

FOLLOWING WERE PRINTED:

To check for circulating copies, contact New Jersey State Government Publications at the State Library (609) 278-2640 ext. 103 or <mailto:refdesk@njstatelib.org>.

REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: No

RWH 6/5/08

§§1-6 -
C.13:1E-96.2 to
13:1E-96.7
§19 - Approp.
§20 - Repealer

P.L. 2007, CHAPTER 311, *approved January 13, 2008*
Assembly Committee Substitute (*First Reprint*) for
Assembly, No. 1886

1 AN ACT concerning the recycling of solid waste, imposing a
2 recycling tax on solid waste generation, amending,
3 supplementing and repealing various sections of statutory law,
4 and making an appropriation.
5

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

8
9 1. (New section) This act shall be known and may be cited as
10 the "Recycling Enhancement Act."
11

12 2. (New section) The Legislature finds and declares that the
13 State Recycling plan goals, which provide for the recycling of 50%
14 of the municipal solid waste stream and 60% of the total solid
15 waste stream, are perhaps the most ambitious in the nation; that
16 since the expiration of the recycling tax on December 31, 1996 the
17 State of New Jersey provides less public support to recycling than
18 at least 25 other states; that this lack of public financial support,
19 especially for local public information and recycling education
20 programs, is at least partly responsible for the steady decline in the
21 New Jersey's recycling rates over the past decade, from a high of
22 45% recycling of the municipal solid waste stream in 1995 to a
23 recycling rate of 33% in 2003; and that it is unacceptable that the
24 State which enacted the nation's first statewide mandatory recycling
25 law has been unable to sustain its heretofore exemplary recycling
26 efforts due to inadequate public funding.

27 The Legislature further finds that the recycling of waste
28 materials decreases waste flow to county solid waste facilities and
29 out-of-State disposal sites, and that by achieving the statutory
30 recycling goals a disposal facility capacity savings equal to the
31 annual utilization of 3.5 solid waste incinerators or 4.5 solid waste
32 landfills can be realized; that recycling reduces waste flow to the
33 State's solid waste incinerators while contributing to their overall
34 combustion efficiency through the removal of noncombustible and
35 nonprocessable materials at the source, recovers or saves valuable
36 resources, including over 3 million tons of iron, coal and limestone
37 in the production of new ferrous metals and over 9 million trees in
38 the production of virgin paper from the ferrous metals and paper

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

Matter underlined thus is new matter

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly AAP committee amendments adopted January 3, 2008.

1 recycling by New Jersey residents and businesses in 2003 alone,
2 conserves an estimated 86 trillion BTU's, or the equivalent of 700
3 million gallons of gasoline in the manufacturing process, and offers
4 a supply of domestic raw materials for the State's recycling-related
5 industries, which include over 2,000 businesses with over 27,000
6 employees; that recycling reduces air and water pollutants emitted
7 during the manufacturing process by more than 134,000 metric
8 tons; that economically viable municipal and county recycling
9 programs are necessary to achieve the maximum practicable
10 recovery of reusable materials from solid waste in this State; and
11 that such programs will reduce the amount of solid waste disposed
12 at county solid waste facilities, result in more efficient solid waste
13 incinerators, conserve energy and resources, and recover materials
14 for industrial uses.

15 The Legislature, therefore, declares it to be in the environmental
16 and economic interests of the State of New Jersey to provide
17 financial support for municipal and county recycling programs
18 through the imposition of a tax on solid waste generation.

19

20 3. (New section) For the purposes of this act:

21 "Beverage container" means an individual, separate, hermetically
22 sealed, or made airtight with a metal or plastic cap, bottle or can
23 composed of glass, metal, plastic or any combination thereof,
24 containing a beverage.

25 "Certified recycling coordinator" means a person or persons
26 designated as such pursuant to section 3 of P.L.1987, c.102
27 (C.13:1E-99.13) or section 6 of P.L.1987, c.102 (C.13:1E-99.16).

28 "Commissioner" means the Commissioner of Environmental
29 Protection.

30 "Department" means the Department of Environmental
31 Protection.

32 "Director" means the Director of the Division of Taxation in the
33 Department of the Treasury.

34 "Division" means the Division of Taxation in the Department of
35 the Treasury.

36 "Materials recovery" means the processing and separation of
37 solid waste utilizing manual or mechanical methods for the
38 purposes of recovering recyclable materials for disposition and
39 recycling prior to the disposal of the residual solid waste at an
40 authorized solid waste facility.

41 "Materials recovery facility" means a transfer station or other
42 authorized solid waste facility at which nonhazardous solid waste,
43 which material is not source separated by the generator thereof prior
44 to collection, is received for onsite processing and separation
45 utilizing manual or mechanical methods for the purposes of
46 recovering recyclable materials for disposition and recycling prior
47 to the disposal of the residual solid waste at an authorized solid
48 waste facility.

1 "Post-consumer waste material" means a material or product that
2 would otherwise become solid waste, having completed its intended
3 end use and product life cycle; except that "post-consumer waste
4 material" shall not include secondary waste material or materials
5 and by-products generated from, and commonly used within, an
6 original manufacturing and fabrication process.

7 "Recycled product" means any product or commodity which is
8 manufactured or produced in whole or in part from post-consumer
9 waste material and which meets the recycled content standard of the
10 United States Environmental Protection Agency as published in the
11 Comprehensive Procurement Guidelines for Products Containing
12 Recovered Material.

13 "Residue" means any solid waste generated as a result of the use
14 of post-consumer waste material in the manufacture of a recycled
15 product.

16 "Resource recovery facility" means a solid waste facility
17 constructed and operated for the incineration of solid waste for
18 energy production and the recovery of metals and other materials
19 for reuse; or a mechanized composting facility, or any other solid
20 waste facility constructed or operated for the collection, separation,
21 recycling, and recovery of metals, glass, paper, and other materials
22 for reuse or for energy production.

23 "Secondary waste material" means waste material generated after
24 the completion of a manufacturing process.

25 "Solid waste" means the same as that term is defined in section 3
26 of P.L.1970, c.39 (C.13:1E-3), except that, as used in the provisions
27 of P.L. , c. (C.) (pending in the Legislature as this bill),
28 "solid waste" shall be limited to the following solid waste ID types:
29 Type 10 Municipal; Type 12 Dry sewage sludge; Type 13 Bulky
30 waste; Type 13C Construction and Demolition waste; Type 23
31 Vegetative waste; Type 25 Animal and food processing wastes; and
32 Type 27 Dry industrial waste, as set forth in N.J.A.C.7:26-1.6 and
33 N.J.A.C.7:26-2.13.

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

37 "Solid waste collector" means a person engaged in the collection
38 of solid waste and registered pursuant to sections 4 and 5 of
39 P.L.1970, c.39 (C.13:1E-4 and 13:1E-5); or any municipality
40 wherein the municipal governing body has established and operates
41 a municipal service system for solid waste collection pursuant to
42 R.S.40:66-1.

43 "Solid waste disposal" means the storage, treatment, utilization,
44 processing, transfer, or final disposal of solid waste.

45 "Solid waste facilities" means and includes the plants, structures
46 and other real and personal property acquired, constructed or
47 operated or to be acquired, constructed or operated by, or on behalf
48 of, any person, public authority or county pursuant to the provisions

1 of P.L.1970, c.39 (C.13:1E-1 et seq.) or any other act, including
2 transfer stations, incinerators, resource recovery facilities, sanitary
3 landfill facilities or other plants for the disposal of solid waste, and
4 all vehicles, equipment and other real and personal property and
5 rights therein and appurtenances necessary or useful and convenient
6 for the collection or disposal of solid waste in a sanitary manner.
7

8 4. (New section) a. (1) There is levied upon the owner or
9 operator of every solid waste facility a recycling tax of \$3.00 per
10 ton on all solid waste accepted for disposal or transfer at the solid
11 waste facility.

12 The recycling tax shall not be imposed on solid waste transported
13 from an in-state transfer station from which the recycling tax has
14 been levied on the owner or operator thereof to an in-state solid
15 waste facility for final disposal.

16 (a) The recycling tax shall not be imposed on the owner or
17 operator of a railroad transfer station or other facility designed
18 exclusively to transport waste on railroads.

19 (b) The recycling tax shall not be imposed on the owner or
20 operator of a sanitary landfill facility for the acceptance for disposal
21 of the ash residue resulting from the incineration of solid waste at a
22 resource recovery facility.

23 (c) The recycling tax shall not be imposed on the owner or
24 operator of a solid waste facility for the acceptance for disposal of
25 solid waste originating from out-of-state sources under a contract
26 awarded prior to December 31, 2007 if the contract ¹[expressly
27 prohibits the imposition of] does not include a change-in-law or
28 similar mechanism by which the recycling tax imposed by this
29 section may be passed through as¹ a fee or surcharge on the rates
30 and charges set forth in the contract.

31 ¹(d) The recycling tax shall not be imposed on the owner or
32 operator of a resource recovery facility for the acceptance for
33 disposal of solid waste originating from in-state sources under a
34 contract awarded prior to December 31, 2007 if the contract does
35 not include a change-in-law or similar mechanism by which the
36 recycling tax imposed by this section may be passed through as a
37 fee or surcharge on the rates and charges set forth in the contract.¹

38 The recycling tax shall be imposed on the owner or operator of a
39 solid waste facility for the acceptance for disposal of solid waste
40 originating from out-of-state sources under any contract awarded
41 after December 31, 2007.

42 (2) There is levied upon every solid waste collector that
43 transports solid waste for transshipment or direct transportation to
44 an out-of-state disposal site a recycling tax. The recycling tax shall
45 be levied on the solid waste collector at the rate of \$3.00 per ton on
46 all solid waste collected for transportation to a railroad transfer
47 station or other facility designed to transport waste on railroads or
48 directly to an out-of-state disposal site.

- 1 b. (1) Every person subject to the recycling tax shall, within 30
2 days of the effective date of this act, register with the director on
3 forms prescribed by the director.
- 4 (2) Every person subject to the recycling tax shall, on or before
5 the first day of the first full fiscal quarter following the effective
6 date of this act, and quarterly thereafter, render a return under oath
7 to the director, on such forms as may be prescribed by the director,
8 indicating the number of tons of solid waste accepted for disposal
9 or transfer, or collected, as appropriate, and at that time shall pay
10 the full amount due.
- 11 c. If a return required by this section is not filed, or if a return
12 when filed is incorrect or insufficient in the opinion of the director,
13 the amount due shall be determined by the director from such
14 information as may be available. Notice of the determination shall
15 be given to the person subject to the recycling tax. The
16 determination shall finally and irrevocably fix the amount due,
17 unless the person on whom it is imposed, within 90 days after the
18 giving of the notice of the determination, shall file a protest in
19 writing as provided in R.S.54:49-18 and request a hearing, or unless
20 the director on the director's own motion shall redetermine the
21 same. After the hearing the director shall give notice of the
22 determination to the person on whom the recycling tax is imposed.
- 23 d. Any person subject to the recycling tax who fails to file a
24 return when due or to pay any tax when it becomes due, as herein
25 provided, shall be subject to such penalties and interest as provided
26 in the "State Tax Uniform Procedure Law," R.S.54:48-1 et seq. If
27 the director determines that the failure to comply with any provision
28 of this section was excusable under the circumstances, the director
29 may remit that part or all of the penalty as shall be appropriate
30 under the circumstances.
- 31 e. The director shall deposit all revenues collected pursuant to
32 this section in the State Recycling Fund established pursuant to
33 section 5 of P.L.1981, c.278 (C.13:1E-96).
- 34 f. In addition to the other powers granted to the director in this
35 section, the director is authorized:
- 36 (1) To delegate to any officer or employee of the division those
37 powers and duties as the director deems necessary to carry out
38 efficiently the provisions of this section, and the person to whom
39 the power has been delegated shall possess and may exercise all of
40 these powers and perform all of the duties delegated by the director;
- 41 (2) To prescribe and distribute all necessary forms for the
42 implementation of this section.
- 43 g. (1) Every owner or operator of a solid waste facility may
44 collect the recycling tax imposed by this section by (a) including
45 the amount of recycling tax due as a separate line item on every
46 customer bill or other statement presented to a solid waste collector
47 or solid waste generator; (b) including the amount of recycling tax
48 due as a fee or surcharge on any amount collected under a contract

1 awarded pursuant to the "Local Public Contracts Law," P.L.1971,
2 c.198 (C.40A:11-1 et seq.) or any other law for the provision of
3 solid waste collection or solid waste disposal services; or (c)
4 imposing an automatic surcharge on any tariff established pursuant
5 to law for the solid waste disposal or transfer operations of the solid
6 waste facility.

7 (2) Every solid waste collector is hereby authorized to calculate,
8 charge and collect rates, fees or surcharges from all solid waste
9 generators serviced by the solid waste collector sufficient to recover
10 the recycling tax collected by the owner or operator of the solid
11 waste facility.

12 (3) Every solid waste collector subject to the recycling tax is
13 hereby authorized to calculate, charge and collect rates, fees or
14 surcharges from all solid waste generators serviced by the solid
15 waste collector sufficient to recover the recycling tax imposed by
16 this section.

17 h. The recycling tax imposed by this section shall be governed
18 in all respects by the provisions of the "State Tax Uniform
19 Procedure Law," R.S.54:48-1 et seq., except only to the extent that
20 a specific provision of this section may be in conflict therewith.

21 i. (1) The recycling tax imposed by this section shall not be
22 imposed on the owner or operator of a materials recovery facility
23 for the acceptance of Type 13C Construction and Demolition waste,
24 provided that the facility meets or exceeds recyclable materials
25 extraction rates as established by the department.

26 (2) The recycling tax imposed by this section shall not be
27 imposed on a solid waste collector or the owner or operator of a
28 solid waste facility for the collection or acceptance for disposal or
29 transfer of residue resulting from the operations of a scrap
30 processing facility as defined in section 2 of P.L.1987, c.102
31 (C.13:1E-99.12).

32 j. The recycling tax imposed by this section shall not be imposed
33 on a solid waste collector or the owner or operator of a solid waste
34 facility for the collection or acceptance for disposal or transfer of
35 residue, provided that the residue is generated as a result of the use
36 of post-consumer waste material in the manufacture of a recycled
37 product which constitutes at least 75% of total annual sales dollar
38 volume of the products manufactured by a manufacturer in this
39 State as determined by the director.

40 k. The registration issued to any person subject to the recycling
41 tax who violates the provisions of this section may be subject to
42 revocation or suspension pursuant to section 12 of P.L.1970, c.39
43 (C.13:1E-12).

44 l. Subsections a. through k. of this section shall be without effect
45 on and after the tenth day following a certification by the Director
46 of the Division of Budget and Accounting in the Department of the
47 Treasury pursuant to subsection b. of section 6 of P.L. ,
48 c. (C.) (pending in the Legislature as this bill).

1 5. (New section) The recycling tax imposed pursuant to section
2 4 of P.L. , c. (C.) (pending in the Legislature as this bill)
3 shall not be due and payable if, and as long as, any State of New
4 Jersey or federal law, or any rule or regulation adopted pursuant
5 thereto, requiring a deposit on, or establishing a refund value for,
6 any beverage container shall be in effect.

7
8 6. (New section) a. The annual appropriations act for each
9 State fiscal year shall, without other conditions, limitations or
10 restrictions on the following:

11 (1) appropriate the amounts specified pursuant to paragraph (1)
12 of subsection b. of section 5 of P.L.1981, c.278 (C.13:1E-96) for
13 use by the Department of Environmental Protection for direct
14 recycling grants to counties and municipalities; and

15 (2) appropriate the balance of the State Recycling Fund
16 established pursuant to section 5 of P.L.1981, c.278 (C.13:1E-96)
17 for the purposes set forth in paragraphs (2), (3) and (4) of
18 subsection b. of that section.

19 b. If the requirements of subsection a. of this section are not met
20 on the effective date of an annual appropriations act for the State
21 fiscal year, or if an amendment or supplement to an annual
22 appropriations act for the State fiscal year should violate any of the
23 requirements of subsection a. of this section, the Director of the
24 Division of Budget and Accounting in the Department of the
25 Treasury shall, not later than five days after the enactment of the
26 annual appropriations act, or an amendment or supplement thereto,
27 that violates any of the requirements of subsection a. of this section,
28 certify to the Director of the Division of Taxation that the
29 requirements of subsection a. of this section have not been met.

30
31 7. Section 5 of P.L.1981, c.278 (C.13:1E-96) is amended to read
32 as follows:

33 5. a. The State Recycling Fund (hereinafter referred to as the
34 "fund") is established as a nonlapsing, revolving fund. The fund
35 shall be administered by the Department of Environmental
36 Protection, and shall be credited with all [sums received from the
37 Clean Communities Program Fund established pursuant to section 5
38 of P.L.2002, c.128 (C.13:1E-217)] recycling tax revenue collected
39 pursuant to section 4 of P.L. , c. (C.) (pending in the
40 Legislature as this bill), and all interest received on moneys in the
41 fund . [Interest received on moneys in the fund and sums received
42 as repayment of principal and interest on outstanding loans made
43 from the fund shall be credited to the fund.]

44 b. ¹[Unless otherwise expressly provided by the specific
45 appropriation thereof by the Legislature, which shall take the form
46 of a discrete legislative appropriations act and shall not be included
47 within the annual appropriations act, all available moneys]
48 Moneys¹ in the fund shall be [allocated and used as follows:

1 Moneys in the fund received from the Clean Communities
2 Program Fund established pursuant to section 5 of P.L.2002, c.128
3 (C.13:1E-217) appropriated annually solely for the following
4 purposes and no others:

5 (1) 60% of the estimated annual balance of the fund shall be used
6 for the annual expenses of a program for direct recycling grants to
7 municipalities or counties in those instances where a county, at its
8 own expense, provides for the collection, processing and marketing
9 of recyclable materials on a regional basis. The amount of ~~these~~
10 ~~grants~~ a direct recycling grant shall be calculated on the basis of
11 the total number of tons of recyclable materials annually recycled
12 from residential, commercial and institutional sources within ~~that~~
13 a particular municipality, or group of municipalities in the case of a
14 county recycling program~~, except that no such~~. No direct
15 recycling grant shall exceed \$10 per ton of recyclable materials
16 recycled. All grant moneys received by a municipality shall be
17 expended only for its recycling program. The department may
18 allocate a portion of ~~these~~ the direct recycling grant moneys as
19 bonus grants to municipalities and counties ~~in those instances~~
20 ~~where~~ whenever a municipality or county, at its own expense,
21 provides for the collection of recyclable materials in its recycling
22 program. The department shall announce each year the total
23 amount of moneys available in the bonus grant fund.

24 A municipality may distribute a portion of its direct recycling
25 grant moneys to nonprofit groups that are located within that
26 municipality and which have contributed to the receipt of the direct
27 recycling grant, except that this distribution shall not exceed the
28 value of approved documented tonnage contributed by a nonprofit
29 group.

30 A municipality may designate any nonprofit group as a recycling
31 agent. A recycling agent shall receive that part of the municipality's
32 direct recycling grant under this ~~subsection~~ paragraph that
33 represents the percentage of the grant received by the municipality
34 due to the documented tonnage contributed by that recycling agent.
35 Moneys received by a recycling agent shall be expended only for its
36 recycling program. Any moneys not used for recycling shall be
37 returned by the recycling agent to the municipality.

38 To be eligible for a direct recycling grant pursuant to this
39 ~~subsection~~ paragraph, a municipality or county in the case of a
40 county recycling program shall demonstrate that the recyclable
41 materials recycled by the municipal or county recycling program
42 were not diverted from a commercial recycling program already in
43 existence on the effective date of the ordinance or resolution
44 establishing the municipal or county recycling program.

45 To remain eligible for a direct recycling grant pursuant to this
46 paragraph, a municipality or county in the case of a county
47 recycling program shall submit an annual recycling tonnage report

1 to the department in accordance with rules and regulations adopted
2 by the department therefor. Following the designation of a district
3 certified recycling coordinator pursuant to section 3 of P.L.1987,
4 c.102 (C.13:1E-99.13) and the designation of a municipal certified
5 recycling coordinator pursuant to section 6 of P.L.1987, c.102
6 (C.13:1E-99.16), the department shall not accept an annual
7 recycling tonnage report from a county or municipality unless the
8 report has been signed by a certified recycling coordinator.

9 No direct recycling grant to any municipality shall be used for
10 constructing or operating any facility for the baling of wastepaper
11 or for the shearing, baling or shredding of ferrous or nonferrous
12 materials.

13 Whenever a municipality operates a municipal service system for
14 solid waste collection pursuant to R.S.40:66-1, or provides for
15 regular solid waste collection service under a contract awarded
16 pursuant to the "Local Public Contracts Law," P.L.1971, c.198
17 (C.40A:11-1 et seq.), the amount of grant moneys received by the
18 municipality shall not be less than the annual amount of recycling
19 tax paid by the municipality pursuant to section 4 of P.L. _____,
20 c. (C. _____) (pending in the Legislature as this bill), except that
21 all grant moneys received by the municipality shall be expended
22 only for its recycling program;

23 (2) 5% of the estimated annual balance of the fund shall be used
24 for State recycling program planning and program funding,
25 including the administrative expenses thereof;

26 (3) 25% of the estimated annual balance of the fund shall be used
27 to provide State aid to counties for preparing, revising, and
28 implementing solid waste management plans, including the
29 implementation of the goals of the State Recycling Plan. The
30 moneys may also be used by the counties to support community
31 oversight projects and to establish a citizens' advisory committee. A
32 county receiving State aid shall not expend more than 2% of the
33 amount of aid received in any year for the costs of administering the
34 aid. The State aid shall be distributed to the counties on the basis of
35 the total amount of solid waste generated from within each county
36 during the previous calendar year as determined by the department.
37 In the event that the department determines that any county has
38 failed to fulfill its district solid waste management planning
39 responsibilities, the department may withhold for an entire year or
40 until the county fulfills its responsibilities, all or a portion of the
41 amount of moneys that county would have received in any year
42 pursuant to this paragraph. Any moneys withheld for an entire year
43 shall be distributed among the remaining counties in the same
44 proportion as the other moneys were distributed. The moneys may
45 also be used by the counties for household hazardous waste
46 collection, and for recycling program planning and program
47 funding, including the administrative expenses thereof;

1 (4) 5% of the estimated annual balance of the fund shall be used
2 by counties for public information and education programs
3 concerning recycling activities; and

4 (5) 5% of the estimated annual balance of the fund shall be used
5 by the department to provide grants to institutions of higher
6 education to conduct research in recycling.

7 (cf: P.L.2002, c.128, s.11)

8

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

11 3. a. Each county shall prepare and adopt a district recycling
12 plan to implement the State Recycling Plan goals. Each district
13 recycling plan shall be adopted as an amendment to the district
14 solid waste management plan required pursuant to the provisions of
15 the "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et
16 seq.) and subject to the approval of the department. Each district
17 recycling plan may be modified after adoption pursuant to a
18 procedure set forth in the adopted plan as approved by the
19 department.

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

22 (1) Designation of a district recycling coordinator;

23 (2) Designation of the recyclable materials to be source separated
24 in each municipality which shall include, in addition to leaves, at
25 least three other recyclable materials separated from the municipal
26 solid waste stream;

27 (3) Designation of the strategy for the collection, marketing and
28 disposition of designated source separated recyclable materials in
29 each municipality;

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

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

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

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

41 (5) Designation of countywide recovery targets to achieve the
42 maximum feasible recovery of recyclable materials from the total
43 solid waste stream which shall include, at a minimum, the recycling
44 of at least 60% of the total solid waste stream by December 31,
45 1995.

46 Within 24 months of the effective date of P.L. , c. (C.)
47 (pending in the Legislature as this bill), each district recycling plan

1 shall be modified to include the designation of a district certified
2 recycling coordinator.

3 For the purposes of this subsection, "district certified recycling
4 coordinator" means a person who shall have completed the
5 requirements of a course of instruction in various aspects of
6 recycling program management, as determined and administered by
7 the department; "total municipal solid waste stream" means the sum
8 of the municipal solid waste stream disposed of as solid waste, as
9 measured in tons, plus the total number of tons of recyclable
10 materials recycled; and "total solid waste stream" means the
11 aggregate amount of solid waste generated within the boundaries of
12 any county from all sources of generation, including the municipal
13 solid waste stream.

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

22 **【Each district recycling plan may be modified after adoption**
23 **pursuant to a procedure set forth in the adopted plan as approved by**
24 **the department.】**

25 d. A district recycling plan may be modified to require that each
26 municipality within the county revise the ordinance adopted
27 pursuant to subsection b. of section 6 of P.L.1987, c.102
28 (C.13:1E-99.16) to provide for the source separation and collection
29 of used dry cell batteries as a designated recyclable material.
30 (cf: P.L.2001, c.92, s.7)

31
32 9. Section 6 of P.L.1987, c.102 (C.13:1E-99.16) is amended to
33 read as follows:

34 6. Each municipality in this State shall, within 24 months of the
35 effective date of P.L. , c. (C.) (pending in the Legislature
36 as this bill), designate one or more persons as the municipal
37 certified recycling coordinator. For the purposes of this section,
38 "municipal certified recycling coordinator" means a person who
39 shall have completed the requirements of a course of instruction in
40 various aspects of recycling program management, as determined
41 and administered by the department.

42 Each municipality shall establish and implement a municipal
43 recycling program in accordance with the following requirements:

44 a. Each municipality shall provide for a collection system for the
45 recycling of the recyclable materials designated in the district
46 recycling plan as may be necessary to achieve the designated
47 recovery targets set forth in the plan in those instances where a
48 recycling collection system is not otherwise provided for by the

1 generator or by the county, interlocal service agreement or joint
2 service program, or other private or public recycling program
3 operator.

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

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

19 The revised master plan shall include provisions for the
20 collection, disposition and recycling of recyclable materials
21 designated in the municipal recycling ordinance adopted pursuant to
22 subsection b. of this section, and for the collection, disposition and
23 recycling of designated recyclable materials within any
24 development proposal for the construction of 50 or more units of
25 single-family residential housing or 25 or more units of
26 multi-family residential housing and any commercial or industrial
27 development proposal for the utilization of 1,000 square feet or
28 more of land.

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

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

43 f. The governing body of each municipality shall, at least once
44 every six months, notify all persons occupying residential,
45 commercial, and institutional premises within its municipal
46 boundaries of local recycling opportunities, and the source
47 separation requirements of the ordinance. In order to fulfill the
48 notification requirements of this subsection, the governing body of

1 a municipality may, in its discretion, place an advertisement in a
2 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 residential
5 taxpayers, or any combination thereof, as the municipality deems
6 necessary and appropriate.

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

12 (cf: P.L.2001, c.92, s.8)

13

14 10. Section 2 of P.L.1985, c.38 (C.13:1E-137) is amended to
15 read as follows:

16 2. As used in this [amendatory and supplementary] act:

17 [a.] "Contract file" means a file established and maintained by a
18 contracting unit, in which the contracting unit shall maintain a copy
19 of its request for qualifications issued pursuant to section 19 of
20 [this amendatory and supplementary act] P.L.1985, c.38
21 (C.13:1E-154), a list of vendors responding to its request for
22 qualifications, a copy of its request for proposals issued pursuant to
23 section 20 of [this amendatory and supplementary act] P.L.1985,
24 c.38 (C.13:1E-155), a list of qualified vendors submitting proposals,
25 and a document outlining the general criteria used by the
26 contracting unit in selecting a proposal;

27 [b.] "Contracting unit" means any county; any municipality;
28 any bistate authority; or any [board, commission, committee,
29 authority or agency, which is not a State board, commission,
30 committee, authority or agency, and which has administrative
31 jurisdiction over any district other than a school district, project, or
32 facility, included or operating in whole or in part, within the
33 territorial boundaries of any county or municipality, which
34 exercises functions which are appropriate for the exercise by one or
35 more units of local government, and] public authority which has
36 statutory power to [make purchases and] enter into contracts or
37 agreements [for the performance of any work or the furnishing or
38 hiring of any materials or supplies usually required] for the design,
39 financing, construction, operation, or maintenance, or any
40 combination thereof, of a resource recovery facility;

41 [c.] "County" means any county of this State of whatever class;

42 [d.] "Department" means the Department of Environmental
43 Protection;

44 [e.] "Director" means the Director of the Division of Taxation
45 in the Department of Treasury;

46 [f.] "District" means a solid waste management district as
47 designated by section 10 of P.L.1975, c.326 (C.13:1E-19), except

1 that, as used in the provisions of this amendatory and
2 supplementary act, "district" shall not include the Hackensack
3 Meadowlands District;】
4 【g. "District investment tax fund" means a District Resource
5 Recovery Investment Tax Fund established pursuant to subsection
6 a. of section 15 of this amendatory and supplementary act;】
7 【h.】 "Division" means the Division of Taxation in the
8 Department of Treasury;
9 【i.】 "Division of Local Government Services" means the
10 Division of Local Government Services in the Department of
11 Community Affairs;
12 【j. "Division of Rate Counsel" means the Division of Rate
13 Counsel in the Department of the Public Advocate;】
14 【k.】 "Franchise" means the exclusive right to control and
15 provide for the disposal of solid waste, except for recyclable
16 material whenever markets for those materials are available, within
17 a district 【or districts】 as awarded by the Board of Public Utilities
18 or the department prior to November 10, 1997;
19 【l.】 "Independent public accountant" means a certified public
20 accountant, a licensed public accountant or a registered municipal
21 accountant;
22 【m. "Investment tax" means the resource recovery investment
23 tax imposed pursuant to subsection b. of section 3 of this
24 amendatory and supplementary act;】
25 【n. "Investment tax fund" means the Resource Recovery
26 Investment Tax Fund containing sub-accounts for each county
27 established pursuant to the provisions of section 14 of this
28 amendatory and supplementary act;】
29 【o. "Out-of-district solid waste" means any solid waste accepted
30 for disposal in a district which was generated outside the receiving
31 district;】
32 【p.】 "Person or party" means any individual, public or private
33 corporation, company, partnership, firm, association, political
34 subdivision of this State, or any State, bistate, or interstate agency
35 or public authority;
36 【q.】 "Proposed contract" means a contract negotiated by a
37 contracting unit pursuant to the provisions of 【this amendatory and
38 supplementary act, or a substantial renegotiation of a contract
39 approved pursuant to the provisions of this amendatory and
40 supplementary act if the renegotiation is determined to be
41 substantial by the department, the Board of Public Utilities, or the
42 Division of Local Government Services】 P.L.1985, c.38 (C.13:1E-
43 136 et al.);
44 "Public authority" means any municipal or county utilities
45 authority created pursuant to the "municipal and county utilities
46 authorities law," P.L.1957, c.183 (C.40:14B-1 et seq.); county

1 improvement authority created pursuant to the "county
2 improvement authorities law," P.L.1960, c.183 (C.40:37A-44 et
3 seq.); pollution control financing authority created pursuant to the
4 "New Jersey Pollution Control Financing Law," P.L.1973, c.376
5 (C.40:37C-1 et seq.), or any other public body corporate and politic
6 created for solid waste management purposes in any county,
7 pursuant to the provisions of any law;

8 [r.] "Qualified vendor" means any person or party financially
9 qualified for, and technically and administratively capable of,
10 undertaking the design, financing, construction, operation, or
11 maintenance, or any combination thereof, of a resource recovery
12 facility or of providing resource recovery services, as provided in
13 section 19 of [this amendatory and supplementary act] P.L.1985,
14 c.38 (C.13:1E-154);

15 [s.] "Recyclable material" means those materials which would
16 otherwise become solid waste, which may be collected, separated or
17 processed and returned to the economic mainstream in the form of
18 raw materials or products;

19 [t.] "Recycling" means any process by which materials which
20 would otherwise become solid waste are collected, separated or
21 processed and returned to the economic mainstream in the form of
22 raw materials or products;

23 [u. "Recycling facility" means a facility at which materials
24 which would otherwise become solid waste are collected, separated
25 or processed and returned to the economic mainstream in the form
26 of raw materials or products;]

27 [v.] "Resource recovery facility" means a solid waste facility
28 constructed and operated for the incineration of solid waste for
29 energy production and the recovery of metals and other materials
30 for reuse; or a mechanized composting facility, or any other solid
31 waste facility constructed or operated for the collection, separation,
32 recycling, and recovery of metals, glass, paper, and other materials
33 for reuse or for energy production;

34 [w.] "Sanitary landfill facility" means a solid waste facility at
35 which solid waste is deposited on or in the land as fill for the
36 purpose of permanent disposal or storage for a period exceeding six
37 months, except that it shall not include any waste facility approved
38 for disposal of hazardous waste;

39 [x. "Services tax" means the solid waste services tax imposed
40 pursuant to subsection a. of section 3 of this amendatory and
41 supplementary act;]

42 [y. "Services tax fund" means the Solid Waste Services Tax
43 Fund established pursuant to section 12 of this amendatory and
44 supplementary act;]

45 [z.] "Vendor" means any person or party proposing to
46 undertake the design, financing, construction, operation, or

1 maintenance, or any combination thereof, of a resource recovery
2 facility or of providing resource recovery services;

3 [aa. "Waste importation tax" means the solid waste importation
4 tax imposed pursuant to subsection c. of section 3 of this
5 amendatory and supplementary act.]

6 (cf: P.L.1985, c.38, s.2)

7

8 11. Section 3 of P.L.1985, c.38 (C.13:1E-138) is amended to
9 read as follows:

10 3. a. There is levied upon the owner or operator of every
11 sanitary landfill facility a solid waste services tax. The services tax
12 shall be imposed on the owner or operator at the [initial] rate of
13 [\$0.50] '[\$1.55] \$1.65' per ton of [solids and \$0.002 per gallon of
14 liquids] solid waste on all solid waste accepted for disposal at a
15 sanitary landfill facility. [On the first day of the first calendar year
16 following the imposition of the services tax, and annually
17 thereafter, the rate of the services tax shall be increased by \$0.05
18 per ton of solids.] No services tax shall be levied on the owner or
19 operator of a sanitary landfill facility for the acceptance for disposal
20 of the waste products resulting from the operation of a resource
21 recovery facility.

22 The services tax imposed by this subsection shall expire on the
23 first day of the first month after the effective date of P.L. _____,
24 c. (C. _____) (pending in the Legislature as this bill). However, this
25 expiration shall not affect any obligation, lien or duty to pay taxes
26 that may be due with respect to the imposition of any levy, or
27 interest or penalties that may accrue by virtue of any assessment,
28 which may be made with respect to taxes levied for any taxable year
29 or part of a taxable year, prior to the first day of the first month
30 after the effective date of P.L. _____, c. (C. _____) (pending in the
31 Legislature as this bill), nor shall this expiration affect the legal
32 authority to assess and collect the taxes that may be due and
33 payable under subsection a. of section 3 of P.L.1985, c.38
34 (C.13:1E-138), as the case may be, together with such interest and
35 penalties as would accrue thereon under section 6 of P.L.1985, c.38
36 (C.13:1E-141), nor shall the expiration invalidate any assessment or
37 affect any proceeding for the enforcement thereof.

38 b. [(1) There is levied upon the owner or operator of every
39 sanitary landfill facility a resource recovery investment tax. The
40 investment tax shall be levied on the owner or operator at the initial
41 rate of \$1.00 per ton of solids and \$0.004 per gallon of liquids on
42 all solid waste accepted for disposal at a sanitary landfill facility.
43 No investment tax shall be levied on the owner or operator of a
44 sanitary landfill facility for the acceptance for disposal of the waste
45 products resulting from the operation of a resource recovery
46 facility.

1 (2) Unless the rate is otherwise adjusted pursuant to section 11 of
2 this amendatory and supplementary act, the rate of the investment
3 tax shall be increased in accordance with the following schedule:

4 (a) On the first day of the first calendar year following the
5 imposition of the investment tax, the rate of the investment tax shall
6 increase to \$2.00 per ton of solids;

7 (b) On the first day of the second calendar year following the
8 imposition of the investment tax, the rate of the investment tax shall
9 increase to \$3.00 per ton of solids; and

10 (c) On the first day of the third calendar year following the
11 imposition of the investment tax, the rate of the investment tax shall
12 increase to \$4.00 per ton of solids.

13 The investment tax shall no longer be levied on the owner or
14 operator of a sanitary landfill on and after the first day of the 11th
15 calendar year following the imposition of the investment tax.】
16 (Deleted by amendment, P.L. , c.)

17 c. 【There is levied upon the owner or operator of every sanitary
18 landfill facility which accepts out-of-district solid waste a solid
19 waste importation tax. The waste importation tax shall be imposed
20 on the owner or operator at the initial rate of \$1.00 per ton of solids
21 and \$0.004 per gallon of liquids on all out-of-district solid waste
22 accepted for disposal at a sanitary landfill facility. On the first day
23 of the third calendar year following the imposition of the waste
24 importation tax, the rate of the waste importation tax shall be
25 increased to \$4.00 per ton of solids, and annually thereafter the rate
26 of the waste importation tax shall be increased by \$2.00 per ton of
27 solids. No waste importation tax shall be levied on the owner or
28 operator of a sanitary landfill facility for the acceptance for disposal
29 of the waste products resulting from the operation of a resource
30 recovery facility.

31 The waste importation tax shall no longer be levied on the owner
32 or operator of a sanitary landfill facility which accepts
33 out-of-district solid waste on or after the first day of the 11th
34 calendar year following the imposition of the waste importation
35 tax.】 (Deleted by amendment, P.L. , c.)

36 d. If any owner or operator of a sanitary landfill facility
37 determines the quantity of solid waste accepted for disposal by a
38 measure other than tons 【or gallons】, the taxes imposed pursuant to
39 the provisions of this section shall be levied at an equivalent rate as
40 determined by the director.

41 e. No taxes shall be levied on the owner or operator of a sanitary
42 landfill facility for the acceptance of solid waste generated
43 exclusively by an agency of the federal government if a solid waste
44 collector submits to the owner or operator an itemized invoice,
45 signed and verified by an authorized officer of the federal agency,
46 indicating the number of tons of solid waste to be disposed of, and a
47 copy of the contract with the federal agency for the collection of
48 solid waste with an effective date prior to 【the effective date of this

1 amendatory and supplementary act] May 1, 1985. Taxes shall be
2 levied on the owner or operator for acceptance of solid waste
3 generated by a federal agency if the contract between the federal
4 agency and the solid waste collector was entered into, or renewed,
5 on or after [the effective date of this amendatory and
6 supplementary act] May 1, 1985.

7 (cf: P.L.1985, c.38, s.3)

8

9 12. Section 12 of P.L.1985, c.38 (C.13:1E-147) is amended to
10 read as follows:

11 12. The Solid Waste Services Tax Fund is established as a
12 nonlapsing, revolving fund in the Department of Environmental
13 Protection. The services tax fund shall be administered by the
14 department and shall be the depository for the revenues generated
15 by the solid waste services tax levied and imposed pursuant to
16 section 3 of P.L.1985, c.38 (C.13:1E-138), and any interest earned
17 thereon.

18 No later than 30 days following the effective date of P.L. _____,
19 c. (C. _____) (pending in the Legislature as this bill), the remaining
20 moneys in the services tax fund shall be appropriated to the State
21 Recycling Fund established pursuant to section 5 of P.L.1981, c.278
22 (C.13:1E-96).

23 (cf: P.L.1985, c.38, s.12)

24

25 13. Section 1 of P.L.2002, c.128 (C.13:1E-213) is amended to
26 read as follows:

27 1. Sections 1 through 10 and section 13 of P.L.2002, c.128
28 (C.13:1E-213 et seq.) shall be known and may be cited as the
29 "Clean Communities [and Recycling Grant] Program Act."

30 (cf: P.L.2002, c.128, s.1)

31

32 14. Section 2 of P.L.2002, c.128 (C.13:1E-214) is amended to
33 read as follows:

34 2. The Legislature finds that an uncluttered landscape is among
35 the most priceless heritages which New Jersey can bequeath to
36 posterity; that it is the duty of government to promote and
37 encourage a clean and safe environment; that the proliferation and
38 accumulation of carelessly discarded litter may pose a threat to the
39 public health and safety; that the litter problem is especially serious
40 in a State as densely populated and heavily traveled as New Jersey;
41 and that unseemly litter has an adverse economic effect on New
42 Jersey by making the State less attractive to tourists and new
43 industry and residents.

44 [The Legislature further finds that the recycling of waste
45 materials decreases waste flow to county solid waste facilities and
46 out-of-State disposal sites, reduces waste flow to the State's solid
47 waste incinerators while contributing to their overall combustion
48 efficiency through the removal of noncombustible and

1 nonprocessable materials at the source, recovers valuable resources,
2 conserves energy in the manufacturing process, and offers a supply
3 of domestic raw materials for the State's industries; that
4 economically viable municipal and county recycling programs are
5 necessary to achieve the maximum practicable recovery of reusable
6 materials from solid waste in this State; and that such programs will
7 reduce the amount of solid waste disposed at county solid waste
8 facilities, result in more efficient solid waste incinerators, conserve
9 energy and resources, and recover materials for industrial uses.】

10 The Legislature, therefore, declares it to be in the aesthetic,
11 environmental, and economic interests of the State of New Jersey to
12 support a Clean Communities Program 【and to maintain support for
13 municipal and county recycling programs】.

14 (cf: P.L.2002, c.128, s.2)

15

16 15. Section 5 of P.L.2002, c.128 (C.13:1E-217) is amended to
17 read as follows:

18 5. The Clean Communities Program Fund is established as a
19 nonlapsing, revolving fund in the Department of the Treasury. The
20 Clean Communities Program Fund shall be administered by the
21 Department of Environmental Protection and credited, in addition to
22 any appropriations made thereto, with all user fees imposed
23 pursuant to section 4 of P.L.2002, c.128 (C.13:1E-216) or penalties
24 imposed pursuant to section 10 of P.L.2002, c.128 (C.13:1E-222),
25 and any sums received as voluntary contributions from private
26 sources. Interest received on moneys in the Clean Communities
27 Program Fund shall be credited to the fund. Unless otherwise
28 expressly provided by the specific appropriation thereof by the
29 Legislature, which shall take the form of a discrete legislative
30 appropriations act and shall not be included within the annual
31 appropriations act, all available moneys in the Clean Communities
32 Program Fund shall be appropriated annually solely for the
33 following purposes and no others:

34 a. 10% of the estimated annual balance of the Clean
35 Communities Program Fund shall be used for a State program of
36 litter pickup and removal and of enforcement of litter-related laws
37 and ordinances in State owned places and areas that are accessible
38 to the public. Moneys in the fund may also be used by the State to
39 abate graffiti;

40 b. 50% of the estimated annual balance of the Clean
41 Communities Program Fund shall be distributed as State aid to
42 eligible municipalities with total housing units of 200 or more for
43 programs of litter pickup and removal, including establishing an
44 "Adopt-A-Highway" program, of public education and information
45 relating to litter abatement and of enforcement of litter-related laws
46 and ordinances. The amount of State aid due each municipality
47 shall be solely calculated based on the proportion which the housing
48 units of a qualifying municipality bear to the total housing units in

1 the State. Total housing units shall be determined using the most
2 recent federal decennial population estimates for New Jersey and its
3 municipalities, filed in the office of the Secretary of State. Moneys
4 in the fund may also be used by an eligible municipality to abate
5 graffiti;

6 c. 30% of the estimated annual balance of the Clean
7 Communities Program Fund shall be distributed as State aid to
8 eligible municipalities with total housing units of 200 or more for
9 programs of litter pickup and removal, including establishing an
10 "Adopt-A-Highway" program, of public education and information
11 relating to litter abatement and of enforcement of litter-related laws
12 and ordinances. The amount of State aid due each municipality
13 shall be solely calculated based on the proportion which the
14 municipal road mileage of a qualifying municipality bears to the
15 total municipal road mileage within the State. For the purposes of
16 this subsection, "municipal road mileage" means that road mileage
17 under the jurisdiction of municipalities, as determined by the
18 Department of Transportation. Moneys in the fund may also be
19 used by an eligible municipality to abate graffiti;

20 d. 10% of the estimated annual balance of the Clean
21 Communities Program Fund shall be distributed as State aid to
22 eligible counties for programs of litter pickup and removal,
23 including establishing an "Adopt-A-Highway" program, of public
24 education and information relating to litter abatement and of
25 enforcement of litter-related laws and ordinances. The amount of
26 State aid due each county shall be solely calculated based on the
27 proportion which the county road mileage of an eligible county
28 bears to the total county road mileage within the State. For the
29 purposes of this subsection, "county road mileage" means that road
30 mileage under the jurisdiction of counties, as determined by the
31 Department of Transportation. Moneys in the fund may also be
32 used by an eligible county to abate graffiti;

33 e. No eligible municipality shall receive less than \$4,000 in
34 State aid as apportioned pursuant to subsections b. and c. of this
35 section. A municipality or county may use up to 5% of its State aid
36 for administrative expenses;

37 f. Prior to the distribution of funds pursuant to subsections a.
38 through d. of this section [

39 (1) 25% of the estimated annual balance of the Clean
40 Communities Program Fund shall be annually appropriated to the
41 State Recycling Fund established pursuant to section 5 of P.L.1981,
42 c.278 (C.13:1E-96). These moneys shall be used by the Department
43 of Environmental Protection for direct recycling grants to counties
44 and municipalities, up to a maximum appropriation of \$4,000,000
45 per year. The moneys made available to the department from the
46 Clean Communities Program Fund for direct recycling grants shall
47 be annually appropriated to the State Recycling Fund until such

1 time as an alternative funding mechanism for direct recycling grants
2 is enacted into law; and

3 (2) \$300,000] , \$375,000 of the estimated annual balance of the
4 Clean Communities Program Fund shall be annually appropriated to
5 the department and made available on July 1 of every year to the
6 organization under contract with the department pursuant to section
7 6 of P.L.2002, c.128 (C.13:1E-218) for a Statewide public
8 information and education program concerning antilittering
9 activities and other aspects of responsible solid waste handling
10 behavior , of which up to \$75,000 shall be used exclusively to
11 finance an annual statewide television, radio, newspaper and other
12 media advertising campaign to promote antilittering and responsible
13 solid waste handling behavior .

14 The organization under contract with the department pursuant to
15 section 6 of P.L.2002, c.128 (C.13:1E-218) shall, no later than the
16 date on which the contract period concludes, submit a report to the
17 Governor and the Legislature concerning its activities during the
18 contract period and any recommendations concerning improving the
19 program. Every eligible municipality and county shall cooperate
20 with the organization under contract with the department pursuant
21 to section 6 of P.L.2002, c.128 (C.13:1E-218) in providing
22 information concerning its program of litter pickup and removal.

23 No later than May 31, 2008, 25% of the estimated annual balance
24 of the Clean Communities Program Fund shall be appropriated to
25 the State Recycling Fund established pursuant to section 5 of
26 P.L.1981, c.278 (C.13:1E-96). These moneys shall be used by the
27 Department of Environmental Protection for direct recycling grants
28 to counties and municipalities, up to a maximum appropriation of
29 \$4,000,000.

30 g. As used in this section, "graffiti" means any inscription
31 drawn, painted or otherwise made on a bridge, building, public
32 transportation vehicle, rock, wall, sidewalk, street or other exposed
33 surface on public property.

34 The department may carry forward any unexpended balances in
35 the Clean Communities Program Fund as of June 30 of each year.

36 (cf: P.L.2006, c.31, s.3)

37

38 16. Section 13 of P.L.2002, c.128 (C.13:1E-223) is amended to
39 read as follows:

40 13. a. The annual appropriations act for each State fiscal year
41 shall, without other conditions, limitations or restrictions on the
42 following:

43 (1) [appropriate the amounts specified pursuant to paragraph (1)
44 of subsection f. of section 5 of P.L.2002, c.128 (C.13:1E-217) to the
45 State Recycling Fund established pursuant to section 5 of P.L.1981,
46 c.278 (C.13:1E-96) for use by the Department of Environmental
47 Protection for direct recycling grants to counties and

1 municipalities;] (Deleted by amendment, P.L. , c.) (pending in
2 the Legislature as this bill)

3 (2) appropriate the amount specified pursuant to paragraph (2) of
4 subsection f. of section 5 of P.L.2002, c.128 (C.13:1E-217) to the
5 Department of Environmental Protection for use by the organization
6 under contract with the department pursuant to section 6 of
7 P.L.2002, c.128 (C.13:1E-218) for a Statewide public information
8 and education program concerning antilittering activities and other
9 aspects of responsible solid waste handling behavior; and

10 (3) appropriate the balance of the Clean Communities Program
11 Fund established pursuant to section 5 of P.L.2002, c.128
12 (C.13:1E-217) for the purposes set forth in subsections a., b., c. and
13 d. of that section.

14 b. If the requirements of subsection a. of this section are not met
15 on the effective date of an annual appropriations act for the State
16 fiscal year, or if an amendment or supplement to an annual
17 appropriations act for the State fiscal year should violate any of the
18 requirements of subsection a. of this section, the Director of the
19 Division of Budget and Accounting in the Department of the
20 Treasury shall, not later than five days after the enactment of the
21 annual appropriations act, or an amendment or supplement thereto,
22 that violates any of the requirements of subsection a. of this section,
23 certify to the Director of the Division of Taxation that the
24 requirements of subsection a. of this section have not been met.

25 (cf: P.L.2002, c.128, s.13)

26

27 17. Section 3 of P.L.1976, c.68 (C.40A:4-45.3) is amended to
28 read as follows:

29 3. In the preparation of its budget a municipality shall limit any
30 increase in said budget to 2.5% or the cost-of-living adjustment,
31 whichever is less, over the previous year's final appropriations
32 subject to the following exceptions:

33 a. (Deleted by amendment, P.L.1990, c.89.)

34 b. Capital expenditures, including appropriations for current
35 capital expenditures, whether in the capital improvement fund or as
36 a component of a line item elsewhere in the budget, provided that
37 any such current capital expenditure would be otherwise bondable
38 under the requirements of N.J.S.40A:2-21 and 40A:2-22;

39 c. (1) An increase based upon emergency temporary
40 appropriations made pursuant to N.J.S.40A:4-20 to meet an urgent
41 situation or event which immediately endangers the health, safety or
42 property of the residents of the municipality, and over which the
43 governing body had no control and for which it could not plan and
44 emergency appropriations made pursuant to N.J.S.40A:4-46.
45 Emergency temporary appropriations and emergency appropriations
46 shall be approved by at least two-thirds of the governing body and
47 by the Director of the Division of Local Government Services, and

- 1 shall not exceed in the aggregate 3% of the previous year's final
2 current operating appropriations.
- 3 (2) (Deleted by amendment, P.L.1990, c.89.)
- 4 The approval procedure in this subsection shall not apply to
5 appropriations adopted for a purpose referred to in subsection d. or
6 j. below;
- 7 d. All debt service, including that of a Type I school district;
- 8 e. Upon the approval of the Local Finance Board in the Division
9 of Local Government Services, amounts required for funding a
10 preceding year's deficit;
- 11 f. Amounts reserved for uncollected taxes;
- 12 g. (Deleted by amendment, P.L.1990, c.89.)
- 13 h. Expenditure of amounts derived from new or increased
14 construction, housing, health or fire safety inspection or other
15 service fees imposed by State law, rule or regulation or by local
16 ordinance;
- 17 i. Any amount approved by any referendum;
- 18 j. Amounts required to be paid pursuant to (1) any contract with
19 respect to use, service or provision of any project, facility or public
20 improvement for water, sewerage, parking, senior citizen housing or
21 any similar purpose, or payments on account of debt service
22 therefor, between a municipality and any other municipality,
23 county, school or other district, agency, authority, commission,
24 instrumentality, public corporation, body corporate and politic or
25 political subdivision of this State; (2) the provisions of article 9 of
26 P.L.1968, c.404 (C.13:17-60 through 13:17-76) by a constituent
27 municipality to the intermunicipal account; (3) any lease of a
28 facility owned by a county improvement authority when the lease
29 payment represents the proportionate amount necessary to amortize
30 the debt incurred by the authority in providing the facility which is
31 leased, in whole or in part; and (4) any repayments under a loan
32 agreement entered into in accordance with the provisions of section
33 5 of P.L.1992, c.89;
- 34 k. (Deleted by amendment, P.L.1987, c.74.)
- 35 l. Appropriations of federal, county, independent authority or
36 State funds, or by grants from private parties or nonprofit
37 organizations for a specific purpose, and amounts received or to be
38 received from such sources in reimbursement for local
39 expenditures. If a municipality provides matching funds in order to
40 receive the federal, county, independent authority or State funds, or
41 the grants from private parties or nonprofit organizations for a
42 specific purpose, the amount of the match which is required by law
43 or agreement to be provided by the municipality shall be excepted;
- 44 m. (Deleted by amendment, P.L.1987, c.74.)
- 45 n. (Deleted by amendment, P.L.1987, c.74.)
- 46 o. (Deleted by amendment, P.L.1990, c.89.)
- 47 p. (Deleted by amendment, P.L.1987, c.74.)
- 48 q. (Deleted by amendment, P.L.1990, c.89.)

- 1 r. Amounts expended to fund a free public library established
2 pursuant to the provisions of R.S.40:54-1 through 40:54-29,
3 inclusive;
- 4 s. (Deleted by amendment, P.L.1990, c.89.)
- 5 t. Amounts expended in preparing and implementing a housing
6 element and fair share plan pursuant to the provisions of P.L.1985,
7 c.222 (C.52:27D-301 et al.) and any amounts received by a
8 municipality under a regional contribution agreement pursuant to
9 section 12 of that act;
- 10 u. (Deleted by amendment, P.L.2004, c.74.)
- 11 v. (Deleted by amendment, P.L.1990, c.89.)
- 12 w. (Deleted by amendment, P.L.2004, c.74.)
- 13 x. Amounts expended to aid privately owned libraries and
14 reading rooms, pursuant to R.S.40:54-35;
- 15 y. (Deleted by amendment, P.L.1990, c.89.)
- 16 z. (Deleted by amendment, P.L.1990, c.89.)
- 17 aa. Extraordinary expenses, approved by the Local Finance
18 Board, required for the implementation of an interlocal services
19 agreement;
- 20 bb. Any expenditure mandated as a result of a natural disaster,
21 civil disturbance or other emergency that is specifically authorized
22 pursuant to a declaration of an emergency by the President of the
23 United States or by the Governor;
- 24 cc. Expenditures for the cost of services mandated by any order
25 of court, by any federal or State statute, or by administrative rule,
26 directive, order, or other legally binding device issued by a State
27 agency which has identified such cost as mandated expenditures on
28 certification to the Local Finance Board by the State agency;
- 29 dd. Expenditures of amounts actually realized in the local
30 budget year from the sale of municipal assets in extraordinary cases
31 and with the permission of the Local Finance Board;
- 32 ee. Any local unit which is determined to be experiencing fiscal
33 distress pursuant to the provisions of P.L.1987, c.75
34 (C.52:27D-118.24 et seq.), whether or not a local unit is an "eligible
35 municipality" as defined in section 3 of P.L.1987, c.75
36 (C.52:27D-118.26), and which has available surplus pursuant to the
37 spending limitations imposed by P.L.1976, c.68 (C.40A:4-45.1 et
38 seq.), may appropriate and expend an amount of that surplus
39 approved by the director and the Local Finance Board as an
40 exception to the spending limitation. Any determination approving
41 the appropriation and expenditure of surplus as an exception to the
42 spending limitations shall be based upon:
- 43 1) the local unit's revenue needs for the current local budget year
44 and its revenue raising capacity;
- 45 2) the intended actions of the governing body of the local unit to
46 meet the local unit's revenue needs;

- 1 3) the intended actions of the governing body of the local unit to
2 expand its revenue generating capacity for subsequent local budget
3 years;
- 4 4) the local unit's ability to demonstrate the source and existence
5 of sufficient surplus as would be prudent to appropriate as an
6 exception to the spending limitations to meet the operating expenses
7 for the local unit's current budget year; and
- 8 5) the impact of utilization of surplus upon succeeding budgets
9 of the local unit;
- 10 ff. Newly authorized operating appropriations for the municipal
11 court or violation's bureau when approved by the vicinage Presiding
12 Judge of the Municipal Court after consultation with the mayor and
13 governing body of the municipality;
- 14 gg. (Deleted by amendment, P.L.2004, c.74.)
- 15 hh. (Deleted by amendment, P.L.2004, c.74.)
- 16 ii. Subject to the approval of the Local Finance Board,
17 expenditures related to the cost of conducting and implementing a
18 total property tax levy sale pursuant to section 16 of P.L.1997, c.99
19 (C.54:5-113.5);
- 20 jj. Amounts expended for a length of service award program
21 pursuant to P.L.1997, c.388 (C.40A:14-183 et al.);
- 22 kk. Amounts expended to provide municipal services or
23 reimbursement amounts to multifamily dwellings for the collection
24 and disposal of solid waste generated by the residents of the
25 multifamily dwellings. This subsection shall cease to be operative
26 at the end of the first local budget year in which the municipality
27 has fully phased in its reimbursement amount expenses;
- 28 ll. Amounts expended by a municipality under an interlocal
29 services agreement entered into pursuant to the "Interlocal Services
30 Act," P.L.1973, c.208 (C.40:8A-1 et seq.) entered into after the
31 effective date of P.L.2000, c.126 (C.52:13H-21 et al.). The
32 governing body of the municipality that will receive the service
33 may choose to allow the amount of projected annual savings to be
34 added to the amount of final appropriations upon which its
35 permissible expenditures are calculated pursuant to section 2 of
36 P.L.1976, c.68 (C.40A:4-45.2);
- 37 mm. Amounts expended under a joint contract pursuant to the
38 "Consolidated Municipal Service Act," P.L.1952, c.72 (C.40:48B-1
39 et seq.) entered into after the effective date of P.L.2000, c.126
40 (C.52:13H-21 et al.). The governing body of each participating
41 municipality may choose to allow the amount of projected annual
42 savings to be added to the amount of final appropriations upon
43 which its permissible expenditures are calculated pursuant to
44 section 2 of P.L.1976, c.68 (C.40A:4-45.2);
- 45 nn. (Deleted by amendment, P.L.2004, c.74.)
- 46 oo. Amounts appropriated in the first three years after the
47 effective date of P.L.2003, c.92 (C.18A:7F-5b et al.) for liability

1 insurance, workers' compensation insurance and employee group
2 insurance;

3 pp. Amounts appropriated in the first three years after the
4 effective date of P.L.2003, c.92 (C.18A:7F-5b et al.) for costs of
5 domestic security preparedness and responses to incidents and
6 threats to domestic security;

7 qq. Amounts required to be paid by a municipality pursuant to
8 the provisions of section 4 of P.L. , c. (C.) (pending in the
9 Legislature as this bill).

10 In the first full year when an existing appropriation or
11 expenditure that is subject to budget limitations is made an
12 exception to budget limitations, a municipality shall deduct from its
13 final appropriations upon which its permissible expenditures are
14 calculated pursuant to section 2 of P.L.1976, c.68 (C.40A:4-45.2),
15 the amount which the municipality expended for that purpose
16 during the last full budget year, or portion thereof, in which the
17 purpose so excepted was funded from appropriations in the
18 municipal budget.

19 In the first full year when an existing appropriation or
20 expenditure that is not subject to budget limitations is made subject
21 to budget limitations, a municipality shall add to its final
22 appropriations upon which its permissible expenditures are
23 calculated pursuant to section 2 of P.L.1976, c.68 (C.40A:4-45.2),
24 the amount which the municipality expended for that purpose
25 during the last full budget year, or portion thereof, in which the
26 purpose so excepted was funded from appropriations in the
27 municipal budget.

28 (cf: P.L.2004, c.74, s.3)

29

30 18. Section 4 of P.L.1976, c.68 (C.40A:4-45.4) is amended to
31 read as follows:

32 4. In the preparation of its budget, a county may not increase the
33 county tax levy to be apportioned among its constituent
34 municipalities in excess of 2.5% or the cost-of-living adjustment,
35 whichever is less, of the previous year's county tax levy, subject to
36 the following exceptions:

37 a. The amount of revenue generated by the increase in
38 valuations within the county, based solely on applying the
39 preceding year's county tax rate to the apportionment valuation of
40 new construction or improvements within the county, and such
41 increase shall be levied in direct proportion to said valuation;

42 b. Capital expenditures, including appropriations for current
43 capital expenditures, whether in the capital improvement fund or as
44 a component of a line item elsewhere in the budget, provided that
45 any such current capital expenditures would be otherwise bondable
46 under the requirements of N.J.S.40A:2-21 and 40A:2-22;

47 c. (1) An increase based upon emergency temporary
48 appropriations made pursuant to N.J.S.40A:4-20 to meet an urgent

1 situation or event which immediately endangers the health, safety or
2 property of the residents of the county, and over which the
3 governing body had no control and for which it could not plan and
4 emergency appropriations made pursuant to N.J.S.40A:4-46.
5 Emergency temporary appropriations and emergency appropriations
6 shall be approved by at least two-thirds of the governing body and
7 by the Director of the Division of Local Government Services, and
8 shall not exceed in the aggregate 3% of the previous year's final
9 current operating appropriations.

10 (2) (Deleted by amendment, P.L.1990, c.89.)

11 The approval procedure in this subsection shall not apply to
12 appropriations adopted for a purpose referred to in subsection d. or
13 f. below;

14 d. All debt service;

15 e. (Deleted by amendment, P.L.1990, c.89.)

16 f. Amounts required to be paid pursuant to (1) any contract with
17 respect to use, service or provision of any project, facility or public
18 improvement for water, sewerage, parking, senior citizen housing or
19 any similar purpose, or payments on account of debt service
20 therefor, between a county and any other county, municipality,
21 school or other district, agency, authority, commission,
22 instrumentality, public corporation, body corporate and politic or
23 political subdivision of this State; and (2) any lease of a facility
24 owned by a county improvement authority when the lease payment
25 represents the proportionate amount necessary to amortize the debt
26 incurred by the authority in providing the facility which is leased, in
27 whole or in part;

28 g. That portion of the county tax levy which represents funding
29 to participate in any federal or State aid program and amounts
30 received or to be received from federal, State or other funds in
31 reimbursement for local expenditures. If a county provides
32 matching funds in order to receive the federal or State or other
33 funds, only the amount of the match which is required by law or
34 agreement to be provided by the county shall be excepted;

35 h. (Deleted by amendment, P.L.1987, c.74.)

36 i. (Deleted by amendment, P.L.1990, c.89.)

37 j. (Deleted by amendment, P.L.1990, c.89.)

38 k. (Deleted by amendment, P.L.1990, c.89.)

39 l. (Deleted by amendment, P.L.2004, c.74.)

40 m. (Deleted by amendment, P.L.1990, c.89.)

41 n. (Deleted by amendment, P.L.1990, c.89.)

42 o. (Deleted by amendment, P.L.1990, c.89.)

43 p. Extraordinary expenses, approved by the Local Finance
44 Board, required for the implementation of an interlocal services
45 agreement;

46 q. Any expenditure mandated as a result of a natural disaster,
47 civil disturbance or other emergency that is specifically authorized

1 pursuant to a declaration of an emergency by the President of the
2 United States or by the Governor;

3 r. Expenditures for the cost of services mandated by any order of
4 court, by any federal or State statute, or by administrative rule,
5 directive, order, or other legally binding device issued by a State
6 agency which has identified such cost as mandated expenditures on
7 certification to the Local Finance Board by the State agency;

8 s. That portion of the county tax levy which represents funding
9 to a county college in excess of the county tax levy required to fund
10 the county college in local budget year 1992;

11 t. (Deleted by amendment, P.L.2004, c.74.)

12 u. Expenditures for the administration of general public
13 assistance pursuant to P.L.1995, c.259 (C.40A:4-6.1 et al.);

14 v. Amounts in a separate line item of a county budget that are
15 expended on tick-borne disease vector management activities
16 undertaken pursuant to P.L.1997, c.52 (C.26:2P-7 et al.);

17 w. Amounts expended by a county under an interlocal services
18 agreement entered into pursuant to the "Interlocal Services Act,"
19 P.L.1973, c.208 (C.40:8A-1 et seq.) entered into after the effective
20 date of P.L.2000, c.126 (C.52:13H-21 et al.) or amounts expended
21 under a joint contract pursuant to the "Consolidated Municipal
22 Service Act," P.L.1952, c.72 (C.40:48B-1 et seq.) entered into after
23 the effective date of P.L.2000, c.126 (C.52:13H-21 et al.);

24 x. Amounts appropriated in the first three years after the
25 effective date of P.L.2003, c.92 (C.18A:7F-5b et al.) for liability
26 insurance, workers' compensation insurance and employee group
27 insurance;

28 y. Amounts appropriated in the first three years after the
29 effective date of P.L.2003, c.92 (C.18A:7F-5b et al.) for costs of
30 domestic security preparedness and responses to incidents and
31 threats to domestic security;

32 z. Expenditures of amounts received pursuant to section 5 of
33 P.L.1981, c.278 (C.13:1E-96).

34 In the first full year where an existing appropriation or
35 expenditure that is subject to budget limitations is made an
36 exception to budget limitations, a county shall deduct from its final
37 appropriations upon which its permissible expenditures are
38 calculated pursuant to section 2 of P.L.1976, c.68 (C.40A:4-45.2)
39 the amount which the county expended for that purpose during the
40 last full budget year, or portion thereof, in which the purpose so
41 excepted was funded from appropriations in the county budget.

42 In the first full year where an existing appropriation or
43 expenditure that is not subject to budget limitations is made subject
44 to budget limitations, a county shall add to its final appropriations
45 upon which its permissible expenditures are calculated pursuant to
46 section 2 of P.L.1976, c.68 (C.40A:4-45.2) the amount which the
47 county expended for that purpose during the last full budget year, or

1 portion thereof, in which the purpose so excepted was funded from
2 appropriations in the county budget.
3 (cf: P.L.2004, c.74, s.7)
4

5 19. (New section) There is appropriated from the General Fund
6 to the State Recycling Fund established pursuant to section 5 of
7 P.L.1981, c.278 (C.13:1E-96) the sum of \$8,000,000. These
8 moneys shall be used by the Department of Environmental
9 Protection to provide direct recycling grants to counties and
10 municipalities within 12 months following the effective date
11 of P.L. , c. (C.) (pending in the Legislature as this bill). The
12 grants shall be used solely for the purposes set forth in the adopted
13 and approved district solid waste management plans required
14 pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.) and the district
15 recycling plans required pursuant to section 3 of P.L.1987, c.102
16 (C.13:1E-99.13), including the municipal source separation and
17 recycling ordinances required pursuant to section 6 of P.L.1987,
18 c.102 (C.13:1E-99.16), as those plans and ordinances may be
19 revised or modified pursuant to the Statewide Solid Waste
20 Management Plan. The amount appropriated pursuant to this
21 section shall be repaid to the General Fund from moneys deposited
22 in the State Recycling Fund in annual installments not to exceed
23 \$1,000,000 per fiscal year beginning July 1, 2009 and annually
24 thereafter until the full amount is repaid according to a schedule of
25 repayments determined by the State Treasurer.

26
27 20. The following are repealed:
28 Sections 4 through 9 inclusive of P.L.1985, c.38 (C.13:1E-139
29 through 13:1E-144);
30 Section 11 of P.L.1985, c.38 (C.13:1E-146);
31 Sections 13 through 17 inclusive of P.L.1985, c.38 (C.13:1E-148
32 through 13:1E-152);
33 Sections 30 and 31 of P.L.1985, c.38 (C.13:1E-165 and
34 13:1E-166).
35

36 21. This act shall take effect immediately.
37
38
39

40
41 _____
"Recycling Enhancement Act."

ASSEMBLY, No. 1886

STATE OF NEW JERSEY 212th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2006 SESSION

Sponsored by:

Assemblyman JOHN F. MCKEON

District 27 (Essex)

Assemblyman REED GUSCIORA

District 15 (Mercer)

Co-Sponsored by:

Assemblymen Hackett, Giblin, Diegnan, Chivukula and Epps

SYNOPSIS

"Recycling Enhancement Act"

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



(Sponsorship Updated As Of: 12/7/2007)

1 AN ACT concerning solid waste collection, imposing a recycling tax
2 on solid waste generation, and amending and supplementing
3 various sections of statutory law.
4

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

7
8 1. (New section) This act shall be known and may be cited as
9 the "Recycling Enhancement Act."
10

11 2. (New section) The Legislature finds and declares that the
12 State Recycling plan goals, which provide for the recycling of 50%
13 of the municipal solid waste stream and 60% of the total solid
14 waste stream, are perhaps the most ambitious in the nation; that
15 since the expiration of the recycling tax on December 31, 1996 the
16 State of New Jersey provides less public support to recycling than
17 at least 25 other states; that this lack of public financial support,
18 especially for local public information and recycling education
19 programs, is at least partly responsible for the steady decline in the
20 New Jersey's recycling rates over the past decade; and that it is
21 unacceptable that the State which enacted the nation's first
22 statewide mandatory recycling law has been unable to sustain its
23 heretofore exemplary recycling efforts due to inadequate public
24 funding.

25 The Legislature further finds that the recycling of waste
26 materials decreases waste flow to county solid waste facilities and
27 out-of-State disposal sites, reduces waste flow to the State's solid
28 waste incinerators while contributing to their overall combustion
29 efficiency through the removal of noncombustible and
30 nonprocessable materials at the source, recovers valuable resources,
31 conserves energy in the manufacturing process, and offers a supply
32 of domestic raw materials for the State's industries; that
33 economically viable municipal and county recycling programs are
34 necessary to achieve the maximum practicable recovery of reusable
35 materials from solid waste in this State; and that such programs will
36 reduce the amount of solid waste disposed at county solid waste
37 facilities, result in more efficient solid waste incinerators, conserve
38 energy and resources, and recover materials for industrial uses.

39 The Legislature, therefore, declares it to be in the environmental
40 and economic interests of the State of New Jersey to provide
41 financial support for municipal and county recycling programs
42 through the imposition of a tax on solid waste generation.
43

44 3. (New section) For the purposes of this act:

45 "Beverage container" means an individual, separate, hermetically

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

Matter underlined thus is new matter.

1 sealed, or made airtight with a metal or plastic cap, bottle or can
2 composed of glass, metal, plastic or any combination thereof,
3 containing a beverage.

4 "Commissioner" means the Commissioner of Environmental
5 Protection.

6 "Department" means the Department of Environmental
7 Protection.

8 "Division" means the Division of Taxation in the Department of
9 the Treasury.

10 "Director" means the Director of the Division of Taxation in the
11 Department of the Treasury.

12 "Regular solid waste collection service" means the scheduled
13 pick-up and removal of solid waste from a source of generation
14 within the boundaries of any municipality at least once a week.

15 "Solid waste" means the same as that term is defined in section 3
16 of P.L.1970, c.39 (C.13:1E-3), except that, as used in the provisions
17 of P.L. , c. (C.) (pending in the Legislature as this bill),
18 "solid waste" shall be limited to the following solid waste ID types:
19 Type 10 Municipal; Type 12 Dry sewage sludge; Type 13 Bulky
20 waste; Type 13C Construction and Demolition waste; Type 23
21 Vegetative waste; Type 25 Animal and food processing wastes;
22 Type 27 Dry industrial waste; Type 27A and Type 27I, as set forth
23 in N.J.A.C.7:26-1.6.

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

27 "Solid waste collector" means a person engaged in the collection
28 of solid waste and registered pursuant to sections 4 and 5 of
29 P.L.1970, c.39 (C.13:1E-4 and 13:1E-5); or any municipality
30 wherein the municipal governing body has established and operates
31 a municipal service system for solid waste collection pursuant to
32 R.S.40:66-1.

33

34 4. (New section) a. There is imposed upon every solid waste
35 collector a recycling tax. The recycling tax shall be levied on the
36 solid waste collector at the rate of \$3.00 per ton on all solid waste
37 collected in this State.

38 b. (1) Every person subject to the recycling tax shall, on or
39 before the effective date of this section, and quarterly thereafter,
40 render a return under oath to the director, on such forms as may be
41 prescribed by the director, indicating the number of tons of solid
42 waste collected, and at that time shall pay the full amount due.

43 (2) Every person subject to the recycling tax shall, within 30
44 days of the effective date of this act, register with the director on
45 forms prescribed by the director.

46 c. If a return required by this section is not filed, or if a return
47 when filed is incorrect or insufficient in the opinion of the director,
48 the amount due shall be determined by the director from such

1 information as may be available. Notice of the determination shall
2 be given to the person subject to the recycling tax. The
3 determination shall finally and irrevocably fix the amount due,
4 unless the person on whom it is imposed, within 90 days after the
5 giving of the notice of the determination, shall file a protest in
6 writing as provided in R.S.54:49-18 and request a hearing, or unless
7 the director on the director's own motion shall redetermine the
8 same. After the hearing the director shall give notice of the
9 determination to the person on whom the recycling tax is imposed.

10 d. Any person subject to the recycling tax who fails to file a
11 return when due or to pay any tax when it becomes due, as herein
12 provided, shall be subject to such penalties and interest as provided
13 in the "State Tax Uniform Procedure Law," R.S.54:48-1 et seq. If
14 the director determines that the failure to comply with any provision
15 of this section was excusable under the circumstances, the director
16 may remit that part or all of the penalty as shall be appropriate
17 under the circumstances.

18 e. The director shall deposit all revenues collected pursuant to
19 this section in the State Recycling Fund established pursuant to
20 section 5 of P.L.1981, c.278 (C.13:1E-96).

21 f. In addition to the other powers granted to the director in this
22 section, the director is authorized:

23 (1) To delegate to any officer or employee of the division those
24 powers and duties as the director deems necessary to carry out
25 efficiently the provisions of this section, and the person to whom
26 the power has been delegated shall possess and may exercise all of
27 these powers and perform all of the duties delegated by the director;

28 (2) To prescribe and distribute all necessary forms for the
29 implementation of this section.

30 g. Every solid waste collector is hereby authorized to calculate,
31 charge and collect rates, fees or surcharges from all solid waste
32 generators serviced by the solid waste collector sufficient to recover
33 the recycling tax imposed by this section.

34 h. The recycling tax imposed by this section shall be governed
35 in all respects by the provisions of the "State Tax Uniform
36 Procedure Law," R.S.54:48-1 et seq., except only to the extent that
37 a specific provision of this section may be in conflict therewith.

38 i. The registration issued to a solid waste collector who violates
39 the provisions of this section may be subject to revocation or
40 suspension pursuant to section 12 of P.L.1970, c.39 (C.13:1E-12).

41 j. Subsections a. through i. of this section shall be without effect
42 on and after the tenth day following a certification by the Director
43 of the Division of Budget and Accounting in the Department of
44 the Treasury pursuant to subsection b. of section 6 of P.L. ,
45 c. (C.)(pending in the Legislature as this bill).

46
47 5. (New section) The recycling tax imposed pursuant to section
48 4 of P.L. , c. (C.)(pending in the Legislature as this bill)

1 shall not be due and payable if, and as long as, any State of New
2 Jersey or federal law, or any rule or regulation adopted pursuant
3 thereto, requiring a deposit on, or establishing a refund value for,
4 any beverage container shall be in effect.

5

6 6. (New section) a. The annual appropriations act for each
7 State fiscal year shall, without other conditions, limitations or
8 restrictions on the following:

9 (1) appropriate the amounts specified pursuant to paragraph (1)
10 of subsection b. of section 5 of P.L.1981, c.278 (C.13:1E-96) for
11 use by the Department of Environmental Protection for direct
12 recycling grants to counties and municipalities; and

13 (2) appropriate the balance of the State Recycling Fund
14 established pursuant to section 5 of P.L.1981, c.278 (C.13:1E-96)
15 for the purposes set forth in paragraphs (2), (3) and (4) of
16 subsection b. of that section.

17 b. If the requirements of subsection a. of this section are not met
18 on the effective date of an annual appropriations act for the State
19 fiscal year, or if an amendment or supplement to an annual
20 appropriations act for the State fiscal year should violate any of the
21 requirements of subsection a. of this section, the Director of the
22 Division of Budget and Accounting in the Department of the
23 Treasury shall, not later than five days after the enactment of the
24 annual appropriations act, or an amendment or supplement thereto,
25 that violates any of the requirements of subsection a. of this section,
26 certify to the Director of the Division of Taxation that the
27 requirements of subsection a. of this section have not been met.

28

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

31 5. a. The State Recycling Fund (hereinafter referred to as the
32 "fund") is established as a nonlapsing, revolving fund. The fund
33 shall be administered by the Department of Environmental
34 Protection, and shall be credited with all **【**sums received from the
35 Clean Communities Program Fund established pursuant to section 5
36 of P.L.2002, c.128 (C.13:1E-217)**】** recycling tax revenue collected
37 pursuant to section 4 of P.L. , c. (C.)(pending in the
38 Legislature as this bill), and all interest received on moneys in the
39 fund. **【**Interest received on moneys in the fund and sums received
40 as repayment of principal and interest on outstanding loans made
41 from the fund shall be credited to the fund.**】**

42 b. Unless otherwise expressly provided by the specific
43 appropriation thereof by the Legislature, which shall take the form
44 of a discrete legislative appropriations act and shall not be included
45 within the annual appropriations act, all available moneys in the
46 fund shall be **【**allocated and used as follows:

1 Moneys in the fund received from the Clean Communities
2 Program Fund established pursuant to section 5 of P.L.2002, c.128
3 (C.13:1E-217) appropriated annually solely for the following
4 purposes and no others:

5 (1) 60% of the estimated annual balance of the fund shall be used
6 for the annual expenses of a program for direct recycling grants to
7 municipalities or counties in those instances where a county, at its
8 own expense, provides for the collection, processing and marketing
9 of recyclable materials on a regional basis. The amount of these
10 grants shall be calculated on the basis of the total number of tons of
11 recyclable materials annually recycled from residential, commercial
12 and institutional sources within that municipality, or group of
13 municipalities in the case of a county recycling program, except
14 that no such grant shall exceed \$10 per ton of recyclable materials
15 recycled. The department may allocate a portion of these grant
16 moneys as bonus grants to municipalities and counties in those
17 instances where a municipality or county, at its own expense,
18 provides for the collection of recyclable materials in its recycling
19 program. The department shall announce each year the total
20 amount of moneys available in the bonus grant fund.

21 A municipality may distribute a portion of its grant moneys to
22 nonprofit groups that are located within that municipality and which
23 have contributed to the receipt of the recycling grant, except that
24 this distribution shall not exceed the value of approved documented
25 tonnage contributed by a nonprofit group.

26 A municipality may designate any nonprofit group as a recycling
27 agent. A recycling agent shall receive that part of the municipality's
28 recycling grant under this subsection that represents the percentage
29 of the grant received by the municipality due to the documented
30 tonnage contributed by that recycling agent. Moneys received by a
31 recycling agent shall be expended only for its recycling program.
32 Any moneys not used for recycling shall be returned by the
33 recycling agent to the municipality.

34 To be eligible for a grant pursuant to this **[subsection]**
35 paragraph, a municipality or county in the case of a county
36 recycling program shall demonstrate that the recyclable materials
37 recycled by the municipal or county recycling program were not
38 diverted from a commercial recycling program already in existence
39 on the effective date of the ordinance or resolution establishing the
40 municipal or county recycling program.

41 No recycling grant to any municipality shall be used for
42 constructing or operating any facility for the baling of wastepaper
43 or for the shearing, baling or shredding of ferrous or nonferrous
44 materials.

45 Whenever a municipality operates a municipal service system for
46 solid waste collection pursuant to R.S.40:66-1, or provides for
47 regular solid waste collection service pursuant to the provisions of

1 the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et
2 seq.), the amount of grant moneys received by the municipality
3 shall not be less than the annual amount of recycling tax paid by the
4 municipality pursuant to section 4 of P.L. , c. (C.)(pending in
5 the Legislature as this bill);

6 (2) 10% of the estimated annual balance of the fund shall be used
7 for State recycling program planning and program funding,
8 including the administrative expenses thereof;

9 (3) 25% of the estimated annual balance of the fund shall be used
10 by counties for household hazardous waste collection, recycling
11 program planning and program funding, including the
12 administrative expenses thereof; and

13 (4) 5% of the estimated annual balance of the fund shall be used
14 by counties for public information and education programs
15 concerning recycling activities.

16 (cf: P.L.2002, c.128, s.11)

17

18 8. Section 1 of P.L.2002, c.128 (C.13:1E-213) is amended to
19 read as follows:

20 1. Sections 1 through 10 and section 13 of P.L.2002, c.128
21 (C.13:1E-213 et seq.) shall be known and may be cited as the
22 "Clean Communities **[and Recycling Grant]** Program Act."

23 (cf: P.L.2002, c.128, s.1)

24

25 9. Section 2 of P.L.2002, c.128 (C.13:1E-214) is amended to
26 read as follows:

27 2. The Legislature finds that an uncluttered landscape is among
28 the most priceless heritages which New Jersey can bequeath to
29 posterity; that it is the duty of government to promote and
30 encourage a clean and safe environment; that the proliferation and
31 accumulation of carelessly discarded litter may pose a threat to the
32 public health and safety; that the litter problem is especially serious
33 in a State as densely populated and heavily traveled as New Jersey;
34 and that unseemly litter has an adverse economic effect on New
35 Jersey by making the State less attractive to tourists and new
36 industry and residents.

37 **[**The Legislature further finds that the recycling of waste
38 materials decreases waste flow to county solid waste facilities and
39 out-of-State disposal sites, reduces waste flow to the State's solid
40 waste incinerators while contributing to their overall combustion
41 efficiency through the removal of noncombustible and
42 nonprocessable materials at the source, recovers valuable resources,
43 conserves energy in the manufacturing process, and offers a supply
44 of domestic raw materials for the State's industries; that
45 economically viable municipal and county recycling programs are
46 necessary to achieve the maximum practicable recovery of reusable
47 materials from solid waste in this State; and that such programs will

1 reduce the amount of solid waste disposed at county solid waste
2 facilities, result in more efficient solid waste incinerators, conserve
3 energy and resources, and recover materials for industrial uses.】

4 The Legislature, therefore, declares it to be in the aesthetic,
5 environmental, and economic interests of the State of New Jersey to
6 support a Clean Communities Program 【and to maintain support for
7 municipal and county recycling programs】.

8 (cf: P.L.2002, c.128, s.2)

9

10 10. Section 5 of P.L.2002, c.128 (C.13:1E-217) is amended to
11 read as follows:

12 5. The Clean Communities Program Fund is established as a
13 nonlapsing, revolving fund in the Department of the Treasury. The
14 Clean Communities Program Fund shall be administered by the
15 Department of Environmental Protection and credited, in addition to
16 any appropriations made thereto, with all user fees imposed
17 pursuant to section 4 of P.L.2002, c.128 (C.13:1E-216) or penalties
18 imposed pursuant to section 10 of P.L.2002, c.128 (C.13:1E-222),
19 and any sums received as voluntary contributions from private
20 sources. Interest received on moneys in the Clean Communities
21 Program Fund shall be credited to the fund. Unless otherwise
22 expressly provided by the specific appropriation thereof by the
23 Legislature, which shall take the form of a discrete legislative
24 appropriations act and shall not be included within the annual
25 appropriations act, all available moneys in the Clean Communities
26 Program Fund shall be appropriated annually solely for the
27 following purposes and no others:

28 a. 10% of the estimated annual balance of the Clean
29 Communities Program Fund shall be used for a State program of
30 litter pickup and removal and of enforcement of litter-related laws
31 and ordinances in State owned places and areas that are accessible
32 to the public;

33 b. 50% of the estimated annual balance of the Clean
34 Communities Program Fund shall be distributed as State aid to
35 eligible municipalities with total housing units of 200 or more for
36 programs of litter pickup and removal, including establishing an
37 "Adopt-A-Highway" program, of public education and information
38 relating to litter abatement and of enforcement of litter-related laws
39 and ordinances. The amount of State aid due each municipality
40 shall be solely calculated based on the proportion which the housing
41 units of a qualifying municipality bear to the total housing units in
42 the State. Total housing units shall be determined using the most
43 recent federal decennial population estimates for New Jersey and its
44 municipalities, filed in the office of the Secretary of State. Moneys
45 in the fund may also be used by an eligible municipality to abate
46 graffiti;

1 c. 30% of the estimated annual balance of the Clean
2 Communities Program Fund shall be distributed as State aid to
3 eligible municipalities with total housing units of 200 or more for
4 programs of litter pickup and removal, including establishing an
5 "Adopt-A-Highway" program, of public education and information
6 relating to litter abatement and of enforcement of litter-related laws
7 and ordinances. The amount of State aid due each municipality
8 shall be solely calculated based on the proportion which the
9 municipal road mileage of a qualifying municipality bears to the
10 total municipal road mileage within the State. For the purposes of
11 this subsection, "municipal road mileage" means that road mileage
12 under the jurisdiction of municipalities, as determined by the
13 Department of Transportation. Moneys in the fund may also be
14 used by an eligible municipality to abate graffiti;

15 d. 10% of the estimated annual balance of the Clean
16 Communities Program Fund shall be distributed as State aid to
17 eligible counties for programs of litter pickup and removal,
18 including establishing an "Adopt-A-Highway" program, of public
19 education and information relating to litter abatement and of
20 enforcement of litter-related laws and ordinances. The amount of
21 State aid due each county shall be solely calculated based on the
22 proportion which the county road mileage of an eligible county
23 bears to the total county road mileage within the State. For the
24 purposes of this subsection, "county road mileage" means that road
25 mileage under the jurisdiction of counties, as determined by the
26 Department of Transportation. Moneys in the fund may also be
27 used by an eligible county to abate graffiti;

28 e. No eligible municipality shall receive less than \$4,000 in
29 State aid as apportioned pursuant to subsections b. and c. of this
30 section. A municipality or county may use up to 5% of its State aid
31 for administrative expenses;

32 f. Prior to the distribution of funds pursuant to subsections a.
33 through d. of this section[**]**:

34 (1) 25% of the estimated annual balance of the Clean
35 Communities Program Fund shall be annually appropriated to the
36 State Recycling Fund established pursuant to section 5 of P.L.1981,
37 c.278 (C.13:1E-96). These moneys shall be used by the Department
38 of Environmental Protection for direct recycling grants to counties
39 and municipalities, up to a maximum appropriation of \$4,000,000
40 per year. The moneys made available to the department from the
41 Clean Communities Program Fund for direct recycling grants shall
42 be annually appropriated to the State Recycling Fund until such
43 time as an alternative funding mechanism for direct recycling grants
44 is enacted into law; and

45 (2)**]** \$300,000 of the estimated annual balance of the Clean
46 Communities Program Fund shall be annually appropriated to the
47 department and made available on July 1 of every year to the

1 organization under contract with the department pursuant to section
2 6 of P.L.2002, c.128 (C.13:1E-218) for a Statewide public
3 information and education program concerning antilittering
4 activities and other aspects of responsible solid waste handling
5 behavior.

6 The organization under contract with the department pursuant to
7 section 6 of P.L.2002, c.128 (C.13:1E-218) shall, no later than the
8 date on which the contract period concludes, submit a report to the
9 Governor and the Legislature concerning its activities during the
10 contract period and any recommendations concerning improving the
11 program. Every eligible municipality and county shall cooperate
12 with the organization under contract with the department pursuant
13 to section 6 of P.L.2002, c.128 (C.13:1E-218) in providing
14 information concerning its program of litter pickup and removal.

15 No later than 12 months following the effective date of
16 P.L. , c. (C.)(pending in the Legislature as this bill), 25% of
17 the estimated annual balance of the Clean Communities Program
18 Fund shall be appropriated to the State Recycling Fund established
19 pursuant to section 5 of P.L.1981, c.278 (C.13:1E-96). These
20 moneys shall be used by the Department of Environmental
21 Protection for direct recycling grants to counties and municipalities,
22 up to a maximum appropriation of \$4,000,000.

23 g. As used in this section, "graffiti" means any inscription
24 drawn, painted or otherwise made on a bridge, building, public
25 transportation vehicle, rock, wall, sidewalk, street or other exposed
26 surface on public property.

27 The department may carry forward any unexpended balances in
28 the Clean Communities Program Fund as of June 30 of each year.
29 (cf: P.L.2002, c.128, s.5)

30

31 11. Section 13 of P.L.2002, c.128 (C.13:1E-223) is amended to
32 read as follows:

33 13. a. The annual appropriations act for each State fiscal year
34 shall, without other conditions, limitations or restrictions on the
35 following:

36 (1) [appropriate the amounts specified pursuant to paragraph (1)
37 of subsection f. of section 5 of P.L.2002, c.128 (C.13:1E-217) to the
38 State Recycling Fund established pursuant to section 5 of P.L.1981,
39 c.278 (C.13:1E-96) for use by the Department of Environmental
40 Protection for direct recycling grants to counties and
41 municipalities;] (Deleted by amendment, P.L. , c.)(pending in
42 the Legislature as this bill)

43 (2) appropriate the amount specified pursuant to paragraph (2) of
44 subsection f. of section 5 of P.L.2002, c.128 (C.13:1E-217) to the
45 Department of Environmental Protection for use by the organization
46 under contract with the department pursuant to section 6 of
47 P.L.2002, c.128 (C.13:1E-218) for a Statewide public information

1 and education program concerning antilittering activities and other
2 aspects of responsible solid waste handling behavior; and

3 (3) appropriate the balance of the Clean Communities Program
4 Fund established pursuant to section 5 of P.L.2002, c.128 (C.13:1E-
5 217) for the purposes set forth in subsections a., b., c. and d. of that
6 section.

7 b. If the requirements of subsection a. of this section are not met
8 on the effective date of an annual appropriations act for the State
9 fiscal year, or if an amendment or supplement to an annual
10 appropriations act for the State fiscal year should violate any of the
11 requirements of subsection a. of this section, the Director of the
12 Division of Budget and Accounting in the Department of the
13 Treasury shall, not later than five days after the enactment of the
14 annual appropriations act, or an amendment or supplement thereto,
15 that violates any of the requirements of subsection a. of this section,
16 certify to the Director of the Division of Taxation that the
17 requirements of subsection a. of this section have not been met.

18 (cf: P.L.2002, c.128, s.13)

19

20 12. Section 3 of P.L.1976, c.68 (C.40A:4-45.3) is amended to
21 read as follows:

22 3. In the preparation of its budget a municipality shall limit any
23 increase in said budget to 2.5% or the cost-of-living adjustment,
24 whichever is less, over the previous year's final appropriations
25 subject to the following exceptions:

26 a. (Deleted by amendment, P.L.1990, c.89.)

27 b. Capital expenditures, including appropriations for current
28 capital expenditures, whether in the capital improvement fund or as
29 a component of a line item elsewhere in the budget, provided that
30 any such current capital expenditure would be otherwise bondable
31 under the requirements of N.J.S.40A:2-21 and 40A:2-22;

32 c. (1) An increase based upon emergency temporary
33 appropriations made pursuant to N.J.S.40A:4-20 to meet an urgent
34 situation or event which immediately endangers the health, safety or
35 property of the residents of the municipality, and over which the
36 governing body had no control and for which it could not plan and
37 emergency appropriations made pursuant to N.J.S.40A:4-46.
38 Emergency temporary appropriations and emergency appropriations
39 shall be approved by at least two-thirds of the governing body and
40 by the Director of the Division of Local Government Services, and
41 shall not exceed in the aggregate 3% of the previous year's final
42 current operating appropriations.

43 (2) (Deleted by amendment, P.L.1990, c.89.)

44 The approval procedure in this subsection shall not apply to
45 appropriations adopted for a purpose referred to in subsection d. or
46 j. below;

47 d. All debt service, including that of a Type I school district;

48 e. Upon the approval of the Local Finance Board in the Division

- 1 of Local Government Services, amounts required for funding a
2 preceding year's deficit;
- 3 f. Amounts reserved for uncollected taxes;
- 4 g. (Deleted by amendment, P.L.1990, c.89.)
- 5 h. Expenditure of amounts derived from new or increased
6 construction, housing, health or fire safety inspection or other
7 service fees imposed by State law, rule or regulation or by local
8 ordinance;
- 9 i. Any amount approved by any referendum;
- 10 j. Amounts required to be paid pursuant to (1) any contract with
11 respect to use, service or provision of any project, facility or public
12 improvement for water, sewerage, parking, senior citizen housing or
13 any similar purpose, or payments on account of debt service
14 therefor, between a municipality and any other municipality,
15 county, school or other district, agency, authority, commission,
16 instrumentality, public corporation, body corporate and politic or
17 political subdivision of this State; (2) the provisions of article 9 of
18 P.L.1968, c.404 (C.13:17-60 through 13:17-76) by a constituent
19 municipality to the intermunicipal account; (3) any lease of a
20 facility owned by a county improvement authority when the lease
21 payment represents the proportionate amount necessary to amortize
22 the debt incurred by the authority in providing the facility which is
23 leased, in whole or in part; and (4) any repayments under a loan
24 agreement entered into in accordance with the provisions of section
25 5 of P.L.1992, c.89;
- 26 k. (Deleted by amendment, P.L.1987, c.74.)
- 27 l. Appropriations of federal, county, independent authority or
28 State funds, or by grants from private parties or nonprofit
29 organizations for a specific purpose, and amounts received or to be
30 received from such sources in reimbursement for local
31 expenditures. If a municipality provides matching funds in order to
32 receive the federal, county, independent authority or State funds, or
33 the grants from private parties or nonprofit organizations for a
34 specific purpose, the amount of the match which is required by law
35 or agreement to be provided by the municipality shall be excepted;
- 36 m. (Deleted by amendment, P.L.1987, c.74.)
- 37 n. (Deleted by amendment, P.L.1987, c.74.)
- 38 o. (Deleted by amendment, P.L.1990, c.89.)
- 39 p. (Deleted by amendment, P.L.1987, c.74.)
- 40 q. (Deleted by amendment, P.L.1990, c.89.)
- 41 r. Amounts expended to fund a free public library established
42 pursuant to the provisions of R.S.40:54-1 through 40:54-29,
43 inclusive;
- 44 s. (Deleted by amendment, P.L.1990, c.89.)
- 45 t. Amounts expended in preparing and implementing a housing
46 element and fair share plan pursuant to the provisions of P.L.1985,
47 c.222 (C.52:27D-301 et al.) and any amounts received by a

- 1 municipality under a regional contribution agreement pursuant to
2 section 12 of that act;
- 3 u. (Deleted by amendment, P.L.2004, c.74.)
- 4 v. (Deleted by amendment, P.L.1990, c.89.)
- 5 w. (Deleted by amendment, P.L.2004, c.74.)
- 6 x. Amounts expended to aid privately owned libraries and
7 reading rooms, pursuant to R.S.40:54-35;
- 8 y. (Deleted by amendment, P.L.1990, c.89.)
- 9 z. (Deleted by amendment, P.L.1990, c.89.)
- 10 aa. Extraordinary expenses, approved by the Local Finance
11 Board, required for the implementation of an interlocal services
12 agreement;
- 13 bb. Any expenditure mandated as a result of a natural disaster,
14 civil disturbance or other emergency that is specifically authorized
15 pursuant to a declaration of an emergency by the President of the
16 United States or by the Governor;
- 17 cc. Expenditures for the cost of services mandated by any order
18 of court, by any federal or State statute, or by administrative rule,
19 directive, order, or other legally binding device issued by a State
20 agency which has identified such cost as mandated expenditures on
21 certification to the Local Finance Board by the State agency;
- 22 dd. Expenditures of amounts actually realized in the local
23 budget year from the sale of municipal assets in extraordinary cases
24 and with the permission of the Local Finance Board;
- 25 ee. Any local unit which is determined to be experiencing fiscal
26 distress pursuant to the provisions of P.L.1987, c.75 (C.52:27D-
27 118.24 et seq.), whether or not a local unit is an "eligible
28 municipality" as defined in section 3 of P.L.1987, c.75 (C.52:27D-
29 118.26), and which has available surplus pursuant to the spending
30 limitations imposed by P.L.1976, c.68 (C.40A:4-45.1 et seq.), may
31 appropriate and expend an amount of that surplus approved by the
32 director and the Local Finance Board as an exception to the
33 spending limitation. Any determination approving the
34 appropriation and expenditure of surplus as an exception to the
35 spending limitations shall be based upon:
- 36 1) the local unit's revenue needs for the current local budget year
37 and its revenue raising capacity;
- 38 2) the intended actions of the governing body of the local unit to
39 meet the local unit's revenue needs;
- 40 3) the intended actions of the governing body of the local unit to
41 expand its revenue generating capacity for subsequent local budget
42 years;
- 43 4) the local unit's ability to demonstrate the source and existence
44 of sufficient surplus as would be prudent to appropriate as an
45 exception to the spending limitations to meet the operating expenses
46 for the local unit's current budget year; and
- 47 5) the impact of utilization of surplus upon succeeding budgets
48 of the local unit;

- 1 ff. Newly authorized operating appropriations for the municipal
2 court or violation's bureau when approved by the vicinage Presiding
3 Judge of the Municipal Court after consultation with the mayor and
4 governing body of the municipality;
- 5 gg. (Deleted by amendment, P.L.2004, c.74.)
- 6 hh. (Deleted by amendment, P.L.2004, c.74.)
- 7 ii. Subject to the approval of the Local Finance Board,
8 expenditures related to the cost of conducting and implementing a
9 total property tax levy sale pursuant to section 16 of P.L.1997, c.99
10 (C.54:5-113.5);
- 11 jj. Amounts expended for a length of service award program
12 pursuant to P.L.1997, c.388 (C.40A:14-183 et al.);
- 13 kk. Amounts expended to provide municipal services or
14 reimbursement amounts to multifamily dwellings for the collection
15 and disposal of solid waste generated by the residents of the
16 multifamily dwellings. This subsection shall cease to be operative
17 at the end of the first local budget year in which the municipality
18 has fully phased in its reimbursement amount expenses;
- 19 ll. Amounts expended by a municipality under an interlocal
20 services agreement entered into pursuant to the "Interlocal Services
21 Act," P.L.1973, c.208 (C.40:8A-1 et seq.) entered into after the
22 effective date of P.L.2000, c.126 (C.52:13H-21 et al.). The
23 governing body of the municipality that will receive the service
24 may choose to allow the amount of projected annual savings to be
25 added to the amount of final appropriations upon which its
26 permissible expenditures are calculated pursuant to section 2 of
27 P.L.1976, c.68 (C.40A:4-45.2);
- 28 mm. Amounts expended under a joint contract pursuant to the
29 "Consolidated Municipal Service Act," P.L.1952, c.72 (C.40:48B-1
30 et seq.) entered into after the effective date of P.L.2000, c.126
31 (C.52:13H-21 et al.). The governing body of each participating
32 municipality may choose to allow the amount of projected annual
33 savings to be added to the amount of final appropriations upon
34 which its permissible expenditures are calculated pursuant to
35 section 2 of P.L.1976, c.68 (C.40A:4-45.2);
- 36 nn. (Deleted by amendment, P.L.2004, c.74.)
- 37 oo. Amounts appropriated in the first three years after the
38 effective date of P.L.2003, c.92 (C.18A:7F-5b et al.) for liability
39 insurance, workers' compensation insurance and employee group
40 insurance;
- 41 pp. Amounts appropriated in the first three years after the
42 effective date of P.L.2003, c.92 (C.18A:7F-5b et al.) for costs of
43 domestic security preparedness and responses to incidents and
44 threats to domestic security;
- 45 qq. Any expenditures of amounts received by a municipality
46 pursuant to section 5 of P.L.1981, c.278 (C.13:1E-96).
- 47 In the first full year when an existing appropriation or
48 expenditure that is subject to budget limitations is made an

1 exception to budget limitations, a municipality shall deduct from its
2 final appropriations upon which its permissible expenditures are
3 calculated pursuant to section 2 of P.L.1976, c.68 (C.40A:4-45.2),
4 the amount which the municipality expended for that purpose
5 during the last full budget year, or portion thereof, in which the
6 purpose so excepted was funded from appropriations in the
7 municipal budget.

8 In the first full year when an existing appropriation or
9 expenditure that is not subject to budget limitations is made subject
10 to budget limitations, a municipality shall add to its final
11 appropriations upon which its permissible expenditures are
12 calculated pursuant to section 2 of P.L.1976, c.68 (C.40A:4-45.2),
13 the amount which the municipality expended for that purpose
14 during the last full budget year, or portion thereof, in which the
15 purpose so excepted was funded from appropriations in the
16 municipal budget.

17 (cf: P.L.2004, c.74, s.3)

18

19 13. Section 4 of P.L.1976, c.68 (C.40A:4-45.4) is amended to
20 read as follows:

21 4. In the preparation of its budget, a county may not increase the
22 county tax levy to be apportioned among its constituent
23 municipalities in excess of 2.5% or the cost-of-living adjustment,
24 whichever is less, of the previous year's county tax levy, subject to
25 the following exceptions:

26 a. The amount of revenue generated by the increase in
27 valuations within the county, based solely on applying the
28 preceding year's county tax rate to the apportionment valuation of
29 new construction or improvements within the county, and such
30 increase shall be levied in direct proportion to said valuation;

31 b. Capital expenditures, including appropriations for current
32 capital expenditures, whether in the capital improvement fund or as
33 a component of a line item elsewhere in the budget, provided that
34 any such current capital expenditures would be otherwise bondable
35 under the requirements of N.J.S.40A:2-21 and 40A:2-22;

36 c. (1) An increase based upon emergency temporary
37 appropriations made pursuant to N.J.S.40A:4-20 to meet an urgent
38 situation or event which immediately endangers the health, safety or
39 property of the residents of the county, and over which the
40 governing body had no control and for which it could not plan and
41 emergency appropriations made pursuant to N.J.S.40A:4-46.
42 Emergency temporary appropriations and emergency appropriations
43 shall be approved by at least two-thirds of the governing body and
44 by the Director of the Division of Local Government Services, and
45 shall not exceed in the aggregate 3% of the previous year's final
46 current operating appropriations.

47 (2) (Deleted by amendment, P.L.1990, c.89.)

48 The approval procedure in this subsection shall not apply to

- 1 appropriations adopted for a purpose referred to in subsection d. or
2 f. below;
- 3 d. All debt service;
- 4 e. (Deleted by amendment, P.L.1990, c.89.)
- 5 f. Amounts required to be paid pursuant to (1) any contract with
6 respect to use, service or provision of any project, facility or public
7 improvement for water, sewerage, parking, senior citizen housing or
8 any similar purpose, or payments on account of debt service
9 therefor, between a county and any other county, municipality,
10 school or other district, agency, authority, commission,
11 instrumentality, public corporation, body corporate and politic or
12 political subdivision of this State; and (2) any lease of a facility
13 owned by a county improvement authority when the lease payment
14 represents the proportionate amount necessary to amortize the debt
15 incurred by the authority in providing the facility which is leased, in
16 whole or in part;
- 17 g. That portion of the county tax levy which represents funding
18 to participate in any federal or State aid program and amounts
19 received or to be received from federal, State or other funds in
20 reimbursement for local expenditures. If a county provides
21 matching funds in order to receive the federal or State or other
22 funds, only the amount of the match which is required by law or
23 agreement to be provided by the county shall be excepted;
- 24 h. (Deleted by amendment, P.L.1987, c.74.)
- 25 i. (Deleted by amendment, P.L.1990, c.89.)
- 26 j. (Deleted by amendment, P.L.1990, c.89.)
- 27 k. (Deleted by amendment, P.L.1990, c.89.)
- 28 l. (Deleted by amendment, P.L.2004, c.74.)
- 29 m. (Deleted by amendment, P.L.1990, c.89.)
- 30 n. (Deleted by amendment, P.L.1990, c.89.)
- 31 o. (Deleted by amendment, P.L.1990, c.89.)
- 32 p. Extraordinary expenses, approved by the Local Finance
33 Board, required for the implementation of an interlocal services
34 agreement;
- 35 q. Any expenditure mandated as a result of a natural disaster,
36 civil disturbance or other emergency that is specifically authorized
37 pursuant to a declaration of an emergency by the President of the
38 United States or by the Governor;
- 39 r. Expenditures for the cost of services mandated by any order of
40 court, by any federal or State statute, or by administrative rule,
41 directive, order, or other legally binding device issued by a State
42 agency which has identified such cost as mandated expenditures on
43 certification to the Local Finance Board by the State agency;
- 44 s. That portion of the county tax levy which represents funding
45 to a county college in excess of the county tax levy required to fund
46 the county college in local budget year 1992;
- 47 t. (Deleted by amendment, P.L.2004, c.74.)

1 u. Expenditures for the administration of general public
2 assistance pursuant to P.L.1995, c.259 (C.40A:4-6.1 et al.);

3 v. Amounts in a separate line item of a county budget that are
4 expended on tick-borne disease vector management activities
5 undertaken pursuant to P.L.1997, c.52 (C.26:2P-7 et al.);

6 w. Amounts expended by a county under an interlocal services
7 agreement entered into pursuant to the "Interlocal Services Act,"
8 P.L.1973, c.208 (C.40:8A-1 et seq.) entered into after the effective
9 date of P.L.2000, c.126 (C.52:13H-21 et al.) or amounts expended
10 under a joint contract pursuant to the "Consolidated Municipal
11 Service Act," P.L.1952, c.72 (C.40:48B-1 et seq.) entered into after
12 the effective date of P.L.2000, c.126 (C.52:13H-21 et al.);

13 x. Amounts appropriated in the first three years after the
14 effective date of P.L.2003, c.92 (C.18A:7F-5b et al.) for liability
15 insurance, workers' compensation insurance and employee group
16 insurance;

17 y. Amounts appropriated in the first three years after the
18 effective date of P.L.2003, c.92 (C.18A:7F-5b et al.) for costs of
19 domestic security preparedness and responses to incidents and
20 threats to domestic security;

21 z. Expenditures of amounts received pursuant to section 5 of
22 P.L.1981, c.278 (C.13:1E-96).

23 In the first full year where an existing appropriation or
24 expenditure that is subject to budget limitations is made an
25 exception to budget limitations, a county shall deduct from its final
26 appropriations upon which its permissible expenditures are
27 calculated pursuant to section 2 of P.L.1976, c.68 (C.40A:4-45.2)
28 the amount which the county expended for that purpose during the
29 last full budget year, or portion thereof, in which the purpose so
30 excepted was funded from appropriations in the county budget.

31 In the first full year where an existing appropriation or
32 expenditure that is not subject to budget limitations is made subject
33 to budget limitations, a county shall add to its final appropriations
34 upon which its permissible expenditures are calculated pursuant to
35 section 2 of P.L.1976, c.68 (C.40A:4-45.2) the amount which the
36 county expended for that purpose during the last full budget year, or
37 portion thereof, in which the purpose so excepted was funded from
38 appropriations in the county budget.

39 (cf: P.L.2004, c.74, s.7)

40
41 14. This act shall take effect immediately.
42
43

44 STATEMENT
45

46 This bill would impose a recycling tax on solid waste generation
47 in order to provide financial support to municipalities and counties
48 for recycling programs.

1 The recycling tax would be levied on every solid waste collector
2 at the rate of \$3.00 per ton on all solid waste collected from solid
3 waste generators serviced by the solid waste collector.

4 The revenues from the recycling tax would be deposited in the
5 State Recycling Fund. It is estimated that the recycling tax would
6 generate an estimated \$34 million annually. Moneys in the Fund,
7 which is administered by the Department of Environmental
8 Protection, would be appropriated annually solely for the following
9 purposes:

10 (1) 60% of the estimated annual balance of the Fund would be
11 used for the annual expenses of a program for direct recycling
12 grants to municipalities or counties in those instances where a
13 county, at its own expense, provides for the collection, processing
14 and marketing of recyclable materials on a regional basis.

15 Whenever a municipality operates a municipal service system for
16 solid waste collection pursuant to R.S.40:66-1, or provides for
17 regular solid waste collection service pursuant to the provisions of
18 the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et
19 seq.), the amount of grant moneys received by the municipality may
20 not be less than the annual amount of recycling tax paid by the
21 municipality;

22 (2) 10% of the estimated annual balance of the Fund would be
23 used for State recycling program planning and program funding,
24 including administrative expenses;

25 (3) 25% of the estimated annual balance of the Fund would be
26 used by counties for household hazardous waste collection,
27 recycling program planning and program funding, including
28 administrative expenses; and

29 (4) 5% of the estimated annual balance of the Fund would be
30 used by counties for public information and education programs
31 concerning recycling activities.

ASSEMBLY ENVIRONMENT AND SOLID WASTE
COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 1886

STATE OF NEW JERSEY

DATED: DECEMBER 6, 2007

The Assembly Environment and Solid Waste Committee reports favorably an Assembly Committee Substitute for Assembly Bill No. 1886.

This substitute bill would impose a recycling tax on solid waste generation in order to provide financial support to municipalities and counties for recycling programs.

A recycling tax would be levied on: (1) the owner or operator of every solid waste facility at the rate of \$3 per ton on all solid waste accepted for disposal or transfer at the solid waste facility; and (2) solid waste collectors at the rate of \$3 per ton on all solid waste collected for transshipment or direct transportation to an out-of-state disposal site.

The recycling tax would not be imposed on solid waste transported from an in-state transfer station from which the recycling tax has already been levied to an in-state solid waste facility for final disposal.

The recycling tax will be considered a "pass-through" cost to the solid waste facility owner or operator and solid waste collector and would thus be generated as fees or surcharges ultimately paid by the solid waste generators utilizing these facilities or services.

The revenues from the recycling tax would be deposited in the State Recycling Fund. It is estimated that the recycling tax would generate about \$34 million annually. Moneys in the Fund, which is administered by the Department of Environmental Protection (DEP), would be appropriated annually solely for the following purposes:

(1) 60% of the estimated annual balance of the Fund would be used for the annual expenses of a program for direct recycling grants to municipalities or counties in those instances where a county, at its own expense, provides for the collection, processing and marketing of recyclable materials on a regional basis.

Whenever a municipality operates a municipal service system for solid waste collection pursuant to R.S.40:66-1, or provides for regular solid waste collection service pursuant to the provisions of the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.), the amount of grant moneys received by the municipality for its recycling

activities may not be less than the annual amount of recycling tax paid by the municipality;

(2) 5% of the estimated annual balance of the Fund would be used for State recycling program planning and program funding, including administrative expenses;

(3) 25% of the estimated annual balance of the Fund would be State aid to counties for preparing, revising, and implementing solid waste management plans, including the implementation of the goals of the State Recycling Plan, household hazardous waste collection, and for recycling program planning and program funding, including the administrative expenses;

(4) 5% of the estimated annual balance of the Fund would be used by counties for public information and education programs concerning recycling activities; and

(5) 5% of the estimated annual balance of the Fund would be used by the department to provide grants to institutions of higher education to conduct research in recycling.

The substitute bill would continue the appropriation of up to \$4 million from the Clean Communities Program Fund for an additional year to provide moneys for direct recycling grants until the State Recycling Fund is replenished with the revenues generated from the recycling tax. These moneys would be made available for this purpose no later than May 31, 2008. Thereupon, revenues from the Clean Communities Program Fund would be used exclusively for the Clean Communities Program.

Further, the substitute bill would appropriate the sum of \$8 million from the General Fund to the State Recycling Fund to provide the DEP with additional moneys for direct recycling grants to counties and municipalities for the current year. These moneys would be used by the DEP to provide direct recycling grants to counties and municipalities within 12 months following the bill's effective date. These grants would be used solely for the purposes set forth in the county solid waste management and recycling plans, as those plans and ordinances may be revised or modified pursuant to the Statewide Solid Waste Management Plan. This amount would be repaid to the General Fund from the recycling tax revenues deposited in the State Recycling Fund in annual installments not to exceed \$1 million per fiscal year beginning July 1, 2009 and annually thereafter until the full amount is repaid according to a schedule of repayments determined by the State Treasurer.

The substitute bill provides that the recycling tax would not be due if a State or federal law, or any rule or regulation adopted pursuant thereto, requiring a deposit on, or establishing a refund value for, any beverage container is in effect.

The substitute bill would also repeal the solid waste services tax. P.L.1985, c.38 imposed a solid waste services tax on all solid waste accepted for disposal at a registered sanitary landfill facility on or after

May 1, 1985 to provide funds to the counties for implementing solid waste management plans, including the district recycling plans required under P.L.1987, c.102. The solid waste services tax was imposed at an initial rate of \$0.50 per ton in 1985 with a built-in escalator to increase the rate by \$0.05 per ton on the first of January each year. The tax rate in 2006 is \$1.55 per ton. The solid waste services tax generates approximately \$2.5 million per year. The act did not place a "sunset" provision on the solid waste services tax. Under the substitute bill, the solid waste services tax would expire on the first day of the first month following the bill's effective date. The remaining moneys in the solid waste services fund would be appropriated to the State Recycling Fund no later than 30 days following the bill's effective date.

The recycling tax would not be imposed on: (1) the owner or operator of a railroad transfer station or other facility designed exclusively to transport waste on railroads; (2) the owner or operator of a sanitary landfill facility for the acceptance for disposal of the ash residue resulting from the incineration of solid waste at a resource recovery facility; (3) a solid waste collector or the owner or operator of a solid waste facility for the collection or acceptance for disposal or transfer of residue resulting from the operations of a scrap processing facility; (4) the owner or operator of a materials recovery facility for the acceptance of Type 13C Construction and Demolition waste, provided that the facility meets or exceeds recyclable materials extraction rates as established by the DEP; or (5) a solid waste collector or the owner or operator of a solid waste facility for the collection or acceptance for disposal or transfer of residue generated as a result of the use of post-consumer waste material in the manufacture of a recycled product which constitutes at least 75% of total annual sales dollar volume of the products manufactured by a manufacturer in this State.

The recycling tax would not be imposed on the owner or operator of a solid waste facility for the acceptance for disposal of solid waste originating from out-of-state sources under a contract awarded prior to December 31, 2007 if the contract expressly prohibits the imposition of a fee or surcharge on the rates and charges set forth in the contract. The recycling tax would be imposed on the owner or operator of a solid waste facility for the acceptance for disposal of solid waste originating from out-of-state sources under any contract awarded after December 31, 2007.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR **ASSEMBLY, No. 1886**

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 3, 2008

The Assembly Appropriations Committee reports favorably Assembly Bill No. 1886 (ACS), with committee amendments.

This bill, as amended, imposes a recycling tax on solid waste generation to provide financial support to municipalities and counties for recycling programs.

The bill levies a recycling tax on: (1) the owner or operator of every solid waste facility at the rate of \$3 per ton on all solid waste accepted for disposal or transfer at the solid waste facility; and (2) solid waste collectors at the rate of \$3 per ton on all solid waste collected for transshipment or direct transportation to an out-of-state disposal site.

The recycling tax will not be imposed on solid waste transported from an in-State transfer station from which the recycling tax has already been levied to an in-State solid waste facility for final disposal.

The recycling tax will be considered a "pass-through" cost to the solid waste facility owner or operator and solid waste collector and would thus be generated as fees or surcharges ultimately paid by the solid waste generators utilizing these facilities or services.

The revenues from the recycling tax will be deposited in the State Recycling Fund. Moneys in the fund, which is administered by the Department of Environmental Protection (DEP), will be appropriated annually solely for the following purposes:

(1) 60% of the estimated annual balance of the Fund will be used for the annual expenses of a program for direct recycling grants to municipalities or counties in those instances where a county, at its own expense, provides for the collection, processing and marketing of recyclable materials on a regional basis.

Whenever a municipality operates a municipal service system for solid waste collection pursuant to R.S.40:66-1, or provides for regular solid waste collection service pursuant to the provisions of the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.), the amount of grant moneys received by the municipality for its recycling activities may not be less than the annual amount of recycling tax paid by the municipality;

(2) 5% of the estimated annual balance of the fund will be used for State recycling program planning and program funding, including administrative expenses;

(3) 25% of the estimated annual balance of the Fund will be State aid to counties for preparing, revising, and implementing solid waste management plans, including the implementation of the goals of the State Recycling Plan, household hazardous waste collection, and for recycling program planning and program funding, including the administrative expenses;

(4) 5% of the estimated annual balance of the fund will be used by counties for public information and education programs concerning recycling activities; and

(5) 5% of the estimated annual balance of the fund will be used by the department to provide grants to institutions of higher education to conduct research in recycling.

The bill will continue the appropriation of up to \$4 million from the Clean Communities Program Fund for an additional year to provide moneys for direct recycling grants until the State Recycling Fund is replenished with the revenues generated from the recycling tax. These moneys will be made available for this purpose no later than May 31, 2008. Thereupon, revenues from the Clean Communities Program Fund will be used exclusively for the Clean Communities Program.

The bill appropriates \$8 million from the General Fund to the State Recycling Fund to provide the DEP with additional moneys for direct recycling grants to counties and municipalities for the current year. These moneys will be used by the DEP to provide direct recycling grants to counties and municipalities within 12 months following the bill's effective date. These grants would be used solely for the purposes set forth in the county solid waste management and recycling plans, as those plans and ordinances may be revised or modified pursuant to the Statewide Solid Waste Management Plan. This amount will be repaid to the General Fund from the recycling tax revenues deposited in the State Recycling Fund in annual installments not to exceed \$1 million per fiscal year beginning July 1, 2009 and annually thereafter until the full amount is repaid according to a schedule of repayments determined by the State Treasurer.

The bill provides that the recycling tax will not be due if a State or federal law, or any rule or regulation adopted pursuant thereto, requiring a deposit on, or establishing a refund value for, any beverage container is in effect.

The bill also repeals the solid waste services tax. P.L.1985, c.38 imposed a solid waste services tax on all solid waste accepted for disposal at a registered sanitary landfill facility on or after May 1, 1985 to provide funds to the counties for implementing solid waste management plans, including the district recycling plans required under P.L.1987, c.102. The solid waste services tax was imposed at an

initial rate of \$0.50 per ton in 1985 with a built-in escalator to increase the rate by \$0.05 per ton on the first of January each year. The tax rate in 2006 is \$1.55 per ton. The solid waste services tax generates approximately \$2.5 million per year. The act did not place a "sunset" provision on the solid waste services tax. Under the bill, the solid waste services tax expires on the first day of the first month following the bill's effective date. The remaining moneys in the solid waste services fund will be appropriated to the State Recycling Fund no later than 30 days following the bill's effective date.

The recycling tax will not be imposed on: (1) the owner or operator of a railroad transfer station or other facility designed exclusively to transport waste on railroads; (2) the owner or operator of a sanitary landfill facility for the acceptance for disposal of the ash residue resulting from the incineration of solid waste at a resource recovery facility; (3) a solid waste collector or the owner or operator of a solid waste facility for the collection or acceptance for disposal or transfer of residue resulting from the operations of a scrap processing facility; (4) the owner or operator of a materials recovery facility for the acceptance of Type 13C Construction and Demolition waste, provided that the facility meets or exceeds recyclable materials extraction rates as established by the DEP; or (5) a solid waste collector or the owner or operator of a solid waste facility for the collection or acceptance for disposal or transfer of residue generated as a result of the use of post-consumer waste material in the manufacture of a recycled product which constitutes at least 75% of total annual sales dollar volume of the products manufactured by a manufacturer in this State.

As amended and reported by the committee, Assembly Bill No. 1886 (ACS) is identical to the Senate Bill No. 557 (SCS) (3R).

FISCAL IMPACT:

The Division of Taxation has estimated that the recycling tax will generate about \$23 million annually. Of this amount, the bill would allocate approximately \$14 million for the recycling grants program, an increase of \$10 million over the current grants funding level, which is now funded from the Clean Communities Program. The General Fund appropriation of \$8 million that is proposed to supplement the existing \$4 million recycling grants program during the first year after enactment would be repaid from recycling tax revenues at \$1 million annually.

The solid waste services tax, which generates about \$2.5 million annually for county solid waste programs, is repealed and any balances would be transferred to the State Recycling Fund. Any adverse fiscal impacts on municipal or county taxes or costs due to the imposition of the proposed recycling tax should be minimal due to the provision that offsets the amount of recycling tax paid by a municipality with the amount of grant moneys it receives for recycling activities.

COMMITTEE AMENDMENTS:

The amendments provide that the recycling tax will not be imposed on the owner or operator of a solid waste facility for the acceptance for disposal of solid waste originating from in-state sources under a contract awarded prior to December 31, 2007 if the contract does not include a change-in-law or similar mechanism by which the recycling tax imposed by section 4 of the bill may be passed through as a fee or surcharge on the rates and charges set forth in the contract. The amendments also change a parallel provision, exempting the acceptance for disposal of solid waste originating from out-of-state sources, to the same exemption standard.

The amendments clarify that the solid waste services tax rate for 2008 is \$1.65 per ton. The bill repeals this tax one month after enactment. The solid waste services tax was imposed at an initial rate of \$0.50 per ton in 1985 with a built-in escalator to increase the rate by \$0.05 per ton on the first of January each year. The tax rate in 2006 was \$1.55 per ton.

The amendments also make several technical changes to the bill.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY COMMITTEE SUBSTITUTE FOR

ASSEMBLY, No. 1886

STATE OF NEW JERSEY

212th LEGISLATURE

DATED: JANUARY 10, 2008

SUMMARY

- Synopsis:** "Recycling Enhancement Act"
- Type of Impact:** Revenue increase in the State Recycling Fund; revenue termination in the Solid Waste Services Tax Fund.
- Agencies Affected:** Department of Environmental Protection, counties and affected municipalities.

Office of Legislative Services Estimate

| Fiscal Impact | <u>Year 1</u> | <u>Year 2</u> | <u>Year 3</u> |
|----------------------|----------------------------------|----------------------|----------------------|
| State Cost | \$8 million | \$0 | \$0 |
| State Revenue | \$34 million (\$2.5 million) | \$34 million | \$34 million |

- The committee substitute imposes a recycling tax of \$3.00 per ton on most solid waste generation in order to provide grants and financial support to municipalities and counties for recycling programs. Revenues would be deposited into the State Recycling Fund and administered by the Department of Environmental Protection (DEP).
- A General Fund appropriation of \$8 million is proposed to supplement the existing \$4 million recycling grants program during the first year after enactment. This sum would be repaid from recycling tax revenues at \$1 million annually.
- The solid waste services tax is repealed, reducing annual revenue by \$2.5 million and any balances transferred to the State Recycling Fund.
- Based on prior Division of Taxation estimates, the Office of Legislative Services (OLS) estimates that the recycling tax will generate about \$34 million annually. Of this amount, approximately \$19 million would be allocated for the recycling grants program.

BILL DESCRIPTION

Assembly Committee Substitute (1R) for Assembly Bill No. 1886 of 2006 imposes a recycling tax on solid waste generation that would provide increased State assistance to municipalities and counties for recycling programs. This tax would be levied on most (see below) owners or operators of solid waste facilities at the rate of \$3.00 per ton on all solid waste accepted for disposal or transfer. The same per ton rate would also be levied on solid waste collectors for all solid waste collected for transshipment or direct transportation to an out-of-state disposal site.

Revenues generated from the recycling tax would be deposited in the State Recycling Fund, which is administered by the DEP. The Fund's estimated annual balance would be appropriated annually for the following purposes:

(1) 60 percent would support a recycling grants program for municipalities or counties, the latter being eligible when there already exists a self-supporting program that collects, processes and markets recyclable materials on a regional basis. At present, a \$4 million recycling grants program is supported by revenues from the Clean Communities Program;

(2) 5 percent would be used for State recycling program planning and program funding, including administrative expenses incurred by the DEP;

(3) 25 percent would be used by counties for preparing, revising, and implementing solid waste management plans;

(4) 5 percent would be used by counties for public information and education programs concerning recycling activities; and

(5) 5 percent of the estimated annual balance of the Fund would be used by the department to provide grants to institutions of higher education to conduct research in recycling.

The committee substitute amends current law to limit the \$4 million allocation for recycling grants from the Clean Communities Program Fund to one more year, rather than annually. It also supplements this amount by appropriating \$8 million from the General Fund, thus budgeting a total of \$12 million for recycling grants awarded during the first year after enactment. The General Fund appropriation would be repaid in annual \$1 million installments from recycling tax revenues. Further, whenever a municipality operates or provides for solid waste collection, the amount of grant moneys received by the municipality for its recycling activities may not be less than the annual amount of recycling tax paid by the municipality.

The substitute bill also repeals the solid waste services tax that is imposed on all solid waste accepted for disposal at a registered sanitary landfill facility on or after May 1, 1985. This tax, which generates approximately \$2.5 million per year, is distributed to counties for solid waste management planning. Any remaining balances from this fund would be transferred to the State Recycling Fund and used for purposes provided under the committee substitute.

Last, the recycling tax would not be imposed on: (1) the owner or operator of a railroad transfer station; (2) the owner or operator of a sanitary landfill facility that accepts ash residue from solid waste incinerators; (3) the owner or operator of a solid waste facility that collects residue from a scrap processing facility; (4) the owner or operator of a materials recovery facility that accepts Type 13C Construction and Demolition waste; or (5) the owner or operator of a solid waste facility that accepts residue generated from post-consumer waste material in the manufacture of a recycled product.

FISCAL ANALYSIS

EXECUTIVE BRANCH

Although the Executive Branch did not submit fiscal note data on the committee substitute, the Division of Taxation did provide such data on a similar bill introduced in the previous legislative session, Senate Bill No. 2615 of 2005. The Division estimated at that time that approximately \$34 million would be generated annually from the recycling tax imposed under the bill. This sum was based on estimates of the amount of solid waste generated per person annually times the State population. The resulting solid waste tonnage was then multiplied by the \$3.00 recycling tax per ton.

OFFICE OF LEGISLATIVE SERVICES

The OLS concurs with the Executive estimate as detailed above. The OLS notes that the bill's appropriation of \$8 million from the General Fund to support grant awards during the first year of the new tax would constitute a State cost, albeit temporarily, until this amount is repaid over time from recycling tax revenues. The committee substitute would also enhance the Clean Communities Program in the second year after enactment (and thereafter) by ending its annual \$4 million allocation to the existing recycling grants program. Based on the Division of Taxation's estimate of annual revenues generated from the new tax, the proposed 60 percent allocation for recycling grants would total approximately \$19 million, an increase of \$15 million over the current grants funding level and \$7 million over the proposed funding level during the first year after the committee substitute's enactment.

The OLS contends that any adverse fiscal impacts on municipal or county taxes or costs due to the imposition of the proposed recycling tax should be minimal due to the provision that offsets the amount of recycling tax paid by a municipality with the amount of grant moneys it receives for recycling activities. Last, the solid waste services tax is repealed, reducing annual revenue by \$2.5 million and any balances transferred to the State Recycling Fund. Counties that now receive funding from this source should receive the same or more funding for the same purposes under the committee substitute. Also, the termination of this tax may also provide some relief to those owners or operators who will be affected by the imposition of the proposed recycling tax.

Section: Environment, Agriculture, Energy and Natural Resources

*Analyst: Richard M. Handelman
Senior Fiscal Analyst*

*Approved: David J. Rosen
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

SENATE, No. 557

STATE OF NEW JERSEY
212th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2006 SESSION

Sponsored by:

Senator BOB SMITH

District 17 (Middlesex and Somerset)

SYNOPSIS

"Recycling Enhancement Act"

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



1 AN ACT concerning solid waste collection, imposing a recycling tax
2 on solid waste generation, and amending and supplementing
3 various sections of statutory law.
4

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

7
8 1. (New section) This act shall be known and may be cited as
9 the "Recycling Enhancement Act."
10

11 2. (New section) The Legislature finds and declares that the
12 State Recycling plan goals, which provide for the recycling of 50%
13 of the municipal solid waste stream and 60% of the total solid
14 waste stream, are perhaps the most ambitious in the nation; that
15 since the expiration of the recycling tax on December 31, 1996 the
16 State of New Jersey provides less public support to recycling than
17 at least 25 other states; that this lack of public financial support,
18 especially for local public information and recycling education
19 programs, is at least partly responsible for the steady decline in the
20 New Jersey's recycling rates over the past decade; and that it is
21 unacceptable that the State which enacted the nation's first
22 statewide mandatory recycling law has been unable to sustain its
23 heretofore exemplary recycling efforts due to inadequate public
24 funding.

25 The Legislature further finds that the recycling of waste
26 materials decreases waste flow to county solid waste facilities and
27 out-of-State disposal sites, reduces waste flow to the State's solid
28 waste incinerators while contributing to their overall combustion
29 efficiency through the removal of noncombustible and
30 nonprocessable materials at the source, recovers valuable resources,
31 conserves energy in the manufacturing process, and offers a supply
32 of domestic raw materials for the State's industries; that
33 economically viable municipal and county recycling programs are
34 necessary to achieve the maximum practicable recovery of reusable
35 materials from solid waste in this State; and that such programs will
36 reduce the amount of solid waste disposed at county solid waste
37 facilities, result in more efficient solid waste incinerators, conserve
38 energy and resources, and recover materials for industrial uses.

39 The Legislature, therefore, declares it to be in the environmental
40 and economic interests of the State of New Jersey to provide
41 financial support for municipal and county recycling programs
42 through the imposition of a tax on solid waste generation.
43

44 3. (New section) For the purposes of this act:

45 "Beverage container" means an individual, separate, hermetically

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

Matter underlined thus is new matter.

1 sealed, or made airtight with a metal or plastic cap, bottle or can
2 composed of glass, metal, plastic or any combination thereof,
3 containing a beverage.

4 "Commissioner" means the Commissioner of Environmental
5 Protection.

6 "Department" means the Department of Environmental
7 Protection.

8 "Division" means the Division of Taxation in the Department of
9 the Treasury.

10 "Director" means the Director of the Division of Taxation in the
11 Department of the Treasury.

12 "Regular solid waste collection service" means the scheduled
13 pick-up and removal of solid waste from a source of generation
14 within the boundaries of any municipality at least once a week.

15 "Solid waste" means the same as that term is defined in section 3
16 of P.L.1970, c.39 (C.13:1E-3), except that, as used in the provisions
17 of P.L. , c. (C.) (pending in the Legislature as this bill),
18 "solid waste" shall be limited to the following solid waste ID types:
19 Type 10 Municipal; Type 12 Dry sewage sludge; Type 13 Bulky
20 waste; Type 13C Construction and Demolition waste; Type 23
21 Vegetative waste; Type 25 Animal and food processing wastes;
22 Type 27 Dry industrial waste; Type 27A and Type 27I, as set forth
23 in N.J.A.C.7:26-1.6.

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

27 "Solid waste collector" means a person engaged in the collection
28 of solid waste and registered pursuant to sections 4 and 5 of
29 P.L.1970, c.39 (C.13:1E-4 and 13:1E-5); or any municipality
30 wherein the municipal governing body has established and operates
31 a municipal service system for solid waste collection pursuant to
32 R.S.40:66-1.

33

34 4. (New section) a. There is imposed upon every solid waste
35 collector a recycling tax. The recycling tax shall be levied on the
36 solid waste collector at the rate of \$3.00 per ton on all solid waste
37 collected in this State.

38 b. (1) Every person subject to the recycling tax shall, on or
39 before the effective date of this section, and quarterly thereafter,
40 render a return under oath to the director, on such forms as may be
41 prescribed by the director, indicating the number of tons of solid
42 waste collected, and at that time shall pay the full amount due.

43 (2) Every person subject to the recycling tax shall, within 30
44 days of the effective date of this act, register with the director on
45 forms prescribed by the director.

46 c. If a return required by this section is not filed, or if a return
47 when filed is incorrect or insufficient in the opinion of the director,
48 the amount due shall be determined by the director from such

1 information as may be available. Notice of the determination shall
2 be given to the person subject to the recycling tax. The
3 determination shall finally and irrevocably fix the amount due,
4 unless the person on whom it is imposed, within 90 days after the
5 giving of the notice of the determination, shall file a protest in
6 writing as provided in R.S.54:49-18 and request a hearing, or unless
7 the director on the director's own motion shall redetermine the
8 same. After the hearing the director shall give notice of the
9 determination to the person on whom the recycling tax is imposed.

10 d. Any person subject to the recycling tax who fails to file a
11 return when due or to pay any tax when it becomes due, as herein
12 provided, shall be subject to such penalties and interest as provided
13 in the "State Tax Uniform Procedure Law," R.S.54:48-1 et seq. If
14 the director determines that the failure to comply with any provision
15 of this section was excusable under the circumstances, the director
16 may remit that part or all of the penalty as shall be appropriate
17 under the circumstances.

18 e. The director shall deposit all revenues collected pursuant to
19 this section in the State Recycling Fund established pursuant to
20 section 5 of P.L.1981, c.278 (C.13:1E-96).

21 f. In addition to the other powers granted to the director in this
22 section, the director is authorized:

23 (1) To delegate to any officer or employee of the division those
24 powers and duties as the director deems necessary to carry out
25 efficiently the provisions of this section, and the person to whom
26 the power has been delegated shall possess and may exercise all of
27 these powers and perform all of the duties delegated by the director;

28 (2) To prescribe and distribute all necessary forms for the
29 implementation of this section.

30 g. Every solid waste collector is hereby authorized to calculate,
31 charge and collect rates, fees or surcharges from all solid waste
32 generators serviced by the solid waste collector sufficient to recover
33 the recycling tax imposed by this section.

34 h. The recycling tax imposed by this section shall be governed
35 in all respects by the provisions of the "State Tax Uniform
36 Procedure Law," R.S.54:48-1 et seq., except only to the extent that
37 a specific provision of this section may be in conflict therewith.

38 i. The registration issued to a solid waste collector who violates
39 the provisions of this section may be subject to revocation or
40 suspension pursuant to section 12 of P.L.1970, c.39 (C.13:1E-12).

41 j. Subsections a. through i. of this section shall be without effect
42 on and after the tenth day following a certification by the Director
43 of the Division of Budget and Accounting in the Department of the
44 Treasury pursuant to subsection b. of section 6 of P.L. , c.
45 (C.) (pending in the Legislature as this bill).

46

47 5. (New section) The recycling tax imposed pursuant to section 4
48 of P.L. , c. (C.)(pending in the Legislature as this bill)

1 shall not be due and payable if, and as long as, any State of New
2 Jersey or federal law, or any rule or regulation adopted pursuant
3 thereto, requiring a deposit on, or establishing a refund value for,
4 any beverage container shall be in effect.

5

6 6. (New section) a. The annual appropriations act for each
7 State fiscal year shall, without other conditions, limitations or
8 restrictions on the following:

9 (1) appropriate the amounts specified pursuant to paragraph (1)
10 of subsection b. of section 5 of P.L.1981, c.278 (C.13:1E-96) for
11 use by the Department of Environmental Protection for direct
12 recycling grants to counties and municipalities; and

13 (2) appropriate the balance of the State Recycling Fund
14 established pursuant to section 5 of P.L.1981, c.278 (C.13:1E-96)
15 for the purposes set forth in paragraphs (2), (3) and (4) of
16 subsection b. of that section.

17 b. If the requirements of subsection a. of this section are not met
18 on the effective date of an annual appropriations act for the State
19 fiscal year, or if an amendment or supplement to an annual
20 appropriations act for the State fiscal year should violate any of the
21 requirements of subsection a. of this section, the Director of the
22 Division of Budget and Accounting in the Department of the
23 Treasury shall, not later than five days after the enactment of the
24 annual appropriations act, or an amendment or supplement thereto,
25 that violates any of the requirements of subsection a. of this section,
26 certify to the Director of the Division of Taxation that the
27 requirements of subsection a. of this section have not been met.

28

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

31 5. a. The State Recycling Fund (hereinafter referred to as the
32 "fund") is established as a nonlapsing, revolving fund. The fund
33 shall be administered by the Department of Environmental
34 Protection, and shall be credited with all [sums received from the
35 Clean Communities Program Fund established pursuant to section 5
36 of P.L.2002, c.128 (C.13:1E-217)] recycling tax revenue collected
37 pursuant to section 4 of P.L. , c. (C.)(pending in the
38 Legislature as this bill), and all interest received on moneys in the
39 fund. [Interest received on moneys in the fund and sums received
40 as repayment of principal and interest on outstanding loans made
41 from the fund shall be credited to the fund.]

42 b. Unless otherwise expressly provided by the specific
43 appropriation thereof by the Legislature, which shall take the form
44 of a discrete legislative appropriations act and shall not be included
45 within the annual appropriations act, all available moneys in the
46 fund shall be [allocated and used as follows:

S557 B. SMITH

1 Moneys in the fund received from the Clean Communities
2 Program Fund established pursuant to section 5 of P.L.2002, c.128
3 (C.13:1E-217)] appropriated annually solely for the following
4 purposes and no others:

5 (1) 60% of the estimated annual balance of the fund shall be used
6 for the annual expenses of a program for direct recycling grants to
7 municipalities or counties in those instances where a county, at its
8 own expense, provides for the collection, processing and marketing
9 of recyclable materials on a regional basis. The amount of these
10 grants shall be calculated on the basis of the total number of tons of
11 recyclable materials annually recycled from residential, commercial
12 and institutional sources within that municipality, or group of
13 municipalities in the case of a county recycling program, except
14 that no such grant shall exceed \$10 per ton of recyclable materials
15 recycled. The department may allocate a portion of these grant
16 moneys as bonus grants to municipalities and counties in those
17 instances where a municipality or county, at its own expense,
18 provides for the collection of recyclable materials in its recycling
19 program. The department shall announce each year the total
20 amount of moneys available in the bonus grant fund.

21 A municipality may distribute a portion of its grant moneys to
22 nonprofit groups that are located within that municipality and which
23 have contributed to the receipt of the recycling grant, except that
24 this distribution shall not exceed the value of approved documented
25 tonnage contributed by a nonprofit group.

26 A municipality may designate any nonprofit group as a recycling
27 agent. A recycling agent shall receive that part of the municipality's
28 recycling grant under this subsection that represents the percentage
29 of the grant received by the municipality due to the documented
30 tonnage contributed by that recycling agent. Moneys received by a
31 recycling agent shall be expended only for its recycling program.
32 Any moneys not used for recycling shall be returned by the
33 recycling agent to the municipality.

34 To be eligible for a grant pursuant to this [subsection] paragraph,
35 a municipality or county in the case of a county recycling program
36 shall demonstrate that the recyclable materials recycled by the
37 municipal or county recycling program were not diverted from a
38 commercial recycling program already in existence on the effective
39 date of the ordinance or resolution establishing the municipal or
40 county recycling program.

41 No recycling grant to any municipality shall be used for
42 constructing or operating any facility for the baling of wastepaper
43 or for the shearing, baling or shredding of ferrous or nonferrous
44 materials.

45 Whenever a municipality operates a municipal service system for
46 solid waste collection pursuant to R.S.40:66-1, or provides for
47 regular solid waste collection service pursuant to the provisions of

1 the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et
2 seq.), the amount of grant moneys received by the municipality
3 shall not be less than the annual amount of recycling tax paid by the
4 municipality pursuant to section 4 of P.L. , c. (C.)
5 (pending in the Legislature as this bill);

6 (2) 10% of the estimated annual balance of the fund shall be used
7 for State recycling program planning and program funding,
8 including the administrative expenses thereof;

9 (3) 25% of the estimated annual balance of the fund shall be used
10 by counties for household hazardous waste collection, recycling
11 program planning and program funding, including the
12 administrative expenses thereof; and

13 (4) 5% of the estimated annual balance of the fund shall be used
14 by counties for public information and education programs
15 concerning recycling activities.

16 (cf: P.L.2002, c.128, s.11)

17

18 8. Section 1 of P.L.2002, c.128 (C.13:1E-213) is amended to
19 read as follows:

20 1. Sections 1 through 10 and section 13 of P.L.2002, c.128
21 (C.13:1E-213 et seq.) shall be known and may be cited as the
22 "Clean Communities [and Recycling Grant] Program Act."

23 (cf: P.L.2002, c.128, s.1)

24

25 9. Section 2 of P.L.2002, c.128 (C.13:1E-214) is amended to
26 read as follows:

27 2. The Legislature finds that an uncluttered landscape is among
28 the most priceless heritages which New Jersey can bequeath to
29 posterity; that it is the duty of government to promote and
30 encourage a clean and safe environment; that the proliferation and
31 accumulation of carelessly discarded litter may pose a threat to the
32 public health and safety; that the litter problem is especially serious
33 in a State as densely populated and heavily traveled as New Jersey;
34 and that unseemly litter has an adverse economic effect on New
35 Jersey by making the State less attractive to tourists and new
36 industry and residents.

37 [The Legislature further finds that the recycling of waste
38 materials decreases waste flow to county solid waste facilities and
39 out-of-State disposal sites, reduces waste flow to the State's solid
40 waste incinerators while contributing to their overall combustion
41 efficiency through the removal of noncombustible and
42 nonprocessable materials at the source, recovers valuable resources,
43 conserves energy in the manufacturing process, and offers a supply
44 of domestic raw materials for the State's industries; that
45 economically viable municipal and county recycling programs are
46 necessary to achieve the maximum practicable recovery of reusable
47 materials from solid waste in this State; and that such programs will

1 reduce the amount of solid waste disposed at county solid waste
2 facilities, result in more efficient solid waste incinerators, conserve
3 energy and resources, and recover materials for industrial uses.]

4 The Legislature, therefore, declares it to be in the aesthetic,
5 environmental, and economic interests of the State of New Jersey to
6 support a Clean Communities Program [and to maintain support for
7 municipal and county recycling programs].

8 (cf: P.L.2002, c.128, s.2)

9

10 10. Section 5 of P.L.2002, c.128 (C.13:1E-217) is amended to
11 read as follows:

12 5. The Clean Communities Program Fund is established as a
13 nonlapsing, revolving fund in the Department of the Treasury. The
14 Clean Communities Program Fund shall be administered by the
15 Department of Environmental Protection and credited, in addition to
16 any appropriations made thereto, with all user fees imposed
17 pursuant to section 4 of P.L.2002, c.128 (C.13:1E-216) or penalties
18 imposed pursuant to section 10 of P.L.2002, c.128 (C.13:1E-222),
19 and any sums received as voluntary contributions from private
20 sources. Interest received on moneys in the Clean Communities
21 Program Fund shall be credited to the fund. Unless otherwise
22 expressly provided by the specific appropriation thereof by the
23 Legislature, which shall take the form of a discrete legislative
24 appropriations act and shall not be included within the annual
25 appropriations act, all available moneys in the Clean Communities
26 Program Fund shall be appropriated annually solely for the
27 following purposes and no others:

28 a. 10% of the estimated annual balance of the Clean
29 Communities Program Fund shall be used for a State program of
30 litter pickup and removal and of enforcement of litter-related laws
31 and ordinances in State owned places and areas that are accessible
32 to the public;

33 b. 50% of the estimated annual balance of the Clean
34 Communities Program Fund shall be distributed as State aid to
35 eligible municipalities with total housing units of 200 or more for
36 programs of litter pickup and removal, including establishing an
37 "Adopt-A-Highway" program, of public education and information
38 relating to litter abatement and of enforcement of litter-related laws
39 and ordinances. The amount of State aid due each municipality
40 shall be solely calculated based on the proportion which the housing
41 units of a qualifying municipality bear to the total housing units in
42 the State. Total housing units shall be determined using the most
43 recent federal decennial population estimates for New Jersey and its
44 municipalities, filed in the office of the Secretary of State. Moneys
45 in the fund may also be used by an eligible municipality to abate
46 graffiti;

47 c. 30% of the estimated annual balance of the Clean

1 Communities Program Fund shall be distributed as State aid to
2 eligible municipalities with total housing units of 200 or more for
3 programs of litter pickup and removal, including establishing an
4 "Adopt-A-Highway" program, of public education and information
5 relating to litter abatement and of enforcement of litter-related laws
6 and ordinances. The amount of State aid due each municipality
7 shall be solely calculated based on the proportion which the
8 municipal road mileage of a qualifying municipality bears to the
9 total municipal road mileage within the State. For the purposes of
10 this subsection, "municipal road mileage" means that road mileage
11 under the jurisdiction of municipalities, as determined by the
12 Department of Transportation. Moneys in the fund may also be
13 used by an eligible municipality to abate graffiti;

14 d. 10% of the estimated annual balance of the Clean
15 Communities Program Fund shall be distributed as State aid to
16 eligible counties for programs of litter pickup and removal,
17 including establishing an "Adopt-A-Highway" program, of public
18 education and information relating to litter abatement and of
19 enforcement of litter-related laws and ordinances. The amount of
20 State aid due each county shall be solely calculated based on the
21 proportion which the county road mileage of an eligible county
22 bears to the total county road mileage within the State. For the
23 purposes of this subsection, "county road mileage" means that road
24 mileage under the jurisdiction of counties, as determined by the
25 Department of Transportation. Moneys in the fund may also be
26 used by an eligible county to abate graffiti;

27 e. No eligible municipality shall receive less than \$4,000 in
28 State aid as apportioned pursuant to subsections b. and c. of this
29 section. A municipality or county may use up to 5% of its State aid
30 for administrative expenses;

31 f. Prior to the distribution of funds pursuant to subsections a.
32 through d. of this section[:

33 (1) 25% of the estimated annual balance of the Clean
34 Communities Program Fund shall be annually appropriated to the
35 State Recycling Fund established pursuant to section 5 of P.L.1981,
36 c.278 (C.13:1E-96). These moneys shall be used by the Department
37 of Environmental Protection for direct recycling grants to counties
38 and municipalities, up to a maximum appropriation of \$4,000,000
39 per year. The moneys made available to the department from the
40 Clean Communities Program Fund for direct recycling grants shall
41 be annually appropriated to the State Recycling Fund until such
42 time as an alternative funding mechanism for direct recycling grants
43 is enacted into law; and

44 (2)] \$300,000 of the estimated annual balance of the Clean
45 Communities Program Fund shall be annually appropriated to the
46 department and made available on July 1 of every year to the
47 organization under contract with the department pursuant to section

1 6 of P.L.2002, c.128 (C.13:1E-218) for a Statewide public
2 information and education program concerning antilittering
3 activities and other aspects of responsible solid waste handling
4 behavior.

5 The organization under contract with the department pursuant to
6 section 6 of P.L.2002, c.128 (C.13:1E-218) shall, no later than the
7 date on which the contract period concludes, submit a report to the
8 Governor and the Legislature concerning its activities during the
9 contract period and any recommendations concerning improving the
10 program. Every eligible municipality and county shall cooperate
11 with the organization under contract with the department pursuant
12 to section 6 of P.L.2002, c.128 (C.13:1E-218) in providing
13 information concerning its program of litter pickup and removal.

14 No later than 12 months following the effective date of P.L. , c.
15 (C.) (pending in the Legislature as this bill), 25% of the
16 estimated annual balance of the Clean Communities Program Fund
17 shall be appropriated to the State Recycling Fund established
18 pursuant to section 5 of P.L.1981, c.278 (C.13:1E-96). These
19 moneys shall be used by the Department of Environmental
20 Protection for direct recycling grants to counties and municipalities,
21 up to a maximum appropriation of \$4,000,000.

22 g. As used in this section, "graffiti" means any inscription
23 drawn, painted or otherwise made on a bridge, building, public
24 transportation vehicle, rock, wall, sidewalk, street or other exposed
25 surface on public property.

26 The department may carry forward any unexpended balances in
27 the Clean Communities Program Fund as of June 30 of each year.
28 (cf: P.L.2002, c.128, s.5)

29

30 11. Section 13 of P.L.2002, c.128 (C.13:1E-223) is amended to
31 read as follows:

32 13. a. The annual appropriations act for each State fiscal year
33 shall, without other conditions, limitations or restrictions on the
34 following:

35 (1) [appropriate the amounts specified pursuant to paragraph (1)
36 of subsection f. of section 5 of P.L.2002, c.128 (C.13:1E-217) to the
37 State Recycling Fund established pursuant to section 5 of P.L.1981,
38 c.278 (C.13:1E-96) for use by the Department of Environmental
39 Protection for direct recycling grants to counties and
40 municipalities;] (Deleted by amendment, P.L. , c.) (pending in
41 the Legislature as this bill)

42 (2) appropriate the amount specified pursuant to paragraph (2) of
43 subsection f. of section 5 of P.L.2002, c.128 (C.13:1E-217) to the
44 Department of Environmental Protection for use by the organization
45 under contract with the department pursuant to section 6 of
46 P.L.2002, c.128 (C.13:1E-218) for a Statewide public information
47 and education program concerning antilittering activities and other

1 aspects of responsible solid waste handling behavior; and
2 (3) appropriate the balance of the Clean Communities Program
3 Fund established pursuant to section 5 of P.L.2002, c.128 (C.13:1E-
4 217) for the purposes set forth in subsections a., b., c. and d. of that
5 section.

6 b. If the requirements of subsection a. of this section are not met
7 on the effective date of an annual appropriations act for the State
8 fiscal year, or if an amendment or supplement to an annual
9 appropriations act for the State fiscal year should violate any of the
10 requirements of subsection a. of this section, the Director of the
11 Division of Budget and Accounting in the Department of the
12 Treasury shall, not later than five days after the enactment of the
13 annual appropriations act, or an amendment or supplement thereto,
14 that violates any of the requirements of subsection a. of this section,
15 certify to the Director of the Division of Taxation that the
16 requirements of subsection a. of this section have not been met.

17 (cf: P.L.2002, c.128, s.13)

18

19 12. Section 3 of P.L.1976, c.68 (C.40A:4-45.3) is amended to
20 read as follows:

21 3. In the preparation of its budget a municipality shall limit any
22 increase in said budget to 2.5% or the cost-of-living adjustment,
23 whichever is less, over the previous year's final appropriations
24 subject to the following exceptions:

25 a. (Deleted by amendment, P.L.1990, c.89.)

26 b. Capital expenditures, including appropriations for current
27 capital expenditures, whether in the capital improvement fund or as
28 a component of a line item elsewhere in the budget, provided that
29 any such current capital expenditure would be otherwise bondable
30 under the requirements of N.J.S.40A:2-21 and 40A:2-22;

31 c. (1) An increase based upon emergency temporary
32 appropriations made pursuant to N.J.S.40A:4-20 to meet an urgent
33 situation or event which immediately endangers the health, safety or
34 property of the residents of the municipality, and over which the
35 governing body had no control and for which it could not plan and
36 emergency appropriations made pursuant to N.J.S.40A:4-46.
37 Emergency temporary appropriations and emergency appropriations
38 shall be approved by at least two-thirds of the governing body and
39 by the Director of the Division of Local Government Services, and
40 shall not exceed in the aggregate 3% of the previous year's final
41 current operating appropriations.

42 (2) (Deleted by amendment, P.L.1990, c.89.)

43 The approval procedure in this subsection shall not apply to
44 appropriations adopted for a purpose referred to in subsection d. or
45 j. below;

46 d. All debt service, including that of a Type I school district;

47 e. Upon the approval of the Local Finance Board in the Division
48 of Local Government Services, amounts required for funding a

- 1 preceding year's deficit;
- 2 f. Amounts reserved for uncollected taxes;
- 3 g. (Deleted by amendment, P.L.1990, c.89.)
- 4 h. Expenditure of amounts derived from new or increased
- 5 construction, housing, health or fire safety inspection or other
- 6 service fees imposed by State law, rule or regulation or by local
- 7 ordinance;
- 8 i. Any amount approved by any referendum;
- 9 j. Amounts required to be paid pursuant to (1) any contract with
- 10 respect to use, service or provision of any project, facility or public
- 11 improvement for water, sewerage, parking, senior citizen housing or
- 12 any similar purpose, or payments on account of debt service
- 13 therefor, between a municipality and any other municipality,
- 14 county, school or other district, agency, authority, commission,
- 15 instrumentality, public corporation, body corporate and politic or
- 16 political subdivision of this State; (2) the provisions of article 9 of
- 17 P.L.1968, c.404 (C.13:17-60 through 13:17-76) by a constituent
- 18 municipality to the intermunicipal account; (3) any lease of a
- 19 facility owned by a county improvement authority when the lease
- 20 payment represents the proportionate amount necessary to amortize
- 21 the debt incurred by the authority in providing the facility which is
- 22 leased, in whole or in part; and (4) any repayments under a loan
- 23 agreement entered into in accordance with the provisions of section
- 24 5 of P.L.1992, c.89;
- 25 k. (Deleted by amendment, P.L.1987, c.74.)
- 26 l. Appropriations of federal, county, independent authority or
- 27 State funds, or by grants from private parties or nonprofit
- 28 organizations for a specific purpose, and amounts received or to be
- 29 received from such sources in reimbursement for local
- 30 expenditures. If a municipality provides matching funds in order to
- 31 receive the federal, county, independent authority or State funds, or
- 32 the grants from private parties or nonprofit organizations for a
- 33 specific purpose, the amount of the match which is required by law
- 34 or agreement to be provided by the municipality shall be excepted;
- 35 m. (Deleted by amendment, P.L.1987, c.74.)
- 36 n. (Deleted by amendment, P.L.1987, c.74.)
- 37 o. (Deleted by amendment, P.L.1990, c.89.)
- 38 p. (Deleted by amendment, P.L.1987, c.74.)
- 39 q. (Deleted by amendment, P.L.1990, c.89.)
- 40 r. Amounts expended to fund a free public library established
- 41 pursuant to the provisions of R.S.40:54-1 through 40:54-29,
- 42 inclusive;
- 43 s. (Deleted by amendment, P.L.1990, c.89.)
- 44 t. Amounts expended in preparing and implementing a housing
- 45 element and fair share plan pursuant to the provisions of P.L.1985,
- 46 c.222 (C.52:27D-301 et al.) and any amounts received by a
- 47 municipality under a regional contribution agreement pursuant to
- 48 section 12 of that act;

- 1 u. (Deleted by amendment, P.L.2004, c.74.)
2 v. (Deleted by amendment, P.L.1990, c.89.)
3 w. (Deleted by amendment, P.L.2004, c.74.)
4 x. Amounts expended to aid privately owned libraries and
5 reading rooms, pursuant to R.S.40:54-35;
6 y. (Deleted by amendment, P.L.1990, c.89.)
7 z. (Deleted by amendment, P.L.1990, c.89.)
8 aa. Extraordinary expenses, approved by the Local Finance
9 Board, required for the implementation of an interlocal services
10 agreement;
11 bb. Any expenditure mandated as a result of a natural disaster,
12 civil disturbance or other emergency that is specifically authorized
13 pursuant to a declaration of an emergency by the President of the
14 United States or by the Governor;
15 cc. Expenditures for the cost of services mandated by any order
16 of court, by any federal or State statute, or by administrative rule,
17 directive, order, or other legally binding device issued by a State
18 agency which has identified such cost as mandated expenditures on
19 certification to the Local Finance Board by the State agency;
20 dd. Expenditures of amounts actually realized in the local
21 budget year from the sale of municipal assets in extraordinary cases
22 and with the permission of the Local Finance Board;
23 ee. Any local unit which is determined to be experiencing fiscal
24 distress pursuant to the provisions of P.L.1987, c.75 (C.52:27D-
25 118.24 et seq.), whether or not a local unit is an "eligible
26 municipality" as defined in section 3 of P.L.1987, c.75 (C.52:27D-
27 118.26), and which has available surplus pursuant to the spending
28 limitations imposed by P.L.1976, c.68 (C.40A:4-45.1 et seq.), may
29 appropriate and expend an amount of that surplus approved by the
30 director and the Local Finance Board as an exception to the
31 spending limitation. Any determination approving the
32 appropriation and expenditure of surplus as an exception to the
33 spending limitations shall be based upon:
34 1) the local unit's revenue needs for the current local budget year
35 and its revenue raising capacity;
36 2) the intended actions of the governing body of the local unit to
37 meet the local unit's revenue needs;
38 3) the intended actions of the governing body of the local unit to
39 expand its revenue generating capacity for subsequent local budget
40 years;
41 4) the local unit's ability to demonstrate the source and existence
42 of sufficient surplus as would be prudent to appropriate as an
43 exception to the spending limitations to meet the operating expenses
44 for the local unit's current budget year; and
45 5) the impact of utilization of surplus upon succeeding budgets
46 of the local unit;
47 ff. Newly authorized operating appropriations for the municipal
48 court or violation's bureau when approved by the vicinage Presiding

- 1 Judge of the Municipal Court after consultation with the mayor and
2 governing body of the municipality;
- 3 gg. (Deleted by amendment, P.L.2004, c.74.)
- 4 hh. (Deleted by amendment, P.L.2004, c.74.)
- 5 ii. Subject to the approval of the Local Finance Board,
6 expenditures related to the cost of conducting and implementing a
7 total property tax levy sale pursuant to section 16 of P.L.1997, c.99
8 (C.54:5-113.5);
- 9 jj. Amounts expended for a length of service award program
10 pursuant to P.L.1997, c.388 (C.40A:14-183 et al.);
- 11 kk. Amounts expended to provide municipal services or
12 reimbursement amounts to multifamily dwellings for the collection
13 and disposal of solid waste generated by the residents of the
14 multifamily dwellings. This subsection shall cease to be operative
15 at the end of the first local budget year in which the municipality
16 has fully phased in its reimbursement amount expenses;
- 17 ll. Amounts expended by a municipality under an interlocal
18 services agreement entered into pursuant to the "Interlocal Services
19 Act," P.L.1973, c.208 (C.40:8A-1 et seq.) entered into after the
20 effective date of P.L.2000, c.126 (C.52:13H-21 et al.). The
21 governing body of the municipality that will receive the service
22 may choose to allow the amount of projected annual savings to be
23 added to the amount of final appropriations upon which its
24 permissible expenditures are calculated pursuant to section 2 of
25 P.L.1976, c.68 (C.40A:4-45.2);
- 26 mm. Amounts expended under a joint contract pursuant to the
27 "Consolidated Municipal Service Act," P.L.1952, c.72 (C.40:48B-1
28 et seq.) entered into after the effective date of P.L.2000, c.126
29 (C.52:13H-21 et al.). The governing body of each participating
30 municipality may choose to allow the amount of projected annual
31 savings to be added to the amount of final appropriations upon
32 which its permissible expenditures are calculated pursuant to
33 section 2 of P.L.1976, c.68 (C.40A:4-45.2);
- 34 nn. (Deleted by amendment, P.L.2004, c.74.)
- 35 oo. Amounts appropriated in the first three years after the
36 effective date of P.L.2003, c.92 (C.18A:7F-5b et al.) for liability
37 insurance, workers' compensation insurance and employee group
38 insurance;
- 39 pp. Amounts appropriated in the first three years after the
40 effective date of P.L.2003, c.92 (C.18A:7F-5b et al.) for costs of
41 domestic security preparedness and responses to incidents and
42 threats to domestic security;
- 43 qq. Any expenditures of amounts received by a municipality
44 pursuant to section 5 of P.L.1981, c.278 (C.13:1E-96).
- 45 In the first full year when an existing appropriation or
46 expenditure that is subject to budget limitations is made an
47 exception to budget limitations, a municipality shall deduct from its
48 final appropriations upon which its permissible expenditures are

1 calculated pursuant to section 2 of P.L.1976, c.68 (C.40A:4-45.2),
2 the amount which the municipality expended for that purpose
3 during the last full budget year, or portion thereof, in which the
4 purpose so excepted was funded from appropriations in the
5 municipal budget.

6 In the first full year when an existing appropriation or
7 expenditure that is not subject to budget limitations is made subject
8 to budget limitations, a municipality shall add to its final
9 appropriations upon which its permissible expenditures are
10 calculated pursuant to section 2 of P.L.1976, c.68 (C.40A:4-45.2),
11 the amount which the municipality expended for that purpose
12 during the last full budget year, or portion thereof, in which the
13 purpose so excepted was funded from appropriations in the
14 municipal budget.

15 (cf: P.L.2004, c.74, s.3)

16

17 13. Section 4 of P.L.1976, c.68 (C.40A:4-45.4) is amended to
18 read as follows:

19 4. In the preparation of its budget, a county may not increase the
20 county tax levy to be apportioned among its constituent
21 municipalities in excess of 2.5% or the cost-of-living adjustment,
22 whichever is less, of the previous year's county tax levy, subject to
23 the following exceptions:

24 a. The amount of revenue generated by the increase in valuations
25 within the county, based solely on applying the preceding year's
26 county tax rate to the apportionment valuation of new construction
27 or improvements within the county, and such increase shall be
28 levied in direct proportion to said valuation;

29 b. Capital expenditures, including appropriations for current
30 capital expenditures, whether in the capital improvement fund or as
31 a component of a line item elsewhere in the budget, provided that
32 any such current capital expenditures would be otherwise bondable
33 under the requirements of N.J.S.40A:2-21 and 40A:2-22;

34 c. (1) An increase based upon emergency temporary
35 appropriations made pursuant to N.J.S.40A:4-20 to meet an urgent
36 situation or event which immediately endangers the health, safety or
37 property of the residents of the county, and over which the
38 governing body had no control and for which it could not plan and
39 emergency appropriations made pursuant to N.J.S.40A:4-46.
40 Emergency temporary appropriations and emergency appropriations
41 shall be approved by at least two-thirds of the governing body and
42 by the Director of the Division of Local Government Services, and
43 shall not exceed in the aggregate 3% of the previous year's final
44 current operating appropriations.

45 (2) (Deleted by amendment, P.L.1990, c.89.)

46 The approval procedure in this subsection shall not apply to
47 appropriations adopted for a purpose referred to in subsection d. or
48 f. below;

- 1 d. All debt service;
- 2 e. (Deleted by amendment, P.L.1990, c.89.)
- 3 f. Amounts required to be paid pursuant to (1) any contract with
- 4 respect to use, service or provision of any project, facility or public
- 5 improvement for water, sewerage, parking, senior citizen housing or
- 6 any similar purpose, or payments on account of debt service
- 7 therefor, between a county and any other county, municipality,
- 8 school or other district, agency, authority, commission,
- 9 instrumentality, public corporation, body corporate and politic or
- 10 political subdivision of this State; and (2) any lease of a facility
- 11 owned by a county improvement authority when the lease payment
- 12 represents the proportionate amount necessary to amortize the debt
- 13 incurred by the authority in providing the facility which is leased, in
- 14 whole or in part;
- 15 g. That portion of the county tax levy which represents funding
- 16 to participate in any federal or State aid program and amounts
- 17 received or to be received from federal, State or other funds in
- 18 reimbursement for local expenditures. If a county provides
- 19 matching funds in order to receive the federal or State or other
- 20 funds, only the amount of the match which is required by law or
- 21 agreement to be provided by the county shall be excepted;
- 22 h. (Deleted by amendment, P.L.1987, c.74.)
- 23 i. (Deleted by amendment, P.L.1990, c.89.)
- 24 j. (Deleted by amendment, P.L.1990, c.89.)
- 25 k. (Deleted by amendment, P.L.1990, c.89.)
- 26 l. (Deleted by amendment, P.L.2004, c.74.)
- 27 m. (Deleted by amendment, P.L.1990, c.89.)
- 28 n. (Deleted by amendment, P.L.1990, c.89.)
- 29 o. (Deleted by amendment, P.L.1990, c.89.)
- 30 p. Extraordinary expenses, approved by the Local Finance Board,
- 31 required for the implementation of an interlocal services agreement;
- 32 q. Any expenditure mandated as a result of a natural disaster,
- 33 civil disturbance or other emergency that is specifically authorized
- 34 pursuant to a declaration of an emergency by the President of the
- 35 United States or by the Governor;
- 36 r. Expenditures for the cost of services mandated by any order of
- 37 court, by any federal or State statute, or by administrative rule,
- 38 directive, order, or other legally binding device issued by a State
- 39 agency which has identified such cost as mandated expenditures on
- 40 certification to the Local Finance Board by the State agency;
- 41 s. That portion of the county tax levy which represents funding
- 42 to a county college in excess of the county tax levy required to fund
- 43 the county college in local budget year 1992;
- 44 t. (Deleted by amendment, P.L.2004, c.74.)
- 45 u. Expenditures for the administration of general public
- 46 assistance pursuant to P.L.1995, c.259 (C.40A:4-6.1 et al.);
- 47 v. Amounts in a separate line item of a county budget that are
- 48 expended on tick-borne disease vector management activities

- 1 undertaken pursuant to P.L.1997, c.52 (C.26:2P-7 et al.);
- 2 w. Amounts expended by a county under an interlocal services
3 agreement entered into pursuant to the "Interlocal Services Act,"
4 P.L.1973, c.208 (C.40:8A-1 et seq.) entered into after the effective
5 date of P.L.2000, c.126 (C.52:13H-21 et al.) or amounts expended
6 under a joint contract pursuant to the "Consolidated Municipal
7 Service Act," P.L.1952, c.72 (C.40:48B-1 et seq.) entered into after
8 the effective date of P.L.2000, c.126 (C.52:13H-21 et al.);
- 9 x. Amounts appropriated in the first three years after the
10 effective date of P.L.2003, c.92 (C.18A:7F-5b et al.) for liability
11 insurance, workers' compensation insurance and employee group
12 insurance;
- 13 y. Amounts appropriated in the first three years after the
14 effective date of P.L.2003, c.92 (C.18A:7F-5b et al.) for costs of
15 domestic security preparedness and responses to incidents and
16 threats to domestic security;
- 17 z. Expenditures of amounts received pursuant to section 5 of
18 P.L.1981, c.278 (C.13:1E-96).

19 In the first full year where an existing appropriation or
20 expenditure that is subject to budget limitations is made an
21 exception to budget limitations, a county shall deduct from its final
22 appropriations upon which its permissible expenditures are
23 calculated pursuant to section 2 of P.L.1976, c.68 (C.40A:4-45.2)
24 the amount which the county expended for that purpose during the
25 last full budget year, or portion thereof, in which the purpose so
26 excepted was funded from appropriations in the county budget.

27 In the first full year where an existing appropriation or
28 expenditure that is not subject to budget limitations is made subject
29 to budget limitations, a county shall add to its final appropriations
30 upon which its permissible expenditures are calculated pursuant to
31 section 2 of P.L.1976, c.68 (C.40A:4-45.2) the amount which the
32 county expended for that purpose during the last full budget year, or
33 portion thereof, in which the purpose so excepted was funded from
34 appropriations in the county budget.

35 (cf: P.L.2004, c.74, s.7)

36

37 14. This act shall take effect immediately.

38

39

40

STATEMENT

41

42 This bill would impose a recycling tax on solid waste generation
43 in order to provide financial support to municipalities and counties
44 for recycling programs.

45 The recycling tax would be levied on every solid waste collector
46 at the rate of \$3.00 per ton on all solid waste collected from solid
47 waste generators serviced by the solid waste collector.

48 The revenues from the recycling tax would be deposited in the

1 State Recycling Fund. It is estimated that the recycling tax would
2 generate an estimated \$34 million annually. Moneys in the Fund,
3 which is administered by the Department of Environmental
4 Protection, would be appropriated annually solely for the following
5 purposes:

6 (1) 60% of the estimated annual balance of the Fund would be
7 used for the annual expenses of a program for direct recycling
8 grants to municipalities or counties in those instances where a
9 county, at its own expense, provides for the collection, processing
10 and marketing of recyclable materials on a regional basis.

11 Whenever a municipality operates a municipal service system for
12 solid waste collection pursuant to R.S.40:66-1, or provides for
13 regular solid waste collection service pursuant to the provisions of
14 the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et
15 seq.), the amount of grant moneys received by the municipality may
16 not be less than the annual amount of recycling tax paid by the
17 municipality;

18 (2) 10% of the estimated annual balance of the Fund would be
19 used for State recycling program planning and program funding,
20 including administrative expenses;

21 (3) 25% of the estimated annual balance of the Fund would be
22 used by counties for household hazardous waste collection,
23 recycling program planning and program funding, including
24 administrative expenses; and

25 (4) 5% of the estimated annual balance of the Fund would be
26 used by counties for public information and education programs
27 concerning recycling activities.

SENATE ENVIRONMENT COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 557**

STATE OF NEW JERSEY

DATED: JANUARY 30, 2006

The Senate Environment Committee reports favorably Senate Committee Substitute for Senate Bill No. 557.

This substitute bill would impose a recycling tax on solid waste generation in order to provide financial support to municipalities and counties for recycling programs.

A recycling tax would be levied on: (1) the owner or operator of every solid waste facility at the rate of \$3.00 per ton on all solid waste accepted for disposal or transfer at the solid waste facility; and (2) solid waste collectors at the rate of \$3.00 per ton on all solid waste collected for transshipment or direct transportation to an out-of-state disposal site.

The recycling tax would not be imposed on solid waste transported from an in-state transfer station from which the recycling tax has already been levied to an in-state solid waste facility for final disposal.

The recycling tax will be considered a "pass-through" cost to the solid waste facility owner or operator and solid waste collector and would thus be generated as fees or surcharges ultimately paid by the solid waste generators utilizing these facilities or services.

The revenues from the recycling tax would be deposited in the State Recycling Fund. It is estimated that the recycling tax would generate about \$34 million annually. Moneys in the Fund, which is administered by the Department of Environmental Protection (DEP), would be appropriated annually solely for the following purposes:

(1) 60% of the estimated annual balance of the Fund would be used for the annual expenses of a program for direct recycling grants to municipalities or counties in those instances where a county, at its own expense, provides for the collection, processing and marketing of recyclable materials on a regional basis.

Whenever a municipality operates a municipal service system for solid waste collection pursuant to R.S.40:66-1, or provides for regular solid waste collection service pursuant to the provisions of the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.), the amount of grant moneys received by the municipality for its recycling activities may not be less than the annual amount of recycling tax paid by the municipality;

(2) 10% of the estimated annual balance of the Fund would be used for State recycling program planning and program funding, including administrative expenses;

(3) 25% of the estimated annual balance of the Fund would be State aid to counties for preparing, revising, and implementing solid waste management plans, including the implementation of the goals of the State Recycling Plan, household hazardous waste collection, and for recycling program planning and program funding, including the administrative expenses; and

(4) 5% of the estimated annual balance of the Fund would be used by counties for public information and education programs concerning recycling activities.

The substitute bill would continue the appropriation of up to \$4,000,000 from the Clean Communities Program Fund for an additional year to provide moneys for direct recycling grants until the State Recycling Fund is replenished with the revenues generated from the recycling tax. These moneys would be made available for this purpose no later than May 31, 2006. Thereupon, revenues from the Clean Communities Program Fund would be used exclusively for the Clean Communities Program.

Further, the substitute bill would appropriate the sum of \$8,000,000 from the General Fund to the State Recycling Fund to provide the DEP with additional moneys for direct recycling grants to counties and municipalities for the current year. These moneys would be used by the DEP to provide direct recycling grants to counties and municipalities within 12 months following the bill's effective date. These grants would be used solely for the purposes set forth in the county solid waste management and recycling plans, as those plans and ordinances may be revised or modified pursuant to the Statewide Solid Waste Management Plan. This amount would be repaid to the General Fund from the recycling tax revenues deposited in the State Recycling Fund in annual installments not to exceed \$1,000,000 per fiscal year beginning January 1, 2007 and annually thereafter until the full amount is repaid according to a schedule of repayments determined by the State Treasurer.

The substitute bill would also repeal the solid waste services tax. P.L.1985, c.38 imposed a solid waste services tax on all solid waste accepted for disposal at a registered sanitary landfill facility on or after May 1, 1985 to provide funds to the counties for implementing solid waste management plans, including the district recycling plans required under P.L.1987, c.102. The solid waste services tax was imposed at an initial rate of \$0.50 per ton in 1985 with a built-in escalator to increase the rate by \$0.05 per ton on the first of January each year. The tax rate in 2006 is \$1.55 per ton. The solid waste services tax generates approximately \$2.5 million per year. The act did not place a "sunset" provision on the solid waste services tax. Under the substitute bill, the solid waste services tax would expire on

the first day of the first month following the bill's effective date. The remaining moneys in the solid waste services fund would be appropriated to the State Recycling Fund no later than 30 days following the bill's effective date.

The recycling tax would not be imposed on: (1) the owner or operator of a railroad transfer station or other facility designed exclusively to transport waste on railroads; (2) the owner or operator of a sanitary landfill facility for the acceptance for disposal of the ash residue resulting from the incineration of solid waste at a resource recovery facility; (3) a solid waste collector or the owner or operator of a solid waste facility for the collection or acceptance for disposal or transfer of residue resulting from the operations of a scrap processing facility; (4) the owner or operator of a materials recovery facility for the acceptance of Type 13C Construction and Demolition waste, provided that the facility meets or exceeds recyclable materials extraction rates as established by the DEP; or (5) a solid waste collector or the owner or operator of a solid waste facility for the collection or acceptance for disposal or transfer of residue generated as a result of the use of post-consumer waste material in the manufacture of a recycled product which constitutes at least 75% of total annual sales dollar volume of the products manufactured by a manufacturer in this State.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 557**

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 10, 2007

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 557 (SCS), with committee amendments.

The substitute bill, as amended, would impose a recycling tax on solid waste generation in order to provide financial support to municipalities and counties for recycling programs.

A recycling tax would be levied on: (1) the owner or operator of every solid waste facility at the rate of \$2 per ton on all solid waste accepted for disposal or transfer at the solid waste facility; and (2) solid waste collectors at the rate of \$2 per ton on all solid waste collected for transshipment or direct transportation to an out-of-state disposal site.

The recycling tax would not be imposed on solid waste transported from an in-state transfer station from which the recycling tax has already been levied to an in-state solid waste facility for final disposal.

The recycling tax will be considered a "pass-through" cost to the solid waste facility owner or operator and solid waste collector and would thus be generated as fees or surcharges ultimately paid by the solid waste generators utilizing these facilities or services.

The revenues from the recycling tax would be deposited in the State Recycling Fund. It is estimated that the recycling tax would generate about \$23 million annually. Moneys in the Fund, which is administered by the Department of Environmental Protection (DEP), would be appropriated annually solely for the following purposes:

(1) 60% of the estimated annual balance of the Fund would be used for the annual expenses of a program for direct recycling grants to municipalities or counties in those instances where a county, at its own expense, provides for the collection, processing and marketing of recyclable materials on a regional basis.

Whenever a municipality operates a municipal service system for solid waste collection pursuant to R.S.40:66-1, or provides for regular solid waste collection service pursuant to the provisions of the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.), the amount of grant moneys received by the municipality for its recycling

activities may not be less than the annual amount of recycling tax paid by the municipality;

(2) 5% of the estimated annual balance of the Fund would be used for State recycling program planning and program funding, including administrative expenses;

(3) 25% of the estimated annual balance of the Fund would be State aid to counties for preparing, revising, and implementing solid waste management plans, including the implementation of the goals of the State Recycling Plan, household hazardous waste collection, and for recycling program planning and program funding, including the administrative expenses;

(4) 5% of the estimated annual balance of the Fund would be used by counties for public information and education programs concerning recycling activities; and

(5) 5% of the estimated annual balance of the Fund would be used by the department to provide grants to institutions of higher education to conduct research in recycling.

The bill would continue the appropriation of up to \$4 million from the Clean Communities Program Fund for an additional year to provide moneys for direct recycling grants until the State Recycling Fund is replenished with the revenues generated from the recycling tax. These moneys would be made available for this purpose no later than May 31, 2008. Thereupon, revenues from the Clean Communities Program Fund would be used exclusively for the Clean Communities Program.

Further, the bill would appropriate the sum of \$8 million from the General Fund to the State Recycling Fund to provide the DEP with additional moneys for direct recycling grants to counties and municipalities for the current year. These moneys would be used by the DEP to provide direct recycling grants to counties and municipalities within 12 months following the bill's effective date. These grants would be used solely for the purposes set forth in the county solid waste management and recycling plans, as those plans and ordinances may be revised or modified pursuant to the Statewide Solid Waste Management Plan. This amount would be repaid to the General Fund from the recycling tax revenues deposited in the State Recycling Fund in annual installments not to exceed \$1 million per fiscal year beginning July 1, 2009 and annually thereafter until the full amount is repaid according to a schedule of repayments determined by the State Treasurer.

The bill provides that the recycling tax would not be due if a State or federal law, or any rule or regulation adopted pursuant thereto, requiring a deposit on, or establishing a refund value for, any beverage container is in effect.

The bill would also repeal the solid waste services tax. P.L.1985, c.38 imposed a solid waste services tax on all solid waste accepted for disposal at a registered sanitary landfill facility on or after May 1,

1985 to provide funds to the counties for implementing solid waste management plans, including the district recycling plans required under P.L.1987, c.102. The solid waste services tax was imposed at an initial rate of \$0.50 per ton in 1985 with a built-in escalator to increase the rate by \$0.05 per ton on the first of January each year. The tax rate in 2006 is \$1.55 per ton. The solid waste services tax generates approximately \$2.5 million per year. The act did not place a "sunset" provision on the solid waste services tax. Under the bill, the solid waste services tax would expire on the first day of the first month following the bill's effective date. The remaining moneys in the solid waste services fund would be appropriated to the State Recycling Fund no later than 30 days following the bill's effective date.

The recycling tax would not be imposed on: (1) the owner or operator of a railroad transfer station or other facility designed exclusively to transport waste on railroads; (2) the owner or operator of a sanitary landfill facility for the acceptance for disposal of the ash residue resulting from the incineration of solid waste at a resource recovery facility; (3) a solid waste collector or the owner or operator of a solid waste facility for the collection or acceptance for disposal or transfer of residue resulting from the operations of a scrap processing facility; (4) the owner or operator of a materials recovery facility for the acceptance of Type 13C Construction and Demolition waste, provided that the facility meets or exceeds recyclable materials extraction rates as established by the DEP; or (5) a solid waste collector or the owner or operator of a solid waste facility for the collection or acceptance for disposal or transfer of residue generated as a result of the use of post-consumer waste material in the manufacture of a recycled product which constitutes at least 75% of total annual sales dollar volume of the products manufactured by a manufacturer in this State.

COMMITTEE AMENDMENTS:

The committee amendments to the bill:

- provide that the moneys from the Clean Communities Program Fund to provide direct recycling grants would be made available no later than May 31, 2008, rather than May 31, 2006;
- provide that the repayments to the General Fund from the State Recycling Fund would begin July 1, 2009, rather than January 1, 2007;
- update the statutory text to reflect the enactment of P.L.2006, c.31 which provided, in part, that certain moneys in the Clean Communities Program Fund may be used by the State to abate graffiti;
- provide that the recycling tax would not be imposed on the owner or operator of a solid waste facility for the acceptance for disposal of solid waste originating from out-of-state sources under a contract awarded prior to December 31, 2007 if the contract

expressly prohibits the imposition of a fee or surcharge on the rates and charges set forth in the contract. The recycling tax would be imposed on the owner or operator of a solid waste facility for the acceptance for disposal of solid waste originating from out-of-state sources under any contract awarded after December 31, 2007; and

- reduce the recycling tax from \$3.00 to \$2.00 per ton;
- make several technical changes to the bill.

FISCAL IMPACT:

The Division of Taxation estimates that the recycling tax will generate about \$23 million annually. Of this amount, approximately \$14 million would be allocated for the recycling grants program under the committee substitute, an increase of \$10 million over the current grants funding level, which is funded from the Clean Communities Program. The General Fund appropriation of \$8 million that is proposed to supplement the existing \$4 million recycling grants program during the first year after enactment would be repaid from recycling tax revenues at \$1 million annually.

The solid waste services tax, which generates about \$2.5 million annually for county solid waste programs, is repealed and any balances would be transferred to the State Recycling Fund. Any adverse fiscal impacts on municipal or county taxes or costs due to the imposition of the proposed recycling tax should be minimal due to the provision that offsets the amount of recycling tax paid by a municipality with the amount of grant moneys it receives for recycling activities.

STATEMENT TO

[First Reprint]

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 557**

with Senate Floor Amendments
(Proposed By Senator SMITH)

ADOPTED: DECEMBER 17, 2007

These amendments would:

1) Provide that the recycling tax would not be imposed on the owner or operator of a resource recovery facility for the acceptance for disposal of solid waste originating from in-state sources under a contract awarded prior to December 31, 2007 if the contract expressly prohibits the imposition of a fee or surcharge on the rates and charges set forth in the contract for the incineration of solid waste; and

2) Clarify that the solid waste services tax rate for 2008 is \$1.65 per ton. The bill repeals this tax one month after enactment. The solid waste services tax was imposed at an initial rate of \$0.50 per ton in 1985 with a built-in escalator to increase the rate by \$0.05 per ton on the first of January each year. The tax rate in 2006 was \$1.55 per ton.

STATEMENT TO

[Second Reprint]

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 557**

with Senate Floor Amendments
(Proposed By Senator SMITH)

ADOPTED: JANUARY 3, 2008

The amendments to the bill:

- increase the recycling tax from \$2.00 to \$3.00 per ton;
- provide that the recycling tax would not be imposed on the owner or operator of a solid waste facility for the acceptance for disposal of solid waste originating from in-state sources under a contract awarded prior to December 31, 2007 if the contract does not include a change-in-law or similar mechanism by which the recycling tax imposed by this section may be passed through as a fee or surcharge on the rates and charges set forth in the contract; and
- provide that the recycling tax would not be imposed on the owner or operator of a resource recovery facility for the acceptance for disposal of solid waste originating from in-state sources under a contract awarded prior to December 31, 2007 if the contract does not include a change-in-law or similar mechanism by which the recycling tax imposed by this section may be passed through as a fee or surcharge on the rates and charges set forth in the contract.

As amended, Senate Committee Substitute for Senate Bill No. 557 (2R) is identical to the Assembly Committee Substitute for Assembly Bill No. 1886 (1R).

LEGISLATIVE FISCAL ESTIMATE
SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 557
STATE OF NEW JERSEY
212th LEGISLATURE

DATED: DECEMBER 10, 2007

SUMMARY

Synopsis: "Recycling Enhancement Act"

Type of Impact: Revenue increase in the State Recycling Fund; revenue termination in the Solid Waste Services Tax Fund.

Agencies Affected: Department of Environmental Protection, counties and affected municipalities.

Office of Legislative Services Estimate

| Fiscal Impact | <u>Year 1</u> | <u>Year 2</u> | <u>Year 3</u> |
|----------------------|----------------------|----------------------|----------------------|
| State Cost | \$8,000,000 | \$0 | \$0 |
| State Revenue | \$34,000,000 | \$34,000,000 | \$34,000,000 |

- The committee substitute imposes a recycling tax of \$3.00 per ton on most solid waste generation in order to provide grants and financial support to municipalities and counties for recycling programs. Revenues would be deposited into the State Recycling Fund and administered by the Department of Environmental Protection (DEP).
- A General Fund appropriation of \$8 million is proposed to supplement the existing \$4 million recycling grants program during the first year after enactment. This sum would be repaid from recycling tax revenues at \$1 million annually.
- The solid waste services tax is repealed and any balances are transferred to the State Recycling Fund.
- Based on prior Division of Taxation estimates, the Office of Legislative Services (OLS) estimates that the recycling tax will generate about \$34 million annually. Of this amount, approximately \$19 million would be allocated for the recycling grants program.

BILL DESCRIPTION

Senate Committee Substitute for Senate Bill No. 557 of 2006 imposes a recycling tax on solid waste generation that would provide increased State assistance to municipalities and counties for recycling programs. This tax would be levied on most (see below) owners or operators of solid waste facilities at the rate of \$3.00 per ton on all solid waste accepted for disposal or transfer. The same per ton rate would also be levied on solid waste collectors for all solid waste collected for transshipment or direct transportation to an out-of-state disposal site.

Revenues generated from the recycling tax would be deposited in the State Recycling Fund, which is administered by the DEP. The Fund's estimated annual balance would be appropriated annually for the following purposes:

(1) 60 percent would support a recycling grants program for municipalities or counties, the latter being eligible when there already exists a self-supporting program that collects, processes and markets recyclable materials on a regional basis. At present, a \$4,000,000 recycling grants program is supported by revenues from the Clean Communities Program;

(2) 10 percent would be used for State recycling program planning and program funding, including administrative expenses incurred by the DEP;

(3) 25 percent would be used by counties for preparing, revising, and implementing solid waste management plans; and

(4) 5 percent would be used by counties for public information and education programs concerning recycling activities.

The committee substitute amends current law to limit the \$4,000,000 allocation for recycling grants from the Clean Communities Program Fund to one more year, rather than annually. It also supplements this amount by appropriating \$8,000,000 from the General Fund, thus budgeting a total of \$12,000,000 for recycling grants awarded during the first year after enactment. The General Fund appropriation would be repaid in annual \$1,000,000 installments from recycling tax revenues. Further, whenever a municipality operates or provides for solid waste collection, the amount of grant moneys received by the municipality for its recycling activities may not be less than the annual amount of recycling tax paid by the municipality.

The substitute bill also repeals the solid waste services tax that is imposed on all solid waste accepted for disposal at a registered sanitary landfill facility on or after May 1, 1985. This tax, which generates approximately \$2,500,000 per year, is distributed to counties for solid waste management planning. Any remaining balances from this fund would be transferred to the State Recycling Fund and used for purposes provided under the committee substitute.

Last, the recycling tax would not be imposed on: (1) the owner or operator of a railroad transfer station; (2) the owner or operator of a sanitary landfill facility that accepts ash residue from solid waste incinerators; (3) the owner or operator of a solid waste facility that collects residue from a scrap processing facility; (4) the owner or operator of a materials recovery facility that accepts Type 13C Construction and Demolition waste; or (5) the owner or operator of a solid waste facility that accepts residue generated from post-consumer waste material in the manufacture of a recycled product.

FISCAL ANALYSIS

EXECUTIVE BRANCH

Although the Executive Branch did not submit fiscal note data on the committee substitute, the Division of Taxation did provide such data on a similar bill introduced in the previous legislative session, Senate Bill No. 2615 of 2005. The Division estimated at that time that

approximately \$34,000,000 would be generated annually from the recycling tax imposed under the bill. This sum was based on estimates of the amount of solid waste generated per person annually times the State population. The resulting solid waste tonnage was then multiplied by the \$3.00 recycling tax per ton.

OFFICE OF LEGISLATIVE SERVICES

The OLS concurs with the Executive estimate as detailed above. The OLS notes that the bill's appropriation of \$8,000,000 from the General Fund to support grant awards during the first year of the new tax would constitute a State cost, albeit temporarily, until this amount is repaid over time from recycling tax revenues. The committee substitute would also enhance the Clean Communities Program in the second year after enactment (and thereafter) by ending its annual \$4,000,000 allocation to the existing recycling grants program. Based on the Division of Taxation's estimate of annual revenues generated from the new tax, the proposed 60 percent allocation for recycling grants would total approximately \$19,000,000, an increase of \$15,000,000 over the current grants funding level and \$7,000,000 over the proposed funding level during the first year after the committee substitute's enactment.

The OLS contends that any adverse fiscal impacts on municipal or county taxes or costs due to the imposition of the proposed recycling tax should be minimal due to the provision that offsets the amount of recycling tax paid by a municipality with the amount of grant moneys it receives for recycling activities. Last, the repeal of the solid waste services tax would have no fiscal impact on the General Fund since these revenues are used for dedicated purposes. Counties that now receive funding from this source should receive the same or more funding for the same purposes under the committee substitute. Also, the termination of this tax may also provide some relief to those owners or operators who will be affected by the imposition of the proposed recycling tax.

Section: Environment, Agriculture, Energy and Natural Resources

*Analyst: Richard M. Handelman
Senior Fiscal Analyst*

*Approved: David J. Rosen
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-1 et seq.).