste management plan as approved by the Department of
37 Environmental Protection prior to November 10, 1997 as the in-
38 county facility to which solid waste generated within the boundaries
39 of the county is transported for final disposal, or transfer for
40 transportation to an offsite solid waste facility or designated out-of-
41 district disposal site for disposal, as appropriate, pursuant to
42 interdistrict or intradistrict waste flow orders issued by the
43 department;

44 (cc) "Debt service" means amounts due and payable by an
45 authority for bonded indebtedness or other financing commitments
46 entered into or issued by an authority to finance a county solid waste

1 facility, which are secured, directly or indirectly, by revenues derived
2 from the rates, fees or charges received at the county solid waste
3 facility for solid waste disposal;

4 (dd) "Recycling" shall mean any process by which materials which
5 would otherwise become solid waste are collected, separated or
6 processed and returned to the economic mainstream in the form of raw
7 materials or products;

8 (ee) "Resource recovery facility" means a solid waste facility
9 constructed and operated for the incineration of solid waste for energy
10 production and the recovery of metals and other materials for reuse;
11 or a mechanized composting facility, or any other solid waste facility;

12 (ff) "Responsible solid waste generator" means any property
13 owner, tenant or occupant of any single-family residential dwelling or
14 multi-family multiple dwelling, or the owner, tenant or occupant of any
15 industrial, commercial or institutional building or structure located
16 within the boundaries of any municipality, who generates solid waste
17 at those premises;

18 (gg) "Transfer station" means a solid waste facility at which solid
19 waste is transferred from a solid waste collection vehicle to a
20 registered solid waste haulage vehicle, including a rail car, for
21 transportation to an offsite solid waste facility or designated out-of-
22 state disposal site for disposal.

23 (cf: P.L.1994, c.76, s.1)

24
25 95. Section 11 of P.L.1960, c.183 (C.40:37A-54) is amended to
26 read as follows:

27 11. The purposes of every authority shall be (a) provision within
28 the county or any beneficiary county of public facilities for use by the
29 State, the county or any beneficiary county, or any municipality in any
30 such county, or any two or more or any subdivisions, departments,
31 agencies or instrumentalities of any of the foregoing for any of their
32 respective governmental purposes, (b) provision within the county or
33 any beneficiary county of public facilities for use as convention halls,
34 or the rehabilitation, improvement or enlargement of any convention
35 hall, including appropriate and desirable appurtenances located within
36 the convention hall or near, adjacent to or over it within boundaries
37 determined at the discretion of the authority, including but not limited
38 to office facilities, commercial facilities, community service facilities,
39 parking facilities, hotel facilities and other facilities for the
40 accommodation and entertainment of tourists and visitors, (c)
41 provision within the county or any beneficiary county of structures,
42 franchises, equipment and facilities for operation of public
43 transportation or for terminal purposes, including development and
44 improvement of port terminal structures, facilities and equipment for
45 public use in counties in, along or through which a navigable river
46 flows, (d) provision within the county or any beneficiary county of

1 structures or other facilities used or operated by the authority or any
2 governmental unit in connection with, or relative to development and
3 improvement of, aviation for military or civilian purposes, including
4 research in connection therewith, and including structures or other
5 facilities for the accommodation of passengers, (e) provision within the
6 county or any beneficiary county of a public facility for a combination
7 of governmental and nongovernmental uses; provided that not more
8 than 50% of the usable space in any such facility shall be made
9 available for nongovernmental use under a lease or other agreement by
10 or with the authority, (f) acquisition of any real property within the
11 county or any beneficiary county, with or without the improvements
12 thereof or thereon or personal property appurtenant or incidental
13 thereto, from the United States of America or any department, agency
14 or instrumentality heretofore or hereafter created, designated or
15 established by or for it, and the clearance, development or
16 redevelopment, improvement, use or disposition of the acquired lands
17 and premises in accordance with the provisions and for the purposes
18 stated in this act, including the construction, reconstruction,
19 demolition, rehabilitation, conversion, repair or alteration of
20 improvements on or to said lands and premises, and structures and
21 facilities incidental to the foregoing as may be necessary, convenient
22 or desirable, (g) acquisition, construction, maintenance and operation
23 of **[garbage and solid waste disposal systems]** solid waste collection
24 systems or solid waste facilities for the purpose of collecting **[and]**,
25 disposing or recycling of **[garbage,]**solid waste **[or refuse matter]**,
26 whether owned or operated by any person, the authority or any other
27 governmental unit, within or without the county or any beneficiary
28 county, (h) the improvement, furtherance and promotion of the tourist
29 industries and recreational attractiveness of the county or any
30 beneficiary county through the planning, acquisition, construction,
31 improvement, maintenance and operation of facilities for the recreation
32 and entertainment of the public, which facilities may include, without
33 being limited to, a center for the performing and visual arts, (i)
34 provision of loans and other financial assistance and technical
35 assistance for the construction, reconstruction, demolition,
36 rehabilitation, conversion, repair or alteration of buildings or facilities
37 designed to provide decent, safe and sanitary dwelling units for
38 persons of low and moderate income in need of housing, including the
39 acquisition of land, equipment or other real or personal properties
40 which the authority determines to be necessary, convenient or
41 desirable appurtenances, all in accordance with the provisions of this
42 act, as amended and supplemented, (j) planning, initiating and carrying
43 out redevelopment projects for the elimination, and for the prevention
44 of the development or spread of blighted, deteriorated or deteriorating
45 areas and the disposition, for uses in accordance with the objectives of
46 the redevelopment project, of any property or part thereof acquired in

1 the area of such project, (k) any combination or combinations of the
2 foregoing or following, and (l) subject to the prior approval of the
3 Local Finance Board, the planning, design, acquisition, construction,
4 improvement, renovation, installation, maintenance and operation of
5 facilities or any other type of real or personal property within the
6 county or any beneficiary county for a corporation or other person
7 organized for any one or more of the purposes described in subsection
8 a. of N.J.S.15A:2-1 except those facilities or any other type of real or
9 personal property which can be financed pursuant to the provisions of
10 P.L.1972, c.29 (C.26:2I-1 et seq.) as amended.
11 (cf: P.L.1994, c.110, s.1)

12

13 96. Section 14 of P.L.1960, c.183 (C.40:37A-57) is amended to
14 read as follows:

15 14. a. Every authority is hereby authorized to calculate, charge
16 and collect tolls, rents, rates, fares, fees or other charges (in this act
17 sometimes referred to as "facility charges") in connection with, or for
18 the use or services of, or otherwise relating to, any public facility or
19 other property owned, leased or controlled by the authority. If the
20 services or public facility [is a] are a solid waste collection system
21 [of] or a solid waste [disposal] facility, including, but not limited to,
22 a resource recovery facility, recycling [plant] center or transfer station
23 owned, leased or controlled by the authority, the authority may charge
24 and collect in connection with that solid waste collection system or
25 solid waste facility from any governmental unit included within the
26 jurisdiction of the authority or any governmental unit which contracts
27 for service with that authority, or from any person utilizing the solid
28 waste collection system or solid waste facility, or from any owner or
29 occupant of any real property situated in a constituent municipality or
30 in a municipality which contracts for service with that authority.
31 [Such] The facility charges may be charged to and collected from any
32 governmental unit or person and [such] the governmental unit or
33 person shall be liable for and shall pay [such] the facility charges to
34 the authority at the time when and place where [such] the facility
35 charges are due and payable.

36 b. No authority may impose or collect user charges from any
37 municipality, responsible solid waste generator or solid waste
38 collector. For the purposes of this subsection, "user charges" means
39 any rates, fees or other charges imposed and collected by a county or
40 authority for the recovery of stranded solid waste facility debt, as
41 defined in section 3 of P.L. , c. (C.13:1E-210)(pending in the
42 Legislature as this bill).

43 (cf: P.L.1988, c.140, s.1)

44

45 97. Section 23 of P.L.1960, c.183 (C.40:37A-66) is amended to
46 read as follows:

1 23. Neither the members of an authority nor any person executing
2 bonds issued pursuant to this act shall be liable personally on the
3 bonds by reason of the issuance thereof. Bonds or other obligations
4 issued by an authority pursuant to this act shall not be in any way a
5 debt or liability of the State or any subdivision thereof and shall not
6 create or constitute any indebtedness, liability or obligation of the
7 State or any such subdivision, except the authority and any county
8 which in accordance with this act shall have guaranteed payment of the
9 principal of and interest on such bonds. The authority may receive
10 moneys from the State Solid Waste Facility Debt Retirement Fund
11 created pursuant to section 8 of P.L. , c. (C.13:1E-215)(pending
12 in the Legislature as this bill).
13 (cf: P.L.1960, c.183, s.23)
14

15 98. Section 3 of P.L.1973, c.330 (C.40:37A-100) is amended to
16 read as follows:

17 3. Any solid waste **[disposal]** collection system or solid waste
18 facilities owned or operated by a county improvement authority shall
19 be subject to the provisions of the "Solid Waste Management Act
20 **[(1970)]**" (P.L.1970, c.39, C.13:1E-1 et seq.), and to any rules and
21 regulations adopted **[thereunder]** pursuant thereto by the State
22 Department of Environmental Protection.
23 (cf: P.L.1973, c.330, s.3)
24

25 99. Section 3 of P.L.1973, c.376 (C.40:37C-3) is amended to read
26 as follows:

27 3. **[In]** As used in this act **[**, unless the context otherwise clearly
28 requires, the terms used herein shall have the meanings ascribed to
29 them as follows**]**:

30 "Act" means **[this]** the "New Jersey Pollution Control Financing
31 Law," P.L.1973, c.376 (C.40:37C-1 et seq.).

32 "Authority" means a pollution control financing authority created
33 pursuant to **[this act]** the provisions of P.L.1973, c.376 (C.40:37C-1
34 et seq.).

35 "Bonds" means any notes, bonds and other evidences of
36 indebtedness or obligations of any agency.

37 "County" means any county of any class.

38 "County solid waste facility" means a solid waste facility that is
39 designated by an authority or county in its adopted district solid waste
40 management plan as approved by the Department of Environmental
41 Protection prior to November 10, 1997 as the in-county facility to
42 which solid waste generated within the boundaries of the county is
43 transported for final disposal, or transfer for transportation to an
44 offsite solid waste facility or designated out-of-district disposal site for
45 disposal, as appropriate, pursuant to interdistrict or intradistrict waste
46 flow orders issued by the department.

1 "Debt service" means amounts due and payable by an authority for
2 bonded indebtedness or other financing commitments entered into or
3 issued by an authority to finance a county solid waste facility, which
4 are secured, directly or indirectly, by revenues derived from the rates,
5 fees or charges received at the county solid waste facility for solid
6 waste disposal.

7 "Governing body" means the board of chosen freeholders.

8 "Person" means any individual, partnership, firm, company,
9 corporation, public utility, association, trust, estate, or any other legal
10 entity, or their legal representative, agent or assigns.

11 "Pollution" means any form of environmental pollution deriving
12 from the operation of public utility, industrial, manufacturing,
13 warehousing, commercial, office or research facilities, or deriving from
14 the disposal of solid waste generated at residences, hotels, apartments
15 or any other public or private buildings, including, but not limited to,
16 water pollution, air pollution, pollution caused by solid waste disposal,
17 thermal pollution, radiation contamination, or noise pollution as
18 determined by the various standards prescribed by this State or the
19 Federal Government and including, but not limited to, anything which
20 is considered as pollution or environmental damage pursuant to the
21 laws, rules and regulations administered by the Department of
22 Environmental Protection as established by P.L.1970, c.33 (C.13:1D-1
23 et seq.), and any amendments and supplements thereto.

24 "Pollution control facilities" means any structures, facilities,
25 systems, fixtures, lands and rights in lands, improvements,
26 appurtenances, machinery, equipment or any combination thereof
27 designed and utilized for the purpose of resource recovery and in
28 connection with solid waste disposal, or for the purpose of reducing,
29 abating or preventing pollution, deriving from the operation of public
30 utility, industrial, manufacturing, warehousing, commercial, office or
31 research facilities; and provided that the State Department of
32 Environmental Protection and the governing body of the county certify
33 that any such facility does not conflict with, overlap or duplicate any
34 other planned or existing pollution control facilities undertaken or
35 planned by another public agency or authority.

36 "Project costs" as applied to pollution control facilities financed
37 under the provisions of this act means the sum total of all reasonable
38 or necessary costs incident to the acquisition, construction,
39 reconstruction, repair, alteration, improvement and extension of such
40 pollution control facilities including, but not limited to, the cost of
41 studies and surveys; plans, specifications, architectural and engineering
42 services; organization, marketing or other special services; legal
43 financing, acquisition, demolition, construction, equipment and site
44 development of new and rehabilitated buildings; rehabilitation,
45 reconstruction, repair or remodeling of existing buildings, fixtures,
46 machinery and equipment; insurance premiums; and all other necessary

1 and incidental expenses including an initial bond and interest reserve
2 together with interest on bonds issued to finance such pollution
3 control facilities to a date 6 months subsequent to the estimated date
4 of completion and such other reserves as may be required by
5 resolution of an agency.

6 "Resource recovery" means the collection, separation, recycling
7 and recovery of metals, glass, paper and other materials for reuse; or
8 the incineration of solid waste for energy production and the recovery
9 of metals and other materials for reuse.

10 "Resource recovery facility" means a solid waste facility
11 constructed and operated for the incineration of solid waste for energy
12 production and the recovery of metals and other materials for reuse;
13 or a mechanized composting facility, or any other solid waste facility.

14 "Responsible solid waste generator" means any property owner,
15 tenant or occupant of any single-family residential dwelling or multi-
16 family multiple dwelling, or the owner, tenant or occupant of any
17 industrial, commercial or institutional building or structure located
18 within the boundaries of any municipality, who generates solid waste
19 at those premises.

20 "Solid waste" means garbage, refuse, and other discarded materials
21 resulting from industrial, commercial and agricultural operations, and
22 from domestic and community activities, and shall include all other
23 waste materials including liquids, except for source separated
24 recyclable materials or source separated food waste collected by
25 livestock producers approved by the State Department of Agriculture
26 to collect, prepare and feed such wastes to livestock on their own
27 farms.

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

31 "Solid waste facilities" means, and includes, the plants, structures
32 and other real and personal property acquired, constructed or operated
33 or to be acquired, constructed or operated by, or on behalf of, any
34 person, an authority or county pursuant to the provisions of the "Solid
35 Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.), or for
36 the benefit or use by any governmental unit or person, including
37 transfer stations, incinerators, resource recovery facilities, sanitary
38 landfill facilities or other plants for the disposal of solid waste and all
39 other real and personal property and rights therein and appurtenances
40 necessary or useful and convenient for the collection, recycling or
41 disposal of solid waste in a sanitary manner.

42 (cf: P.L.1983, c.298, s. 4)

43
44 100. Section 4 of P.L.1973, c.376 (C.40:37C-4) is amended to
45 read as follows:

46 4. a. (1) Any county may create an authority under the provisions

1 of this act which shall be a public body corporate and politic and a
2 political subdivision of the State for the purpose of acquiring,
3 constructing, reconstructing, repairing, altering, improving, extending,
4 owning, leasing, financing, selling, operating or maintaining [,
5 operating and disposing of] a solid waste collection system or
6 pollution control facilities within such county; provided that, with
7 respect to any pollution control facility which is not engaged in
8 resource recovery, the Department of Environmental Protection
9 certifies that the proposed undertaking of the authority is the proper
10 method of solving the problem under consideration; and provided
11 further that, with respect to any solid waste collection system or
12 pollution control facility which is engaged in resource recovery, the
13 solid waste facilities, including the resource recovery facility, conforms
14 to the Statewide solid waste management plan and the applicable
15 district solid waste management plan and has an approved registration
16 statement and engineering design pursuant to section 5 of P.L.1970,
17 c.39 (C.13:1E-5).

18 The purposes of every authority shall include the acquisition,
19 construction, maintenance and operation of a solid waste collection
20 system or solid waste facilities for the purpose of collecting, disposing
21 or recycling of solid waste, whether owned or operated by any person,
22 the authority or any other governmental unit, within or without the
23 county. Every solid waste facility owned or operated by, or on behalf
24 of, an authority created pursuant to the provisions of P.L.1973, c.376
25 (C.40:37C-1 et seq.) shall be subject to the provisions of the "Solid
26 Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.), and to
27 any rules and regulations adopted pursuant thereto by the Department
28 of Environmental Protection.

29 (2) Every authority created pursuant to the provisions of
30 P.L.1973, c.376 (C.40:37C-1 et seq.) is hereby authorized to
31 calculate, charge and collect rates, fees or other charges (hereinafter
32 referred to as "solid waste charges") in connection with, or for the use
33 or services of, or otherwise relating to, any solid waste collection
34 services provided or solid waste facilities owned, sold, leased or
35 controlled by the authority, including, but not limited to, any recycling
36 center, resource recovery facility, transfer station or sanitary landfill
37 facility. An authority may charge and collect solid waste charges from
38 any governmental unit included within the jurisdiction of the authority,
39 or any governmental unit which contracts for service with the
40 authority, or from any person utilizing the solid waste collection
41 services or solid waste facilities of the authority, or from any owner or
42 occupant of any real property situated in a municipality or county
43 which contracts for service with the authority. The solid waste
44 charges may be charged to and collected from any governmental unit
45 or person and the governmental unit or person shall be liable for and
46 shall pay the solid waste charges to the authority at the time when and

1 place where the solid waste charges are due and payable.

2 No authority may impose or collect user charges from any
3 municipality, responsible solid waste generator or solid waste
4 collector. For the purposes of this subsection, "user charges" means
5 any rates, fees or other charges imposed and collected by a county or
6 authority for the recovery of stranded solid waste facility debt, as
7 defined in section 3 of P.L. , c. (C.13:1E-210)(pending in the
8 Legislature as this bill).

9 b. The authority shall be created by resolution and shall be known
10 as the "Pollution Control Financing Authority of ," inserting all
11 or any significant part of the name of the county creating the authority.
12 The authority shall constitute an agency and instrumentality of the
13 county creating it.

14 c. An authority shall consist of five members appointed by
15 resolution of the governing body of the county which created such
16 authority.

17 Members shall serve for terms of 5 years, provided that the
18 members first appointed shall be designated by the resolution of
19 appointment to serve for terms expiring on the first days of the first,
20 second, third, fourth and fifth Februarys next ensuing after such
21 appointment. Each member shall hold office for the term of his
22 appointment and until his successor shall have been appointed and
23 qualified. Any vacancy shall be filled in the same manner as the
24 original appointment but for the unexpired term only.

25 d. The governing body of any county which has created an
26 authority may dissolve the authority by resolution on condition that the
27 authority has no debts or obligations outstanding or that provision has
28 been made for the retirement of such debts or obligations. Upon any
29 such dissolution, all property, funds and assets of the authority shall
30 be vested in the county which created the authority.

31 e. A certified copy of each resolution creating or dissolving an
32 authority and each resolution appointing members thereto shall be filed
33 in the office of the Secretary of State. A copy of any such certified
34 resolution, certified by or on behalf of the Secretary of State, shall be
35 conclusive evidence of the due and proper creation or dissolution of
36 the authority or the due and proper appointment of the member or
37 members named therein.

38 f. The powers of an authority shall be vested in the members
39 thereof from time to time and three members shall constitute a
40 quorum. Action may be taken and motions and resolutions adopted by
41 an agency at any meeting thereof by the affirmative vote of at least
42 three members of the authority.

43 No vacancy in the membership of an authority shall impair the right
44 of a quorum of the members thereof to exercise all the powers and
45 perform all the duties of the authority.

46 g. At the first meeting of any authority and thereafter on or after

1 February 1 in each year, the members shall elect from among their
2 number a chairman and vice chairman who shall hold office until
3 February 1 next ensuing and until their respective successors have
4 been appointed and qualified. Every authority also may appoint,
5 without regard to the provisions of Title **11** of the Revised **11A** of
6 the New Jersey Statutes, a secretary, treasurer and such other officers,
7 agents and employees as it may require.

8 h. The members of an authority shall serve without compensation,
9 but the authority shall reimburse its members for actual expenses
10 necessarily incurred in the discharge of their official duties.

11 i. No member, officer or employee of an authority, nor member of
12 their family, shall have or acquire any interest, direct or indirect in any
13 pollution control facilities undertaken or planned by the authority or
14 in any contract or proposed contract for materials or services to be
15 furnished to or used by the authority, but neither the holding of any
16 office or employment in the government of any county or municipality
17 or under any law of the State shall be deemed a disqualification for
18 membership in or employment by an authority, except as may be
19 specifically provided by law, and members of the governing body of a
20 county may be appointed by such governing body and may serve as
21 members of the authority. A member may be removed only by the
22 governing body by which he was appointed for inefficiency or neglect
23 of duty or misconduct in office or conviction of a crime, and after he
24 shall have been given a copy of the charges against him and, not
25 sooner than 10 days thereafter, had the opportunity in person or by
26 counsel to be heard thereon by such governing body.

27 (cf: P.L1983, c.298, s.5)

28
29 101. Section 10 of P.L.1973, c.376 (C.40:37C-10) is amended to
30 read as follows:

31 10. Bonds issued under the provisions of this act shall not be
32 deemed to constitute a debt or liability of the State or of any political
33 subdivision thereof, but shall be payable solely from the funds herein
34 provided therefor. The issuance of bonds under the provisions of this
35 act shall not, directly, indirectly or contingently, obligate the State or
36 any political subdivision thereof to levy any form of taxation therefor
37 or to make any appropriation for their payment. Nothing in this act
38 shall be construed to authorize an agency to create a debt of the State
39 or any county or municipality within the meaning of the Constitution
40 or statutes of New Jersey and all bonds issued by such authority
41 pursuant to the provisions of this act, unless funded or refunded
42 pursuant to this act, are payable and shall state that they are payable
43 solely from the funds pledged for their payment in accordance with the
44 resolution authorizing their issuance or in any indenture executed as
45 security therefor. The State, county, and municipality shall not in any
46 event be liable for the payment of the principal of or interest or

1 premiums, if any, on any bonds of an authority or for the performance
2 of any pledge, obligation or agreement of any kind whatsoever which
3 may be undertaken by such authority. No breach by an authority of
4 any such pledge, obligation or agreement may impose any pecuniary
5 liability upon the State, county or municipality or any charge upon
6 their general credit or against their taxing power.

7 The State, however, does pledge and agree with the holders of any
8 bonds issued under this act that it will not limit or alter the rights
9 hereby vested in any authority to fulfill the terms of any agreements
10 made with the holders thereof consistent herewith, or in any way
11 impair the rights and remedies of such holders until such bonds,
12 together with the interest thereon, with interest on any unpaid
13 installments of interest, and all costs and expenses for which the
14 authority is liable in connection with any action or proceeding by or on
15 behalf of such holders, are fully met and discharged. Any authority is
16 authorized to include this pledge and agreement of the State in any
17 agreement it may make with the holders of such bonds. The authority
18 may receive moneys from the State Solid Waste Facility Debt
19 Retirement Fund created pursuant to section 8 of P.L. , c.
20 (C.13:1E-215)(pending in the Legislature as this bill).
21 (cf: P.L.1973, c.376, s.10)

22
23 102. R.S.40:66-1 is amended to read as follows:

24 40:66-1. [a.] The governing body may provide for the cleaning of
25 the streets of the municipality, and establish and operate a system
26 therefor; purchase and operate any equipment necessary for the
27 cleaning of the streets; and make, amend, repeal and enforce any
28 ordinances, resolutions, rules or regulations as may be deemed
29 necessary and proper for the establishment, operation and management
30 of a street cleaning system, and the employees connected therewith.

31 a. The governing body may provide for the collection or disposal
32 of all nonhazardous solid waste or any portion thereof generated
33 within the boundaries of the municipality, and may establish and
34 operate a municipal service system therefor[;].

35 (1) In the case of single-family residential housing, the municipal
36 service system shall include the provision of regular solid waste
37 collection service;

38 (2) In the case of multi-family residential housing, the municipal
39 service system may include the provision of regular solid waste
40 collection service;

41 (3) In the case of any other source of generation within the
42 boundaries of the municipality, the municipal service system may:

43 (a) include the provision of regular solid waste collection service;

44 (b) permit the responsible solid waste generator to contract with
45 a solid waste collector on an individual basis for regular solid waste
46 collection service; or

1 (c) permit responsible solid waste generators to directly transport
2 the solid waste generated at their premises for disposal at a specified
3 solid waste facility or designated out-of-state disposal site.

4 A municipal governing body that establishes a municipal service
5 system for solid waste collection shall adopt a municipal service
6 ordinance pursuant to section 36 of P.L. , c. (C.13:1E-
7 28.7)(pending in the Legislature as this bill).

8 The governing body may purchase and operate [the necessary] any
9 equipment necessary for the [cleaning of streets, and for the]
10 collection or disposal of solid waste; and make, amend, repeal and
11 enforce [all such] any ordinances[, resolutions, rules and regulations]
12 as may be deemed necessary and proper for the [introduction]
13 establishment, operation and management of [such] a municipal
14 service system, [and for the maintenance and operation of a solid
15 waste facility,] and the employees connected therewith, subject to the
16 provisions of the "Solid Waste Management Act," P.L.1970, c.39
17 (C.13:1E-1 et seq.) [and the "Solid Waste Utility Control Act of
18 1970," P.L.1970, c.40 (C.48:13A-1 et al.), for the disposal of solid
19 waste, and for the government of employees connected therewith].

20 b. A municipal governing body that establishes a municipal service
21 system for the collection or disposal of solid waste pursuant to
22 subsection a. of this section and section 36 of P.L. , c. (C.13:1E-
23 28.7)(pending in the Legislature as this bill), in its discretion, may limit
24 the municipal service furnished by it to curbside collection along public
25 streets or roads that have been dedicated to and accepted by the
26 municipality. The municipal governing body may also refuse to enter
27 upon private property to remove solid waste from dumpsters or other
28 solid waste containers. The municipal governing body, in its sole
29 discretion, may choose to reimburse those property owners who do
30 not receive the municipal service, but such reimbursement shall not
31 exceed the cost that would be incurred by the municipality in providing
32 the solid waste collection or disposal service directly. Nothing
33 contained in this subsection shall be deemed to modify the provisions
34 of P.L.1989, c.299 (C.40:67-23.2 et seq.) with respect to qualified
35 private communities.

36 (cf: P.L.1993, c.6, s.3)

37
38 103. Section 6 of P.L.1989, c.244 (C.40:66-1.1) is amended to
39 read as follows:

40 6. As used in this chapter:

41 "Proof of collection service" means a written record, log, bill or
42 document evidencing receipt of service for the collection of solid
43 waste for the preceding month from a person lawfully engaging in
44 private solid waste collection services within a municipality.

45 "Proof of direct disposal" means a written record, log, bill or

1 document evidencing receipt of disposal service for the disposal of
2 solid waste for the preceding month from the owner or operator of a
3 county solid waste facility or other solid waste facility located within
4 this State or a designated out-of-state disposal site, as the case may
5 be.

6 "County solid waste facility" means a solid waste facility that is
7 designated by a public authority or county in its adopted district solid
8 waste management plan as approved by the department prior to
9 November 10, 1997 as the in-county facility to which solid waste
10 generated within the boundaries of the county is transported for final
11 disposal, or transfer for transportation to an offsite solid waste facility
12 or designated out-of-district disposal site for disposal, as appropriate,
13 pursuant to interdistrict or intradistrict waste flow orders issued by the
14 department.

15 "Department" means the Department of Environmental Protection.

16 "Person" means any individual or business concern; or any county
17 or public authority.

18 "Public authority" means a municipal or county utilities authority
19 created pursuant to the "municipal and county utilities authorities
20 law," P.L.1957, c.183 (C.40:14B-1 et seq.); a county improvement
21 authority created pursuant to the "county improvement authorities
22 law," P.L.1960, c.183 (C.40:37A-44 et seq.); a pollution control
23 financing authority created pursuant to the "New Jersey Pollution
24 Control Financing Law," P.L.1973, c.376 (C.40:37C-1 et seq.); or any
25 other public body corporate and politic created for solid waste
26 management purposes in any county, pursuant to the provisions of any
27 law.

28 "Regular solid waste collection service" means the scheduled
29 pick-up and removal of solid waste from [residential, commercial or
30 institutional premises located] a source of generation within the
31 boundaries of any municipality at least once a week.

32 "Responsible solid waste generator" means any property owner,
33 tenant or occupant of any single-family residential dwelling or multi-
34 family multiple dwelling, or the owner, tenant or occupant of any
35 industrial, commercial or institutional building or structure located
36 within the boundaries of any municipality, who generates solid waste
37 at those premises.

38 "Solid waste" means garbage, refuse, and other discarded materials
39 resulting from industrial, commercial and agricultural operations, and
40 from domestic and community activities, and shall include all other
41 waste materials including liquids, except for [solid animal and
42 vegetable wastes] source separated recyclable materials or source
43 separated food waste collected by [swine] livestock producers
44 [licensed] approved by the State Department of Agriculture to collect,
45 prepare and feed such wastes to [swine] livestock on their own farms.

46 "Solid waste collection" means the activity related to pick-up and

1 transportation of solid waste from its source or location to a solid
2 waste facility or other destination.

3 "Solid waste collector" means a person engaged in the collection
4 of solid waste and registered pursuant to sections 4 and 5 of P.L.1970,
5 c.39 (C.13:1E-4 and 13:1E-5)

6 "Solid waste container" means a receptacle, container or bag
7 suitable for the depositing of solid waste.

8 "Solid waste disposal" means the storage, treatment, utilization,
9 processing, or final disposal of solid waste.

10 "Solid waste facilities" ~~mean~~ means, and ~~include~~ includes, the
11 plants, structures and other real and personal property acquired,
12 constructed or operated or to be acquired, constructed or operated by,
13 or on behalf of, any person ~~pursuant to the provisions of this~~ ,
14 public authority or county pursuant to the provisions of the "Solid
15 Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.) or any
16 other act, including transfer stations, incinerators, resource recovery
17 facilities, sanitary landfill facilities or other plants for the disposal of
18 solid waste, and all vehicles, equipment and other real and personal
19 property and rights therein and appurtenances necessary or useful and
20 convenient for the collection or disposal of solid waste in a sanitary
21 manner.

22 (cf: P.L.1991, c.170, s.4)

23

24 104. R.S.40:66-4 is amended to read as follows:

25 40:66-4. a. The governing body may, if it deem it more
26 advantageous, contract with any person for the cleaning of the
27 streets~~], or the collection or disposal of solid waste]~~. Before making
28 any such contract ~~or contracts~~ the governing body shall first adopt
29 specifications for the doing of the work in a sanitary and inoffensive
30 manner.

31 Any contract for the cleaning of the streets shall be awarded in the
32 manner provided in the "Local Public Contracts Law," P.L.1971, c.198
33 (C.40A:11-1 et seq).

34 b. The governing body, in its discretion, may:

35 (1) Enter into a solid waste disposal contract with any person,
36 public authority or county that owns or operates a county solid waste
37 facility pursuant to the provisions of the "Local Public Contracts
38 Law," P.L.1971, c.198 (C.40A:11-1 et seq.):

39 (2) Enter into a contract for the collection or disposal of solid
40 waste with any person lawfully engaged in solid waste collection or
41 solid waste disposal pursuant to the provisions of the "Local Public
42 Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.):

43 (3) Permit responsible solid waste generators to contract for the
44 disposal of solid waste on an individual basis with any person, public
45 authority or county lawfully engaged in solid waste disposal;

46 (4) Permit responsible solid waste generators to directly transport

1 the solid waste generated at their premises for disposal at a specified
2 solid waste facility or designated out-of-state disposal site; or

3 (5) Any combination thereof.

4 A municipal governing body that establishes a municipal contract
5 system for solid waste collection shall adopt a municipal contract
6 ordinance pursuant to section 37 of P.L. , c. (C.13:1E-
7 28.8)(pending in the Legislature as this bill).

8 Any specifications adopted by the governing body for the
9 collection [or disposal] of solid waste shall conform to the uniform
10 bid specifications for municipal solid waste collection contracts
11 established pursuant to section 22 of P.L.1991, c.381
12 (C.48:13A-7.22).

13 Any [such contract or contracts] contract for solid waste
14 collection or solid waste disposal, the total amount of which exceeds
15 in the fiscal year the amount set forth in, or the amount calculated by
16 the Governor pursuant to, section 3 of P.L.1971, c.198 (C.40A:11-3),
17 shall be entered into and made only after bids shall have been
18 advertised therefor, and awarded in the manner provided in the "Local
19 Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq).

20 [b.] c. Whenever the governing body adopts an ordinance to
21 provide for the collection or disposal of solid waste within its
22 municipal boundaries by imposing solid waste charges based on the
23 number of solid waste containers processed per [household]
24 residential premises pursuant to subsection b. of R.S.40:66-5, on or
25 after the first day of the 13th month following the effective date of that
26 ordinance, the governing body may request the relevant solid waste
27 collector to whom a multi-year contract has been awarded to
28 renegotiate the contract to reflect any reduction in the annual volume
29 of solid waste collected achieved as a result of the ordinance.

30 d. Whenever the governing body has entered into a municipal solid
31 waste disposal contract with any person, public authority or county for
32 the use of a county solid waste facility and has awarded a contract for
33 regular solid waste collection service to a solid waste collector
34 pursuant to subsection a. of this section, as a condition of the
35 municipal solid waste collection contract, the governing body shall
36 require the solid waste collector to utilize the county solid waste
37 facility that has been designated by the municipality for the disposal of
38 solid waste pursuant to the terms and conditions of the municipal solid
39 waste disposal contract.

40 e. Whenever the governing body has awarded a contract for the
41 use of a designated out-of-state disposal site to a person lawfully
42 providing solid waste disposal service and has awarded a contract for
43 regular solid waste collection service to a solid waste collector
44 pursuant to subsection a. of this section, as a condition of the
45 municipal solid waste collection contract, the governing body shall
46 require the solid waste collector to utilize the designated out-of-state

1 disposal site that has been selected by the municipality for the disposal
2 of solid waste pursuant to the terms and conditions of the municipal
3 solid waste disposal contract.

4 (cf: P.L.1991, c.381, s.47)

5
6 105. R.S.40:66-5 is amended to read as follows:

7 40:66-5. a. The governing body may provide for the collection or
8 disposal of solid waste generated within its municipal boundaries at the
9 general expense, or if deemed by it more advisable, impose rates, fees
10 or charges (hereinafter referred to as "solid waste charges") to be
11 charged by the municipality for the collection or disposal of solid
12 waste, provide for the manner of payment of the same, and maintain
13 an action at law to recover any moneys due therefor.

14 b. **【Where】** Whenever the governing body determines to provide
15 for the collection or disposal of solid waste by imposing solid waste
16 charges on a per container basis, the governing body shall adopt an
17 ordinance to:

18 (1) Establish a rate schedule of solid waste charges based on the
19 number of solid waste containers processed per **【household】**
20 residential, commercial or institutional premises; and

21 (2) Provide **【residents】** responsible solid waste generators with
22 the opportunity to purchase, on a prepaid basis, one or more solid
23 waste containers, or a voucher or sticker therefor, to facilitate the
24 payment of solid waste charges on a per container basis.

25 (cf: P.L.1989, c.244, s.5)

26
27 106. Section 1 of P.L.1991, c.170 (C.40:66-5.1) is amended to
28 read as follows:

29 1. a. The governing body of any municipality wherein solid waste
30 collection services are contracted for and provided, wholly or in part,
31 on an individual**【, private contract】** basis shall**【, within 60 days of the**
32 **effective date of this act,】** adopt a proof of service ordinance which
33 requires all responsible solid waste generators to contract with a solid
34 waste collector for regular solid waste collection service or otherwise
35 lawfully provide for the **【collection】** disposal of solid waste generated
36 at those premises in the manner provided by the ordinance.

37 b. Each proof of service ordinance required pursuant to this
38 section shall include:

39 (1) In the case of single-family residential housing, a requirement
40 that each responsible solid waste generator, in those instances **【where】**
41 in which a solid waste collection system is not otherwise provided for
42 by the municipality and if **【he】** the responsible solid waste generator
43 has not already done so, enter into a contract for regular solid waste
44 collection service with any **【person】** solid waste collector lawfully
45 providing private solid waste collection services within the

1 municipality; except that the ordinance **【may】** shall include an
2 exemption from this requirement in those instances **【where】** in which
3 the responsible solid waste generator is transporting the solid waste
4 which is generated at **【his】** the responsible solid waste generator's
5 residential premises directly to the solid waste facility utilized by the
6 municipality for solid waste disposal;

7 (2) In the case of multi-family residential housing, a requirement
8 that the responsible solid waste generator, in those instances **【where】**
9 in which a solid waste collection system is not otherwise provided for
10 by the municipality and if **【he】** the responsible solid waste generator
11 has not already done so, enter into a contract for regular solid waste
12 collection service with any **【person】** solid waste collector lawfully
13 providing private solid waste collection services within the
14 municipality; except that the ordinance **【may】** shall include an
15 exemption from this requirement in those instances **【where】** in which
16 the responsible solid waste generator is transporting the solid waste
17 which is generated at **【his】** the responsible solid waste generator's
18 residential premises directly to the solid waste facility utilized by the
19 municipality for solid waste disposal. It shall be the responsibility of
20 the owner of the multiple dwelling to provide a sufficient number of
21 appropriate solid waste containers for the deposit of **【nonrecyclable】**
22 nonhazardous waste materials to be disposed of as solid waste;

23 (3) In the case of any **【commercial or institutional building or**
24 **structure located】** other source of generation within the boundaries of
25 the municipality, a requirement that the responsible solid waste
26 generator, in those instances **【where】** in which regular solid waste
27 collection services are not otherwise provided for, enter into a
28 contract with any **【person】** solid waste collector lawfully providing
29 private solid waste collection services within the municipality; and

30 (4) In the case of a responsible solid waste generator, **【within the**
31 **municipality, who】** in those instances in which the responsible solid
32 waste generator is transporting the solid waste which is generated at
33 **【his】** the responsible solid waste generator's residential premises
34 directly to **【the】** a specified solid waste facility **【utilized by the**
35 **municipality for】** or designated out-of-state disposal site, a
36 requirement that **【every such】** the responsible solid waste generator
37 **【within the municipality】** furnish proof **【that the responsible solid**
38 **waste generator is transporting the solid waste which is generated at**
39 **his residential premises directly to the solid waste facility utilized by**
40 **the municipality for】** of direct disposal to the governing body of the
41 municipality at least once every 12 months.

42 c. Every responsible solid waste generator that has entered into a
43 contract with a solid waste collector for regular solid waste collection
44 service on an individual basis shall furnish proof of collection service
45 to the municipal governing body at least once every 12 months.

1 In order to fulfill the requirements of this subsection, the
2 responsible solid waste generator may include the proof of collection
3 service or proof of direct disposal, as appropriate, with the municipal
4 tax payment mailed to the municipal tax collector.

5 d. Any responsible solid waste generator that is directly
6 transporting the solid waste generated at the residential premises for
7 disposal at a specified solid waste facility or designated out-of-state
8 disposal site shall furnish proof of direct disposal to the municipal
9 governing body at least once every 12 months.

10 In order to fulfill the requirements of this subsection, the
11 responsible solid waste generator may include the proof of direct
12 disposal with the municipal tax payment mailed to the municipal tax
13 collector.

14 Every proof of direct disposal, as appropriate, shall:

15 (1) Specify the county solid waste facility or other solid waste
16 facility to be utilized by the responsible solid waste generator for the
17 disposal of solid waste generated at the residential premises; or

18 (2) Identify the designated out-of-state disposal site to be utilized
19 by the responsible solid waste generator for the disposal of solid waste
20 generated at the residential premises, and submit evidence satisfactory
21 to the department that the designated disposal site is permitted by the
22 appropriate state regulatory agency having jurisdiction over solid
23 waste management to accept solid waste for disposal and is in
24 compliance with all relevant Federal or state laws, rules or regulations.

25 **【c.】** e. The municipal governing body shall, within six months of
26 the effective date of a proof of service ordinance adopted pursuant to
27 this section and at least once every six months thereafter, notify all
28 responsible solid waste generators of the requirements of the
29 ordinance.

30 In order to fulfill the notification requirements of this subsection,
31 the governing body of a municipality may, in its discretion, place a
32 advertisement in a newspaper circulating in the municipality, post a
33 notice in public places where public notices are customarily posted,
34 include a notice with other official notifications periodically mailed to
35 taxpayers, or any combination thereof, as the municipality deems
36 necessary and appropriate.

37 (cf: P.L.1991, c.170, s.1)

38
39 107. Section 2 of P.L.1991, c.170 (C.40:66-5.2) is amended to
40 read as follows:

41 2. a. The **【provisions of any other law, rule or regulation to the**
42 **contrary notwithstanding,】** the governing body of any municipality
43 may request **【that】** every solid waste collector engaging in private
44 solid waste collection services within the municipality **【who is**
45 **registered pursuant to sections 4 and 5 of P.L.1970, c.39 (C.13:1E-4**
46 **and 13:1E-5) and holds a certificate of public convenience and**

1 necessity pursuant to sections 7 and 10 of P.L.1970, c.40 (C.48:13A-6
2 and 48:13A-9) **】** to provide all responsible solid waste generators with
3 the opportunity to contract for, on an individual basis, regular solid
4 waste collection services, if the responsible solid waste generator is
5 required to do so by a proof of service ordinance adopted pursuant to
6 section 1 of P.L.1991, c.170 (C.40:66-5.1).

7 b. The governing body of any municipality may request any solid
8 waste collector engaging in private solid waste collection services
9 within the municipality to assist the municipality in identifying those
10 responsible solid waste generators who fail to comply with the
11 provisions of section 1 of P.L.1991, c.170 (C.40:66-5.1).

12 c. Whenever the governing body adopts a proof of service
13 ordinance pursuant to section 1 of P.L.1991, c.170 (C.40:66-5.1), or
14 requests a solid waste collector to provide all responsible solid waste
15 generators with the opportunity to contract for regular solid waste
16 collection services pursuant to subsection a. of this section, the
17 governing body shall notify the **【Board of Public Utilities】** Department
18 of Environmental Protection of these actions by certified mail.

19 d. In the event that a solid waste collector refuses any request to
20 provide responsible solid waste generators with the opportunity to
21 contract for regular solid waste collection services pursuant to
22 subsection a. of this section, the governing body shall notify the
23 **【Board of Public Utilities】** Department of Environmental Protection
24 of this refusal by certified mail.

25 e. **【Whenever the governing body of a municipality adopts a proof**
26 **of service ordinance pursuant to section 1 of P.L.1991, c.170**
27 **(C.40:66-5.1), the governing body shall notify the owner or operator**
28 **of every solid waste facility utilized by the municipality of this action**
29 **by certified mail.】** (Deleted by amendment, P.L. __, c. __)
30 (cf: P.L.1991, c.170, s.2)

31
32 108. Section 2 of P.L.1991, c.54 (C.40:66-9) is amended to read
33 as follows:

34 2. The governing body of any municipality which operated a solid
35 waste collection district as of December 31, 1989, may **【provide by】**
36 establish a municipal contract system or a municipal service system for
37 the collection or disposal of solid waste within a solid waste collection
38 district, subject to the approval of the Local Finance Board of the
39 Department of Community Affairs and subject to the provisions of the
40 "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.).
41 (cf: P.L.1991, c.54, s.2)

42
43 109. Section 1 of P.L.1975, c.243 (C.40:67-23.1) is amended to
44 read as follows:

45 1. a. The governing body of every municipality may make, amend,
46 repeal and enforce ordinances to cause the governing body of the

1 municipality to repair and maintain and provide for the removal of
2 snow, ice and other obstructions from, and provide for the lighting of,
3 any roads or streets upon which the travel is sufficient, in the opinion
4 of said governing body, to warrant such expenditures, even though
5 such roads or streets shall not have been taken over by said municipal
6 governing body or dedicated and accepted as public highways.

7 The municipality may also provide for the curbside collection of
8 **【garbage placed at the curb of】** solid waste along such streets, or for
9 the reimbursement of such **【garbage】** solid waste collection costs as
10 the municipality may determine to have been reasonably incurred by
11 persons residing adjacent to such streets. Roads or streets so serviced,
12 which are not shown on the official map of the municipality, may, at
13 the option of the governing body of said municipality, be suitably
14 improved in accordance with any requirements established pursuant to
15 article 5 of the "Municipal Land Use Law," P.L.1975, c.291, ss. 23-27
16 (C.40:55D-32 to C.40:55D-36) and the ordinance.

17 b. If, as a condition of providing services for any road or street
18 proposed to be serviced, the municipality notifies the owner that
19 dedication thereof to the municipality is required, the owner may
20 refuse to accept the services and benefits of the ordinance upon that
21 condition by so notifying the municipality within 60 days of receipt of
22 the notice. With respect to any road or street for which services are
23 provided, if the municipality notifies the owner that continuation of
24 provision of the services is conditioned upon the dedication thereof to
25 the municipality, the owner may refuse to accept continuance of the
26 services and benefits of the ordinance upon that condition by so
27 notifying the municipality within 60 days of receipt of the notice.
28 Notices to be given pursuant to this **【act】** section shall be in writing.
29 (cf: P.L.1983, c.12, s.1)

30
31 110. N.J.S.40A:4-21 is amended to read as follows:

32 40A:4-21. a. The budget shall provide separate sections for:

33 **【a.】** (1) Operation of local unit (current fund).

34 **【b.】** (2) Operation of any municipal public utility.

35 **【c.】** (3) Dedicated assessment budget.

36 **【d.】** (4) Dedicated by rider.

37 (5) Solid waste collection or recycling activities or solid waste
38 disposal operations.

39 b. The budget summary as provided in section 12 of P.L.1995,
40 c.259 (C.40A:4-6.1) shall include the anticipated revenues and
41 appropriations of a county or municipality related to solid waste
42 collection, solid waste disposal or recycling activities and the
43 operation of any recycling center or solid waste facility that are
44 included in the budget.

45 The revenues and appropriations and any surplus or deficit shall be
46 listed according to the solid waste collection activity, solid waste

disposal operation or solid waste facility, as appropriate, including, but not limited to, solid waste collection, solid waste disposal or recycling costs, recycling activities or operations, or sanitary landfill facility, transfer station, recycling center or resource recovery facility operations; and the personnel salaries, benefits and insurance costs; vehicle operation, maintenance, insurance and purchase costs; and any other costs associated therewith.

(cf: N.J.S.40A:4-21)

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

3. In the preparation of its budget a municipality shall limit any increase in said budget to 5% or the index rate, whichever is less, over the previous year's final appropriations subject to the following exceptions:

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

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

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

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

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

d. All debt service, including that of a Type I school district;

e. Upon the approval of the Local Finance Board in the Division of Local Government Services, amounts required for funding a preceding year's deficit;

f. Amounts reserved for uncollected taxes;

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

h. Expenditure of amounts derived from new or increased construction, housing, health or fire safety inspection or other service fees imposed by State law, rule or regulation or by local ordinance;

i. Any amount approved by any referendum;

1 j. Amounts required to be paid pursuant to (1) any contract with
2 respect to use, service or provision of any project, facility or public
3 improvement for water, sewerage, parking, senior citizen housing or
4 any similar purpose, or payments on account of debt service therefor,
5 between a municipality and any other municipality, county, school or
6 other district, agency, authority, commission, instrumentality, public
7 corporation, body corporate and politic or political subdivision of this
8 State; (2) the provisions of article 9 of P.L.1968, c.404 (C.13:17-60
9 through 13:17-76) by a constituent municipality to the intermunicipal
10 account; (3) any lease of a facility owned by a county improvement
11 authority when the lease payment represents the proportionate amount
12 necessary to amortize the debt incurred by the authority in providing
13 the facility which is leased, in whole or in part; and (4) any repayments
14 under a loan agreement entered into in accordance with the provisions
15 of section 5 of P.L.1992, c.89.

16 k. (Deleted by amendment, P.L.1987, c.74.)

17 l. Appropriations of federal, county, independent authority or
18 State funds, or by grants from private parties or nonprofit
19 organizations for a specific purpose, and amounts received or to be
20 received from such sources in reimbursement for local expenditures.
21 If a municipality provides matching funds in order to receive the
22 federal, county, independent authority or State funds, or the grants
23 from private parties or nonprofit organizations for a specific purpose,
24 the amount of the match which is required by law or agreement to be
25 provided by the municipality shall be excepted;

26 m. (Deleted by amendment, P.L.1987, c.74.)

27 n. (Deleted by amendment, P.L.1987, c.74.)

28 o. (Deleted by amendment, P.L.1990, c.89.)

29 p. (Deleted by amendment, P.L.1987, c.74.)

30 q. (Deleted by amendment, P.L.1990, c.89.)

31 r. Amounts expended to fund a free public library established
32 pursuant to the provisions of R.S.40:54-1 through 40:54-29, inclusive;

33 s. (Deleted by amendment, P.L.1990, c.89.)

34 t. Amounts expended in preparing and implementing a housing
35 element and fair share plan pursuant to the provisions of P.L.1985,
36 c.222 (C.52:27D-301 et al.) and any amounts received by a
37 municipality under a regional contribution agreement pursuant to
38 section 12 of that act;

39 u. Amounts expended to meet the standards established pursuant
40 to the "New Jersey Public Employees' Occupational Safety and Health
41 Act," P.L.1983, c.516 (C.34:6A-25 et seq.);

42 v. (Deleted by amendment, P.L.1990, c.89.)

43 w. Amounts appropriated for expenditures resulting from the
44 impact of a hazardous waste facility as described in subsection c. of
45 section 32 of P.L.1981, c.279 (C.13:1E-80);

46 x. Amounts expended to aid privately owned libraries and reading

- 1 rooms, pursuant to R.S.40:54-35;
- 2 y. (Deleted by amendment, P.L.1990, c.89.)
- 3 z. (Deleted by amendment, P.L.1990, c.89.)
- 4 aa. Extraordinary expenses, approved by the Local Finance Board,
- 5 required for the implementation of an interlocal services agreement;
- 6 bb. Any expenditure mandated as a result of a natural disaster,
- 7 civil disturbance or other emergency that is specifically authorized
- 8 pursuant to a declaration of an emergency by the President of the
- 9 United States or by the Governor;
- 10 cc. Expenditures for the cost of services mandated by any order
- 11 of court, by any federal or State statute, or by administrative rule,
- 12 directive, order, or other legally binding device issued by a State
- 13 agency which has identified such cost as mandated expenditures on
- 14 certification to the Local Finance Board by the State agency;
- 15 dd. Expenditures of amounts actually realized in the local budget
- 16 year from the sale of municipal assets if appropriated for non-recurring
- 17 purposes or otherwise approved by the director;
- 18 ee. Any local unit which is determined to be experiencing fiscal
- 19 distress pursuant to the provisions of P.L.1987, c.75
- 20 (C.52:27D-118.24 et seq.), whether or not a local unit is an "eligible
- 21 municipality" as defined in section 3 of P.L.1987, c.75
- 22 (C.52:27D-118.26), and which has available surplus pursuant to the
- 23 spending limitations imposed by P.L.1976, c.68 (C.40A:4-45.1 et
- 24 seq.), may appropriate and expend an amount of that surplus approved
- 25 by the director and the Local Finance Board as an exception to the
- 26 spending limitation. Any determination approving the appropriation
- 27 and expenditure of surplus as an exception to the spending limitations
- 28 shall be based upon:
- 29 1) the local unit's revenue needs for the current local budget year
- 30 and its revenue raising capacity;
- 31 2) the intended actions of the governing body of the local unit to
- 32 meet the local unit's revenue needs;
- 33 3) the intended actions of the governing body of the local unit to
- 34 expand its revenue generating capacity for subsequent local budget
- 35 years;
- 36 4) the local unit's ability to demonstrate the source and existence
- 37 of sufficient surplus as would be prudent to appropriate as an
- 38 exception to the spending limitations to meet the operating expenses
- 39 for the local unit's current budget year; and
- 40 5) the impact of utilization of surplus upon succeeding budgets of
- 41 the local unit;
- 42 ff. Amounts expended for the staffing and operation of the
- 43 municipal court;
- 44 gg. Amounts appropriated for the cost of administering a joint
- 45 insurance fund established pursuant to subsection b. of section 1 of
- 46 P.L.1983, c.372 (C.40A:10-36), but not including appropriations for

1 claims payments by local member units;

2 hh. Amounts appropriated for the cost of implementing an
3 estimated tax billing system and the issuance of tax bills thereunder
4 pursuant to section 3 of P.L.1994, c.72 (C.54:4-66.2);

5 ii. Expenditures related to the cost of conducting and
6 implementing a total property tax levy sale pursuant to section 16 of
7 P.L.1997, c.99 (C.54:5-113.5)**[.]**;

8 jj. Amounts expended for a length of service award program
9 pursuant to P.L.1997, c.388 (C.40A:14-183 et al.);

10 kk. Expenditures related to the cost of solid waste collection or
11 solid waste disposal, including a municipal service system as provided
12 in section 36 of P.L. , c. (C.13:1E-28.7)(pending in the Legislature
13 as this bill) or a municipal contract system as provided in section 37 of
14 P.L. , c. (C.13:1E-28.8)(pending in the Legislature as this bill);

15 ll. Any expenditures for the collection or disposition of designated
16 recyclable materials, or the procurement of recycling services made by
17 a municipality pursuant to the provisions of the "New Jersey Statewide
18 Mandatory Source Separation and Recycling Act," P.L.1987, c.102
19 (C.13:1E-99.11 et al.); or any revenues received by a municipality
20 from the sale of recyclable materials and expended for the collection
21 or disposition of designated recyclable materials.

22 (cf: P.L.1997, c.388, s.12)

23

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

26 4. In the preparation of its budget, a county may not increase the
27 county tax levy to be apportioned among its constituent municipalities
28 in excess of 5% or the index rate, whichever is less, of the previous
29 year's county tax levy, subject to the following exceptions:

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

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

40 c. (1) An increase based upon emergency temporary
41 appropriations made pursuant to N.J.S.40A:4-20 to meet an urgent
42 situation or event which immediately endangers the health, safety or
43 property of the residents of the county, and over which the governing
44 body had no control and for which it could not plan and emergency
45 appropriations made pursuant to N.J.S.40A:4-46. Emergency
46 temporary appropriations and emergency appropriations shall be

1 approved by at least two-thirds of the governing body and by the
2 Director of the Division of Local Government Services, and shall not
3 exceed in the aggregate 3% of the previous year's final current
4 operating appropriations.

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

6 The approval procedure in this subsection shall not apply to
7 appropriations adopted for a purpose referred to in subsection d. or f.
8 below;

9 d. All debt service;

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

11 f. Amounts required to be paid pursuant to (1) any contract with
12 respect to use, service or provision of any project, facility or public
13 improvement for water, sewerage, parking, senior citizen housing or
14 any similar purpose, or payments on account of debt service therefor,
15 between a county and any other county, municipality, school or other
16 district, agency, authority, commission, instrumentality, public
17 corporation, body corporate and politic or political subdivision of this
18 State; and (2) any lease of a facility owned by a county improvement
19 authority when the lease payment represents the proportionate amount
20 necessary to amortize the debt incurred by the authority in providing
21 the facility which is leased, in whole or in part;

22 g. That portion of the county tax levy which represents funding to
23 participate in any federal or State aid program and amounts received
24 or to be received from federal, State or other funds in reimbursement
25 for local expenditures. If a county provides matching funds in order
26 to receive the federal or State or other funds, only the amount of the
27 match which is required by law or agreement to be provided by the
28 county shall be excepted;

29 h. (Deleted by amendment, P.L.1987, c.74.)

30 i. (Deleted by amendment, P.L.1990, c.89.)

31 j. (Deleted by amendment, P.L.1990, c.89.)

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

33 l. Amounts expended to meet the standards established pursuant
34 to the "New Jersey Public Employees' Occupational Safety and Health
35 Act," P.L.1983, c.516 (C.34:6A-25 et seq.);

36 m. (Deleted by amendment, P.L.1990, c.89.)

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

38 o. (Deleted by amendment, P.L.1990, c.89.)

39 p. Extraordinary expenses, approved by the Local Finance Board,
40 required for the implementation of an interlocal services agreement;

41 q. Any expenditure mandated as a result of a natural disaster, civil
42 disturbance or other emergency that is specifically authorized pursuant
43 to a declaration of an emergency by the President of the United States
44 or by the Governor;

45 r. Expenditures for the cost of services mandated by any order of
46 court, by any federal or State statute, or by administrative rule,

1 directive, order, or other legally binding device issued by a State
2 agency which has identified such cost as mandated expenditures on
3 certification to the Local Finance Board by the State agency;

4 s. That portion of the county tax levy which represents funding to
5 a county college in excess of the county tax levy required to fund the
6 county college in local budget year 1992;

7 t. Amounts appropriated for the cost of administering a joint
8 insurance fund established pursuant to subsection b. of section 1 of
9 P.L.1983, c.372 (C.40A:10-36), but not including appropriations for
10 claims payments by local member units;

11 u. Expenditures for the administration of general public assistance
12 pursuant to P.L.1995, c.259 (C.40A:4-6.1 et al.);

13 v. Amounts in a separate line item of a county budget that are
14 expended on tick-borne disease vector management activities
15 undertaken pursuant to P.L.1997, c.52 (C.26:2P-7 et al.);

16 w. Expenditures for solid waste collection or solid waste disposal;

17 x. Expenditures for the collection or disposition of designated
18 recyclable materials, or the procurement of markets or recycling
19 services made by a county pursuant to the provisions of the "New
20 Jersey Statewide Mandatory Source Separation and Recycling Act,"
21 P.L.1987, c.102 (C.13:1E-99.11 et al.).

22 (cf: P.L.1997. c.52, s.3)

23
24 113. Section 18 of P.L.1983, c.313 (C.40A:5A-18) is amended to
25 read as follows:

26 18. If at any time, as a result of exercising **his** the
27 responsibilities of the Director of the Division of Local Government
28 Services under **this act** the provisions of P.L.1983, c.313
29 (C.40A:5A-1 et seq.), the director has reason to believe that an
30 authority is faced with financial difficulty, the director shall summon
31 appropriate officials of the authority and the local unit or units or
32 either of the aforesaid to a hearing before the Local Finance Board.
33 The Local Finance Board may require the production of papers,
34 documents, witnesses or information and may make or cause to be
35 made an audit or investigation of the circumstances with respect to
36 which the hearing was called.

37 (cf: P.L.1983, c.313, s.18)

38
39 114. Section 19 of P.L.1983, c.313 (C.40A:5A-19) is amended to
40 read as follows:

41 19. a. If the Local Finance Board determines that financial
42 difficulties exist which (1) jeopardize the payment of operating
43 expenses and debt service on obligations of the authority or either of
44 the aforesaid; or place an undue financial burden on the inhabitants of
45 the local unit or units or the users of the system or facilities of an
46 authority; and (2) that these difficulties are likely to recur and, if they

1 continue, will impair the credit of the authority and local unit or units
2 or either of the aforesaid to the detriment of the inhabitants thereof;
3 and (3) no financial plan designed to prevent a recurrence of these
4 conditions and which is deemed to be practicable and feasible by the
5 director has been undertaken by the authority or the local unit or units,
6 the Local Finance Board shall order the implementation of a financial
7 plan which will assure the payment of debt service on obligations of
8 the authority, or provide relief from undue financial burden. The order
9 shall be deemed conclusive and final and upon receipt of the order all
10 persons shall be estopped from contesting the order or the provisions
11 thereof and the authority or local unit or units affected thereby shall
12 take the action to comply with the order.

13 b. In ordering the implementation of a financial plan which will
14 assure the payment of debt service on obligations of a public authority
15 related to the financing of solid waste facilities, the Local Finance
16 Board shall not order a public authority to impose or collect user
17 charges from any municipality, responsible solid waste generator or
18 solid waste collector. For the purposes of this subsection, "user
19 charges" means any rates, fees or other charges imposed and collected
20 by a county or public authority for the recovery of stranded solid
21 waste facility debt, as those costs are defined in section 3 of P.L. .

22 c. (C.13:1E-210)(pending in the Legislature as this bill).

23 (cf: P.L.1983, c.313, s.19)

24

25 115. Section 2 of P.L.1971, c.198 (C.40A:11-2) is amended to
26 read as follows:

27 2. As used herein the following words have the following
28 definitions, unless the context otherwise indicates:

29 (1) "Contracting unit" means:

30 (a) Any county; or

31 (b) Any municipality; or

32 (c) Any board, commission, committee, authority or agency,
33 which is not a State board, commission, committee, authority or
34 agency, and which has administrative jurisdiction over any district
35 other than a school district, project, or facility, included or operating
36 in whole or in part, within the territorial boundaries of any county or
37 municipality which exercises functions which are appropriate for the
38 exercise by one or more units of local government, and which has
39 statutory power to make purchases and enter into contracts or
40 agreements for the performance of any work or the furnishing or hiring
41 of any materials or supplies usually required, the cost or contract price
42 of which is to be paid with or out of public funds.

43 The term shall not include a private firm that has entered into a
44 contract with a public entity for the provision of water supply services
45 pursuant to P.L.1995, c.101 (C.58:26-19 et al.).

46 "Contracting unit" shall not include a private firm or public

1 authority that has entered into a contract with a public entity for the
2 provision of wastewater treatment services pursuant to P.L.1995,
3 c.216 (C.58:27-19 et al.).

4 (2) "Governing body" means:

5 (a) The governing body of the county, when the purchase is to be
6 made or the contract or agreement is to be entered into by, or in behalf
7 of, a county; or

8 (b) The governing body of the municipality, when the purchase is
9 to be made or the contract or agreement is to be entered into by, or on
10 behalf of, a municipality; or

11 (c) Any board, commission, committee, authority or agency of the
12 character described in subsection (1) (c) of this section.

13 (3) "Contracting agent" means the governing body of a
14 contracting unit, or any board, commission, committee, officer,
15 department, branch or agency which has the power to prepare the
16 advertisements, to advertise for and receive bids and, as permitted by
17 this act, to make awards for the contracting unit in connection with
18 purchases, contracts or agreements.

19 (4) "Purchase" is a transaction, for a valuable consideration,
20 creating or acquiring an interest in goods, services and property,
21 except real property or any interest therein.

22 (5) "Materials" includes goods and property subject to chapter 2
23 of Title 12A of the New Jersey Statutes, apparatus, or any other
24 tangible thing, except real property or any interest therein.

25 (6) "Professional services" means services rendered or performed
26 by a person authorized by law to practice a recognized profession,
27 whose practice is regulated by law, and the performance of which
28 services requires knowledge of an advanced type in a field of learning
29 acquired by a prolonged formal course of specialized instruction and
30 study as distinguished from general academic instruction or
31 apprenticeship and training. Professional services may also mean
32 services rendered in the performance of work that is original and
33 creative in character in a recognized field of artistic endeavor.

34 (7) "Extraordinary unspecifiable services" means services which
35 are specialized and qualitative in nature requiring expertise, extensive
36 training and proven reputation in the field of endeavor.

37 (8) "Project" means any work, undertaking, program, activity,
38 development, redevelopment, construction or reconstruction of any
39 area or areas.

40 (9) "Work" includes services and any other activity of a tangible
41 or intangible nature performed or assumed pursuant to a contract or
42 agreement with a contracting unit.

43 (10) "Homemaker--home health services" means at home personal
44 care and home management provided to an individual or members of
45 his family who reside with him, or both, necessitated by the individual's
46 illness or incapacity. "Homemaker--home health services" includes,

1 but is not limited to, the services of a trained homemaker.

2 (11) "Recyclable material" means those materials which would
3 otherwise become municipal solid waste, and which may be collected,
4 separated or processed and returned to the economic mainstream in
5 the form of raw materials or products.

6 (12) "Recycling" means any process by which materials which
7 would otherwise become solid waste are collected, separated or
8 processed and returned to the economic mainstream in the form of raw
9 materials or products.

10 (13) "Marketing" means the marketing of designated recyclable
11 materials source separated in a municipality which entails a marketing
12 cost less than the cost of transporting the recyclable materials to solid
13 waste facilities and disposing of the materials as municipal solid waste
14 at the facility utilized by the municipality.

15 (14) "Municipal solid waste" means all [residential, commercial
16 and institutional] nonhazardous solid waste or any portion thereof
17 generated within the boundaries of a municipality.

18 (15) "Distribution" (when used in relation to electricity) means the
19 process of conveying electricity from a contracting unit who is a
20 generator of electricity or a wholesale purchaser of electricity to retail
21 customers or other end users of electricity.

22 (16) "Transmission" (when used in relation to electricity) means
23 the conveyance of electricity from its point of generation to a
24 contracting unit who purchases it on a wholesale basis for resale.

25 (17) "Disposition" means the transportation, placement, reuse,
26 sale, donation, transfer or temporary storage of recyclable materials
27 for all possible uses except for disposal as municipal solid waste.

28 (18) "Cooperative marketing" means the joint marketing by two
29 or more contracting units within the same county, or adjacent or
30 proximate counties, of the source separated recyclable materials
31 designated in a district recycling plan required pursuant to section 3 of
32 P.L.1987, c.102 (C.13:1E-99.13) pursuant to a written cooperative
33 agreement entered into by the participating contracting units thereof.

34 (19) "County solid waste facility" means a solid waste facility that
35 is designated by a public authority or county in its adopted district
36 solid waste management plan as approved by the department prior to
37 November 10, 1997 as the in-county facility to which solid waste
38 generated within the boundaries of the county is transported for final
39 disposal, or transfer for transportation to an offsite solid waste facility
40 or designated out-of-district disposal site for disposal, as appropriate,
41 pursuant to interdistrict or intradistrict waste flow orders issued by the
42 department.

43 (20) "Public authority" means a municipal or county utilities
44 authority created pursuant to the "municipal and county utilities
45 authorities law," P.L.1957, c.183 (C.40:14B-1 et seq.); a county
46 improvement authority created pursuant to the "county improvement

1 authorities law," P.L.1960, c.183 (C.40:37A-44 et seq.); a pollution
2 control financing authority created pursuant to the "New Jersey
3 Pollution Control Financing Law," P.L.1973, c.376 (C.40:37C-1 et
4 seq.); or any other public body corporate and politic created for solid
5 waste management purposes in any county, pursuant to the provisions
6 of any law.

7 (21) "Solid waste" means garbage, refuse, and other discarded
8 materials resulting from industrial, commercial and agricultural
9 operations, and from domestic and community activities, and shall
10 include all other waste materials including liquids, except for source
11 separated recyclable materials or source separated food waste
12 collected by livestock producers approved by the State Department of
13 Agriculture to collect, prepare and feed such wastes to livestock on
14 their own farms.

15 (22) "Solid waste facilities" means, and includes, the plants,
16 structures and other real and personal property acquired, constructed
17 or operated or to be acquired, constructed or operated by, or on behalf
18 of, any person, public authority or county pursuant to the provisions
19 of the "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et
20 seq.) or any other act, including transfer stations, incinerators,
21 resource recovery facilities, sanitary landfill facilities or other plants
22 for the disposal of solid waste, and all vehicles, equipment and other
23 real and personal property and rights therein and appurtenances
24 necessary or useful and convenient for the collection or disposal of
25 solid waste in a sanitary manner.

26 (cf: P.L.1995, c.216, s.10)

27
28 116. Section 5 of P.L.1971, c.198 (C.40A:11-5) is amended to
29 read as follows:

30 5. Any purchase, contract or agreement of the character described
31 in section 4 of P.L.1971, c.198 (C.40A:11-4) may be made, negotiated
32 or awarded by the governing body without public advertising for bids
33 and bidding therefor if:

34 (1) The subject matter thereof consists of:

35 (a) (i) Professional services. The governing body shall in each
36 instance state supporting reasons for its action in the resolution
37 awarding each contract and shall forthwith cause to be printed once,
38 in a newspaper authorized by law to publish its legal advertisements,
39 a brief notice stating the nature, duration, service and amount of the
40 contract, and that the resolution and contract are on file and available
41 for public inspection in the office of the clerk of the county or
42 municipality, or, in the case of a contracting unit created by more than
43 one county or municipality, of the counties or municipalities creating
44 such contracting unit; or (ii) Extraordinary unspecifiable services. The
45 application of this exception shall be construed narrowly in favor of
46 open competitive bidding, where possible, and the Division of Local

- 1 Government Services is authorized to adopt and promulgate rules and
2 regulations limiting the use of this exception in accordance with the
3 intention herein expressed. The governing body shall in each instance
4 state supporting reasons for its action in the resolution awarding each
5 contract and shall forthwith cause to be printed, in the manner set
6 forth in subsection (1) (a) (i) of this section, a brief notice of the
7 award of such contract;
- 8 (b) The doing of any work by employees of the contracting unit;
- 9 (c) The printing of legal briefs, records and appendices to be used
10 in any legal proceeding in which the contracting party may be a party;
- 11 (d) The furnishing of a tax map or maps for the contracting party;
- 12 (e) The purchase of perishable foods as a subsistence supply;
- 13 (f) The supplying of any product or the rendering of any service
14 by a public utility, which is subject to the jurisdiction of the Board of
15 Public Utilities or the Federal Energy Regulatory Commission or its
16 successor, in accordance with tariffs and schedules of charges made,
17 charged or exacted, filed with the board or commission;
- 18 (g) The acquisition, subject to prior approval of the Attorney
19 General, of special equipment for confidential investigation;
- 20 (h) The printing of bonds and documents necessary to the issuance
21 and sale thereof by a contracting unit;
- 22 (i) Equipment repair service if in the nature of an extraordinary
23 unspecifiable service and necessary parts furnished in connection with
24 such service, which exception shall be in accordance with the
25 requirements for extraordinary unspecifiable services;
- 26 (j) The publishing of legal notices in newspapers as required by
27 law;
- 28 (k) The acquisition of artifacts or other items of unique intrinsic,
29 artistic or historical character;
- 30 (l) Election expenses;
- 31 (m) Insurance, including the purchase of insurance coverage and
32 consultant services, which exception shall be in accordance with the
33 requirements for extraordinary unspecifiable services;
- 34 (n) The doing of any work by handicapped persons employed by
35 a sheltered workshop;
- 36 (o) The provision of any service or the furnishing of materials
37 including those of a commercial nature, attendant upon the operation
38 of a restaurant by any nonprofit, duly incorporated, historical society
39 at or on any historical preservation site;
- 40 (p) Homemaker--home health services performed by voluntary,
41 nonprofit agencies;
- 42 (q) The purchase of materials and services for a law library
43 established pursuant to R.S.40:33-14, including books, periodicals,
44 newspapers, documents, pamphlets, photographs, reproductions,
45 microforms, pictorial or graphic works, copyright and patent materials,
46 maps, charts, globes, sound recordings, slides, films, filmstrips, video

1 and magnetic tapes, and other audiovisual, printed, or published
2 material of a similar nature; necessary binding or rebinding of law
3 library materials; and specialized library services;

4 (r) On-site inspections undertaken by private agencies pursuant to
5 the "State Uniform Construction Code Act," P.L.1975, c.217
6 (C.52:27D-119 et seq.) and the regulations adopted pursuant thereto;

7 (s) The marketing of recyclable materials recovered through a
8 recycling program, or the marketing of any product intentionally
9 produced or derived from solid waste received at a [resource
10 recovery] solid waste facility or recovered through a resource
11 recovery program, including, but not limited to, refuse-derived fuel,
12 compost materials, methane gas, and other similar products. The
13 application of this exception shall not be construed to include a solid
14 waste facility for the disposal of solid waste by incineration;

15 (t) Emergency medical services provided by a hospital to the
16 residents of a municipality or county, provided that: (a) such
17 exception be allowed only after the governing body determines that the
18 emergency services are available only from one provider; and (b) if the
19 contract is awarded without advertising for bids or bidding the
20 governing body shall in each instance state supporting reasons for its
21 action in a resolution awarding the contract and cause to be printed
22 once in a newspaper authorized by law to publish its legal
23 advertisements a brief notice stating the nature, duration, service, and
24 amount of the contract; and (c) the contract shall be kept on file for
25 public inspection in the office of the clerk of the municipality;

26 (u) Contracting unit towing and storage contracts, provided that
27 all such contracts shall be pursuant to reasonable non-exclusionary and
28 non-discriminatory terms and conditions, which may include the
29 provision of such services on a rotating basis, at the rates and charges
30 set by the municipality pursuant to section 1 of P.L.1979, c.101
31 (C.40:48-2.49). All contracting unit towing and storage contracts for
32 services to be provided at rates and charges other than those
33 established pursuant to the terms of this paragraph shall only be
34 awarded to the lowest responsible bidder in accordance with the
35 provisions of the "Local Public Contracts Law" and without regard for
36 the value of the contract therefor;

37 (v) The purchase of steam or electricity from, or the rendering of
38 services directly related to the purchase of such steam or electricity
39 from a qualifying small power production facility or a qualifying
40 cogeneration facility as defined pursuant to 16 U.S.C.796;

41 (w) The purchase of electricity or administrative or dispatching
42 services directly related to the transmission of such purchased
43 electricity by a contracting unit engaged in the generation of
44 electricity;

45 (x) The printing of municipal ordinances or other services
46 necessarily incurred in connection with the revision and codification

1 of municipal ordinances;

2 (y) An agreement for the purchase of an equitable interest in a
3 water supply facility or for the provision of water supply services
4 entered into pursuant to section 2 of P.L.1993, c.381 (C.58:28-2), or
5 an agreement entered into pursuant to P.L.1989, c.109
6 (N.J.S.40A:31-1 et al.), so long as such agreement is entered into no
7 later than six months after the effective date of P.L.1993, c.381;

8 (z) A contract for the provision of water supply services entered
9 into pursuant to P.L.1995, c.101 (C.58:26-19 et al.);

10 (aa) The cooperative marketing of recyclable materials recovered
11 through a recycling program; **[or]**

12 (bb) A contract for the provision of wastewater treatment services
13 entered into pursuant to P.L.1995, c.216 (C.58:27-19 et al.);

14 (cc) The provision of solid waste disposal services by any county
15 solid waste facility, which is a privately-owned sanitary landfill facility
16 for which the owner thereof has been awarded a franchise pursuant to
17 section 6 of P.L.1970, c.40 (C.48:13A-5). The application of this
18 exception shall be limited to contracts or agreements for the disposal
19 of municipal solid waste.

20 (2) It is to be made or entered into with the United States of
21 America, the State of New Jersey, county or municipality or any
22 board, body, officer, agency or authority thereof and any other state
23 or subdivision thereof.

24 (3) The contracting agent has advertised for bids pursuant to
25 section 4 of P.L.1971, c.198 (C.40A:11-4) on two occasions and (a)
26 has received no bids on both occasions in response to its
27 advertisement, or (b) the governing body has rejected such bids on two
28 occasions because the contracting agent has determined that they are
29 not reasonable as to price, on the basis of cost estimates prepared for
30 or by the contracting agent prior to the advertising therefor, or have
31 not been independently arrived at in open competition, or (c) on one
32 occasion no bids were received pursuant to (a) and on one occasion all
33 bids were rejected pursuant to (b), in whatever sequence; any such
34 contract or agreement may then be negotiated and may be awarded
35 upon adoption of a resolution by a two-thirds affirmative vote of the
36 authorized membership of the governing body authorizing such
37 contract or agreement; provided, however, that:

38 (i) A reasonable effort is first made by the contracting agent to
39 determine that the same or equivalent materials or supplies, at a cost
40 which is lower than the negotiated price, are not available from an
41 agency or authority of the United States, the State of New Jersey or
42 of the county in which the contracting unit is located, or any
43 municipality in close proximity to the contracting unit;

44 (ii) The terms, conditions, restrictions and specifications set forth
45 in the negotiated contract or agreement are not substantially different
46 from those which were the subject of competitive bidding pursuant to

1 section 4 of P.L.1971, c.198 (C.40A:11-4); and

2 (iii) Any minor amendment or modification of any of the terms,
3 conditions, restrictions and specifications, which were the subject of
4 competitive bidding pursuant to section 4 of P.L.1971, c.198
5 (C.40A:11-4), shall be stated in the resolution awarding such contract
6 or agreement; provided further, however, that if on the second
7 occasion the bids received are rejected as unreasonable as to price, the
8 contracting agent shall notify each responsible bidder submitting bids
9 on the second occasion of its intention to negotiate, and afford each
10 bidder a reasonable opportunity to negotiate, but the governing body
11 shall not award such contract or agreement unless the negotiated price
12 is lower than the lowest rejected bid price submitted on the second
13 occasion by a responsible bidder, is the lowest negotiated price offered
14 by any responsible supplier, and is a reasonable price for such work,
15 materials, supplies or services.

16 Whenever a contracting unit shall determine that a bid was not
17 arrived at independently in open competition pursuant to subsection
18 (3) of this section it shall thereupon notify the county prosecutor of
19 the county in which the contracting unit is located and the Attorney
20 General of the facts upon which its determination is based, and when
21 appropriate, it may institute appropriate proceedings in any State or
22 federal court of competent jurisdiction for a violation of any State or
23 federal antitrust law or laws relating to the unlawful restraint of trade.
24 (cf: P.L.1997, c.387, s.2)

25

26 117. Section 13 of P.L.1971, c.198 (C.40A:11-13) is amended to
27 read as follows:

28 13. Any specifications for an acquisition under **[this act]** the
29 provisions of P.L.1971, c.198 (C.40A:11-1 et seq.), whether by
30 purchase, contract or agreement, shall be drafted in a manner to
31 encourage free, open and competitive bidding. In particular, no
32 specifications under **[this act]** the provisions of P.L.1971, c.198
33 (C.40A:11-1 et seq.) may:

34 (a) Require any standard, restriction, condition or limitation not
35 directly related to the purpose, function or activity for which the
36 purchase, contract or agreement is made; or

37 (b) Require that any bidder be a resident of, or that **[his]** the
38 bidder's place of business be located in, the county or municipality in
39 which the purchase will be made or the contract or agreement
40 performed, unless the physical proximity of the bidder is requisite to
41 the efficient and economical purchase or performance of the contract
42 or agreement; except that no specification for a contract for the
43 collection **[and]** or disposal of municipal solid waste shall require any
44 bidder to be a resident of, or that **[his]** the bidder's place of business
45 be located in, the state, county or municipality in which the contract
46 will be performed; or

1 (c) Discriminate on the basis of race, religion, sex, national origin;
2 or

3 (d) Require, with regard to any purchase, contract or agreement,
4 the furnishing of any "brand name," but may in all cases require "brand
5 name or equivalent," except that if the materials to be supplied or
6 purchased are patented or copyrighted, such materials or supplies may
7 be purchased by specification in any case in which the ordinance or
8 resolution authorizing the purchase, contract, sale or agreement so
9 indicates, and the special need for such patented or copyrighted
10 materials or supplies is directly related to the performance, completion
11 or undertaking of the purpose for which the purchase, contract or
12 agreement is made; or

13 (e) Fail to include any option for renewal, extension, or release
14 which the contracting unit may intend to exercise or require; or any
15 terms and conditions necessary for the performance of any extra work;
16 or fail to disclose any matter necessary to the substantial performance
17 of the contract or agreement.

18 Any specification adopted by the governing body, which knowingly
19 excludes prospective bidders by reason of the impossibility of
20 performance, bidding or qualification by any but one bidder, except as
21 provided herein, shall be null and void and of no effect and subject
22 purchase, contract or agreement shall be readvertised, and the original
23 purchase, contract or agreement shall be set aside by the governing
24 body.

25 Any specification adopted by the governing body for a contract for
26 the collection **[and]** or disposal of municipal solid waste shall conform
27 to the uniform bid specifications for municipal solid waste collection
28 contracts established pursuant to section 22 of P.L.1991, c.381
29 (C.48:13A-7.22).

30 Any specification adopted by the governing body may include an
31 item for the cost, which shall be paid by the contractor, of creating a
32 file to maintain the notices of the delivery of labor or materials
33 required by N.J.S.2A:44-128.

34 (cf: P.L.1996, c.81, s.7)

35

36 118. Section 15 of P.L.1971, c.198 (C.40A:11-15) is amended to
37 read as follows:

38 15. All purchases, contracts or agreements for the performing of
39 work or the furnishing of materials, supplies or services shall be made
40 for a period not to exceed 24 consecutive months, except that
41 contracts for professional services pursuant to subparagraph (i) of
42 paragraph (a) of subsection (1) of section 5 of P.L.1971, c.198
43 (C.40A:11-5) shall be made for a period not to exceed 12 consecutive
44 months. Contracts or agreements may be entered into for longer
45 periods of time as follows:

46 (1) Supplying of:

1 (a) (Deleted by amendment, P.L.1996, c.113.)

2 (b) (Deleted by amendment, P.L.1996, c.113.)

3 (c) Thermal energy produced by a cogeneration facility, for use
4 for heating or air conditioning or both, for any term not exceeding 40
5 years, when the contract is approved by the Board of Public Utilities.
6 For the purposes of this paragraph, "cogeneration" means the
7 simultaneous production in one facility of electric power and other
8 forms of useful energy such as heating or process steam;

9 (2) (Deleted by amendment, P.L.1977, c.53.)

10 (3) (a) The collection and disposal of municipal solid waste, the
11 collection and disposition of recyclable material, or the disposal of
12 sewage sludge, for any term not exceeding in the aggregate, five years;

13 (b) The collection of municipal solid waste, for any term not
14 exceeding in the aggregate, five years;

15 (c) The disposal of municipal solid waste, for any term not
16 exceeding in the aggregate, five years;

17 (4) The collection **[and]** or recycling of methane gas from a
18 sanitary landfill facility, for any term not exceeding 25 years, when
19 such contract is in conformance with a district solid waste
20 management plan approved pursuant to P.L.1970, c.39 (C.13:1E-1 et
21 seq.), and with the approval of the Division of Local Government
22 Services in the Department of Community Affairs and the Department
23 of Environmental Protection. The contracting unit shall award the
24 contract to the highest responsible bidder, notwithstanding that the
25 contract price may be in excess of the amount of any necessarily
26 related administrative expenses; except that if the contract requires the
27 contracting unit to expend funds only, the contracting unit shall award
28 the contract to the lowest responsible bidder. The approval by the
29 Division of Local Government Services of public bidding requirements
30 shall not be required for those contracts exempted therefrom pursuant
31 to section 5 of P.L.1971, c.198 (C.40A:11-5);

32 (5) Data processing service, for any term of not more than three
33 years;

34 (6) Insurance, for any term of not more than three years;

35 (7) Leasing or servicing of automobiles, motor vehicles, machinery
36 and equipment of every nature and kind, for a period not to exceed
37 three years; provided, however, such contracts shall be entered into
38 only subject to and in accordance with the rules and regulations
39 promulgated by the Director of the Division of Local Government
40 Services of the Department of Community Affairs;

41 (8) The supplying of any product or the rendering of any service
42 by a telephone company which is subject to the jurisdiction of the
43 Board of Public Utilities for a term not exceeding five years;

44 (9) Any single project for the construction, reconstruction or
45 rehabilitation of any public building, structure or facility, or any public
46 works project, including the retention of the services of any architect

1 or engineer in connection therewith, for the length of time authorized
2 and necessary for the completion of the actual construction;

3 (10) The providing of food services for any term not exceeding
4 three years;

5 (11) On-site inspections undertaken by private agencies pursuant
6 to the "State Uniform Construction Code Act," P.L.1975, c.217
7 (C.52:27D-119 et seq.) for any term of not more than three years;

8 (12) The performance of work or services or the furnishing of
9 materials or supplies for the purpose of conserving energy in buildings
10 owned by, or operations conducted by, the contracting unit, the entire
11 price of which to be established as a percentage of the resultant
12 savings in energy costs, for a term not to exceed 10 years; provided,
13 however, that such contracts shall be entered into only subject to and
14 in accordance with rules and regulations promulgated by the
15 Department of Environmental Protection establishing a methodology
16 for computing energy cost savings;

17 (13) The performance of work or services or the furnishing of
18 materials or supplies for the purpose of elevator maintenance for any
19 term not exceeding three years;

20 (14) Leasing or servicing of electronic communications equipment
21 for a period not to exceed five years; provided, however, such contract
22 shall be entered into only subject to and in accordance with the rules
23 and regulations promulgated by the Director of the Division of Local
24 Government Services of the Department of Community Affairs;

25 (15) Leasing of motor vehicles, machinery and other equipment
26 primarily used to fight fires, for a term not to exceed ten years, when
27 the contract includes an option to purchase, subject to and in
28 accordance with rules and regulations promulgated by the Director of
29 the Division of Local Government Services of the Department of
30 Community Affairs;

31 (16) The provision of water supply services or the designing,
32 financing, construction, operation, or maintenance, or any combination
33 thereof, of a water supply facility, or any component part or parts
34 thereof, including a water filtration system, for a period not to exceed
35 40 years, when the contract for these services is approved by the
36 Division of Local Government Services in the Department of
37 Community Affairs, the Board of Public Utilities, and the Department
38 of Environmental Protection pursuant to P.L.1985, c.37 (C.58:26-1 et
39 al.), except for those contracts otherwise exempted pursuant to
40 subsection (30), (31), (34) or (35) of this section. For the purposes
41 of this subsection, "water supply services" means any service provided
42 by a water supply facility; "water filtration system" means any
43 equipment, plants, structures, machinery, apparatus, or land, or any
44 combination thereof, acquired, used, constructed, rehabilitated, or
45 operated for the collection, impoundment, storage, improvement,
46 filtration, or other treatment of drinking water for the purposes of

1 purifying and enhancing water quality and insuring its potability prior
2 to the distribution of the drinking water to the general public for
3 human consumption, including plants and works, and other personal
4 property and appurtenances necessary for their use or operation; and
5 "water supply facility" means and refers to the real property and the
6 plants, structures, interconnections between existing water supply
7 facilities, machinery and equipment and other property, real, personal
8 and mixed, acquired, constructed or operated, or to be acquired,
9 constructed or operated, in whole or in part by or on behalf of a
10 political subdivision of the State or any agency thereof, for the
11 purpose of augmenting the natural water resources of the State and
12 making available an increased supply of water for all uses, or of
13 conserving existing water resources, and any and all appurtenances
14 necessary, useful or convenient for the collecting, impounding, storing,
15 improving, treating, filtering, conserving or transmitting of water and
16 for the preservation and protection of these resources and facilities and
17 providing for the conservation and development of future water supply
18 resources;

19 (17) The provision of resource recovery services by a qualified
20 vendor, the disposal of the solid waste delivered for disposal which
21 cannot be processed by a resource recovery facility or the residual ash
22 generated at a resource recovery facility, including hazardous waste
23 and recovered metals and other materials for reuse, or the design,
24 financing, construction, operation or maintenance of a resource
25 recovery facility for a period not to exceed 40 years when the contract
26 is approved by the Division of Local Government Services in the
27 Department of Community Affairs, and the Department of
28 Environmental Protection pursuant to P.L.1985, c.38 (C.13:1E-136 et
29 al.); and when the resource recovery facility is in conformance with a
30 district solid waste management plan approved pursuant to P.L.1970,
31 c.39 (C.13:1E-1 et seq.). For the purposes of this subsection,
32 "resource recovery facility" means a solid waste facility constructed
33 and operated for the incineration of solid waste for energy production
34 and the recovery of metals and other materials for reuse; or a
35 mechanized composting facility, or any other solid waste facility
36 **【constructed or operated for the collection, separation, recycling, and**
37 **recovery of metals, glass, paper, and other materials for reuse or for**
38 **energy production】**; "resource recovery services" means any services
39 provided by the owner or operator of a resource recovery facility,
40 including but not limited to, solid waste disposal; the utilization of a
41 resource recovery facility for the disposal of out-of-county solid
42 waste; the disposal of residual ash or the solid waste delivered to a
43 resource recovery facility which cannot be processed at the resource
44 recovery facility; the utilization of a sanitary landfill facility for the
45 disposal of solid waste due to downtime or technical failure at a
46 resource recovery facility; or any combination thereof; and "residual

1 ash" means the bottom ash, fly ash, or any combination thereof,
2 resulting from the combustion of solid waste at a resource recovery
3 facility;

4 (18) The sale of electricity or thermal energy, or both, produced
5 by a resource recovery facility for a period not to exceed 40 years
6 when the contract is approved by the Board of Public Utilities, and
7 when the resource recovery facility is in conformance with a district
8 solid waste management plan approved pursuant to P.L.1970, c.39
9 (C.13:1E-1 et seq.). For the purposes of this subsection, "resource
10 recovery facility" means a solid waste facility constructed and operated
11 for the incineration of solid waste for energy production and the
12 recovery of metals and other materials for reuse; or a mechanized
13 composting facility, or any other solid waste facility [constructed or
14 operated for the collection, separation, recycling, and recovery of
15 metals, glass, paper, and other materials for reuse or for energy
16 production];

17 (19) The provision of wastewater treatment services or the
18 designing, financing, construction, operation, or maintenance, or any
19 combination thereof, of a wastewater treatment system, or any
20 component part or parts thereof, for a period not to exceed 40 years,
21 when the contract for these services is approved by the Division of
22 Local Government Services in the Department of Community Affairs
23 and the Department of Environmental Protection pursuant to
24 P.L.1985, c.72 (C.58:27-1 et al.), except for those contracts otherwise
25 exempted pursuant to subsection (36) of this section. For the purposes
26 of this subsection, "wastewater treatment services" means any services
27 provided by a wastewater treatment system, and "wastewater
28 treatment system" means equipment, plants, structures, machinery,
29 apparatus, or land, or any combination thereof, acquired, used,
30 constructed, or operated for the storage, collection, reduction,
31 recycling, reclamation, disposal, separation, or other treatment of
32 wastewater or sewage sludge, or for the final disposal of residues
33 resulting from the treatment of wastewater, including, but not limited
34 to, pumping and ventilating stations, facilities, plants and works,
35 connections, outfall sewers, interceptors, trunk lines, and other
36 personal property and appurtenances necessary for their operation;

37 (20) The supplying of materials or services for the purpose of
38 lighting public streets, for a term not to exceed five years, provided
39 that the rates, fares, tariffs or charges for the supplying of electricity
40 for that purpose are approved by the Board of Public Utilities;

41 (21) In the case of a contracting unit which is a county or
42 municipality, the provision of emergency medical services by a hospital
43 to residents of a municipality or county as appropriate for a term not
44 to exceed five years;

45 (22) Towing and storage contracts, awarded pursuant to
46 paragraph u. of subsection (1) of section 5 of P.L.1971, c.198

- 1 (C.40A:11-5) for any term not exceeding three years;
- 2 (23) Fuel for the purpose of generating electricity for a term not
3 to exceed eight years;
- 4 (24) The purchase of electricity or administrative or dispatching
5 services related to the transmission of such electricity, from a public
6 utility company subject to the jurisdiction of the Board of Public
7 Utilities, a similar regulatory body of another state, or a federal
8 regulatory agency, or from a qualifying small power producing facility
9 or qualifying cogeneration facility, as defined by 16 U.S.C. s.796, by
10 a contracting unit engaged in the generation of electricity for retail
11 sale, as of May 24,1991, for a term not to exceed 40 years;
- 12 (25) Basic life support services, for a period not to exceed five
13 years. For the purposes of this subsection, "basic life support" means
14 a basic level of prehospital care, which includes but need not be limited
15 to patient stabilization, airway clearance, cardiopulmonary
16 resuscitation, hemorrhage control, initial wound care and fracture
17 stabilization;
- 18 (26) Claims administration services, for any term not to exceed
19 three years;
- 20 (27) The provision of transportation services to elderly, disabled
21 or indigent persons for any term of not more than three years. For the
22 purposes of this subsection, "elderly persons" means persons who are
23 60 years of age or older. "Disabled persons" means persons of any age
24 who, by reason of illness, injury, age, congenital malfunction, or other
25 permanent or temporary incapacity or disability, are unable, without
26 special facilities or special planning or design to utilize mass
27 transportation facilities and services as effectively as persons who are
28 not so affected. "Indigent persons" means persons of any age whose
29 income does not exceed 100 percent of the poverty level, adjusted for
30 family size, established and adjusted under section 673(2) of subtitle
31 B, the "Community Services Block Grant Act," Pub.L.97-35
32 (42 U.S.C. s.9902 (2));
- 33 (28) The supplying of liquid oxygen or other chemicals, for a term
34 not to exceed five years, when the contract includes the installation of
35 tanks or other storage facilities by the supplier, on or near the
36 premises of the contracting unit;
- 37 (29) The performance of patient care services by contracted
38 medical staff at county hospitals, correction facilities and long term
39 care facilities, for any term of not more than three years;
- 40 (30) The acquisition of an equitable interest in a water supply
41 facility pursuant to section 2 of P.L.1993, c.381 (C.58:28-2), or an
42 agreement entered into pursuant to the "County and Municipal Water
43 Supply Act," N.J.S.40A:31-1 et seq., if the agreement is entered into
44 no later than January 7, 1995, for any term of not more than forty
45 years;
- 46 (31) The provision of water supply services or the financing,

1 construction, operation or maintenance or any combination thereof, of
2 a water supply facility or any component part or parts thereof, by a
3 partnership or copartnership established pursuant to a contract
4 authorized under section 2 of P.L.1993, c.381 (C.58:28-2), for a
5 period not to exceed 40 years;

6 (32) Laundry service and the rental, supply and cleaning of
7 uniforms for any term of not more than three years;

8 (33) The supplying of any product or the rendering of any service,
9 including consulting services, by a cemetery management company for
10 the maintenance and preservation of a municipal cemetery operating
11 pursuant to the "New Jersey Cemetery Act," N.J.S.8A:1-1 et seq., for
12 a term not exceeding 15 years;

13 (34) A contract between a public entity and a person pursuant to
14 P.L.1995, c.101 (C.58:26-19 et al.) for the provision of water supply
15 services may be entered into for any term which, when all optional
16 extension periods are added, may not exceed 40 years;

17 (35) An agreement for the purchase of a supply of water from a
18 public utility company subject to the jurisdiction of the Board of Public
19 Utilities in accordance with tariffs and schedules of charges made,
20 charged or exacted or contracts filed with the Board of Public
21 Utilities, for any term of not more than 40 years;

22 (36) A contract between a public entity and a person or public
23 authority pursuant to P.L.1995, c.216 (C.58:27-19 et al.) for the
24 provision of wastewater treatment services may be entered into for any
25 term of not more than 40 years, including all optional extension
26 periods; and

27 (37) The operation and management of a facility under a license
28 issued or permit approved by the Department of Environmental
29 Protection, including a wastewater treatment system or a water supply
30 or distribution facility, as the case may be, for any term of not more
31 than seven years. For the purposes of this subsection, "wastewater
32 treatment system" refers to facilities operated or maintained for the
33 storage, collection, reduction, disposal, or other treatment of
34 wastewater or sewage sludge, remediation of groundwater
35 contamination, stormwater runoff, or the final disposal of residues
36 resulting from the treatment of wastewater; and "water supply or
37 distribution facility" refers to facilities operated or maintained for
38 augmenting the natural water resources of the State, increasing the
39 supply of water, conserving existing water resources, or distributing
40 water to users.

41 All multiyear leases and contracts entered into pursuant to this
42 section, except contracts for the leasing or servicing of equipment
43 supplied by a telephone company which is subject to the jurisdiction
44 of the Board of Public Utilities, contracts involving the supplying of
45 electricity for the purpose of lighting public streets and contracts for
46 thermal energy authorized pursuant to subsection (1) above,

1 construction contracts authorized pursuant to subsection (9) above,
2 contracts and agreements for the provision of work or the supplying
3 of equipment to promote energy conservation authorized pursuant to
4 subsection (12) above, contracts for water supply services or for a
5 water supply facility, or any component part or parts thereof
6 authorized pursuant to subsection (16), (30), (31), (34), (35) or (37)
7 above, contracts for resource recovery services or a resource recovery
8 facility authorized pursuant to subsection (17) above, contracts for the
9 sale of energy produced by a resource recovery facility authorized
10 pursuant to subsection (18) above, contracts for wastewater treatment
11 services or for a wastewater treatment system or any component part
12 or parts thereof authorized pursuant to subsection (19), (36) or (37)
13 above, and contracts for the purchase of electricity or administrative
14 or dispatching services related to the transmission of such electricity
15 authorized pursuant to subsection (24) above, shall contain a clause
16 making them subject to the availability and appropriation annually of
17 sufficient funds as may be required to meet the extended obligation, or
18 contain an annual cancellation clause.

19 The Division of Local Government Services shall adopt and
20 promulgate rules and regulations concerning the methods of
21 accounting for all contracts that do not coincide with the fiscal year.
22 (cf: P.L.1997, c.288, s.1)

23

24 119. Section 23 of P.L.1971, c.198 (C.40A:11-23) is amended to
25 read as follows:

26 23. a. Advertisements for bids; bids; general requirements. All
27 advertisements for bids shall be published in a legal newspaper
28 sufficiently in advance of the date fixed for receiving the bids to
29 promote competitive bidding, but in no event less than 10 days prior
30 to such date; except that all advertisements for bids on contracts for
31 the collection **[and]** of municipal solid waste or the disposal of
32 municipal solid waste shall be published in a legal newspaper
33 circulating in the county or municipality, and in at least one newspaper
34 of general circulation published in the State, sufficiently in advance of
35 the date fixed for receiving the bids to promote competitive bidding,
36 but not less than 60 days prior to that date.

37 b. The advertisement shall designate the manner of submitting and
38 the method of receiving the bids and the time and place at which the
39 bids will be received. If the published specifications provide for receipt
40 of bids by mail, those bids which are mailed to the contracting unit
41 shall be sealed and shall only be opened for examination at such time
42 and place as all bids received are unsealed and announced. At such
43 time and place the contracting agent of the contracting unit shall
44 publicly receive the bids, and thereupon immediately proceed to unseal
45 them and publicly announce the contents, which announcement shall
46 be made in the presence of any parties bidding or their agents, who are

1 then and there present, and shall also make proper record of the prices
2 and terms, upon the minutes of the governing body, if the award is to
3 be made by the governing body of the contracting unit, or in a book
4 kept for that purpose, if the award is to be made by other than the
5 governing body, and in such latter case it shall be reported to the
6 governing body of the contracting unit for its action thereon, when
7 such action thereon is required. No bids shall be received after the time
8 designated in the advertisement.

9 c. Notice of revisions or addenda to advertisements or bid
10 documents shall be provided as follows:

11 1) For all contracts except those for construction work and
12 municipal solid waste collection **[and]** or municipal solid waste
13 disposal service, notice shall be published no later than five days,
14 Saturdays, Sundays, and holidays excepted, prior to the date for
15 acceptance of bids, in an official newspaper of the contracting unit and
16 be provided to any person who has submitted a bid or who has
17 received a bid package, in one of the following ways: i) in writing by
18 certified mail or ii) by certified facsimile transmission, meaning that the
19 sender's facsimile machine produces a receipt showing date and time
20 of transmission and that the transmission was successful or iii) by a
21 delivery service that provides certification of delivery to the sender.

22 2) For all contracts for construction work, notice shall be
23 provided no later than seven days, Saturday, Sundays, or holidays
24 excepted, prior to the date for acceptance of bids, to any person who
25 has submitted a bid or who has received a bid package in any of the
26 following ways: i) in writing by certified mail or ii) by certified
27 facsimile transmission, meaning that the sender's facsimile machine
28 produces a receipt showing date and time of transmission and that the
29 transmission was successful or iii) by a delivery service that provides
30 certification of delivery to the sender.

31 3) For municipal solid waste collection **[and]** or municipal solid
32 waste disposal contracts, notice shall be published in an official
33 newspaper of the contracting unit and in at least one newspaper of
34 general circulation published in the State no later than five days,
35 Saturdays, Sundays, and holidays excepted, prior to the date for
36 acceptance of bids.

37 d. Failure of the contracting unit to advertise for the receipt of
38 bids or to provide proper notification of revisions or addenda to
39 advertisements or bid documents related to bids as prescribed by this
40 section shall prevent the contracting unit from accepting the bids and
41 require the readvertisement for bids pursuant to subsection a. of this
42 section. Failure to obtain a receipt when good faith notice is sent or
43 delivered to the address or telephone facsimile number on file with the
44 contracting unit shall not be considered failure by the contracting unit
45 to provide notice.

46 (cf: P.L.1997, c.243, s.1)

1 120. R.S.48:2-13 is amended to read as follows:

2 48:2-13. The board shall have general supervision and regulation
3 of and jurisdiction and control over all public utilities as hereinafter in
4 this section defined and their property, property rights, equipment,
5 facilities and franchises so far as may be necessary for the purpose of
6 carrying out the provisions of this Title.

7 The term "public utility" shall include every individual,
8 copartnership, association, corporation or joint stock company, their
9 lessees, trustees or receivers appointed by any court whatsoever, their
10 successors, heirs or assigns, that now or hereafter may own, operate,
11 manage or control within this State any railroad, street railway,
12 traction railway, autobus, charter bus operation, special bus operation,
13 canal, express, subway, pipeline, gas, electric light, heat, power, water,
14 oil, sewer, [solid waste collection, solid waste disposal,] telephone or
15 telegraph system, plant or equipment for public use, under privileges
16 granted or hereafter to be granted by this State or by any political
17 subdivision thereof.

18 Nothing contained in this Title shall extend the powers of the
19 board to include any supervision and regulation of, or jurisdiction and
20 control over any vehicles engaged in ridesharing arrangements with a
21 maximum carrying capacity of not more than 15 passengers, including
22 the driver, where the transportation of passengers is incidental to the
23 purpose of the driver or any vehicles engaged in the transportation of
24 passengers for hire in the manner and form commonly called taxicab
25 service unless such service becomes or is held out to be regular service
26 between stated termini; hotel buses used exclusively for the
27 transportation of hotel patrons to or from local railroad or other
28 common carrier stations, including local airports, or bus employed
29 solely for transporting school children and teachers, to and from
30 school, or any autobus with a carrying capacity of not more than 10
31 passengers now or hereafter operated under municipal consent upon
32 a route established wholly within the limits of a single municipality or
33 with a carrying capacity of not more than 20 passengers operated
34 under municipal consent upon a route established wholly within the
35 limits of not more than four contiguous municipalities within any
36 county of the fifth or sixth class, which route in either case does not
37 in whole or in part parallel upon the same street the line of any street
38 railway or traction railway or any other autobus route.

39 Except as provided in section 7 of P.L.1995, c.101, (C.58:26-25),
40 the board shall have no regulatory authority over the parties to a
41 contract negotiated between a public entity and a private firm pursuant
42 to P.L.1995, c.101 (C.58:26-25) in connection with the performance
43 of their respective obligations thereunder. Nothing contained in this
44 title shall extend the powers of the board to include any supervision
45 and regulation of, or jurisdiction and control over, any public-private
46 contract for the provision of water supply services established

1 pursuant to P.L.1995, c.101 (C.58:26-19 et al.).
2 (cf: P.L.1995, c.101, s.10)

3
4 121. Section 1 of P.L.1968, c.173 (C.48:2-59) is amended to read
5 as follows:

6 1. a. To enable the Board **of Public Utility Commissioners in the**
7 **Department** of Public Utilities to better perform its lawful duties
8 relating to service, classifications to be used, rates and charges to be
9 made and collected, rules and regulations to be prescribed, and
10 supervision over all public utilities **and public movers** under its
11 jurisdiction, the Board of Public **Utility Commissioners** Utilities
12 shall annually make an assessment against each public utility **and**
13 **public mover**.

14 b. After August 19, 1991, the Board of Public Utilities shall not
15 make an assessment against any person engaging in the business of
16 solid waste collection or solid waste disposal pursuant to P.L.1970,
17 c.40 (C.48:13A-1 et seq.). The provisions of this subsection shall not
18 affect any obligation to pay an assessment made by the Board prior to
19 August 19, 1991, nor shall these provisions affect the legal authority
20 of the Board under subsection a. of this section or section 2 of
21 P.L.1968, c.173 (C.48:2-60) to make an assessment against any person
22 engaging in the business of solid waste collection or solid waste
23 disposal prior to that date.

24 The provisions of this subsection shall not affect the legal authority
25 of the State Treasurer under section 12 of P.L.1968, c.173
26 (C.48:2-70) to collect the amount stated to be due, including any
27 interest which may accrue by virtue of the neglect or refusal of the
28 public utility to pay an assessment made by the board prior to August
29 19, 1991, nor shall these provisions invalidate or affect any proceeding
30 for the enforcement thereof.

31 c. After June 30, 1998, the Department of Environmental
32 Protection shall not make an assessment against any person engaging
33 in the business of solid waste collection or solid waste disposal
34 pursuant to P.L.1970, c.40 (C.48:13A-1 et seq.). The provisions of
35 this subsection shall not affect any obligation to pay an assessment
36 made by the department prior to June 30, 1998, nor shall these
37 provisions affect the legal authority of the department under
38 subsection a. of this section or section 2 of P.L.1968, c.173
39 (C.48:2-60) to make an assessment against any person engaging in the
40 business of solid waste collection or solid waste disposal prior to that
41 date.

42 The provisions of this subsection shall not affect the legal authority
43 of the State Treasurer under section 12 of P.L.1968, c.173
44 (C.48:2-70) to collect the amount stated to be due, including any
45 interest which may accrue by virtue of the neglect or refusal of the
46 public utility to pay an assessment made by the department prior to

1 June 30, 1998, nor shall these provisions invalidate or affect any
2 proceeding for the enforcement thereof.

3 (cf: P.L.1972, c.36, s.1)

4
5 122. Section 2 of P.L.1968, c.173 (C.48:2-60) is amended to read
6 as follows:

7 2. a. The assessment shall be equal to a percentage of the gross
8 operating revenue of the public utilities under the jurisdiction of the
9 board derived from intrastate operations during the preceding calendar
10 year at a rate to be determined annually by the board on or before
11 June 30 in the following manner:

12 The total amount appropriated to the Board of Public Utilities by
13 law for its general purposes for its next fiscal year shall be divided by
14 the total amount of the gross operating revenues of all public utilities
15 under the jurisdiction of the board derived from intrastate operations
16 during the preceding calendar year. The quotient resulting shall
17 constitute the percentage rate of the assessment for the calendar year
18 in which such computation is made. The total amount so assessed to
19 any particular public utility shall not exceed 1/4 of 1% of the gross
20 operating revenue subject to assessment hereunder of that utility
21 derived from its intrastate operation during the preceding calendar
22 year, except that the minimum assessment for any public utility shall
23 be \$500.【00.】

24 b. After August 19, 1991, the provisions of P.L.1968, c.173
25 (C.48:2-59 et seq.) relating to the annual assessment made by the
26 Board of Public Utilities shall not apply to any person engaging in the
27 business of solid waste collection or solid waste disposal pursuant to
28 P.L.1970, c.40 (C.48:13A-1 et seq.) or P.L.1991, c.381
29 (C.48:13A-7.1 et seq.).

30 c. After June 30, 1998, the provisions of P.L.1968, c.173
31 (C.48:2-59 et seq.) relating to the annual assessment made against
32 public utilities shall not apply to any person engaging in the business
33 of solid waste collection or solid waste disposal pursuant to P.L.1970,
34 c.40 (C.48:13A-1 et seq.) or P.L.1991, c.381 (C.48:13A-7.1 et seq.).
35 (cf: P.L.1989, c.281, s.1)

36
37 123. Section 4 of P.L.1968, c.173 (C.48:2-62) is amended to read
38 as follows:

39 4. The assessment prescribed by sections 1 and 2 of P.L.1968
40 c.173 (C.48:2-59 and 48:2-60) shall be levied by the Board of Public
41 **【Utility Commissioners】 Utilities** not later than July 1, and shall be
42 paid within 30 days after mailing by first class mail to any public
43 utility **【or public mover】** notice thereof and a statement of the amount.

44 Each public utility **【and public mover】** shall on or before June 1,
45 file with the Board of Public **【Utility Commissioners】 Utilities**, under
46 oath, a statement showing its gross operating revenues derived from

1 intrastate operations during the preceding calendar year.

2 (cf: P.L.1972, c.36, s.3)

3

4 124. R.S.48:3-3 is amended to read as follows:

5 48:3-3. **[a.]** No public utility shall provide or maintain any service
6 that is unsafe, improper or inadequate, or withhold or refuse any
7 service which reasonably can be demanded or furnished when ordered
8 by the board.

9 **[b.** The board, upon receipt of a notification of refusal to provide
10 solid waste collection services within a municipality pursuant to
11 section 2 of P.L.1991, c.170 (C.40:66-5.2), may order the solid waste
12 collector to provide these services in accordance with the provisions
13 of R.S.48:2-23.]

14 (cf: P.L.1991, c.170, s.5)

15

16 125. R.S.48:3-7 is amended to read as follows:

17 48:3-7. a. No public utility shall, without the approval of the
18 board, sell, lease, mortgage or otherwise dispose of or encumber its
19 property, franchises, privileges or rights, or any part thereof; or merge
20 or consolidate its property, franchises, privileges or rights, or any part
21 thereof, with that of any other public utility.

22 Where, by the proposed sale, lease or other disposition of all or a
23 substantial portion of its property, any franchise or franchises,
24 privileges or rights, or any part thereof or merger or consolidation
25 thereof as set forth herein, it appears that the public utility or a wholly
26 owned subsidiary thereof may be unable to fulfill its obligation to any
27 employees thereof with respect to pension benefits previously enjoyed,
28 whether vested or contingent, the board shall not grant its approval
29 unless the public utility seeking the board's approval for such sale,
30 lease or other disposition assumes such responsibility as will be
31 sufficient to provide that all such obligations to employees will be
32 satisfied as they become due.

33 Every sale, mortgage, lease, disposition, encumbrance, merger or
34 consolidation made in violation of this section shall be void.

35 Nothing herein shall prevent the sale, lease or other disposition by
36 any public utility of any of its property in the ordinary course of
37 business, nor require the approval of the board to any grant,
38 conveyance or release of any property or interest therein heretofore
39 made or hereafter to be made by any public utility to the United States,
40 State or any county or municipality or any agency, authority or
41 subdivision thereof, for public use.

42 The approval of the board shall not be required to validate the title
43 of the United States, State or any county or municipality or any
44 agency, authority or subdivision thereof, to any lands or interest
45 therein heretofore condemned or hereafter to be condemned by the
46 United States, State or any county or municipality or any agency,

1 authority or subdivision thereof for public use.

2 b. Notwithstanding any law, rule, regulation or order to the
3 contrary, an autobus public utility regulated by and subject to the
4 provisions of Title 48 of the Revised Statutes may, without the
5 approval of the Department of Transportation, sell, lease, mortgage
6 or otherwise dispose of or encumber its property, or any part thereof,
7 except that approval of the Department of Transportation shall be
8 required for the following:

9 (1) the sale of 60% or more of its property within a 12-month
10 period;

11 (2) a merger or consolidation of its property, franchises, privileges
12 or rights; or

13 (3) the sale of any of its franchises, privileges or rights.

14 Notice of the sale, purchase or lease of any autobus or other
15 vehicle subject to regulation under Title 48 of the Revised Statutes
16 shall be provided to the Department of Transportation as the
17 department shall require.

18 c. [Except as otherwise provided in subsection e. of this section,
19 no solid waste collector as defined in section 3 of P.L.1970, c.40
20 (C.48:13A-3) shall, without the approval of the board:

21 (1) sell, lease, mortgage or otherwise dispose of or encumber its
22 property, including customer lists; or

23 (2) merge or consolidate its property, including customer lists,
24 with that of any other person or business concern, whether or not that
25 person or business concern is engaged in the business of solid waste
26 collection or solid waste disposal pursuant to the provisions of
27 P.L.1970 c.39 (C.13:1E-1 et seq.), P.L.1970, c.40 (C.48:13A-1 et
28 seq.), P.L.1991, c.381 (C.48:13A-7.1 et al.) or any other act.]
29 (Deleted by amendment, P.L. , c.)

30 d. [Any solid waste collector seeking approval for any transaction
31 enumerated in subsection c. of this section shall file with the board, on
32 forms and in a manner prescribed by the board, a notice of intent at
33 least 30 days prior to the completion of the transaction.

34 (1) The board shall promptly review all notices filed pursuant to
35 this subsection. The board may, within 30 days of receipt of a notice
36 of intent, request that the solid waste collector submit additional
37 information to assist in its review if it deems that such information is
38 necessary. If no such request is made, the transaction shall be deemed
39 to have been approved. In the event that additional information is
40 requested, the board shall outline, in writing, why it deems such
41 information necessary to make an informed decision on the impact of
42 the transaction on effective competition.

43 (2) The board shall approve or deny a transaction within 60 days
44 of receipt of all requested information. In the event that the board fails
45 to take action on a transaction within the 60-day period specified
46 herein, then the transaction shall be deemed to have been approved.

1 (3) The board shall approve a transaction unless it makes a
2 determination pursuant to the provisions of section 19 of P.L.1991,
3 c.381 (C.48:13A-7.19) that the proposed sale, lease, mortgage,
4 disposition, encumbrance, merger or consolidation would result in a
5 lack of effective competition.

6 The Board of Public Utilities shall prescribe and provide upon
7 request all necessary forms for the implementation of the notification
8 requirements of this subsection.】 (Deleted by amendment, P.L. __, c. __)
9

10 e. 【(1) Any solid waste collector may, without the approval of the
11 board, purchase, finance or lease any equipment, including collection
12 or haulage vehicles.

13 (2) Any solid waste collector may, without the approval of the
14 board, sell or otherwise dispose of its collection or haulage vehicles;
15 except that no solid waste collector shall, without the approval of the
16 board in the manner provided in subsection d. of this section, sell or
17 dispose of 33% or more of its collection or haulage vehicles within a
18 12-month period.】 (Deleted by amendment, P.L. __, c. __)

19 【As used in this section, "business concern" means any
20 corporation, association, firm, partnership, sole proprietorship, trust
21 or other form of commercial organization.】

22 (cf: P.L.1991, c.381, s.35)

23

24 126. R.S.48:3-9 is amended to read as follows:

25 48:3-9. No public utility shall, unless it shall have first obtained
26 authority from the board so to do:

27 (a) Issue any stocks, or any bonds, notes or other evidence of
28 indebtedness payable more than 12 months after the date or dates
29 thereof, or extend or renew any bond, note or any other evidence of
30 indebtedness so that any extension or renewal thereof shall be payable
31 later than 12 months after the date of the original instrument, or

32 (b) Permit any demand note to remain unpaid for a period of more
33 than 12 months after the date thereof.

34 The board shall approve any such proposed issue, with or without
35 hearing at its discretion, when satisfied that such issue is to be made
36 in accordance with law and the purpose thereof is approved by the
37 board.

38 The provisions of this section shall not apply to any public utility
39 operating, managing or controlling a railroad or a railway express
40 which is subject to the rules and regulations from time to time issued
41 by the Interstate Commerce Commission.

42 The provisions of this section shall not apply to autobus public
43 utilities under the jurisdiction of the Department of Transportation.

44 The provisions of this section shall not apply to any solid waste
45 collector as defined in section 3 of P.L.1970, c.40 (C.48:13A-3) or to
46 any person engaging in the business of solid waste collection or solid

1 waste disposal pursuant to P.L.1970, c.40 (C.48:13A-1 et seq.) or
2 P.L.1991, c.381 (C.48:13A-7.1 et seq.).

3 (cf: P.L.1991, 381, s.36)

4
5 127. Section 48 of P.L.1962, c.198 (C.48:3-17.6) is amended to
6 read as follows:

7 48. Any of the following types of public utilities now or hereafter
8 organized and existing under and by virtue of any law of this State:
9 electric light, heat and power; canal; gas; pipeline; railroad;
10 underground railroad; sewerage; [solid waste disposal as defined in
11 section 3 of P.L.1970, c. 40 (C. 48:13A-3);] water power; street
12 railway or traction; telegraph or telephone; or water, in addition to and
13 not in substitution of whatever other right, power and authority it may
14 have and possess, may, subject to the restrictions as provided
15 hereinafter, take or acquire under the provisions of P.L.1971, c. 361
16 (C. 20:3-1 et seq.), such property or other interest therein which may
17 be reasonably necessary for the purposes enumerated for each such
18 utility in the succeeding sections hereto. [In the case of solid waste
19 disposal facilities, the condemnation proceeding may not commence
20 unless the Department of Environmental Protection finds, pursuant to
21 the provisions of section 17 of P.L.1975, c. 326 (C. 13:1E-26) that the
22 site to be taken is a suitable site for a solid waste disposal facility, and
23 that it will not pose an undue risk to the environment or public
24 health.]

25 (cf: P.L.1984, c.214, s.1)

26
27 128. Section 6 of P.L.1970, c.40 (C.48:13A-5) is amended to read
28 as follows:

29 6. a. The [Board of Public Utilities] Department of Environmental
30 Protection may, by order in writing, when it finds that the public
31 interest requires, award a franchise to any person or persons engaged
32 in solid waste disposal at rates and charges published in tariffs or
33 contracts accepted or to be accepted for filing by the [board;
34 provided, however, that the proposed franchise for solid waste
35 disposal conforms to the district solid waste management plan of the
36 district or districts in which such service is to be located, as such plan
37 shall have been approved by the] Department of Environmental
38 Protection.

39 After November 10, 1997, the Department of Environmental
40 Protection shall not award a franchise to any person or persons
41 engaged in solid waste disposal in this State.

42 b. [Franchises awarded pursuant to this section shall be of
43 sufficient area and duration to support the estimated technical and
44 economic needs of the disposal facility which is to serve the district or
45 districts.] (Deleted by amendment, P.L. , c.)

1 c. For the purposes of this section, "franchise" shall mean the
2 exclusive right to control and provide for the disposal of solid waste,
3 except for recyclable material whenever markets for those materials
4 are available, within a district **[or districts]** as awarded by the Board
5 of Public Utilities or the department prior to November 10, 1997.

6 d. In no event shall the **[board]** department award a franchise to
7 any person required to be listed in the disclosure statement, or
8 otherwise shown to have a beneficial interest in the business of the
9 applicant, permittee or the licensee as defined in section 2 of P.L.1983,
10 c.392 (C.13:1E-127), if the **[board]** department determines that there
11 is a reasonable suspicion to believe that the person does not possess
12 a reputation for good character, honesty and integrity, and that person
13 or the applicant, permittee or licensee fails, by clear and convincing
14 evidence, to establish his reputation for good character, honesty and
15 integrity.

16 e. **[Nothing in section 11 of P.L.1970, c.40 (C.48:13A-10) shall**
17 **be interpreted to prevent the implementation of this section by the**
18 **Board of Public Utilities.]** (Deleted by amendment, P.L. , c.)
19 (cf: P.L.1991, c.269, s.11)

20
21 129. Section 15 of P.L.1991, c.381 (C.48:13A-7.15) is amended
22 to read as follows:

23 15. a. The rates or charges imposed by solid waste collectors, or
24 fees, rates or charges for solid waste collection services provided by
25 persons engaged in the business of solid waste collection in this State
26 shall not be subject to the regulation of the Board of Public Utilities,
27 **[except as provided in section 20 of P.L.1991, c.381**
28 **(C.48:13A-7.20)]** the Department of Environmental Protection or any
29 other State agency. **[Nothing herein provided shall be construed to**
30 **limit the authority of the board with respect to the supervision of the**
31 **solid waste collection industry.]**

32 b. The solid waste disposal rates or charges received at solid
33 waste facilities, or fees, rates or charges for the disposal of solid waste
34 received by any county, public authority as defined in section 3 of
35 P.L.1970, c.39 (C.13:1E-3) or any other person engaged in the
36 business of solid waste disposal in this State shall not be subject to the
37 regulation of the Board of Public Utilities, the Department of
38 Environmental Protection or any other State agency.

39 (cf: P.L.1991, c.381, s.15)

40
41 130. Section 21 of P.L.1991, c.381 (C.48:13A-7.21) is amended
42 to read as follows:

43 21. a. There is created in the Board of Public Utilities a special
44 nonlapsing fund to be known as the "Solid Waste Enforcement Fund."
45 All monies from penalties collected by the board pursuant to section

1 13 of P.L.1970, c.40 (C.48:13A-12) shall be deposited in the fund.

2 b. **【Unless otherwise expressly provided by the specific**
3 **appropriation thereof by the Legislature, monies in the fund shall be**
4 **utilized exclusively by the Division of Solid Waste in the Board of**
5 **Public Utilities for enforcement and implementation of the provisions**
6 **of P.L.1970, c.40 (C.48:13A-1 et seq.) and P.L.1991, c.381**
7 **(C.48:13A-7.1 et al.)】 On or after June 30, 1998 all monies accruing**
8 **to the fund, and any interest earned on the management of monies in**
9 **the fund, shall be paid into the General Fund.**

10 (cf: P.L.1991, c.381, s.21)

11

12 131. Section 22 of P.L.1991, c.381 (C.48:13A-7.22) is amended
13 to read as follows:

14 22. The **【Board of Public Utilities】** Department of Environmental
15 Protection shall establish, in rules and regulations adopted pursuant to
16 the provisions of the "Administrative Procedure Act," P.L.1968, c.410
17 (C.52:14B-1 et seq.), uniform bid specifications for municipal solid
18 waste collection contracts.

19 (cf: P.L.1991, c.381, s.22)

20

21 132. (New section) The provisions of any other law to the
22 contrary notwithstanding, every county and public authority may
23 provide for the collection or disposal of all nonhazardous solid waste
24 or any portion thereof generated within the county.

25 a. The governing body of the county or public authority, in its
26 discretion, may:

27 (1) Establish and operate a municipal service system for solid
28 waste collection on behalf of constituent municipalities or responsible
29 solid waste generators;

30 (2) Enter into a contract for regular solid waste collection service
31 with a solid waste collector pursuant to the provisions of the "Local
32 Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.) on
33 behalf of constituent municipalities;

34 (3) Enter into a contract for regular solid waste collection service
35 with a solid waste collector pursuant to the provisions of the "Local
36 Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.) on
37 behalf of responsible solid waste generators; or

38 (4) Any combination thereof.

39 b. The governing body of the county or public authority, in its
40 discretion, may:

41 (1) Enter into a contract for solid waste disposal on behalf of its
42 constituent municipalities or responsible solid waste generators with
43 any person, public authority or county that owns or operates a county
44 solid waste facility pursuant to the provisions of the "Local Public
45 Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.);

46 (2) Enter into a contract for solid waste collection or solid waste

1 disposal on behalf of its constituent municipalities or responsible solid
2 waste generators with any person lawfully engaged in solid waste
3 collection or solid waste disposal pursuant to the provisions of the
4 "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.);

5 (3) Enter into a contract for solid waste collection or solid waste
6 disposal with constituent municipalities or responsible solid waste
7 generators for the use of the county solid waste facility; or

8 (4) Any combination thereof.

9 c. The governing body of the county or public authority within any
10 county of the first or second class that intends to provide for the
11 collection of solid waste as provided in this section shall establish two
12 or more county solid waste collection districts consisting of equal
13 proportions of the population that may be served by the county or
14 public authority. Each solid waste collection district shall be subject to
15 separate service or contracting arrangements.

16
17 133. (New section) Nothing contained in the provisions of
18 P.L. , c. (C.13:1E-208 et al.)(pending in the Legislature as this
19 bill) shall be construed to modify the provisions of the "Pinelands
20 Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.), or any rule or
21 regulation adopted pursuant thereto, or the comprehensive
22 management plan prepared and adopted by the Pinelands Commission
23 pursuant to section 7 of P.L.1979, c.111 (C.13:18A-8).

24
25 134. There is appropriated from the General Fund to the State
26 Solid Waste Facility Debt Retirement Fund established pursuant to
27 section 8 of P.L.1998, c. , (pending in the Legislature as this bill) the
28 sum of \$50,000,000.

29
30 135. The following are repealed:

31 Section 2 of P.L.1970, c.39 (C.13:1E-2);

32 Section 2 of P.L.1983, c.464 (C.13:1E-5.2);

33 Section 1 of P.L.1984, c.221 (C.13:1E-5.3);

34 Section 2 of P.L.1981, c.438 (C.13:1E-9.1);

35 Section 2 of P.L.1990, c.70 (C.13:1E-9.5);

36 Section 18 of P.L.1975, c.326 (C.13:1E-27);

37 Section 20 of P.L.1975, c.326 (C.13:1E-29);

38 Section 26 of P.L.1975, c.326 (C.13:1E-35);

39 Sections 29 and 30 of P.L.1975, c.326 (C.13:1E-36 and
40 13:1E-37);

41 Section 9 of P.L.1989, c.34 (C.13:1E-48.9);

42 Section 12 of P.L.1989, c.34 (C.13:1E-48.12);

43 Section 4 of P.L.1981, c.278 (C.13:1E-95);

44 Section 7 of P.L.1981, c.278 (C.13:1E-98);

45 Section 5 of P.L.1987, c.102 (C.13:1E-99.15);

46 Section 9 of P.L.1987, c.102 (C.13:1E-99.17);

1 Section 11 of P.L.1989, c.151 (C.13:1E-99.21e);
2 Section 23 of P.L.1987, c.102 (C.13:1E-99.31);
3 Section 40 of P.L.1987, c.102 (C.13:1E-99.33);
4 Section 45 of P.L.1987, c.102 (C.13:1E-99.37);
5 Section 48 of P.L.1987, c.102 (C.13:1E-99.38);
6 Section 50 of P.L.1987, c.102 (C.13:1E-99.39);
7 Section 13 of P.L.1981, c.306 (C.13:1E-112);
8 Sections 2 and 3 of P.L.1983, c.93 (C.13:1E-118 and
9 13:1E-119);
10 Section 9 of P.L.1985, c.38 (C.13:1E-144);
11 Section 11 of P.L.1985, c.38 (C.13:1E-146);
12 Sections 16 and 17 of P.L.1985, c.38 (C.13:1E-151 and
13 13:1E-152);
14 Sections 30 and 31 of P.L.1985, c.38 (C.13:1E-165 and
15 13:1E-166);
16 Section 1 of P.L.1985, c.368 (C.13:1E-169);
17 Sections 3 through 7 inclusive of P.L.1985, c.368
18 (C.13:1E-171 through 13:1E-175);
19 Section 3 of P.L.1989, c.236 (C.27:2-9);
20 Sections 1 through 3 inclusive of P.L.1970, c.40
21 (C.48:13A-1 through 48:13A-3);
22 Section 5 of P.L.1970, c.40 (C.48:13A-4);
23 Section 2 of P.L.1983, c.123 (C.48:13A-4.1);
24 Section 40 of P.L.1985, c.38 (C.48:13A-5.1);
25 Section 7 of P.L.1970, c.40 (C.48:13A-6);
26 Section 1 of P.L.1981, c.221 (C.48:13A-6.1);
27 Section 2 of P.L.1990, c.113 (C.48:13A-6.2);
28 Section 1 of P.L.1991, c.35 (C.48:13A-6.3);
29 Section 8 of P.L.1970, c.40 (C.48:13A-7);
30 Sections 1 through 4 inclusive of P.L.1991, c.381
31 (C.48:13A-7.1 through 48:13A-7.4);
32 Section 11 of P.L.1991, c.381 (C.48:13A-7.11);
33 Section 14 of P.L.1991, c.381 (C.48:13A-7.14);
34 Sections 16 through 20 inclusive of P.L.1991, c.381
35 (C.48:13A-7.16 through 48:13A-7.20);
36 Sections 9 through 14 inclusive of P.L.1970, c.40
37 (C.48:13A-8 through 48:13A-13);
38 Sections 4 through 8 inclusive of P.L.1973, c.330
39 (C.40:37A-101 through 40:37A-105);
40 R.S.40:66-2;
41 R.S.40:66-3;
42 Section 3 of P.L.1991, c.170 (C.40:66-5.3);
43 Section 1 of P.L.1989, c.236 (C.40A:11-16.5); and
44 Section 2 of P.L.1989, c.236 (C.52:34-13.1).
45
46 136. This act shall take effect immediately.