

LEGISLATIVE HISTORY CHECKLIST

NJSA: 13:1E-95 and 13:1E-96 (Recycling--amend grant requirements and establish an incentive program)

LAWS OF: 1985 **CHAPTER:** 346

BILL NO: A3081

Sponsor(s): Marsella and Riley

Date Introduced: January 3, 1985

Committee: Assembly: Energy and Natural Resources
Senate: -----

Amended during passage: Yes Substituted for S2604 (not attached since identical to A3081). Amendments during passage denoted by asterisks.

Date of Passage: **Assembly:** September 9, 1985
Senate: September 9, 1985

Date of Approval: October 31, 1985

Following statements are attached if available:

Sponsor statement: Yes Attached: Assembly amendments, adopted 6-17-85 (with statement)

Committee statement: **Assembly** Yes
Senate No

Fiscal Note: No

Veto Message: No

Message on Signing: No

Following were printed:

Reports: Yes

Hearings: No

Report, referred to in committee statement:

974.90 New Jersey. Office of Recycling.
P777 Recycling in the 1980's:
1984 progress report and program recommendations.
1984/11 October, 1984. Trenton, 1984.
(see especially pp. 33-38)

346 86
10-31-85
[SECOND OFFICIAL COPY REPRINT]

ASSEMBLY, No. 3081

STATE OF NEW JERSEY

INTRODUCED JANUARY 3, 1985

By Assemblymen MARSELLA and RILEY

AN ACT concerning recycling grants to municipalities ***and the recycling tax on sanitary landfill facilities***, and amending P. L. 1981, c. 278.

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

1 1. Section 5 of P. L. 1981, c. 278 (C. 13:1E-96) is amended to
2 read as follows:

3 5. a. The State Recycling Fund (hereinafter referred to as the
4 "fund") is established as a nonlapsing, revolving fund. The fund
5 shall be administered jointly by the Department of Energy and the
6 Department of Environmental Protection, and shall be credited
7 with all tax revenue collected by the division pursuant to section 4
8 of this supplementary act. Interest received on moneys in the fund
9 and sums received as repayment of principal and interest on out-
10 standing loans made from the fund shall be credited to the fund.
11 The Department of Energy and the Department of Environmental
12 Protection, in their administration of the fund, are authorized to
13 assign to the New Jersey Economic Development Authority the
14 responsibility for making credit evaluations of applicants for loans,
15 for servicing loans on behalf of the two departments, and, the pro-
16 visions of any other law to the contrary notwithstanding, for making
17 recommendations as to the approval or denial of loans pursuant
18 to this section. The departments are further authorized to pay or
19 reimburse the authority in the amounts as the departments jointly
20 agree are appropriate for all services rendered by the authority in
21 connection with any assignment of responsibility under the terms

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

Matter printed in italics thus is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

***—Assembly committee amendment adopted January 24, 1985**

****—Assembly amendments adopted June 17, 1985.**

22 of this section out of moneys held in the fund for loans and the loan
23 guarantee program.

24 b. Moneys in the fund shall be allocated and used for the follow-
25 ing purposes and no others:

26 (1) Not less than 45% of the estimated annual balance of the
27 fund shall be used for the annual expenses of a five-year program
28 for recycling grants to municipalities. The amount of these grants
29 shall be calculated~~],~~ for the purposes of the first grant to a particu-
30 lar municipality,~~]~~ on the basis of the total number of tons of ma-
31 terials annually recycled from residential and commercial sources
32 within that municipality~~].~~ Thereafter, subsequent grants to a muni-
33 cipality shall be calculated on the basis of the increase in the total
34 number of tons of such materials from the total in the preceding
35 year~~],~~ except that no such grant shall exceed \$25.00 per ton of
36 materials recycled. ~~]~~For the purpose of calculating subsequent
37 annual grants to municipalities pursuant to this subsection, not
38 less than 15% of the estimated annual balance of the fund shall be
39 allocated on the basis of the total number of tons of wastepaper
40 recycled in the preceding year, not less than 15% of the estimated
41 annual balance of the fund shall be allocated on the basis of the
42 total number of tons of glass recycled in the preceding year, and
43 not less than 15% of the estimated annual balance of the fund shall
44 be allocated on the basis of the total number of tons of other ma-
45 terials recycled in the preceding year.~~]~~ *The departments may allo-*
46 *cate a portion of these grant moneys as bonus grants to munici-*
47 *palities that demonstrate high recovery rates in their recycling*
48 *programs. The departments shall *~~]~~adopt, pursuant to the*
49 *“Administrative Procedure Act,” P. L. 1968, c. 410 (C. 52:14B-1*
50 *et seq.)~~],~~* *issue guidelines establishing* a formula defining a high*
51 *recovery rate and shall announce each year the total amount of*
51A *moneys available in the bonus grant fund.*

52 To be eligible for a grant pursuant to this subsection, a munici-
53 pality shall demonstrate that the materials recycled by the munici-
54 pal recycling program were not diverted from a commercial re-
55 cycling program already in existence on the effective date of the
56 ordinance establishing the municipal recycling program.

57 To be eligible for a subsequent annual grant pursuant to this sub-
58 section, a municipality shall demonstrate that at least two types of
59 materials are currently recycled, or will be recycled in the succeed-
60 ing grant year by the municipal recycling program. No recycling
61 grant to any municipality shall be used for constructing or operat-
62 ing any facility for the baling of wastewaper or for the shearing,
63 baling or shredding of ferrous or nonferrous materials;

64 (2) Not less than 20% of the estimated annual balance of the
65 fund shall be used to provide low interest loans and to establish a
66 sufficient reserve for a loan guarantee program for recycling busi-
67 nesses and industries;

68 (3) Not more than 10% of the estimated annual balance of the
69 fund shall be used for State recycling program planning and pro-
70 gram funding, including the administrative expenses thereof;

71 (4) Not more than 10% of the estimated annual balance of the
72 fund shall be used for county and municipal recycling program
73 planning and program funding, including the administrative ex-
74 penses thereof; and

75 (5) Not less than 15% of the estimated annual balance of the
76 fund shall be used for a public information and education program
77 concerning recycling and anti-litter activities.

1 **2. Section 4 of P. L. 1981, c. 278 (C. 13:1E-95) is amended to
2 read as follows:

3 4. a. There is levied upon the owner or operator of every sanitary
4 landfill facility a recycling tax of \$0.12 per cubic yard of all solid
5 waste accepted for disposal at the facility on or after January 1,
6 1982¹, except that any solid waste accepted for disposal on or after
7 January 1, 1986 shall be taxed at the rate of \$0.06 per cubic yard².
8 In the event that any solid waste is measured upon acceptance for
9 disposal by other than cubic yards, the tax shall be levied on the
10 equivalents thereof as shall be determined by the director.

11 b. (1) Every owner or operator of a sanitary landfill facility
12 shall, on or before the twentieth day of the month following the
13 close of each tax period, render a return under oath to the director
14 on such form as may be prescribed by the director indicating the
15 number of cubic yards of solid waste accepted for disposal and at
16 said time owner or operator shall pay the full amount of tax due.

17 (2) Every owner or operator of a sanitary landfill which accepts
18 solid waste for disposal and which is subject to the tax under sub-
19 section a. of this section shall, within 20 days after the first accep-
20 tance of this waste, register with the director on forms prescribed
21 by him.

22 c. If a return required by this act is not filed, or if a return
23 when filed is incorrect or insufficient in the opinion of the director,
24 the amount of tax due shall be determined by the director from
25 such information as may be available. Notice of such determina-
26 tion shall be given to the taxpayer liable for the payment of the
27 tax. Such determination shall finally and irrevocably fix the tax
28 unless the person against whom it is assessed, within 30 days after

29 receiving notice of such determination, shall apply to the director
 30 for a hearing, or unless the director on his own motion shall re-
 31 determine the same. After such hearing the director shall give
 32 notice of his determination to the person to whom the tax is assessed.

33 d. Any taxpayer who shall fail to file his return when due or to
 34 pay any tax when the same becomes due, as herein provided, shall
 35 be subject to such penalties and interest as provided in the "State
 36 Tax Uniform Procedure Law," Subtitle 9 of Title 54 of the Revised
 37 Statutes. If the Division of Taxation determines that the failure
 38 to comply with any provision of this section was excusable under
 39 the circumstances, it may remit such part or all of the penalty as
 40 shall be appropriate under such circumstances.

41 e. (1) Any person failing to file a return, failing to pay the tax,
 42 or filing or causing to be filed, or making or causing to be made, or
 43 giving or causing to be given any return, certificate, affidavit, rep-
 44 resentation, information, testimony, or statement required or
 45 authorized by this act, or rules or regulations adopted hereunder
 46 which is willfully false, or failing to keep any records required by
 47 this act or rules and regulations adopted hereunder, shall, in addi-
 48 tion to any other penalties herein or elsewhere prescribed, be guilty
 49 of a crime of the fourth degree.

50 (2) The certificate of the director to the effect that a tax has
 51 not been paid, that a return has not been filed, that information has
 52 not been supplied or that inaccurate information has been supplied
 53 pursuant to the provisions of this act or rules or regulations
 54 adopted hereunder shall be presumptive evidence thereof.

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

57 (1) To delegate to any officer or employee of his division such of
 58 his powers and duties as he may deem necessary to carry out
 59 efficiently the provisions of this section, and the person or persons
 60 to whom such power has been delegated shall possess and may
 61 exercise all of said powers and perform all of the duties delegated
 62 by the director;

63 (2) To prescribe and distribute all necessary forms for the imple-
 64 mentation of this section.

65 g. The tax imposed by this section shall be governed in all re-
 66 spects by the provisions of the "State Tax Uniform Procedure Law,"
 67 Subtitle 9 of Title 54 of the Revised Statutes, except only to the
 68 extent that a specific provision of this section may be in conflict
 69 therewith.**

1 **[2.]** **3.** This act shall take effect immediately **and
 2 shall be retroactive to January 1, 1985**.

68 (3) Not more than 10% of the estimated annual balance of the
69 fund shall be used for State recycling program planning and pro-
70 gram funding, including the administrative expenses thereof;

71 (4) Not more than 10% of the estimated annual balance of the
72 fund shall be used for county and municipal recycling program
73 planning and program funding, including the administrative ex-
74 penses thereof; and

75 (5) Not less than 15% of the estimated annual balance of the
76 fund shall be used for a public information and education program
77 concerning recycling and anti-litter activities.

1 2. This act shall take effect immediately.

STATEMENT

This bill would eliminate certain requirements which have to be met by municipalities seeking subsequent annual recycling grants under the "Recycling Act," P. L. 1981, c. 278 (C. 13:1E-92 et seq.), and would provide an incentive program of bonus grants to those municipalities whose recycling programs have a high rate of recovery. The bill does not propose a change in the purpose or intent of the original "Recycling Act." It is instead an amendment to more effectively administer the tonnage grant program and to achieve in a more positive way the original intent of that program. The purpose of the program was to provide a data base for recycling, to reward municipalities for their recycling efforts and to encourage municipalities to increase recycling. The present wording of this law is a disincentive to those municipalities which are achieving high recovery rates. It also creates inequities in the distribution of funds between categories of recycled materials.

ASSEMBLY ENERGY AND NATURAL RESOURCES
COMMITTEE

STATEMENT TO
ASSEMBLY, No. 3081
with Assembly committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 17, 1985

This bill would eliminate certain requirements which municipalities must meet to be eligible for subsequent annual recycling grants under the "Recycling Act," P. L. 1981, c. 278 (C. 13:1E-92 et seq.), and would provide an incentive program of bonus grants to those municipalities whose recycling programs have a high rate of recovery.

At present, in order to qualify for an initial tonnage grant award, a municipality must document the amount of materials recycled from all residential and commercial sources located within its political boundaries. After the initial grant award, subsequent grants will be based on increases in tonnage that a municipality recycles. A municipality must also recycle at least two separate materials and minimum amounts of materials in three categories to be eligible for future funding after the first year it applies for the recycling grant.

In practice, however, these requirements have created an unintended disincentive to those municipalities which are achieving high recovery rates. Moreover, the requirements have also created inequities in the distribution of funds between categories of recyclables, since certain materials are more readily recyclable than others. The municipalities with established recycling programs must also recycle minimum amounts of wastepaper, glass and other materials in addition to recycling two separate materials and increasing tonnages recycled over the base year. This bill would remove these restrictions so that municipalities would receive tonnage grants for total tonnage recycled.

The bill does not propose a change in the purpose or intent of the existing voluntary State Recycling Plan. Rather, the bill would amend the "Recycling Act" to more effectively administer the tonnage grant program and to achieve in a more equitable manner the intent of that program. The purpose of the program was to provide a data base for recycling, to reward municipalities with successful recycling programs, and to encourage municipalities to increase recycling. The bill is based on a recommendation submitted by the New Jersey Office of Recycling in its October 1984 report, *Recycling in the 1980's*.

The committee amended the bill to make a technical change and reported the bill favorably.

6-11

Assembly Amendments

Proposed by Assemblyman Marsella
to

Assembly Bill No. 3081 OCR

Sponsored by Assemblyman Marsella

Amend:

Page	Sec.	Line
3	2	1

Omit "2.", insert "3."; after "immediately" insert "and shall be retroactive to January 1, 1985"

STATEMENT

These amendments would 1) provide that the recycling tax on solid waste, imposed at the rate of 12¢ per cubic yard, would be extended indefinitely, and, 2) that the changes made in the tonnage grant formulas in section 1 of the bill would be retroactive to January 1, 1985.