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LAW/RWH

P.L.2011, CHAPTER 68, *approved May 9, 2011*

Senate, No. 2295 (*Second Reprint*)

1 AN ACT concerning disclosure requirements for the licensing of
2 solid waste and hazardous waste operations, and amending
3 P.L.1983, c.392.

4

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

7

8 ²1. Section 2 of P.L.1983, c.392 (C.13:1E-127) is amended to
9 read as follows:

10 2. As used in the provisions of P.L.1983, c.392 (C.13:1E-126 et
11 seq.) and P.L.1991, c.269 (C.13:1E-128.1 et al.):

12 a. "Applicant" means any business concern which has filed a
13 disclosure statement with the department and the Attorney General
14 and is seeking an initial license, provided that the business concern
15 has furnished the department and the Attorney General with any
16 information required pursuant to P.L.1991, c.269 (C.13:1E-128.1 et
17 al.).

18 b. "Application" means the forms and accompanying
19 documents filed in connection with an applicant's or permittee's
20 request for a license.

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

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

26 e. "Disclosure statement" means a statement submitted to the
27 department and the Attorney General by an applicant or a permittee,
28 which statement shall include:

29 (1) The full name, business address and social security number
30 of the applicant or the permittee, as the case may be, and of any
31 officers, directors, partners, or key employees thereof and all
32 persons holding any equity in or debt liability of **[that business
33 concern]** the applicant or permittee , or, if the applicant or
34 permittee is a publicly traded corporation, all persons holding more
35 than 5% of the equity in or the debt liability of **[that business
36 concern]** the applicant or permittee , except that (a) where the
37 equity in or debt liability of the applicant or permittee is held by an
38 institutional investor, the applicant or permittee need only supply
39 the name, business address and the basis upon which the
40 institutional investor qualifies as an institutional investor, and (b)

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SEG committee amendments adopted December 9, 2010.

²Assembly AEN committee amendments adopted February 10, 2011.

1 where the debt liability is held by a chartered lending institution,
2 the applicant or permittee need only supply the name and business
3 address of the lending institution;

4 (2) The full name, business address and social security number
5 of all officers, directors, or partners of any business concern
6 disclosed in the disclosure statement and the names and addresses
7 of all persons holding any equity in or the debt liability of any
8 business concern so disclosed, ~~【or, if】 except that (a) where the~~
9 ~~business concern is a publicly traded corporation, 【all persons~~
10 ~~holding more than 5% of the equity in or the debt liability of that~~
11 ~~business concern, except that】 the applicant or permittee need only~~
12 ~~supply the name and business address of the publicly traded~~
13 ~~corporation and copies of its annual filings with the Securities and~~
14 ~~Exchange Commission, or its foreign equivalent, (b) where the~~
15 ~~equity in or debt liability of that business concern is held by an~~
16 ~~institutional investor, the applicant or permittee need only supply~~
17 ~~the name, business address and the basis upon which the~~
18 ~~institutional investor qualifies as an institutional investor, and (c)~~
19 where the debt liability is held by a chartered lending institution,
20 the applicant or permittee need only supply the name and business
21 address of the lending institution;

22 (3) The full name and business address of any business concern
23 which collects, transports, treats, stores, transfers or disposes of
24 solid waste or hazardous waste in which the applicant or the
25 permittee holds an equity interest;

26 (4) A description of the experience and credentials in, including
27 any past or present licenses for, the collection, transportation,
28 treatment, storage, transfer or disposal of solid waste or hazardous
29 waste possessed by the applicant or the permittee, as the case may
30 be, and by the key employees, officers, directors, or partners
31 thereof;

32 (5) A listing and explanation of any notices of violation or
33 prosecution, administrative orders or license revocations issued by
34 this State or any other state or federal authority, in the 10 years
35 immediately preceding the filing of the application or disclosure
36 statement, whichever is later, which are pending or have resulted in
37 a finding or a settlement of a violation of any law or rule and
38 regulation relating to the collection, transportation, treatment,
39 storage, transfer or disposal of solid waste or hazardous waste by
40 the applicant or the permittee, as the case may be, or by any key
41 employee, officer, director, or partner thereof;

42 (6) A listing and explanation of any judgment of liability or
43 conviction which was rendered, pursuant to the laws of this State,
44 or any other state or federal statute or local ordinance, against the
45 applicant or the permittee, as the case may be, or against any key
46 employee, officer, director, or partner thereof, except for any
47 violation of Title 39 of the Revised Statutes other than a violation

1 of the provisions of P.L.1983, c.102 (C.39:5B-18 et seq.), P.L.1983,
2 c.401 (C.39:5B-25 et seq.) or P.L.1985, c.415 (C.39:5B-30 et seq.);

3 (7) A listing of all labor unions and trade and business
4 associations in which the applicant or the permittee was a member
5 or with which the applicant or the permittee had a collective
6 bargaining agreement during the 10 years preceding the date of the
7 filing of the application or disclosure statement, whichever is later;

8 (8) A listing of any agencies outside of New Jersey which had
9 regulatory responsibility over the applicant or the permittee, as the
10 case may be, in connection with the collection, transportation,
11 treatment, storage, transfer or disposal of solid waste or hazardous
12 waste; and

13 (9) Any other information the Attorney General or the
14 department may require that relates to the competency, reliability or
15 integrity of the applicant or the permittee.

16 The provisions of paragraphs (1) through (9) of this subsection to
17 the contrary notwithstanding, if an applicant or a permittee is a
18 secondary business activity corporation, "disclosure statement"
19 means a statement submitted to the department and the Attorney
20 General by an applicant or a permittee, which statement shall
21 include:

22 (a) The full name, primary business activity, office or position
23 held, business address, home address, date of birth and federal
24 employer identification number of the applicant or the permittee, as
25 the case may be, and of all officers, directors, partners, or key
26 employees of the business concern; and of all persons holding more
27 than 5% of the equity in or debt liability of that business concern,
28 except that where the debt liability is held by a chartered lending
29 institution, the applicant or permittee need only supply the name
30 and business address of the lending institution. The Attorney
31 General or the department may request the social security number
32 of any individual identified pursuant to this paragraph;

33 (b) The full name, business address and federal employer
34 identification number of any business concern in any state, territory
35 or district of the United States, which collects, transports, treats,
36 stores, recycles, brokers, transfers or disposes of solid waste or
37 hazardous waste on a commercial basis, in which the applicant or
38 the permittee holds an equity interest of 25% or more, and the type,
39 amount and dates of the equity held in such business concern;

40 (c) A listing of every license, registration, permit, certificate of
41 public convenience and necessity, uniform tariff approval or
42 equivalent operating authorization held by the applicant or
43 permittee within the last five years under any name for the
44 collection, transportation, treatment, storage, recycling, processing,
45 transfer or disposal of solid waste or hazardous waste on a
46 commercial basis in any state, territory or district of the United
47 States, and the name of every agency issuing such operating
48 authorization;

1 (d) If the applicant or the permittee is a subsidiary of a parent
2 corporation, or is the parent corporation of one or more subsidiaries,
3 or is part of a group of companies in common ownership, as the
4 case may be, a chart, or, if impractical or burdensome, a list
5 showing the names, federal employer identification numbers and
6 relationships of all parent, sister, subsidiary and affiliate
7 corporations, or members of the group;

8 (e) A listing and explanation of any notices of violation or
9 prosecution, administrative orders or license revocations issued by
10 this State or any other state or federal authority to the applicant or
11 permittee in the 10 years immediately preceding the filing of the
12 application or disclosure statement, whichever is later, which are
13 pending or have resulted in a finding or a settlement of a violation
14 of any law or rule or regulation relating to the collection,
15 transportation, treatment, storage, recycling, processing, transfer or
16 disposal of solid waste or hazardous waste by the applicant or
17 permittee;

18 (f) A listing and explanation of any judgment, decree or order,
19 whether by consent or not, issued against the applicant or permittee
20 in the 10 years immediately preceding the filing of the application,
21 and of any pending civil complaints against the applicant or
22 permittee pertaining to a violation or alleged violation of federal or
23 state antitrust laws, trade regulations or securities regulations;

24 (g) A listing and explanation of any conviction issued against
25 the applicant or permittee for a felony resulting in a plea of nolo
26 contendere, or any conviction in the 10 years immediately
27 preceding the filing of the application, and of any pending
28 indictment, accusation, complaint or information for any felony
29 issued to the applicant or the permittee pursuant to any state or
30 federal statute; and

31 (h) A completed personal history disclosure form shall be
32 submitted to the department and the Attorney General by every
33 person required to be listed in this disclosure statement, except for
34 those individuals who are exempt from the personal history
35 disclosure requirements pursuant to paragraph (5) of subsection a.
36 of section 3 of P.L.1983, c.392 (C.13:1E-128).

37 f. "Key employee" means any individual employed by the
38 applicant, the permittee or the licensee in a supervisory capacity or
39 empowered to make discretionary decisions with respect to the solid
40 waste or hazardous waste operations of the business concern but
41 shall not include employees exclusively engaged in the physical or
42 mechanical collection, transportation, treatment, storage, transfer or
43 disposal of solid waste or hazardous waste.

44 g. "License" means the initial approval and first renewal by the
45 department of any registration statement or engineering design
46 pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.) or P.L.1981, c.279
47 (C.13:1E-49 et seq.), for the collection, transportation, treatment,

1 storage, transfer or disposal of solid waste or hazardous waste in
2 this State.

3 A "license" shall not include any registration statement or
4 engineering design approved for:

5 (1) Any State department, division, agency, commission or
6 authority, or county, municipality or agency thereof;

7 (2) Any person solely for the collection, transportation,
8 treatment, storage or disposal of solid waste or hazardous waste
9 generated by that person;

10 (3) Any person for the operation of a hazardous waste facility, if
11 at least 75% of the total design capacity of that facility is utilized to
12 treat, store or dispose of hazardous waste generated by that person;

13 (4) Any person for the operation of a hazardous waste facility
14 which is considered as such solely as the result of the reclamation,
15 recycling or refining of hazardous wastes which are or contain any
16 of the following precious metals: gold, silver, osmium, platinum,
17 palladium, iridium, rhodium, ruthenium, or copper;

18 (5) Any person solely for the transportation of hazardous wastes
19 which are or contain precious metals to a hazardous waste facility
20 described in paragraph (4) of this subsection for the purposes of
21 reclamation.

22 A "license" shall include any registration statement approved for
23 any person who transports any other hazardous waste in addition to
24 hazardous wastes which are or contain precious metals;

25 (6) Any person solely for the collection, transportation,
26 treatment, storage or disposal of granular activated carbon used in
27 the adsorption of hazardous waste; or

28 (7) Any regulated medical waste generator for the treatment or
29 disposal of regulated medical waste at any noncommercial
30 incinerator or noncommercial facility in this State that accepts
31 regulated medical waste for disposal.

32 h. "Licensee" means any business concern which has
33 completed the requirements of section 3 of P.L.1983, c.392
34 (C.13:1E-128) and whose application for the issuance or renewal of
35 a license has been approved by the department pursuant to section 8
36 of P.L.1983, c.392 (C.13:1E-133).

37 i. "Permittee" means and shall include:

38 (1) Any business concern which has filed a disclosure statement
39 with the department and the Attorney General and to which a valid
40 registration statement or engineering design approval for the
41 collection, transportation, treatment, storage, transfer or disposal of
42 solid waste or hazardous waste pursuant to P.L.1970, c.39
43 (C.13:1E-1 et seq.) or P.L.1981, c.279 (C.13:1E-49 et seq.) has
44 been given by the department prior to June 14, 1984;

45 (2) Any business concern which has filed a disclosure statement
46 with the department and the Attorney General and to which a
47 temporary license has been approved, issued or renewed by the
48 department pursuant to section 10 of P.L.1983, c.392 (C.13:1E-

1 135), but which has not otherwise completed the requirements of
2 section 3 of P.L.1983, c.392 (C.13:1E-128) and whose application
3 for a license has not been approved by the department pursuant to
4 section 8 of P.L.1983, c.392 (C.13:1E-133), provided that the
5 temporary license remains valid, and provided further that the
6 business concern has furnished the department and the Attorney
7 General with any information required pursuant to P.L.1991, c.269
8 (C.13:1E-128.1 et al.);

9 (3) Any business concern which has filed a disclosure statement
10 with the department and the Attorney General and to which a valid
11 registration statement or engineering design approval for the
12 collection, transportation, treatment, storage, transfer or disposal of
13 solid waste or hazardous waste pursuant to P.L.1970, c.39
14 (C.13:1E-1 et seq.) or P.L.1981, c.279 (C.13:1E-49 et seq.) has
15 been given by the department between February 20, 1985 and
16 January 23, 1986, inclusive, provided that the registration statement
17 or engineering design approval remains valid, and provided further
18 that the business concern has furnished the department and the
19 Attorney General with any information required pursuant to
20 P.L.1991, c.269 (C.13:1E-128.1 et al.); or

21 (4) Any business concern to which a temporary approval of
22 registration has been given by the department at any time after
23 January 23, 1986 pursuant to statute or rule and regulation,
24 provided that such temporary approval of registration, statute, or
25 rule and regulation remains valid, and provided further that the
26 business concern has furnished the department and the Attorney
27 General with any information required pursuant to P.L.1991, c.269
28 (C.13:1E-128.1 et al.) and filed a disclosure statement with the
29 department and the Attorney General.

30 j. "Person" means any individual or business concern.

31 k. "Secondary business activity corporation" means any
32 business concern which has derived less than 5% of its annual gross
33 revenues in each of the three years immediately preceding the one
34 in which the application for a license is being made from the
35 collection, transportation, treatment, storage, recycling, processing,
36 transfer or disposal of solid waste or hazardous waste, whether
37 directly or through other business concerns partially or wholly
38 owned or controlled by the applicant or the permittee, as the case
39 may be, and which (1) has one or more classes of security registered
40 pursuant to section 12 of the "Securities Exchange Act of 1934," as
41 amended (15 U.S.C. s.78l), or (2) is an issuer subject to subsection
42 (d) of section 15 of the "Securities Exchange Act of 1934," as
43 amended (15 U.S.C. s.78o).

44 l. "Institutional investor" means a retirement fund administered
45 by a public agency for the exclusive benefit of federal, state, or
46 local public employees; government or government-owned entity;
47 investment company registered under the "Investment Company Act
48 of 1940" (15 U.S.C. s.80a-1 et seq.); collective investment trust

1 organized by banks under Part Nine of the Rules of the Comptroller
2 of the Currency; closed end investment trust; chartered or licensed
3 life insurance company or property and casualty insurance
4 company; banking or other chartered or licensed lending institution;
5 partnerships, funds or trusts managed by or directed in conjunction
6 with an investment adviser registered under the "Investment
7 Advisers Act of 1940" (15 U.S.C. s.80b-1 et seq.) or an institutional
8 investment manager required to make filings under subsection (f) of
9 section 13 of the "Securities Exchange Act of 1934," as amended
10 (15 U.S.C. s.78m); institutional buyer, as defined pursuant to
11 section 2 of the "Uniform Securities Law (1997)," P.L.1967, c.93
12 (C.49:3-49); small business investment company licensed by the
13 United States Small Business Administration under subsection (c)
14 of section 301 of the "Small Business Investment Act of 1958," as
15 amended (15 U.S.C. s.681); private equity or venture capital entity
16 having or managing aggregate capital commitments in excess of
17 \$25,000,000; and other persons as the department may determine
18 for reasons consistent with the policies of P.L.1983, c.392
19 (C.13:1E-126 et seq.).

20 m. "Publicly traded corporation" means a corporation or other
21 legal entity, except a natural person, which:

22 (1) has one or more classes of security registered pursuant to
23 section 12 of the "Securities Exchange Act of 1934," as amended
24 (15 U.S.C. s.78l);

25 (2) is an issuer subject to subsection (d) of section 15 of the
26 "Securities Exchange Act of 1934," as amended (15 U.S.C. s.78o);

27 or

28 (3) has one or more classes of securities traded in an open
29 market in any foreign jurisdiction, provided that the department
30 determines that the foreign exchange provides openness, integrity
31 and oversight in its operations sufficient to meet the intent of
32 P.L.1983, c.392 (C.13:1E-126 et seq.), or that the securities traded
33 on the foreign exchange are regulated pursuant to a statute of a
34 foreign jurisdiction that is substantially similar, both in form and
35 effect, to section 12 or subsection (d) of section 15 of the
36 "Securities Exchange Act of 1934," as amended.²

37 (cf: P.L.2009, c.253, s.1)

38

39 ²[1.] 2.² Section 3 of P.L.1983, c.392 (C.13:1E-128) is amended
40 to read as follows:

41 3. In addition to any other procedure, condition or information
42 required pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.), P.L.1981,
43 c.279 (C.13:1E-49 et seq.) or any other law:

44 a. (1) Every applicant and permittee shall file a disclosure
45 statement with the department and the Attorney General;

46 (2) Except as otherwise provided in this subsection, any person
47 required to be listed in the disclosure statement shall be
48 fingerprinted for identification and investigation purposes in

1 accordance with procedures therefor established by the Attorney
2 General;

3 (3) The Attorney General shall, upon the receipt of the
4 disclosure statement from an applicant for an initial license or from
5 a permittee, prepare and transmit to the department an investigative
6 report on the applicant or the permittee, as the case may be, based
7 in part upon the disclosure statement. In preparing this report, the
8 Attorney General may request and receive criminal history
9 information from the State Commission of Investigation or the
10 Federal Bureau of Investigation;

11 (4) In conducting a review of the application, the department
12 shall include a review of the disclosure statement and investigative
13 report;

14 (5) An applicant or permittee may file a limited disclosure
15 statement pursuant to the provisions of paragraphs (a) through (h)
16 of subsection e. of section 2 of P.L.1983, c.392 (C.13:1E-127); and
17 a person required to be listed in the disclosure statement is exempt
18 from the fingerprint and personal history disclosure requirements;
19 if:

20 (a) The applicant or permittee is a secondary business activity
21 corporation; and

22 (b) The person required to be listed in the disclosure statement
23 is (i) a director or chief executive officer; or (ii) an individual who
24 does not have any responsibility for, or control of, the commercial
25 solid waste or hazardous waste operations of the applicant,
26 permittee or licensee conducted in New Jersey, and who will not
27 exercise any such responsibility or control upon the issuance of a
28 license by the department;

29 (6) (a) A person who is a director or chief executive officer of a
30 business concern that is a secondary business activity corporation, a
31 publicly traded corporation or an institutional investor, including
32 limited partnership interests, that is not the applicant or permittee
33 but which is listed in ²[the] ²a² disclosure statement ²[of an
34 applicant or permittee,]² pursuant to subsection e. of section 2 of
35 P.L.1983, c.392 (C.13:1E-127), shall be exempt from the fingerprint
36 and personal history disclosure requirements; [and]

37 (b) An individual who is an officer or partner of, or who holds
38 any equity in or debt liability of, a business concern that is a
39 secondary business activity corporation, a publicly traded
40 corporation or an institutional investor, including limited
41 partnership interests, that is not the applicant or permittee but which
42 is listed in ²[the] ²a² disclosure statement ²[of an applicant or
43 permittee,]² pursuant to subsection e. of section 2 of P.L.1983,
44 c.392 (C.13:1E-127), shall be exempt from the fingerprint and
45 personal history disclosure requirements, provided that the person
46 or secondary business activity corporation or publicly traded
47 corporation or institutional investor ²[does] ²is² not and will not

1 ²[have any responsibility for, or control of,] be engaged in active
2 management of² the commercial solid waste or hazardous waste
3 operations of the applicant or permittee conducted in New
4 Jersey[.] ;

5 (c) A business concern that is a secondary business activity
6 corporation ²[, a publicly traded corporation]² or an institutional
7 investor, including limited partnership interests, that is not the
8 applicant, licensee, or permittee but which is listed in ²[the] a²
9 disclosure statement ²[of an applicant, licensee, or permittee,]²
10 pursuant to subsection e. of section 2 of P.L.1983, c.392 (C.13:1E-
11 127), shall be exempt from disclosure requirements established in
12 subsection e. of section 2 of P.L.1983, c.392 (C.13:1E-127)
13 provided that the secondary business activity corporation ²[,
14 publicly traded corporation]² or institutional investor ²[does] is²
15 not and will not ²[have any responsibility for, or control of,] be
16 engaged in active management of² the commercial solid waste or
17 hazardous waste operations of the applicant, licensee, or permittee
18 conducted in New Jersey;

19 (d) ²A business concern that is a publicly traded corporation that
20 is not the applicant, licensee, or permittee but which is listed in a
21 disclosure statement pursuant to subsection e. of section 2 of
22 P.L.1983, c.392 (C.13:1E-127), shall be exempt from disclosure
23 requirements established in subsection e. of section 2 of P.L.1983,
24 c.392 (C.13:1E-127) provided that the name and business address of
25 the publicly traded corporation and copies of its annual filings with
26 the Securities and Exchange Commission, or its foreign equivalent,
27 are filed with the disclosure forms of the applicant, licensee, or
28 permittee. Subsidiaries intervening in the chain of equity between
29 the publicly traded corporation and the applicant, licensee, or
30 permittee, and the officers and directors of those intervening
31 subsidiaries, shall also be exempt from the disclosure requirements
32 established in subsection e. of section 2 of P.L.1983, c.392
33 (C.13:1E-127) provided that the intervening subsidiary is not and
34 will not be engaged in active management of the commercial solid
35 waste or hazardous waste operations of the applicant, licensee, or
36 permittee conducted in New Jersey;

37 (e)² An individual ¹[described in] exempt from disclosure
38 requirements under¹ subparagraph (b) of this paragraph, ²[and]² a
39 secondary business activity corporation ¹[, publicly traded
40 corporation,]¹ or institutional investor ¹[described in] exempt from
41 disclosure requirements under¹ subparagraph (c) of this paragraph,
42 ¹[that directly or indirectly holds 5% or more of the equity or debt
43 of the applicant, licensee, or permittee, shall be deemed to have
44 responsibility for, or control of, the commercial solid waste or
45 hazardous waste operations of the applicant, licensee, or permittee
46 conducted in New Jersey. This subparagraph shall not apply to

1 chartered lending institutions holding debt, directly or indirectly, of
2 the applicant, licensee, or permittee] ²and a publicly traded
3 corporation exempt from disclosure requirements under
4 subparagraph (d) of this paragraph, ² may be required by the
5 Attorney General to file disclosure forms and be fingerprinted in the
6 circumstances described in subsection d. of this section¹; and

7 ²~~[(e)]~~ (f)² A person that holds equity in, or debt liability of, a
8 business concern that is exempt from the disclosure requirements
9 established in subsection e. of section 2 of P.L.1983, c.392
10 (C.13:1E-127) shall also be exempt from ²~~[those]~~ the² disclosure
11 requirements ²established in subsection e. of section 2 of P.L.1983,
12 c.392 (C.13:1E-127)² .

13 b. All applicants, permittees and licensees shall have the
14 continuing duty to provide any assistance or information requested
15 by the department or the Attorney General, and to cooperate in any
16 inquiry or investigation conducted by the Attorney General or the
17 State Commission of Investigation and any inquiry, investigation,
18 or hearing conducted by the department. Except as otherwise
19 determined by the Superior Court pursuant to subsection d. of this
20 section, if, upon issuance of a formal request to answer any inquiry
21 or produce information, evidence or testimony, any applicant,
22 permittee or licensee refuses to comply, the application of the
23 business concern for a license may be denied, or the license of that
24 business concern may be revoked by the department.

25 c. If any of the information required to be included in the
26 disclosure statement changes, or if any information provided
27 concerning the applicability of an exemption under subsection d. of
28 this section changes, or if any additional information should be
29 added to the disclosure statement after it has been filed, the
30 applicant, permittee or licensee shall provide that information to the
31 department and the Attorney General, in writing, within 30 days of
32 the change or addition.

33 d. The provisions of paragraphs (5) and (6) of subsection a. of
34 this section to the contrary notwithstanding, the Attorney General
35 may at any time require any person required to be listed in the
36 disclosure statement to file a completed personal history disclosure
37 form and a full disclosure statement with the department and the
38 Attorney General pursuant to paragraphs (1) through (9) of
39 subsection e. of section 2 of P.L.1983, c.392 (C.13:1E-127), or to
40 be fingerprinted for identification and investigation purposes
41 pursuant to paragraph (2) of subsection a. of this section, if the
42 Attorney General determines that there exists a reasonable
43 suspicion that the additional information is likely to lead to
44 information relevant to a determination regarding the approval of a
45 license pursuant to section 8 of P.L.1983, c.392 (C.13:1E-133), the
46 revocation of a license pursuant to section 9 of P.L.1983, c.392

1 (C.13:1E-134), or the severance of a disqualifying person pursuant
2 to section 10 of P.L.1983, c.392 (C.13:1E-135).

3 If the Attorney General requires any or all of this information, a
4 written request for the additional information shall be served upon
5 the applicant, permittee or licensee. Within 60 days of receipt of a
6 written request for additional information, the applicant, permittee
7 or licensee may seek review of the Attorney General's
8 determination in the Superior Court. If the applicant, permittee or
9 licensee fails to provide the additional information to the Attorney
10 General within 60 days of receipt of the written request, the
11 Attorney General may file with the Superior Court a petition for an
12 order requiring the applicant, permittee or licensee to provide the
13 additional information. In a proceeding brought by either party, the
14 applicant, permittee or licensee shall demonstrate that the additional
15 information requested is not likely to lead to information relevant to
16 a determination regarding the approval of a license pursuant to
17 section 8 of P.L.1983, c.392 (C.13:1E-133), the revocation of a
18 license pursuant to section 9 of P.L.1983, c.392 (C.13:1E-134), or
19 the severance of a disqualifying person pursuant to section 10 of
20 P.L.1983, c.392 (C.13:1E-135). For good cause shown, the court
21 may review in camera the submission of the Attorney General or
22 the applicant, permittee or licensee, or any part thereof.

23 ²[¹e. Notwithstanding provisions to the contrary of any
24 law, or any rule or regulation adopted pursuant thereto, a publicly
25 traded corporation, its officers, directors, employees, and
26 shareholders, its affiliates and subsidiaries, and their officers,
27 directors, employees, and shareholders, as well as its investors
28 including debt holders, shall be exempt from all disclosure
29 requirements established in P.L.1983, c.392 (C.13:1E-126 et seq.)
30 and P.L.1991, c.269 (C.13:1E-128.1 et al.). However, the Attorney
31 General may request additional pertinent information from a
32 publicly traded corporation when the Attorney General deems it is
33 necessary. The Attorney General shall not request information that
34 exceeds the disclosure requirements established in P.L.1983, c.392
35 or P.L.1991, c.269.¹²

36 (cf: P.L.2009, c.253, s.3)

37

38 ²[2.] 3.² This act shall take effect immediately.

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43 Provides certain exemptions from disclosure requirements for
44 licensing of solid waste and hazardous waste operations.

SENATE, No. 2295

STATE OF NEW JERSEY
214th LEGISLATURE

INTRODUCED SEPTEMBER 23, 2010

Sponsored by:

Senator RAYMOND J. LESNIAK

District 20 (Union)

SYNOPSIS

Provides certain exemptions from disclosure requirements for licensing of solid waste and hazardous waste operations.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning disclosure requirements for the licensing of
2 solid waste and hazardous waste operations, and amending
3 P.L.1983, c.392.

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

7
8 1. Section 3 of P.L.1983, c.392 (C.13:1E-128) is amended to
9 read as follows:

10 3. In addition to any other procedure, condition or information
11 required pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.), P.L.1981,
12 c.279 (C.13:1E-49 et seq.) or any other law:

13 a. (1) Every applicant and permittee shall file a disclosure
14 statement with the department and the Attorney General;

15 (2) Except as otherwise provided in this subsection, any person
16 required to be listed in the disclosure statement shall be
17 fingerprinted for identification and investigation purposes in
18 accordance with procedures therefor established by the Attorney
19 General;

20 (3) The Attorney General shall, upon the receipt of the
21 disclosure statement from an applicant for an initial license or from
22 a permittee, prepare and transmit to the department an investigative
23 report on the applicant or the permittee, as the case may be, based
24 in part upon the disclosure statement. In preparing this report, the
25 Attorney General may request and receive criminal history
26 information from the State Commission of Investigation or the
27 Federal Bureau of Investigation;

28 (4) In conducting a review of the application, the department
29 shall include a review of the disclosure statement and investigative
30 report;

31 (5) An applicant or permittee may file a limited disclosure
32 statement pursuant to the provisions of paragraphs (a) through (h)
33 of subsection e. of section 2 of P.L.1983, c.392 (C.13:1E-127); and
34 a person required to be listed in the disclosure statement is exempt
35 from the fingerprint and personal history disclosure requirements;
36 if:

37 (a) The applicant or permittee is a secondary business activity
38 corporation; and

39 (b) The person required to be listed in the disclosure statement
40 is (i) a director or chief executive officer; or (ii) an individual who
41 does not have any responsibility for, or control of, the commercial
42 solid waste or hazardous waste operations of the applicant,
43 permittee or licensee conducted in New Jersey, and who will not
44 exercise any such responsibility or control upon the issuance of a
45 license by the department;

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 (6) (a) A person who is a director or chief executive officer
2 of a business concern that is a secondary business activity
3 corporation, a publicly traded corporation or an institutional
4 investor, including limited partnership interests, that is not the
5 applicant or permittee but which is listed in the disclosure statement
6 of an applicant or permittee, pursuant to subsection e. of section 2
7 of P.L.1983, c.392 (C.13:1E-127), shall be exempt from the
8 fingerprint and personal history disclosure requirements; **[and]**

9 (b) An individual who is an officer or partner of, or who holds
10 any equity in or debt liability of, a business concern that is a
11 secondary business activity corporation, a publicly traded
12 corporation or an institutional investor, including limited
13 partnership interests, that is not the applicant or permittee but which
14 is listed in the disclosure statement of an applicant or permittee,
15 pursuant to subsection e. of section 2 of P.L.1983, c.392 (C.13:1E-
16 127), shall be exempt from the fingerprint and personal history
17 disclosure requirements, provided that the person or secondary
18 business activity corporation or publicly traded corporation or
19 institutional investor does not and will not have any responsibility
20 for, or control of, the commercial solid waste or hazardous waste
21 operations of the applicant or permittee conducted in New Jersey~~].~~
22 ;

23 (c) A business concern that is a secondary business activity
24 corporation, a publicly traded corporation or an institutional
25 investor, including limited partnership interests, that is not the
26 applicant, licensee, or permittee but which is listed in the disclosure
27 statement of an applicant, licensee, or permittee, pursuant to
28 subsection e. of section 2 of P.L.1983, c.392 (C.13:1E-127), shall
29 be exempt from disclosure requirements established in subsection e.
30 of section 2 of P.L.1983, c.392 (C.13:1E-127) provided that the
31 secondary business activity corporation, publicly traded corporation
32 or institutional investor does not and will not have any
33 responsibility for, or control of, the commercial solid waste or
34 hazardous waste operations of the applicant, licensee, or permittee
35 conducted in New Jersey;

36 (d) An individual described in subparagraph (b) of this
37 paragraph, and a secondary business activity corporation, publicly
38 traded corporation, or institutional investor described in
39 subparagraph (c) of this paragraph, that directly or indirectly holds
40 5% or more of the equity or debt of the applicant, licensee, or
41 permittee, shall be deemed to have responsibility for, or control of,
42 the commercial solid waste or hazardous waste operations of the
43 applicant, licensee, or permittee conducted in New Jersey. This
44 subparagraph shall not apply to chartered lending institutions
45 holding debt, directly or indirectly, of the applicant, licensee, or
46 permittee; and

47 (e) A person that holds equity in, or debt liability of, a business
48 concern that is exempt from the disclosure requirements established

1 in subsection e. of section 2 of P.L.1983, c.392 (C.13:1E-127) shall
2 also be exempt from those disclosure requirements.

3 b. All applicants, permittees and licensees shall have the
4 continuing duty to provide any assistance or information requested
5 by the department or the Attorney General, and to cooperate in any
6 inquiry or investigation conducted by the Attorney General or the
7 State Commission of Investigation and any inquiry, investigation,
8 or hearing conducted by the department. Except as otherwise
9 determined by the Superior Court pursuant to subsection d. of this
10 section, if, upon issuance of a formal request to answer any inquiry
11 or produce information, evidence or testimony, any applicant,
12 permittee or licensee refuses to comply, the application of the
13 business concern for a license may be denied, or the license of that
14 business concern may be revoked by the department.

15 c. If any of the information required to be included in the
16 disclosure statement changes, or if any information provided
17 concerning the applicability of an exemption under subsection d. of
18 this section changes, or if any additional information should be
19 added to the disclosure statement after it has been filed, the
20 applicant, permittee or licensee shall provide that information to the
21 department and the Attorney General, in writing, within 30 days of
22 the change or addition.

23 d. The provisions of paragraphs (5) and (6) of subsection a. of
24 this section to the contrary notwithstanding, the Attorney General
25 may at any time require any person required to be listed in the
26 disclosure statement to file a completed personal history disclosure
27 form and a full disclosure statement with the department and the
28 Attorney General pursuant to paragraphs (1) through (9) of
29 subsection e. of section 2 of P.L.1983, c.392 (C.13:1E-127), or to
30 be fingerprinted for identification and investigation purposes
31 pursuant to paragraph (2) of subsection a. of this section, if the
32 Attorney General determines that there exists a reasonable
33 suspicion that the additional information is likely to lead to
34 information relevant to a determination regarding the approval of a
35 license pursuant to section 8 of P.L.1983, c.392 (C.13:1E-133), the
36 revocation of a license pursuant to section 9 of P.L.1983, c.392
37 (C.13:1E-134), or the severance of a disqualifying person pursuant
38 to section 10 of P.L.1983, c.392 (C.13:1E-135).

39 If the Attorney General requires any or all of this information, a
40 written request for the additional information shall be served upon
41 the applicant, permittee or licensee. Within 60 days of receipt of a
42 written request for additional information, the applicant, permittee
43 or licensee may seek review of the Attorney General's
44 determination in the Superior Court. If the applicant, permittee or
45 licensee fails to provide the additional information to the Attorney
46 General within 60 days of receipt of the written request, the
47 Attorney General may file with the Superior Court a petition for an
48 order requiring the applicant, permittee or licensee to provide the

1 additional information. In a proceeding brought by either party, the
2 applicant, permittee or licensee shall demonstrate that the additional
3 information requested is not likely to lead to information relevant to
4 a determination regarding the approval of a license pursuant to
5 section 8 of P.L.1983, c.392 (C.13:1E-133), the revocation of a
6 license pursuant to section 9 of P.L.1983, c.392 (C.13:1E-134), or
7 the severance of a disqualifying person pursuant to section 10 of
8 P.L.1983, c.392 (C.13:1E-135). For good cause shown, the court
9 may review in camera the submission of the Attorney General or
10 the applicant, permittee or licensee, or any part thereof.

11 (cf: P.L.2009, c.253, s.3)

12

13 2. This act shall take effect immediately.

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STATEMENT

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18 This bill would provide an exemption from the disclosure
19 requirements established pursuant to subsection e. of section 2 of
20 P.L.1983, c.392 (C.13:1E-127) for a business concern that is a
21 secondary business activity corporation, a publicly traded
22 corporation, or an institutional investor, including limited
23 partnership interests, that is not the applicant, licensee, or permittee
24 but which is listed in the disclosure statement of an applicant,
25 licensee, or permittee. The exemption from the disclosure
26 statement requirements would be available if the secondary business
27 activity corporation, publicly traded corporation or institutional
28 investor does not and will not have any responsibility for, or control
29 of, the commercial solid waste or hazardous waste operations of the
30 applicant, licensee, or permittee conducted in New Jersey.

31 In addition, the bill would provide that an individual previously
32 exempted from fingerprint and personal history disclosure
33 requirements and a secondary business activity corporation,
34 publicly traded corporation, or institutional investor, that directly or
35 indirectly holds 5% or more of the equity or debt of the applicant,
36 licensee, or permittee, shall be deemed to have responsibility for, or
37 control of, the commercial solid waste or hazardous waste
38 operations of the applicant, licensee, or permittee conducted in New
39 Jersey. However, under the bill, that provision would not apply to
40 chartered lending institutions holding debt, directly or indirectly, of
41 the applicant, licensee, or permittee.

42 Finally, the bill provides that a person that holds equity in or
43 debt liability of a business concern that is exempt from the
44 disclosure requirements established by subsection e. of section 2 of
45 P.L.1983, c.392 (C.13:1E-127) shall also be exempt from those
46 disclosure requirements.

SENATE ECONOMIC GROWTH COMMITTEE

STATEMENT TO

SENATE, No. 2295

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 9, 2010

The Senate Economic Growth Committee reports favorably Senate Bill No. 2295 with committee amendments.

Current law requires a business concern that is an “applicant,” “permittee,” or “licensee,” as those terms are defined in P.L.1983, c.392 (C.13:1E-126 et seq.), who collect, transport, treat, store, transfer, or dispose of solid waste or hazardous waste, to submit to certain background information, including disclosure statements and fingerprinting, about the business concern and certain business concern employees involved in these above industries in New Jersey. This information is submitted to the Department of Environmental Protection and the Attorney General’s Office for review and approval prior to certification as an applicant, licensee, or permittee.

This bill changes the requirements for disclosure statements and fingerprinting for certain individuals and business concerns not directly related to the above industries.

Specifically, this amended bill would provide an exemption from the disclosure requirements established for a business concern that is a “secondary business activity corporation,” a “publicly traded corporation,” or an “institutional investor,” including limited partnership interests, that is not the applicant, licensee, or permittee but which is listed in the disclosure statement of an applicant, licensee, or permittee. The exemption from the disclosure statement requirements would be available if the secondary business activity corporation, publicly traded corporation, or institutional investor does not and will not have any responsibility for, or control of, the commercial solid waste or hazardous waste operations of the applicant, licensee, or permittee conducted in New Jersey.

In addition, the amended bill would provide that an individual, a secondary business activity corporation, or institutional investor exempted from fingerprint and personal history disclosure requirements may be required by the Attorney General to file disclosure forms and be fingerprinted if the Attorney General determines that there exists a reasonable suspicion that the additional information is likely to lead to information relevant to a determination

regarding the approval of a license, the revocation of a license, or the severance of a disqualifying person.

The amended bill provides that a person that holds equity in, or debt liability of, a business concern that is exempt from the disclosure requirements established by subsection e. of section 2 of P.L.1983, c.392 (C.13:1E-127) shall also be exempt from those disclosure requirements.

Finally, the amended bill provides that, notwithstanding provisions to the contrary of any law, or any rule or regulation adopted pursuant thereto, a publicly traded corporation, its officers, directors, employees, and shareholders, its affiliates and subsidiaries and their officers, directors, employees, and shareholders, as well as its investors including debt holders, shall be exempt from all disclosure requirements established in P.L.1983, c.392 (C.13:1E-126 et seq.) and P.L.1991, c.269 (C.13:1E-128.1 et al.). However, the Attorney General may request additional pertinent information from a publicly traded corporation when the Attorney General deems it is necessary. The Attorney General shall not request information that exceeds the disclosure requirements established in current law.

The committee amendments provide that:

1) an individual, a secondary business activity corporation, or institutional investor exempted from fingerprint and personal history disclosure requirements may be required by the Attorney General to file disclosure forms and be fingerprinted if the Attorney General determines that there exists a reasonable suspicion that the additional information is likely to lead to information relevant to a determination regarding the approval of a license, the revocation of a license, or the severance of a disqualifying person; and

2) notwithstanding provisions to the contrary of any law, or any rule or regulation adopted pursuant thereto, a publicly traded corporation, its officers, directors, employees, and shareholders, its affiliates and subsidiaries and their officers, directors, employees, and shareholders, as well as its investors including debt holders, shall be exempt from all disclosure requirements established in P.L.1983, c.392 (C.13:1E-126 et seq.) and P.L.1991, c.269 (C.13:1E-128.1 et al.). However, the Attorney General may request additional pertinent information from a publicly traded corporation when the Attorney General deems it is necessary. The Attorney General shall not request information that exceeds the disclosure requirements established in current law.

ASSEMBLY ENVIRONMENT AND SOLID WASTE
COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 2295

with committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 10, 2011

The Assembly Environment and Solid Waste Committee reports favorably and with committee amendments Senate Bill No. 2295 (1R).

Current law requires a business concern that is an “applicant,” “permittee,” or “licensee,” as those terms are defined in P.L.1983, c.392 (C.13:1E-126 et seq.), who collect, transport, treat, store, transfer, or dispose of solid waste or hazardous waste, to submit to certain background information, including disclosure statements and fingerprinting, about the business concern and certain business concern employees involved in these above industries in New Jersey. This information is submitted to the Department of Environmental Protection and the Attorney General’s Office for review and approval prior to certification as an applicant, licensee, or permittee.

This bill, as amended by the committee, changes the requirements for disclosure statements and fingerprinting for certain individuals and business concerns not directly related to the above industries.

Specifically, this bill would provide an exemption from the disclosure requirements established for a business concern that is a “secondary business activity corporation,” an “institutional investor” including limited partnership interests, or a “publicly traded corporation” that is not the applicant, licensee, or permittee but which is listed in a disclosure statement pursuant to subsection e. of section 2 of P.L.1983, c.392 (C.13:1E-127). The exemption from the disclosure statement requirements would be available if the secondary business activity corporation, institutional investor, or publicly traded corporation is not and will not be engaged in active management of the commercial solid waste or hazardous waste operations of the applicant, licensee, or permittee conducted in New Jersey.

In addition, the bill would provide that an individual, a secondary business activity corporation, an institutional investor, or a publicly traded corporation exempted from fingerprint and personal history disclosure requirements may be required by the Attorney General to file disclosure forms and be fingerprinted if the Attorney General

determines that there exists a reasonable suspicion that the additional information is likely to lead to information relevant to a determination regarding the approval of a license, the revocation of a license, or the severance of a disqualifying person.

Lastly, the bill provides that a person that holds equity in, or debt liability of, a business concern that is exempt from the disclosure requirements established by subsection e. of section 2 of P.L.1983, c.392 (C.13:1E-127) shall also be exempt from those disclosure requirements.

As amended by the committee, this bill is identical to Assembly Bill No.3444 as also amended and reported by the committee.

COMMITTEE AMENDMENTS:

The committee amendments to the bill:

1) add a new section 1 to the bill which amends the definition of “disclosure statement” as defined in section 2 of P.L.1983, c.392 (C.13:1E-127);

2) provide that a business concern that is a publicly traded corporation that is not the applicant, licensee, or permittee but which is listed in a disclosure statement shall be exempt from the disclosure requirements provided that the name and business address of the publicly traded corporation and copies of its annual filings with the Securities and Exchange Commission, or its foreign equivalent, are filed with the disclosure forms of the applicant, licensee, or permittee. In addition, subsidiaries intervening in the chain of equity between the publicly traded corporation and the applicant, licensee, or permittee, and the officers and directors of those intervening subsidiaries, would also be exempt from the disclosure requirements provided that the intervening subsidiary is not and will not be engaged in active management of the commercial solid waste or hazardous waste operations of the applicant, licensee, or permittee conducted in New Jersey;

3) provide that an individual, secondary business activity corporation, institutional investor, or publicly traded corporation exempted from fingerprint and personal history disclosure requirements may be required by the Attorney General to file disclosure forms and be fingerprinted if the Attorney General determines that there exists a reasonable suspicion that the additional information is likely to lead to information relevant to a determination regarding the approval of a license, the revocation of a license, or the severance of a disqualifying person; and

4) delete subsection e. of section 1 of the bill concerning publicly traded corporations.

ASSEMBLY, No. 3444

STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED OCTOBER 25, 2010

Sponsored by:

Assemblyman UPENDRA J. CHIVUKULA

District 17 (Middlesex and Somerset)

Assemblyman ALBERT COUTINHO

District 29 (Essex and Union)

SYNOPSIS

Provides certain exemptions from disclosure requirements for licensing of solid waste and hazardous waste operations.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning disclosure requirements for the licensing of
2 solid waste and hazardous waste operations, and amending
3 P.L.1983, c.392.

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

7
8 1. Section 3 of P.L.1983, c.392 (C.13:1E-128) is amended to
9 read as follows:

10 3. In addition to any other procedure, condition or information
11 required pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.), P.L.1981,
12 c.279 (C.13:1E-49 et seq.) or any other law:

13 a. (1) Every applicant and permittee shall file a disclosure
14 statement with the department and the Attorney General;

15 (2) Except as otherwise provided in this subsection, any person
16 required to be listed in the disclosure statement shall be
17 fingerprinted for identification and investigation purposes in
18 accordance with procedures therefor established by the Attorney
19 General;

20 (3) The Attorney General shall, upon the receipt of the
21 disclosure statement from an applicant for an initial license or from
22 a permittee, prepare and transmit to the department an investigative
23 report on the applicant or the permittee, as the case may be, based
24 in part upon the disclosure statement. In preparing this report, the
25 Attorney General may request and receive criminal history
26 information from the State Commission of Investigation or the
27 Federal Bureau of Investigation;

28 (4) In conducting a review of the application, the department
29 shall include a review of the disclosure statement and investigative
30 report;

31 (5) An applicant or permittee may file a limited disclosure
32 statement pursuant to the provisions of paragraphs (a) through (h)
33 of subsection e. of section 2 of P.L.1983, c.392 (C.13:1E-127); and
34 a person required to be listed in the disclosure statement is exempt
35 from the fingerprint and personal history disclosure requirements;
36 if:

37 (a) The applicant or permittee is a secondary business activity
38 corporation; and

39 (b) The person required to be listed in the disclosure statement
40 is (i) a director or chief executive officer; or (ii) an individual who
41 does not have any responsibility for, or control of, the commercial
42 solid waste or hazardous waste operations of the applicant,
43 permittee or licensee conducted in New Jersey, and who will not
44 exercise any such responsibility or control upon the issuance of a
45 license by the department;

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 (6) (a) A person who is a director or chief executive officer of a
2 business concern that is a secondary business activity corporation, a
3 publicly traded corporation or an institutional investor, including
4 limited partnership interests, that is not the applicant or permittee
5 but which is listed in the disclosure statement of an applicant or
6 permittee, pursuant to subsection e. of section 2 of P.L.1983, c.392
7 (C.13:1E-127), shall be exempt from the fingerprint and personal
8 history disclosure requirements; **[and]**

9 (b) An individual who is an officer or partner of, or who holds
10 any equity in or debt liability of, a business concern that is a
11 secondary business activity corporation, a publicly traded
12 corporation or an institutional investor, including limited
13 partnership interests, that is not the applicant or permittee but which
14 is listed in the disclosure statement of an applicant or permittee,
15 pursuant to subsection e. of section 2 of P.L.1983, c.392 (C.13:1E-
16 127), shall be exempt from the fingerprint and personal history
17 disclosure requirements, provided that the person or secondary
18 business activity corporation or publicly traded corporation or
19 institutional investor does not and will not have any responsibility
20 for, or control of, the commercial solid waste or hazardous waste
21 operations of the applicant or permittee conducted in New Jersey**[.]**
22 ;

23 (c) A business concern that is a secondary business activity
24 corporation, a publicly traded corporation or an institutional
25 investor, including limited partnership interests, that is not the
26 applicant, licensee, or permittee but which is listed in the disclosure
27 statement of an applicant, licensee, or permittee, pursuant to
28 subsection e. of section 2 of P.L.1983, c.392 (C.13:1E-127), shall
29 be exempt from disclosure requirements established in subsection e.
30 of section 2 of P.L.1983, c.392 (C.13:1E-127) provided that the
31 secondary business activity corporation, publicly traded corporation
32 or institutional investor does not and will not have any
33 responsibility for, or control of, the commercial solid waste or
34 hazardous waste operations of the applicant, licensee, or permittee
35 conducted in New Jersey;

36 (d) An individual described in subparagraph (b) of this
37 paragraph, and a secondary business activity corporation, publicly
38 traded corporation, or institutional investor described in
39 subparagraph (c) of this paragraph, that directly or indirectly holds
40 5% or more of the equity or debt of the applicant, licensee, or
41 permittee, shall be deemed to have responsibility for, or control of,
42 the commercial solid waste or hazardous waste operations of the
43 applicant, licensee, or permittee conducted in New Jersey. This
44 subparagraph shall not apply to chartered lending institutions
45 holding debt, directly or indirectly, of the applicant, licensee, or
46 permittee; and

47 (e) A person that holds equity in, or debt liability of, a business
48 concern that is exempt from the disclosure requirements established

1 in subsection e. of section 2 of P.L.1983, c.392 (C.13:1E-127) shall
2 also be exempt from those disclosure requirements.

3 b. All applicants, permittees and licensees shall have the
4 continuing duty to provide any assistance or information requested
5 by the department or the Attorney General, and to cooperate in any
6 inquiry or investigation conducted by the Attorney General or the
7 State Commission of Investigation and any inquiry, investigation,
8 or hearing conducted by the department. Except as otherwise
9 determined by the Superior Court pursuant to subsection d. of this
10 section, if, upon issuance of a formal request to answer any inquiry
11 or produce information, evidence or testimony, any applicant,
12 permittee or licensee refuses to comply, the application of the
13 business concern for a license may be denied, or the license of that
14 business concern may be revoked by the department.

15 c. If any of the information required to be included in the
16 disclosure statement changes, or if any information provided
17 concerning the applicability of an exemption under subsection d. of
18 this section changes, or if any additional information should be
19 added to the disclosure statement after it has been filed, the
20 applicant, permittee or licensee shall provide that information to the
21 department and the Attorney General, in writing, within 30 days of
22 the change or addition.

23 d. The provisions of paragraphs (5) and (6) of subsection a. of
24 this section to the contrary notwithstanding, the Attorney General
25 may at any time require any person required to be listed in the
26 disclosure statement to file a completed personal history disclosure
27 form and a full disclosure statement with the department and the
28 Attorney General pursuant to paragraphs (1) through (9) of
29 subsection e. of section 2 of P.L.1983, c.392 (C.13:1E-127), or to
30 be fingerprinted for identification and investigation purposes
31 pursuant to paragraph (2) of subsection a. of this section, if the
32 Attorney General determines that there exists a reasonable
33 suspicion that the additional information is likely to lead to
34 information relevant to a determination regarding the approval of a
35 license pursuant to section 8 of P.L.1983, c.392 (C.13:1E-133), the
36 revocation of a license pursuant to section 9 of P.L.1983, c.392
37 (C.13:1E-134), or the severance of a disqualifying person pursuant
38 to section 10 of P.L.1983, c.392 (C.13:1E-135).

39 If the Attorney General requires any or all of this information, a
40 written request for the additional information shall be served upon
41 the applicant, permittee or licensee. Within 60 days of receipt of a
42 written request for additional information, the applicant, permittee
43 or licensee may seek review of the Attorney General's
44 determination in the Superior Court. If the applicant, permittee or
45 licensee fails to provide the additional information to the Attorney
46 General within 60 days of receipt of the written request, the
47 Attorney General may file with the Superior Court a petition for an
48 order requiring the applicant, permittee or licensee to provide the

1 additional information. In a proceeding brought by either party, the
2 applicant, permittee or licensee shall demonstrate that the additional
3 information requested is not likely to lead to information relevant to
4 a determination regarding the approval of a license pursuant to
5 section 8 of P.L.1983, c.392 (C.13:1E-133), the revocation of a
6 license pursuant to section 9 of P.L.1983, c.392 (C.13:1E-134), or
7 the severance of a disqualifying person pursuant to section 10 of
8 P.L.1983, c.392 (C.13:1E-135). For good cause shown, the court
9 may review in camera the submission of the Attorney General or
10 the applicant, permittee or licensee, or any part thereof.

11 (cf: P.L.2009, c.253, s.3)

12

13 2. This act shall take effect immediately.

14

15

16

STATEMENT

17

18 This bill would provide an exemption from the disclosure
19 requirements established pursuant to subsection e. of section 2 of
20 P.L.1983, c.392 (C.13:1E-127) for a business concern that is a
21 secondary business activity corporation, a publicly traded
22 corporation, or an institutional investor, including limited
23 partnership interests, that is not the applicant, licensee, or permittee
24 but which is listed in the disclosure statement of an applicant,
25 licensee, or permittee. The exemption from the disclosure
26 statement requirements would be available if the secondary business
27 activity corporation, publicly traded corporation or institutional
28 investor does not and will not have any responsibility for, or control
29 of, the commercial solid waste or hazardous waste operations of the
30 applicant, licensee, or permittee conducted in New Jersey.

31 In addition, the bill would provide that an individual previously
32 exempted from fingerprint and personal history disclosure
33 requirements and a secondary business activity corporation,
34 publicly traded corporation, or institutional investor, that directly or
35 indirectly holds 5% or more of the equity or debt of the applicant,
36 licensee, or permittee, shall be deemed to have responsibility for, or
37 control of, the commercial solid waste or hazardous waste
38 operations of the applicant, licensee, or permittee conducted in New
39 Jersey. However, under the bill, that provision would not apply to
40 chartered lending institutions holding debt, directly or indirectly, of
41 the applicant, licensee, or permittee.

42 Finally, the bill provides that a person that holds equity in or
43 debt liability of a business concern that is exempt from the
44 disclosure requirements established by subsection e. of section 2 of
45 P.L.1983, c.392 (C.13:1E-127) shall also be exempt from those
46 disclosure requirements.

ASSEMBLY ENVIRONMENT AND SOLID WASTE
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3444

with committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 10, 2011

The Assembly Environment and Solid Waste Committee reports favorably and with committee amendments Assembly Bill No. 3444.

Current law requires a business concern that is an “applicant,” “permittee,” or “licensee,” as those terms are defined in P.L.1983, c.392 (C.13:1E-126 et seq.), who collect, transport, treat, store, transfer, or dispose of solid waste or hazardous waste, to submit to certain background information, including disclosure statements and fingerprinting, about the business concern and certain business concern employees involved in these above industries in New Jersey. This information is submitted to the Department of Environmental Protection and the Attorney General’s Office for review and approval prior to certification as an applicant, licensee, or permittee.

This bill, as amended by the committee, changes the requirements for disclosure statements and fingerprinting for certain individuals and business concerns not directly related to the above industries.

Specifically, this bill would provide an exemption from the disclosure requirements established for a business concern that is a “secondary business activity corporation,” an “institutional investor” including limited partnership interests, or a “publicly traded corporation” that is not the applicant, licensee, or permittee but which is listed in a disclosure statement pursuant to subsection e. of section 2 of P.L.1983, c.392 (C.13:1E-127). The exemption from the disclosure statement requirements would be available if the secondary business activity corporation, institutional investor, or publicly traded corporation is not and will not be engaged in active management of the commercial solid waste or hazardous waste operations of the applicant, licensee, or permittee conducted in New Jersey.

In addition, the bill would provide that an individual, a secondary business activity corporation, an institutional investor, or a publicly traded corporation exempted from fingerprint and personal history disclosure requirements may be required by the Attorney General to file disclosure forms and be fingerprinted if the Attorney General determines that there exists a reasonable suspicion that the additional

information is likely to lead to information relevant to a determination regarding the approval of a license, the revocation of a license, or the severance of a disqualifying person.

Lastly, the bill provides that a person that holds equity in, or debt liability of, a business concern that is exempt from the disclosure requirements established by subsection e. of section 2 of P.L.1983, c.392 (C.13:1E-127) shall also be exempt from those disclosure requirements.

As amended by the committee, this bill is identical to Senate Bill No.2295 (1R) as also amended and reported by the committee.

COMMITTEE AMENDMENTS:

The committee amendments to the bill:

1) add a new section 1 to the bill which amends the definition of “disclosure statement” as defined in section 2 of P.L.1983, c.392 (C.13:1E-127);

2) provide that a business concern that is a publicly traded corporation that is not the applicant, licensee, or permittee but which is listed in a disclosure statement shall be exempt from the disclosure requirements provided that the name and business address of the publicly traded corporation and copies of its annual filings with the Securities and Exchange Commission, or its foreign equivalent, are filed with the disclosure forms of the applicant, licensee, or permittee. In addition, subsidiaries intervening in the chain of equity between the publicly traded corporation and the applicant, licensee, or permittee, and the officers and directors of those intervening subsidiaries, would also be exempt from the disclosure requirements provided that the intervening subsidiary is not and will not be engaged in active management of the commercial solid waste or hazardous waste operations of the applicant, licensee, or permittee conducted in New Jersey; and

3) provide that an individual, secondary business activity corporation, institutional investor, or publicly traded corporation exempted from fingerprint and personal history disclosure requirements may be required by the Attorney General to file disclosure forms and be fingerprinted if the Attorney General determines that there exists a reasonable suspicion that the additional information is likely to lead to information relevant to a determination regarding the approval of a license, the revocation of a license, or the severance of a disqualifying person.