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# ***Committee Meeting***

of

## **ASSEMBLY AGRICULTURE AND WASTE MANAGEMENT COMMITTEE**

**ASSEMBLY BILL Nos. 50 (proposed ACS),  
1171 (proposed ACS), 2811, 2837, and 3086**

*(Discussion on bills relating to solid waste management and disposal)*

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**LOCATION:** Committee Room 12  
State House Annex  
Trenton, New Jersey

**DATE:** June 12, 1997  
9:30 a.m.

### **MEMBERS OF COMMITTEE PRESENT:**

Assemblyman John C. Gibson, Chair  
Assemblyman Larry Chatzidakis  
Assemblyman Melvin Cottrell  
Assemblywoman Connie Myers  
Assemblyman Francis J. Blee  
Assemblywoman Nia H. Gill  
Assemblyman Reed Gusciora



### **ALSO PRESENT:**

Algis P. Matioska  
Leonard J. Colner  
*Office of Legislative Services  
Committee Aides*

Thea M. Sheridan  
*Assembly Majority  
Committee Aide*

Yollette Ross  
*Assembly Democratic  
Committee Aide*

***Meeting Recorded and Transcribed by  
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Hearing Unit, State House Annex, CN 068, Trenton, New Jersey***

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## TABLE OF CONTENTS

	<b><u>Page</u></b>
Robert J. Shaughanessy, Esq. Representing Union County Utilities Authority	2
Arthur J. Maurice Vice President Privatization New Jersey Business & Industry Association	2
Robert D. Prunetti County Executive Mercer County, and Representing New Jersey Association of Counties	6
Steven G. Changaris Regional Manager National Solid Wastes Management Association	9
George A. Lohman Chapter Chairman New Jersey Chapter National Solid Wastes Management	12
Aixa Aklan Comptroller Pollution Control Financing Authority of Warren County	13
Charles “Pete” Houck Chief Financial Officer Warren County	14
Bill Wolfe Representing Sierra Club	15
Nicholas R. Smolney Manager Solid Waste Division Middlesex County Utilities Authority Edward Cornell	17

## **TABLE OF CONTENTS (continued)**

	<b><u>Page</u></b>
President Waste Management Association of New Jersey	19
Theodore A. Schwartz, Esq. Representing Ocean County Landfill	21
Assemblyman Paul DiGaetano District 36	34
Assemblywoman Carol J. Murphy District 26	48
Chris Carue Representing New Jersey League of Municipalities	49
 <b>APPENDIX:</b>	
Letters addressed to Assemblyman John C. Gibson from Joseph A. Spatola, Ph.D. submitted by Robert J. Shaughanessy, Esq.	1x
Testimony submitted by Arthur J. Maurice	6x
Testimony submitted by Robert D. Prunetti	9x
Letter addressed to Assemblyman John C. Gibson from Harry R. Pool, Jr. submitted by Aixa Aklan	12x
ses: 1-51	

**ASSEMBLYMAN JOHN C. GIBSON (Chairman):** Roll call, first.

MR. MATIOSKA (Committee Aide): Roll call to open the regularly scheduled Committee meeting.

Assemblyman Gusciora?

ASSEMBLYMAN GUSCIORA: Yes.

MR. MATIOSKA: Assemblywoman Gill?

ASSEMBLYWOMAN GILL: Yes.

MR. MATIOSKA: Assemblywoman Myers?

ASSEMBLYWOMAN MYERS: Here.

MR. MATIOSKA: Assemblyman Cottrell?

ASSEMBLYMAN COTTRELL: Here.

MR. MATIOSKA: Assemblyman Chatzidakis?

ASSEMBLYMAN CHATZIDAKIS: Present.

MR. MATIOSKA: Assemblyman Blee?

ASSEMBLYMAN GIBSON: Assemblyman Blee is coming, too, he was here.

MR. MATIOSKA: Assemblyman Gibson?

ASSEMBLYMAN GIBSON: Here. We have a quorum.

We'll take up A-50 next and continue the meeting on A-50. I'll note that Bill Harrison, of the Pinelands Commission, supports A-50, no need to add additional testimony.

Robert Shaughanessy, was your comment regarding A-50?

**ROBERT J. SHAUGHANESSY, ESQ.:** (speaking from audience) Actually, Mr. Chairman, they are comments of the Union County Utilities Authority.

ASSEMBLYMAN GIBSON: Which were in writing?

MR. SHAUGHANESSY: That's correct.

ASSEMBLYMAN GIBSON: And which we'll make part of the record.

MR. SHAUGHANESSY: We rely on those. Thank you, Chairman Gibson.

ASSEMBLYMAN GIBSON: Joseph Spatola, similar, okay-- Art Maurice, New Jersey Business and Industry, is opposed to A-50.

Do you want to add anything to the record, Art?

**ARTHUR J. MAURICE:** (speaking from audience) Yes, I do. (distributes statement)

Thank you, Assemblyman.

The New Jersey Business and Industry Association continues its opposition of A-50. A-50 is open-ended tax legislation. The bill allows State and county governments to directly tax municipal governments or consumers for the costs of environmental assessments, or so-called stranded costs. Solid waste stranded costs represent the money we'll lose as waste is shipped to out-of-county disposal facilities due to deregulation. Under the bill, these stranded costs are unlimited. They may include not only debt service on the \$1.55 billion of outstanding county debt, but also the operating costs of running solid waste management programs and the payment of State taxes and

host municipality benefits. How much will consumers be taxed to pay these stranded costs? Who knows?

The bill does not limit the length of time these stranded costs can be assessed. They could continue in perpetuity. They could be increased in any subsequent year. The bill allows State or county government to allocate these stranded cost taxes across municipalities or counties using -- and I quote -- “any criteria reasonably established by the public authority or the county.” Not only is the amount of the tax undetermined, but also the payor of the tax. Will residential consumers in one municipality be favored over those in another? Will business customers be taxed twice via an increased property tax bill and via direct assessment? Additionally, the bill permits county government to tax municipalities or counties that once in the past might have utilized a facility but no longer use it. How will taxes on these former users be calculated?

The bottom line here is that enactment of A-50 could mean even higher solid waste disposal rates for New Jersey consumers who already pay among the highest disposal rates in the nation. There is nothing in A-50 that guarantees lower or even stable rates.

The bill demands no accountability from public authorities or counties seeking to assess stranded cost taxes. Contrast this with the New Jersey Board of Public Utilities’ recently released Energy Master Plan. In the Energy Master Plan, electric utilities that want to recover from consumers stranded costs for nuclear power plants, for example, must present a mitigation plan to reduce stranded cost before consumers pay one additional cent.

Furthermore, even including stranded cost recovery for that nuclear power plant, overall electric rates must drop at least 5 percent to 10 percent. A-50, in contrast, requires no cost cutting, no efficiencies, and no cost-mitigation plans for those governments looking to assess stranded cost taxes.

One area where consumers could save would be to eliminate the weighing of trash for tax purposes. Under deregulation, there is no need to weigh every truckload of trash. Yet, under Section 7 of A-50, local governments may continue to require the weighing of trash for tax assessment. This section perpetuates an expensive regulatory infrastructure which offers no value to consumers, only increases rates.

NJBIA realizes that with solid waste deregulation some county debt may be stranded and require recover; however, to enact A-50 without knowing the size of the stranded cost problem, without requiring cost mitigation, without reviewing alternative ways to recover stranded costs, and without understanding the impact on solid waste rates is to give government an open checkbook payable by consumers.

A better approach to the issue of solid waste stranded costs is proposed in A-3086, sponsored by Assemblywoman Murphy and Assemblyman Bucco. There, a commission is established to review these and other stranded cost issues reporting back to the Governor and Legislature within four months. NJBIA supports this legislation.

Reforming New Jersey's 20-year-old system of solid waste disposal is no easy task. In promoting competition, the Committee Substitute for A-50 takes important steps -- and we thank the sponsor -- many of which NJBIA has

recommended and which the sponsor adopted in this Committee Substitute before; however, the real goal of solid waste reform should be lower disposal rates. The Committee Substitute for A-50 fails this criterion. We urge your opposition to the bill.

Thank you.

ASSEMBLYMAN GIBSON: Thank you for your comments. I appreciate that you appreciate the sponsors' efforts. Many of the comments that you made I strongly disagree with, particularly the fact that costs will not go down. Costs must go down under this bill. The bill provides for the payment of the existing debt. All New Jersey taxpayers are presently paying for that debt. It would just be shifted so that they can be more competitive. When that shift is made, they will have their choice to go where they feel it's the most economical. And they will obviously choose the most economical; therefore, costs will come down.

You also said that there was no limit. There clearly is a limit based on the amendments that have been requested and have been incorporated in this bill. Those limits include a time limit -- no debt beyond the effective date of this bill -- and only that debt which has already been expended. It may take some counties 10 years to pay it off. It may take other counties 4 years to pay it off. If you're questioning-- If your statement applies to time limit, yes, but that's an individual decision by the counties depending on what is the least painful way of doing that. As far as the amount of the debt, it's clearly limited by the definition of this bill.

But we note that you're interested in the task force, and we appreciate that comment.



Can we hear from Mr. Prunetti, from Mercer County? His comments in opposition to the bill--

**R O B E R T   D.   P R U N E T T I:** Thank you, Mr. Chairman, and members of the Committee. Today, I'm here representing Mercer County, as the County Executive, but also representing the New Jersey Association of Counties, as well.

First, let me thank you for the opportunity to testify and say that we have appreciated all the cooperation and assistance we've gotten from this Committee and the Chairman over the last several months in trying to put together A-50.

However, I -- we cannot support A-50 in its current status. Let me just give you a few reasons why. First of all, in the past several weeks, a new Circuit Court of Appeals decision has come out which I think casts doubt on the mechanism in which A-50 tries to deal with the problem that the counties have, particularly with solid waste.

And I appreciate, Mr. Chairman, the fact that we've been able to meet, and we know what our differences are.

The problem, we believe, now is that that new decision allows some latitude for counties to continue to deal in a fashion that they may have in the past, as long as they meet certain criteria. Within the next several weeks, the Department of Environmental Protection has stated that they will come out with some guidelines to help us deal with that decision and what the existing systems are in the various counties throughout Mercer County. It may very well be that some counties will be able to comply and, therefore, hold

parts of what we know as flow control together, to be able to deal with their debt, particularly.

What I'm here to suggest this morning is that maybe we take a look at A-50 and instead of having it a broad-based bill -- as it exists today to try and deal with the problem very comprehensively-- We don't believe that we need a comprehensive bill anymore to deal with the problem. We think we need a much more narrow bill that deals with the key issue for counties, and that is, outstanding debt.

We want to be able to -- if we cannot continue -- keep all of our users within a system that we've built over many, many years, and if we cannot continue to be able to assess the payment for that debt based on tonnage that generators have provided through the system, we want to be able to make sure that we are able to meet our debt requirements on the same basis as in the past and by all the same generators as in the past. We would like to see a bill that is, in effect, that narrow.

In doing so, we believe that we'll be able to combine some of the provisions of the court decision, and legislation will ensure that our bonding status will remain intact, that counties will not be subject to downgrades and the serious financial problems within the market, and we'll be able to meet our obligations, at no greater cost, I might add -- at no greater cost that what is currently being charged back to property taxpayers throughout our various counties and municipalities.

So, simply stated, we're looking for a much more narrow bill. We just want to be able to take care of our obligations with regard to debt, and

given the new court decision, we think we'd be able to do that with a bill that is not as broad based as this one.

ASSEMBLYMAN GIBSON: Thank you for your comments. Our working relationship on this issue has been very cordial. Recently, the court case came out in a very narrow definition. We had put a lot of effort into a very comprehensive act, one that you and your colleagues were in support of at that point in time.

MR. PRUNETTI: Correct.

ASSEMBLYMAN GIBSON: Now, you have the ability to only require a more narrow piece of legislation. I've indicated-- And I will be calling for a vote today on a bill that is much more comprehensive--

MR. PRUNETTI: Correct.

ASSEMBLYMAN GIBSON: --a bill that, through the process, we feel is appropriate for the State of New Jersey, a bill that not only addresses interstate commerce, but also addresses intrastate commerce. And although, as this bill moves forward -- if it moves forward -- it may-- It certainly requires a consensus of this Legislature, it may narrow as it goes on its journey based on your opinion. But the bill that's being considered today is broad. The bill that I'll be calling for a vote on today will be broad.

But thank you very much for your testimony.

MR. PRUNETTI: Thank you, Mr. Chairman. We appreciate that, and the counties are willing to work -- if it does become more narrow over time, we'd be more than happy to work with you once again on this.

Thank you.

ASSEMBLYMAN GIBSON: Thank you.

George Lohman and Steve Changaris on A-50, some comments in opposition, if there is anything new they wish to add to the record.

Gentlemen.

**STEVEN G. CHANGARIS:** Mr. Chairman, thank you. My name is Steve Changaris. I'm the Regional Manager for the National Solid Wastes Management Association. George Lohman is with me today. He is the Chapter Chairman for the New Jersey Chapter of the National Solid Wastes Management Association.

We have worked diligently with the regulate community and with the sponsor and other people involved in the process over the last several months. We're at a point where we recognize there has been a lot of sincere efforts and there is a lot of variables in this bill, and we're still not satisfied from an industry point of view that we can sign off or be satisfied with it from a consensus-building process.

The dynamic here, I think -- if I understand the law, and I'm not a lawyer, so forgive me -- is something to do with the, per se, constitution-- That flow control ordinances are not, per se, unconstitutional, and the State has to now go about -- according to Mr. Prunetti, and the Department will issue a memo soon -- what it deems to be a reformed set of criteria in order to issue flow control directives that will pass constitutional muster.

We have severe doubts whether, in several counties, there can be reasonable efforts to pass flow control ordinances that will sustain a constitutional challenge under *Carbone*. In a county that has no facilities, it might be very easy to do it, because they can designate an out-of-state facility. But the suggestion to put the American Refuel Waste-Energy Facility in

Newark at risk to an out-of-state facility or the suggestion to put the Camden Pollution Control Authority Foster-Wheeler Facility at risk doesn't seem to make much sense in the context of the bill.

So we-- I guess-- There was a lawyer -- a labor relations lawyer -- when I worked for the League of Municipalities who used the saying, "If it looks like a duck, walks like a duck, and sounds like a duck, it's a duck." I don't know how you can reasonably reform a flow control ordinance. I'm waiting to see the legal work and get more analysis from the State on the issue, but that's going to be a very difficult burden to overcome on the part of the State.

I also believe that there is a dynamic in the process that the county -- and Art Maurice from the BIA brought it up in previous testimony -- planning authority, to stifle the development of additional facilities, does not make it a competitive environment. There is no reasonable expectation that an out-of-state facility can move material out of the county if it cannot site and build a facility to do so. That authority will be exercised in a way that may meet the merits of the law but certainly, from a business perspective, isn't in any way, shape, or form a real option. There will be no new facilities sited if the county facility is at risk, and that will create a benefit to the local facility that the out-of-state facilities or other intrastate facilities will not have or interests will not have an ability to handle that waste.

And there are other provisions in the bill that we-- In the summary statement, in review, it talks about that the municipalities have the right to control the trash in their district, and that's true. I don't think any of us disagree with that, but the concept that a community could license one

hauler to work within its boundaries and that the other haulers and other interests in that town are excluded from that market because that's the way the town chooses to finance the environmental investments -- or whatever the charge is presented by the county authority -- that creates a legitimate problem in terms of competition. It may serve the municipal interests in the short run to select that single hauler to do that job, but in the long run, where are the other haulers going to be to offer a competitive price? What about economic dislocation questions? What about contracts? There is a lot of minutia in that decision-making process that will be resolved at the local level.

Many of those decisions, as I agree with you, Mr. Chairman, will go favorably, because the municipal officials will make the right decision. But there are going to be many other cases that are going to be tumultuous and full of litigation that create tremendous problems in the hauling community and effect economies of scale and the ability of these companies to provide what the State plan -- and the Solid Waste State Plan is referred to many times as a valuable and needed role in the process--

So based on those kinds of problems with the bill, we just can't see our way to go forward. I want to further echo other comments that have been made that the cart is being put before the horse in the common way of viewing-- We called early on that someone has to look for the debt that's involved and what is considered reasonable. The provisions of the Myers' bill speak to that. There are provisions within the Murphy bill that really go right on -- the task force to study the issue -- really go for that. Those are the kinds of issues that should be addressed prior to the release of an omnibus bill. And for those kinds of reasons--

We appreciate the dilemma. We've tried to offer some solutions. We're working in a positive way. We want to be participants. But right now, we felt that a lot of the issues we have raised--

And maybe that's the proper way to view it, Mr. Chairman. That, as time goes by, there will be a winnowing process and it will become more of a-- The whole issue of different formulas, as indicated in earlier testimony, we can't establish a thorough and efficient funding formula, and you're allowing whether they do it by five prior years, whether they do it by weighing the material, or any other reasonable means. Those are all going to be subject to consternation, litigation, and concern by the communities.

Again, those kinds of issues, when you get into the detail of the bill, create a lot of angst and uncertainty in the community. And we're just very concerned and would urge forbearance on this bill in lieu of development of studying the debt problem and trying to look at some other decisions and recommendations from the task force that could help satisfy the problem.

ASSEMBLYMAN GIBSON: Thank you.

Mr. Lohman, do you have anything to add, other than what--

**G E O R G E   A .   L O H M A N:** Yes. We're concerned that the possibilities for savings to municipalities, because of the *Carbone* decision, will never be realized because some of the additional costs that will be incurred through this bill, such as the weighing of trucks in municipalities. Commercial routing now, on a normal commercial truck route, may encompass 10 or 15 different municipalities. This bill would actually give the municipalities the right to ask that every one of those municipalities be collected separately and weighed separately. I think all of the cost savings that could be accomplished

will be minimized or perhaps wiped away totally. So the operational costs alone in our municipalities or areas where the disposal rates are now at \$100 a ton, you could realistically be looking at \$50 a ton, but so much of that will be wasted.

ASSEMBLYMAN GIBSON: Thank you for your comments. As you know, the weighing is permissive for those municipalities, and based on your suggestions, we have amended the bill to give municipalities permission, if they choose, to use a volume measurement so that those costs that you envision, which I consider very minimal in relationship to the tremendous savings potentially here, can be even more minimal. I don't think we are as far apart as you may suggest. The amended bill is very, very close to the things that you've reached out for and that you desire. But we will note your opposition as of today.

Thank you very much for your testimony.

MR. CHANGARIS: Thank you, Mr. Chairman.

ASSEMBLYMAN GIBSON: Representatives from Warren County in opposition to A-50.

Do you have anything that you wish to add?

**A I X A A K L A N:** (speaking from audience) Yes.

ASSEMBLYMAN GIBSON: Well, you're invited then.

Good morning.

MS. AKLAN: (distributes statement) Good morning.

Thank you, Mr. Chairman, and Committee members for allowing us to come today and speak on behalf-- Warren County and the Pollution Control Financing Authority of Warren County wish to go on record that we



oppose A-50 as presently constituted. Our obligations and our concerns are set forth in our prior letter that was sent to each of the Committee members on May 5, 1997. Also, another copy has been distributed to each of the Committee members to review again our considerations and concern regarding A-50.

On behalf of Pollution Control Financing Authority of Warren County and the taxpayers of Warren County, we strongly object to A-50 as it is presently written. Also, we're in support of the Connie Myers' bill, A-2627, helping us with the debt situation that we have. I think you're all aware that we were the first facility to go up in the State of New Jersey, and we are one of the first facilities that has the largest debt out there.

Our concerns are on issues-- You know, in the new bills we were concerned with a lot of issues. I'm not going to go on, because it's all outlined in the letter and I don't want to take up your time. But Pete can speak now on behalf of the county.

ASSEMBLYMAN GIBSON: Your letter will be made part of the record.

Thank you.

MS. AKLAN: Thank you very much.

**C H A R L E S   “P E T E”   H O U C K:** Mr. Chairman, as you know, Warren County has stated for the record in previous hearings the position. I think we'd just like to reiterate at this point, on behalf of the Freeholder Board. I think there is no question someone is going to pay for the outstanding debt. Under flow control, it was the waste generators who paid. Without flow

control, the question is who. Will the investors pay through defaults? Will the insurers pay, or will the taxpayers pay?

The issue at hand here is fairness. We believe that Assemblywoman Myers' bill, A-2627, does go toward the direction of spreading the cost to the generators throughout the State who will be using the facility. We support a State-subsidized solution because the problem was created, in part, by the State's mandate to provide a solution to the solid waste problem.

The question I have is -- in reading the bill it's not clear to me -- does the bill, as it's proposed, allow the collection of the environmental investment charge from the parties included in the interdistrict agreements that were entered into with Warren County when the facility was built, and what enforcement mechanism is provided?

ASSEMBLYMAN GIBSON: The direct answer to that question, although it's not quite this simple, is, no.

MR. HOUCK: Well, our position all along has been that any solution to this problem must be enforceable and equitable.

Thank you.

ASSEMBLYMAN GIBSON: Thank you for your testimony.

Bill Wolfe, from the Sierra Club, in opposition to A-50.

**BILL WOLFE:** Thank you, Mr. Chairman, members of the Committee. I'm pleased to be here.

At the outset, we laid one concern on the table, that as this bill moves forward in response to recovering the stranded debt and adjusting the competitive marketplace, that our primary objective was to see that the current investments by the private sector, by the municipalities of the State, and by

the counties in recycling infrastructure was protected and the ability of the State to attain the statutory mandated minimum recycling rates was protected.

The bill-- I don't have to remind the Committee that recycling is probably New Jersey's most successful environmental program. It has the highest degree of public support. Virtually every resident of the State participates on a daily basis, and we greatly fear that the double effect of deregulating the industry economically on the disposal side and making the bill permissive with respect to recovering household hazardous waste and recycling programs not mandatory -- treating recycling and efforts to reduce waste as an add-on instead of as a core element of the State's solid waste policy -- is just fundamentally wrong.

And I can speak to the experience that we had in Mercer County as to how Mercer proceeded with respect to recovering these costs and how they sought to proceed. The money and the contracts were put up front to deal with building the disposal facility and after those contracts were in place, then there was going to be a second round of municipal negotiations with the Mercer municipalities to pay for the recycling program as an add-on. And there was a direct communication that, yes, indeed, paying for that, since it was no longer subsidized through the disposal tip fee, it was going to result in property tax increases. We knew that when posed the question that way -- Do you want to continue this high-quality recycling program, or do you want to increase your municipal property taxes? -- that there was a high likelihood that, politically, the recycling program would be scaled back.

What we're saying is, if you're finding a way to pay for the stranded debt, if you're finding a way to pay for highly above-market contracts,

and if you're finding a way to pay for the incineration resource recovery service agreements, then find a way to pay for the current level of activity and investment in recycling. We don't see it here. We see recycling as an add-on and not as a core element of the program. And we see the natural tendency of both where the market is going in terms of prices and in terms of deregulation and no policy in place to deal with mandatory recycling, that we see the program seriously in jeopardy. I don't think that's the intent of the Committee. I don't think it's the wishes of the citizens of the State.

ASSEMBLYMAN GIBSON: Thank you for your testimony. I'll just add that we have reaffirmed, encouraged recycling. Beyond that, we feel it would be State mandate-State pay. But thank you for your testimony.

And the last one who signed up is Nicholas Smolney--

**NICHOLAS R. SMOLNEY:** (speaking from audience) Yes.

ASSEMBLYMAN GIBSON: --from Middlesex County Utilities Authority, in opposition to A-50.

Good morning.

MR. SMOLNEY: Good morning. Unfortunately, in opposition to two sections of the June 4 draft.

First of all, we'd like to thank you, your Committee staff, and the Committee as a whole for operating very openly and soliciting comments. We've enjoyed working with you.

We have two concerns. One is in Section 86, which deals with the changes to the local public contracts law, requiring that contracts between governmental entities only be able to be entered into on public bid. We understand that there have been some groups that have wound up with similar

types of situations, and if that's under consideration for change, I would not consider offering--

ASSEMBLYMAN GIBSON: It is. It's a proposed amendment this morning.

MR. SMOLNEY: To proceed to go back to the original situation of the law without modification?

ASSEMBLYMAN GIBSON: It retains the status quo. And that will be an amendment up for consideration.

MR. SMOLNEY: All right. Given that, I will forego any other testimony due to the agenda.

The second issue is on Section 87, dealing with the uniform specifications. There is a change which we believe would require the DEP to issue uniform specifications for the disposal of municipal solid waste. We don't think that that would be appropriate. During our discussions with the DEP staff, DEP has come to the conclusion that there are 22 series of problems out there relating to the 21 counties in the solid waste district of the Hackensack Meadowlands. We don't think that a uniform set of specifications can be crafted to handle each and every one of those instances.

We would strongly suggest that the status quo there, again, be maintained. DEP does have the existing authority to have uniform specifications for collection contracts only. Even that has, we understand from municipalities of recycling advocates, indicated some difficulties. If the Committee does wish to have DEP also have the authority to have uniform specifications for disposal, we suggest that the word "minimum" be entered into the section to indicate that DEP uniform specifications be done to a

minimum standard and that the counties in question or the municipalities in question can put in legitimate variations necessary for their operation.

ASSEMBLYMAN GIBSON: All right. I don't believe there is anything in the bill now that you should be concerned about in that last line of testimony.

MR. SMOLNEY: Well, there is a change in Section 87 that would require, I believe--

ASSEMBLYMAN GIBSON: All right. We'll pay attention to your testimony.

MR. SMOLNEY: It's a change of a word of -- the word "and" to "or," and we would prefer that it remain as "and."

ASSEMBLYMAN GIBSON: Thank you.

MR. SMOLNEY: Thank you.

ASSEMBLYMAN GIBSON: Ed Cornell, Waste Management Association, in opposition to A-50.

Good morning, Mr. Cornell.

**EDWARD CORNELL:** Thank you, Mr. Chairman. Good morning.

I arise to correct something. Before, Changaris and Lohman testified not only for National Solid Wastes Management Association, but the coalition of haulers of the industry and Waste Management Association is a part of that. We also, as a separate organization, oppose the bill very strongly.

We do support a bill which is before you now, which is the Murphy-Bucco bill. We think that this bill-- I agree with Mr. Prunetti to a certain degree. We haven't agreed too much before on many issues, but we believe that the bill is too broad. Possibly, we should be looking at the major

problem, which is the payment of the environmental investment costs back to the bondholders. Then, after you satisfy yourself that that is the prime purpose of why we're all here--

We've already been told that waste flow is unconstitutional and that the State's concern against that is that the bonds are being stranded. We think that we should separate it. Pass a bill that can be developed -- like the Murphy bill -- to take care of the environmental investment clause with a much broader scope -- not address it on the basis of scales, we address it on the basis of the revenue for the industry -- and separate it across the entire State in paying back each county's debt.

Connie Myers' bill takes care of \$300 million of that debt, if that happens to go through, and we think that the towns that have their collection should do it. And we think that the disposal facilities should participate in their gross revenue figures to pay back some of this debt.

So what I'm saying is that Assembly Bill No. 50 will hurt the industry I represent. We believe it will hurt the State, and we know it will hurt the taxpayers, eventually. I believe it has to be looked at, and we wish you would. We wish you would either vote it down today or at least send it back to separate it from the prime cause of why we're all here, and that's to pay that debt back.

Thank you very much.

ASSEMBLYMAN GIBSON: Thank you for your comments. I would just like to add, I strongly disagree that it will hurt the taxpayers. We think -- I think, in the strongest way, that it will help the taxpayers.

Our last speaker is Mr. Schwartz.

We misplaced your sheet, so that gives you the distinction of being the last and our most honorable speaker this morning.

**T H E O D O R E   A .   S C H W A R T Z,   E S Q .:** (speaking from audience) Boy, I must have just--

ASSEMBLYMAN GIBSON: I'm just trying to make you relax, Mr. Schwartz.

Welcome to the table, and good morning.

MR. SCHWARTZ: Thank you. With me is Sandra Ayers from my office.

Mr. Chairman, and members of the Committee, I want to thank you for the opportunity to again appear before you relative to A-50. Before I get into my comments, I just want to make one observation. In listening to Mr. Prunetti, I do share his views as to the meaning of the decision in the 3rd Circuit, as to how that decision may change the rules or the cards in the State of New Jersey as times goes on, and I look forward to the DEP policy paper as to their view of the decision. But I must say that since we met here last, that decision does change some of the issues.

My points are very simple. I represent the only private landfill in the State of New Jersey. I don't know if that's a good position to be in or a bad position to be in, but be it as it may, we're there. The County of Ocean decided that it did not want to engage in the solid waste industry and so left it up to the private sector to deal with the disposal issues in that county.

You heard my testimony before at earlier hearings relative to how our facility operates and how it fits in with the total scheme of things in the State of New Jersey. I'm also sensitive to the fact that this Committee has



spent a great deal of time in crafting A-50 and has also been a good listener relative to comments that have been made by not only myself, but others, and we sincerely appreciate the fact that you have been sensitive to our concerns and the concerns of others. It has been a very, very difficult task.

But I remember one thing, Mr. Chairman, when I came here the first time and spoke to the Committee expressing my concerns as to how the bill affected Ocean County Landfill, you indicated that “We’re going to make sure that there is a level playing field.” I kept that in my mind through all my discussions with you, members of the Committee, and the Office of Legislative Services, and that’s all I ask. I don’t ask for anything more. I don’t ask for anything less.

This is a very unusual situation, with a disposal facility that has no debt and is not tied up with the traditional problems that some of the other counties are involved in. I’m not saying they did anything wrong. I think, as Mr. Prunetti put it, everybody responded to the State’s direction and developed these facilities and worked very hard to develop these plans.

With regard to the level playing field issue, I have three items. The first one has to do with the environmental investment costs. The environmental investment cost provisions still only apply to public entities. They don’t cover the district facility in Ocean County. The language in the bill was permissive, and I don’t know if this was an oversight on somebody’s part, but I would respectfully request that the district facility, as we’ve been identified, and the use of the word “person” would give us the same options as any public entity in the State of New Jersey with regard to the environmental investment costs, which would be up to Ocean County. If they want to deal

with it, fine, but all we ask is that we be given the same options as everybody else.

We could have some silly things happen if this doesn't occur. Our neighbor to the north is Monmouth County. They have a solid waste disposal facility, and from a competitive perspective, if they wanted to attract more garbage, they could lower their rates and start taking waste material away from Ocean County, which would affect us financially in trying to be a good neighbor and only dealing with Ocean County waste. So I just want to be on a level, competitive playing field. This may have been an oversight, I don't know, but I respectfully request that it be changed.

The next item concerns some new additions relative to economic regulation. The bill, as I have understood it from day one, was a deregulation bill, and it does have the appropriate deregulation language in it. However, there has been a new section added, which provides that -- that would provide, in effect, privately owned or operated sanitary landfills, as opposed to public authorities, would still be under economic regulation by the DEP. I come to that conclusion not only by the language, but the fact that the DEP would have to approve tariffs for these facilities.

When the solid waste collection industry was deregulated, the industry was required to provide tariffs, but they were only service-oriented requirements. They were not cost-oriented requirements. The way the bill is written and the traditional interpretation of what a tariff means is it means rate regulation, and we're concerned that we would have to -- in light of the deregulation provisions of the bill -- still have to get a tariff approved with a rate structure. And once we have a tariff approved with a rate structure, how

can we be competitive? Our rates will be published. We can get picked off like birds sitting on a telephone pole. Other people can under bid us, undernegotiate, or whatever, and we're stuck with our rate.

So I hope that wasn't your intent, to continue rate regulation as we understand the word "tariff" implies.

ASSEMBLYMAN GIBSON: That was not our intent.

MR. SCHWARTZ: Okay. So if the bill could be corrected to reflect that, I think that would be a good change.

The next item that we were concerned with-- The level playing field, I understand, may be the subject matter of further amendments due to objections that have apparently risen from the public sector, and I would like to withhold my comments on that item until such time as there is some additional language that comes out, and this is in the local public contracts area. I don't think it's appropriate for me to get into it now, because I understand there may be some changes and--

But if you wish, I will, or it's best I wait till the changes come out.

ASSEMBLYMAN GIBSON: I think you should take a look at the changes.

MR. SCHWARTZ: Okay.

The last item I had concerns the taxes on solid waste facilities. All taxes on in-state landfills would remain; however, these taxes don't apply to resource recovery facilities. I think, again, the level playing field -- to use your words-- If we could eliminate those taxes on solid waste disposal facilities, then we'd have a level playing field with a resource recovery plant. The only reason that resource recovery plants did not collect those taxes initially was it was the

policy of the State of New Jersey to try and encourage those facilities to be used. Things have changed since that original policy was enunciated by the DEP, so I would ask that another look or a change be made to take the taxes off in-state landfills. That's basically it.

So I, again, thank you, and I look forward to seeing some of the other changes, and I hope it was just an oversight on the environmental investment cost issue and that can be corrected also.

ASSEMBLYMAN GIBSON: Thank you for your testimony.

MR. SCHWARTZ: Thank you.

ASSEMBLYMAN GIBSON: The Committee appreciates your expertise in this area and your contribution to A-50 to date. Thank you very much.

Do any members of the Committee have anything to say?

ASSEMBLYMAN GUSCIORA: Yes, Mr. Chairman.

ASSEMBLYMAN GIBSON: Assemblyman.

ASSEMBLYMAN GUSCIORA: Could I talk about my amendments?

ASSEMBLYMAN GIBSON: You may introduce an amendment if you wish. At the last meeting, you had two amendments.

ASSEMBLYMAN GUSCIORA: Yes.

ASSEMBLYMAN GIBSON: One of which has already been incorporated in the bill--

ASSEMBLYMAN GUSCIORA: Yes, and I--

ASSEMBLYMAN GIBSON: --the second amendment, which is not incorporated in the bill, you wish to make some comments on?

ASSEMBLYMAN GUSCIORA: Move, at this point, yes, Mr. Chairman.

ASSEMBLYMAN GIBSON: Is there a second to--

ASSEMBLYWOMAN GILL: I second it.

ASSEMBLYMAN GIBSON: An amendment from Assemblyman Gusciora has been moved and seconded.

ASSEMBLYMAN COTTRELL: I'll make a motion to table it.

ASSEMBLYMAN GUSCIORA: Mr. Chairman?

ASSEMBLYMAN GIBSON: Assemblyman.

ASSEMBLYMAN GUSCIORA: May I discuss those amendments?

ASSEMBLYMAN GIBSON: You may describe your amendment, yes.

ASSEMBLYMAN GUSCIORA: Okay. I'm having trouble with the mike. (referring to PA microphone) Mr. Chairman, the mike is off. (problem corrected)

Thank you, Mr. Chairman. First, I wanted to commend you for all of your efforts on this bill. No matter how anyone stands on this, you were trying to do the right thing for the State of New Jersey. However, there are some problems with A-50 that have already been reiterated throughout this room. But what this amounts to is all these sunken costs that were put into the State to the tune of \$1.7 billion, which is only going to increase taxes for our taxpayers throughout New Jersey.

I have several concerns about ascertaining what exactly the sunken costs are and how we will pay for them. The bottom line is that this is in

reverse order, a State mandate-State pay, where the Solid Waste Management Plan put forth by the State resulted in at least five communities coming up with a Solid Waste Management Plan and possibly a sixth. My home, Mercer County -- in rushing to come up with Solid Waste Plans -- incurred all these debts. However, at the same time, the *Carbone* decision was racing through the courts from as early as at least 1993, and so I don't think just the taxpayers and the government should bear that total responsibility.

My amendments to A-50, to strengthen it, briefly: The services agreements would include source reduction and planning coordination activities. I commend you for adopting my recommitment -- my amendment earlier to recommit our State to recycling. I also would require that the counties' contracts with vendors be renegotiated in light of the *Carbone* decision and *Atlantic County's* decision. This way would be fair. The bottom line is there has been a change in the law and a lot of these counties are hooked into vendors which will get astronomical profits by this bill.

I also would require audits being conducted of all the stranded investment costs. I think it's fair for the taxpayers to know exactly what they're paying. I would also require that vendors disclosure their profit margins. We had some testimony -- however, I understand that it's difficult finding what the profits margins we're bailing them out for-- I think it's only fair that taxpayers be aware of just what the profit margins that this State is bailing them out to.

Finally, I would retain DEP oversight. Although we're deregulating the industry, whatever DEP is inclined to provide, I think they should remain

an active role in ensuring that our recycling industry -- the recycling programs remain intact.

So, again, I thank you for your efforts, Mr. Chairman, but unless this legislation is properly amended, I would be opposed to it.

ASSEMBLYMAN GIBSON: Thank you for your comments. The bill proposes to refinance in another way the existing costs -- the existing costs the taxpayers now have to concern themselves with at tipping fees. There will clearly be a reduction in cost to the citizens of the State of New Jersey as a result of the way A-50 is drafted now. And I disagree with most of the statements that you made.

ASSEMBLYMAN COTTRELL: Mr. Chairman.

ASSEMBLYMAN GIBSON: Assemblyman.

ASSEMBLYMAN COTTRELL: I make a motion to table it.

ASSEMBLYMAN BLEE: Second.

ASSEMBLYMAN GIBSON: A motion to table and seconded.

Roll call on the motion to table.

MR. MATIOSKA: We have a motion to table. Roll call.

Assemblyman Gusciora?

ASSEMBLYMAN GUSCIORA: No.

MR. MATIOSKA: Assemblywoman Gill?

ASSEMBLYWOMAN GILL: No.

MR. MATIOSKA: Assemblywoman Myers?

ASSEMBLYWOMAN MYERS: Yes.

MR. MATIOSKA: Assemblyman Cottrell?

ASSEMBLYMAN COTTRELL: Yes.

MR. MATIOSKA: Assemblyman Chatzidakis?

ASSEMBLYMAN CHATZIDAKIS: Yes.

MR. MATIOSKA: Assemblyman Blee?

ASSEMBLYMAN BLEE: Yes.

MR. MATIOSKA: Assemblyman Gibson?

ASSEMBLYMAN GIBSON: Yes. The motion is tabled.

I'll entertain a motion on A-50 as amended. The amendment is to restore the privilege of counties and municipalities on the public bidding law.

ASSEMBLYMAN COTTRELL: Do we have to make a motion on the amendment?

ASSEMBLYMAN GIBSON: I was going to ask for a motion on the bill as amended. You take it separately if you want.

ASSEMBLYMAN COTTRELL: Well, I'll move it with the amendment. I'll move the bill with the amendment.

ASSEMBLYMAN GIBSON: It's been moved to release the bill as amended -- to release the Committee Substitute as amended -- by Assemblyman Cottrell. Do I have a second?

ASSEMBLYMAN BLEE: Second.

ASSEMBLYMAN GIBSON: Motion made and seconded. Roll call.

MR. MATIOSKA: Roll call on the Assembly Committee Substitute for A-50 with the addition of one amendment to Section 86.

Assemblyman Gusciora?

ASSEMBLYMAN GUSCIORA: No.



MR. MATIOSKA: Assemblywoman Gill?

ASSEMBLYWOMAN GILL: No.

MR. MATIOSKA: Assemblywoman Myers?

ASSEMBLYWOMAN MYERS: No.

MR. MATIOSKA: Assemblyman Cottrell?

ASSEMBLYMAN COTTRELL: Yes.

MR. MATIOSKA: Assemblyman Chatzidakis?

ASSEMBLYMAN CHATZIDAKIS: Yes.

MR. MATIOSKA: Assemblyman Blee?

ASSEMBLYMAN BLEE: Yes.

MR. MATIOSKA: Assemblyman Gibson?

ASSEMBLYMAN GIBSON: Yes.

The bill is released. I do have some comments that I'd like to add at this point in time.

The Committee Substitute for Assembly Bill No. 50 is proposed in response to the *Atlantic Coast Demolition and Recycling Incorporated v. The Board of Chosen Freeholders of Atlantic County*. That court decision, which was made on July 15, 1996-- The U.S. District Court invalidated New Jersey's waste flow rules to the extent that they discriminate against interstate commerce. This decision was upheld by a Federal Appeals Court in May 1997. The State is currently preparing an appeal to the U.S. Supreme Court.

If the anticipated appeal is not heard by the U.S. Supreme Court, our existing regulated waste flow system will end as early as the first Monday in October. New Jersey must have a new solid waste policy ready to go at that time. The future is, literally, now. Without A-50 or similar legislation, the

bonded indebtedness of counties or their authorities in the State of New Jersey is in grave danger of default.

Accordingly, we have passed A-50 -- or released A-50. The legislation proposes numerous changes to the existing law so that the statutes conform to the new Solid Waste Management System established under the bill. It provides counties and public authorities with the legal abilities to recover the outstanding debt and other legitimate costs incurred in meeting State-mandated solid waste regulations that are no longer valid due to the court's decision. These costs, defined in the bill as environmental investment costs, consist of expenses -- mostly bond debt -- related to the building of solid waste facilities, the operation of solid waste management programs, the payment of solid waste taxes, and the payment of host-municipality benefits. Environmental investment costs also include what is sometimes called stranded debt, which refers to debt not linked or covered by a revenue source.

In essence, the bills authorizes every public authority and county responsible for solid waste disposal to establish and implement a system to calculate, assess, and collect so-called environmental investment charges in sufficient amounts to recover the environmental investment costs incurred by that public authority or county. The bill allows environmental charges to be collected by a public authority or county in any reasonable manner, such as dedicating a portion of the tipping fee charged for solid waste disposal at the district solid waste facility or as a separate item in a municipal budget or county budget.

I want to emphasize that the bill does not impose or mandate actions upon the effected public authorities, counties, or municipalities. For

counties and authorities to recover these costs associated with environmental investment, the bill essentially provides these entities with various options, a menu, if you will, for recovering these moneys by granting them the legal authorization or tools to undertake whatever options are eventually chosen.

Due to the lack of comprehensive financial data, the exact amount of environmental investment costs per county cannot be fully calculated at this time. However, the largest component of these costs -- public bonded indebtedness -- is documented and is estimated at \$1.5 billion statewide. It would be premature to calculate the environmental investment charges that may ultimately be imposed by any public authority or county under the framework established in the bill until new municipal waste collection and disposal contracts are established.

Massive debt has been accumulated by taking advantage of the protection of the existing waste flow control rules and statutes. The bill provides the tools to help pay off that existing debt, but only that which has been expended prior to the effective date of the Act. The debt, if not paid, could fall on the backs of New Jersey taxpayers or, if defaulted, would hurt the ordinary citizens who purchased bonds in good faith.

The bill has left room for legitimate competition from the private sector. Competition from out-of-state disposal providers, as well as competition from in-state public- and private-sector disposal facilities will surely lower the cost to households across the State for the disposal of household trash.

Frankly, A-50, as has been testified today, goes well beyond what the courts required of us in order to satisfy innerstate commerce. A total of

seven public hearings and countless meetings have been held to give all concerned sufficient opportunity to contribute to the best solution. The outcome of all those meetings is the legislation that has been released today. There have been approximately 24 amendments that we've included in the final version of the bill based on the testimony that all of you have contributed to through the process.

Given the complex and varied nature of New Jersey's existing system and the mandate of the court, a solution cannot simply be taken off the rack. The solution to the situation in which we find ourselves must be tailor made. A-50 acknowledges the State's historic role in requiring counties to be self-sufficient in addressing their solid waste disposal needs. It also acknowledges that each county choose its own specific method of satisfying State policy. A-50 makes no value judgement on the method by which counties have been handling their solid waste. A-50 does recognize the costs incurred by the counties and authorities and provides a menu for them to select their own solution.

A-50 recognizes the economic benefits that can be reaped through the deregulation of tipping fees. It also recognizes the fact that the State, through the DEP, must continue to supervise the solid waste collection and disposal industries in order to avoid financial shock, which would be in no one's interest. At best, A-50 is the most comprehensive answer to our solid waste management and economic needs. At least, A-50 has stimulated a thorough examination of the current situation and the various alternatives. However, when all the pluses and minuses are tallied, I believe A-50 is the alternative that comes out ahead.

We have taken this once-in-a-lifetime opportunity to mature into a free market for trash disposal, to provide for intrastate waste flow, and to prudently manage \$1.5 billion worth of debt. We may be sending A-50 on its way today with few friends; however, I believe its time has come.

Thank you for your participation in A-50.

We'll now take up A-1171.

You want to read the title of A-1171, please?

MR. MATIOSKA: Proposed Committee Substitute for A-1171 would provide additional procedures and standards to be used by the Department of Environmental Protection and the Attorney General's Office administering the solid and hazardous waste operators licensing program, commonly known as A-901.

ASSEMBLYMAN GIBSON: Thank you.

Assemblyman DiGaetano, do you want to comment on your legislation? -- you and Assemblyman Cohen--

**ASSEMBLYMAN PAUL DIGAETANO:** Thank you, Mr. Chairman, members of the Committee.

I know you've taken extensive testimony on this bill in the past. I will just very briefly talk about where we've come since the initial hearing on the bill. There have been several meetings, each of which was for three or more hours, with representatives of the Department of Environmental Protection and the Attorney General's Office, and, as you see before you, there have been extensive amendments to this bill. We maintain the integrity of this system with all the amendments. We clearly establish a right for civil rehabilitation, a right very similar to what was already permitted for criminal rehabilitation.

What I consider to be the most important aspect of the bill, Mr. Chairman, and members of the Committee, we have clearly established in this bill now a process whereby the Department has the ability to impose various levels of monitoring upon a company to ensure compliance. We are very much of the mind-set that compliance is much preferable to enforcement, and it is my belief, as a sponsor of this bill with Assemblyman Cohen, that with these monitoring provisions we may never -- other than for criminal activity -- experience in New Jersey another debarment. I say that because, if the monitoring system works with different levels of monitoring, the companies will always come into compliance and, therefore, continue their operation.

I will not speak for the Department or for the Attorney General's Office, but it is my belief that in its current form there is a consensus on this piece of legislation. I will be very frank with the Committee, just this morning it has been brought to my attention that there may need to be some technical or very minor amendments to the bill as clarifying amendments, which I will not ask the Committee to do, but it's my belief that the bill before you today, with amendments, represents, generally, a consensus of the Department, the Attorney General's Office, and the sponsors.

ASSEMBLYMAN GIBSON: Thank you, Assemblyman.

Neither the DEP or the Attorney General's Office has signed up.

ASSEMBLYMAN DiGAETANO: Well, they are here, if you wish to hear from them.

ASSEMBLYMAN GIBSON: They have no reason to be timid about sharing their problems with us -- in the past. Well, I assume they have

no problems. I assume you would like the bill released, and whatever technical amendments do arise, you'll take care of after it leaves here.

I note that Ed Cornell is in favor of the bill with the suggested amendment, and Steve Changaris and George Lohman are also in favor of A-1171. I don't know that it's necessary for them to come up based on the fact that they're in favor of the bill.

Do any of the members have any questions?

MR. CORNELL: (speaking from audience) I would like to come up, Mr. Chairman, if I could.

ASSEMBLYMAN GIBSON: Stay there, Assemblyman.

Come on up then, please.

MR. CORNELL: Thank you.

ASSEMBLYMAN GIBSON: Good morning.

MR. CORNELL: I'd like to thank you for the opportunity to express our views concerning this bill, even though we do approve the bill. A-1171 is an industry-sensitive approach toward exclusion of the alleged environmental wrongdoers and criminal elements from the waste industries in our State.

This improved version of A-901 arrives, unfortunately, when many of the solid waste industry's collection companies are either out of business, frustrated, demoralized, or economically damaged by never-ending legal expense. Some are still wrestling through an investigation backlog -- those not yet approved -- or have been disqualified. New collection company applicants who have moved into our industry had an easier road through the process than the established companies under the present A-901. We fear that new

applicants will continue to have it even easier with this bill -- a hard pill to ask any licensed industry to swallow, indeed.

The present A-901 system lacked the standards of application and enforcement. Assembly Bill No. 1171 sets up some standards and time schedules which the regulating agencies must stick to. This legislation frowns on the application of the statutory scheme being selectively applied and enforced. It sets up an appeal process for the alleged unqualified. It institutes a method of publishing a list of disqualified and approved persons and companies, acknowledging the public's or the industry's right to know who is who working in our ranks. We applaud the sponsors for all of this.

There is one problem that we must address about Assembly Bill No. 1171 and 901: The infiltration of new solid waste management companies and people into our industry, the so-called management companies or brokers, which have developed virtually unnoticed by our regulators, brokers who have avoided A-901 disclosure and licensing controls endured by the collection, transportation, treatment, storage, transfer, and disposal companies managing the State's solid waste and hazardous waste.

New Jersey regulation clearly mandates that no person shall engage or continue to engage in the transportation of solid waste in this State without first obtaining an approved registration from the Department. Brokers do. This mandate includes disclosure and licensing for all other segments of our waste industries.

Most of these broker-type companies sit comfortably outside the State of New Jersey. They deal from as close as Montclair, New Jersey and as far away as California, Minnesota, Massachusetts, Ohio, Pennsylvania,



Connecticut, and New York. They act as agents for their clients who are the real generators of the waste. Brokers solicit bids and manage all of the services related to waste disposal and recycling, they themselves are not the generators.

Collectively, they have become big players in the collection and the direction of waste, especially for the national retail chain operations and industrial waste movement. They are powerful, and they are decision makers, deciding who gets the contracts and at what price. Brokers are another level of key movers of waste. They subcontract their clients' responsibilities for waste to collection and hauling companies.

We don't know, nor does the State know, who they are or how their backgrounds and history would shape up to A-901. One would ask if a licensed New Jersey collector and hauling company were to lose his license as a result of an A-901 investigation -- or any other punishable violation -- could he open up a brokerage firm here or maybe just over the State line? Haulers must collect and dispose of the waste, bill the broker, who, in turn, bills their client for the service, tacking on another level of cost and profit. Some collection companies have reported that brokers are slow payers, even when they are paid by their client. The middleman blocks payment for the service. They appear to have no regulatory responsibility.

A-901 and now A-1171 do not address this problem felt by the solid waste industry. They are infringing on a highly regulated, licensed business with no regulatory responsibility. Now is the time to correct this situation. This new and seemingly acceptable new wing of our industry is creating an unfair and uneven playing field in the market that we believe to be competitive. It creates another link in the process of the cost chain in waste

removal, which is proving to be too costly for New Jersey's citizens and businesses. Our regulated companies are losing accounts to these people after decades of faithful service.

We have been cooperating with the Department of Environmental Protection Bureau of Solid Waste Compliance and Enforcement which is presently investigating some of the broker-type companies. We have convinced the Bureau that they should include this level of solid waste management licensing in the licensing and disclosure regulations. Without including them in this new legislation, the Bureau and the Department could be unnecessarily involved in costly court challenges.

Our industry finds itself in a very important crossroad today. While Waste Management Association is conditionally in favor of 1171, our condition is important to the remaining solid waste collectors and haulers in our State. This new level of broker and solid waste management company must be appended to the list of operations needing A-901 and 1171 licensing and disclosure approval.

We urge the sponsors and the Committee to amend the latest version of Assembly Bill No. 1171 to give definition to the word "broker," add these operations to every section of the legislation which lists other operations, such as the collection, transportation, treatment, storage, transfer, and disposal of solid and hazardous waste.

We thank you again for letting us make this comment on this bill. We hope you will take the comments in mind during your deliberations. Thank you.

ASSEMBLYMAN GIBSON: Thank you for your comments and your participation in the development of the bill.

Are there any questions from members of the Committee? (no response) If not, I'll entertain a motion to release.

ASSEMBLYMAN COTTRELL: Move the bill.

ASSEMBLYWOMAN GILL: Second.

ASSEMBLYMAN GIBSON: Moved and seconded. Roll call, please.

MR. MATIOSKA: Roll call on the Assembly Committee Substitute for A-1171.

Assemblyman Gusciora?

ASSEMBLYMAN GUSCIORA: Yes.

MR. MATIOSKA: Assemblywoman Gill?

ASSEMBLYWOMAN GILL: Yes.

MR. MATIOSKA: Assemblywoman Myers?

ASSEMBLYWOMAN MYERS: Yes.

MR. MATIOSKA: Assemblyman Cottrell?

ASSEMBLYMAN COTTRELL: Yes.

MR. MATIOSKA: Assemblyman Chatzidakis?

ASSEMBLYMAN CHATZIDAKIS: Yes.

MR. MATIOSKA: Assemblyman Blee?

ASSEMBLYMAN BLEE: Yes.

MR. MATIOSKA: Assemblyman Gibson?

ASSEMBLYMAN GIBSON: Yes.

ASSEMBLYMAN DiGAETANO: Thank you, Mr. Chairman, and members of the Committee.

ASSEMBLYMAN GIBSON: Congratulations and good luck with your legislation.

We'll take up Assembly Bill No. 2811.

Title, please.

MR. MATIOSKA: As amended or with proposed amendments, Assembly Bill No. 2811 would establish a five-year moratorium on the repayment of State loans made to public authorities and counties from the 1985 Resource Recovery Bond Act, for the development of public facilities, to ease the financial burden on these local governments during the transition to a constitutionally acceptable solid waste management system for the State of New Jersey.

ASSEMBLYMAN GIBSON: This piece of legislation -- and I'm the sponsor of it -- proposes to ease the burden on the authorities that had borrowed against a bond issue to build solid waste facilities, and it proposes a benefit by not having the indebtedness repaid over a five-year period from the effective date of the Act. The money that has been loaned is interest-free money. Only the principal was repaid and then it's recycled into other similar projects. This is some method by which the State could contribute at an approximate cost of \$25 million of interest to the State of New Jersey by the deferring of these payments. It's some way that the State can contribute similar to some of Assemblywoman Myers' proposals toward helping out the problem of deregulated waste flow.

Are there any questions for anybody? No one had signed up to testify on the bill, but are there any questions for anybody? (no response) If not, I'd entertain a motion to release.

ASSEMBLYMAN COTTRELL: Mr. Chairman, I make a motion to move the bill.

ASSEMBLYMAN BLEE: Second.

ASSEMBLYMAN GIBSON: Moved and seconded. Roll call, please.

MR. MATIOSKA: Roll call on A-2811 with Assembly Committee amendment.

Assemblyman Gusciora?

ASSEMBLYMAN GUSCIORA: Yes.

MR. MATIOSKA: Assemblywoman Gill?

ASSEMBLYWOMAN GILL: Yes.

MR. MATIOSKA: Assemblywoman Myers?

ASSEMBLYWOMAN MYERS: Yes.

MR. MATIOSKA: Assemblyman Cottrell?

ASSEMBLYMAN COTTRELL: Yes.

MR. MATIOSKA: Assemblyman Chatzidakis?

ASSEMBLYMAN CHATZIDAKIS: Yes.

MR. MATIOSKA: Assemblyman Blee?

ASSEMBLYMAN BLEE: Yes.

MR. MATIOSKA: Assemblyman Gibson?

ASSEMBLYMAN GIBSON: Yes. The bill is successfully released.

I will now take up A-2837 -- Assemblywoman Myers--

Read the title of the bill, please.

MR. COLNER: This bill would establish a grant and loan program to assist counties and public authorities in the payment of stranded investment costs. The Commissioner of the Department of Community Affairs shall prioritize funding to counties and public authorities according to per capita stranded investment costs in the county, giving highest priority for funding to the county or public authority with the greatest per capita stranded investment cost in the State. The bill would appropriate \$20 million to the Department of Community Affairs for the grant and loan program.

Proposed Committee amendments would require the Commissioner, in prioritizing funding for counties and public authorities, to provide all funds necessary to compensate a county or public authority for any revenue deficiency due to the abrogation of an interdistrict agreement by ascending public authority or county prior to providing any funds to any other county or public authority.

ASSEMBLYMAN GIBSON: Assemblywoman Myers, any introductory comments on your bill?

ASSEMBLYWOMAN MYERS: Yes, I would like to clarify, Mr. Chairman, that this bill, essentially, would only provide funding for one year -- for the initial year. It's part of a package of bills. The other bills are, primarily, dependent on bond funds. The bonds are not-- Those proposal are not anticipated to be moved, so in case certain counties, such as Warren and Union, are found in jeopardy because of the court's decisions this fall, this would provide immediate money so that those counties can get through the first year.

ASSEMBLYMAN GIBSON: Thank you.

George Melick and John Carlton are here to testify in favor of A-2837.

Do you need to add any comments to the fact that you are, in fact, in favor of it? (negative response) Okay, we'll note for the record that you support the bill.

All right, I'll entertain a motion to release.

ASSEMBLYWOMAN MYERS: Excuse me, but there are some amendments.

ASSEMBLYMAN GIBSON: All right. Do you want to move the amendments or move the bill--

ASSEMBLYWOMAN MYERS: Or are we moving it as a Substitute or what? I just want to make sure the amendments are accepted.

ASSEMBLYMAN COTTRELL: I'll make a motion to move the amendments.

ASSEMBLYMAN GIBSON: Move the bill as amended?

ASSEMBLYMAN COTTRELL: Yes.

ASSEMBLYMAN GIBSON: Is there a second?

ASSEMBLYMAN BLEE: Second.

ASSEMBLYMAN GIBSON: Roll call.

MR. COLNER: Roll call on A-2837 as amended.

Assemblyman Gusciora?

ASSEMBLYMAN GUSCIORA: Mr. Chairman, I just had one--  
Is it too late to ask a question?

ASSEMBLYMAN GIBSON: No, Assemblyman, it's not too late.

ASSEMBLYMAN GUSCIORA: Sorry to cause so much trouble.

ASSEMBLYMAN GIBSON: Well, your apology is accepted.

ASSEMBLYMAN GUSCIORA: Assemblywoman Myers, I'm just trying to ascertain how the priority for the -- would be established.

ASSEMBLYWOMAN MYERS: Do you have my handout?

ASSEMBLYMAN GUSCIORA: Yes, I have your handout, but is it along--

ASSEMBLYWOMAN MYERS: Okay. The priority is based on the per capita debt in each county, and so it shows you on my handout which counties have the highest per capita debt either with interdistrict agreements or without those agreements.

ASSEMBLYMAN GUSCIORA: But then my concern is then the first-- Conceivably the first county would get all the-- The money is only a \$20 million appropriation?

ASSEMBLYWOMAN MYERS: Right. The amendments provide that Warren and Union, because they're the only counties dependent on out-of-county trash, would get their needs covered first. And it's my estimation that that would take about 50 percent of the funds, and the other 50 percent would be available for the rest of the counties. Any county could apply, but the priority is based on per capita debt.

So if you look at the handout, those counties would be able to apply first, but there's no way to tell up front exactly how much money or if counties would even apply. Some counties have workable in-county systems, and they may be able, through A-50, to deal with their debt and not apply to the State.



ASSEMBLYMAN GUSCIORA: How would it apply to, say, to Mercer County who was going to build an incinerator and also that there was discussion between Mercer County and Atlantic County--

ASSEMBLYWOMAN MYERS: Right.

ASSEMBLYMAN GUSCIORA: Now, they're number seven down here. (indicating)

ASSEMBLYWOMAN MYERS: Right, and these--

ASSEMBLYMAN GUSCIORA: But yet, they're also another county that would be solely responsible for their debt; although, they were operating under the assumption that Atlantic County would be assuming some of that debt.

ASSEMBLYWOMAN MYERS: Right.

ASSEMBLYMAN GUSCIORA: Although they're down at the bottom of your list.

ASSEMBLYWOMAN MYERS: You're correct. First of all, these numbers are not precise, and they aren't attached to the bill. The DCA would have to look at the actual numbers. The debt that I had for Mercer County, when I put this bill together, was \$110 million. I think it's even higher than that now, so their per capita is probably even higher.

As far as the deal with Atlantic, it was not my understanding that there is a facility currently in operation dependent on Atlantic County, as is the case in Warren and Union. So I did not address that, but that doesn't mean that would not be addressed under the actual program. This is just a guesstimate. But Mercer County would certainly be among the top seven counties in the State that would be eligible.

ASSEMBLYMAN GUSCIORA: But I think according to your chart, it would be last in line.

ASSEMBLYWOMAN MYERS: With the interdistrict agreements in place.

ASSEMBLYMAN GUSCIORA: Thank you, Mr. Chairman.

ASSEMBLYMAN GIBSON: Okay. With that motion made and seconded, roll call, please.

MR. COLNER: Vote on A-2837 with amendment.

Assemblyman Gusciora?

ASSEMBLYMAN GUSCIORA: Abstain.

MR. COLNER: Assemblywoman Gill?

ASSEMBLYWOMAN GILL: Abstain.

MR. COLNER: Assemblywoman Myers?

ASSEMBLYWOMAN MYERS: Yes.

MR. COLNER: Assemblyman Cottrell?

ASSEMBLYMAN COTTRELL: Yes.

MR. COLNER: Assemblyman Chatzidakis?

ASSEMBLYMAN CHATZIDAKIS: No.

MR. COLNER: Assemblyman Blee?

ASSEMBLYMAN BLEE: Yes.

MR. COLNER: Assemblyman Gibson?

ASSEMBLYMAN GIBSON: Yes. The bill is successfully released.

We'll take up the last and final bill on today's agenda, A-3086 -- Assemblywoman Murphy.

We've had quite a bit of testimony on previous legislation that was applicable to this. We don't need to repeat that again.

Assemblywoman Murphy, good morning.

**ASSEMBLYWOMAN CAROL J. MURPHY:** I'm locked out. (referring to PA microphone)

Thank you, Mr. Chairman. Chairman Gibson, it's always a pleasure to be testifying before your Committee. I know you have had some morning and a half today.

There are amendments to 3086 which were given to Mr. Matioska yesterday. I'm not sure that all the members have those amendments. Some of them were at the suggestion of Assemblywoman Connie Myers who called me relative to the bill.

It, in essence, establishes a task force -- a commission, if you will -- that will, within no later than 180 days from the effective date it's begun, be dissolved. The commission is required to assemble the materials available from the counties with respect to the stranded investment costs to work together to determine exactly what are stranded investments, how those costs will be determined, and then recommend, if you will, some -- evaluating the different mitigation techniques that local governments might utilize to minimize the amount of such stranded public debt, project the level of financial assistance necessary to meet the stranded debts, and review and recommend techniques to pay these debts off.

I think the makeup of the commission itself is quite clear. In the amendment you will notice that one member of a county municipal utilities authority, which handles solid waste, is indicated as a member of the group,

and I think the rest of it is fairly clear. It's a short-term group to do a very big job.

Thank you, Assemblyman.

ASSEMBLYMAN GIBSON: Thank you, Assemblywoman.

Steve Changaris and George Lohman are in favor of it. They previously testified. Chris Carue wasn't here earlier. He's in favor of it.

Chris, do you need to add anything?

**CHRIS CARUE:** (speaking from audience) No, Mr. Chairman. The League of Municipalities is in support of the bill.

ASSEMBLYMAN GIBSON: Thank you.

All right, then unless there are questions from Committee members, I'll entertain a motion to release the bill as amended.

ASSEMBLYMAN GUSCIORA: Mr. Chairman.

ASSEMBLYMAN COTTRELL: I make a motion--

ASSEMBLYMAN GIBSON: Excuse me, Assemblyman.

Assemblyman Gusciora. In time this time.

ASSEMBLYMAN GUSCIORA: Yes.

Is there a fiscal note attached with this commission?

ASSEMBLYWOMAN MURPHY: No, there is no fiscal note attached. I can't get on (referring to PA microphone), but the answer is, no, sir, there is not. We do not anticipate that there will be perhaps need for that. It's 180 days in total. They have 128 days in which to compile the information. We believe the information is readily available and this is just people getting together.

ASSEMBLYMAN GUSCIORA: Will commission members be paid?

ASSEMBLYWOMAN MURPHY: The commission members are not paid. They will be reimbursed for any costs they may have commensurate with getting to meetings or attending the meetings to work. The commission members will not be paid.

ASSEMBLYMAN GUSCIORA: And a final--

ASSEMBLYMAN GIBSON: Most of us are members of the Legislature. We are paid, but we don't get any extra for this.

ASSEMBLYMAN GUSCIORA: Okay. Thank you.

Last question: Does the commission -- is it anticipated that they will assume any costs, or is there going to be any kind of budget for the commission?

ASSEMBLYWOMAN MURPHY: No.

ASSEMBLYMAN GUSCIORA: Okay. Thank you.

ASSEMBLYMAN GIBSON: Thank you.

I'll entertain a motion to release as amended.

ASSEMBLYMAN COTTRELL: I make a motion to release the bill as amended.

ASSEMBLYWOMAN GILL: Second.

ASSEMBLYMAN GIBSON: And seconded by Assemblywoman Gill.

Roll call, please.

MR. MATIOSKA: Roll call on A-3086 with Assembly Committee amendments.

Assemblyman Gusciora?

ASSEMBLYMAN GUSCIORA: Yes.

MR. MATIOSKA: Assemblywoman Gill?

ASSEMBLYWOMAN GILL: Yes.

MR. MATIOSKA: Assemblywoman Myers?

ASSEMBLYWOMAN MYERS: Yes.

MR. MATIOSKA: Assemblyman Cottrell?

ASSEMBLYMAN COTTRELL: Yes.

MR. MATIOSKA: Assemblyman Chatzidakis?

ASSEMBLYMAN CHATZIDAKIS: Yes.

MR. MATIOSKA: Assemblyman Blee left a yes vote.

Assemblyman Gibson?

ASSEMBLYMAN GIBSON: Yes. The bill is successfully released.

Congratulations, Assemblywoman.

ASSEMBLYWOMAN MURPHY: Thank you very much,  
Assemblyman. I appreciate all of your support.

ASSEMBLYMAN GIBSON: The meeting is adjourned.

**(MEETING CONCLUDED)**