

13:1E-28

LEGISLATIVE HISTORY CHECKLIST
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(Sanitary landfills--economic benefit)

NJSA: 13:1E-28

LAWS OF: 1993 **CHAPTER:** 152

BILL NO: S708

SPONSOR(S) Sinagra, Derman, Warsh

DATE INTRODUCED: May 4, 1992

COMMITTEE: **ASSEMBLY:** Energy and Hazardous Waste
SENATE: Community Affairs

AMENDED DURING PASSAGE: Yes Amendments during passage
Third reprint denoted by superscript numbers

DATE OF PASSAGE: **ASSEMBLY:** February 18, 1993 Re-enacted 6-21-93
SENATE: October 29, 1992 Re-enacted 6-10-93

DATE OF APPROVAL: June 28, 1993

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

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

FISCAL NOTE: No

VETO MESSAGE: ~~No~~ Yes

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

KBG:pp

[THIRD REPRINT]

SENATE, No. 708

STATE OF NEW JERSEY

INTRODUCED MAY 4, 1992

By Senator SINAGRA,
Assemblywoman Derman and Assemblyman Warsh

1 AN ACT concerning certain sanitary landfill facilities, and
2 amending P.L.1975, c.326.

3

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

6 1. Section 19 of P.L.1975, c.326 (C.13:1E-28) is amended to
7 read as follows:

8 19. a. Any municipality within which a sanitary landfill
9 facility is located pursuant to an adopted and approved district
10 solid waste management plan shall be entitled to an annual
11 economic benefit not less than the equivalent of \$1.00 per ton of
12 solids on all solid waste accepted for disposal at the sanitary
13 landfill facility during the previous calendar year as determined
14 by the department.

15 The owner or operator of the sanitary landfill facility shall
16 annually pay to the relevant municipality the full amount due
17 under this subsection and each relevant municipality is
18 empowered to anticipate this amount for the purposes of
19 preparing its annual budget. For the purposes of calculating the
20 payments, the owner or operator of the sanitary landfill facility
21 may, subject to the prior agreement of the relevant municipality
22 and the approval of the ²[Board of Public Utilities] Department
23 of Environmental Protection², provide the municipality with any
24 of the following benefits in consideration for the use of land
25 within its municipal boundaries as the location of a sanitary
26 landfill facility:

27 (1) The receipt of annual sums of money in lieu of taxes on the
28 land used for the sanitary landfill facility;

29 (2) The exemption from all fees and charges for the disposal of
30 solid waste generated within its boundaries;

31 (3) The receipt of a lump sum cash payment; or

32 (4) Any combination thereof.

33 b. Any municipality ¹[with] ²that:²

34 (1) ²[which has¹] Has² a population ³[greater than 13,000 but
35 less than 15,000 persons, ²[according to the latest federal
36 decennial census]² ¹[,] or a population greater than 29,000 but
37 less than 36,000 persons, according to the latest federal decennial
38 census;

39 (2) ²[which is¹] Is² located in a county of the second class with
40 a population greater than 550,000 ¹[persons]¹ density of more than
41 1,500 persons per square mile³, according to the latest federal

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SCO committee amendments adopted October 22, 1992.

² Assembly AEH committee amendments adopted January 14, 1993.

³ Senate amendments adopted in accordance with Governor's
recommendations May 13, 1993.

1 decennial census¹[,]; and
 2 ³[(3)¹] (2)³ ²[which shares] Shares² ¹[a common boundary of an
 3 operating sanitary landfill, which is operated by the county and
 4 received more than 600,000 tons of solid waste in 1988, with a
 5 municipality within which a sanitary landfill facility is located
 6 pursuant to an adopted and approved district solid waste
 7 management plan] ²a common boundary² with a municipality
 8 within which is located, pursuant to an adopted and approved
 9 district solid waste management plan, an operating sanitary
 10 landfill facility that is operated by ³[the] a³ county and received
 11 more than 600,000 tons of solid waste in 1988, ²[a common
 12 boundary,]² part of which ²common boundary² is comprised of
 13 the boundary of the sanitary landfill facility,¹ shall be entitled to
 14 an annual economic benefit in consideration for ³[any adverse
 15 effects upon environmental quality or public health resulting
 16 from the operations of a sanitary landfill facility located within
 17 close proximity to residential population centers within ²[it] its²
 18 municipal boundaries] the proximity of the sanitary landfill
 19 facility³. The annual economic benefit shall be not less than the
 20 equivalent of \$0.50 per ton³, and not more than \$1.50 per ton,³ of
 21 all solid waste accepted for disposal at the sanitary landfill
 22 facility during the previous calendar year as determined by the
 23 department.

24 The owner or operator of the sanitary landfill facility shall
 25 annually pay to every municipality qualifying under this
 26 subsection the full amount due under this subsection and each
 27 municipality qualifying under this subsection is empowered to
 28 anticipate this amount for the purposes of preparing its annual
 29 budget. For the purposes of calculating the payments, the owner
 30 or operator of the sanitary landfill facility may, subject to the
 31 prior agreement of a municipality qualifying under this subsection
 32 and the approval of the ²[Board of Public Utilities] Department
 33 of Environmental Protection², provide each municipality
 34 qualifying under this subsection with any of the following benefits
 35 in consideration for ³[any adverse environmental impacts upon
 36 the municipality qualifying under this subsection, including, but
 37 not limited to, air pollution, dust, noise or odor resulting from the
 38 operations of the sanitary landfill facility, and increased
 39 vehicular traffic resulting from]³ the proximity of the sanitary
 40 landfill facility ²[;]:²

41 (1) The exemption from all fees and charges for the disposal of
 42 solid waste generated within its boundaries;

43 (2) The receipt of a lump sum cash payment; or

44 (3) any combination thereof.

45 [b.] c. Every owner or operator of a sanitary landfill facility
 46 required to make annual payments to a municipality pursuant to
 47 subsection a. of this section, or to a municipality qualifying
 48 pursuant to subsection b. of this section, may petition the ²[Board
 49 of Public Utilities] Department of Environmental Protection² for
 50 an increase in its tariff which reflects these payments. The
 51 ²[board] department², within 60 days of the receipt of the
 52 petition, shall issue an appropriate order that these payments
 53 shall be passed along to the users of the sanitary landfill facility
 54 as an automatic surcharge on any tariff filed with, and recorded

1 by, the ²[board] department² for the solid waste disposal
2 operations of the facility.

3 [c.] d. In issuing any order required by this section, the ²[Board
4 of Public Utilities] Department of Environmental Protection²
5 shall be exempt from the provisions of R.S.48:2-21.

6 (cf: P.L.1991, c.381, s.39)

7 2. This act shall take effect immediately.

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12 Provides economic benefit to certain municipalities that share a
13 boundary with a host municipality for a sanitary landfill facility.

1 resulting from the operations of a sanitary landfill facility
2 located within close proximity to residential population centers
3 within its municipal boundaries. The annual economic benefit
4 shall be not less than the equivalent of \$0.50 per ton of all solid
5 waste accepted for disposal at the sanitary landfill facility during
6 the previous calendar year as determined by the department.

7 The owner or operator of the sanitary landfill facility shall
8 annually pay to every municipality qualifying under this
9 subsection the full amount due under this subsection and each
10 municipality qualifying under this subsection is empowered to
11 anticipate this amount for the purposes of preparing its annual
12 budget. For the purposes of calculating the payments, the owner
13 or operator of the sanitary landfill facility may, subject to the
14 prior agreement of a municipality qualifying under this subsection
15 and the approval of the Board of Public Utilities, provide each
16 municipality qualifying under this subsection with any of the
17 following benefits in consideration for any adverse environmental
18 impacts upon the municipality qualifying under this subsection,
19 including, but not limited to, air pollution, dust, noise or odor
20 resulting from the operations of the sanitary landfill facility, and
21 increased vehicular traffic resulting from the proximity of the
22 sanitary landfill facility;

23 (1) The exemption from all fees and charges for the disposal of
24 solid waste generated within its boundaries;

25 (2) The receipt of a lump sum cash payment; or

26 (3) any combination thereof.

27 [b.] c. Every owner or operator of a sanitary landfill facility
28 required to make annual payments to a municipality pursuant to
29 subsection a. of this section, or to a municipality qualifying
30 pursuant to subsection b. of this section, may petition the Board
31 of Public Utilities for an increase in its tariff which reflects
32 these payments. The board, within 60 days of the receipt of the
33 petition, shall issue an appropriate order that these payments
34 shall be passed along to the users of the sanitary landfill facility
35 as an automatic surcharge on any tariff filed with, and recorded
36 by, the board for the solid waste disposal operations of the
37 facility.

38 [c.] d. In issuing any order required by this section, the Board
39 of Public Utilities shall be exempt from the provisions of
40 R.S.48:2-21.

41 (cf: P.L.1991, c.381, s.39)

42 2. This act shall take effect immediately.

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STATEMENT

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47 Existing law provides that the municipality wherein the
48 sanitary landfill facility is located is entitled to an annual
49 economic benefit equal to at least \$1.00 per ton of solid waste
50 disposed of at the facility. The operation of a sanitary landfill
51 facility, however, has significant adverse environmental impacts
52 upon surrounding municipalities as well as the host community,
53 including air pollution, dust, noise, odor, and increased garbage
54 truck traffic. In recognition of this fact, this bill would provide

1 an annual economic benefit to certain municipalities that share a
2 common boundary of an operating sanitary landfill with the
3 municipality in which a large sanitary landfill facility is located
4 equal to at least \$0.50 per ton of solid waste disposed of at the
5 facility.

6 The annual payments will be made by the owner or operator of
7 the sanitary landfill facility to each adjacent municipality in the
8 form of: (1) the exemption from all fees and charges for the
9 disposal of solid waste generated within the boundaries of the
10 adjacent municipality; (2) the receipt of a lump sum cash
11 payment; or (3) any combination thereof. The annual payments
12 will be considered "pass-through" costs to the landfill owner or
13 operator and solid waste collector and would thus be generated as
14 "environmental impact fees" paid by the other solid waste
15 generators utilizing the sanitary landfill facility.

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20 Provides economic benefit to certain municipalities that share a
21 boundary with a host municipality for a sanitary landfill facility.

ASSEMBLY ENERGY AND HAZARDOUS WASTE COMMITTEE

STATEMENT TO

[FIRST REPRINT]

SENATE, No. 708

with committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 14, 1993

The Assembly Energy and Hazardous Waste Committee favorably reports Senate Bill No. 708 [1R], with Assembly committee amendments.

This bill entitles certain municipalities to an annual economic benefit in consideration for any adverse effects upon environmental quality or public health resulting from the operation of a sanitary landfill facility.

Specifically, this bill confers this benefit upon any municipality which:

(1) has a population greater than 13,000 but less than 15,000 persons, or greater than 29,000 but less than 36,000, according to the latest federal decennial census;

(2) is located in a county of the second class with a population greater than 550,000 persons, according to the latest federal decennial census; and

(3) shares a common boundary with a municipality within which is located a county-operated sanitary landfill facility that received more than 600,000 tons of solid waste in 1988, part of which common boundary is comprised of the boundary of the sanitary landfill facility. The only municipalities which currently fulfill these criteria are South River and Sayreville.

Existing law provides that the municipality wherein the sanitary landfill facility is located is entitled to an annual economic benefit equal to at least \$1.00 per ton of solid waste disposed of at the facility.

The operation of a sanitary landfill facility, however, has significant adverse environmental impacts upon surrounding municipalities as well as the host community, including air pollution, dust, noise, odor, and increased garbage truck traffic. In recognition of this fact, this bill would provide an annual economic benefit to certain municipalities that share a common boundary of an operating sanitary landfill with the municipality in which a large sanitary landfill facility is located equal to at least \$0.50 per ton of solid waste disposed of at the facility.

The annual payments will be made by the owner or operator of the sanitary landfill facility to each adjacent municipality in the form of: (1) the exemption from all fees and charges for the disposal of solid waste generated within the boundaries of the adjacent municipality; (2) a lump sum cash payment; or (3) any combination thereof. The annual payments will be considered

"pass-through" costs to the landfill owner or operator and solid waste collector and would thus be generated as "environmental impact fees" paid by the other solid waste generators utilizing the sanitary landfill facility.

The proposed technical amendments are of a clarifying nature. References to the Board of Public Utilities are changed to the Department of Environmental Protection to reflect current law. As amended by the committee, S708 [2R] is identical to A1255 [1R].

SENATE COMMUNITY AFFAIRS COMMITTEE

STATEMENT TO

SENATE, No. 708

with Senate committee amendments

STATE OF NEW JERSEY

DATED: OCTOBER 22, 1992

The Senate Community Affairs Committee favorably reports Senate Bill No. 708 with Senate committee amendments.

Senate Bill No. 708, as amended by the committee, entitles certain municipalities to an annual economic benefit in consideration for any adverse effects upon environmental quality or public health resulting from the operation of a sanitary landfill facility.

Specifically, this bill confers this benefit upon any municipality which:

(1) has a population greater than 13,000 but less than 15,000 persons according to the latest federal decennial census or greater than 29,000 but less than 36,000 according to the latest federal decennial census;

(2) is located in a county of the second class with a population greater than 550,000 persons, according to the latest federal decennial census; and

(3) shares with a municipality within which is located a county-operated sanitary landfill facility that received more than 600,000 tons of solid waste in 1988, a common boundary, part of which is comprised of the boundary of the sanitary landfill facility. The only municipalities which currently fulfill these criteria are South River and Sayreville.

Existing law provides that the municipality wherein the sanitary landfill facility is located is entitled to an annual economic benefit equal to at least \$1.00 per ton of solid waste disposed of at the facility.

The operation of a sanitary landfill facility, however, has significant adverse environmental impacts upon surrounding municipalities as well as the host community, including air pollution, dust, noise, odor, and increased garbage truck traffic. In recognition of this fact, this bill would provide an annual economic benefit to certain municipalities that share a common boundary of an operating sanitary landfill with the municipality in which a large sanitary landfill facility is located equal to at least \$0.50 per ton of solid waste disposed of at the facility.

The annual payments will be made by the owner or operator of the sanitary landfill facility to each adjacent municipality in the form of: (1) the exemption from all fees and charges for the disposal of solid waste generated within the boundaries of the adjacent municipality; (2) a lump sum cash payment; or (3) any combination thereof. The annual payments will be considered "pass-through" costs to the landfill owner or operator and solid waste collector and would thus be generated as "environmental impact fees" paid by the other solid waste generators utilizing the sanitary landfill facility.

The committee amended the bill to broaden the eligibility for the host community benefit to include Sayreville and to clarify the language governing entitlement to the economic benefit.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

May 6, 1993

SENATE BILL NO. 708
(Second Reprint)

To the Senate:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Senate Bill No. 708 (Second Reprint) with my recommendations for reconsideration.

This bill would provide for mandatory economic benefits for certain municipalities located immediately adjacent to solid waste landfill facilities. Based on the very detailed criteria contained in the bill, this legislation would selectively target the proposed benefit at two municipalities in the State.

I agree that municipalities located near landfills may experience significant economic and environmental impacts from these operations and should receive compensation for these impacts. While existing State law provides a benefit for the community actually hosting a landfill facility, there is no corresponding benefit for those cities or towns contiguous to a facility. As a result, I would support legislation to rectify this situation and establish a Statewide policy providing economic benefits for qualifying, non-host municipalities affected by any sanitary landfill.

While I would strongly prefer legislation that could potentially be applied to any sanitary landfill in the State, I recognize there are cases involving our largest landfill operations where any economic and environmental impacts associated with these operations may fall disproportionately not only on the host municipality itself, but also on surrounding communities. For this reason, I believe economic relief for these impacts is appropriate and justified, and I would therefore recommend several amendments to provide such compensation in a manner generally consistent with current State laws and policies governing the provision of host community benefits for operating disposal facilities.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

Initially, I would propose to restrict this economic benefit to those communities bordering a landfill that are likely to experience more significant, widespread impacts based on the existing residential population concentrations within these communities. Also, I would recommend limiting the maximum economic benefit available to any individual community in order to avoid excessive increases in the disposal rates paid by households and businesses in a county, particularly in those instances where multiple communities are eligible for a benefit.

Finally, I would propose to simplify the agency review standard contained in the bill to minimize any potential inconsistency with the well-established case law and administrative procedures now used by our State agencies to review benefits for host municipalities. I believe the existing review standard already provides sufficient flexibility to consider both quantifiable economic effects and any significant environmental impacts associated with these landfill operations.

For these reasons, I herewith return Senate Bill No. 708 (Second Reprint) and recommend that it be amended as follows:

- | | |
|--|--|
| <u>Page 1, Section 1, Line 34:</u> | Delete "greater than 13,000 but" |
| <u>Page 1, Section 1, Lines 35-39:</u> | Delete in entirety |
| <u>Page 1, Section 1, Line 40:</u> | Delete "a population greater than 550,000 persons" and insert "density of more than 1,500 persons per square mile" |
| <u>Page 2, Section 1, Line 2:</u> | Delete "(3)" insert "(2)" |
| <u>Page 2, Section 1, Line 10:</u> | After "operated by" delete "the" and insert "a" |
| <u>Page 2, Section 1, Line 14:</u> | Delete "any adverse effects upon" |
| <u>Page 2, Section 1, Lines 15-17:</u> | Delete in entirety |
| <u>Page 2, Section 1, Line 18:</u> | Delete "municipal boundaries" and insert "the proximity of the sanitary landfill facility" |
| <u>Page 2, Section 1, Line 19:</u> | After "\$0.50 per ton" insert ", and not more than \$1.50 per ton," |
| <u>Page 2, Section 1, Line 33:</u> | Delete "any adverse environmental impacts upon the" |
| <u>Page 2, Section 1, Lines 34-36:</u> | Delete in entirety |

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

Page 2, Section 1, Line 37:

Delete "vehicular traffic
resulting from"

Resectfully

/s/ Jim Florio

GOVERNOR

[seal]

Attest:

/s/ M. Robert DeCotiis

Chief Counsel to the Governor