

13:1E-9, 13:1E-9.1

LEGISLATIVE HISTORY CHECKLIST

NJSA 13:1E-9, 13:1E-9.1, 40A:4-45.10 (Sanitary Landfill facility--user fees)

LAWS 1981 CHAPTER 438

Bill No. A1688

Sponsor(s) Saxton

Date Introduced May 5

Committee: Assembly Agriculture & Environment

Senate Energy & Environment

Amended during passage Yes ~~NO~~ Amendments during passage denoted by asterisks

Date of Passage: Assembly Dec. 8, 1980

Senate Dec. 3, 1981

Date of approval Jan. 9, 1982

Following statements are attached if available:

Sponsor statement Yes No

Committee Statement: Assembly Yes No

Senate Yes No

Fiscal Note Yes No

Veto Message Yes No

Message on signing Yes No

Following were printed:

Reports Yes No

Hearings Yes No

Bill, mentioned in statements:
A280, (bill, Assembly statement and veto)--attached

Fees, as mentioned in § 1 of act:
NJAC 7:26-4.10, R.1983, d.50, 15 NJR 330 (d),
proposed at 14 NJR 1328(a)

6/22/81

LEGISLATIVE HISTORY
13:1E-9, 13:1E-9.1
1981
CHAPTER 438
SECTION 1

CHAPTER 438 LAWS OF N. J. 1981
APPROVED 1-9-82

[SECOND OFFICIAL COPY REPRINT]

ASSEMBLY, No. 1688

STATE OF NEW JERSEY

INTRODUCED MAY 5, 1980

By Assemblymen SAXTON, SNEDEKER and MARKERT

Referred to Committee on Agriculture and Environment

AN ACT to amend ***and supplement*** the "Solid Waste Management Act" approved May 6, 1970 (P. L. 1970, c. 39, C. 13:1E-1 et seq.).

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

1 1. Section 9 of P. L. 1970, c. 39 (C. 13:1E-9) is amended to read
2 as follows:

3 9. a. All codes, rules and regulations adopted by the department
4 related to solid waste collection and disposal shall have the force
5 and effect of law. Such codes, rules and regulations shall be ob-
6 served throughout the State and shall be enforced by the depart-
7 ment and *by every local board of health, or county health depart-*
8 *ment, as the case may be.*

9 *Any county health department may charge and collect from the*
10 *owner or operator of any ***[solid waste]*** **[sanitary landfill]** facility*
11 *within its jurisdiction such fees for enforcement activities as may*
12 *be established by ordinance or resolution adopted by the governing*
13 *body of any such county. Such fees shall be established in accord-*
14 *ance with a fee schedule regulation to be adopted by the depart-*
15 *ment, pursuant to law, within 60 days of the effective date of this*
15A *amendatory act *and shall be utilized exclusively to fund such*
15B *enforcement activities*.*

16 *All enforcement activities undertaken by county health depart-*
17 *ments pursuant to this subsection shall conform to all applicable*
18 *performance and administrative standards adopted pursuant to*
19 *section 10 of the "County Environmental Health Act," P. L. 1977,*
20 *c. 443 (C. 26:3A2-28).*

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

21 b. The commissioner may institute an action or proceeding in the
22 Superior Court for injunctive and other relief, including the ap-
23 pointment of a receiver for any solid waste collection or disposal
24 facility or operation, which is established or operated in violation of
25 this act, or of any code, rule or regulation promulgated pursuant to
26 this act and said court may proceed in the action in a summary
27 manner. In any such proceeding the court may grant temporary or
28 interlocutory relief notwithstanding the provisions of R. S. 48:2-24.

29 Such relief may include, singly or in combination:

30 (1) A temporary or permanent injunction;

31 (2) Assessment of the violator for the costs of any investigation,
32 inspection, or monitoring survey which led to the establishment of
33 the violation, and for the reasonable costs of preparing and liti-
34 gating the case under this subsection;

35 (3) Assessment of the violator for any cost incurred by the State
36 in removing, correcting or terminating the adverse effects upon
37 water and air quality resulting from any violation of any provision
38 of this act or any rule, regulation or condition of approval for
39 which the action under this subsection may have been brought;

40 (4) Assessment against the violator of compensatory damages
41 for any loss or destruction of wildlife, fish or aquatic life, and for
42 any other actual damages caused by any violation of this act or any
43 rules, regulations or condition of approval established pursuant
44 to this act for which the action under this subsection may have
45 been brought. Assessments under this subsection shall be paid to
46 the State Treasurer, or to the local board of health, *or to the county*
47 *health department*, as the case may be, except that compensatory
48 damages may be paid by specific order of the court to any persons
49 who have been aggrieved by the violation.

50 c. Any person who violates the provisions of this act or any code,
51 rule or regulation promulgated pursuant to this act shall be liable
52 to a penalty of not more than \$25,000.00 per day to be collected in
53 a civil action commenced by a local board of health, *a county health*
54 *department*, or the commissioner by a summary proceeding under
55 The Penalty Enforcement Law (N. J. S. 2A:58-1 et seq.) in the
56 Superior Court, county district court, or a municipal court, all of
57 which shall have jurisdiction to enforce said Penalty Enforcement
58 Law in connection with this act. If the violation is of a continuing
59 nature, each day during which it continues after the date given by
60 which the violation must be eliminated in accordance with the order
61 of the department shall constitute an additional, separate and
62 distinct offense.

63 d. The department is hereby authorized and empowered to com-
64 promise and settle any claim for a penalty under this section in such
65 amount in the discretion of the department as may appear appro-
66 priate and equitable under all of the circumstances, including a
67 rebate of any such penalty paid up to 90% thereof where such
68 person satisfies the department within 1 year or such other period
69 as the department may deem reasonable that such violation has
70 been eliminated or removed or that such order or injunction has
71 been met or satisfied, as the case may be.

72 e. Any person who knowingly:

73 (1) Transports any hazardous waste to a facility which does not
74 have authorization from the department to accept such waste,

75 (2) Disposes, treats or stores hazardous waste without autho-
76 rization from the department,

77 (3) Makes any false statement on any hazardous waste applica-
78 tion, label, manifest, record, report, design or other document
79 required to be submitted to the department shall, upon conviction,
80 be guilty of a crime of the third degree and, notwithstanding the
81 provisions of N. J. S. 2C:43-3, shall be subject to a fine of not more
82 than \$25,000.00 for the first offense and not more than \$50,000.00
83 for the second and each subsequent offense, in addition to any other
84 appropriate disposition authorized by subsection b. of N. J. S.
85 2C:43-2.

86 f. Any person who recklessly:

87 (1) Transports any hazardous waste to a facility which does
88 not have authorization from the department to accept such waste,

89 (2) Disposes, treats or stores hazardous waste without autho-
90 rization from the department,

91 (3) Makes any false statement on any hazardous waste applica-
92 tion, label, manifest, record, report, design or other document
93 required to be submitted to the department, shall, upon conviction,
94 be guilty of a crime of the fourth degree.

1 ***2. (New section) a. The provisions of any law to the contrary*
2 *notwithstanding, the owner or operator of any sanitary landfill*
3 *facility may collect any fee imposed pursuant to section 9 of P. L.*
4 *1970, c. 39 (C. 13:1E-9) as a surcharge on any tariff established*
5 *pursuant to law for the solid waste disposal operations of the*
6 *facility.*

7 *b. The Board of Public Utilities shall issue an appropriate order*
8 *increasing current tariffs established pursuant to law for solid*
9 *waste collection operations by an amount equal to the total in-*
10 *crease in the relevant solid waste disposal tariff pursuant to sub-*
11 *section a. of this section. In issuing this order, the board shall not*

12 *be bound to find a rate base under section 31 of P. L. 1962, c. 198*
13 *(C. 48:2-21.2).*

1 *3. (New section) Any additional expenditures for the collection*
2 *or disposal of solid waste made by any county or municipality as a*
3 *result of any fee imposed pursuant to section 9 of P. L. 1970, c. 39*
4 *(C. 13:1E-9) shall, for the purposes of P. L. 1976, c. 68 (C.*
5 *40A:4-45.1 et seq.), be considered an expenditure mandated by*
6 *State law.***

1 ****[2.]** **4.**** This act shall take effect immediately.

72 e. Any person who knowingly:

73 (1) Transports any hazardous waste to a facility which does not
74 have authorization from the department to accept such waste,

75 (2) Disposes, treats or stores hazardous waste without autho-
76 rization from the department,

77 (3) Makes any false statement on any hazardous waste applica-
78 tion, label, manifest, record, report, design or other document
79 required to be submitted to the department shall, upon conviction,
80 be guilty of a crime of the third degree and, notwithstanding the
81 provisions of N. J. S. 2C:43-3, shall be subject to a fine of not more
82 than \$25,000.00 for the first offense and not more than \$50,000.00
83 for the second and each subsequent offense, in addition to any other
84 appropriate disposition authorized by subsection b. of N. J. S.
85 2C:43-2.

86 f. Any person who recklessly:

87 (1) Transports any hazardous waste to a facility which does
88 not have authorization from the department to accept such waste,

89 (2) Disposes, treats or stores hazardous waste without autho-
90 rization from the department,

91 (3) Makes any false statement on any hazardous waste applica-
92 tion, label, manifest, record, report, design or other document
93 required to be submitted to the department, shall, upon conviction,
94 be guilty of a crime of the fourth degree.

1 2. This act shall take effect immediately.

STATEMENT

This bill would authorize every county health department to charge and collect from the owner of any solid waste facility within its jurisdiction reasonable fees to cover the costs of enforcing rules and regulations pertaining to the collection and disposal of solid waste.

Legislation to authorize local fees for solid waste enforcement activities was approved by both Houses in the 1978-1979 Session but pocket-vetoed by Governor Byrne on February 15, 1980. Accordingly, this bill has been drafted to conform with the suggestions which the Governor made in his veto statement to that legislation (A-280 OCR of 1978), i.e.—all fees would be established in accordance with a fee schedule regulation to be adopted by the Department of Environmental Protection, and all county solid waste enforcement activities would conform to all applicable standards adopted by that department pursuant to the "County Environmental Health Act" (P. L. 1977, c. 443).

A1688 (1981)

ASSEMBLY AGRICULTURE AND ENVIRONMENT
COMMITTEE

STATEMENT TO
ASSEMBLY, No. 1688

STATE OF NEW JERSEY

DATED: NOVEMBER 10, 1980

This bill, as amended by the committee, authorizes county health departments to collect fees from sanitary landfill facilities within their jurisdiction to be utilized exclusively to enforce rules and regulations governing collection and disposal of solid waste.

This bill is a modified version of a bill approved by both Houses during the 1978-79 legislation session but vetoed by the Governor. This bill embodies the suggestions made by the Governor in his veto statement to that legislation.

SENATE ENERGY AND ENVIRONMENT COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1688

[OFFICIAL COPY REPRINT]

with Senate committee amendments

STATE OF NEW JERSEY

DATED: JUNE 22, 1981

The Assembly Agriculture and Environment Committee statement to 1688 OCR, dated November 10, 1980, adequately explains the provisions of this bill as referred to the Senate Energy and Environment Committee.

The Senate committee adopted amendments to this bill which would provide for the pass-through of the increase in solid waste collection and disposal rates as a result of county health department inspection fees, and also provide that increased costs to counties and municipalities as a result thereof be outside the spending "caps" imposed pursuant to P. L. 1976, c. 68 (C. 40A:4-45.1 et seq.).

JANUARY 11, 1982

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A-1688, sponsored by Assemblyman H. James Saxton (R-Burlington), amending the Solid Waste Management Act to authorize county health departments to collect fees from sanitary landfill operators within their jurisdiction for enforcement activities. The schedule of fees will be established by the Department of Environmental Protection.

A-2268, sponsored by Assemblyman Richard J. Codey (D-Essex), allowing police officers who have resigned in good standing to be placed on reemployment lists. The legislation insures these officers would be in line for appointments after officers who have been laid-off.

A-3787, sponsored by Assemblyman Alan Karcher (D-Middlesex), transferring many of the responsibilities for legislative printing from the Secretary of State and the Division of Purchase and Property to the Legislative Services Commission. The bill also makes changes in the printing format of bills and eliminates the separate printing of amendments and resolutions.

A-3413, sponsored by Assemblywoman Mildred Garvin (D-Essex), establishing within the Department of the Public Advocate a Division on the Developmentally Disabled. The Division has existed on the basis of a gubernatorial letter of authorization in the past.

A-3505, also sponsored by Assemblyman Codey, amending Section 46 of the Public Laws of 1946 to regulate the disposition of parimutuel pools at all horse race meetings with the exception of the New Jersey Sports and Exposition Authority. The act takes effect immediately and is retroactive to May 1, 1981.

A-238/768, sponsored by Thomas Deverin (D-Middlesex) which provides that a chief or other superior fire officer have sole authority within established fire lines. This authority supersedes that of any municipal police authority.

The Governor had returned this bill with a recommendation that this bill did not affect his or the State's emergency powers. The Legislature concurred with the Governor's recommendation.

ASSEMBLY, No. 280

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1978 SESSION

By Assemblymen SAXTON and SNEDEKER

AN ACT to amend the "Solid Waste Management Act," approved May 6, 1970 (P. L. 1970, c. 39), as said short title was amended by P. L. 1975, c. 326.

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

1 1. Section 9 of P. L. 1970, c. 39 (C. 13:1E-9) is amended to
2 read as follows:

3 9. a. All codes, rules and regulations adopted by the department
4 related to solid waste collection and disposal shall have the force
5 and effect of law. Such codes, rules and regulations shall be ob-
6 served throughout the State and shall be enforced by the depart-
7 ment and every local board of health.

8 *Every local board of health is hereby authorized and empowered*
9 *to charge and collect from the owner of any solid waste facility*
10 *within its jurisdiction such fees as may be necessary to cover the*
11 *costs of such enforcement.*

12 b. The commissioner may institute an action or proceeding in the
13 Superior Court for injunctive and other relief, including the ap-
14 pointment of a receiver for any solid waste collection or disposal
15 facility or operation, which is established or operated in violation of
16 this act, or of any code, rule or regulation promulgated pursuant to
17 this act and said court may proceed in the action in a summary
18 manner. In any such proceeding the court may grant temporary
19 or interlocutory relief notwithstanding the provisions of
20 R. S. 48:2-24.

21 c. Any person who violates the provisions of this act or any code,
22 rule or regulation promulgated pursuant to this act shall be liable
23 to a penalty of not more than \$3,000.00 per day to be collected
24 in a civil action commenced by a local board of health or the
25 commissioner by a summary proceeding under The Penalty
26 Enforcement Law (N. J. S. 2A:58-1 et seq.) in the Superior Court,

27 County Court, county district court, or a municipal court, all of
28 which shall have jurisdiction to enforce said Penalty Enforcement
29 Law in connection with this act. If the violation is of a continuing
30 nature, each day during which it continues after the date given by
31 which the violation must be eliminated in accordance with the order
32 of the department shall constitute an additional, separate and dis-
33 tinct offense.

34 d. The department is hereby authorized and empowered to com-
35 promise and settle any claim for a penalty under this section in such
36 amount in the discretion of the department as may appear appro-
37 priate and equitable under all of the circumstances, including a
38 rebate of any such penalty paid up to 90% thereof where such
39 person satisfies the department within 1 year or such other period
40 as the department may deem reasonable that such violation has
41 been eliminated or removed or that such order or injunction has
42 been met or satisfied, as the case may be.

1 2. This act shall take effect immediately.

STATEMENT

Existing provisions of the "Solid Waste Management Act" require that every local board of health and the Department of Environmental Protection enforce the various rules and regulations related to the collection and disposal of solid waste. No State assistance has been provided to local boards for this purpose, however, and the inspection and enforcement programs of the department have not provided adequate protection for the citizens of this State. For these reasons, this bill would authorize every local board of health to charge and collect from the owner of any solid waste facility located within its jurisdiction such fees as may be necessary to cover the costs of such enforcement.

ASSEMBLY INSTITUTIONS, HEALTH AND
WELFARE COMMITTEE

STATEMENT TO
ASSEMBLY, No. 280
with Assembly committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 16, 1979

This bill authorizes every local board of health to charge and collect from the owner of any solid waste facility within its jurisdiction such fees as may be necessary to cover the costs of enforcing rules and regulations pertaining to the collection and disposal of solid waste.

The committee amended this legislation to allow county health departments in any county which has established such departments pursuant to the "Local Health Services Act," to collect such fees as set by the governing body of the county.

2-15-80

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ASSEMBLY, No. 280

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1978 SESSION

By Assemblymen SAXTON and SNEDEKER

AN ACT to amend the "Solid Waste Management Act," approved May 6, 1970 (P. L. 1970, c. 39), as said short title was amended by P. L. 1975, c. 326.

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

1 1. Section 9 of P. L. 1970, c. 39 (C. 13:1E-9) is amended to
2 read as follows:

3 9. a. All codes, rules and regulations adopted by the department
4 related to solid waste collection and disposal shall have the force
5 and effect of law. Such codes, rules and regulations shall be ob-
6 served throughout the State and shall be enforced by the depart-
7 ment and every local board of health **or county health department,*
7A *where applicable.**

8 *Every local board of health is hereby authorized and empowered*
9 *to charge and collect from the owner of any solid waste facility*
10 *within its jurisdiction such fees as may be necessary to cover the*
11 *costs of such enforcement*, provided, however, in any county*
11A *where a county health department has been established pursuant to*
11B *the "Local Health Services Act," P. L. 1975, c. 329 (C. 26:3A2-1*
11C *et seq.), such fees shall be set by an ordinance or resolution adopted*
11D *by the governing body of any such county and collected by the*
11E *health department thereof.**

12 b. The commissioner may institute an action or proceeding in the
13 Superior Court for injunctive and other relief, including the ap-
14 pointment of a receiver for any solid waste collection or disposal
15 facility or operation, which is established or operated in violation of
16 this act, or of any code, rule or regulation promulgated pursuant to
17 this act and said court may proceed in the action in a summary
18 manner. In any such proceeding the court may grant temporary
19 or interlocutory relief notwithstanding the provisions of
20 B. S. 48:2-24.

21 c. Any person who violates the provisions of this act or any code,
22 rule or regulation promulgated pursuant to this act shall be liable
23 to a penalty of not more than \$3,000.00 per day to be collected
24 in a civil action commenced by a local board of health or the
25 commissioner by a summary proceeding under The Penalty
26 Enforcement Law (N. J. S. 2A :58-1 et seq.) in the Superior Court,
27 County Court, county district court, or a municipal court, all of
28 which shall have jurisdiction to enforce said Penalty Enforcement
29 Law in connection with this act. If the violation is of a continuing
30 nature, each day during which it continues after the date given by
31 which the violation must be eliminated in accordance with the order
32 of the department shall constitute an additional, separate and dis-
33 tinct offense.

34 d. The department is hereby authorized and empowered to com-
35 promise and settle any claim for a penalty under this section in such
36 amount in the discretion of the department as may appear appro-
37 priate and equitable under all of the circumstances, including a
38 rebate of any such penalty paid up to 90% thereof where such
39 person satisfies the department within 1 year or such other period
40 as the department may deem reasonable that such violation has
41 been eliminated or removed or that such order or injunction has
42 been met or satisfied, as the case may be.

1 2. This act shall take effect immediately.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

ASSEMBLY BILL NO. 280 (OCR)

STATEMENT

I am filing Assembly Bill No. 280 (OCR) in the State Library without my approval.

Under the provisions of Article V, Section I, Paragraph 14(b) of the Constitution, this bill does not become a law if it is not signed within the 45-day period, Sundays excepted, following the adjournment sine die of the Legislature. In these circumstances there is no provision for a veto, but I deem it to be in the public interest to state my reasons for deciding not to sign the bill.

This bill would authorize every local board of health and county health department to charge and collect from the owner of any solid waste facility within its jurisdiction such fees as would be necessary to cover the costs of enforcing rules and regulations pertaining to the collection and disposal of solid waste. The Department of Environmental Protection and the local boards of health (and county health departments as would be provided by this bill) are charged with enforcing the Solid Waste Management Act (R.S. 13:1E-1 et seq.) and regulations adopted by the department related to solid waste collection and disposal.

While I support the efforts of local governments to increase their environmental enforcement capabilities the bill presents several problems. The legislation provides no guidance as to what enforcement should entail, nor does it contain any limit on the fees that could be charged. A local government could entail substantial expense to establish an elaborate enforcement system. These costs would be passed on to the owner of the solid waste facility in a neighboring town which was not required to pay such fees. Disparate fees could impede the efforts by the State and the counties to establish comprehensive programs to manage solid waste.

Under the County Environmental Health Act (R.S. 26:3A2-21 et seq.) the county health departments are charged with certain enforcement responsibilities for violations of State environmental protection statutes. The Commissioner of Environmental Protection is directed to establish standards of performance for activities of the county health departments related to their duties under this act. Consideration could be given to authorizing fees to be established by the Commissioner of Environmental Protection for county health departments which

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

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At this time, I will file Assembly Bill No. 280 (OCR) without my approval.

Respectfully,

/s/

GOVERNOR