

LEGISLATIVE HISTORY CHECKLIST
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NJSA: 13:1E-127

(Solid waste
industry--revise
licensing &
regulation)

LAWS OF: 1991

CHAPTER: 269

Bill No: S2260

Sponsor(s): Contillo and others

Date Introduced: January 22, 1990

Committee: Assembly: Waste Management; Appropriations

Senate: Land Use; Revenue, Finance

Amended during passage: Yes Amendments denoted by asterisks.

Date of Passage: Assembly: April 15, 1990 Re-enacted 8-22-91

Senate: April 5, 1990 Re-enacted 7-15-91

Date of Approval: August 27, 1991

Following statements are attached if available:

Sponsor statement: Yes

Committee Statement: Assembly: Yes

Senate: Yes 3-5-90 & 3-12-90

Fiscal Note: No

Veto Message: Yes

Message on signing: Yes

Following were printed:

Reports: No

Hearings: No

KBG/SLJ

P.L.1991, CHAPTER 269, approved August 27, 1991

1990 Senate No. 2260 (Second Reprint)

1 AN ACT concerning the licensing and regulation of the solid and
2 hazardous waste industries, amending and supplementing
3 P.L.1983, c.392, and amending P.L.1970, c.40, P.L.1970, c.39,
4 P.L.1971, c.461, P.L.1975, c.326 and P.L.1981, c.306.

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

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

10 2. As used in this act:

11 a. "Applicant" means any [person] business concern² which has
12 filed a disclosure statement with the department and the
13 Attorney General and is² seeking [a] an initial license², provided
14 that the business concern has furnished the department and the
15 Attorney General with any information required pursuant to
16 P.L. , c. (C.) (now before the Legislature as this bill)².

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

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

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

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

28 (1) The full name, business address and social security number
29 of the applicant or the permittee, as the case may be, [or, if the
30 applicant is a business concern,] and of any officers, directors,
31 partners, or key employees thereof and all persons [or business
32 concerns] holding any equity in or debt liability of that business
33 concern, or, if the [business concern] applicant or permittee is a
34 publicly traded corporation, all persons [or business concerns]
35 holding more than 5% of the equity in or the debt liability of that
36 business concern, except that where the debt liability is held by a

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 Senate SLM committee amendments adopted March 5, 1990.

² Senate amendments adopted in accordance with Governor's
recommendations June 24, 1991.

1 chartered lending institution, the applicant or permittee need
2 only supply the name and business address of the lending
3 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 the business concern is a
9 publicly traded corporation, all persons [or business concerns]
10 holding more than 5% of the equity in or the debt liability of that
11 business concern, except that where the debt liability is held by a
12 chartered lending institution, the applicant or permittee need
13 only supply the name and business address of the lending
14 institution;

15 (3) The full name and business address of any [company]
16 business concern which collects, transports, treats, stores,
17 transfers or disposes of solid waste or hazardous waste in which
18 the applicant or the permittee holds an equity interest;

19 (4) A description of the experience and credentials in,
20 including any past or present licenses for, the collection,
21 transportation, treatment, storage, transfer or disposal of solid
22 waste or hazardous waste possessed by the applicant or the
23 permittee, as the case may be, [or, if the applicant is a business
24 concern,] and by the key employees, officers, directors, or
25 partners thereof;

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

37 (6) A listing and explanation of any judgment of liability or
38 conviction which was rendered, pursuant to the laws of this State,
39 or any [State] other state or federal statute or local ordinance,
40 against the applicant or the permittee, as the case may be, or [,
41 if the applicant is a business concern,] against any key employee,
42 officer, director, or partner thereof, except for any violation of
43 Title 39 of the Revised Statutes other than a violation of the
44 provisions of P.L.1983, c.102 (C.39:5B-18 et seq.), P.L.1983,
45 c.401 (C.39:5B-25 et seq.) or P.L.1985, c.415 (C.39:5B-30 et seq.);

46 (7) A listing of all labor unions and trade and business
47 associations in which the applicant or the permittee was a
48 member or with which the applicant or the permittee had a
49 collective bargaining agreement during the 10 years preceding

1 the date of the filing of the application or disclosure statement,
2 whichever is later;

3 (8) A listing of any agencies outside of New Jersey which had
4 regulatory responsibility over the applicant or the permittee, as
5 the case may be, in connection with [his] the collection,
6 transportation, treatment, storage, transfer or disposal of solid
7 waste or hazardous waste;

8 (9) Any other information the Attorney General or the
9 department may require that relates to the competency,
10 reliability or [good character] integrity of the applicant or the
11 permittee.

12 f. "Key employee" means any [person] individual employed by
13 the applicant, the permittee or the licensee in a supervisory
14 capacity or empowered to make discretionary decisions with
15 respect to the solid waste or hazardous waste operations of the
16 business concern but shall not include employees exclusively
17 engaged in the physical or mechanical collection, transportation,
18 treatment, storage, transfer or disposal of solid waste or
19 hazardous waste.

20 g. "License" means the initial approval and first renewal by
21 ~~the department of any registration statement or engineering~~
22 ~~design pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.) or P.L.1981,~~
23 ~~c.279 (C.13:1E-49 et seq.), for the collection, transportation,~~
24 ~~treatment, storage, transfer or disposal of solid waste or~~
25 ~~hazardous waste in this State[, except that].~~

26 A "license" shall not include any registration statement or
27 engineering design approved for:

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

30 (2) Any person solely for the collection, transportation,
31 treatment, storage or disposal of solid waste or hazardous waste
32 generated by that person;

33 (3) Any person for the operation of a hazardous waste facility,
34 if at least 75% of the total design capacity of that facility is
35 utilized to treat, store or dispose of hazardous waste generated
36 by that person; [or]

37 (4) Any person for the operation of a hazardous waste facility
38 which is considered as such solely as the result of the
39 reclamation,¹ recycling or refining of hazardous wastes which
40 are or contain ¹any of the following precious metals:¹ gold,
41 silver, osmium, platinum, palladium, iridium, rhodium, ruthenium,
42 or copper;

43 ¹(5) Any person solely for the transportation of hazardous
44 wastes which are or contain precious metals to a hazardous waste
45 facility described in paragraph (4) of this subsection for the
46 purposes of reclamation.

47 A "license" shall include any registration statement approved
48 for any person who transports any other hazardous waste in
49 addition to hazardous wastes which are or contain precious
50 metals;¹

1 ~~1[(5)] (6)~~¹ Any person solely for the collection, transportation,
2 treatment, storage or disposal of granular activated carbon used
3 in the adsorption of hazardous waste; or

4 ~~1[(6)] (7)~~¹ Any regulated medical waste generator for the
5 treatment or disposal of regulated medical waste at any
6 noncommercial incinerator or noncommercial facility in this
7 State that accepts regulated medical waste for disposal.

8 h. "Licensee" means any [person who] business concern which
9 has [received] completed the requirements of section 3 of
10 P.L.1983, c.392 (C.13:1E-128) and whose application for the
11 issuance or renewal of a license has been approved by the
12 department pursuant to section 8 of P.L.1983, c.392
13 (C.13:1E-133).

14 i. "Permittee" means and shall include:

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

22 (2) Any business concern which has filed a disclosure
23 statement with the department and the Attorney General and to
24 which a temporary license has been approved, issued or renewed
25 by the department pursuant to section 10 of P.L.1983, c.392
26 (C.13:1E-135), but which has not otherwise completed the
27 requirements of section 3 of P.L.1983, c.392 (C.13:1E-128) and
28 whose application for a license has not been approved by the
29 department pursuant to section 8 of P.L.1983, c.392
30 (C.13:1E-133), provided that the temporary license remains valid,
31 and provided further that the business concern has furnished the
32 department and the Attorney General with any information
33 required pursuant to P.L. , c. (C.) (now before the
34 Legislature as this bill);

35 (3) Any business concern which has filed a disclosure
36 statement with the department and the Attorney General and to
37 which a valid registration statement or engineering design
38 approval for the collection, transportation, treatment, storage,
39 transfer or disposal of solid waste or hazardous waste pursuant to
40 P.L.1970, c.39 (C.13:1E-1 et seq.) or P.L.1981, c.279 (C.13:1E-49
41 et seq.) has been given by the department between February 20,
42 1985 and January 23, 1986, inclusive, provided that the
43 registration statement or engineering design approval remains
44 valid, and provided further that the business concern has
45 furnished the department and the Attorney General with any
46 information required pursuant to P.L. , c. (C.) (now
47 before the Legislature as this bill); or

48 (4) Any business concern to which a temporary approval of
49 registration has been given by the department at any time after

1 January 23, 1986 pursuant to statute or rule and regulation,
2 provided that such temporary approval of registration, statute, or
3 rule and regulation remains valid, and provided further that the
4 business concern has furnished the department and the Attorney
5 General with any information required pursuant to P.L. , c.
6 (C.) (now before the Legislature as this bill) and filed a
7 disclosure statement with the department and the Attorney
8 General.

9 b. "Person" means any individual or business concern.
10 (cf: P.L.1989, c.34, s.29)

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

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

16 a. [Every licensee who is not otherwise required to file a
17 disclosure statement within two years of the effective date of
18 this act shall file a disclosure statement with the department and
19 the Attorney General within that period.

20 b.] (1) Every applicant and permittee shall file a disclosure
21 statement with the department and the Attorney General;

22 (2) Any person required to be listed in the disclosure statement
23 shall be fingerprinted for identification and investigation
24 purposes in accordance with procedures therefor established by
25 the Attorney General;

26 (3) The Attorney General shall, [within 120 days of] upon the
27 receipt of the disclosure statement from an applicant for an
28 initial license or from a permittee, prepare and transmit to the
29 department an investigative report on the applicant or the
30 permittee, as the case may be, based in part upon the disclosure
31 statement[, except that this deadline may be extended for a
32 reasonable period of time, for good cause, by the department and
33 the Attorney General]. In preparing this report, the Attorney
34 General may request and receive criminal history information
35 from the State Commission of Investigation or the Federal
36 Bureau of Investigation; and

37 (4) [The departmental] In conducting a review of the
38 application, the department shall include a review of the
39 disclosure statement and investigative report.

40 [c.] b. All applicants, permittees and licensees shall have the
41 continuing duty to provide any assistance or information
42 requested by the department or the Attorney General, and to
43 cooperate in any inquiry or investigation conducted by the
44 Attorney General or the State Commission of Investigation and
45 any inquiry, investigation, or hearing conducted by the
46 department. If, upon issuance of a formal request to answer any
47 inquiry or produce information, evidence or testimony, any
48 applicant, permittee or licensee refuses to comply, the
49 application of the business concern for a license may be denied,

1 or the license of that [person] business concern may be [denied or]
2 revoked by the department.

3 [d. The Attorney General may charge and collect, in
4 accordance with a fee schedule adopted as a rule and regulation
5 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
6 (C.52:14B-1 et seq.), such fees from applicants and licensees as
7 may be necessary to cover the costs of enforcing this act. The
8 fee shall be calculated on the basis of \$100.00 per each individual
9 required to be listed in the disclosure statement or shown to have
10 a beneficial interest in the business of the applicant or the
11 licensee other than an equity interest or debt liability.]

12 [e.] c. If any of the information required to be included in the
13 disclosure statement changes, or if any additional information
14 should be added after the filing of the disclosure statement, the
15 applicant, permittee or licensee shall provide that information to
16 the department and the Attorney General, in writing, within 30
17 days of the change or addition.

18 (cf. P.L.1983, c.392, s.3)

19 3. (New section) a. With respect to the preparation and
20 transmittal to the department of the investigative reports
21 required pursuant to section 3 of P.L.1983, c.392 (C.13:1E-128),
22 the Attorney General shall establish a priority schedule for their
23 timely completion. The priority schedule shall accord priority
24 consideration to:

25 (1) Those permittees who own or operate a solid waste facility
26 pursuant to a temporary license or registration approved, issued
27 or renewed by the department or whose temporary license or
28 registration is limited by the time constraints imposed pursuant
29 to section 10 of P.L.1983, c.392 (C.13:1E-135) or section 11 of
30 P.L.1970, c.39 (C.13:1E-11); and

31 (2) Any applicant proposing to own or operate a resource
32 recovery facility or other solid waste facility approved by the
33 department for the long-term solid waste disposal requirements
34 of a district or districts pursuant to the "Solid Waste
35 Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.).

36 b. With respect to the review of the investigative reports of
37 applicants or permittees transmitted by the Attorney General
38 pursuant to section 3 of P.L.1983, c.392 (C.13:1E-128), the
39 department shall comply with the priority schedule established by
40 the Attorney General pursuant to subsection a. of this section.

41 c. Nothing in this section shall be construed to establish any
42 priority which would preclude or restrict the timing or discretion
43 of the Attorney General or the department regarding a decision
44 to institute and prosecute a revocation proceeding against a
45 permittee or licensee.

46 4. Section 4 of P.L.1983, c.392 (C.13:1E-129) is amended to
47 read as follows:

48 4. a. Whenever the Attorney General determines that there
49 exists a reasonable suspicion that any person may have

1 information or be in possession, custody, or control of any
2 documentary materials relevant to an investigation of an
3 applicant, permittee or [a] licensee conducted pursuant to this
4 act, he may issue in writing, and cause to be served upon that
5 person an investigative interrogatory requiring that person to
6 answer questions under oath and produce material for
7 examination.

8 b. Each interrogatory shall:

9 (1) Identify the licensee, permittee or applicant who is the
10 subject of the investigation;

11 (2) Advise the person that he has the right to discuss the
12 interrogatory with legal counsel prior to returning it to the
13 Attorney General or prior to making material available, as
14 provided in subsection f. of this section, and that he has the right
15 to file in Superior Court a petition to modify or set aside the
16 interrogatory, as provided in subsection j. of this section;

17 (3) Describe the class or classes of documentary material to be
18 ~~produced thereunder with sufficient particularity as to permit the~~
19 material to be reasonably identified;

20 (4) Prescribe a return date, which date shall provide a
21 reasonable period of time within which answers may be made and
22 material so demanded may be assembled and made available for
23 inspection and copying or reproduction, as provided in subsection
24 f. of this section.

25 c. No interrogatory shall:

26 (1) Contain any requirement which would be held to be
27 unreasonable if contained in a subpoena duces tecum issued in aid
28 of a grand jury investigation; or

29 (2) Require the production of any documentary evidence which
30 would be otherwise privileged from disclosure if demanded by a
31 subpoena duces tecum issued in aid of a grand jury investigation.

32 d. Service of any interrogatory filed under this section may be
33 made upon any person by:

34 (1) Delivering a duly executed copy thereof to the person or
35 any partner, executive officer, managing agent, employee or
36 general agent thereof, or to any agent thereof authorized by
37 appointment or by law to receive service of process on behalf of
38 the person; or

39 (2) Delivering a duly executed copy thereof to the principal
40 office or place of business of the person to be served; or

41 (3) Depositing a copy in the United States mail, by registered
42 or certified mail duly addressed to the person at his principal
43 office or place of business.

44 e. A verified return by the individual serving any
45 interrogatory, setting forth the manner of service, shall be prima
46 facie proof of service. In the case of service by registered or
47 certified mail, the return shall be accompanied by the return post
48 office receipt of delivery of the interrogatory.

49 f. Any person upon whom any interrogatory issued under this

1 section has been duly served which requires the production of
2 materials shall make the material available for inspection and
3 copying or reproduction to the Attorney General at the principal
4 place of business of that person in the State of New Jersey or at
5 any other place as the Attorney General and the person
6 thereafter may agree and prescribe in writing, on the return date
7 specified in the interrogatory or on a later date as the Attorney
8 General may prescribe in writing. Upon written agreement
9 between the person and the Attorney General, copies may be
10 substituted for all or any part of the original materials. The
11 Attorney General may cause the preparation of any copies of
12 documentary material as may be required for official use by the
13 Attorney General.

14 No material produced pursuant to this section shall be available
15 for examination, without the consent of the person who produced
16 the material, by an individual other than the Attorney General or
17 any person retained by the Attorney General in connection with
18 ~~the enforcement of this act. Under reasonable terms and~~
19 conditions as the Attorney General shall prescribe, documentary
20 material while in his possession shall be available for examination
21 by the person who produced the material or any of his duly
22 authorized representatives.

23 In any investigation conducted pursuant to this act, the
24 Attorney General may present before the department, court or
25 grand jury any documentary material in his possession pursuant to
26 this section, subject to any protective order deemed proper by
27 the Superior Court.

28 g. Upon completion of:

29 (1) The review and investigation for which any documentary
30 material was produced under this section, and

31 (2) Any case or proceeding arising from the investigation, the
32 Attorney General shall return to the person who produced the
33 material all the material, other than copies thereof made by the
34 Attorney General pursuant to this section, which has not passed
35 into the control of the department or any court or grand jury
36 through the introduction thereof into the record of the case or
37 proceeding.

38 h. When any documentary material has been produced by any
39 person under this section for use in an investigation, and no case
40 or proceeding arising therefrom has been instituted within two
41 years after completion of the examination and analysis of all
42 evidence assembled in the course of the investigation, the person
43 shall be entitled, upon written demand made upon the Attorney
44 General, to the return of all documentary material, other than
45 copies thereof made pursuant to this section so produced by him.

46 i. Whenever any person fails to comply with any investigative
47 interrogatory duly served upon him under this section, or
48 whenever satisfactory copying or reproduction of any material
49 cannot be done and he refuses to surrender the material, the

1 Attorney General may file in the Superior Court a petition for an
2 order of the court for the enforcement of this section.

3 j. At any time before the return date specified in the
4 interrogatory, the person served with the interrogatory may file
5 in the Superior Court a petition for an order modifying or setting
6 aside the interrogatory. The time allowed for compliance with
7 the interrogatory shall not run during the pendency of this
8 petition. The petition shall specify each ground upon which the
9 petition relies in seeking relief, and may be based upon any
10 failure of the interrogatory to comply with the provisions of this
11 section or upon any constitutional or other legal right or privilege
12 of the petitioner. In this proceeding, the Attorney General shall
13 establish the existence of an investigation pursuant to this act
14 and the nature and subject matter of the investigation.

15 (cf: P.L.1983, c.392, s.4)

16 5. Section 5 of P.L.1983, c.392 (13:1E-130) is amended to read
17 as follows:

18 5. a. ~~Whenever the Attorney General determines that there~~
19 ~~exists a reasonable suspicion that any person may have~~
20 ~~information or knowledge relevant to an investigation conducted~~
21 ~~pursuant to this act, he may issue in writing and cause to be~~
22 ~~served upon that person a subpoena to appear and be examined~~
23 ~~under oath before the Attorney General.~~

24 b. The subpoena shall:

25 (1) Identify the licensee, permittee or applicant who is the
26 subject of the investigation;

27 (2) Advise that person that he may have an attorney present
28 when he appears and testifies, or otherwise responds to the
29 subpoena, that he has a right, at any time before the return date
30 of the subpoena, to file in Superior Court a petition to modify or
31 set aside the subpoena, as provided in subsection f. of this section;

32 (3) Prescribe a date and time at which that person must appear
33 to testify, under oath, provided that this date shall not be less
34 than seven days from the date of service of the subpoena.

35 c. Except as otherwise provided in this section, no information
36 ~~derived pursuant to the subpoena shall be disclosed by the~~
37 ~~Attorney General or the department without the consent of the~~
38 ~~person testifying.~~

39 In any investigation conducted pursuant to this act, the
40 Attorney General may present before the department, court or
41 grand jury any information disclosed pursuant to the subpoena,
42 subject to any protective order deemed proper by the Superior
43 Court.

44 d. Service of a subpoena pursuant to this section shall be by any
45 of those methods specified in the New Jersey Court Rules for
46 service of summons and complaint in a civil action.

47 e. Whenever any person fails to comply with any subpoena duly
48 served upon him under this section, or whenever satisfactory
49 copying or reproduction of any material cannot be done and he

1 refuses to surrender the material, the Attorney General may file
2 in the Superior Court a petition for an order of the court for the
3 enforcement of the subpena.

4 f. At any time before the return date specified in the subpena,
5 the person who has been served with the subpena may file in the
6 Superior Court a petition for an order modifying or setting aside
7 the subpena. The time allowed for compliance with the subpena
8 shall not run during the pendency of this petition. The petition
9 shall specify each ground upon which the petitioner relies in
10 seeking relief, and may be based upon any failure of the subpena
11 to comply with the provisions of this section or upon any
12 constitutional or other legal right or privilege of the petitioner.
13 In this proceeding, the Attorney General shall establish the
14 existence of an investigation pursuant to this act and the nature
15 and subject matter of the investigation.

16 (cf: P.L.1983, c.392, s.5)

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

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

21 a. Unless the department finds that the applicant, or the
22 permittee, as the case may be, in any prior performance record in
23 the collection, transportation, treatment, storage, transfer or
24 disposal of solid waste or hazardous waste, has exhibited
25 sufficient integrity, reliability, expertise, and competency to
26 engage in the collection or transportation of solid waste or
27 hazardous waste, or to operate the solid waste facility or
28 hazardous waste facility, given the potential [for harm to]
29 economic consequences for affected counties, municipalities and
30 ratepayers or significant adverse impacts upon human health and
31 the environment which could result from the irresponsible
32 participation therein or operation thereof, or if no prior record
33 exists, that the applicant or the permittee is likely to exhibit that
34 integrity, reliability, expertise and competence;

35 b. If any person required to be listed in the disclosure
36 statement, or otherwise shown to have a beneficial interest in the
37 business of the applicant, the permittee or the licensee [other
38 than an equity interest or debt liability by the investigation
39 thereof], has been convicted of any of the following crimes under
40 the laws of New Jersey or the equivalent thereof under the laws
41 of any other jurisdiction:

- 42 (1) Murder;
- 43 (2) Kidnapping;
- 44 (3) Gambling;
- 45 (4) Robbery;
- 46 (5) Bribery;
- 47 (6) Extortion;
- 48 (7) Criminal usury;
- 49 (8) Arson;

- 1 (9) Burglary;
2 (10) Theft and related crimes;
3 (11) Forgery and fraudulent practices;
4 (12) Fraud in the offering, sale or purchase of securities;
5 (13) Alteration of motor vehicle identification numbers;
6 (14) Unlawful manufacture, purchase, use or transfer of
7 firearms;
8 (15) Unlawful possession or use of destructive devices or
9 explosives;
10 (16) Violation of [section 19 of the "New Jersey Controlled
11 Dangerous Substances Act," P.L.1970, c.226 (C.24:21-19)]
12 N.J.S.2C:35-5, except possession of 84 grams or less of
13 marijuana, or of N.J.S.2C:35-10;
14 (17) Racketeering, P.L.1981, c.167 (C.2C:41-1 et seq.);
15 (18) Violation of criminal provisions of the "New Jersey
16 Antitrust Act," P.L.1970, c.73 (C.56:9-1 et seq.);
17 (19) Any purposeful or reckless violation of the criminal
18 provisions of any federal or state environmental protection laws,
19 rules, or regulations, including, but not limited to, solid waste or
20 hazardous waste management laws, rules, or regulations;
21 (20) Violation of N.J.S.2C:17-2;
22 (21) Any offense specified in chapter 28 of N.J.S.2C; or
23 (22) Violation of the "Solid Waste Utility Control Act,"
24 P.L.1970, c.40 [and P.L.1981, c.211] (C.48:13A-1 et seq.) or
25 P.L.1981, c.221 (C.48:13A-6.1 et seq.).
26 [Notwithstanding the provisions of this subsection, no applicant
27 shall be denied a license on the basis of a conviction of any
28 individual required to be listed in the disclosure statement or
29 shown to have a beneficial interest in the business of the
30 applicant or the licensee other than an equity interest or debt
31 liability by the investigation thereof for any of the offenses
32 enumerated in this subsection as disqualification criteria,
33 provided that the person has affirmatively demonstrated by clear
34 and convincing evidence his rehabilitation. In determining
35 whether an applicant has affirmatively demonstrated
36 rehabilitation, the department shall request a recommendation
37 thereon from the Attorney General, and shall consider the
38 following factors:
39 (1) The nature and responsibilities of the position which a
40 convicted individual would hold;
41 (2) The nature and seriousness of the offense;
42 (3) The circumstances under which the offense occurred;
43 (4) The date of the offense;
44 (5) The age of the applicant when the offense was committed;
45 (6) Whether the offense was an isolated or repeated incident;
46 (7) Any social conditions which may have contributed to the
47 offense;
48 (8) Any evidence of rehabilitation, including good conduct in
49 prison or in the community, counseling or psychiatric treatment

1 received, acquisition of additional academic or vocational
2 schooling, successful participation in correctional work-release
3 programs, or the recommendation of persons who have or have
4 had the applicant under their supervision.]

5 c. If the Attorney General determines that there is a
6 reasonable suspicion to believe that a person required to be listed
7 in the disclosure statement, or otherwise shown to have a
8 beneficial interest in the business of the applicant, the permittee
9 or the licensee [other than an equity interest or debt liability by
10 the investigation thereof], does not possess a reputation for good
11 character, honesty and integrity, and that person or the
12 applicant, the permittee or the licensee fails, by clear and
13 convincing evidence, to establish his reputation for good
14 character, honesty and integrity.

15 d. With respect to the approval of an initial license, if there
16 are current prosecutions or pending charges in any jurisdiction
17 against any person required to be listed in the disclosure
18 statement, or otherwise shown to have a beneficial interest in the
19 business of the applicant or the [licensee other than an equity
20 interest or debt liability by the investigation] permittee, for any
21 of the [offenses] crimes enumerated in subsection b. of this
22 section, provided, however, that at the request of the applicant,
23 permittee, or the person charged, the department shall defer
24 decision upon such application during the pendency of such charge.

25 e. ~~If any person required to be listed in the disclosure~~
26 ~~statement, or otherwise shown to have a beneficial interest in the~~
27 ~~business of the applicant, permittee or the licensee [other than an~~
28 ~~equity interest or debt liability by the investigation thereof], has~~
29 ~~pursued economic gain in an occupational manner or context~~
30 ~~which is in violation of the criminal or civil public policies of this~~
31 ~~State, where such pursuit creates a reasonable belief that the~~
32 ~~participation of that person in any activity required to be~~
33 ~~licensed under this act would be inimical to the policies of this~~
34 ~~act. For [purpose] the purposes of this section, "occupational~~
35 ~~manner or context" means the systematic planning,~~
36 ~~administration, management, or execution of an activity for~~
37 ~~financial gain.~~

38 f. If the Attorney General determines that any person required
39 to be listed in the disclosure statement, or otherwise shown to
40 have a beneficial interest in the business of the applicant,
41 permittee or the licensee, has been identified by the State
42 Commission of Investigation or the Federal Bureau of
43 Investigation as a career offender or a member of a career
44 offender cartel or an associate of a career offender or career
45 offender cartel, where such identification, membership or
46 association creates a reasonable belief that the participation of
47 that person in any activity required to be licensed under this act
48 would be inimical to the policies of this act. For the purposes of
49 this section, "career offender" means any person whose behavior

1 is pursued in an occupational manner or context for the purpose
2 of economic gain, utilizing such methods as are deemed criminal
3 violations of the public policy of this State; and a "career
4 offender cartel" means any group of persons who operate
5 together as career offenders.

6 A license may be approved by the department for any applicant
7 or permittee if the information contained within the disclosure
8 statement and investigative report, including any determination
9 made by the Attorney General concerning the character, honesty
10 and integrity of any person required to be listed in the disclosure
11 statement, or otherwise shown to have a beneficial interest in the
12 business of the applicant or permittee, would not require
13 disqualification pursuant to subsections a., b. c., e. or f. of this
14 section.

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

18 ~~Any applicant or permittee who is denied an initial license~~
19 ~~pursuant to this section shall, upon a written request transmitted~~
20 ~~to the department within 30 days of that denial, be afforded the~~
21 ~~opportunity for a hearing thereon in the manner provided for~~
22 ~~contested cases pursuant to the "Administrative Procedure Act,"~~
23 ~~P.L.1968, c.410 (C.52:14B-1 et seq.).~~
24 ~~(cf: P.L.1983, c.392, s.8)~~

25 7. (New section) a. Notwithstanding the conviction of any
26 person required to be listed in a disclosure statement, or
27 otherwise shown to have a beneficial interest in the business of
28 an applicant, permittee or licensee for any of the crimes
29 enumerated in subsection b. of section 8 of P.L.1983, c.392
30 (C.13:1E-133), the department may issue or renew a license to an
31 applicant, permittee or licensee if the department determines in
32 a writing setting forth findings of fact that the convicted person
33 has affirmatively demonstrated rehabilitation by clear and
34 convincing evidence pursuant to the provisions of this section. If
35 the department determines that the nature and seriousness of the
36 crime creates a reasonable doubt that an applicant, permittee, or
37 licensee will engage in the activity for which a license is sought
38 in a lawful and responsible manner, the department shall make a
39 determination in a writing setting forth findings of fact that the
40 convicted person cannot affirmatively demonstrate rehabilitation.

41 b. In determining whether a convicted individual has
42 affirmatively demonstrated rehabilitation, the department shall
43 request a recommendation thereon from the Attorney General,
44 which recommendation shall be in writing and based upon a
45 consideration of at least the following factors:

- 46 (1) The nature and responsibilities of the position which a
47 convicted individual would hold;
48 (2) The nature and seriousness of the crime;
49 (3) The circumstances under which the crime was committed;

1 (4) The date of the crime;

2 (5) The age of the convicted individual when the crime was
3 committed;

4 (6) Whether the crime was an isolated or repeated act;

5 (7) Any evidence of good conduct in the community, counseling
6 or psychiatric treatment received, acquisition of additional
7 academic or vocational schooling, or the recommendation of
8 persons who have supervised the convicted individual since the
9 conviction; and

10 (8) The full criminal record of the convicted individual, any
11 record of civil or regulatory violations or notices or any
12 complaints alleging any such civil or regulatory violations, or any
13 other allegations of wrongdoing.

14 Notwithstanding any other provision of this subsection, a
15 convicted individual shall have affirmatively demonstrated
16 rehabilitation pursuant to the provisions of this section if the
17 convicted individual produces evidence of a pardon issued by the
18 Governor of this or any other state, or evidence of the
19 expungement of every conviction for any of the crimes
20 enumerated in subsection b. of section 8 of P.L.1983, c.392
21 (C.13:1E-133).

22 c. In determining whether a convicted business concern has
23 affirmatively demonstrated rehabilitation, the department shall
24 request a recommendation thereon from the Attorney General,
25 which recommendation shall be in writing and based upon a
26 consideration of at least the following factors:

27 (1) The nature and seriousness of the crime;

28 (2) The circumstances under which the crime was committed;

29 (3) The date of the crime;

30 (4) Whether the crime was an isolated or repeated act; and

31 (5) The full criminal record of the convicted business concern,
32 any record of civil or regulatory violations or notices or any
33 complaints alleging any such civil or regulatory violations, or any
34 other allegations of wrongdoing.

35 d. The Attorney General may require, as a predicate to a
36 determination that a convicted business concern has
37 affirmatively demonstrated rehabilitation, that the convicted
38 business concern agree, in writing, to an investigation of the
39 crime or crimes committed by the convicted business concern
40 which caused disqualification pursuant to subsection b. of section
41 8 of P.L.1983, c.392 (C.13:1E-133), the persons involved in the
42 crime, and any corporate policies, procedures, and organizational
43 structure that may have led to the crime. At the conclusion of
44 this investigation a report shall be prepared identifying the
45 underlying conduct giving rise to any criminal convictions and any
46 steps that have subsequently been taken by the convicted business
47 concern to prevent a recurrence of the criminal activity, and
48 recommending any steps that may be deemed necessary to
49 prevent a recurrence of the criminal activity. The investigation

1 shall be conducted by, or on behalf of, the Attorney General, and
2 the cost thereof shall be borne by the convicted business concern.

3 The Attorney General may require, on the basis of this
4 investigation and as a condition of recommending that a
5 convicted business concern has affirmatively demonstrated
6 rehabilitation, that a convicted business concern comply, or agree
7 in writing to comply, with any of the following:

8 (1) changes in the convicted business concern's organizational
9 structure to reduce the opportunity and motivation of individual
10 employees to engage in criminal activity, including procedures
11 for informing employees of the requirements of relevant state
12 and federal law;

13 (2) changes in the convicted business concern's long and short
14 term planning to ensure that the convicted business concern
15 implements procedures and policies to prevent future violations
16 of the law;

17 (3) changes in the convicted business concern's legal,
18 accounting, or other internal or external control and monitoring
19 procedures to discourage or prevent future violations of state or
20 federal law;

21 (4) changes in the convicted business concern's ownership,
22 control, personnel, and personnel selection practices, including
23 the removal of any person shown to have a beneficial interest in
24 the convicted business concern, and the imposition of a reward or
25 disincentive system in order to encourage employees to comply
26 with relevant state and federal law;

27 (5) post-licensing monitoring of the convicted business
28 concern's activities relating to any changes in policy, procedure,
29 or structure required by the Attorney General pursuant to this
30 subsection, the cost of such monitoring to be borne by the
31 convicted business concern; and

32 (6) any other requirements deemed necessary by the Attorney
33 General.

34 e. The department shall not determine that a convicted
35 business concern has affirmatively demonstrated rehabilitation if
36 the convicted business concern has not complied, or agreed in
37 writing to comply, with every requirement imposed by the
38 Attorney General pursuant to subsection d. of this section.

39 8. (New section) a. Notwithstanding any current prosecutions
40 or pending charges in any jurisdiction against any person required
41 to be listed in a disclosure statement, or otherwise shown to have
42 a beneficial interest in the business of an applicant, permittee or
43 licensee for any of the crimes enumerated in subsection b. of
44 section 8 of P.L.1983, c.392 (C.13:1E-133), the department may
45 issue or renew a license to an applicant, permittee or licensee if
46 the department determines in a writing setting forth findings of
47 fact that the person against whom there are current prosecutions
48 or pending charges has affirmatively reestablished a reputation
49 for good character, honesty and integrity by clear and convincing

1 evidence pursuant to the provisions of this section. If the
2 department determines that the nature and seriousness of the
3 crime alleged in a current prosecution or pending charge creates
4 a reasonable doubt that an applicant, permittee, or licensee will
5 engage in the activity for which a license is sought in a lawful
6 and responsible manner, the department shall make a
7 determination in a writing setting forth findings of fact that the
8 person against whom there are current prosecutions or pending
9 charges cannot reestablish a reputation for good character,
10 honesty and integrity.

11 A person may affirmatively reestablish a reputation for good
12 character, honesty and integrity pursuant to this section in
13 advance of the disposition of the current prosecutions or pending
14 charges provided that this reestablishment consists of evidence of
15 good character, honesty and integrity rather than any defenses to
16 the current prosecutions or pending charges. A reestablishment of
17 a reputation for good character, honesty and integrity pursuant to
18 this section shall not be deemed insufficient due to a lack of
19 admission of guilt to the current prosecutions or pending charges.

20 b. In determining whether an individual against whom there
21 are current prosecutions or pending charges has affirmatively
22 reestablished a reputation for good character, honesty and
23 integrity, the department shall request a recommendation
24 thereon from the Attorney General, which recommendation shall
25 be in writing and based upon a consideration of at least the
26 following factors:

- 27 (1) The nature and responsibilities of the position which the
28 individual against whom there are current prosecutions or pending
29 charges would hold;
- 30 (2) The nature and seriousness of the alleged crime;
- 31 (3) The circumstances under which the alleged crime was
32 committed;
- 33 (4) The date of the alleged crime;
- 34 (5) The age of the individual against whom there are current
35 prosecutions or pending charges when the alleged crime was
36 committed;
- 37 (6) Whether the alleged crime was an isolated or repeated act;
- 38 (7) Any evidence of good conduct in the community, counseling
39 or psychiatric treatment received, acquisition of additional
40 academic or vocational schooling, or the recommendation of
41 persons who have supervised the individual since the date of the
42 alleged crime; and
- 43 (8) The full criminal record of the individual against whom
44 there are current prosecutions or pending charges, any record of
45 civil or regulatory violations or notices or any complaints alleging
46 any such civil or regulatory violations, or any other allegations of
47 wrongdoing.

48 c. In determining whether a business concern against whom
49 there are current prosecutions or pending charges has

1 affirmatively reestablished a reputation for good character,
2 honesty and integrity, the department shall request a
3 recommendation thereon from the Attorney General, which
4 recommendation shall be in writing and based upon a
5 consideration of at least the following factors:

- 6 (1) The nature and seriousness of the alleged crime;
- 7 (2) The circumstances under which the alleged crime was
8 committed;
- 9 (3) The date of the alleged crime;
- 10 (4) Whether the alleged crime was an isolated or repeated act;
11 and
- 12 (5) The full criminal record of the business concern against
13 whom there are current prosecutions or pending charges, any
14 record of civil or regulatory violations or notices or any
15 complaints alleging any such civil or regulatory violations, or any
16 other allegations of wrongdoing.

17 d. The Attorney General may require, as a predicate to a
18 determination that a business concern against which there are
19 current prosecutions or pending charges has affirmatively
20 reestablished a reputation for good character, honesty and
21 integrity, that the business concern agree, in writing, to an
22 investigation of the alleged crime or crimes committed by the
23 business concern, the persons involved in the alleged crime, and
24 any corporate policies, procedures, and organizational structure
25 that may have led to the alleged crime. At the conclusion of this
26 investigation a report shall be prepared identifying the underlying
27 conduct giving rise to any alleged criminal activity and any steps
28 that have subsequently been taken by the business concern to
29 prevent a recurrence of the alleged criminal activity, and
30 recommending any steps that may be deemed necessary to
31 prevent a recurrence of the alleged criminal activity. The
32 investigation shall be conducted by, or on behalf of, the Attorney
33 General, and the cost thereof shall be borne by the business
34 concern.

35 The Attorney General may require, on the basis of this
36 investigation and as a condition of recommending that a business
37 concern against which there are current prosecutions or pending
38 charges has affirmatively reestablished a reputation for good
39 character, honesty and integrity, that a business concern comply,
40 or agree in writing to comply, with any of the following:

- 41 (1) changes in the business concern's organizational structure
42 to reduce the opportunity and motivation of individual employees
43 to engage in criminal activity, including procedures for informing
44 employees of the requirements of relevant state and federal law;
- 45 (2) changes in the business concern's long and short term
46 planning - to ensure that the business concern implements
47 procedures and policies to prevent future violations of state or
48 federal law;
- 49 (3) changes in the business concern's legal, accounting, or

1 other internal or external control and monitoring procedures to
2 discourage or prevent future violations of state or federal law;

3 (4) changes in the business concern's ownership, control,
4 personnel, and personnel selection practices, including the
5 removal of any person shown to have a beneficial interest in the
6 business concern, and the imposition of a reward or disincentive
7 system in order to encourage employees to comply with relevant
8 state and federal law;

9 (5) post-licensing monitoring of the business concern's
10 activities relating to any changes in policy, procedure, or
11 structure required by the Attorney General pursuant to this
12 subsection, the cost of such monitoring to be borne by the
13 business concern; and

14 (6) any other requirements deemed necessary by the Attorney
15 General.

16 e. The department shall not determine that a business concern
17 against which there are current prosecutions or pending charges
18 has affirmatively reestablished a reputation for good character,
19 honesty and integrity if the business concern has not complied, or
20 agreed in writing to comply, with every requirement imposed by
21 the Attorney General pursuant to subsection d. of this section.

22 9. Section 9 of P.L.1983, c.392 (C.13:1E-134) is amended to
23 read as follows:

24 9. Any license may be revoked by the department pursuant to
25 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1
26 et seq.) for any of the following causes:

27 a. Any cause which would require disqualification, pursuant to
28 subsection a., b., c., [or] e. or f. of section 8 of [this act]
29 P.L.1983, c.392 (C.13:1E-133), from receiving a license upon
30 original application;

31 b. Fraud, deceit or misrepresentation in securing the license,
32 or in the conduct of the licensed activity;

33 c. Offering, conferring or agreeing to confer any benefit to
34 induce any other person to violate the provisions of [this act]
35 P.L.1983, c.392 (C.13:1E-126 et seq.), or of any other law
36 relating to the collection, transportation, treatment, storage,
37 transfer or disposal of solid waste or hazardous waste, or of any
38 rule or regulation adopted pursuant thereto;

39 d. Coercion of a customer by violence or economic reprisal or
40 the threat thereof to utilize the services of any permittee or
41 licensee; or

42 e. Preventing, without authorization of the department, any
43 permittee or licensee from disposing of solid waste or hazardous
44 waste at a licensed, authorized or approved treatment, storage,
45 transfer or disposal facility.

46 (cf: P.L.1983, c.392, s.9)

47 10. Section 10 of P.L.1983, c.392 (C.13:1E-135) is amended to
48 read as follows:

49 10. a. (1) Notwithstanding the disqualification of the

1 applicant or [licensee] permittee pursuant to [this act] subsection
2 a., b., c., e. or f. of section 8 of P.L.1983, c.392 (C.13:1E-133),
3 the department may issue or renew a license if the applicant or
4 [licensee] permittee severs the interest of or affiliation with the
5 person who would otherwise cause that disqualification [or] .

6 (2) The department may issue or renew a temporary license [on
7 a temporary basis] to any applicant or permittee for [a period/
8 periods not to exceed six months if [, upon the recommendation
9 of the Attorney General,] the department determines that the
10 issuance or renewal of [the] a temporary license is necessitated
11 by the public interest.

12 b. After ²[January 1, 1991] July 1, 1992² , the provisions of
13 any other law to the contrary notwithstanding, no temporary
14 license shall be approved, issued or renewed by the department
15 for any applicant or permittee, as the case may be, to own or
16 operate a resource recovery facility or other solid waste facility
17 approved by the department for the long-term solid waste
18 disposal requirements of a district or districts pursuant to the
19 "Solid Waste Management Act." P.L.1970, c.39 (C.13:1E-1 et
20 seq.) prior to the completion by the Attorney General and the
21 department of the requirements of sections 3 and 8 of P.L.1983,
22 c.392 (C.13:1E-128 and 13:1E-133); except that the department
23 may ²issue a temporary license to an applicant or² renew the
24 temporary license of a permittee if the Commissioner of the
25 Department of Environmental Protection determines, in writing,
26 that the ²issuance of a temporary license for that applicant or²
27 renewal of the temporary license for that permittee is
28 necessitated by the public interest.

29 (cf: P.L.1983, c.392, s.10)

30 11. Section 6 of P.L.1970, c.40 (C.48:13A-5) is amended to
31 read as follows:

32 6. a. The Board of Public Utilities [shall] may, by order in
33 writing, when it finds that the public interest requires, award a
34 franchise to any person or persons engaged in solid waste disposal
35 at rates and charges published in tariffs or contracts accepted or
36 to be accepted for filing by the board; provided, however, that
37 the proposed franchise for solid waste disposal conforms to the
38 district solid waste management plan of the [solid waste
39 management] district or districts in which such service is to be
40 located, as such plan shall have been approved by the Department
41 of Environmental Protection.

42 b. Franchises awarded pursuant to this section shall be of
43 sufficient area and duration to support the estimated technical
44 and economic needs of the [disposal] ²[solid waste] disposal²
45 facility which is to serve the district or districts.

46 c. For the purposes of this section, "franchise" shall mean the
47 exclusive right to ²[receive,]² control and provide for the disposal
48 of solid waste, except for recyclable material whenever markets
49 for those materials are available, within a district or districts as

1 awarded by the Board of Public Utilities.

2 d. In no event shall the board award a franchise to any person
3 required to be listed in the disclosure statement, or otherwise
4 shown to have a beneficial interest in the business of the
5 applicant, permittee or the licensee as defined in section 2 of
6 P.L.1983, c.392 (C.13:1E-127), if the board determines that there
7 is a reasonable suspicion to believe that the person does not
8 possess a reputation for good character, honesty and integrity,
9 and that person or the applicant, permittee or licensee fails, by
10 clear and convincing evidence, to establish his reputation for
11 good character, honesty and integrity.

12 [d.] e. Nothing in section 11 of [this act] P.L.1970, c.40
13 (C.48:13A-10) shall be interpreted to prevent the implementation
14 of this section by the Board of Public Utilities.

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

16 12. Section 10 of P.L.1970, c.40 (C.48:13A-9) is amended to
17 read as follows:

18 10. The board, on its own initiative or upon complaint by the
19 State Department of Environmental Protection shall revoke[,] or
20 suspend [or grant a temporary continuance for up to 1 year of]
21 the certificate of public convenience and necessity issued to any
22 person engaged in the solid waste collection business or the solid
23 waste disposal business upon the finding that such person:

24 a. Has violated any provision of [this act] P.L.1970, c.40
25 (C.48:13A-1 et seq.) or any rule, regulation or administrative
26 order [promulgated] adopted or issued hereunder; or

27 b. Has violated any provision of any laws related to pollution
28 of the air, water or lands of this State; or

29 c. Has refused or failed to comply with any lawful order of the
30 board; or

31 d. Has had its registration revoked by the State Department of
32 Environmental Protection.

33 (cf: P.L.1975, c.326, s.32)

34 13. Section 12 of P.L.1970, c.40 (C.48:13A-11) is amended to
35 read as follows:

36 12. a. The board may compel the attendance of witnesses and
37 the production of tariffs, contracts, papers, books, accounts and
38 all the documents necessary to enable the board to administer its
39 duties as prescribed by law and this act.

40 b. The board may compel any person engaged in the business of
41 solid waste collection or solid waste disposal or otherwise
42 providing solid waste collection or transfer, transportation or
43 disposal services to furnish and file with the board any annual
44 reports, federal or State tax returns, contracts, papers, books,
45 accounts or other documents as may be necessary to enable the
46 board to administer its duties as prescribed by law and this act.

47 c. Should any person engaged in the business of solid waste
48 collection or solid waste disposal or otherwise providing solid
49 waste collection or transfer, transportation or disposal services

1 fail or refuse to comply with any provision of this section, or any
2 applicable provision of Title 48 of the Revised Statutes, the board
3 may revoke or suspend the certificate of public convenience and
4 necessity issued to that person.

5 (cf: P.L.1970, c.40, s.12)

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

8 11. a. During the first registration year of each applicant or
9 permittee as defined in section 2 of P.L.1983, c.392
10 (C.13:1E-127) for approval of a registration statement to engage
11 in the collection of solid waste, or a registration statement or
12 engineering design approval for a solid waste facility, or the year
13 following any violation of [this act] the provisions of P.L.1970,
14 c.39' (C.13:1E-1 et seq.) resulting in a revocation of registration,
15 the department is' authorized to give temporary approval of
16 registrations conditioned upon the applicant or permittee, as the
17 case may be, effecting specified additions, changes or
18 improvements in methods of operation and equipment within such
19 time and manner as may be required by the department. The fee
20 for such temporary approval shall be the appropriate fee
21 established pursuant to section 3 of P.L.1971, c.461 (C.13:1E-18),
22 notwithstanding the length of time for which it is given.

23 b. After ²[January 1, 1991] July 1, 1992², the provisions of
24 any other law to the contrary notwithstanding, no temporary
25 approval of registrations shall be given, issued or renewed by the
26 department for any applicant or permittee, as the case may be,
27 to own or operate a resource recovery facility or other solid
28 waste facility approved by the department for the long-term
29 solid waste disposal requirements of a district or districts
30 pursuant to the "Solid Waste Management Act," P.L.1970, c.39
31 (C.13:1E-1 et seq.) prior to the completion by the Attorney
32 General and the department of the requirements of sections 3 and
33 8 of P.L.1983, c.392 (C.13:1E-128 and 13:1E-133); except that
34 the department may renew the temporary approval of
35 registrations of ²[a] an applicant or² permittee if the
36 commissioner determines, in writing, that the renewal of a
37 temporary approval for that ²applicant or² permittee is
38 necessitated by the public interest.

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

40 15. Section 3 of P.L.1971, c.461 (C.13:1E-18) is amended to
41 read as follows:

42 3. a. The department may in accordance with a fee schedule
43 adopted as a rule or regulation establish and charge annual or
44 periodic fees for any of the services [it performs] to be
45 performed in connection with the "Solid Waste Management
46 Act," P.L.1970, c.39 (C.13:1E-1 et seq.), except that the annual
47 or periodic fees charged by the department to cover the costs
48 incurred by any State agency relevant to pre-licensing
49 investigations, post-licensing compliance monitoring or related

1 activities under the provisions of P.L.1983, c.392 (C.13:1E-126 et
2 seq.) shall be based upon the size of the business concern. For
3 the purposes of this subsection, "business concern" means any
4 corporation, association, firm, partnership, sole proprietorship,
5 trust or other form of commercial organization; "size" means the
6 number of key employees or persons required to be listed in the
7 disclosure statement, or otherwise shown to have a beneficial
8 interest in the business of the applicant, permittee or licensee as
9 defined in section 2 of P.L.1983, c.392 (C.13:1E-127); and "State
10 agency" means any State department, division, agency,
11 commission or authority.

12 The department, upon receipt of standard billing, shall provide
13 reimbursement in full to the Attorney General or any other State
14 agency for all expenses incurred by that State agency in the
15 performance of pre-licensing investigations, post-licensing
16 compliance monitoring or any other related activities consistent
17 with the provisions of P.L.1983, c.392 (C.13:1E-126 et seq.).

18 b. The fee schedule shall reasonably reflect the duration or
19 complexity of the specific service rendered, permit application
20 reviewed, or registration statement or engineering design
21 application approval sought.

22 (cf: P.L.1989, c.34, s.28)

23 16. Section 17 of P.L.1975, c.326 (C.13:1E-26) is amended to
24 read as follows:

25 17. a. Prior to the construction, acquisition, or operation of
26 any solid waste [management] facility in any solid waste
27 management district pursuant to the adopted and approved [or
28 promulgated] district solid waste management plan therefor, the
29 person proposing [such] the construction, acquisition, or
30 operation, in addition to preparing an environmental impact
31 statement [on such] for the solid waste facility in such form as
32 shall be required by the commissioner pursuant to the provisions
33 of section 6 of [the act to which this act is amendatory and
34 supplementary] P.L.1970, c.39 (C.13:1E-6), shall make or cause to
35 be made [such] any preliminary surveys, investigations, studies,
36 borings, maps, plans, drawings, and estimates of costs and of
37 revenues as the commissioner may deem necessary relating to the
38 type of [such] solid waste facility.

39 The results of [such] the environmental impact statements,
40 surveys, investigations, studies, borings, maps, plans, drawings,
41 and estimates required by the commissioner shall be submitted to
42 the commissioner for approval. No person may proceed to
43 construct, acquire, or operate any solid waste facility without
44 having first obtained the approval of the commissioner. Such
45 approval shall be granted only if the commissioner determines
46 that:

47 [a.] (1) The proposed construction, acquisition, or operation is
48 consistent with the adopted and approved [or promulgated]
49 district solid waste management plan of the solid waste

1 management district within which the solid waste facility is to be
2 located; and

3 [b. Any such] (2) The proposed solid waste facility will be
4 constructed or acquired, and operated, pursuant to the standards
5 adopted and promulgated therefor by the department pursuant to
6 the provisions of section 6 of [the act to which this act is
7 amendatory and supplementary] P.L.1970, c.39 (C.13:1E-6).

8 b. In addition to the requirements of subsection a. of this
9 section, no person shall commence construction of a resource
10 recovery facility prior to the completion by the Attorney General
11 and the department of the requirements of sections 3 and 8 of
12 P.L.1983, c.392 (C.13:1E-128 and 13:1E-133) ², unless such
13 person has received a temporary license approved by the
14 department pursuant to section 10 of P.L.1983, c.392
15 (C.13:1E-135)². The commissioner shall not approve the
16 commencement of construction of a resource recovery facility
17 unless the person proposing to own or operate the resource
18 recovery facility has received a license approved by the
19 department pursuant to section 8 of P.L.1983, c.392
20 (C.13:1E-133) ² or a temporary license approved by the
21 department pursuant to section 10 of P.L.1983, c.392
22 (C.13:1E-135)².

23 (cf: P.L.1975, c.326, s.17)

24 17. (New section) The Department of Environmental
25 Protection shall not issue any permits required pursuant to
26 P.L.1954, c.212 (C.26:2C-1 et seq.), P.L.1962, c.19 (C.58:16A-50
27 et seq.), P.L.1975, c.232 (C.13:1D-29 et seq.), P.L.1977, c.74
28 (C.58:10A-1 et seq.), P.L.1981, c.262 (C.58:1A-1 et seq.), or any
29 other law, or any rules and regulations adopted thereto, to any
30 person proposing to own or operate a resource recovery facility
31 prior to the completion by the Attorney General and the
32 department of the requirements of sections 3 and 8 of P.L.1983,
33 c.392 (C.13:1E-128 and 13:1E-133), and unless the person
34 proposing to own or operate the resource recovery facility has
35 received a license approved by the department pursuant to
36 section 8 of P.L.1983, c.392 (C.13:1E-133) ²; except that the
37 department may issue such permits if the department has
38 approved, issued or renewed a temporary license for such person
39 pursuant to section 10 of P.L.1983, c.392 (C.13:1E-135)².

40 18. Section 18 of P.L.1975, c.326 (C.13:1E-27) is amended to
41 read as follows:

42 18. Any solid waste facility constructed, acquired or operated
43 pursuant to the provisions of [this amendatory and supplementary
44 act] the "Solid Waste Management Act," P.L.1970, c.39
45 (C.13:1E-1 et seq.) shall be deemed a public utility and shall be
46 subject to such rules and regulations as may be adopted by the
47 Board of Public [Utility Commissioners] Utilities in accordance
48 with the provisions of the "Solid Waste Utility Control Act of
49 1970" (P.L.1970, c.40, C.48:13A-1 et seq.).

50 (cf: P.L.1975, c.326, s.18).

1 19. Section 9 of P.L.1981, c.306 (13:1E-108) is amended to
2 read as follows:

3 9. Moneys in the fund shall be disbursed by the department for
4 the following purposes and no others:

5 a. Administrative costs incurred by the department pursuant
6 to section 6 of [this supplementary act] P.L.1981, c.306
7 (C.13:1E-105); [and]

8 b. Damages as provided in section 7 [hereof] of P.L.1981, c.306
9 (C.13:1E-106); and

10 c. Administrative costs incurred by the Attorney General, the
11 department or any other State agency to implement the
12 provisions of P.L.1983, c.392 (C.13:1E-126 et seq.), as amended
13 and supplemented by P.L. , c. (C.) (now before the
14 Legislature as this bill), on a timely basis, except that the
15 amounts used for this purpose shall not exceed \$5,000,000.00. Any
16 moneys disbursed by the department from the fund for this
17 purpose shall be repaid to the fund in equal amounts from the
18 fees collected by the department pursuant to section 3 of
19 P.L.1971, c.461 (C.13:1E-18), in annual installments beginning
20 July 1, 1990 and annually thereafter until the full amount is
21 repaid according to a schedule of repayments determined by the
22 State Treasurer. For the purposes of this subsection, "State
23 agency" means any State department, division, agency,
24 commission or authority.

25 (cf: P.L.1981, c.306, s.9)

26 20. The Attorney General and the Department of
27 Environmental Protection shall, within 120 days of the effective
28 date of this act and pursuant to the "Administrative Procedure
29 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules and
30 regulations necessary to implement this act.

31 21. This act shall take effect immediately.

32
33
34 WASTE MANAGEMENT

35
36 Revises and expands solid waste licensing program.

1 the following purposes and no others:

2 a. Administrative costs incurred by the department pursuant
3 to section 6 of [this supplementary act] P.L.1981, c.306
4 (C.13:1E-105); [and]

5 b. Damages as provided in section 7 [hereof] of P.L.1981, c.306
6 (C.13:1E-106); and

7 c. Administrative costs incurred by the Attorney General, the
8 department or any other State agency to implement the
9 provisions of P.L.1983, c.392 (C.13:1E-126 et seq.), as amended
10 and supplemented by P.L. , c. (C.) (now before the
11 Legislature as this bill), on a timely basis, except that the
12 amounts used for this purpose shall not exceed \$5,000,000.00. Any
13 moneys disbursed by the department from the fund for this
14 purpose shall be repaid to the fund in equal amounts from the
15 fees collected by the department pursuant to section 3 of
16 P.L.1971, c.461 (C.13:1E-18), in annual installments beginning
17 July 1, 1990 and annually thereafter until the full amount is
18 repaid according to a schedule of repayments determined by the
19 State Treasurer. For the purposes of this subsection, "State
20 agency" means any State department, division, agency,
21 commission or authority.

22 (cf: P.L.1981, c.306, s.9)

23 20. The Attorney General and the Department of
24 Environmental Protection shall, within 120 days of the effective
25 date of this act and pursuant to the "Administrative Procedure
26 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules and
27 regulations necessary to implement this act.

28 21. This act shall take effect immediately.

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STATEMENT

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33 This bill would extensively revise the provisions of P.L.1983,
34 c.392 (C.13:1E-126 et seq.), commonly referred to as "A901" or
35 the solid and hazardous waste industry disclosure law, to insure
36 the effective exclusion of criminal elements and environmental
37 "bad actors" from the State's solid and hazardous waste
38 industries.

39 P.L.1983, c.392 provided strict criteria for licensure of entities
40 and individuals performing, or seeking to perform, most activities
41 in the solid waste or hazardous waste collection and disposal
42 industries. The 1983 act, under the joint administration of the
43 Departments of Environmental Protection and Law and Public
44 Safety, requires each such individual and entity to submit to the
45 Attorney General and the DEP a disclosure statement from which
46 the Division of State Police in the Department of Law and Public
47 Safety performs a background investigation. The Division of Law
48 in the Department of Law and Public Safety evaluates the

1 information revealed by each investigation and prepares a report
2 in which it concludes whether or not the Department of
3 Environmental Protection is precluded by the standards of
4 "A901" from granting a license. The licensing standards are
5 designed to preclude persons or entities with criminal
6 backgrounds or a history of violations of environmental laws in
7 this State or other jurisdictions from participation in waste
8 management activities in New Jersey. The final decision as to
9 licensure is made by DEP.

10 Unfortunately, the existing budgetary and manpower resources
11 of the Departments of Environmental Protection and Law and
12 Public Safety are insufficient to implement the provisions of
13 "A901" in any efficient or effective manner.

14 In response to the well-known budgetary problems plaguing the
15 "A901" program, this bill would revise the 1983 act to provide for
16 a system of fees to be collected by DEP to make each State
17 agency's programmatic responsibilities self-supporting. In order
18 to facilitate the expeditious processing of "A901" applications,
19 the bill requires the Attorney General to establish a completion
20 schedule to prioritize the enormous backlog of investigative
21 reports to be prepared by the Attorney General and reviewed by
22 the department. The priority schedule must accord priority
23 consideration to those individuals and entities which are currently
24 operating solid waste facilities in this State under a temporary
25 license or registration approved, issued or renewed by the DEP or
26 whose temporary license or registration is limited by the time
27 constraints imposed under sections 10 and 16 of the bill. The bill
28 would also accord statutory recognition to the various individuals
29 and entities engaging in solid waste or hazardous waste
30 management activities in this State who nevertheless have not
31 completed the "A-901" licensing program.

32 Accordingly, the bill amends the definitions in the 1983 act to
33 distinguish between an "applicant," a "permittee," and a
34 "licensee." An applicant refers to any business concern seeking
35 an initial license; a "license" means the initial approval and first
36 renewal by the DEP of any registration statement or engineering
37 design required for the collection, transportation, treatment,
38 storage, transfer or disposal of solid waste or hazardous waste in
39 this State, including the operations of a transfer station. Further,
40 since licenses are issued to business concerns rather than
41 individuals, the bill defines a "person" as any individual or
42 business concern.

43 A "licensee" means any business concern which has completed
44 the requirements of the "A901" program, including the filing of a
45 disclosure statement, the preparation and completion of an
46 investigative report by the Attorney Attorney and its transmittal
47 to the DEP, and the subsequent approval by the department of
48 the business concern's application for the issuance or renewal of

1 a license. A license approved by the department for any applicant
2 or permittee is non-transferable and shall be valid only for the
3 length of time for which it is given.

4 A "permittee" means: (1) Any "pre-act" business concern
5 which has filed a disclosure statement with the department and
6 the Attorney General and to which a valid registration statement
7 or engineering design approval for the collection, transportation,
8 treatment, storage, transfer or disposal of solid waste or
9 hazardous waste has been given by the department prior to the
10 effective date of P.L.1983, c.392 (C.13:1E-126 et seq.); (2) Any
11 business concern which has filed a disclosure statement with the
12 department and the Attorney General and to which a temporary
13 license has been approved, issued or renewed by the department
14 pursuant to section 10 of P.L.1983, c.392 (C.13:1E-135), but
15 which has not otherwise completed the requirements of section 3
16 of P.L.1983, c.392 (C.13:1E-128) and whose application for a
17 license has not been approved by the department pursuant to
18 section 8 of P.L.1983, c.392 (C.13:1E-133), provided that the
19 temporary license remains valid; (3) Any business concern which
20 has filed a disclosure statement with the department and the
21 Attorney General and to which a valid registration statement or
22 engineering design approval for the collection, transportation,
23 treatment, storage, transfer or disposal of solid waste or
24 hazardous waste has been given by the department between
25 February 20, 1985 and January 23, 1986, inclusive, provided that
26 the registration statement or engineering design approval remains
27 valid; or (4) Any business concern to which a temporary approval
28 of registration has been given by the department at any time
29 after January 23, 1986 pursuant to statute or rule and regulation,
30 provided that such temporary approval of registration, statute, or
31 rule and regulation remains valid, and provided further that the
32 business concern has filed a disclosure statement with the
33 department and the Attorney General.

34 The DEP must adhere to the priority schedule established by
35 the Attorney General in prioritizing its review of the
36 investigative reports of applicants or permittees transmitted by
37 the Attorney General.

38 After January 1, 1991, this bill would prohibit the issuance,
39 approval or renewal by the department of any temporary license
40 for any applicant or permittee to own or operate a resource
41 recovery facility or other solid waste facility approved by the
42 DEP for the long-term solid waste disposal requirements of a
43 district or districts pursuant to the "Solid Waste Management
44 Act," P.L.1970, c.39 (C.13:1E-1 et seq.) prior to the completion
45 of the Attorney General's investigative report and the
46 department's review thereof and final decision as to licensure.

47 However, the department may renew the temporary license of

1 an affected permittee if the Commissioner of the Department of
2 Environmental Protection determines, in writing, that the
3 renewal of a temporary approval for that permittee is
4 necessitated by the public interest.

5 Further, the bill provides that no person may commence
6 construction of a resource recovery facility pending the
7 completion of the Attorney General's investigative report and
8 the department's review thereof and final decision as to
9 licensure. Thus, the commissioner cannot approve the
10 commencement of construction of a resource recovery facility
11 unless the person proposing to own or operate the resource
12 recovery facility has received an "A901" license from the
13 department.

14 The other major provisions of the bill would: (1) strengthen the
15 disqualification criteria to insure the effective exclusion of
16 environmental "bad actors," career offenders and criminal
17 cartels from participation in solid waste or hazardous waste
18 management activities in this State; and (2) specify that the
19 annual or periodic fees the DEP (on behalf of the Attorney
20 General or any other relevant State agency) may charge
21 applicants, permittees and licensees to cover the costs of
22 investigations, compliance monitoring and administration under
23 the "A901" program must be based upon the size of the business
24 concern, i.e. the number of key employees or persons required to
25 be listed in the disclosure statement or shown to have a
26 beneficial interest in the business of the applicant, permittee or
27 licensee other than an equity interest or debt liability.

28 The bill also provides for individual and corporate
29 rehabilitation. Specifically, any applicant or permittee who would
30 otherwise be denied a license on the basis of a conviction of any
31 person required to be listed in the disclosure statement, or
32 otherwise shown to have a beneficial interest in the business of
33 the applicant or the permittee, for any of the offenses
34 enumerated in section 8 of P.L.1983, c.392 (C.13:1E-133) as
35 disqualification criteria, may be eligible to receive a license if
36 the DEP determines in writing that the convicted individual or
37 corporation, as the case may be, has affirmatively demonstrated
38 rehabilitation by clear and convincing evidence in accordance
39 with criteria specified in the bill. However, if the DEP
40 determines that the nature and seriousness of the crime creates a
41 reasonable doubt that an applicant, permittee, or licensee will
42 engage in the activity for which a license is sought in a lawful
43 and responsible manner, the department would make a written
44 determination that the convicted person cannot affirmatively
45 demonstrate rehabilitation.

46 Further, the bill provides that any applicant or permittee who
47 cannot receive a license because of a current prosecution or
48 pending charge against a person required to be listed in the

1 disclosure statement, or otherwise shown to have a beneficial
2 interest in the business of the applicant or the permittee, may be
3 eligible to receive a license if the department finds in writing
4 that the person against whom there are current prosecutions or
5 pending charges has affirmatively reestablished a reputation for
6 good character, honesty and integrity by clear and convincing
7 evidence in accordance with criteria specified in the bill. If the
8 DEP determines that the nature and seriousness of the crime
9 alleged in a current prosecution or pending charge creates a
10 reasonable doubt that an applicant, permittee, or licensee will
11 engage in the activity for which a license is sought in a lawful
12 and responsible manner, the department would make a written
13 determination that the person against whom there are current
14 prosecutions or pending charges cannot reestablish a reputation
15 for good character, honesty and integrity.

16 To insure the implementation of the revised "A901" program
17 on a timely basis, this bill authorizes the DEP to receive and
18 expend moneys, in an amount not to exceed \$5,000,000.00, from
19 the "Sanitary Landfill Facility Contingency Fund" established
20 under P.L.1981, c.306 to defray the administrative costs incurred
21 by the Attorney General, the department or any other State
22 agency in complying with the provisions of the bill pending the
23 implementation of the fee system. Any moneys disbursed by the
24 DEP from the fund for this purpose must be repaid to the fund in
25 equal amounts from the fees collected by the department, as
26 provided in the bill, in annual installments beginning July 1, 1990
27 and annually thereafter until the full amount is repaid according
28 to a schedule of repayments determined by the State Treasurer.

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31 WASTE MANAGEMENT

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33 Revises and expands solid waste licensing program.

SENATE LAND USE MANAGEMENT
AND REGIONAL AFFAIRS COMMITTEE

STATEMENT TO

SENATE, No. 2260

STATE OF NEW JERSEY

DATED: MARCH 5, 1990

The Senate Land Use Management and Regional Affairs Committee favorably reports Senate Bill No. 2260 with committee amendments.

Senate Bill No. 2260 would extensively revise the provisions of P.L.1983, c.392 (C.13:1E-126 et seq.), commonly referred to as "A901" or the solid and hazardous waste industry licensing law, to insure the effective exclusion of criminal elements and environmental "bad actors" from the State's solid and hazardous waste industries.

P.L.1983, c.392 provides strict criteria for licensure of entities and individuals performing, or seeking to perform, most activities in the solid waste or hazardous waste collection and disposal industries. The 1983 act, under the joint administration of the Departments of Environmental Protection and Law and Public Safety, requires each such individual and entity to submit to the Attorney General and the DEP a disclosure statement from which the Division of State Police in the Department of Law and Public Safety performs a background investigation. The Division of Law in the Department of Law and Public Safety evaluates the information revealed by each investigation and prepares a report in which it concludes whether or not the Department of Environmental Protection is precluded by the standards of "A901" from granting a license. The licensing standards are designed to preclude individuals or entities with criminal backgrounds or a history of violations of environmental laws in this State or other jurisdictions from participation in waste management activities in New Jersey. The final decision as to licensure is made by DEP.

Unfortunately, the existing budgetary and manpower resources of the Departments of Environmental Protection and Law and Public Safety are insufficient to implement the provisions of "A901" in any efficient or effective manner.

In response to the well-known budgetary problems plaguing the "A901" program, Senate Bill No. 2260 would revise the 1983 act to provide for a system of fees to be collected by DEP to make each State agency's programmatic responsibilities self-supporting. In order to facilitate the expeditious processing of "A901" applications, the bill requires the Attorney General to establish a completion schedule to prioritize the enormous backlog of investigative reports to be prepared by the Attorney General and reviewed by the

department. The priority schedule must accord priority consideration to those individuals and entities which are currently operating solid waste facilities in this State under a temporary license or registration approved, issued or renewed by the DEP or whose temporary license or registration is limited by the time constraints imposed under the bill. The bill would also accord statutory recognition to the various individuals and entities engaging in solid waste or hazardous waste management activities in this State who nevertheless have not completed the "A901" licensing program.

Accordingly, the bill amends the definitions in the 1983 act to distinguish between an "applicant," a "permittee," and a "licensee." An applicant refers to any business concern seeking an initial license; a "license" means the initial approval and first renewal by the DEP of any registration statement or engineering design required for the collection, transportation, treatment, storage, transfer or disposal of solid waste or hazardous waste in this State, including the operations of a transfer station. Further, since licenses are issued to business concerns rather than individuals, the bill defines a "person" as any individual or business concern.

A "licensee" means any business concern which has completed the requirements of the "A901" program, including the filing of a disclosure statement, the preparation and completion of an investigative report by the Attorney General and its transmittal to the DEP, and the subsequent approval by the department of the business concern's application for the issuance or renewal of a license. A license approved by the department for any applicant or permittee is non-transferable and shall be valid only for the length of time for which it is given.

A "permittee" means: (1) Any "pre-act" business concern which has filed a disclosure statement with the department and the Attorney General and to which a valid registration statement or engineering design approval for the collection, transportation, treatment, storage, transfer or disposal of solid waste or hazardous waste has been given by the department prior to the effective date of P.L.1983, c.392 (C.13:1E-126 et seq.); (2) Any business concern which has filed a disclosure statement with the department and the Attorney General and to which a temporary license has been approved, issued or renewed by the department pursuant to section 10 of P.L.1983, c.392 (C.13:1E-135), but which has not otherwise completed the requirements of section 3 of P.L.1983, c.392 (C.13:1E-128) and whose application for a license has not been approved by the department pursuant to section 8 of P.L.1983, c.392 (C.13:1E-133), provided that the temporary license remains valid; (3) Any business concern which has filed a disclosure statement with the department and the Attorney General and to which a valid registration statement or engineering design approval for the collection, transportation, treatment, storage, transfer or disposal of solid waste or hazardous waste has been given by the department between February 20, 1985 and January 23, 1986, inclusive, provided

that the registration statement or engineering design approval remains valid; or (4) Any business concern to which a temporary approval of registration has been given by the department at any time after January 23, 1986 pursuant to statute or rule and regulation, provided that such temporary approval of registration, statute, or rule and regulation remains valid, and provided further that the business concern has filed a disclosure statement with the department and the Attorney General.

The DEP must adhere to the priority schedule established by the Attorney General in prioritizing its review of the investigative reports of applicants or permittees transmitted by the Attorney General. The bill would prohibit the issuance, approval or renewal by the department of any temporary license after January 1, 1991 for any applicant or permittee to own or operate a resource recovery facility or other solid waste facility approved by the DEP for the long-term solid waste disposal requirements of a county pursuant to the "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.) prior to the completion of the Attorney General's investigative report and the department's review thereof and final decision as to licensure.

However, the department may renew the temporary license of an affected permittee if the Commissioner of the Department of Environmental Protection determines, in writing, that the renewal of a temporary approval for that permittee is necessitated by the public interest.

Further, the bill provides that no person may commence construction of a resource recovery facility pending the completion of the Attorney General's investigative report and the department's review thereof and final decision as to licensure. Thus, the commissioner cannot approve the commencement of construction of a resource recovery facility unless the person proposing to own or operate the resource recovery facility has received an "A901" license from the department.

The other major provisions of the bill would: (1) strengthen the disqualification criteria to insure the effective exclusion of environmental "bad actors," career offenders and criminal cartels from participation in solid waste or hazardous waste management activities in this State; and (2) specify that the annual or periodic fees the DEP (on behalf of the Attorney General or any other relevant State agency) may charge applicants, permittees and licensees to cover the costs of investigations, compliance monitoring and administration under the "A901" program must be based upon the size of the business concern, i.e. the number of key employees or persons required to be listed in the disclosure statement or shown to have a beneficial interest in the business of the applicant, permittee or licensee other than an equity interest or debt liability.

The bill also provides for individual and corporate rehabilitation. Specifically, any applicant or permittee who would otherwise be denied a license on the basis of a conviction of any individual or

corporation required to be listed in the disclosure statement, or otherwise shown to have a beneficial interest in the business of the applicant or the permittee, for any of the offenses enumerated in section 8 of P.L.1983, c.392 (C.13:1E-133) as disqualification criteria, may be eligible to receive a license if the DEP determines in writing that the convicted individual or corporation, as the case may be, has affirmatively demonstrated rehabilitation by clear and convincing evidence in accordance with criteria specified in the bill.

However, if the DEP determines that the nature and seriousness of the crime creates a reasonable doubt that an applicant, permittee, or licensee will engage in the activity for which a license is sought in a lawful and responsible manner, the department would make a written determination that the convicted individual or corporation cannot affirmatively demonstrate rehabilitation.

Further, the bill provides that any applicant or permittee who cannot receive a license because of a current prosecution or pending charge against an individual or corporation required to be listed in the disclosure statement, or otherwise shown to have a beneficial interest in the business of the applicant or the permittee, may be eligible to receive a license if the department finds in writing that the individual or corporation against whom there are current prosecutions or pending charges has affirmatively reestablished a reputation for good character, honesty and integrity by clear and convincing evidence in accordance with criteria specified in the bill.

If the DEP determines that the nature and seriousness of the crime alleged in a current prosecution or pending charge creates a reasonable doubt that an applicant, permittee, or licensee will engage in the activity for which a license is sought in a lawful and responsible manner, the department would make a written determination that the individual or corporation against whom there are current prosecutions or pending charges cannot reestablish a reputation for good character, honesty and integrity.

To insure the implementation of the revised "A901" program on a timely basis, Senate Bill No. 2260 authorizes the DEP to receive and expend moneys, in an amount not to exceed \$5,000,000.00, from the "Sanitary Landfill Facility Contingency Fund" established under P.L.1981, c.306 to defray the administrative costs incurred by the Attorney General, the department or any other State agency in complying with the provisions of the bill pending the implementation of the fee system. Any moneys disbursed by the DEP from the fund for this purpose must be repaid to the fund in equal amounts from the fees collected by the department, as provided in the bill, in annual installments beginning July 1, 1990 and annually thereafter until the full amount is repaid according to a schedule of repayments determined by the State Treasurer.

The Committee amended the bill to provide that a "license" would not include any registration statement or engineering design approved for any person solely for the transportation of hazardous wastes which are or contain precious metals.

P.L.1983, c.392 exempted from the "A901" licensing program any hazardous waste facility which is considered as such solely as the result of the reclamation or recycling of hazardous wastes which are or contain precious metals, including gold, silver, osmium, platinum, palladium, iridium, rhodium, ruthenium, or copper.

Thus, the amendment would extend the exemption to include persons transporting precious metals to such a hazardous waste facility for reclamation.

SENATE REVENUE, FINANCE AND
APPROPRIATIONS COMMITTEE

STATEMENT TO

[FIRST REPRINT]

SENATE, No. 2260

STATE OF NEW JERSEY

DATED: MARCH 12, 1990

The Senate Revenue, Finance and Appropriations Committee favorably reports Senate Bill No. 2260 [1R].

Senate Bill No. 2260 [1R] extensively revises the provisions of P.L.1983, c.392 (C.13:1E-126 et seq.), commonly referred to as "A-901" or the solid and hazardous waste industry licensing law, to ensure the effective exclusion of criminal elements and environmental "bad actors" from the State's solid and hazardous waste industries.

P.L.1983, c.392 provided strict criteria for licensure of entities and individuals performing, or seeking to perform, most activities in the solid waste or hazardous waste collection and disposal industries. However, the existing budgetary and manpower resources of the Departments of Environmental Protection and Law and Public Safety are insufficient to implement the provisions of "A-901" in any efficient or effective manner. This bill revises the 1983 act to provide for a system of fees to be collected by the Department of Environmental Protection (DEP) to make each State agency's programmatic responsibilities self-supporting.

In order to facilitate the expeditious processing of "A-901" applications, the bill requires the Attorney General to establish a completion schedule to prioritize the backlog of investigative reports to be prepared by the Attorney General and reviewed by the department. The priority schedule must accord priority consideration to those individuals and entities which are currently operating solid waste facilities in this State under a temporary license or registration approved, issued or renewed by the DEP or whose temporary license or registration is limited by the time constraints imposed under the bill. The DEP must adhere to the priority schedule established by the Attorney General in prioritizing its review of the investigative reports of applicants or permittees transmitted by the Attorney General.

After January 1, 1991, this bill prohibits the issuance, approval or renewal by the DEP of any temporary license, for any applicant or permittee to own or operate a resource recovery facility or other solid waste facility approved by the DEP for the long-term solid waste disposal requirements of a district or districts pursuant to the "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.), prior to the completion of the Attorney General's investigative report and the department's review thereof and final decision as to

licensure.

However, the DEP may renew the temporary license of an affected permittee if the Commissioner of the Department of Environmental Protection determines, in writing, that the renewal of a temporary approval for that permittee is necessitated by the public interest.

Further, the bill provides that no person may commence construction of a resource recovery facility pending the completion of the Attorney General's investigative report and the department's review thereof and final decision as to licensure. Thus, the commissioner cannot approve the commencement of construction of a resource recovery facility unless the person proposing to own or operate the resource recovery facility has received an "A-901" license from the department.

The bill also provides for individual and corporate rehabilitation. Specifically, any applicant or permittee who would otherwise be denied a license on the basis of a conviction of any individual or corporation required to be listed in the disclosure statement, or otherwise shown to have a beneficial interest in the business of the applicant or the permittee, for any of the offenses enumerated in section 8 of P.L.1983, c.392 (C.13:1E-133) as disqualification criteria, may be eligible to receive a license if the DEP determines in writing that the convicted individual or corporation, as the case may be, has affirmatively demonstrated rehabilitation by clear and convincing evidence in accordance with criteria specified in the bill. However, if the DEP determines that the nature and seriousness of the crime creates a reasonable doubt that an applicant, permittee, or licensee will engage in the activity for which a license is sought in a lawful and responsible manner, the department would make a written determination that the convicted person cannot affirmatively demonstrate rehabilitation.

Further, the bill provides that any applicant or permittee who cannot receive a license because of a current prosecution or pending charge against an individual or corporation required to be listed in the disclosure statement, or otherwise shown to have a beneficial interest in the business of the applicant or the permittee, may be eligible to receive a license if the department finds in writing that the individual or corporation against whom there are current prosecutions or pending charges has affirmatively reestablished a reputation for good character, honesty and integrity by clear and convincing evidence in accordance with criteria specified in the bill. If the DEP determines that the nature and seriousness of the crime alleged in a current prosecution or pending charge creates a reasonable doubt that an applicant, permittee, or licensee will engage in the activity for which a license is sought in a lawful and responsible manner, the department would make a written determination that the individual or corporation against whom there are current prosecutions or pending charges cannot reestablish a

reputation for good character, honesty and integrity.

The other major provisions of the bill: (1) strengthen the disqualification criteria to ensure the effective exclusion of environmental "bad actors," career offenders and criminal cartels from participation in solid waste or hazardous waste management activities in this State; and (2) specify that the annual or periodic fees the DEP, on behalf of the Attorney General or any other relevant State agency, may charge applicants, permittees and licensees to cover the costs of investigations, compliance monitoring and administration under the "A-901" program must be based upon the size of the business concern, i.e. the number of key employees or persons required to be listed in the disclosure statement or shown to have a beneficial interest in the business of the applicant, permittee or licensee other than an equity interest or debt liability.

The bill also provides that a "license" shall not include any registration statement or engineering design approved for any person solely for the transportation of hazardous wastes which are or contain precious metals.

To ensure the implementation of the revised "A-901" program on a timely basis, this bill authorizes the DEP to receive and expend an amount not to exceed \$5,000,000, from the "Sanitary Landfill Facility Contingency Fund" established under P.L.1981, c.306 to defray the administrative costs incurred by the Attorney General, the department or any other State agency in complying with the provisions of the bill pending the implementation of the fee system. Any moneys disbursed by the DEP from the fund for this purpose must be repaid to the fund in equal amounts from the fees collected by the department, as provided in the bill, in annual installments beginning July 1, 1990 and annually thereafter until the full amount is repaid according to a schedule of repayments determined by the State Treasurer.

FISCAL IMPACT

This bill contains no appropriation. The DEP is authorized to transfer up to \$5,000,000 from the "Sanitary Landfill Facility Contingency Fund" for the administrative costs of this program pending the implementation of the fee system. Any moneys so transferred must be repaid to the fund beginning July 1, 1990 and annually thereafter until the full amount is repaid. The State Treasurer is to establish the schedule by which the moneys will be repaid.

ASSEMBLY WASTE MANAGEMENT.
PLANNING AND RECYCLING COMMITTEE

STATEMENT TO

[FIRST REPRINT]

SENATE, No. 2260

STATE OF NEW JERSEY

DATED: SEPTEMBER 10, 1990

The Assembly Waste Management, Planning and Recycling Committee favorably reports Senate Bill No. 2260 (1R).

Senate Bill No. 2260 (1R) would extensively revise the provisions of P.L.1983, c.392 (C.13:1E-126 et seq.), commonly referred to as "A901" or the solid and hazardous waste industry licensing law, to insure the effective exclusion of criminal elements and environmental "bad actors" from the State's solid and hazardous waste industries.

P.L.1983, c.392 provides strict criteria for licensure of entities and individuals performing, or seeking to perform, most activities in the solid waste or hazardous waste collection and disposal industries. The 1983 act, under the joint administration of the Departments of Environmental Protection and Law and Public Safety, requires each such individual and entity to submit to the Attorney General and the DEP a disclosure statement from which the Division of State Police in the Department of Law and Public Safety performs a background investigation. The Division of Law in the Department of Law and Public Safety evaluates the information revealed by each investigation and prepares a report in which it concludes whether or not the Department of Environmental Protection is precluded by the standards of "A901" from granting a license. The licensing standards are designed to preclude individuals or entities with criminal backgrounds or a history of violations of environmental laws in this State or other jurisdictions from participation in waste management activities in New Jersey. The final decision as to licensure is made by DEP.

Unfortunately, the existing budgetary and manpower resources of the Departments of Environmental Protection and Law and Public Safety are insufficient to implement the provisions of "A901" in any efficient or effective manner.

In response to the well-known budgetary problems plaguing the "A901" program, Senate Bill No. 2260 would revise the 1983 act to provide for a system of fees to be collected by DEP to make each State agency's programmatic responsibilities self-supporting. In order to facilitate the expeditious processing of "A901" applications, the bill requires the Attorney General to establish a completion schedule to prioritize the enormous backlog of investigative reports to be prepared by the Attorney General and reviewed by the department. The priority schedule must accord priority consideration

to those individuals and entities which are currently operating solid waste facilities in this State under a temporary license or registration approved, issued or renewed by the DEP or whose temporary license or registration is limited by the time constraints imposed under the bill. The bill would also accord statutory recognition to the various individuals and entities engaging in solid waste or hazardous waste management activities in this State who nevertheless have not completed the "A901" licensing program.

Accordingly, the bill amends the definitions in the 1983 act to distinguish between an "applicant," a "permittee," and a "licensee." An applicant refers to any business concern seeking an initial license; a "license" means the initial approval and first renewal by the DEP of any registration statement or engineering design required for the collection, transportation, treatment, storage, transfer or disposal of solid waste or hazardous waste in this State, including the operations of a transfer station. Further, since licenses are issued to business concerns rather than individuals, the bill defines a "person" as any individual or business concern.

A "licensee" means any business concern which has completed the requirements of the "A901" program, including the filing of a disclosure statement, the preparation and completion of an investigative report by the Attorney Attorney and its transmittal to the DEP, and the subsequent approval by the department of the business concern's application for the issuance or renewal of a license. A license approved by the department for any applicant or permittee is non-transferable and shall be valid only for the length of time for which it is given.

A "permittee" means: (1) Any "pre-act" business concern which has filed a disclosure statement with the department and the Attorney General and to which a valid registration statement or engineering design approval for the collection, transportation, treatment, storage, transfer or disposal of solid waste or hazardous waste has been given by the department prior to the effective date of P.L.1983, c.392 (C.13:1E-126 et seq.); (2) Any business concern which has filed a disclosure statement with the department and the Attorney General and to which a temporary license has been approved, issued or renewed by the department pursuant to section 10 of P.L.1983, c.392 (C.13:1E-135), but which has not otherwise completed the requirements of section 3 of P.L.1983, c.392 (C.13:1E-128) and whose application for a license has not been approved by the department pursuant to section 8 of P.L.1983, c.392 (C.13:1E-133), provided that the temporary license remains valid; (3) Any business concern which has filed a disclosure statement with the department and the Attorney General and to which a valid registration statement or engineering design approval for the collection, transportation, treatment, storage, transfer or disposal of solid waste or hazardous waste has been given by the department between February 20, 1985 and January 23, 1986, inclusive, provided

that the registration statement or engineering design approval remains valid; or (4) Any business concern to which a temporary approval of registration has been given by the department at any time after January 23, 1986 pursuant to statute or rule and regulation, provided that such temporary approval of registration, statute, or rule and regulation remains valid, and provided further that the business concern has filed a disclosure statement with the department and the Attorney General.

The DEP must adhere to the priority schedule established by the Attorney General in prioritizing its review of the investigative reports of applicants or permittees transmitted by the Attorney General. The bill would prohibit the issuance, approval or renewal by the department of any temporary license after January 1, 1991 for any applicant or permittee to own or operate a resource recovery facility or other solid waste facility approved by the DEP for the long-term solid waste disposal requirements of a county pursuant to the "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.) prior to the completion of the Attorney General's investigative report and the department's review thereof and final decision as to licensure.

However, the department may renew the temporary license of an affected permittee if the Commissioner of the Department of Environmental Protection determines, in writing, that the renewal of a temporary approval for that permittee is necessitated by the public interest.

Further, the bill provides that no person may commence construction of a resource recovery facility pending the completion of the Attorney General's investigative report and the department's review thereof and final decision as to licensure. Thus, the commissioner cannot approve the commencement of construction of a resource recovery facility unless the person proposing to own or operate the resource recovery facility has received an "A901" license from the department.

The other major provisions of the bill would: (1) strengthen the disqualification criteria to insure the effective exclusion of environmental "bad actors," career offenders and criminal cartels from participation in solid waste or hazardous waste management activities in this State; (2) specify that the annual or periodic fees the DEP (on behalf of the Attorney General or any other relevant State agency) may charge applicants, permittees and licensees to cover the costs of investigations, compliance monitoring and administration under the "A901" program must be based upon the size of the business concern, i.e. the number of key employees or persons required to be listed in the disclosure statement or shown to have a beneficial interest in the business of the applicant, permittee or licensee other than an equity interest or debt liability; and (3) exclude from the definition of a "license" any registration statement or engineering design approved for any person solely for the transportation of hazardous wastes which are or contain precious

metals. P.L.1983, c.392 exempted from the "A901" licensing program any hazardous waste facility which is considered as such solely as the result of the reclamation or recycling of hazardous wastes which are or contain precious metals, including gold, silver, osmium, platinum, palladium, iridium, rhodium, ruthenium, or copper. Thus, the bill extends the exemption to include persons transporting precious metals to such a hazardous waste facility for reclamation.

The bill also provides for individual and corporate rehabilitation. Specifically, any applicant or permittee who would otherwise be denied a license on the basis of a conviction of any individual or corporation required to be listed in the disclosure statement, or otherwise shown to have a beneficial interest in the business of the applicant or the permittee, for any of the offenses enumerated in section 8 of P.L.1983, c.392 (C.13:1E-133) as disqualification criteria, may be eligible to receive a license if the DEP determines in writing that the convicted individual or corporation, as the case may be, has affirmatively demonstrated rehabilitation by clear and convincing evidence in accordance with criteria specified in the bill.

However, if the DEP determines that the nature and seriousness of the crime creates a reasonable doubt that an applicant, permittee, or licensee will engage in the activity for which a license is sought in a lawful and responsible manner, the department would make a written determination that the convicted individual or corporation cannot affirmatively demonstrate rehabilitation.

Further, the bill provides that any applicant or permittee who cannot receive a license because of a current prosecution or pending charge against an individual or corporation required to be listed in the disclosure statement, or otherwise shown to have a beneficial interest in the business of the applicant or the permittee, may be eligible to receive a license if the department finds in writing that the individual or corporation against whom there are current prosecutions or pending charges has affirmatively reestablished a reputation for good character, honesty and integrity by clear and convincing evidence in accordance with criteria specified in the bill.

If the DEP determines that the nature and seriousness of the crime alleged in a current prosecution or pending charge creates a reasonable doubt that an applicant, permittee, or licensee will engage in the activity for which a license is sought in a lawful and responsible manner, the department would make a written determination that the individual or corporation against whom there are current prosecutions or pending charges cannot reestablish a reputation for good character, honesty and integrity.

To insure the implementation of the revised "A901" program on a timely basis, Senate Bill No. 2260 authorizes the DEP to receive and expend moneys, in an amount not to exceed \$5,000,000.00, from the "Sanitary Landfill Facility Contingency Fund" established under P.L.1981, c.306 to defray the administrative costs incurred by the Attorney General, the department or any other State agency in

complying with the provisions of the bill pending the implementation of the fee system. Any moneys disbursed by the DEP from the fund for this purpose must be repaid to the fund in equal amounts from the fees collected by the department, as provided in the bill, in annual installments beginning July 1, 1990 and annually thereafter until the full amount is repaid according to a schedule of repayments determined by the State Treasurer.

Senate Bill No. 2260 (1R) is identical to the Assembly Committee Substitute for Assembly Bill Nos. 2848 and 3135.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[FIRST REPRINT]

SENATE, No. 2260

STATE OF NEW JERSEY

DATED: JANUARY 17, 1991

The Assembly Appropriations Committee reports favorably Senate Bill No. 2260 (1R).

Senate Bill No. 2260 (1R) revises the provisions of P.L.1983, c.392 (C.13:1E-126 et seq.), commonly referred to as "A901" or the solid and hazardous waste industry licensing law, to exclude criminal elements and environmental "bad actors" from the State's solid and hazardous waste industries, and provides for a system of fees to be collected to make the program self-supporting. The bill also authorizes the Department of Environmental Protection (DEP) to expend no more than \$5,000,000 from the "Sanitary Landfill Facility Contingency Fund" established under P.L.1981, c.306 (C.13:1E-100 et seq.), to implement the bill; any moneys so disbursed must be repaid to the fund from the fees authorized to be collected under the bill.

P.L.1983, c.392 provides for licensure of entities and individuals in the solid or hazardous waste collection and disposal industries, following submission of a disclosure statement and completion of a background investigation by the Department of Law and Public Safety (DLPS). The licensing standards are designed to preclude individuals or entities with criminal backgrounds or a history of violations of environmental laws in this State or other jurisdictions from participation in the industry.

Due to insufficient budgetary and manpower resources, the departments are unable to fully implement the provisions of "A901." This bill, therefore, provides for a fee system to be collected by DEP to make each agency's programmatic responsibilities self-supporting. In order to facilitate processing of "A901" applications, the bill requires the Attorney General to establish a prioritized completion schedule for the backlog of investigative reports. The bill also accords statutory recognition to the various individuals and entities engaging in solid waste or hazardous waste management activities in this State who nevertheless have not completed the "A901" licensing program. The bill amends definitions in the 1983 act to distinguish between an "applicant," a "permittee," and a "licensee."

The DEP must adhere to the priority schedule in its review of the investigative reports of applicants or permittees. The bill prohibits the issuance, approval or renewal, unless necessitated by the public interest, of any temporary license after January 1, 1991 for any applicant or permittee to own or operate a resource recovery facility or other solid waste facility approved by the DEP for the

long term solid waste disposal requirements of a county pursuant to the "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.) prior to the completion and review of the investigative report and the final decision as to licensure.

Among its other major provisions, the bill provides that no person may commence construction of a resource recovery facility prior to the final decision as to licensure. The bill also provides for "rehabilitation" of applicants or permittees who would otherwise be denied a license on the basis of a conviction of any individual or corporation required to be listed in the disclosure statement, if the DEP determines in writing that the convicted individual or corporation has demonstrated rehabilitation by clear and convincing evidence in accordance with criteria specified in the bill.

The bill authorizes the DEP to receive and expend moneys, in an amount not to exceed \$5,000,000, from the "Sanitary Landfill Facility Contingency Fund" to defray the administrative costs incurred by DEP and DLPS or any other State agency in complying with the provisions of the bill pending the implementation of the fee system. Any moneys disbursed by the DEP for this purpose must be repaid to the fund in equal amounts from fees collected by DEP, in annual installments beginning July 1, 1990 and annually thereafter until the full amount is repaid according to a schedule of repayments determined by the State Treasurer.

Senate Bill No. 2260 (1R) is identical to Assembly Bill No. 2848/3135 ACS.

FISCAL IMPACT

This bill authorizes the DEP to receive and expend moneys, in an amount not to exceed \$5,000,000, from the "Sanitary Landfill Facility Contingency Fund" established under P.L.1981, c.306 to implement the bill. Any moneys so disbursed must be repaid to the fund from the fees authorized to be collected under the bill, in annual installments beginning July 1, 1990 and annually thereafter until the full amount is repaid according to a schedule of repayments determined by the State Treasurer. In a legislative fiscal estimate prepared for this bill, the Office of Legislative Services estimated that the \$5,000,000 authorized to be "borrowed" from the "Sanitary Landfill Facility Contingency Fund" should be sufficient to meet the bill's objectives. This conclusion is based on the fact that program revenues were increased from \$1,200,000 in FY1989 to a projected total of \$3,681,000 in FY1991 as a result of a higher fee schedule adopted by the DEP in November, 1989. This amount, plus the authorized loan level, should adequately support the program's operating expenses and a two-year backlog reduction effort, which were estimated in a 1989 DEP/LPS report as totaling approximately \$6,450,000 for first year costs and \$5,970,000 for second year costs.

Assuming the program's revenue level remains stable or increases under the bill's proposed fee schedule, the program should become self-supporting once the backlog is eliminated, thereby enabling any borrowed funds to be repaid in a timely manner.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

June 10, 1991

SENATE BILL NO. 2260

(First Reprint)

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Senate Bill No. 2260 (First Reprint) with my objections for reconsideration.

This bill contains a number of very significant reforms strengthening the "A-901" solid waste licensing program. Serving as a vital component of our state waste management program, the A-901 licensing program seeks to exclude criminal elements and environmental wrongdoers from the solid waste and hazardous waste industries in New Jersey.

The bill would strengthen the disqualification criteria to ensure the exclusion of environmental wrongdoers, career offenders and criminal cartels from participation in the New Jersey solid waste or hazardous waste industries. The bill also establishes strict standards and procedures for the rehabilitation of individuals or businesses that would otherwise be denied a license based upon past criminal conduct.

Importantly, the bill contains strong measures to strengthen the administration of the A-901 program. For example, one provision would provide the Department of Environmental Protection with the enhanced authority to set reasonable fees for license processing. The bill would also authorize the Department to borrow up to \$5 million from an existing solid waste trust fund if these monies are needed to close the short-term budget gap facing this program.

This bill contains a number of other key provisions affecting A-901 program implementation. For example, the bill requires the Attorney General to set a schedule for completing investigative reports currently in the A-901 process. Under this schedule, the Attorney General is required to accord priority consideration to businesses operating under temporary licenses or registrations.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

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While I strongly support most of the measures contained in this bill, I have serious reservations about provisions that would restrict the current authority of state agencies to issue temporary A-901 licenses needed for the construction of new solid waste facilities. If adopted in their present form, these provisions could delay or hinder the construction of badly-needed recycling and solid waste disposal facilities in New Jersey.

In particular, one set of provisions would forbid the issuance, after January 1, 1991, of a new temporary license or registration to the owner or operator of a resource recovery facility or other solid waste facility. A second set of provisions would block construction of a new resource recovery facility and delay the issuance of environmental permits for such a facility unless the owner or operator has obtained a final A-901 license.

The new restrictions contained in this bill would not affect existing temporary licenses, but could greatly curtail our administrative authority to issue temporary licenses authorizing the development of new facilities. By delaying the construction of new facilities, these provisions could jeopardize our ability to achieve key state solid waste planning objectives, including the attainment of a 60% statewide recycling rate within 5 years and development of adequate disposal capacity to handle nonrecyclable waste residues.

In particular, since the restrictions apply broadly to resource recovery facilities and other solid waste facilities, state agencies could not issue temporary licenses for new composting operations, material recovery facilities, construction debris recycling centers and other processing facilities that will be required to meet the planned 60% recycling target.

These provisions could prove to be even more counterproductive in the event of any unanticipated disruptions to solid waste management systems in the State. In the past, for example, the

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

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Department of Environmental Protection utilized its temporary licensing authorities to expedite the development of transfer stations needed to minimize waste flow disruptions resulting from the closure of major landfills in northern New Jersey.

Based upon these serious concerns, I am recommending amendments to each of the statutory provisions that would otherwise restrict existing administrative authorities to issue new temporary licenses. With the incorporation of these amendments, the Department of Environmental Protection and the Attorney General could continue to issue temporary licenses upon a determination that such action is necessitated by the public interest.

To ensure that the Department and the Attorney General can fully assess the character and integrity of any business being considered for a temporary license, I am recommending an additional amendment that would require license applicants to submit a full A-901 disclosure statement and any other information requested by these agencies.

I also have reservations relating to bill provisions that would expand solid waste franchise rights by granting franchiseholders the exclusive right to "receive" any solid waste generated within a franchise territory. Under current state law, franchiseholders are already given the right to control and provide for the disposal of solid waste within franchise boundaries.

I am concerned that this provision could strengthen the ability of franchiseholders to restrict activities, such as recycling, composting or material recovery, that could divert recyclable materials from the solid waste stream before its arrival at a disposal facility. As a result, an expanded franchise definition could conflict with new State policies that favor the maximum possible extraction of recyclable materials from solid waste prior to the disposal of any waste residues.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

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I am therefore recommending amendments that would delete these new provisions and retain the current franchise definition.

For these reasons, I herewith return Senate Bill No. 2260 (First Reprint) and recommend that it be amended as follows:

Page 1, Section 1, Line 11:

After "business concern"
insert "which has filed a
disclosure statement with the
department and the Attorney
General and is"

Page 1, Section 1, Line 12:

After "initial license"
insert ", provided that the
business concern has
furnished the department and
Attorney General with any
information required pursuant
to P.L. ,c. (C.)(now
before the Legislature as
this bill)"

Page 19, Section 10, Line 5:

After "After" delete "January
1, 1991" insert "July 1, 1992"

Page 19, Section 10, Line 15:

After "department may" insert
"issue a temporary license to
an applicant or"

Page 19, Section 10, Line 18:

After "that the" insert
"issuance of a temporary
license for that applicant or"

Page 19, Section 11, Line 35:

After "needs of the" delete
"solid waste" insert
"disposal"

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EXECUTIVE DEPARTMENT

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<u>Page 19, Section 11, Line 38:</u>	After "right to" delete "receive,"
<u>Page 21, Section 14, Line 14:</u>	After "After" delete "January 1, 1991" insert "July 1, 1992"
<u>Page 21, Section 14, Line 25:</u>	After "registrations of" delete "a" insert "an applicant or"
<u>Page 21, Section 14, Line 27:</u>	After "for that" insert "applicant or"
<u>Page 23, Section 16, Line 2:</u>	After "(C.13:1E-128 and 13:1E-133)" insert ", unless such person has received a temporary license approved by the department pursuant to section 10 of P.L.1983, c.392 (C.13:1E-135)"
<u>Page 23, Section 16, Line 7:</u>	After "c.392 (C.13:1E-133)" insert "or a temporary license approved by the department pursuant to section 10 of P.L.1983, c.392 (C.13:1E-135)"

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Page 23, Section 17, Line 21

After "c.392 (C.13:1E-133)"
insert "; except that the
department may issue such
permits if the department has
approved, issued or renewed a
temporary license for such
person pursuant to section 10
of P.L.1983, c.392
(C.13:1E-135)"

Respectfully,

/s/ James J. Florio

GOVERNOR

[seal]

Attest:

/s/ Andrew Weber

Chief Counsel to the Governor

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OFFICE OF THE GOVERNOR NEWS RELEASE

001
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TRENTON, N.J. 08625

Release: Tuesday
August 27, 1991

GOVERNOR FLORIO SIGNS LAW OVERHAULING STATE'S SOLID WASTE LICENSING PROGRAM

Moving to put more teeth in the program and cut down on the backlog of investigations, Governor Jim Florio today signed a bill overhauling the state's solid waste licensing law aimed at keeping criminals and polluters out of the solid and hazardous waste industries.

"This law gives us the tools to vigorously weed crime out of the solid waste industry," said Governor Florio. "We want to ensure that every aspect of solid waste -- from generation to disposal -- is handled by reputable, responsible handlers."

The current law - the so-called "A 901" solid waste licensing program - enacted in 1983, requires extensive background checks and investigations of companies and individuals involved in the solid and hazardous waste businesses. Since its enactment however, inadequate funding has hampered the program's success. Under the new law, fees imposed directly on companies requiring background checks will enable the program to be self-supporting.

The new law will:

- Require the Attorney General's office to set up a priority list of which companies and applicants should be investigated
- Increase staff for background checks and investigations to cut down on the backlog
- Impose fees for background checks on companies applying for hauling permits in order to make the program self-supportive and close the backlog of investigations.
- Strengthen the criteria for excluding individuals and companies from operating in the industry

"The A-901 program is a vital component of our solid waste licensing program," said Governor Florio. "Our environment is too fragile to be tampered with by criminals and polluters who have no business in this business. Rest assured that we will take the necessary steps to ensure that our environmental policy in New Jersey is truly 'clean' and green."

The bill, S 2260/A2848, is sponsored by Senator Paul Contillo and Assemblymen Harry McEnroe and Robert Shinn. In June, the Governor conditionally vetoed the original legislation due to technical changes which were adopted quickly by the Legislature. The new law will ensure quicker processing thereby allowing for more companies to apply for business and promote greater competition within the industry.

Today's signing is another component in the Governor's efforts to ensure efficient and sound solid waste disposal. Acting on the recommendation of his Solid Waste Assessment Task Force, Governor Florio earlier this year imposed a goal of 60 percent recycling in the state. Last week, the Governor, along with Indiana Governor Evan Bayh, signed a solid waste enforcement agreement designed to crack down on illegal dumping of New Jersey solid waste in Indiana. He also is hopeful that the Legislature will act quickly on recommendations he made last week to alter a bill which would deregulate the solid waste industry and allow for greater competition and bring down rates.

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