

13:1E-193

LEGISLATIVE HISTORY CHECKLIST
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(Low level radioactive waste disposal facility--prohibit siting in town with existing solid waste facility)

NJSA: 13:1E-193

LAWS OF: 1992 CHAPTER: 97

BILL NO: S209

SPONSOR(S) Bennett

DATE INTRODUCED: Pre-filed

COMMITTEE: ASSEMBLY: Energy

SENATE: Environment

AMENDED DURING PASSAGE: Yes Amendments during passage denoted by asterisks

DATE OF PASSAGE: ASSEMBLY: August 3, 1992

SENATE: May 7, 1992

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FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: ASSEMBLY: Yes

SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: No

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

KBG:pp

[FIRST REPRINT]

SENATE, No. 209

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1992 SESSION

By Senator BENNETT

1 AN ACT concerning the siting of a regional low-level radioactive
2 waste disposal facility, and amending P.L.1987, c.333.

3

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

6 1. Section 17 of P.L.1987, c.333 (C.13:1E-193) is amended to
7 read as follows:

8 17. a. The regional low-level radioactive waste disposal
9 facility shall, for the purposes of local property taxation, be
10 assessed and taxed in the same manner as other real property.

11 In the event that the facility is constructed or operated on a
12 site which is exempt from local property taxation by virtue of the
13 ownership thereof by any public agency, the owner or operator of
14 the facility shall, the provisions of any law, rule, regulation,
15 ordinance, resolution or contract to the contrary notwithstanding,
16 annually pay to the affected municipality a sum equal to the
17 amount which would annually be due if the land on which the
18 facility is located and any improvements thereto were assessed
19 and taxed as real property subject to local property taxation.
20 These payments shall be made to the chief fiscal officer of the
21 affected municipality by December 31 of each year.

22 b. Subsequent to the effective date of this act, the owner or
23 operator of the facility shall, on or before January 25 of each
24 year, file with the chief fiscal officer of the municipality wherein
25 the facility is located a statement, verified by oath, showing the
26 gross receipts from all charges imposed during the preceding
27 calendar year upon any person for the disposal of low-level
28 radioactive waste at the facility, and shall at the same time pay
29 to the chief fiscal officer a sum equal to 5% of those receipts.

30 c. All moneys received by any municipality pursuant to this
31 section shall be appropriated and utilized for the following
32 purposes:

33 (1) Extra police or fire costs, whether for salaries, equipment,
34 or administrative expenses, which were necessitated by the
35 operations of the facility;

36 (2) Any local inspection program costs incurred by the local
37 board of health or the county health department, as the case may
38 be, provided that the program is performed pursuant to the
39 provisions of this act and any rule or regulation promulgated
40 pursuant thereto;

41 (3) Road construction or repair costs necessitated by the
42 transportation of low-level radioactive waste through the

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 SEN committee amendments adopted March 26, 1992.

1 municipality to the facility; and

2 (4) Other expenses directly related to the impact of the
3 facility on the municipality.

4 Any appropriation made for an expenditure covered under this
5 subsection shall, for the purposes of P.L.1976, c.68 (C.40A:4-45.1
6 et seq.), be considered as an expenditure mandated by State law.

7 d. The municipality in which the facility is located may
8 petition the board for approval to collect an amount in excess of
9 the amount prescribed in subsection b. of this section. The board,
10 after affording the affected owner or operator with notice of this
11 petition and an opportunity to be heard thereon, may grant the
12 petition, but only if the board is satisfied that the grant is
13 warranted by the expenses imposed upon the municipality as a
14 result of the operation of the facility.

15 e. The board may, upon the petition of the affected owner or
16 operator or upon its own motion, direct that the amount to be
17 paid pursuant to subsection b. of this section be reduced to a
18 lower percentage if, after affording the affected municipality
19 notice of the petition or board intent to decrease the amount and
20 an opportunity to be heard thereon, the board finds that the lower
21 amount is sufficient to cover the expenses imposed upon the
22 municipality as a result of the operation of the facility.

23 f. The municipality in which the facility is located shall not be
24 required to be the host municipality site for [a solid waste
25 facility approved under P.L.1970, c.39 (C.13:1E-1 et seq.), or] a
26 major hazardous waste facility sited pursuant to P.L.1981, c.279
27 (C.13:1E-49 et seq.), and no municipality which is the host
28 municipality site for a major hazardous waste facility [approved
29 or] ¹[sited pursuant to] as defined in section 3 of¹ [the aforesaid
30 acts] P.L.1981, c.279 ¹(C.13:1E-51)¹ shall be required to be the
31 host municipality site for a regional low-level radioactive waste
32 disposal facility sited pursuant to the provisions of this act.

33 g. The board may offer financial or other incentives to the
34 host municipality as may be made available to it by the operator
35 or the State.

36 h. Any board action taken pursuant to subsection d. or e. of
37 this section shall be considered to be the final agency action
38 thereon for the purposes of the "Administrative Procedure Act,"
39 P.L.1968, c.410 (C.52:14B-1 et seq.), and shall be subject only to
40 judicial review as provided in the Rules of Court.
41 (cf: P.L.1987, c.333, s.17)

42 2. This act shall take effect immediately.

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47 Precludes siting of low-level radioactive waste facility in
48 municipalities hosting certain solid waste facilities.

1 municipality to the facility; and

2 (4) Other expenses directly related to the impact of the
3 facility on the municipality.

4 Any appropriation made for an expenditure covered under this
5 subsection shall, for the purposes of P.L.1976, c.68 (C.40A:4-45.1
6 et seq.), be considered as an expenditure mandated by State law.

7 d. The municipality in which the facility is located may
8 petition the board for approval to collect an amount in excess of
9 the amount prescribed in subsection b. of this section. The board,
10 after affording the affected owner or operator with notice of this
11 petition and an opportunity to be heard thereon, may grant the
12 petition, but only if the board is satisfied that the grant is
13 warranted by the expenses imposed upon the municipality as a
14 result of the operation of the facility.

15 e. The board may, upon the petition of the affected owner or
16 operator or upon its own motion, direct that the amount to be
17 paid pursuant to subsection b. of this section be reduced to a
18 lower percentage if, after affording the affected municipality
19 notice of the petition or board intent to decrease the amount and
20 an opportunity to be heard thereon, the board finds that the lower
21 amount is sufficient to cover the expenses imposed upon the
22 municipality as a result of the operation of the facility.

23 f. The municipality in which the facility is located shall not be
24 required to be the host municipality site for [a solid waste
25 facility approved under P.L.1970, c. 39 (C.13:1E-1 et seq.), or] a
26 major hazardous waste facility sited pursuant to P.L.1981, c. 279
27 (C.13:1E-49 et seq.), and no municipality which is the host
28 municipality site for a major hazardous waste facility [approved
29 or] sited pursuant to [the aforesaid acts] P.L.1981, c.279 shall be
30 required to be the host municipality site for a regional low-level
31 radioactive waste disposal facility sited pursuant to the
32 provisions of this act.

33 g. The board may offer financial or other incentives to the
34 host municipality as may be made available to it by the operator
35 or the State.

36 h. Any board action taken pursuant to subsection d. or e. of
37 this section shall be considered to be the final agency action
38 thereon for the purposes of the "Administrative Procedure Act,"
39 P.L.1968, c.410 (C.52:14B-1 et seq.), and shall be subject only to
40 judicial review as provided in the Rules of Court.
41 (cf: P.L.1987, c.333, s.17)

42 2. This act shall take effect immediately.

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46 STATEMENT

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48 This bill would limit the types of solid waste facilities that may
49 be excluded by a municipality which is the host site for a regional
50 low-level radioactive waste facility, as well as the types of solid
51 waste facilities located in a municipality that would qualify that
52 municipality for an exemption from hosting a regional low-level
53 radioactive waste facility.

54 Under existing law, any municipality hosting a solid waste
55 facility approved under P.L.1970, c.39 (C.13:1E-1 et seq.), or a

1 major hazardous waste facility sited pursuant to P.L.1981, c.279
2 (C.13:1E-49 et seq.), may not be required to also host a regional
3 low-level radioactive waste facility sited pursuant to P.L.1987,
4 c.333 (C.13:1E-177 et seq.). Obversely, a municipality with a
5 regional low-level radioactive waste facility located within its
6 borders may not be required to host a solid waste facility or a
7 major hazardous waste facility. However, the class of "solid
8 waste facilities" is so broad that it encompasses facilities with
9 minimal adverse environmental impacts, such as recycling
10 centers and transfer stations. Moreover, the number of facilities
11 in the broad class is so great as to severely constrain, if not
12 effectively preclude, the siting of a low-level radioactive waste
13 facility at all.

14 In addition to this practical problem, the provision as presently
15 in the law may well be adjudged violative of Article VI,
16 subsection k. of "The Northeast Interstate Low-Level
17 Radioactive Waste Management Compact Act" (P.L.1983, c.329,
18 C.32:31-1 et al.), which constructively repeals any law of a party
19 State that may "prohibit, suspend, or unreasonably delay, limit,
20 or restrict the...siting of a regional facility."

21 The purpose of this bill is to increase the number of potential
22 sites for regional low-level radioactive waste facilities. If the
23 current definition of "solid waste facility" is not amended, the
24 ability of the State to site a low-level radioactive waste facility
25 would be greatly impaired, thereby possibly placing New Jersey in
26 noncompliance with the federal "Low-Level Radioactive Waste
27 Policy Act." Noncompliance with the federal act may result in
28 the loss of certain refundable surcharges, the imposition of
29 additional penalty surcharges for the disposal of low-level
30 radioactive waste, the imposition of additional liability on the
31 State, and the possible exclusion of New Jersey's waste at
32 out-of-state facilities. Accordingly, this bill amends the
33 "Regional Low-Level Radioactive Waste Disposal Facility Siting
34 Act," P.L.1987, c.333 (C.13:1E-177 et seq.), in order to ensure
35 that New Jersey remains in compliance with the requirements of
36 the federal act.

37 This bill would eliminate the provision of P.L.1987, c.333
38 exempting municipalities hosting any type of solid waste facility
39 from consideration as a potential host site for a regional
40 low-level radioactive waste facility. The bill also eliminates the
41 corollary provision that a municipality with a regional low-level
42 radioactive waste facility located within its borders would be
43 exempted from hosting a solid waste facility.

44 Thus, only a municipality hosting a major hazardous waste
45 facility would still be exempt from consideration as a potential
46 host site for a regional low-level radioactive waste facility, and,
47 obversely, only a municipality with a regional low-level
48 radioactive waste facility located within its borders would be
49 exempted from consideration as a potential host site for a major
50 hazardous waste facility.

51 This change has the effect of increasing the number of
52 potential sites for regional low-level radioactive waste facilities.

ASSEMBLY ENERGY AND HAZARDOUS WASTE COMMITTEE

STATEMENT TO

[FIRST REPRINT]

SENATE, No. 209

STATE OF NEW JERSEY

DATED: JUNE 15, 1992

The Assembly Energy and Hazardous Waste Committee favorably reports Senate Bill No. 209 (1R).

This bill would limit the types of solid waste facilities that may be excluded by a municipality which is the host site for a regional low-level radioactive waste facility, as well as the types of solid waste facilities located in a municipality that would qualify that municipality for an exemption from hosting a regional low-level radioactive waste facility.

Under existing law, any municipality hosting a solid waste facility approved under P.L.1970, c.39 (C.13:1E-1 et seq.), or a major hazardous waste facility sited pursuant to P.L.1981, c.279 (C.13:1E-49 et seq.), may not be required to also host a regional low-level radioactive waste facility sited pursuant to P.L.1987, c.333 (C.13:1E-177 et seq.). Obversely, a municipality with a regional low-level radioactive waste facility located within its borders may not be required to host a solid waste facility or a major hazardous waste facility. However, the class of "solid waste facilities" is so broad that it encompasses facilities with minimal adverse environmental impacts, such as recycling centers and transfer stations. Moreover, the number of facilities in the broad class is so great as to severely constrain, if not effectively preclude, the siting of a low-level radioactive waste facility at all.

In addition to this practical problem, the provision as presently in the law may well be adjudged violative of Article VI, subsection k. of "The Northeast Interstate Low-Level Radioactive Waste Management Compact Act," P.L.1983, c.329 (C.32:31-1 et al.), which constructively repeals any law of a party State that may "prohibit, suspend, or unreasonably delay, limit, or restrict the...siting of a regional facility."

The purpose of this bill is to increase the number of potential sites for regional low-level radioactive waste facilities. If the current definition of "solid waste facility" is not amended, the ability of the State to site a low-level radioactive waste facility would be greatly impaired, thereby possibly placing New Jersey in noncompliance with the federal "Low-Level Radioactive Waste Policy Act." Noncompliance with the federal act may result in the loss of certain refundable surcharges, the imposition of additional penalty surcharges for the disposal of low-level radioactive waste, the imposition of additional liability on the State, and the possible exclusion of New Jersey's waste at out-of-state facilities. Accordingly, this bill amends the "Regional Low-Level Radioactive Waste Disposal Facility Siting Act," P.L.1987, c.333 (C.13:1E-177 et seq.), in order to ensure that New Jersey remains in compliance with the requirements of the federal act.

This bill would eliminate the provision of P.L.1987, c.333 exempting municipalities hosting any type of solid waste facility from consideration as a potential host site for a regional low-level radioactive waste facility. The bill also eliminates the corollary provision that a municipality with a regional low-level radioactive waste facility located within its borders would be exempted from hosting a solid waste facility.

Thus, only a municipality hosting a major hazardous waste facility would still be exempt from consideration as a potential host site for a regional low-level radioactive waste facility, and, obversely, only a municipality with a regional low-level radioactive waste facility located within its borders would be exempted from consideration as a potential host site for a major hazardous waste facility.

This change has the effect of increasing the number of potential sites for regional low-level radioactive waste facilities.

SENATE ENVIRONMENT COMMITTEE

STATEMENT TO

SENATE, No. 209

with Senate committee amendments

STATE OF NEW JERSEY

DATED: MARCH 26, 1992

The Senate Environment Committee favorably reports Senate Bill No. 209 with committee amendments.

This bill would limit the types of solid waste facilities that may be excluded by a municipality which is the host site for a regional low-level radioactive waste facility, as well as the types of solid waste facilities located in a municipality that would qualify that municipality for an exemption from hosting a regional low-level radioactive waste facility.

Under existing law, any municipality hosting a solid waste facility approved under P.L.1970, c.39 (C.13:1E-1 et seq.), or a major hazardous waste facility sited pursuant to P.L.1981, c.279 (C.13:1E-49 et seq.), may not be required to also host a regional low-level radioactive waste facility sited pursuant to P.L.1987, c.333 (C.13:1E-177 et seq.). Obversely, a municipality with a regional low-level radioactive waste facility located within its borders may not be required to host a solid waste facility or a major hazardous waste facility. However, the class of "solid waste facilities" is so broad that it encompasses facilities with minimal adverse environmental impacts, such as recycling centers and transfer stations. Moreover, the number of facilities in the broad class is so great as to severely constrain, if not effectively preclude, the siting of a low-level radioactive waste facility at all.

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This bill would eliminate the provision of P.L.1987, c.333 exempting municipalities hosting any type of solid waste facility from consideration as a potential host site for a regional low-level radioactive waste facility. The bill also eliminates the corollary provision that a municipality with a regional low-level radioactive waste facility located within its borders would be exempted from hosting a solid waste facility.

Thus, only a municipality hosting a major hazardous waste facility would still be exempt from consideration as a potential host site for a regional low-level radioactive waste facility, and, obversely, only a municipality with a regional low-level radioactive waste facility located within its borders would be exempted from consideration as a potential host site for a major hazardous waste facility.

This change has the effect of increasing the number of potential sites for regional low-level radioactive waste facilities.

The committee amendments clarify that no municipality that hosts a major hazardous waste facility as defined in section 3 of P.L.1981, c.279 (C.13:1E-51), rather than a major hazardous waste facility sited pursuant to that act, will be required to be the host municipality for a low-level radioactive waste disposal facility.

This bill was prefiled for introduction in the 1992 session pending technical review. As reported, the bill includes the changes required by technical review which has been performed.