

13: 1E-5.3

LEGISLATIVE HISTORY CHECKLIST

NJSA: 13:1E - 5.3

(Solid waste facilities-  
prohibit siting on property  
of state institution of  
higher education)

LAWS OF: 1984

CHAPTER: 221

Bill No: S1425

Sponsor(s): Orechio

Date Introduced: February 27, 1984

Committee: Assembly: -----

Senate: Energy and Environment

Amended during passage: Yes  
according to Governor's recommendations

Amendments denoted by asterisks

Date of Passage: Assembly: September 13, 1984 Re-enacted 11-29-84

Senate: July 30, 1984 Re-enacted 12-6-84

Date of Approval: December 20, 1984

Following statements are attached if available:

Sponsor statement: Yes Also attached: Senate  
amendments, adopted 7-  
30-84 (with statement)

Committee statement: Assembly: No  
Senate: Yes (not attached since  
identical to sponsor's  
statement)

Fiscal Note: No

Veto Message: Yes

Message on Signing: Yes

Following were printed:

Reports: No

Hearings: No

[SECOND OFFICIAL COPY REPRINT]

SENATE, No. 1425

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 27, 1984

By Senator ORECHIO

Referred to Committee on Energy and Environment

AN ACT concerning the siting of solid waste facilities and supplementing P. L. 1970, c. 39 (C. 13:1E-1 et seq.).

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

1 1. a. Notwithstanding the provisions of any law, rule or regula-  
2 tion to the contrary, the Commissioner of the Department of  
3 Environmental Protection shall not approve a registration state-  
4 ment and engineering design which authorizes a \***[solid waste]**\*  
5 \*sanitary landfill\* facility located on the property of any \*\***[insti-**  
6 tution of higher learning supported in whole or part by State  
6A funds]\*\* \*\*State college whose charter was filed prior to 1920\*\* to  
7 receive municipal waste, as defined by the Department of Environ-  
8 mental Protection pursuant to rule or regulation. For the purposes  
9 of this act \***[solid waste facility shall not include a recycling facility,**  
10 as defined by the department pursuant to rule or regulation, nor  
11 shall it]\* \*, "sanitary landfill facility" means a solid waste facility  
12 at which solid waste is deposited on or in the land as fill for the  
13 purpose of permanent disposal or storage for a period exceeding  
14 six months, but shall not\* include a facility engaged in composting  
15 vegetative waste.

16 b. Any existing \*\***[approval]**\*\* \*\*contract right or regulatory  
17 approval to operate a sanitary landfill facility on the property of  
18 a State college not otherwise terminated in accordance with law\*\*  
19 shall, upon the effective date of this act, be void and the \*\***[com-**  
20 missioner]\*\* \*\*State Treasurer, after review of all records and  
21 documents in the possession of the current holder of the approved

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

Matter printed in italics thus is new matter.

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

\*—Senate amendments adopted July 30, 1984.

\*\*—Senate amendments adopted in accordance with Governor's recommendations November 29, 1984.

22 registration statement and engineering design which the treasurer  
 23 deems necessary for making his determination, and upon the ad-  
 24 vice and consent of the Department of Environmental Protection  
 25 and the Board of Public Utilities\*\* shall, within 60 days of the  
 26 effective date of this act, \*\*determine an amount which would fairly  
 27 and properly\*\* reimburse the \*[person in whose name the]\* \*cur-  
 28 rent holder of the certificate of approved\* registration statement  
 29 and engineering design \*[was approved]\* for all \*verifiable and  
 30 reasonable\* expenses \*[and losses associated with]\* \*directly re-  
 31 lated to\* the \*[approval]\* \*maintenance of the certificate of ap-  
 32 proved registration statement and engineering design\* and its  
 33 rescission\*, plus interest on the amount of these expenses. The in-  
 34 terest shall be calculated from the date upon which payment of  
 35 these expenses was made. The rate of interest shall be at the rates  
 36 provided by the Rules Governing the Courts of the State of New  
 37 Jersey for the applicable period of time\*.

38 \*\*c. The amount determined fair and properly payable by the  
 39 treasurer shall be paid to the current holder of the certificate of  
 40 approved registration statement and engineering design upon an  
 41 appropriation in that amount and for that purpose being made by  
 42 the Legislature to the State college on whose property the sanitary  
 43 landfill is located. However, by this action the State college and  
 44 the State shall in no way incur liability for third party obligations  
 45 which are or shall become the responsibility of the current holder  
 46 of the certificate of approved registration statement and engineer-  
 47 ing design.\*\*

48 \*\*[c.]\*\* \*\*d.\*\* If the \*[person in whose name the]\* \*current  
 49 holder of the certificate of approved\* registration statement and  
 50 engineering design \*[was approved]\* does not agree that the  
 51 amount determined by the \*\*[commissioner]\*\* \*\*treasurer\*\* con-  
 52 stitutes full reimbursement for all these expenses \*[and losses]\*  
 53 and files with the \*\*[commissioner]\*\* \*\*treasurer\*\* a letter con-  
 54 taining the reasons therefor within 10 days of the \*\*[commis-  
 55 sioner's]\*\* \*\*treasurer's\*\* determination, the \*\*[commissioner]\*\* \*\*  
 56 treasurer\*\*, within five days of the receipt of that letter, shall  
 57 submit all records and documents relevant to the matter to the  
 58 Office of Administrative Law which, within 30 days of receiving  
 59 these records and documents, shall commence a hearing to be con-  
 60 ducted as a contested case pursuant to the "Administrative Pro-  
 61 cedure Act," P. L. 1968, c. 410 (C. 52:14B-1 et seq.), and P. L. 1978,  
 62 c. 67 (C. 52:14F-1 et seq.).

63 \*\*[d.]\*\* \*\*e.\*\* Notwithstanding the provisions of section 10 of

64 P. L. 1968, c. 410 (C. 52:14B-10) to the contrary, within 15 days  
65 of the receipt of the recommendations of the administrative law  
66 judge, the **\*\*[commissioner]\*\*** *\*\*treasurer\*\** shall adopt, reject,  
67 or modify the recommendations. The final decision of the **\*\*[com-**  
68 **missioner]\*\*** *\*\*treasurer\*\** is considered the final agency action  
69 thereon for the purposes of the "Administrative Procedure Act"  
70 and is subject only to judicial review as provided in the Rules of  
71 Court.

1 2. This act shall take effect immediately.

# SENATE, No. 1425

## STATE OF NEW JERSEY

INTRODUCED FEBRUARY 27, 1984

By Senator ORECHIO

Referred to Committee on Energy and Environment

AN ACT concerning the siting of solid waste facilities and supplementing P. L. 1970, c. 39 (C. 13:1E-1 et seq.).

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

1 1. a. Notwithstanding the provisions of any law, rule or regula-  
2 tion to the contrary, the Commissioner of the Department of  
3 Environmental Protection shall not approve a registration state-  
4 ment and engineering design which authorizes a solid waste facility  
5 located on the property of any institution of higher learning sup-  
6 ported in whole or part by State funds to receive municipal waste,  
7 as defined by the Department of Environmental Protection pur-  
8 suant to rule or regulation. For the purposes of this act solid  
9 waste facility shall not include a recycling facility, as defined by  
10 the department pursuant to rule or regulation, nor shall it include  
11 a facility engaged in composting vegetative waste.

12 b. Any existing approval shall, upon the effective date of this  
13 act, be void and the commissioner shall, within 60 days of the  
14 effective date of this act, reimburse the person in whose name the  
15 registration statement and engineering design was approved for  
16 all expenses and losses associated with the approval and its re-  
17 scission.

18 c. If the person in whose name the registration statement and  
19 engineering design was approved does not agree that the amount  
20 determined by the commissioner constitutes full reimbursement  
21 for all these expenses and losses and files with the commissioner  
22 a letter containing the reasons therefor within 10 days of the

23 commissioner's determination, the commissioner, within five days  
24 of the receipt of that letter, shall submit all records and documents  
25 relevant to the matter to the Office of Administrative Law which,  
26 within 30 days of receiving these records and documents, shall  
27 commence a hearing to be conducted as a contested case pursuant  
28 to the "Administrative Procedure Act," P. L. 1968, c. 410 (C.  
29 52:14B-1 et seq.), and P. L. 1978, c. 67 (C. 52:14F-1 et seq.).

30 d. Notwithstanding the provisions of section 10 of P. L. 1968,  
31 c. 410 (C. 52:14B-10) to the contrary, within 15 days of the receipt  
32 of the recommendations of the administrative law judge, the com-  
33 missioner shall adopt, reject, or modify the recommendations. The  
34 final decision of the commissioner is considered the final agency  
35 action thereon for the purposes of the "Administrative Procedure  
36 Act" and is subject only to judicial review as provided in the  
37 Rules of Court.

1 2. This act shall take effect immediately.

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#### STATEMENT

This bill would prohibit the siting of any solid waste facility which receives municipal waste on property owned by an institution of higher learning which receives State funding, and would provide for the termination of any solid waste facility so located. The bill would not, however, include recycling facilities or facilities engaged in composting vegetative waste. It would also provide that the Commissioner of the Department of Environmental Protection reimburse the owner or operator of the facility within 60 days for all expenses and losses associated with this action, and provide opportunity for appeal if the owner or operator objects that the amount does not constitute full reimbursement.

51425 (1984)

7-30-84

Senate Amendments

to

Senate Bill No. 1425

Proposed by Senator Orechio

end:

Page	Sec.	Line
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for the applicable period of time"

1	1	18	Omit "person in whose name the", insert "current holder of the certificate of approved"
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1	1	19	Omit "was approved"
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1	1	21	Omit "and losses"
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STATEMENT

These amendments provide that the owner of a sanitary landfill closed as a result of the provisions of this bill would be entitled to reimbursement for expenses directly related to maintaining the certificate of approved registration statement and engineering design required for the landfill, and would also be entitled to interest on these expenses calculated from the date on which the expenses were paid.

These amendments also clarify that the right to reimbursement would apply to the current holder of the certificate of approved registration statement and engineering design, and that the provisions of the bill apply only to landfills as opposed to solid waste facilities in general. These amendments incorporate changes suggested by the Department of Environmental Protection.

9-74-901  
G61



# OFFICE OF THE GOVERNOR NEWS RELEASE

**CN-001**  
**Contact:** CARL GOLDEN  
609-292-8956

**TRENTON, N.J. 08625**  
**Release:** THURS., DEC. 20, 1984

Governor Thomas H. Kean today signed legislation which will clear the way for State acquisition of a sanitary landfill site on the grounds of Montclair State College.

The legislation, S-1425, was sponsored by Senator Carmen Orechio, D-Essex, and had been conditionally vetoed by the Governor on November 19. The Legislature concurred with the Governor's recommendations and repassed the bill earlier this month.

The legislation would permit the college to purchase the Carrino landfill site, located on college-owned property in Little Falls and to cease landfill operations there.

Kean visited the landfill site several months ago and told area residents he would attempt to close the facility.

The site became the subject of a great deal of controversy and substantial citizen opposition to its operations.

# # # #

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NEW JERSEY STATE LIBRARY

DEC 21 1984

185 W. State Street  
Trenton, N. J.



STATE OF NEW JERSEY  
EXECUTIVE DEPARTMENT

November 19, 1984

SENATE BILL No. 1425 (OCR)

To the Senate:

Pursuant to Article V, Section I, Paragraph 14 of the Constitution, I herewith return Senate Bill No. 1425 (OCR) with my objections for reconsideration.

This bill prohibits the siting of a sanitary landfill facility on the property of State-funded institutions of higher learning and would void any approvals for such existing sites on the effective date of the act. This bill also requires that the Department of Environmental Protection reimburse landfill operators who hold current approvals which are so voided for their expenses directly related to the maintenance of their certificate of approved registration statement and engineering design and its rescission. The bill also requires that interest be provided to the landfill operators and sets forth an appeals procedure in the event that the approved reimbursement amount is disputed.

The policy which forms the basis of this bill is a sound one insofar as it embodies a recognition that institutions of higher learning may, in certain instances, be inappropriate sites for the location of sanitary landfill facilities. For this reason, I strongly urge this Legislature to concur with my recommendations set forth below since they are wholly consistent with the intent of the bill and will improve the overall efficiency of the reimbursement procedure set forth within its terms.

First, the bill, as currently written, would void only the certificate of approved registration statement and engineering design possessed by the landfill operator and leave intact any contract rights or responsibilities of the landfill operator associated with the operation of the sanitary landfill. It is suggested that without amendatory language indicating that this bill would void the underlying contract as well, a landfill operator would remain vulnerable to suit by third parties with which he or she may have contracted to receive waste or for other related purposes. It appears that such a situation would be contrary to the Legislature's intent in passing Senate Bill No. 1425 (OCR). That is, Senate Bill No. 1425 (OCR) evidences a clear attempt by the Legislature to insure that sanitary landfill operators affected by its terms are, to the extent possible, protected from financial dislocation. Also, it should be expressly stated in the bill that no obligation to reimburse an operator of a

STATE OF NEW JERSEY  
EXECUTIVE DEPARTMENT

2

sanitary landfill facility exists where contract rights or regulatory approvals associated with the operation of that facility have been terminated in accordance with the law.

Second, it is suggested that the State Treasurer and not the Commissioner of the Department of Environmental Protection possesses the necessary expertise for making determinations as to the reasonableness, in both subject and amount, of expenditures submitted by a landfill operator for reimbursement. Technical expertise relevant to such a determination should, of course, be provided to the Treasurer by the Department of Environmental Protection and the Board of Public Utilities and the need for such consultation should be expressly set forth in the bill. Further, the Treasurer should be authorized to require that a landfill operator provide all records and documents the Treasurer deems necessary for making a sound, well reasoned and just determination.

While the bill, as currently written, would seem to require that the Department of Environmental Protection must provide the necessary funds for reimbursing the affected landfill operator from within its budget, it is submitted that since the affected institution of higher learning is a party to the contract with the landfill operator, it would be that institution which should properly reimburse the landfill operator upon voidance of the contract and related regulatory approvals. Though the bill does not provide an appropriation for the purpose of reimbursing an affected landfill operator, it is clear that it intends such responsibility to inhere to the State. Therefore, it is recommended that the obligation of the institution of higher learning to reimburse the landfill operator should arise only after a fair and proper amount has been determined by the Treasurer and concurred with by the Legislature in the form of an appropriation. This amendment would provide the Legislature with the ability to review and approve the Treasurer's determination prior to reimbursement of a landfill operator, thus further insuring the appropriateness of the amount. Also, it should be expressly stated that upon reimbursing a landfill operator, neither an institution of higher learning nor the State shall incur liability for any third party obligations which are or shall become the responsibility of that landfill operator.

STATE OF NEW JERSEY  
EXECUTIVE DEPARTMENT

3

Lastly, it is my understanding that this bill is intended to address problems confronted by certain of our urban State Colleges. Accordingly, it is recommended that the bill's operative terms should be amended to reflect that fact.

In sum, it should be stressed that these recommendations are, for the most part, technical in nature. However, review of their impact upon this legislation will reveal that they insure to the extent possible that administrative responsibility is properly allocated on the basis of expertise and that the State, its State colleges and an affected landfill operator are afforded greater protection by virtue of their adoption.

Accordingly, I herewith return Senate Bill No. 1425 (OCR) and recommend that it be amended as follows:

- Page 1, Section 1, Line 5: Delete "institution of higher learning supported in whole or in part by State funds" insert "State college whose charter was filed prior to 1920"
- Page 1, Section 1, Line 16: After "existing" omit "approval" add "contract right or regulatory approval to operate a sanitary landfill facility on the property of a State college not otherwise terminated in accordance with law"
- Page 1, Section 1, Line 17: Delete "commissioner" insert "State Treasurer, after review of all records and documents in the possession of the current holder of the approved registration statement and engineering design which the treasurer deems necessary for making his determination, and upon the advice and consent of the Department of Environmental Protection and the Board of Public Utilities"
- Page 1, Section 1, Line 18: After "act," insert "determine an amount which would fairly and properly"
- Page 2, Section 1, Line 29: Add new Section "c." "The amount determined fair and properly payable by the treasurer shall be paid to the current holder of the certificate of approved registration statement and engineering design upon an appropriation in that amount and for that purpose being made by the Legislature to the State college on whose property the sanitary landfill is located. However, by this action the State college and the State shall in no way incur liability for third party obligations which are or shall become the responsibility of the current holder of the certificate of approved registration statement and engineering design."

STATE OF NEW JERSEY  
EXECUTIVE DEPARTMENT

4

Page 2, Section 1, Line 29: Delete "c." insert "d."  
Page 2, Section 1, Line 32: Delete "commissioner" insert "treasurer"  
Page 2, Section 1, Line 33: Delete "commissioner" insert "treasurer"  
Page 2, Section 1, Lines 34, 35: Delete "commissioner's" insert "treasurer's"  
Page 2, Section 1, Line 35: Delete "commissioner" insert "treasurer"  
Page 2, Section 1, Line 42: Delete "d." insert "e."  
Page 2, Section 1, Lines 44, 45: Delete "commissioner" insert "treasurer"  
Page 2, Section 1, Line 46: Delete "commissioner" insert "treasurer"

Respectfully,  
/s/ Thomas H. Kean  
GOVERNOR

[seal]

Attest:

/s/ W. Cary Edwards  
Chief Counsel