

40:66-1

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2001 **CHAPTER:** 92
NJSA: 40:66-1 (Municipalities limit solid waste collection hours)
BILL NO: A1936

SPONSOR(S): Bagger and Augustine

DATE INTRODUCED: January 27, 2000

COMMITTEE: **ASSEMBLY:** Solid and Hazardous Wastes
SENATE: Community and Urban Affairs

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** June 15, 2000
SENATE: March 29, 2001

DATE OF APPROVAL: May 10, 2001

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (1st reprint enacted)

(Amendments during passage denoted by superscript numbers)

SPONSORS STATEMENT: (Begins on page 11 of original bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes
SENATE: Yes

FLOOR AMENDMENT STATEMENTS: No

LEGISLATIVE FISCAL ESTIMATE: No

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

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ASSEMBLY, No. 1936

STATE OF NEW JERSEY 209th LEGISLATURE

INTRODUCED JANUARY 27, 2000

Sponsored by:

Assemblyman RICHARD H. BAGGER

District 22 (Middlesex, Morris, Somerset and Union)

Assemblyman ALAN M. AUGUSTINE

District 22 (Middlesex, Morris, Somerset and Union)

SYNOPSIS

Authorizes municipalities to limit solid waste and recyclable material collection activities to specified operating hours.

CURRENT VERSION OF TEXT

As introduced.



A1936 BAGGER, AUGUSTINE

2

1 AN ACT concerning municipal solid waste collection and the collection
2 of recyclable materials, and amending parts of the statutory law.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. R.S.40:66-1 is amended to read as follows:

8 40:66-1. a. The governing body may provide for the cleaning of
9 the streets of the municipality, and for the collection or disposal of
10 solid waste, and may establish and operate a system therefor; purchase
11 and operate the necessary equipment for the cleaning of streets, and
12 for the collection or disposal of solid waste; make, amend, repeal and
13 enforce all such ordinances, resolutions, rules and regulations as may
14 be deemed necessary and proper for the introduction, operation and
15 management of such system, and for the maintenance and operation of
16 a solid waste facility, subject to the provisions of the "Solid Waste
17 Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.) and the "Solid
18 Waste Utility Control Act [of 1970]," P.L.1970, c.40 (C.48:13A-1 et
19 seq.), for the disposal of solid waste, and for the government of
20 employees connected therewith.

21 b. A municipal governing body that establishes a system for the
22 collection or disposal of solid waste pursuant to subsection a. of this
23 section, in its discretion, may limit service furnished by it to curbside
24 collection along public streets or roads that have been dedicated to and
25 accepted by the municipality. The municipal governing body may also
26 refuse to enter upon private property to remove solid waste from
27 dumpsters or other solid waste containers. The municipal governing
28 body, in its sole discretion, may choose to reimburse those property
29 owners who do not receive the municipal service, but such
30 reimbursement shall not exceed the cost that would be incurred by the
31 municipality in providing the collection or disposal service directly.
32 Nothing contained in this subsection shall be deemed to modify the
33 provisions of P.L.1989, c.299 (C.40:67-23.2 et seq.) with respect to
34 qualified private communities.

35 c. A municipal governing body that establishes a system for the
36 collection of solid waste pursuant to subsection a. of this section may
37 limit the municipal service furnished by it to specified operating hours
38 in order to preserve the peace and quiet in neighborhoods during the
39 hours when most residents are asleep.

40 d. A municipal governing body that adopts a recycling ordinance
41 pursuant to section b. of section 6 of P.L.1987, c.102 (C.13:1E-99.16)
42 may limit the collection of designated recyclable materials to specified
43 operating hours in order to preserve the peace and quiet in

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

Matter underlined thus is new matter.

1 neighborhoods during the hours when most residents are asleep.
2 (cf: P.L.1993, c.6, s.3)

3

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

5 40:66-4. a. The governing body may, if it deem it more
6 advantageous, contract with any person for the cleaning of the streets,
7 or the collection or disposal of solid waste. Before making any such
8 contract or contracts the governing body shall first adopt
9 specifications for the doing of the work in a sanitary and inoffensive
10 manner. The specifications may include provisions limiting solid waste
11 collection service and recyclable material collection service to
12 specified operating hours in order to preserve the peace and quiet in
13 neighborhoods during the hours when most residents are asleep.

14 Any specifications adopted by the governing body for the collection
15 or disposal of solid waste shall conform to the uniform bid
16 specifications for municipal solid waste collection contracts established
17 pursuant to section 22 of P.L.1991, c.381 (C.48:13A-7.22). Any such
18 contract or contracts, the total amount of which exceeds in the fiscal
19 year the amount set forth in, or the amount calculated by the Governor
20 pursuant to, section 3 of P.L.1971, c.198 (C.40A:11-3), shall be
21 entered into and made only after bids shall have been advertised
22 therefor, and awarded in the manner provided in the "Local Public
23 Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq).

24 b. Whenever the governing body adopts an ordinance to provide
25 for the collection or disposal of solid waste within its municipal
26 boundaries by imposing solid waste charges based on the number of
27 solid waste containers processed per household pursuant to subsection
28 b. of R.S.40:66-5, on or after the first day of the 13th month following
29 the effective date of that ordinance, the governing body may request
30 the relevant solid waste collector to whom a multi-year contract has
31 been awarded to renegotiate the contract to reflect any reduction in
32 the annual volume of solid waste collected achieved as a result of the
33 ordinance.

34 (cf: P.L.1991, c.381, s.47)

35

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

37 40:66-5. a. The governing body may provide for the collection or
38 disposal of solid waste at the general expense, or if deemed by it more
39 advisable, impose rates or charges (hereinafter referred to as "solid
40 waste charges") to be charged by the municipality for the collection or
41 disposal of solid waste, provide for the manner of payment of the
42 same, and maintain an action at law to recover any moneys due
43 therefor.

44 b. **[Where]** Whenever the governing body determines to provide
45 for the collection or disposal of solid waste by imposing solid waste
46 charges on a per container basis, the governing body shall adopt an

1 ordinance to:

2 (1) Establish a rate schedule of solid waste charges based on the
3 number of solid waste containers processed per household; and

4 (2) Provide residents with the opportunity to purchase, on a
5 prepaid basis, one or more solid waste containers, or a voucher or
6 sticker therefor, to facilitate the payment of solid waste charges on a
7 per container basis.

8 c. Whenever the governing body adopts an ordinance pursuant to
9 subsection b. of this section, the ordinance may include provisions
10 limiting solid waste collection service to specified operating hours in
11 order to preserve the peace and quiet in neighborhoods during the
12 hours when most residents are asleep.

13 d. Whenever the governing body adopts an ordinance pursuant to
14 subsection b. of section 6 of P.L.1987, c.102 (C.13:1E-99.16), the
15 ordinance may include provisions limiting recyclable material
16 collection service to specified operating hours in order to preserve the
17 peace and quiet in neighborhoods during the hours when most
18 residents are asleep.

19 (cf: P.L.1989, c.244, s.5.)

20

21 4. Section 1 of P.L.1991, c.170 (C.40:66-5.1) is amended to read
22 as follows:

23 1. a. The governing body of any municipality wherein solid waste
24 collection services are contracted for and provided, wholly or in part,
25 on an individual, private contract basis shall[, within 60 days of the
26 effective date of this act,] adopt a proof of service ordinance which
27 requires all responsible solid waste generators to contract or otherwise
28 lawfully provide for the collection of solid waste generated at those
29 premises in the manner provided by the ordinance.

30 b. Each proof of service ordinance required pursuant to this section
31 shall include:

32 (1) In the case of single-family residential housing, a requirement
33 that each responsible solid waste generator, in those instances where
34 a solid waste collection system is not otherwise provided for by the
35 municipality and if he has not already done so, enter into a contract for
36 regular solid waste collection service with any person lawfully
37 providing private solid waste collection services within the
38 municipality; except that the ordinance may include an exemption from
39 this requirement in those instances where the responsible solid waste
40 generator is transporting the solid waste which is generated at his
41 residential premises directly to the solid waste facility utilized by the
42 municipality for disposal;

43 (2) In the case of multi-family residential housing, a requirement
44 that the responsible solid waste generator, in those instances where a
45 solid waste collection system is not otherwise provided for by the
46 municipality and if he has not already done so, enter into a contract for

1 regular solid waste collection service with any person lawfully
2 providing private solid waste collection services within the
3 municipality; except that the ordinance may include an exemption from
4 this requirement in those instances where the responsible solid waste
5 generator is transporting the solid waste which is generated at his
6 residential premises directly to the solid waste facility utilized by the
7 municipality for disposal. It shall be the responsibility of the owner of
8 the multiple dwelling to provide a sufficient number of appropriate
9 solid waste containers for the deposit of nonrecyclable waste materials
10 to be disposed of as solid waste;

11 (3) In the case of any commercial or institutional building or
12 structure located within the boundaries of the municipality, a
13 requirement that the responsible solid waste generator, in those
14 instances where regular solid waste collection services are not
15 otherwise provided for, enter into a contract with any person lawfully
16 providing private solid waste collection services within the
17 municipality; and

18 (4) In the case of a responsible solid waste generator, within the
19 municipality, who is transporting the solid waste which is generated at
20 his residential premises directly to the solid waste facility utilized by
21 the municipality for disposal, a requirement that every such responsible
22 solid waste generator within the municipality furnish proof that the
23 responsible solid waste generator is transporting the solid waste which
24 is generated at his residential premises directly to the solid waste
25 facility utilized by the municipality for disposal to the governing body
26 of the municipality at least once every 12 months. In order to fulfill
27 the requirements of this subsection, the responsible solid waste
28 generator may include the proof of service with the municipal tax
29 payment mailed to the municipal tax collector.

30 Any proof of service ordinance may include provisions limiting
31 regular solid waste collection service to specified operating hours in
32 order to preserve the peace and quiet in neighborhoods during the
33 hours when most residents are asleep.

34 Any proof of service ordinance may include provisions limiting
35 recyclable material collection service to specified operating hours in
36 order to preserve the peace and quiet in neighborhoods during the
37 hours when most residents are asleep.

38 c. The governing body shall, within six months of the effective date
39 of a proof of service ordinance adopted pursuant to this section and at
40 least once every six months thereafter, notify all responsible solid
41 waste generators of the requirements of the ordinance. In order to
42 fulfill the notification requirements of this subsection, the governing
43 body of a municipality may, in its discretion, place an advertisement in
44 a newspaper circulating in the municipality, post a notice in public
45 places where public notices are customarily posted, include a notice
46 with other official notifications periodically mailed to taxpayers, or any

1 combination thereof, as the municipality deems necessary and
2 appropriate.

3 (cf: P.L.1991, c.170, s.1)

4

5 5. Section 2 of P.L.1991, c.170 (C.40:66-5.2) is amended to read
6 as follows:

7 2. a. The provisions of any other law, rule or regulation to the
8 contrary notwithstanding, the governing body of any municipality may
9 request that every solid waste collector engaging in private solid waste
10 collection services within the municipality who is registered pursuant
11 to sections 4 and 5 of P.L.1970, c.39 (C.13:1E-4 and 13:1E-5) and
12 holds a certificate of public convenience and necessity pursuant to
13 sections 7 and 10 of P.L.1970, c.40 (C.48:13A-6 and 48:13A-9)
14 provide all responsible solid waste generators with the opportunity to
15 contract for, on an individual basis, regular solid waste collection
16 services, if the responsible solid waste generator is required to do so
17 by a proof of service ordinance adopted pursuant to section 1 of
18 P.L.1991, c.170 (C.40:66-5.1).

19 b. The governing body of any municipality may request any solid
20 waste collector engaging in private solid waste collection services
21 within the municipality to assist the municipality in identifying those
22 responsible solid waste generators who fail to comply with the
23 provisions of section 1 of P.L.1991, c.170 (C.40:66-5.1).

24 c. Whenever the governing body adopts a proof of service
25 ordinance pursuant to section 1 of P.L.1991, c.170 (C.40:66-5.1), or
26 requests a solid waste collector to provide all responsible solid waste
27 generators with the opportunity to contract for regular solid waste
28 collection services pursuant to subsection a. of this section, the
29 governing body shall notify the **[Board of Public Utilities]** Department
30 of Environmental Protection of these actions by certified mail.

31 d. In the event that a solid waste collector refuses any request to
32 provide responsible solid waste generators with the opportunity to
33 contract for regular solid waste collection services pursuant to
34 subsection a. of this section, the governing body shall notify the
35 **[Board of Public Utilities]** department of this refusal by certified mail.

36 e. Whenever the governing body of a municipality adopts a proof
37 of service ordinance pursuant to section 1 of P.L.1991, c.170
38 (C.40:66-5.1), the governing body shall notify the owner or operator
39 of every solid waste facility utilized by the municipality of this action
40 by certified mail.

41 (cf: P.L.1991, c.170, s.2)

42

43 6. Section 1 of P.L.1975, c.243 (C.40:67-23.1) is amended to read
44 as follows:

45 1. a. The governing body of every municipality may make, amend,
46 repeal and enforce ordinances to cause the governing body of the

1 municipality to repair and maintain and provide for the removal of
2 snow, ice and other obstructions from, and provide for the lighting of,
3 any roads or streets upon which the travel is sufficient, in the opinion
4 of said governing body, to warrant such expenditures, even though
5 such roads or streets shall not have been taken over by said municipal
6 governing body or dedicated and accepted as public highways. The
7 municipality may also provide for the curbside collection of [garbage
8 placed at the curb of] solid waste along such streets, or for the
9 reimbursement of such [garbage] solid waste collection costs as the
10 municipality may determine to have been reasonably incurred by
11 persons residing adjacent to such streets. Roads or streets so serviced,
12 which are not shown on the official map of the municipality, may, at
13 the option of the governing body of said municipality, be suitably
14 improved in accordance with any requirements established pursuant to
15 article 5 of the "Municipal Land Use Law," P.L.1975, c.291, ss. 23-27
16 (C.40:55D-32 to C.40:55D-36) and the ordinance.

17 b. A municipal governing body that provides for the curbside
18 collection of solid waste pursuant to subsection a. of this section may
19 limit these services to specified operating hours in order to preserve
20 the peace and quiet in neighborhoods during the hours when most
21 residents are asleep.

22 c. A municipal governing body that provides for the collection of
23 designated recyclable materials pursuant to subsection b. of section 6
24 of P.L.1987, c.102 (C.13:1E-99.16) may limit these services to
25 specified operating hours in order to preserve the peace and quiet in
26 neighborhoods during the hours when most residents are asleep.

27 d. If, as a condition of providing services for any road or street
28 proposed to be serviced, the municipality notifies the owner that
29 dedication thereof to the municipality is required, the owner may
30 refuse to accept the services and benefits of the ordinance upon that
31 condition by so notifying the municipality within 60 days of receipt of
32 the notice. With respect to any road or street for which services are
33 provided, if the municipality notifies the owner that continuation of
34 provision of the services is conditioned upon the dedication thereof to
35 the municipality, the owner may refuse to accept continuance of the
36 services and benefits of the ordinance upon that condition by so
37 notifying the municipality within 60 days of receipt of the notice.
38 Notices to be given pursuant to this [act] section shall be in writing.
39 (cf: P.L.1983, c.12, s.1)

40

41 7. Section 3 of P.L.1987, c.102 (C.13:1E-99.13) is amended to
42 read as follows:

43 3. a. Each county shall [, no later than October 20, 1987 and after
44 consultation with each municipality within the county,] prepare and
45 adopt a district recycling plan to implement the State Recycling Plan
46 goals. Each district recycling plan shall be adopted as an amendment

1 to the district solid waste management plan required pursuant to the
2 provisions of the "Solid Waste Management Act," P.L.1970, c.39
3 (C.13:1E-1 et seq.) and subject to the approval of the department.

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

6 (1) Designation of a district recycling coordinator;

7 (2) Designation of the recyclable materials to be source separated
8 in each municipality which shall include, in addition to leaves, at least
9 three other recyclable materials separated from the municipal solid
10 waste stream;

11 (3) Designation of the strategy for the collection, marketing and
12 disposition of designated source separated recyclable materials in each
13 municipality;

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

18 (a) The recycling of at least 15% of the total municipal solid waste
19 stream by December 31, 1989;

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

22 (c) The recycling of at least 50% of the total municipal solid waste
23 stream, including yard waste and vegetative waste, by December 31,
24 1995; and

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

29 For the purposes of this subsection, "total municipal solid waste
30 stream" means the sum of the municipal solid waste stream disposed
31 of as solid waste, as measured in tons, plus the total number of tons of
32 recyclable materials recycled; and "total solid waste stream" means the
33 aggregate amount of solid waste generated within the boundaries of
34 any county from all sources of generation, including the municipal
35 solid waste stream.

36 c. Each district recycling plan, in designating a strategy for the
37 collection, marketing and disposition of designated recyclable
38 materials in each municipality, shall [accord priority consideration to
39 persons engaging in the business of recycling or otherwise lawfully
40 providing recycling services on behalf of a county or municipality on
41 January 1, 1986, if that person continues to provide recycling services
42 prior to the adoption of the plan and that person has not discontinued
43 these services for a period of 90 days or more between January 1,
44 1986, and the date on which the plan is adopted] authorize
45 municipalities that adopt a recycling ordinance pursuant to subsection
46 b. of section 6 of P.L.1987, c.102 (C.13:1E-99.16) to limit the

1 collection of designated recyclable materials to specified operating
2 hours in order to preserve the peace and quiet in neighborhoods during
3 the hours when most residents are asleep.

4 Each district recycling plan may be modified after adoption
5 pursuant to a procedure set forth in the adopted plan as approved by
6 the department.

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

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

13

14 8. Section 6 of P.L.1987, c.102 (C.13:1E-99.16) is amended to
15 read as follows:

16 6. Each municipality in this State shall[, within 30 days of the
17 effective date of this amendatory and supplementary act,] designate
18 one or more persons as the municipal recycling coordinator. Each
19 municipality shall establish and implement a municipal recycling
20 program in accordance with the following requirements [and
21 schedule]:

22 a. [Within six months of the adoption by the county and approval
23 by the department of the district recycling plan required pursuant to
24 section 3 of this amendatory and supplementary act, each] Each
25 municipality shall provide for a collection system for the recycling of
26 the recyclable materials designated in the district recycling plan as may
27 be necessary to achieve the designated recovery targets set forth in the
28 plan in those instances where a recycling collection system is not
29 otherwise provided for by the generator or by the county, interlocal
30 service agreement or joint service program, or other private or public
31 recycling program operator.

32 b. The governing body of each municipality shall[, if it has not
33 already done so, within 30 days of the effective date of any contracts
34 or agreements entered into by the county or other local government
35 unit to market one or more of the specific designated recyclable
36 materials as required pursuant to section 4 of this amendatory and
37 supplementary act,] adopt an ordinance which requires persons
38 generating municipal solid waste within its municipal boundaries to
39 source separate from the municipal solid waste stream, in addition to
40 leaves, the specified recyclable materials for which markets have been
41 secured and, unless recycling is otherwise provided for by the
42 generator, place these specified recyclable materials for collection in
43 the manner provided by the ordinance.

44 c. The governing body of each municipality shall, [within 30 days
45 of the effective date of the ordinance adopted pursuant to subsection
46 b. of this section and] at least once every 36 months [thereafter],

1 conduct a review and make necessary revisions to the master plan and
2 development regulations adopted pursuant to P.L.1975, c.291
3 (C.40:55D-1 et seq.), which revisions shall reflect changes in federal,
4 State, county and municipal laws, policies and objectives concerning
5 the collection, disposition and recycling of designated recyclable
6 materials.

7 The revised master plan shall include provisions for the collection,
8 disposition and recycling of recyclable materials designated in the
9 municipal recycling ordinance adopted pursuant to subsection b. of
10 this section, and for the collection, disposition and recycling of
11 designated recyclable materials within any development proposal for
12 the construction of 50 or more units of single-family residential
13 housing or 25 or more units of multi-family residential housing and any
14 commercial or industrial development proposal for the utilization of
15 1,000 square feet or more of land.

16 d. The governing body of a municipality may exempt persons
17 occupying commercial and institutional premises within its municipal
18 boundaries from the source separation requirements of the ordinance
19 adopted pursuant to subsection b. of this section if those persons have
20 otherwise provided for the recycling of the recyclable materials
21 designated in the district recycling plan from solid waste generated at
22 those premises. To be eligible for an exemption pursuant to this
23 subsection, a commercial or institutional solid waste generator
24 annually shall provide written documentation to the municipality of the
25 total number of tons recycled.

26 e. The governing body of each municipality shall, [on or before
27 July 1, 1988 and] on or before July 1 of each year [thereafter], submit
28 a recycling tonnage report to the New Jersey Office of Recycling in
29 accordance with rules and regulations adopted by the department
30 therefor.

31 f. The governing body of each municipality shall, [within six
32 months of the effective date of the ordinance adopted pursuant to
33 subsection b. of this section and] at least once every six months
34 [thereafter], notify all persons occupying residential, commercial, and
35 institutional premises within its municipal boundaries of local recycling
36 opportunities, and the source separation requirements of the
37 ordinance. In order to fulfill the notification requirements of this
38 subsection, the governing body of a municipality may, in its discretion,
39 place an advertisement in a newspaper circulating in the municipality,
40 post a notice in public places where public notices are customarily
41 posted, include a notice with other official notifications periodically
42 mailed to residential taxpayers, or any combination thereof, as the
43 municipality deems necessary and appropriate.

44 The governing body of a municipality that adopts a recycling
45 ordinance pursuant to subsection b. of this section may limit the
46 collection of designated recyclable materials to specified operating

1 hours in order to preserve the peace and quiet in neighborhoods during
2 the hours when most residents are asleep.

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

4

5 9. This act shall take effect immediately.

6

7

8

STATEMENT

9

10 This bill would authorize any municipality, by duly adopted
11 ordinance of its governing body, to establish specified operating hours
12 for municipal solid waste collection or recyclable material collection
13 service, and limit such service, no matter by whom provided, to the
14 scheduled times in order to preserve the peace and quiet in
15 neighborhoods during those hours when resident are normally asleep.

16 Specifically, a municipal governing body that establishes a
17 municipal solid waste collection system, or a system for the collection
18 of designated recyclable materials under the "New Jersey Statewide
19 Mandatory Source Separation and Recycling Act," P.L.1987, c.102
20 (C.13:1E-99.11 et al.), may limit service furnished by it to specified
21 operating hours.

22 Likewise, a municipality that contracts with a private
23 collector-hauler for the collection of solid waste or recyclable
24 materials may include provisions limiting solid waste or recyclable
25 material collection service to specified operating hours within the bid
26 specifications of the contract.

27 Further, the governing body of any municipality which is required
28 to adopt a proof of service ordinance may include provisions within
29 the ordinance limiting the mandated regular solid waste or recyclable
30 material collection service to specified operating hours.

31 The bill would also amend the "New Jersey Statewide Mandatory
32 Source Separation and Recycling Act" to authorize municipalities that
33 adopt a recycling ordinance pursuant to N.J.S.A.13:1E-99.16 to limit
34 the collection of designated recyclable materials to specified operating
35 hours in order to preserve the peace and quiet in neighborhoods during
36 the hours when most residents are asleep.

ASSEMBLY SOLID AND HAZARDOUS WASTE COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1936

with committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 7, 2000

The Assembly Solid and Hazardous Waste Committee reports favorably Assembly Bill No. 1936 with committee amendments.

This bill would authorize any municipality, by duly adopted ordinance of its governing body, to establish specified operating hours for municipal solid waste collection or recyclable material collection service, and limit such service, no matter by whom provided, to the scheduled times in order to preserve the peace and quiet in neighborhoods during those hours when residents are normally asleep.

Specifically, a municipal governing body that establishes a municipal solid waste collection system, or a system for the collection of designated recyclable materials under the "New Jersey Statewide Mandatory Source Separation and Recycling Act," P.L.1987, c.102 (C.13:1E-99.11 et al.), may limit service furnished by it to specified operating hours.

Likewise, a municipality that contracts with a private collector-hauler for the collection of solid waste or recyclable materials may include provisions limiting solid waste or recyclable material collection service to specified operating hours within the bid specifications of the contract.

Further, the governing body of any municipality which is required to adopt a proof of service ordinance may include provisions within the ordinance limiting the mandated regular solid waste or recyclable material collection service to specified operating hours.

The bill would also amend the "New Jersey Statewide Mandatory Source Separation and Recycling Act" to authorize municipalities that adopt a recycling ordinance pursuant to N.J.S.A.13:1E-99.16 to limit the collection of designated recyclable materials to specified operating hours in order to preserve the peace and quiet in neighborhoods during the hours when most residents are asleep.

The committee amendments clarify that the provisions of an ordinance adopted by a municipality establishing specified operating hours for municipal solid waste collection would supersede any contrary provisions contained within a uniform tariff for solid waste collection, and make several technical changes to the bill.

[First Reprint]

ASSEMBLY, No. 1936

STATE OF NEW JERSEY
209th LEGISLATURE

INTRODUCED JANUARY 27, 2000

Sponsored by:

Assemblyman RICHARD H. BAGGER

District 22 (Middlesex, Morris, Somerset and Union)

Assemblyman ALAN M. AUGUSTINE

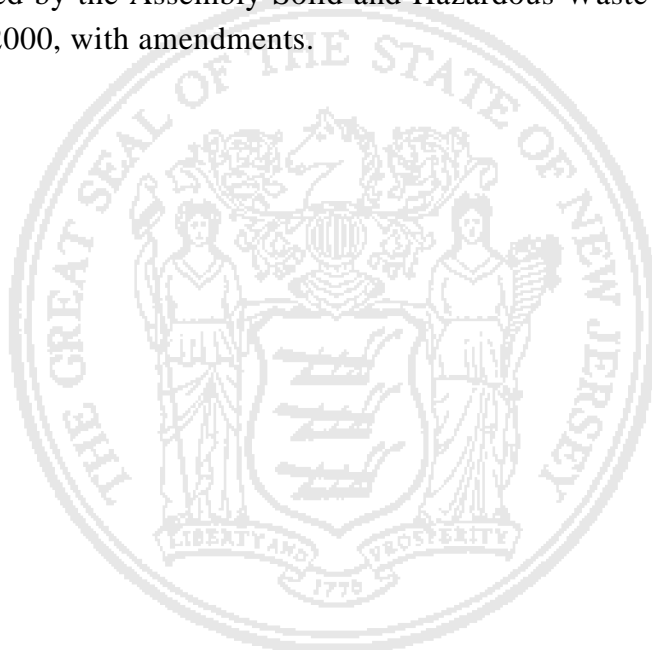
District 22 (Middlesex, Morris, Somerset and Union)

SYNOPSIS

Authorizes municipalities to limit solid waste and recyclable material collection activities to specified operating hours.

CURRENT VERSION OF TEXT

As reported by the Assembly Solid and Hazardous Waste Committee on February 7, 2000, with amendments.



A1936 [1R] BAGGER, AUGUSTINE

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1 AN ACT concerning municipal solid waste collection and the collection
2 of recyclable materials, and amending parts of the statutory law.

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

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

8 40:66-1. a. The governing body may provide for the cleaning of
9 the streets of the municipality, and for the collection or disposal of
10 solid waste, and may establish and operate a system therefor; purchase
11 and operate the necessary equipment for the cleaning of streets, and
12 for the collection or disposal of solid waste; make, amend, repeal and
13 enforce all such ordinances, resolutions, rules and regulations as may
14 be deemed necessary and proper for the introduction, operation and
15 management of such system, and for the maintenance and operation of
16 a solid waste facility, subject to the provisions of the "Solid Waste
17 Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.) and the "Solid
18 Waste Utility Control Act [of 1970]," P.L.1970, c.40 (C.48:13A-1 et
19 seq.), for the disposal of solid waste, and for the government of
20 employees connected therewith.

21 b. A municipal governing body that establishes a system for the
22 collection or disposal of solid waste pursuant to subsection a. of this
23 section, in its discretion, may limit service furnished by it to curbside
24 collection along public streets or roads that have been dedicated to and
25 accepted by the municipality. The municipal governing body may also
26 refuse to enter upon private property to remove solid waste from
27 dumpsters or other solid waste containers. The municipal governing
28 body, in its sole discretion, may choose to reimburse those property
29 owners who do not receive the municipal service, but such
30 reimbursement shall not exceed the cost that would be incurred by the
31 municipality in providing the collection or disposal service directly.
32 Nothing contained in this subsection shall be deemed to modify the
33 provisions of P.L.1989, c.299 (C.40:67-23.2 et seq.) with respect to
34 qualified private communities.

35 c. A municipal governing body that establishes a system for the
36 collection of solid waste pursuant to subsection a. of this section may
37 limit the municipal service furnished by it to specified operating hours
38 in order to preserve the peace and quiet in neighborhoods during the
39 hours when most residents are asleep.

40 d. A municipal governing body that adopts a recycling ordinance
41 pursuant to section b. of section 6 of P.L.1987, c.102 (C.13:1E-99.16)
42 may limit the collection of designated recyclable materials to specified

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly ASH committee amendments adopted February 7, 2000.

1 operating hours in order to preserve the peace and quiet in
2 neighborhoods during the hours when most residents are asleep.

3 (cf: P.L.1993, c.6, s.3)

4

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

6 40:66-4. a. The governing body may, if it deem it more
7 advantageous, contract with any person for the cleaning of the streets,
8 or the collection or disposal of solid waste. Before making any such
9 contract or contracts the governing body shall first adopt
10 specifications for the doing of the work in a sanitary and inoffensive
11 manner. The specifications may include provisions limiting solid waste
12 collection service and recyclable material collection service to
13 specified operating hours in order to preserve the peace and quiet in
14 neighborhoods during the hours when most residents are asleep.

15 Any specifications adopted by the governing body for the collection
16 or disposal of solid waste shall conform to the uniform bid
17 specifications for municipal solid waste collection contracts established
18 pursuant to section 22 of P.L.1991, c.381 (C.48:13A-7.22). Any such
19 contract or contracts, the total amount of which exceeds in the fiscal
20 year the amount set forth in, or the amount calculated by the Governor
21 pursuant to, section 3 of P.L.1971, c.198 (C.40A:11-3), shall be
22 entered into and made only after bids shall have been advertised
23 therefor, and awarded in the manner provided in the "Local Public
24 Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq).

25 b. Whenever the governing body adopts an ordinance to provide
26 for the collection or disposal of solid waste within its municipal
27 boundaries by imposing solid waste charges based on the number of
28 solid waste containers processed per household pursuant to subsection
29 b. of R.S.40:66-5, on or after the first day of the 13th month following
30 the effective date of that ordinance, the governing body may request
31 the relevant solid waste collector to whom a multi-year contract has
32 been awarded to renegotiate the contract to reflect any reduction in
33 the annual volume of solid waste collected achieved as a result of the
34 ordinance.

35 (cf: P.L.1991, c.381, s.47)

36

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

38 40:66-5. a. The governing body may provide for the collection or
39 disposal of solid waste at the general expense, or if deemed by it more
40 advisable, impose rates or charges (hereinafter referred to as "solid
41 waste charges") to be charged by the municipality for the collection or
42 disposal of solid waste, provide for the manner of payment of the
43 same, and maintain an action at law to recover any moneys due
44 therefor.

45 b. [Where] Whenever the governing body determines to provide
46 for the collection or disposal of solid waste by imposing solid waste

1 charges on a per container basis, the governing body shall adopt an
2 ordinance to:

3 (1) Establish a rate schedule of solid waste charges based on the
4 number of solid waste containers processed per household; and

5 (2) Provide residents with the opportunity to purchase, on a
6 prepaid basis, one or more solid waste containers, or a voucher or
7 sticker therefor, to facilitate the payment of solid waste charges on a
8 per container basis.

9 c. Whenever the governing body adopts an ordinance pursuant to
10 subsection b. of this section, the ordinance may include provisions
11 limiting solid waste collection service to specified operating hours in
12 order to preserve the peace and quiet in neighborhoods during the
13 hours when most residents are asleep.

14 d. Whenever the governing body adopts an ordinance pursuant to
15 subsection b. of section 6 of P.L.1987, c.102 (C.13:1E-99.16), the
16 ordinance may include provisions limiting recyclable material
17 collection service to specified operating hours in order to preserve the
18 peace and quiet in neighborhoods during the hours when most
19 residents are asleep.

20 (cf: P.L.1989, c.244, s.5.)

21

22 4. Section 1 of P.L.1991, c.170 (C.40:66-5.1) is amended to read
23 as follows:

24 1. a. The governing body of any municipality wherein solid waste
25 collection services are contracted for and provided, wholly or in part,
26 on an individual, private contract basis shall[, within 60 days of the
27 effective date of this act,] adopt a proof of service ordinance which
28 requires all responsible solid waste generators to contract or otherwise
29 lawfully provide for the collection of solid waste generated at those
30 premises in the manner provided by the ordinance.

31 b. Each proof of service ordinance required pursuant to this section
32 shall include:

33 (1) In the case of single-family residential housing, a requirement
34 that each responsible solid waste generator, in those instances where
35 a solid waste collection system is not otherwise provided for by the
36 municipality and if he has not already done so, enter into a contract for
37 regular solid waste collection service with any person lawfully
38 providing private solid waste collection services within the
39 municipality; except that the ordinance may include an exemption from
40 this requirement in those instances where the responsible solid waste
41 generator is transporting the solid waste which is generated at his
42 residential premises directly to the solid waste facility utilized by the
43 municipality for disposal;

44 (2) In the case of multi-family residential housing, a requirement
45 that the responsible solid waste generator, in those instances where a
46 solid waste collection system is not otherwise provided for by the

1 municipality and if he has not already done so, enter into a contract for
2 regular solid waste collection service with any person lawfully
3 providing private solid waste collection services within the
4 municipality; except that the ordinance may include an exemption from
5 this requirement in those instances where the responsible solid waste
6 generator is transporting the solid waste which is generated at his
7 residential premises directly to the solid waste facility utilized by the
8 municipality for disposal. It shall be the responsibility of the owner of
9 the multiple dwelling to provide a sufficient number of appropriate
10 solid waste containers for the deposit of nonrecyclable waste materials
11 to be disposed of as solid waste;

12 (3) In the case of any commercial or institutional building or
13 structure located within the boundaries of the municipality, a
14 requirement that the responsible solid waste generator, in those
15 instances where regular solid waste collection services are not
16 otherwise provided for, enter into a contract with any person lawfully
17 providing private solid waste collection services within the
18 municipality; and

19 (4) In the case of a responsible solid waste generator, within the
20 municipality, who is transporting the solid waste which is generated at
21 his residential premises directly to the solid waste facility utilized by
22 the municipality for disposal, a requirement that every such responsible
23 solid waste generator within the municipality furnish proof that the
24 responsible solid waste generator is transporting the solid waste which
25 is generated at his residential premises directly to the solid waste
26 facility utilized by the municipality for disposal to the governing body
27 of the municipality at least once every 12 months. In order to fulfill
28 the requirements of this subsection, the responsible solid waste
29 generator may include the proof of service with the municipal tax
30 payment mailed to the municipal tax collector.

31 Any proof of service ordinance may include provisions limiting
32 regular solid waste collection service to specified operating hours in
33 order to preserve the peace and quiet in neighborhoods during the
34 hours when most residents are asleep.

35 Any proof of service ordinance may include provisions limiting
36 recyclable material collection service to specified operating hours in
37 order to preserve the peace and quiet in neighborhoods during the
38 hours when most residents are asleep.

39 c. The governing body shall, within six months of the effective date
40 of a proof of service ordinance adopted pursuant to this section and at
41 least once every six months thereafter, notify all responsible solid
42 waste generators of the requirements of the ordinance. In order to
43 fulfill the notification requirements of this subsection, the governing
44 body of a municipality may, in its discretion, place an advertisement in
45 a newspaper circulating in the municipality, post a notice in public
46 places where public notices are customarily posted, include a notice

1 with other official notifications periodically mailed to taxpayers, or any
2 combination thereof, as the municipality deems necessary and
3 appropriate.

4 (cf: P.L.1991, c.170, s.1)

5

6 5. Section 2 of P.L.1991, c.170 (C.40:66-5.2) is amended to read
7 as follows:

8 2. a. The provisions of any other law, rule or regulation to the
9 contrary notwithstanding, the governing body of any municipality may
10 request that every solid waste collector engaging in private solid waste
11 collection services within the municipality who is registered pursuant
12 to sections 4 and 5 of P.L.1970, c.39 (C.13:1E-4 and 13:1E-5) and
13 holds a certificate of public convenience and necessity pursuant to
14 sections 7 and 10 of P.L.1970, c.40 (C.48:13A-6 and 48:13A-9)
15 provide all responsible solid waste generators with the opportunity to
16 contract for, on an individual basis, regular solid waste collection
17 services, if the responsible solid waste generator is required to do so
18 by a proof of service ordinance adopted pursuant to section 1 of
19 P.L.1991, c.170 (C.40:66-5.1).

20 b. The governing body of any municipality may request any solid
21 waste collector engaging in private solid waste collection services
22 within the municipality to assist the municipality in identifying those
23 responsible solid waste generators who fail to comply with the
24 provisions of section 1 of P.L.1991, c.170 (C.40:66-5.1).

25 c. Whenever the governing body adopts a proof of service
26 ordinance pursuant to section 1 of P.L.1991, c.170 (C.40:66-5.1), or
27 requests a solid waste collector to provide all responsible solid waste
28 generators with the opportunity to contract for regular solid waste
29 collection services pursuant to subsection a. of this section, the
30 governing body shall notify the **[Board of Public Utilities]** Department
31 of Environmental Protection of these actions by certified mail.

32 d. In the event that a solid waste collector refuses any request to
33 provide responsible solid waste generators with the opportunity to
34 contract for regular solid waste collection services pursuant to
35 subsection a. of this section, the governing body shall notify the
36 **[Board of Public Utilities]** department of this refusal by certified mail.

37 e. Whenever the governing body of a municipality adopts a proof
38 of service ordinance pursuant to section 1 of P.L.1991, c.170
39 (C.40:66-5.1), the governing body shall notify the owner or operator
40 of every solid waste facility utilized by the municipality of this action
41 by certified mail.

42 (cf: P.L.1991, c.170, s.2)

43

44 6. Section 1 of P.L.1975, c.243 (C.40:67-23.1) is amended to read
45 as follows:

46 1. a. The governing body of every municipality may make, amend,

1 repeal and enforce ordinances to cause the governing body of the
2 municipality to repair and maintain and provide for the removal of
3 snow, ice and other obstructions from, and provide for the lighting of,
4 any roads or streets upon which the travel is sufficient, in the opinion
5 of said governing body, to warrant such expenditures, even though
6 such roads or streets shall not have been taken over by said municipal
7 governing body or dedicated and accepted as public highways. The
8 municipality may also provide for the curbside collection of [garbage
9 placed at the curb of] solid waste along such streets, or for the
10 reimbursement of such [garbage] solid waste collection costs as the
11 municipality may determine to have been reasonably incurred by
12 persons residing adjacent to such streets. Roads or streets so serviced,
13 which are not shown on the official map of the municipality, may, at
14 the option of the governing body of said municipality, be suitably
15 improved in accordance with any requirements established pursuant to
16 article 5 of the "Municipal Land Use Law," P.L.1975, c.291, ss. 23-27
17 (C.40:55D-32 to C.40:55D-36) and the ordinance.

18 b. A municipal governing body that provides for the curbside
19 collection of solid waste pursuant to subsection a. of this section may
20 limit these services to specified operating hours in order to preserve
21 the peace and quiet in neighborhoods during the hours when most
22 residents are asleep.

23 c. A municipal governing body that provides for the collection of
24 designated recyclable materials pursuant to subsection b. of section 6
25 of P.L.1987, c.102 (C.13:1E-99.16) may limit these services to
26 specified operating hours in order to preserve the peace and quiet in
27 neighborhoods during the hours when most residents are asleep.

28 d. If, as a condition of providing services for any road or street
29 proposed to be serviced, the municipality notifies the owner that
30 dedication thereof to the municipality is required, the owner may
31 refuse to accept the services and benefits of the ordinance upon that
32 condition by so notifying the municipality within 60 days of receipt of
33 the notice. With respect to any road or street for which services are
34 provided, if the municipality notifies the owner that continuation of
35 provision of the services is conditioned upon the dedication thereof to
36 the municipality, the owner may refuse to accept continuance of the
37 services and benefits of the ordinance upon that condition by so
38 notifying the municipality within 60 days of receipt of the notice.
39 Notices to be given pursuant to this [act] section shall be in writing.
40 (cf: P.L.1983, c.12, s.1)

41

42 7. Section 3 of P.L.1987, c.102 (C.13:1E-99.13) is amended to
43 read as follows:

44 3. a. Each county shall [, no later than October 20, 1987 and after
45 consultation with each municipality within the county,] prepare and
46 adopt a district recycling plan to implement the State Recycling Plan

1 goals. Each district recycling plan shall be adopted as an amendment
2 to the district solid waste management plan required pursuant to the
3 provisions of the "Solid Waste Management Act," P.L.1970, c.39
4 (C.13:1E-1 et seq.) and subject to the approval of the department.

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

7 (1) Designation of a district recycling coordinator;

8 (2) Designation of the recyclable materials to be source separated
9 in each municipality which shall include, in addition to leaves, at least
10 three other recyclable materials separated from the municipal solid
11 waste stream;

12 (3) Designation of the strategy for the collection, marketing and
13 disposition of designated source separated recyclable materials in each
14 municipality;

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

19 (a) The recycling of at least 15% of the total municipal solid waste
20 stream by December 31, 1989;

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

23 (c) The recycling of at least 50% of the total municipal solid waste
24 stream, including yard waste and vegetative waste, by December 31,
25 1995; and

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

30 For the purposes of this subsection, "total municipal solid waste
31 stream" means the sum of the municipal solid waste stream disposed
32 of as solid waste, as measured in tons, plus the total number of tons of
33 recyclable materials recycled; and "total solid waste stream" means the
34 aggregate amount of solid waste generated within the boundaries of
35 any county from all sources of generation, including the municipal
36 solid waste stream.

37 c. Each district recycling plan, in designating a strategy for the
38 collection, marketing and disposition of designated recyclable
39 materials in each municipality, shall [accord priority consideration to
40 persons engaging in the business of recycling or otherwise lawfully
41 providing recycling services on behalf of a county or municipality on
42 January 1, 1986, if that person continues to provide recycling services
43 prior to the adoption of the plan and that person has not discontinued
44 these services for a period of 90 days or more between January 1,
45 1986, and the date on which the plan is adopted] authorize
46 municipalities that adopt a recycling ordinance pursuant to subsection

1 b. of section 6 of P.L.1987, c.102 (C.13:1E-99.16) to limit the
2 collection of designated recyclable materials to specified operating
3 hours in order to preserve the peace and quiet in neighborhoods during
4 the hours when most residents are asleep.

5 Each district recycling plan may be modified after adoption
6 pursuant to a procedure set forth in the adopted plan as approved by
7 the department.

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

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

14
15 8. Section 6 of P.L.1987, c.102 (C.13:1E-99.16) is amended to
16 read as follows:

17 6. Each municipality in this State shall[, within 30 days of the
18 effective date of this amendatory and supplementary act,] designate
19 one or more persons as the municipal recycling coordinator. Each
20 municipality shall establish and implement a municipal recycling
21 program in accordance with the following requirements [and
22 schedule]:

23 a. [Within six months of the adoption by the county and approval
24 by the department of the district recycling plan required pursuant to
25 section 3 of this amendatory and supplementary act, each] Each
26 municipality shall provide for a collection system for the recycling of
27 the recyclable materials designated in the district recycling plan as may
28 be necessary to achieve the designated recovery targets set forth in the
29 plan in those instances where a recycling collection system is not
30 otherwise provided for by the generator or by the county, interlocal
31 service agreement or joint service program, or other private or public
32 recycling program operator.

33 b. The governing body of each municipality shall[, if it has not
34 already done so, within 30 days of the effective date of any contracts
35 or agreements entered into by the county or other local government
36 unit to market one or more of the specific designated recyclable
37 materials as required pursuant to section 4 of this amendatory and
38 supplementary act,] adopt an ordinance which requires persons
39 generating municipal solid waste within its municipal boundaries to
40 source separate from the municipal solid waste stream, in addition to
41 leaves, the specified recyclable materials for which markets have been
42 secured and, unless recycling is otherwise provided for by the
43 generator, place these specified recyclable materials for collection in
44 the manner provided by the ordinance.

45 c. The governing body of each municipality shall, [within 30 days
46 of the effective date of the ordinance adopted pursuant to subsection

1 b. of this section and] at least once every 36 months [thereafter],
2 conduct a review and make necessary revisions to the master plan and
3 development regulations adopted pursuant to P.L.1975, c.291
4 (C.40:55D-1 et seq.), which revisions shall reflect changes in federal,
5 State, county and municipal laws, policies and objectives concerning
6 the collection, disposition and recycling of designated recyclable
7 materials.

8 The revised master plan shall include provisions for the collection,
9 disposition and recycling of recyclable materials designated in the
10 municipal recycling ordinance adopted pursuant to subsection b. of
11 this section, and for the collection, disposition and recycling of
12 designated recyclable materials within any development proposal for
13 the construction of 50 or more units of single-family residential
14 housing or 25 or more units of multi-family residential housing and any
15 commercial or industrial development proposal for the utilization of
16 1,000 square feet or more of land.

17 d. The governing body of a municipality may exempt persons
18 occupying commercial and institutional premises within its municipal
19 boundaries from the source separation requirements of the ordinance
20 adopted pursuant to subsection b. of this section if those persons have
21 otherwise provided for the recycling of the recyclable materials
22 designated in the district recycling plan from solid waste generated at
23 those premises. To be eligible for an exemption pursuant to this
24 subsection, a commercial or institutional solid waste generator
25 annually shall provide written documentation to the municipality of the
26 total number of tons recycled.

27 e. The governing body of each municipality shall, [on or before
28 July 1, 1988 and] on or before July 1 of each year [thereafter], submit
29 a recycling tonnage report to the New Jersey Office of Recycling in
30 accordance with rules and regulations adopted by the department
31 therefor.

32 f. The governing body of each municipality shall, [within six
33 months of the effective date of the ordinance adopted pursuant to
34 subsection b. of this section and] at least once every six months
35 [thereafter], notify all persons occupying residential, commercial, and
36 institutional premises within its municipal boundaries of local recycling
37 opportunities, and the source separation requirements of the
38 ordinance. In order to fulfill the notification requirements of this
39 subsection, the governing body of a municipality may, in its discretion,
40 place an advertisement in a newspaper circulating in the municipality,
41 post a notice in public places where public notices are customarily
42 posted, include a notice with other official notifications periodically
43 mailed to residential taxpayers, or any combination thereof, as the
44 municipality deems necessary and appropriate.

45 The governing body of a municipality that adopts a recycling
46 ordinance pursuant to subsection b. of this section may limit the

1 collection of designated recyclable materials to specified operating
2 hours in order to preserve the peace and quiet in neighborhoods during
3 the hours when most residents are asleep.

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

5

6 ¹9. (New section) a. The provisions of P.L.1970, c.40 (C.48:13A-
7 1 et seq.), P.L.1991, c.381 (C.48:13A-7.1 et seq.), P.L.1970, c.39
8 (C.13:1E-1 et seq.) or any other law, or any rules and regulations
9 adopted pursuant thereto to the contrary notwithstanding, a municipal
10 governing body that: (1) establishes a municipal contract system for
11 solid waste collection pursuant to R.S.40:66-4; (2) awards a contract
12 for the collection of municipal solid waste pursuant to the "Local
13 Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.); or (3)
14 adopts a proof of service ordinance pursuant to section 1 of P.L.1991,
15 c.170 (C.40:66-5.1), may adopt an ordinance limiting solid waste
16 collection service to specified operating hours in order to preserve the
17 peace and quiet in neighborhoods during the hours when most
18 residents are asleep.

19 b. Any solid waste collection uniform tariff for the provision of
20 residential solid waste collection service, which designates hours of
21 operations that are contrary to the operating hours specified in the
22 ordinance adopted pursuant to subsection a. of this section, shall be
23 superseded by the hours of operation indicated in the ordinance.

24 c. The Department of Environmental Protection, in any subsequent
25 revision to or readoption of the solid waste utility rules and regulations
26 pertaining to solid waste collection uniform tariffs under
27 N.J.A.C.7:26H-4.6, shall make whatever changes to these rules and
28 regulations as may be necessary to comply with the provisions of
29 P.L. , c. (pending in the Legislature as this bill) and this section.¹

30

31 ¹[9.] 10.¹ This act shall take effect immediately.

SENATE COMMUNITY AND URBAN AFFAIRS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 1936

STATE OF NEW JERSEY

DATED: SEPTEMBER 14, 2000

The Senate Community and Urban Affairs Committee reports favorably Assembly Bill No. 1936 (1R).

This bill would authorize any municipality, by duly adopted ordinance of its governing body, to establish specified operating hours for municipal solid waste collection or recyclable material collection service, and limit such service, no matter by whom provided, to the scheduled times in order to preserve the peace and quiet in neighborhoods during those hours when residents are normally asleep.

Specifically, the bill provides that a municipal governing body that establishes a municipal solid waste collection system, or a system for the collection of designated recyclable materials under the "New Jersey Statewide Mandatory Source Separation and Recycling Act," P.L.1987, c.102 (C.13:1E-99.11 et al.), may limit service furnished by it to specified operating hours.

Likewise, under the bill a municipality that contracts with a private collector-hauler for the collection of solid waste or recyclable materials may include provisions limiting solid waste or recyclable material collection service to specified operating hours within the bid specifications of the contract.

Further, the bill would authorize the governing body of any municipality which is required to adopt a proof of service ordinance to include provisions within the ordinance limiting the mandated regular solid waste or recyclable material collection service to specified operating hours.

The bill would also amend the "New Jersey Statewide Mandatory Source Separation and Recycling Act" to authorize municipalities that adopt a recycling ordinance pursuant to N.J.S.A.13:1E-99.16 to limit the collection of designated recyclable materials to specified operating hours in order to preserve the peace and quiet in neighborhoods during the hours when most residents are asleep.

P.L. 2001, CHAPTER 92, *approved May 10, 2001*
Assembly, No. 1936 (*First Reprint*)

1 **AN ACT** concerning municipal solid waste collection and the collection
2 of recyclable materials, and amending parts of the statutory law.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. R.S.40:66-1 is amended to read as follows:

8 40:66-1. a. The governing body may provide for the cleaning of
9 the streets of the municipality, and for the collection or disposal of
10 solid waste, and may establish and operate a system therefor; purchase
11 and operate the necessary equipment for the cleaning of streets, and
12 for the collection or disposal of solid waste; make, amend, repeal and
13 enforce all such ordinances, resolutions, rules and regulations as may
14 be deemed necessary and proper for the introduction, operation and
15 management of such system, and for the maintenance and operation of
16 a solid waste facility, subject to the provisions of the "Solid Waste
17 Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.) and the "Solid
18 Waste Utility Control Act [of 1970]," P.L.1970, c.40 (C.48:13A-1 et
19 seq.), for the disposal of solid waste, and for the government of
20 employees connected therewith.

21 b. A municipal governing body that establishes a system for the
22 collection or disposal of solid waste pursuant to subsection a. of this
23 section, in its discretion, may limit service furnished by it to curbside
24 collection along public streets or roads that have been dedicated to and
25 accepted by the municipality. The municipal governing body may also
26 refuse to enter upon private property to remove solid waste from
27 dumpsters or other solid waste containers. The municipal governing
28 body, in its sole discretion, may choose to reimburse those property
29 owners who do not receive the municipal service, but such
30 reimbursement shall not exceed the cost that would be incurred by the
31 municipality in providing the collection or disposal service directly.
32 Nothing contained in this subsection shall be deemed to modify the
33 provisions of P.L.1989, c.299 (C.40:67-23.2 et seq.) with respect to
34 qualified private communities.

35 c. A municipal governing body that establishes a system for the
36 collection of solid waste pursuant to subsection a. of this section may
37 limit the municipal service furnished by it to specified operating hours
38 in order to preserve the peace and quiet in neighborhoods during the
39 hours when most residents are asleep.

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly ASH committee amendments adopted February 7, 2000.

1 d. A municipal governing body that adopts a recycling ordinance
2 pursuant to section b. of section 6 of P.L.1987, c.102 (C.13:1E-99.16)
3 may limit the collection of designated recyclable materials to specified
4 operating hours in order to preserve the peace and quiet in
5 neighborhoods during the hours when most residents are asleep.

6 (cf: P.L.1993, c.6, s.3)

7

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

9 40:66-4. a. The governing body may, if it deem it more
10 advantageous, contract with any person for the cleaning of the streets,
11 or the collection or disposal of solid waste. Before making any such
12 contract or contracts the governing body shall first adopt
13 specifications for the doing of the work in a sanitary and inoffensive
14 manner. The specifications may include provisions limiting solid waste
15 collection service and recyclable material collection service to
16 specified operating hours in order to preserve the peace and quiet in
17 neighborhoods during the hours when most residents are asleep.

18 Any specifications adopted by the governing body for the collection
19 or disposal of solid waste shall conform to the uniform bid
20 specifications for municipal solid waste collection contracts established
21 pursuant to section 22 of P.L.1991, c.381 (C.48:13A-7.22). Any such
22 contract or contracts, the total amount of which exceeds in the fiscal
23 year the amount set forth in, or the amount calculated by the Governor
24 pursuant to, section 3 of P.L.1971, c.198 (C.40A:11-3), shall be
25 entered into and made only after bids shall have been advertised
26 therefor, and awarded in the manner provided in the "Local Public
27 Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq).

28 b. Whenever the governing body adopts an ordinance to provide
29 for the collection or disposal of solid waste within its municipal
30 boundaries by imposing solid waste charges based on the number of
31 solid waste containers processed per household pursuant to subsection
32 b. of R.S.40:66-5, on or after the first day of the 13th month following
33 the effective date of that ordinance, the governing body may request
34 the relevant solid waste collector to whom a multi-year contract has
35 been awarded to renegotiate the contract to reflect any reduction in
36 the annual volume of solid waste collected achieved as a result of the
37 ordinance.

38 (cf: P.L.1991, c.381, s.47)

39

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

41 40:66-5. a. The governing body may provide for the collection or
42 disposal of solid waste at the general expense, or if deemed by it more
43 advisable, impose rates or charges (hereinafter referred to as "solid
44 waste charges") to be charged by the municipality for the collection or
45 disposal of solid waste, provide for the manner of payment of the
46 same, and maintain an action at law to recover any moneys due

1 therefor.

2 b. ~~Where~~ Whenever the governing body determines to provide
3 for the collection or disposal of solid waste by imposing solid waste
4 charges on a per container basis, the governing body shall adopt an
5 ordinance to:

6 (1) Establish a rate schedule of solid waste charges based on the
7 number of solid waste containers processed per household; and

8 (2) Provide residents with the opportunity to purchase, on a
9 prepaid basis, one or more solid waste containers, or a voucher or
10 sticker therefor, to facilitate the payment of solid waste charges on a
11 per container basis.

12 c. Whenever the governing body adopts an ordinance pursuant to
13 subsection b. of this section, the ordinance may include provisions
14 limiting solid waste collection service to specified operating hours in
15 order to preserve the peace and quiet in neighborhoods during the
16 hours when most residents are asleep.

17 d. Whenever the governing body adopts an ordinance pursuant to
18 subsection b. of section 6 of P.L.1987, c.102 (C.13:1E-99.16), the
19 ordinance may include provisions limiting recyclable material
20 collection service to specified operating hours in order to preserve the
21 peace and quiet in neighborhoods during the hours when most
22 residents are asleep.

23 (cf: P.L.1989, c.244, s.5.)

24

25 4. Section 1 of P.L.1991, c.170 (C.40:66-5.1) is amended to read
26 as follows:

27 1. a. The governing body of any municipality wherein solid waste
28 collection services are contracted for and provided, wholly or in part,
29 on an individual, private contract basis shall[, within 60 days of the
30 effective date of this act,] adopt a proof of service ordinance which
31 requires all responsible solid waste generators to contract or otherwise
32 lawfully provide for the collection of solid waste generated at those
33 premises in the manner provided by the ordinance.

34 b. Each proof of service ordinance required pursuant to this section
35 shall include:

36 (1) In the case of single-family residential housing, a requirement
37 that each responsible solid waste generator, in those instances where
38 a solid waste collection system is not otherwise provided for by the
39 municipality and if he has not already done so, enter into a contract for
40 regular solid waste collection service with any person lawfully
41 providing private solid waste collection services within the
42 municipality; except that the ordinance may include an exemption from
43 this requirement in those instances where the responsible solid waste
44 generator is transporting the solid waste which is generated at his
45 residential premises directly to the solid waste facility utilized by the
46 municipality for disposal;

1 (2) In the case of multi-family residential housing, a requirement
2 that the responsible solid waste generator, in those instances where a
3 solid waste collection system is not otherwise provided for by the
4 municipality and if he has not already done so, enter into a contract for
5 regular solid waste collection service with any person lawfully
6 providing private solid waste collection services within the
7 municipality; except that the ordinance may include an exemption from
8 this requirement in those instances where the responsible solid waste
9 generator is transporting the solid waste which is generated at his
10 residential premises directly to the solid waste facility utilized by the
11 municipality for disposal. It shall be the responsibility of the owner of
12 the multiple dwelling to provide a sufficient number of appropriate
13 solid waste containers for the deposit of nonrecyclable waste materials
14 to be disposed of as solid waste;

15 (3) In the case of any commercial or institutional building or
16 structure located within the boundaries of the municipality, a
17 requirement that the responsible solid waste generator, in those
18 instances where regular solid waste collection services are not
19 otherwise provided for, enter into a contract with any person lawfully
20 providing private solid waste collection services within the
21 municipality; and

22 (4) In the case of a responsible solid waste generator, within the
23 municipality, who is transporting the solid waste which is generated at
24 his residential premises directly to the solid waste facility utilized by
25 the municipality for disposal, a requirement that every such responsible
26 solid waste generator within the municipality furnish proof that the
27 responsible solid waste generator is transporting the solid waste which
28 is generated at his residential premises directly to the solid waste
29 facility utilized by the municipality for disposal to the governing body
30 of the municipality at least once every 12 months. In order to fulfill
31 the requirements of this subsection, the responsible solid waste
32 generator may include the proof of service with the municipal tax
33 payment mailed to the municipal tax collector.

34 Any proof of service ordinance may include provisions limiting
35 regular solid waste collection service to specified operating hours in
36 order to preserve the peace and quiet in neighborhoods during the
37 hours when most residents are asleep.

38 Any proof of service ordinance may include provisions limiting
39 recyclable material collection service to specified operating hours in
40 order to preserve the peace and quiet in neighborhoods during the
41 hours when most residents are asleep.

42 c. The governing body shall, within six months of the effective date
43 of a proof of service ordinance adopted pursuant to this section and at
44 least once every six months thereafter, notify all responsible solid
45 waste generators of the requirements of the ordinance. In order to
46 fulfill the notification requirements of this subsection, the governing

1 body of a municipality may, in its discretion, place an advertisement in
2 a newspaper circulating in the municipality, post a notice in public
3 places where public notices are customarily posted, include a notice
4 with other official notifications periodically mailed to taxpayers, or any
5 combination thereof, as the municipality deems necessary and
6 appropriate.

7 (cf: P.L.1991, c.170, s.1)

8

9 5. Section 2 of P.L.1991, c.170 (C.40:66-5.2) is amended to read
10 as follows:

11 2. a. The provisions of any other law, rule or regulation to the
12 contrary notwithstanding, the governing body of any municipality may
13 request that every solid waste collector engaging in private solid waste
14 collection services within the municipality who is registered pursuant
15 to sections 4 and 5 of P.L.1970, c.39 (C.13:1E-4 and 13:1E-5) and
16 holds a certificate of public convenience and necessity pursuant to
17 sections 7 and 10 of P.L.1970, c.40 (C.48:13A-6 and 48:13A-9)
18 provide all responsible solid waste generators with the opportunity to
19 contract for, on an individual basis, regular solid waste collection
20 services, if the responsible solid waste generator is required to do so
21 by a proof of service ordinance adopted pursuant to section 1 of
22 P.L.1991, c.170 (C.40:66-5.1).

23 b. The governing body of any municipality may request any solid
24 waste collector engaging in private solid waste collection services
25 within the municipality to assist the municipality in identifying those
26 responsible solid waste generators who fail to comply with the
27 provisions of section 1 of P.L.1991, c.170 (C.40:66-5.1).

28 c. Whenever the governing body adopts a proof of service
29 ordinance pursuant to section 1 of P.L.1991, c.170 (C.40:66-5.1), or
30 requests a solid waste collector to provide all responsible solid waste
31 generators with the opportunity to contract for regular solid waste
32 collection services pursuant to subsection a. of this section, the
33 governing body shall notify the **[Board of Public Utilities]** Department
34 of Environmental Protection of these actions by certified mail.

35 d. In the event that a solid waste collector refuses any request to
36 provide responsible solid waste generators with the opportunity to
37 contract for regular solid waste collection services pursuant to
38 subsection a. of this section, the governing body shall notify the
39 **[Board of Public Utilities]** department of this refusal by certified mail.

40 e. Whenever the governing body of a municipality adopts a proof
41 of service ordinance pursuant to section 1 of P.L.1991, c.170
42 (C.40:66-5.1), the governing body shall notify the owner or operator
43 of every solid waste facility utilized by the municipality of this action
44 by certified mail.

45 (cf: P.L.1991, c.170, s.2)

1 6. Section 1 of P.L.1975, c.243 (C.40:67-23.1) is amended to read
2 as follows:

3 1. a. The governing body of every municipality may make, amend,
4 repeal and enforce ordinances to cause the governing body of the
5 municipality to repair and maintain and provide for the removal of
6 snow, ice and other obstructions from, and provide for the lighting of,
7 any roads or streets upon which the travel is sufficient, in the opinion
8 of said governing body, to warrant such expenditures, even though
9 such roads or streets shall not have been taken over by said municipal
10 governing body or dedicated and accepted as public highways. The
11 municipality may also provide for the curbside collection of [garbage
12 placed at the curb of] solid waste along such streets, or for the
13 reimbursement of such [garbage] solid waste collection costs as the
14 municipality may determine to have been reasonably incurred by
15 persons residing adjacent to such streets. Roads or streets so serviced,
16 which are not shown on the official map of the municipality, may, at
17 the option of the governing body of said municipality, be suitably
18 improved in accordance with any requirements established pursuant to
19 article 5 of the "Municipal Land Use Law," P.L.1975, c.291, ss. 23-27
20 (C.40:55D-32 to C.40:55D-36) and the ordinance.

21 b. A municipal governing body that provides for the curbside
22 collection of solid waste pursuant to subsection a. of this section may
23 limit these services to specified operating hours in order to preserve
24 the peace and quiet in neighborhoods during the hours when most
25 residents are asleep.

26 c. A municipal governing body that provides for the collection of
27 designated recyclable materials pursuant to subsection b. of section 6
28 of P.L.1987, c.102 (C.13:1E-99.16) may limit these services to
29 specified operating hours in order to preserve the peace and quiet in
30 neighborhoods during the hours when most residents are asleep.

31 d. If, as a condition of providing services for any road or street
32 proposed to be serviced, the municipality notifies the owner that
33 dedication thereof to the municipality is required, the owner may
34 refuse to accept the services and benefits of the ordinance upon that
35 condition by so notifying the municipality within 60 days of receipt of
36 the notice. With respect to any road or street for which services are
37 provided, if the municipality notifies the owner that continuation of
38 provision of the services is conditioned upon the dedication thereof to
39 the municipality, the owner may refuse to accept continuance of the
40 services and benefits of the ordinance upon that condition by so
41 notifying the municipality within 60 days of receipt of the notice.
42 Notices to be given pursuant to this [act] section shall be in writing.
43 (cf: P.L.1983, c.12, s.1)

44

45 7. Section 3 of P.L.1987, c.102 (C.13:1E-99.13) is amended to
46 read as follows:

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

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

10 (1) Designation of a district recycling coordinator;

11 (2) Designation of the recyclable materials to be source separated
12 in each municipality which shall include, in addition to leaves, at least
13 three other recyclable materials separated from the municipal solid
14 waste stream;

15 (3) Designation of the strategy for the collection, marketing and
16 disposition of designated source separated recyclable materials in each
17 municipality;

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

22 (a) The recycling of at least 15% of the total municipal solid waste
23 stream by December 31, 1989;

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

26 (c) The recycling of at least 50% of the total municipal solid waste
27 stream, including yard waste and vegetative waste, by December 31,
28 1995; and

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

33 For the purposes of this subsection, "total municipal solid waste
34 stream" means the sum of the municipal solid waste stream disposed
35 of as solid waste, as measured in tons, plus the total number of tons of
36 recyclable materials recycled; and "total solid waste stream" means the
37 aggregate amount of solid waste generated within the boundaries of
38 any county from all sources of generation, including the municipal
39 solid waste stream.

40 c. Each district recycling plan, in designating a strategy for the
41 collection, marketing and disposition of designated recyclable
42 materials in each municipality, shall [accord priority consideration to
43 persons engaging in the business of recycling or otherwise lawfully
44 providing recycling services on behalf of a county or municipality on
45 January 1, 1986, if that person continues to provide recycling services
46 prior to the adoption of the plan and that person has not discontinued

1 these services for a period of 90 days or more between January 1,
2 1986, and the date on which the plan is adopted] authorize
3 municipalities that adopt a recycling ordinance pursuant to subsection
4 b. of section 6 of P.L.1987, c.102 (C.13:1E-99.16) to limit the
5 collection of designated recyclable materials to specified operating
6 hours in order to preserve the peace and quiet in neighborhoods during
7 the hours when most residents are asleep.

8 Each district recycling plan may be modified after adoption
9 pursuant to a procedure set forth in the adopted plan as approved by
10 the department.

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

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

17
18 8. Section 6 of P.L.1987, c.102 (C.13:1E-99.16) is amended to
19 read as follows:

20 6. Each municipality in this State shall[, within 30 days of the
21 effective date of this amendatory and supplementary act,] designate
22 one or more persons as the municipal recycling coordinator. Each
23 municipality shall establish and implement a municipal recycling
24 program in accordance with the following requirements [and
25 schedule]:

26 a. [Within six months of the adoption by the county and approval
27 by the department of the district recycling plan required pursuant to
28 section 3 of this amendatory and supplementary act, each] Each
29 municipality shall provide for a collection system for the recycling of
30 the recyclable materials designated in the district recycling plan as may
31 be necessary to achieve the designated recovery targets set forth in the
32 plan in those instances where a recycling collection system is not
33 otherwise provided for by the generator or by the county, interlocal
34 service agreement or joint service program, or other private or public
35 recycling program operator.

36 b. The governing body of each municipality shall[, if it has not
37 already done so, within 30 days of the effective date of any contracts
38 or agreements entered into by the county or other local government
39 unit to market one or more of the specific designated recyclable
40 materials as required pursuant to section 4 of this amendatory and
41 supplementary act,] adopt an ordinance which requires persons
42 generating municipal solid waste within its municipal boundaries to
43 source separate from the municipal solid waste stream, in addition to
44 leaves, the specified recyclable materials for which markets have been
45 secured and, unless recycling is otherwise provided for by the

1 generator, place these specified recyclable materials for collection in
2 the manner provided by the ordinance.

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

12 The revised master plan shall include provisions for the collection,
13 disposition and recycling of recyclable materials designated in the
14 municipal recycling ordinance adopted pursuant to subsection b. of
15 this section, and for the collection, disposition and recycling of
16 designated recyclable materials within any development proposal for
17 the construction of 50 or more units of single-family residential
18 housing or 25 or more units of multi-family residential housing and any
19 commercial or industrial development proposal for the utilization of
20 1,000 square feet or more of land.

21 d. The governing body of a municipality may exempt persons
22 occupying commercial and institutional premises within its municipal
23 boundaries from the source separation requirements of the ordinance
24 adopted pursuant to subsection b. of this section if those persons have
25 otherwise provided for the recycling of the recyclable materials
26 designated in the district recycling plan from solid waste generated at
27 those premises. To be eligible for an exemption pursuant to this
28 subsection, a commercial or institutional solid waste generator
29 annually shall provide written documentation to the municipality of the
30 total number of tons recycled.

31 e. The governing body of each municipality shall, [on or before
32 July 1, 1988 and] on or before July 1 of each year [thereafter], submit
33 a recycling tonnage report to the New Jersey Office of Recycling in
34 accordance with rules and regulations adopted by the department
35 therefor.

36 f. The governing body of each municipality shall, [within six
37 months of the effective date of the ordinance adopted pursuant to
38 subsection b. of this section and] at least once every six months
39 [thereafter], notify all persons occupying residential, commercial, and
40 institutional premises within its municipal boundaries of local recycling
41 opportunities, and the source separation requirements of the
42 ordinance. In order to fulfill the notification requirements of this
43 subsection, the governing body of a municipality may, in its discretion,
44 place an advertisement in a newspaper circulating in the municipality,
45 post a notice in public places where public notices are customarily
46 posted, include a notice with other official notifications periodically

1 mailed to residential taxpayers, or any combination thereof, as the
2 municipality deems necessary and appropriate.

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

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

9

10 ^{19.} (New section) a. The provisions of P.L.1970, c.40 (C.48:13A-
11 1 et seq.), P.L.1991, c.381 (C.48:13A-7.1 et seq.), P.L.1970, c.39
12 (C.13:1E-1 et seq.) or any other law, or any rules and regulations
13 adopted pursuant thereto to the contrary notwithstanding, a municipal
14 governing body that: (1) establishes a municipal contract system for
15 solid waste collection pursuant to R.S.40:66-4; (2) awards a contract
16 for the collection of municipal solid waste pursuant to the "Local
17 Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.); or (3)
18 adopts a proof of service ordinance pursuant to section 1 of P.L.1991,
19 c.170 (C.40:66-5.1), may adopt an ordinance limiting solid waste
20 collection service to specified operating hours in order to preserve the
21 peace and quiet in neighborhoods during the hours when most
22 residents are asleep.

23 b. Any solid waste collection uniform tariff for the provision of
24 residential solid waste collection service, which designates hours of
25 operations that are contrary to the operating hours specified in the
26 ordinance adopted pursuant to subsection a. of this section, shall be
27 superseded by the hours of operation indicated in the ordinance.

28 c. The Department of Environmental Protection, in any subsequent
29 revision to or readoption of the solid waste utility rules and regulations
30 pertaining to solid waste collection uniform tariffs under
31 N.J.A.C.7:26H-4.6, shall make whatever changes to these rules and
32 regulations as may be necessary to comply with the provisions of
33 P.L. , c. (pending in the Legislature as this bill) and this section.¹

34

35 ¹[9.] 10.¹ This act shall take effect immediately.

36

37

38

39

40 Authorizes municipalities to limit solid waste and recyclable material
41 collection activities to specified operating hours.

CHAPTER 92

AN ACT concerning municipal solid waste collection and the collection of recyclable materials, and amending parts of the statutory law.

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

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

Street cleaning; solid waste disposal; ordinances, rules, and regulations.

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

b. A municipal governing body that establishes a system for the collection or disposal of solid waste pursuant to subsection a. of this section, in its discretion, may limit service furnished by it to curbside collection along public streets or roads that have been dedicated to and accepted by the municipality. The municipal governing body may also refuse to enter upon private property to remove solid waste from dumpsters or other solid waste containers. The municipal governing body, in its sole discretion, may choose to reimburse those property owners who do not receive the municipal service, but such reimbursement shall not exceed the cost that would be incurred by the municipality in providing the collection or disposal service directly. Nothing contained in this subsection shall be deemed to modify the provisions of P.L.1989, c.299 (C.40:67-23.2 et seq.) with respect to qualified private communities.

c. A municipal governing body that establishes a system for the collection of solid waste pursuant to subsection a. of this section may limit the municipal service furnished by it to specified operating hours in order to preserve the peace and quiet in neighborhoods during the hours when most residents are asleep.

d. A municipal governing body that adopts a recycling ordinance pursuant to subsection b. of section 6 of P.L.1987, c.102 (C.13:1E-99.16) may limit the collection of designated recyclable materials to specified operating hours in order to preserve the peace and quiet in neighborhoods during the hours when most residents are asleep.

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

Contracts; bid specification, advertising, renegotiations.

40:66-4. a. The governing body may, if it deem it more advantageous, contract with any person for the cleaning of the streets, or the collection or disposal of solid waste. Before making any such contract or contracts the governing body shall first adopt specifications for the doing of the work in a sanitary and inoffensive manner. The specifications may include provisions limiting solid waste collection service and recyclable material collection service to specified operating hours in order to preserve the peace and quiet in neighborhoods during the hours when most residents are asleep.

Any specifications adopted by the governing body for the collection or disposal of solid waste shall conform to the uniform bid specifications for municipal solid waste collection contracts established pursuant to section 22 of P.L.1991, c.381 (C.48:13A-7.22). Any such contract or contracts, the total amount of which exceeds in the fiscal year the amount set forth in, or the amount calculated by the Governor pursuant to, section 3 of P.L.1971, c.198 (C.40A:11-3), shall be entered into and made only after bids shall have been advertised therefor, and awarded in the manner provided in the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.).

b. Whenever the governing body adopts an ordinance to provide for the collection or disposal of solid waste within its municipal boundaries by imposing solid waste charges based on the number of solid waste containers processed per household pursuant to subsection b. of

R.S.40:66-5, on or after the first day of the 13th month following the effective date of that ordinance, the governing body may request the relevant solid waste collector to whom a multi-year contract has been awarded to renegotiate the contract to reflect any reduction in the annual volume of solid waste collected achieved as a result of the ordinance.

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

Cost of solid waste collection, disposal; ordinance.

40:66-5. a. The governing body may provide for the collection or disposal of solid waste at the general expense, or if deemed by it more advisable, impose rates or charges (hereinafter referred to as "solid waste charges") to be charged by the municipality for the collection or disposal of solid waste, provide for the manner of payment of the same, and maintain an action at law to recover any moneys due therefor.

b. Whenever the governing body determines to provide for the collection or disposal of solid waste by imposing solid waste charges on a per container basis, the governing body shall adopt an ordinance to:

(1) Establish a rate schedule of solid waste charges based on the number of solid waste containers processed per household; and

(2) Provide residents with the opportunity to purchase, on a prepaid basis, one or more solid waste containers, or a voucher or sticker therefor, to facilitate the payment of solid waste charges on a per container basis.

c. Whenever the governing body adopts an ordinance pursuant to subsection b. of this section, the ordinance may include provisions limiting solid waste collection service to specified operating hours in order to preserve the peace and quiet in neighborhoods during the hours when most residents are asleep.

d. Whenever the governing body adopts an ordinance pursuant to subsection b. of section 6 of P.L.1987, c.102 (C.13:1E-99.16), the ordinance may include provisions limiting recyclable material collection service to specified operating hours in order to preserve the peace and quiet in neighborhoods during the hours when most residents are asleep.

4. Section 1 of P.L.1991, c.170 (C.40:66-5.1) is amended to read as follows:

C.40:66-5.1 Municipality to adopt proof of service ordinance for solid waste generators.

1. a. The governing body of any municipality wherein solid waste collection services are contracted for and provided, wholly or in part, on an individual, private contract basis shall adopt a proof of service ordinance which requires all responsible solid waste generators to contract or otherwise lawfully provide for the collection of solid waste generated at those premises in the manner provided by the ordinance.

b. Each proof of service ordinance required pursuant to this section shall include:

(1) In the case of single-family residential housing, a requirement that each responsible solid waste generator, in those instances where a solid waste collection system is not otherwise provided for by the municipality and if he has not already done so, enter into a contract for regular solid waste collection service with any person lawfully providing private solid waste collection services within the municipality; except that the ordinance may include an exemption from this requirement in those instances where the responsible solid waste generator is transporting the solid waste which is generated at his residential premises directly to the solid waste facility utilized by the municipality for disposal;

(2) In the case of multi-family residential housing, a requirement that the responsible solid waste generator, in those instances where a solid waste collection system is not otherwise provided for by the municipality and if he has not already done so, enter into a contract for regular solid waste collection service with any person lawfully providing private solid waste collection services within the municipality; except that the ordinance may include an exemption from this requirement in those instances where the responsible solid waste generator is transporting the solid waste which is generated at his residential premises directly to the solid waste facility utilized by the municipality for disposal. It shall be the responsibility of the owner

of the multiple dwelling to provide a sufficient number of appropriate solid waste containers for the deposit of nonrecyclable waste materials to be disposed of as solid waste;

(3) In the case of any commercial or institutional building or structure located within the boundaries of the municipality, a requirement that the responsible solid waste generator, in those instances where regular solid waste collection services are not otherwise provided for, enter into a contract with any person lawfully providing private solid waste collection services within the municipality; and

(4) In the case of a responsible solid waste generator, within the municipality, who is transporting the solid waste which is generated at his residential premises directly to the solid waste facility utilized by the municipality for disposal, a requirement that every such responsible solid waste generator within the municipality furnish proof that the responsible solid waste generator is transporting the solid waste which is generated at his residential premises directly to the solid waste facility utilized by the municipality for disposal to the governing body of the municipality at least once every 12 months. In order to fulfill the requirements of this subsection, the responsible solid waste generator may include the proof of service with the municipal tax payment mailed to the municipal tax collector.

Any proof of service ordinance may include provisions limiting regular solid waste collection service to specified operating hours in order to preserve the peace and quiet in neighborhoods during the hours when most residents are asleep.

Any proof of service ordinance may include provisions limiting recyclable material collection service to specified operating hours in order to preserve the peace and quiet in neighborhoods during the hours when most residents are asleep.

c. The governing body shall, within six months of the effective date of a proof of service ordinance adopted pursuant to this section and at least once every six months thereafter, notify all responsible solid waste generators of the requirements of the ordinance. In order to fulfill the notification requirements of this subsection, the governing body of a municipality may, in its discretion, place an advertisement in a newspaper circulating in the municipality, post a notice in public places where public notices are customarily posted, include a notice with other official notifications periodically mailed to taxpayers, or any combination thereof, as the municipality deems necessary and appropriate.

5. Section 2 of P.L.1991, c.170 (C.40:66-5.2) is amended to read as follows:

C.40:66-5.2 Solid waste generators provided opportunity to contract for collection services.

2. a. The provisions of any other law, rule or regulation to the contrary notwithstanding, the governing body of any municipality may request that every solid waste collector engaging in private solid waste collection services within the municipality who is registered pursuant to sections 4 and 5 of P.L.1970, c.39 (C.13:1E-4 and 13:1E-5) and holds a certificate of public convenience and necessity pursuant to sections 7 and 10 of P.L.1970, c.40 (C.48:13A-6 and 48:13A-9) provide all responsible solid waste generators with the opportunity to contract for, on an individual basis, regular solid waste collection services, if the responsible solid waste generator is required to do so by a proof of service ordinance adopted pursuant to section 1 of P.L.1991, c.170 (C.40:66-5.1).

b. The governing body of any municipality may request any solid waste collector engaging in private solid waste collection services within the municipality to assist the municipality in identifying those responsible solid waste generators who fail to comply with the provisions of section 1 of P.L.1991, c.170 (C.40:66-5.1).

c. Whenever the governing body adopts a proof of service ordinance pursuant to section 1 of P.L.1991, c.170 (C.40:66-5.1), or requests a solid waste collector to provide all responsible solid waste generators with the opportunity to contract for regular solid waste collection services pursuant to subsection a. of this section, the governing body shall notify the Department of Environmental Protection of these actions by certified mail.

d. In the event that a solid waste collector refuses any request to provide responsible solid waste generators with the opportunity to contract for regular solid waste collection services pursuant to subsection a. of this section, the governing body shall notify the department of this

refusal by certified mail.

e. Whenever the governing body of a municipality adopts a proof of service ordinance pursuant to section 1 of P.L.1991, c.170 (C.40:66-5.1), the governing body shall notify the owner or operator of every solid waste facility utilized by the municipality of this action by certified mail.

6. Section 1 of P.L.1975, c.243 (C.40:67-23.1) is amended to read as follows:

C.40:67-23.1 Road, street services.

1. a. The governing body of every municipality may make, amend, repeal and enforce ordinances to cause the governing body of the municipality to repair and maintain and provide for the removal of snow, ice and other obstructions from, and provide for the lighting of, any roads or streets upon which the travel is sufficient, in the opinion of said governing body, to warrant such expenditures, even though such roads or streets shall not have been taken over by said municipal governing body or dedicated and accepted as public highways. The municipality may also provide for the curbside collection of solid waste along such streets, or for the reimbursement of such solid waste collection costs as the municipality may determine to have been reasonably incurred by persons residing adjacent to such streets. Roads or streets so serviced, which are not shown on the official map of the municipality, may, at the option of the governing body of said municipality, be suitably improved in accordance with any requirements established pursuant to article 5 of the "Municipal Land Use Law," P.L.1975, c.291, ss. 23-27 (C.40:55D-32 to C.40:55D-36) and the ordinance.

b. A municipal governing body that provides for the curbside collection of solid waste pursuant to subsection a. of this section may limit these services to specified operating hours in order to preserve the peace and quiet in neighborhoods during the hours when most residents are asleep.

c. A municipal governing body that provides for the collection of designated recyclable materials pursuant to subsection b. of section 6 of P.L.1987, c.102 (C.13:1E-99.16) may limit these services to specified operating hours in order to preserve the peace and quiet in neighborhoods during the hours when most residents are asleep.

d. If, as a condition of providing services for any road or street proposed to be serviced, the municipality notifies the owner that dedication thereof to the municipality is required, the owner may refuse to accept the services and benefits of the ordinance upon that condition by so notifying the municipality within 60 days of receipt of the notice. With respect to any road or street for which services are provided, if the municipality notifies the owner that continuation of provision of the services is conditioned upon the dedication thereof to the municipality, the owner may refuse to accept continuance of the services and benefits of the ordinance upon that condition by so notifying the municipality within 60 days of receipt of the notice. Notices to be given pursuant to this section shall be in writing.

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

C.13:1E-99.13 District recycling plan.

3. a. Each county shall prepare and adopt a district recycling plan to implement the State Recycling Plan goals. Each district recycling plan shall be adopted as an amendment to the district solid waste management plan required pursuant to the provisions of the "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.) and subject to the approval of the department.

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

- (1) Designation of a district recycling coordinator;
- (2) Designation of the recyclable materials to be source separated in each municipality which shall include, in addition to leaves, at least three other recyclable materials separated from the municipal solid waste stream;
- (3) Designation of the strategy for the collection, marketing and disposition of designated

source separated recyclable materials in each municipality;

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

(a) The recycling of at least 15% of the total municipal solid waste stream by December 31, 1989;

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

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

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

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

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

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

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

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

C.13:1E-99.16 Municipal recycling program.

6. Each municipality in this State shall designate one or more persons as the municipal recycling coordinator. Each municipality shall establish and implement a municipal recycling program in accordance with the following requirements:

a. Each municipality shall provide for a collection system for the recycling of the recyclable materials designated in the district recycling plan as may be necessary to achieve the designated recovery targets set forth in the plan in those instances where a recycling collection system is not otherwise provided for by the generator or by the county, interlocal service agreement or joint service program, or other private or public recycling program operator.

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

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

The revised master plan shall include provisions for the collection, disposition and recycling of recyclable materials designated in the municipal recycling ordinance adopted pursuant to subsection b. of this section, and for the collection, disposition and recycling of designated

recyclable materials within any development proposal for the construction of 50 or more units of single-family residential housing or 25 or more units of multi-family residential housing and any commercial or industrial development proposal for the utilization of 1,000 square feet or more of land.

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

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

f. The governing body of each municipality shall, at least once every six months, notify all persons occupying residential, commercial, and institutional premises within its municipal boundaries of local recycling opportunities, and the source separation requirements of the ordinance. In order to fulfill the notification requirements of this subsection, the governing body of a municipality may, in its discretion, place an advertisement in a newspaper circulating in the municipality, post a notice in public places where public notices are customarily posted, include a notice with other official notifications periodically mailed to residential taxpayers, or any combination thereof, as the municipality deems necessary and appropriate.

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

C.40:66-1.6 Limits on solid waste collection; operating hours.

9. a. The provisions of P.L.1970, c.40 (C.48:13A-1 et seq.), P.L.1991, c.381 (C.48:13A-7.1 et seq.), P.L.1970, c.39 (C.13:1E-1 et seq.) or any other law, or any rules and regulations adopted pursuant thereto to the contrary notwithstanding, a municipal governing body that: (1) establishes a municipal contract system for solid waste collection pursuant to R.S.40:66-4; (2) awards a contract for the collection of municipal solid waste pursuant to the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.); or (3) adopts a proof of service ordinance pursuant to section 1 of P.L.1991, c.170 (C.40:66-5.1), may adopt an ordinance limiting solid waste collection service to specified operating hours in order to preserve the peace and quiet in neighborhoods during the hours when most residents are asleep.

b. Any solid waste collection uniform tariff for the provision of residential solid waste collection service, which designates hours of operation that are contrary to the operating hours specified in the ordinance adopted pursuant to subsection a. of this section, shall be superseded by the hours of operation indicated in the ordinance.

c. The Department of Environmental Protection, in any subsequent revision to or readoption of the solid waste utility rules and regulations pertaining to solid waste collection uniform tariffs under N.J.A.C.7:26H-4.6, shall make whatever changes to these rules and regulations as may be necessary to comply with the provisions of P.L.2001, c.92 and this section.

10. This act shall take effect immediately.

Approved May 10, 2001.