

40:66-1

LEGISLATIVE HISTORY CHECKLIST

NJSA: 40:66-1

(Solid waste
collection
contracts--costs)

LAWS OF: 1989

CHAPTER: 236

Bill No: S2370

Sponsor(s): DiFrancesco

Date Introduced: April 18, 1988

Committee: Assembly: Solid Waste

Senate: Energy & Environment

Amended during passage: Yes SCS (first reprint) enacted.

Date of Passage: Assembly: December 11, 1989

Senate: August 14, 1989

Date of Approval: January 2, 1990

Following statements are attached if available:

Sponsor statement: Yes

Committee Statement: Assembly: Yes

Senate: Yes

Fiscal Note: No

Veto Message: No

Message on signing: No

Following were printed:

Reports: No

Hearings: No

[FIRST REPRINT]

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 2370
STATE OF NEW JERSEY

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ADOPTED MAY 22, 1989

Sponsored by Senator DiFRANCESCO

1 AN ACT concerning certain solid waste disposal costs, and
2 supplementing P.L.1971, c.198 (C.40A:11-1 et seq.) ¹[and],¹
3 P.L.1954, c.48 (C.52:34-6 et seq.)¹and chapter 2 of Title 27 of
4 the Revised Statutes¹.

5

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

8 1. Any person entering into a contract with a contracting unit
9 pursuant to the provisions of P.L.1971, c.198 (C.40A:11-1 et
10 seq.), which contract ¹[contains the provision of, and specified
11 costs] requires the contractor to provide¹ for the disposal of
12 ¹[Type 13 Bulky Waste as defined in rules or regulations adopted
13 by the Department of Environmental Protection pursuant to
14 P.L.1970, c.39 (C.13:1E-1 et seq.)] solid waste¹, shall have the
15 right to renegotiate the contract to reflect any increase in
16 ¹[the]¹ solid waste disposal costs ¹[included in the terms of the
17 contract]¹ whenever:

18 a. the increase occurred as a result of compliance with an
19 order issued by the Department of Environmental Protection, in
20 conjunction with the Board of Public Utilities, directing the solid
21 waste be disposed at a solid waste facility other than the facility
22 previously utilized by the person to whom the contract has been
23 awarded; or

24 b. the increase in solid waste disposal costs occurred as a result
25 of lawful increases in the rates, fees or charges imposed on the
26 disposal of solid waste at the solid waste facility utilized by the
27 person to whom the contract has been awarded.

28 2. Any person entering into a contract with the State pursuant
29 to the provisions of P.L.1954, c.48 (C.52:34-6 et seq.), or with an
30 independent state authority, which contract ¹[contains the
31 provision of, and specified costs] requires the contractor to

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly ASW committee amendments adopted November 20, 1989.

1 provide¹ for the disposal of ¹[Type 13 Bulky Waste as defined in
2 rules or regulations adopted by the Department of Environmental
3 Protection pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.)] solid
4 waste¹, shall have the right to renegotiate the contract to reflect
5 any increase in ¹[the]¹ solid waste disposal costs ¹[included in the
6 terms of the contract]¹ whenever:

7 a. the increase occurred as a result of compliance with an
8 order issued by the Department of Environmental Protection, in
9 conjunction with the Board of Public Utilities, directing the solid
10 waste be disposed at a solid waste facility other than the facility
11 previously utilized by the person to whom the contract has been
12 awarded; or

13 b. the increase in solid waste disposal costs occurred as a result
14 of lawful increases in the rates, fees or charges imposed on the
15 disposal of solid waste at the solid waste facility utilized by the
16 person to whom the contract has been awarded.

17 For the purposes of this section, "independent state authority"
18 means an authority, board, bureau, office, commission,
19 committee, council, instrumentality or agency of the State,
20 which is a public body corporate and politic established pursuant
21 to law, having the power to sue and be sued and to issue bonds ¹,
22 but shall not include the New Jersey Transit Corporation
23 established pursuant to P.L.1979, c.150 (C.27:25-1 et seq.)¹.

24 ^{13.} Any person awarded a contract by the Commissioner of
25 Transportation for the construction, reconstruction or resurfacing
26 of any State, county or municipal road, street or highway, or
27 portion thereof, which contract requires the contractor to
28 provide for the disposal of solid waste, shall have the right to
29 renegotiate the contract to reflect any increase in solid waste
30 disposal costs whenever:

31 a. the increase occurred as a result of compliance with an
32 order issued by the Department of Environmental Protection, in
33 conjunction with the Board of Public Utilities, directing the solid
34 waste be disposed at a solid waste facility other than the facility
35 previously utilized by the person to whom the contract has been
36 awarded; or

37 b. the increase in solid waste disposal costs occurred as a result
38 of lawful increases in the rates, fees or charges imposed on the
39 disposal of solid waste at the solid waste facility utilized by the

1 person to whom the contract has been awarded.¹

2 ¹[3.] 4.¹ This act shall take effect immediately, and shall
3 apply to any contract entered into prior to, on, or after the
4 effective date of this act.

5

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ENVIRONMENT

8

Solid Waste

9

10 Authorizes renegotiation of certain public contracts for increased
11 solid waste costs.

INTRODUCED APRIL 18, 1988

By Senator DiFRANCESCO

1 **AN ACT** concerning municipal solid waste collection and disposal,
amending R.S. 40:66-1 through R.S. 40:66-4 and P.L. 1970, c.
3 40, supplementing chapter 66 of Title 40 of the Revised
Statutes, and repealing R.S. 40:66-6 and R.S. 40:66-7.

5

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

1. R.S. 40:66-1 is amended to read as follows:

9 40:66-1. The governing body may provide for the cleaning of
the streets of the municipality, and for the collection [, removal]
11 and disposal of [ashes, garbage, refuse and waste matter] solid
waste, and may establish and operate a system therefor; purchase
13 and operate the necessary equipment for the cleaning of streets,
and for the collection [, removal] and disposal of [ashes, garbage,
15 refuse and waste matter] solid waste; make, amend, repeal and
enforce all such ordinances, resolutions, rules and regulations as
17 may be deemed necessary and proper for the introduction,
operation and management of such system, and for the
19 maintenance and operation of a [plant] solid waste facility,
subject to the provisions of the "Solid Waste Management Act,"
21 P.L. 1970, c. 39 (C.13:1E-1 et seq.) and the "Solid Waste Utility
Control Act of 1970," P.L. 1970, c. 40 (C.48:13A-1 et seq.), for
23 the [cremation, destruction and] disposal of [garbage, refuse and
waste matter] solid waste, and for the government of employees
25 connected therewith.

(cf: R.S. 40:66-1)

27 2. R.S. 40:66-2 is amended to read as follows:

40:66-2. The governing body may , subject to the provisions of
29 P.L. 1970, c. 39 (C.13:1E-1 et seq.), erect the necessary buildings
and equip the same with all appliances proper for the [cremation,
31 destruction and other] disposal of [garbage, refuse and waste
matter] solid waste, and acquire the real estate necessary

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 therefor by purchase, gift or condemnation. Such buildings may
2 be erected on any real estate owned by the municipality suitable
3 for the purpose.

(cf: R.S. 40:66-2)

5 3. R.S. 40:66-3 is amended to read as follows:

6 40:66-3. Every municipality may acquire, by purchase, lease or
7 condemnation and subject to the provisions of P.L. 1970, c. 39
8 (C.13:1E-1 et seq.), unimproved [lowlands] lands, within or
9 without the municipality, to be used for the [deposit of ashes or
10 other indestructible waste and refuse matter of the municipality]
11 disposal of solid waste, but no such lands shall be acquired or used
12 for such purpose outside the limits of the municipality, without
13 the consent of the governing body and of the board of health of
14 the municipality wherein such lands are situated.

15 (cf: R.S. 40:66-3)

4. R.S. 40:66-4 is amended to read as follows:

17 40:66-4. a. The governing body may, if it deem it more
18 advantageous, contract with any person for the cleaning of the
19 streets, or the collection [, removal] and disposal of [ashes,
20 garbage, refuse and waste matter or any portion thereof] solid
21 waste. Before making any such contract or contracts the
22 governing body shall first adopt specifications for the doing of
23 the work in a sanitary and inoffensive manner, and any such
24 contract or contracts the total amount of which exceeds
25 [\$2,500.00] \$7,500.00 in the fiscal year shall be entered into and
26 made only after bids shall have been advertised therefor, and
27 awarded in the manner provided in [chapter 50 of this Title
28 (C.40:50-1 et seq.)] the "Local Public Contracts Law," P.L. 1971,
29 c. 198 (C.40A:11-1 et seq.). The bidder or bidders to whom the
30 contract or contracts shall be awarded shall give satisfactory
31 bond or other security for the faithful performance of the work.
32 The contract shall include and in all respects conform to the
33 specifications adopted for the doing of the work.

34 b. Notwithstanding the provisions of subsection a. of this
35 section, whenever a municipality incurs any additional
36 expenditures as a result of (1) complying with an order issued by
37 the Department of Environmental Protection or the Board of
38 Public Utilities on or after July 1, 1987 redirecting the solid
39 waste flow of the municipality to a transfer station facility; or
(2) a total aggregate annual increase in its solid waste collection

1 or disposal costs in excess of 100% incurred on or after July 1,
2 31, 1987, the governing body may require the relevant solid waste
3 collector or solid waste transporter to whom the solid waste
4 collection contract has been awarded to renegotiate the contract
5 to reflect any adjustment in rates, fees or charges made in
6 connection with paragraph (1) or (2) above.

7 (cf: P.L. 1968, c. 208, s. 1)

8 5. (New section) As used in this chapter:

9 "Solid waste" means garbage, refuse, and other discarded
10 materials resulting from industrial, commercial and agricultural
11 operations, and from domestic and community activities, and
12 shall include all other waste materials including liquids, except
13 for solid animal and vegetable wastes collected by swine
14 producers licensed by the State Department of Agriculture to
15 collect, prepare and feed such wastes to swine on their own farms.

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

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

21 "Solid waste facilities" mean and include the plants, structures
22 and other real and personal property acquired, constructed or
23 operated or to be acquired, constructed or operated by any person
24 pursuant to the provisions of this or any other act, including
25 transfer stations, incinerators, resource recovery facilities,
26 sanitary landfill facilities or other plants for the disposal of solid
27 waste, and all vehicles, equipment and other real and personal
28 property and rights therein and appurtenances necessary or useful
29 and convenient for the collection or disposal of solid waste in a
30 sanitary manner.

31 6. Section 3 of P.L. 1970, c. 40 (C.48:13A-3) is amended to
32 read as follows:

33 3. As used in this act [, the following words and terms shall
34 have the following meanings, unless the context indicates or
35 requires another or different meaning or intent]:

36 a. "Solid waste" means garbage, refuse, and other discarded
37 materials resulting from industrial, commercial and agricultural
38 operations, and from domestic and community activities, and
39 shall include all other waste materials including liquids disposed

1 of incident thereto, except it shall not include solid animal and
 2 vegetable waste collected by swine producers licensed by the
 3 State Department of Agriculture to collect, prepare and feed
 such wastes to swine on their own farms.

5 b. "Solid waste collection" means the activity related to
 pickup and transportation of solid waste from its source or
 7 location to a disposal site, but does not include activity related to
 the pickup, transportation or unloading of septic waste.

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

11 d. "Septic waste" means pumpings from septic tanks and
 cesspools, but shall not include wastes from a sewage treatment
 13 plant.

e. "Solid waste facilities" mean and include the plants,
 15 structures and other real and personal property acquired,
 constructed or operated or to be acquired, constructed or
 17 operated by any person pursuant to the provisions of this or any
 other act, including transfer stations, incinerators, resource
 19 recovery facilities, sanitary landfill facilities or other plants for
 the disposal of solid waste, and all vehicles, equipment and other
 21 real and personal property and rights therein and appurtenances
 necessary or useful and convenient for the collection or disposal
 23 of solid waste in a sanitary manner.

f. "Transfer station" means a solid waste facility at which solid
 25 waste is transferred from a solid waste collection vehicle to a
 solid waste haulage vehicle for transportation to a sanitary
 27 landfill facility, resource recovery facility, or other destination.

(cf: P.L. 1983, c. 123, s.1)

29 7. Section 8 of P.L. 1970, c. 40 (C.48:13A-7) is amended to
 read as follows:

31 8. a. The board, upon complaint or its own initiative, after
 hearing, may direct any person engaging in the solid waste
 33 collection business or the solid waste disposal business to furnish
 proof that the charges or rates to be received for such service do
 35 not exceed just and reasonable rates or charges for such service.

b. Should the board find that the rates or charges are excessive
 37 then it may order the person charging such excessive rates or
 charges to make an adjustment in the contract to a sum which
 39 shall result in just and reasonable rates or charges.

1 c. Should the board find, subsequent to the issuance of any
2 order in conjunction with the Department of Environmental
3 Protection redirecting the solid waste flow of a municipality to a
4 transfer station facility, that the rates or charges received for
5 the collection and transportation of solid waste to the facility
6 contained within a contract entered into prior to the effective
7 date of that order require adjustment, then it may order the
8 person charging these rates or charges to make an adjustment in
9 the contract to a sum which shall result in just and reasonable
10 rates or charges. In issuing this order, the board shall be exempt
11 from the provisions of R.S. 48:2-21.

(cf: P.L. 1970, c. 40, s.8)

13 8. The following are repealed:

R.S. 40:66-6 through R.S. 40:66-7.

15 9. This act shall take effect immediately.

17

STATEMENT

19

20 This bill would permit any municipality to renegotiate a
21 contract for the collection or transportation of solid waste
22 whenever it incurs any additional expenditures as a result of (1)
23 complying with an order issued by the Department of
24 Environmental Protection or the Board of Public Utilities on or
25 after July 1, 1987 redirecting the solid waste flow of the
26 municipality to a transfer station facility; or (2) a total aggregate
27 annual increase in its solid waste collection or disposal costs in
28 excess of 100% incurred on or after July 1, 31, 1987. Under these
29 circumstances, the governing body may require the relevant solid
30 waste collector or solid waste transporter to whom the solid
31 waste collection contract has been awarded to renegotiate the
32 contract to reflect any adjustment in rates, fees or charges made
33 in connection therewith.

34 In addition, the bill would authorize the Board of Public
35 Utilities to issue an order requiring the relevant solid waste
36 collector to adjust the rates charged for the collection or
37 transportation of solid waste pursuant to a contract entered into
38 prior to the effective date of any order issued in conjunction with
39 DEP redirecting a municipality's solid waste to a more costly
transfer station in order to reflect these costs.

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ENVIRONMENT

Solid Waste

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Authorizes municipalities to renegotiate solid waste collection
5 contracts under certain circumstances.

ASSEMBLY SOLID WASTE MANAGEMENT COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR

SENATE, No. 2370

with committee amendments

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STATE OF NEW JERSEY

DATED: NOVEMBER 20, 1989

The Assembly Solid Waste Management Committee favorably reports Senate Bill No. 2370 SCS with Committee amendments.

As amended, Senate Bill No. 2370 SCS would authorize any person who entered into a contract with the State, an independent authority, or a local government unit to renegotiate that contract in those instances where the contract requires the contractor to provide for the disposal of solid waste whenever: (1) solid waste disposal costs have increased due to compliance with an order issued by the Department of Environmental Protection and the Board of Public Utilities directing that the solid waste be disposed of at a solid waste facility other than the facility previously utilized by the person; or (2) solid waste disposal cost increases were the result of lawfully imposed increases in disposal rates. The contract could be renegotiated only to reflect these increases in solid waste disposal costs.

ASW Committee amendments would extend the provisions of the bill to include contracts for highway construction work awarded by the Commissioner of Transportation, would provide that the provisions of the bill would not apply to contracts awarded by the New Jersey Transit Corporation, and would delete the language limiting the bill to contracts for the disposal of Type 13 Bulky Waste.

SENATE ENERGY AND ENVIRONMENT COMMITTEE

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STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR

SENATE, No. 2370

STATE OF NEW JERSEY

DATED: MAY 22, 1989

The Senate Energy and Environment Committee favorably reports a Senate Committee Substitute for Senate Bill No. 2370.

The Senate Committee Substitute for Senate Bill No. 2370 would authorize any person who entered into a contract with the State, an independent authority, or a local government unit to renegotiate that contract if any solid waste disposal costs included in the contract increased due to compliance with an order issued by the Department of Environmental Protection and the Board of Public Utilities directing that the solid waste be disposed of at a solid waste facility other than the facility previously utilized by the person, or if the increases were the result of lawfully imposed increases in disposal rates. The contract could be renegotiated only to reflect these increases in solid waste disposal costs.