

PUBLIC HEARING

before

ASSEMBLY COUNTY GOVERNMENT AND REGIONAL AUTHORITIES COMMITTEE

on

ASSEMBLY BILL 1778

(Provides for a resource recovery investment tax
on solid waste disposal at sanitary landfills)

Held:
April 26, 1984
Old Courthouse
Salem City, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Assemblyman Harry A. McEnroe, Chairman
Assemblyman Thomas A. Pankok, Vice Chairman
Assemblyman John T. Hendrickson

ALSO PRESENT:

Peggy McNutt, Research Assistant
Office of Legislative Services
Aide, Assembly County Government
and Regional Authorities Committee

New Jersey State Library

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ASSEMBLY, No. 1778

STATE OF NEW JERSEY

INTRODUCED MARCH 15, 1984

By Assemblymen McENROE, VAINIERI, HENDRICKSON,
ZECKER, Assemblywoman COOPER, Assemblyman ROD,
Assemblywoman OGDEN, Assemblymen FORTUNATO, OTLOW-
SKI, GALLO, LAROCCA, Assemblywoman KALIK, Assembly-
men LONG and PANKOK

AN ACT concerning solid waste disposal and resource recovery,
amending P. L. 1975, c. 326, P. L. 1970, c. 40 and P. L. 1971, c. 198
and supplementing P. L. 1970, c. 39 and P. L. 1976, c. 68.

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

1 1. (New section) The Legislature finds and declares that the
2 State's capacity to safely dispose of solid waste at sanitary landfills
3 is rapidly diminishing; that the recovery of any potential resource
4 in solid waste, especially its conversion to useable energy, is in the
5 public interest; that the acquisition, construction or operation of
6 resource recovery facilities is characterized by high initial capital
7 expenditures and initially high costs of disposal which may be
8 stabilized or decreased based upon a return on energy generated,
9 all of which require long-term financial arrangements and a steady
10 and secure flow of waste; that to encourage the use of resource
11 recovery it is necessary to attain the most advantageous financing
12 and ownership structures for implementation of resource recovery
13 projects by units of local government while maintaining strict
14 financial and programmatic scrutiny by agencies of State govern-
15 ment; and that it is necessary to provide for funding of the solid
16 waste management programs of the State and of the solid waste
17 management districts, all as hereinafter provided.

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.

1. 2. (New section) As used in this act:

2 a. "Contracting unit" means any county; any municipality; or
3 any board, ~~commission~~, ~~committee~~, authority or agency, which is
4 not a State board, commission, committee, authority or agency,
5 and which has administrative jurisdiction over any district other
6 than a school district, project, or facility, included or operating in
7 whole or in part, within the territorial boundaries of any county or
8 municipality which exercises functions which are appropriate for
9 the exercise by one or more units of local government, and which
10 has statutory power to make purchases and enter into contracts or
11 agreements for the performance of any work or the furnishing or
12 hiring of any materials or supplies usually required, the contract
13 price of which is to be paid with or out of public funds;

14 b. "County" means any county of this State of whatever class;

15 c. "Department" means the Department of Environmental
16 Protection;

17 d. "Director" means the Director of the Division of Taxation
18 in the Department of Treasury;

19 e. "District" means a solid waste management district as desig-
20 nated by section 10 of P. L. 1975, c. 326 (C. 13:1E-19);

21 f. "District investment tax fund" means a District Resource
22 Recovery Investment Tax Fund established pursuant to subsection
23 b. of section 15 of this act;

24 g. "Division" means the Division of Taxation in the Department
25 of Treasury;

26 h. "Franchise" means the exclusive right to control the disposal
27 of solid waste within a district as awarded by the Board of Public
28 Utilities;

29 i. "Independent public accountant" means a certified public
30 accountant, a licensed public accountant or a registered municipal
31 accountant;

32 j. "Investment tax" means the resource recovery investment tax
33 imposed pursuant to subsection b. of section 3 of this act;

34 k. "Investment tax fund" means the Resource Recovery Invest-
35 ment Tax Fund containing subaccounts for each county pursuant to
36 the provisions of section 14 of this act;

37 l. "Out-of-district solid waste" means any solid waste accepted
38 for disposal in a district which was generated outside the receiving
39 district;

40 m. "Person or party" means any individual, public or private
41 corporation, company, partnership, firm, association, political sub-
42 division of this State, or any State, bi-state, or interstate agency or
43 authority;

14 u. "Resource recovery facility" means a solid waste facility
 44a constructed and operated for the collection, separation, recycling,
 44b and recovery of metals, glass, paper, and other materials for reuse
 44c or for energy production;

44d. a. "Sanitary landfill facility" means a solid waste facility
 45 at which solid waste is deposited on or in the land as fill for the
 46 purpose of permanent disposal or storage for a period exceeding
 47 six months, except that it shall not include any waste facility
 48 approved for disposal of hazardous waste;

49 p. "Services tax" means the solid waste services tax imposed
 50 pursuant to subsection a. of section 3 of this act;

51 q. "Services tax fund" means the Solid Waste Services Tax
 52 Fund established pursuant to section 12 of this act in which the
 53 receipts from the services tax and any interest thereon will be
 54 deposited;

55 r. "Subfranchise" means the exclusive right, as awarded by a
 56 district, of a vendor to control the disposal of solid waste within all
 57 or any portion of a district; and

58 s. "Vendor" means any person or party financially qualified for,
 59 and technically and administratively capable of; undertaking the
 60 design, financing, construction, operation, or maintenance of a
 61 resource recovery facility or of providing resource recovery ser-
 62 vices.

1 3. (New section) a. There is levied upon the owner or operator
 2 of every sanitary landfill facility a solid waste services tax. The
 3 services tax shall be imposed on the owner or operator at the
 4 initial rate of \$0.25 per cubic yard of solids and \$0.003 per gallon
 5 of liquids on all solid waste accepted for disposal at a sanitary
 6 landfill facility. On the first day of the 13th month following the
 7 imposition of the services tax and annually thereafter, the rate of
 8 the services tax shall be increased by \$0.01 per cubic yard of solids
 9 b. (1) There is levied upon the owner or operator of every
 10 sanitary landfill facility a resource recovery investment tax. The
 11 investment tax shall be levied on the owner or operator at an
 12 initial rate of \$0.28 per cubic yard of solids and \$0.004 per gallon
 13 of liquids on all solid waste, other than waste products resulting
 14 from the operation of a resource recovery facility, accepted for
 15 disposal at a sanitary landfill facility.

16 (2) Unless the rate is otherwise adjusted pursuant to section 11
 17 of this act, the rate of the investment tax shall be increased pur-
 18 suant to the following schedule:

19 (a) On the first day of the 18th month following the imposi-
 20 tion of the investment tax, the rate of the investment tax shall
 21 increase to \$0.56 per cubic yard of solids;

22 (b) On the first day of the 30th month following the imposi-
23 tion of the investment tax, the rate of the investment tax shall
24 increase to \$0.84 per cubic yard of solids; and

25 (c) On the first day of the 42nd month following the imposi-
26 tion of the investment tax, the rate of the investment tax shall
27 increase to \$1.12 per cubic yard of solids.

28 The investment tax shall no longer be levied on the owner or
29 operator of a sanitary landfill facility on and after the first day of
30 the first month of the 11th year following the imposition of the
31 investment tax.

32 c. (1) There is levied upon the owner or operator of every sani-
33 tary landfill facility a surcharge on the investment tax. The sur-
34 charge shall be imposed on the owner or operator at a rate of
35 \$0.21 per cubic yard of solids and \$0.003 per gallon of liquids on
36 all out-of-district solid waste, other than waste products resulting
37 from the operation of a resource recovery facility, accepted for
38 disposal at a sanitary landfill facility.

39 (2) If the department shall determine that a district has failed
40 to fulfill its solid waste management planning responsibilities
41 pursuant to section 17 of this act, the rate of the surcharge on the
42 investment tax levied pursuant to paragraph (1) of this subsection
43 shall, upon notification to the Board of Public Utilities and to the
44 director, immediately be increased to a rate determined by the
45 department, not to exceed \$0.42 per cubic yard of solids or \$0.006
46 per gallon of liquids.

47 d. If any owner or operator of a sanitary landfill measures the
48 solid waste accepted for disposal by a measure other than cubic
49 yards or gallons, the taxes and surcharges imposed by the provi-
50 sions of this section shall be levied at a rate equivalent thereof as
51 determined by the director.

52 e. No taxes or surcharges shall be levied on the owner or operator
53 of a sanitary landfill facility for the acceptance of solid waste
54 generated exclusively by any agency of the federal government if
55 a solid waste collector submits to the owner or operator a copy of
56 the contract with the federal agency indicating the effective date of
57 the contract was before the effective date of this act. Taxes and
58 surcharges shall be levied on the owner or operator for acceptance
59 of solid waste generated by a federal agency if the contract between
60 the federal agency and the solid waste collector was entered into,
61 or renewed, on or after the effective date of this act.

1 4. (New section) a. Every owner or operator of a sanitary land-
2 fill facility which accepts solid waste for disposal and which is
3 subject to the taxes and surcharges imposed pursuant to section 3

4 of this act, shall register with the director on forms prescribed by
5 him within 20 days after the first acceptance of that waste.

6 b. The director shall prepare and transmit to each owner or
7 operator of a sanitary landfill facility forms for the rendering of a
8 tax return. The form shall be structured in a manner and form
9 determined by the director and shall provide for the following
10 information, and any other information he may deem necessary
11 to be rendered in the return:

12 (1) The total number of cubic yards of solids and gallons of
13 liquids accepted for disposal during the previous month;

14 (2) The number of cubic yards of solids and gallons of
15 liquids accepted and place of origin of out-of-district waste
16 accepted for disposal during the previous month; and

17 (3) The amount of each tax or surcharge paid according to
18 the amount of solid waste accepted.

19 The director may prescribe a consolidated form for reporting the
20 taxes and surcharges imposed under this act and the taxes imposed
21 pursuant to P. L. 1981, c. 278 (C. 13:1E-91 et seq.) and P. L. 1981,
22 c. 306 (C. 13:1E-100 et seq.).

1 5. (New section) Every owner or operator of a sanitary landfill
2 facility shall, on or before the 20th day of each month, render a
3 return under oath to the director and pay the full amount of taxes
4 and surcharges due as stated in the return.

1 6. (New section) a. If a return required by this act is not filed, or
2 if a return when filed is incorrect or insufficient in the opinion of
3 the director, the amount of tax due shall be determined by the
4 director from such information as may be available. Notice of such
5 determination shall be given to the taxpayer liable for the payment
6 of the tax. Such determination shall finally and irrevocably fix the
7 tax unless the person against whom it is assessed, within 30 days
8 after receiving notice of such determination, shall apply to the
9 director for a hearing, or unless the director on his own motion
10 shall redetermine the same. After such hearing, the director shall
11 give notice of his determination to the person to whom the tax is
12 assessed.

13 b. Any taxpayer who shall fail to file his return when due or to
14 pay any tax when the same becomes due, as herein provided, shall
15 be subject to such penalties and interest as provided in the "state
16 tax uniform procedure law," Subtitle 9 of Title 54 of the Revised
17 Statutes. If the director determines that the failure to comply with
18 any provision of this section was excusable under the circum-
19 stances, it may remit such part or all of the penalty as shall be
20 appropriate under such circumstances.

21 c. (1) Any person failing to file a return; failing to pay the tax,
 22 or filing or causing to be filed, or making or causing to be made, or
 23 giving or causing to be given any return, certificate, affidavit,
 24 representation, information, testimony or statement required or
 25 authorized by this act, or rules or regulations adopted hereunder
 26 which is willfully false, or failing to keep any records required by
 27 this act or rules and regulations adopted hereunder, shall, in addi-
 28 tion to any other penalties herein or elsewhere prescribed, be
 29 guilty of a crime of the fourth degree.

30 (2) The certificate of the director to the effect that a tax has
 31 not been paid, that a return has not been filed, that information has
 32 not been supplied or that inaccurate information has been supplied
 33 pursuant to the provisions of this act or rules or regulations
 34 adopted hereunder shall be presumptive evidence thereof.

1 7. (New section) In addition to any other powers authorized by
 2 this act, the director shall have the following powers:

3 a. To delegate to any officer or employee of the division any
 4 powers or responsibilities required by this act as he may deem
 5 necessary;

6 b. To promulgate and distribute any forms necessary for the
 7 implementation of this act; and

8 c. To adopt any rules and regulations pursuant to the
 9 "Administrative Procedure Act," P. L. 1968, c. 410 (C.
 10 52:14B-1 et seq.) as he may deem necessary to effectuate the
 11 purposes of this act.

1 8. (New section) The taxes imposed by this act shall be governed
 2 in all respects by the provisions of the "state tax uniform pro-
 3 cedure law," Subtitle 9 of Title 54 of the Revised Statutes, but only
 4 to the extent that a specific provision of this act or any rule or
 5 regulation required to be promulgated by this act may be in con-
 6 flict therewith.

1 9. a. (New section) Notwithstanding the provisions of any law
 2 to the contrary, the owner or operator of a sanitary landfill facility
 3 may collect the taxes and surcharges levied and imposed pursuant
 4 to this act by imposing an automatic surcharge on any tariff estab-
 5 lished pursuant to law for the solid waste disposal operations of
 6 the sanitary landfill facility.

7 b. For the purposes of this act, all municipal, county, and State
 8 contracts for solid waste collection and disposal shall be considered
 9 tariffs for solid waste collection, and shall be subject to any adjust-
 10 ment of tariffs resulting from the provisions of this act.

1 10. (New section) a. The Board of Public Utilities shall, within
 2 60 days of the effective date of this act, issue an order adjusting

3 the tariffs established pursuant to law for solid waste collection
4 operations by an amount equal to the total amount of the increase
5 in the adjusted tariffs for solid waste disposal operations to take
6 effect on the date on which the tax is imposed.

7 b. The Board of Public Utilities shall, by the date of any increase
8 in the services tax or the investment tax required in subsection a.
9 of section 3 of this act, issue an order adjusting the tariffs estab-
10 lished pursuant to law for solid waste collection operations by an
11 amount equal to the total amount of the increase in the tariffs for
12 solid waste disposal operations that shall be adjusted on that date.

13 c. The Board of Public Utilities shall, within 60 days of notifica-
14 tion by the department that an additional surcharge shall be
15 imposed on an owner or operator of a sanitary landfill facility or
16 that the investment tax rate shall be adjusted in a manner other
17 than by the rate adjustments provided in subsection b. of section 3
18 of this act, issue an order adjusting the tariffs established pursuant
19 to law for solid waste collection operations by an amount equal
20 to the total amount of the increase in the tariffs for solid waste
21 disposal operations.

22 d. In issuing any order required by this section, the Board of
23 Public Utilities shall be exempt from the provisions of R. S.
24 48:2-21.

1 11. (New section) a. Each district, in consultation with the
2 department, may conduct a study to determine the tax rate esti-
3 mated to be necessary to be paid into the district investment tax
4 fund so as to lower the cost of resource recovery facility services
5 to a level which is competitive with the cost of disposal in a sani-
6 tary landfill utilized by the district.

7 b. After completion of the study, the district may request the
8 department to adjust the investment tax rate set forth in section 3
9 of this act to a rate, not to exceed \$2.80 per cubic yard, or the
10 equivalent thereof, which is consistent with the conclusions drawn
11 in the study and with the plan developed pursuant to subsection d.
12 of section 15. The district may request the department to adjust
13 the rate, subject to that maximum rate, on an annual basis in
14 accordance with the conclusions drawn as a result of a review of
15 the study and any additional information gained during the pre-
16 vious year.

17 c. The provisions of any law to the contrary notwithstanding,
18 two or more districts may conduct a joint study and establish a
19 single investment tax rate for the districts.

20 d. The department shall, upon approval of a request by a dis-
21 trict, notify the Board of Public Utilities and the director of the
22 investment tax rate adjustment in that district.

1 12. (New section) There is created a nonlapsing Solid Waste
2 Services Tax Fund to be the depository for the services tax moneys,
3 and any interest thereon, paid to the director pursuant to this act
4 and disbursed as provided herein.

1 13. (New section) a. Before any moneys in the services tax fund
2 are appropriated as provided hereunder, the cost of administration
3 and collection of the tax shall be paid out of that fund.

4 b. The moneys collected in the services tax fund shall be appro-
5 priated to the Department of Environmental Protection and shall
6 be used only in the following manner:

7 (1) By the department for solid waste planning, permitting,
8 regulation, enforcement and research, pursuant to the provisions
9 of the "Solid Waste Management Act," P. L. 1970, c. 39 (C. 13:1E-1
10 et seq.);

11 (2) By the department for reviewing the economic aspects of
12 solid waste management;

13 (3) By the department for administering the services tax fund;
14 and

15 (4) To provide State aid to solid waste management districts
16 for preparing, revising, and implementing solid waste management
17 plans. At least 50% of the annual balance of the services tax fund
18 shall be used for State aid and shall be distributed in amounts
19 proportionate to the population of each district, except that no
20 district shall receive less than 2% of the amount apportioned to
21 aid all districts. In the event that the department determines pur-
22 suant to section 17 of this act that any district shall fail to fulfill
23 its solid waste management planning responsibilities, the depart-
24 ment may withhold for the entire year or until the district fulfills
25 its responsibilities, all or a portion of the amount of moneys that
26 district would have received in any year pursuant to this para-
27 graph. Any moneys withheld for the entire year shall be distributed
28 among the remaining districts in the same proportion as the other
29 moneys were distributed.

1 14. (New section) There is created a Resource Recovery Invest-
2 ment Tax Fund to contain subaccounts for each district to be held
3 by the State Treasurer, to be the depository for:

4 a. The investment tax revenues collected by the director
5 resulting from the amount of solid waste generated from within
6 each county;

7 b. The surcharge revenues collected by the director resulting
8 from the acceptance of out-of-district waste;

9 c. The investment tax revenues collected by the director not
10 otherwise deposited in another investment tax fund subaccount

11 pursuant to subsections a. and b. of this section shall be
12 deposited in the receiving district's subaccount; and

13 d. Any interest thereon.

14 The moneys deposited in each district subaccount fund shall be
15 disbursed as provided herein.

1 15. (New section) a. Before the moneys in each investment tax
2 fund subaccount are appropriated as provided hereunder, the cost
3 of administration and collection of the tax and surcharge shall be
4 paid by the moneys in the subaccounts.

5 b. Each district shall create a District Resource Recovery In-
6 vestment Tax Fund, to be the depository of the moneys appropriated
7 to each district pursuant to this section to be administered by the
8 governing body of each county, and the Hackensack Commission, in
9 the case of the Hackensack Meadowlands District.

10 c. The moneys collected in each investment tax fund subaccount
11 shall be appropriated to each district for deposit in its district in-
12 vestment tax fund and shall be used only in accordance with a plan
13 prepared and approved pursuant to subsection d. of this section
14 and only for the following purposes:

15 (1) To reduce the rates charged by a resource recovery facility
16 serving the district in order to provide gradual transition between
17 resource recovery facility rates and sanitary landfill facility rates.
18 Any reductions may be achieved through use of investment tax
19 fund money; to pay construction costs and related facility start-up
20 costs, or to pay directly part of the fees charged for disposal at a
21 resource recovery facility.

22 (2) To cover any expenses directly related to the planning, design-
23 ing, financing, construction, operation or maintenance of a resource
24 recovery facility or the acquisition of the services of a resource
25 recovery facility, including expenses incurred if a study is con-
26 ducted pursuant to section 11 of this act;

27 (3) To design, finance, construct, operate, maintain environ-
28 mentally sound sanitary landfill facilities to be utilized for:

29 (a) Disposing of those solid wastes which cannot be pro-
30 cessed by a resource recovery facility or which result from the
31 operation of a resource recovery facility;

32 (b) Disposal of solid waste, on an interim basis, until a
33 resource recovery facility becomes operational; and

34 (c) Disposal of solid waste, on a long term basis, in those
35 districts which demonstrate to the satisfaction of the depart-
36 ment that utilization of a resource recovery facility is not
37 feasible for disposal of the solid waste generated in that dis-
38 trict; and

39 (4) To administer the investment tax fund, provided that not
40 more than two percent of the annual balance shall be used for
41 administration.

42 d. Within two years of the effective date of this act, and prior to
43 the disbursal of any funds, each district shall prepare a plan, includ-
44 ing a schedule, which shall outline the proposed uses of the moneys
45 in the district investment tax fund as well as describe the manner
46 in which those moneys will be disbursed. Each plan shall be adopted
47 as an amendment to the district solid waste management plan re-
48 quired pursuant to the provisions of the "Solid Waste Management
49 Act," P. L. 1970, c. 39 (C. 13:1E-1 et seq.). This plan may be
50 amended, as necessary, in accordance with the procedures provided
51 therefor pursuant to the "Solid Waste Management Act," P. L.
52 1970, c. 39 (C. 13:1E-1 et seq.).

53 e. Each district shall, by October 31 of each year in which moneys
54 remain in its district investment tax fund, file an audit of the
55 district investment tax fund and any expenditures therefrom with
56 the Local Finance Board in the Division of Local Government
57 Services in the Department of Community Affairs. The audit shall
58 be conducted by an independent public accountant.

59 f. Upon approval by the department, two or more districts may
60 establish a joint investment tax fund to receive the investment tax
61 fund revenues and any surcharge collected pursuant to section
62 3 of this act.

1 16. (New section) If the department shall determine that a dis-
2 trict has failed to fulfill its solid waste management planning re-
3 sponsibilities pursuant to section 17 of this act, the department
4 may assume the administration of the district investment tax fund
5 of that district and may use the moneys in the fund for the pur-
6 poses permitted in subsection c. of section 15 of this act for the
7 benefit of that district.

1 17. (New section) The department may determine that a district
2 has failed to fulfill its solid waste management planning responsi-
3 bilities as required by sections 11 and 12 of P. L. 1975, c. 326
4 (C. 13:1E-20 and 13:1E-21) and by subsection d. of section 15 of
5 this act. A determination of failure shall include a finding that the
6 district has not made a good faith effort toward fulfilling its
7 planning responsibilities.

1 18. (New section) Notwithstanding the provisions of any law,
2 rule or regulation to the contrary, as an alternative to any other
3 procedure provided for by law, the design, financing, construction,
4 operation or maintenance, or any combination thereof, of a resource
5 recovery facility or the provision of resource recovery facility

6 services may be procured by a contracting unit in accordance with
7 the provisions of sections 19 through 27 of this act.

1 19. (New section) Any contract between a vendor and a con-
2 tracting unit for the design, financing, construction, operation or
3 maintenance, or any combination thereof, of a resource recovery
4 facility or for the provision of the services of such a facility may
5 be awarded for a period not to exceed 40 years.

1 20. (New section) a. The contracting unit shall issue a request
2 for qualifications of vendors which shall include the date, time of
3 day and place by which qualifications shall be received and the
4 minimum acceptable qualifications, and which shall be made avail-
5 able to all potential vendors through adequate public notice which
6 shall include publication in at least one appropriate trade or pro-
7 fessional journal and a newspaper of general circulation in the
8 jurisdiction of the contracting unit. In addition to all other factors
9 bearing on qualification, the contracting unit may consider infor-
10 mation which might result in debarment or suspension of a vendor
11 from State contracting and may disqualify a vendor if the vendor
12 has been debarred or suspended by any State agency.

13 b. The contracting unit shall publish, in the same publications
14 in which notice of the request for qualifications appeared, a list
15 of qualified vendors and a statement setting forth the basis for
16 their selection.

1 21. (New section) a. The contracting unit shall issue a request
2 for proposals to the qualified vendors which shall include a de-
3 scription of the services and facilities required, the specific infor-
4 mation and data required, and a statement as to the relative im-
5 portance of price and other evaluation factors.

6 b. The contracting unit shall fix a date, time of day and place
7 by which proposals shall be received and shall specify the format
8 and procedure for submission of proposals. The contracting unit
9 may extend the time for submission of proposals provided that any
10 extension shall apply to all qualified vendors and the contracting
11 unit shall provide simultaneous written notice of any extension to
12 all qualified vendors.

1 22. (New section) a. Proposals shall be reviewed by the con-
2 tracting unit so as to avoid disclosure of contents to competing
3 vendors during the process of proposal review. A list of proposals
4 shall be prepared and shall be open for public inspection in the
5 offices of the contracting unit at reasonable hours for at least 30
6 days after the contract award.

7 b. As shall be provided in the request for proposals, discussions
8 may be conducted with qualified vendors who submit proposals

9 for the purpose of clarification to assure full understanding of, and
 10 responsiveness to, the solicitation requirements. Any revisions in
 11 the request for proposals which may be developed in the course
 12 of those discussions shall immediately be communicated to all quali-
 13 fied vendors. Revisions to proposals may be permitted after sub-
 14 missions and prior to award for the purpose of obtaining best and
 15 final offers. In conducting discussions, there shall be no disclosure
 16 of any information derived from proposals submitted by competing
 17 vendors.

1 23. (New section) a. The contracting unit shall designate the
 2 qualified vendor, or two vendors if simultaneous negotiation is to
 3 be conducted, whose proposal or proposals are determined in writ-
 4 ing to be the most advantageous to the public, taking into considera-
 5 tion price and the evaluation factors set forth in the request for
 6 proposals. No other factors or criteria shall be used in the evalua-
 7 tion. The contract file shall include the basis on which the desig-
 8 nation is made.

9 b. The contracting unit may negotiate a proposed contract, which
 10 shall include the accepted proposal, with the designated vendor.

1 24. (New section) Any contract to be awarded to a vendor pur-
 2 suant to the provisions of sections 19 through 27 of this act or pur-
 3 suant to the "Local Public Contracts Law," P. L. 1971, c. 198
 4 (C. 40A:11-1 et seq.) or any other contracting procedure authorized
 5 by law for resource recovery facilities, shall include where applica-
 6 ble, but not be limited to, provisions concerning:

7 a. Allocation of the risks of financing and constructing a resource
 8 recovery facility, such risks to include:

- 9 (1) Delays in project completion;
- 10 (2) Construction cost overruns and change orders;
- 11 (3) Changes necessitated by revisions in laws, rules or regu-
 12 lations;
- 13 (4) Failure to achieve the required operating performance;
- 14 (5) Loss of tax benefits; and
- 15 (6) The need for additional equity contributions.

16 b. Allocation of the risks of operating and maintaining a re-
 17 source recovery facility, such risks to include:

- 18 (1) Excess downtime or technical failure;
- 19 (2) Excess labor or materials costs due to underestimation;
- 20 (3) Changes in operating procedure necessitated by revi-
 21 sions in laws, rules or regulations;
- 22 (4) Changes in the amount or composition of the solid waste
 23 delivered for disposal;

24 (5) Excess operation or maintenance costs due to poor
25 management; and

26 (6) Increased costs of disposal of the resource recovery
27 facility residue.

28 c. Allocation of the risks associated with circumstances beyond
29 the control of any party to the contract;

30 d. Allocation of the revenues from the sale of energy;

31 e. Default and termination of the contract;

32 f. The periodic preparation by the vendor of an operating per-
33 formance report and an audited financial statement of the facility
34 which shall be submitted to the contracting unit, the department
35 and the Division of Local Government Services in the Department
36 of Community Affairs;

37 g. The intervals at which the contract shall be renegotiated; and

38 h. Employment of current employees of the contracting unit
39 whose positions will be affected by the terms of the contract.

1 25. (New section) Any new or substantially renegotiated con-
2 tract to be awarded to a vendor pursuant to this act shall be the
3 subject of a public hearing to be held by the contracting unit in
4 the jurisdiction of the contracting unit, prior to submission of the
5 contract for the approvals required in section 26 of this act, in
6 accordance with the following procedure:

7 a. The contracting unit shall provide adequate public notice of
8 the proposed contract award to prospective consumers and other
9 interested parties, which shall include publication in at least one
10 newspaper of general circulation in the jurisdiction of the con-
11 tracting unit;

12 b. The contracting unit shall schedule a meeting to be held within
13 45 days of publication of the public notice with consumer repre-
14 sentatives and other interested parties in order to present and
15 explain the terms and conditions of the contract and to receive
16 written questions which shall become part of the hearing record;

17 c. The contracting unit shall hold a public hearing within 90
18 days of providing notice of the proposed contract award at which
19 the questions submitted at the meeting held pursuant to subsec-
20 tion b. of this section shall be addressed. At the hearing, interested
21 parties may submit statements or additional questions concerning
22 the terms and conditions of the proposed contract;

23 d. The contracting unit shall, within 30 days of the close of the
24 hearing record, publish a hearing report which shall include all
25 issues and questions raised at the hearing and the contracting
26 unit's response thereto; and

27 e. The hearing report and the determination of the contracting

28 unit concerning the terms and conditions of the contract shall be
29 provided to all interested parties and hearing attendees at least 15
30 days prior to submission of the contract for the approvals required
31 in section 26 of this act.

1 26. (New section) a. Any new or substantially renegotiated con-
2 tract to be awarded to a vendor and a copy of the public hearing
3 report shall be submitted to the department which shall approve or
4 disapprove the proposed contract based on its being consistent with
5 the district solid waste management plan adopted pursuant to the
6 provisions of the "Solid Waste Management Act," P. L. 1970, c. 29
7 (C. 13:1E-1 et seq.) within 60 days of receipt. If the department
8 shall disapprove the proposed contract, the contracting unit may
9 prepare an amended contract and, if the amendments are sub-
10 stantial, hold a public hearing thereon pursuant to the provisions
11 of section 25 of this act. Thereafter the amended contract may be
12 resubmitted for approval. In the alternative, the district solid
13 waste management plan may be amended so as to be consistent
14 with the proposed contract.

15 b. Any new or substantially renegotiated contract to be awarded
16 to a vendor and a copy of the public hearing report shall be sub-
17 mitted to Division of Local Government Services in the Department
18 of Community Affairs which shall approve or disapprove the pro-
19 posed contract within 60 days of receipt. The Division of Local
20 Government Services shall approve the contract if the division
21 finds, in writing, that the contract meets the requirements of section
22 24 of this act concerning the contents of the contract and that the
23 contract comports with the fiscal and financial capabilities of the
24 contracting unit. If the Division of Local Government Services dis-
25 approves the proposed contract, the division shall inform the
26 contracting unit, in writing, of the changes necessary for approval.
27 The contracting unit may then prepare an amended contract and,
28 if the amendments are substantial, hold a public hearing thereon
29 pursuant to the provisions of section 25 of this act. Thereafter, the
30 amended contract may be resubmitted for approval.

31 c. Any new or substantially renegotiated contract to be awarded
32 to a vendor pursuant to this act, pursuant to the "Local Public
33 Contracts Law," P. L. 1971, c. 198 (C. 40A:11-1 et seq.) or pur-
34 suant to any other contracting procedure authorized by law for
35 resource recovery facilities, shall be filed with the Board of Public
36 Utilities along with a copy of the public hearing report. The Board
37 of Public Utilities shall, within 90 days of receipt, review any con-
38 tract filed with it and approve that contract if the board finds the
39 contract to be in the public interest. If the Board of Public Utilities

40 disapproves the contract because the contract is not in the public
 41 interest, the board shall notify the contracting unit in writing of
 42 the changes needed in the contract in order for it to be in the public
 43 interest. The contracting unit may prepare an amended contract
 44 and, if the amendments are substantial, hold a public hearing
 45 thereon pursuant to the provisions of section 25 of this act. There-
 46 after the amended contract may be resubmitted for approval.

47 In reviewing and approving the contract, the Board of Public
 48 Utilities shall not determine a rate base for, or otherwise regulate
 49 the tariffs or return of, the proposed resource recovery facility. The
 50 board shall not, thereafter, conduct any further review of the
 51 contract.

52 d. Notwithstanding the provisions of subsection c. of this section,
 53 all parties to any contract may request the board to determine a rate
 54 base for the proposed resource recovery facility, in which case the
 55 board may make that determination and the terms of any contract
 56 so approved shall remain subject to the continuing jurisdiction of
 57 the board.

58 27. (New section) The contracting unit may award a contract
 59 for resource recovery facilities or services to a vendor only after
 60 a public hearing thereon and upon approval by the department, the
 61 Division of Local Government Services, and the Board of Public
 62 Utilities.

1 28. (New section) Whenever the Division of Rate Counsel in the
 2 Department of the Public Advocate represents the public interest in
 3 a proceeding held to consider a contract awarded pursuant to sec-
 4 tions 19 through 27 of this act, the Director of the Division of Rate
 5 Counsel may assess the vendor in the manner provided for in section
 6 20 of P. L. 1974, c. 27 (C. 52:27E-19).

1 29. (New section) A contracting unit may lease or sell the site for
 2 a resource recovery facility to a vendor which has been awarded a
 3 contract pursuant to this act or, pursuant to the "Local Public
 4 Contracts Law," P. L. 1971, c. 193 (C. 40A:11-1 et seq.) or pursuant
 5 to any other contracting procedure authorized by law for resource
 6 recovery facilities.

1 30. (New section) Any contracting unit which has substantially
 2 and materially complied with the provisions of sections 20 through
 3 23 of this act, prior to the effective date of this act, as determined
 4 by the department, may award contracts pursuant to the provisions
 5 of this act.

1 31. (New section) a. Each district which is awarded a franchise
 2 pursuant to the provisions of section 6 of P. L. 1970, c. 40 (C.
 3 48:13A-5) may award subfranchises to one or more persons en-

gaged in operating a resource recovery facility in all or any part of that district, provided that any subfranchise so awarded does not alter the terms of any franchise awarded by the Board of Public Utilities and that the subfranchise shall conform to the solid waste management plan for that district as approved by the department.

b. Subfranchises awarded pursuant to this section shall be of sufficient area to support the estimated technical and economic needs of the resource recovery facility which is to serve the district or portion thereof.

32. (New section) a. The department may adopt any rules and regulations pursuant to the provisions of the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B-1 et seq.) as it may deem necessary to effectuate the purposes of this act.

b. The Board of Public Utilities may adopt any rules and regulations pursuant to the provisions of the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B-1 et seq.) as it may deem necessary to effectuate the purposes of this act.

c. The Division of Local Government Services in the Department of Community Affairs may adopt any rules and regulations pursuant to the provisions of the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B-1 et seq.) as it may deem necessary to effectuate the purposes of this act.

33. (New section) Any additional expenditures made by a municipality or county necessary to comply with an order, issued by the department pursuant to the provisions of the "Solid Waste Management Act," P. L. 1970, c. 39 (C. 13:1E-1 et seq.) and the Board of Public Utilities pursuant to the "Solid Waste Utility Control Act of 1970," P. L. 1970, c. 40 (C. 48:13A-1 et seq.), to transport solid waste to a resource recovery facility, or any expenditures necessary to reflect adjustment in rates, fees or other charges made in connection with the taxes and surcharges imposed pursuant to section 3 of P. L. c. (C.) (now pending before the Legislature as Assembly Bill No. 1778 of 1984), or the provisions of a contract entered into pursuant to the provisions of P. L. , c. (C.), (now pending before the Legislature as Assembly Bill No. 1778 of 1984), shall, for the purposes of P. L. 1976, c. 68 (C. 40A:4-45.1 et seq.), be considered an expenditure mandated by State law.

34. Section 11 of P. L. 1975, c. 326 (C. 13:1E-20) is amended to read as follows:

11. a. (1) Within 360 days after the effective date of this amendatory and supplementary act, the respective boards of chosen freeholders, in the case of counties, and the Hackensack Com-

6 mission, in the case of the Hackensack Meadowlands District,
7 shall develop and formulate, pursuant to the procedures herein
8 contained, a solid waste management plan for each respective solid
9 waste management district; provided, however, that the commis-
10 sioner may extend such period for a maximum of 45 additional
11 days upon the certification of the board of chosen freeholders or
12 the Hackensack Commission, as the case may be, of the causes of
13 the delay in developing and formulating a plan, and upon the
14 commissioner's determination that an extension will permit the
15 development and formulation of a solid waste management plan
16 as required herein. Within 90 days of the effective date of this
17 act, each district shall make the necessary personnel, financial and
18 legal arrangements to assure the development and formulation
19 of the plan within 360 days of the effective date of this act.
20 Every such solid waste management plan shall be developed and
21 formulated to be in force and effect for a period of *not less than*
22 10 years, upon the expiration of which a new plan shall be developed
23 and formulated pursuant to the procedures herein contained; pro-
24 vided, however, that every such plan shall contain provisions for
25 automatic review thereof not less than once every two years
26 following the approval thereof by the department, which review
27 shall be undertaken by the board of chosen freeholders or the
28 Hackensack Commission, as the case may be; and, provided further,
29 however, that every such plan may be reviewed at any time by the
30 department. Upon such review, if the board of chosen freeholders,
31 the Hackensack Commission, or the department, as the case may
32 be, determines that any solid waste management plan, or any part
33 thereof, is inadequate for the purposes for which it was intended,
34 such board of chosen freeholders or the Hackensack Commission, as
35 the case may be, shall develop and formulate a new solid waste
36 management plan, or any part thereof, and such new plan, or part
37 thereof, shall be adopted thereby pursuant to the procedures con-
38 tained in section 14 of this amendatory and supplementary act.

38A Nothing herein contained shall be construed as to prevent any
38B board of chosen freeholders or the Hackensack Commission from
38C readopting a solid waste management plan upon the expiration of
38D same in a solid waste management district; provided, however,
38E that any such readoption shall be pursuant to the provisions of
38F section 14 of this amendatory and supplementary act.

39 (2) Any two or more districts may formulate and adopt a single
40 solid waste management plan which shall meet all the requirements
41 of this act for the combined area of the cooperating solid waste
42 management districts.

b. (1) To assist each board of chosen freeholders in the development and formulation of the solid waste management plans required herein, an advisory solid waste council shall be constituted in every county and shall include municipal mayors or their designees, persons engaged in the collection or disposal of solid waste and environmentalists. The respective size, composition and membership of each such council shall be designated by the respective boards of chosen freeholders. In the Hackensack Meadowlands District, the Hackensack meadowlands municipal committee, established pursuant to article 4 of P. L. 1968, c. 404 (C. 13:17-7 and 13:17-8), is hereby designated an advisory solid waste council for the purposes of this amendatory and supplementary act; provided, however, that nothing herein contained shall be construed as in any way altering the powers, duties and responsibilities of the Hackensack Meadowlands municipal committee except as herein specifically provided. The respective boards of chosen freeholders and the Hackensack Commission shall consult with the relevant advisory solid waste council at such stages in the development and formulation of the solid waste management plan as each such board of chosen freeholders or the Hackensack Commission, as the case may be, shall determine; provided, however, that a solid waste management plan shall be adopted as hereinafter provided only after consultation with the relevant advisory solid waste council.

(2) In the development and formulation of a solid waste management plan for any solid waste management district, the board of chosen freeholders or the Hackensack Commission, as the case may be, shall:

(a) Consult with the county or municipal government agencies concerned with, or responsible for, water pollution control, water policy, water supply, or zoning or land use within the solid waste management district;

(b) Review such plans for solid waste collection and disposal proposed by, or in force in, any municipality or municipalities within the solid waste management district, to determine the suitability of any such plan, or any part thereof, for inclusion within the solid waste management plan of the solid waste management district; and

(c) Consult with persons engaged in solid waste collection and disposal in the solid waste management district.

35. Section 6 of P. L. 1970, c. 40 (C. 48:13A-5) is amended to read as follows:

6. a. The Board of Public [Utility Commissioners] Utilities shall, after hearing, by order in writing, when it finds that the public

5 interest requires, designate any municipality as a franchise area
 6 to be served by one or more persons engaged in solid waste collec-
 7 tion and *may award* any solid waste management district [as] a
 8 franchise [area to] which shall be served by one or more persons
 9 engaged in solid waste disposal at rates and charges published in
 10 tariffs or contracts accepted for filing by the board; provided,
 11 however, that the proposed franchise area for solid waste collection
 12 or the proposed franchise for solid waste disposal conforms to the
 13 solid waste management plan of the solid waste management
 14 district in which such franchise area is to be located or such fran-
 15 chise is to be awarded, as such plan shall have been approved by
 16 the Department of Environmental Protection.

17 b. Upon application by any solid waste management district,
 18 the Board of Public Utilities shall, by order in writing, award a
 19 solid waste management district, or two or more districts, a fran-
 20 chise which shall be served by a person engaged in operating a
 21 resource recovery facility, provided that the proposed franchise
 22 shall conform to the solid waste management plan, as approved by
 23 the department, of the solid waste management district or districts
 24 to which the franchise will be awarded.

25 Each district awarded a franchise pursuant to this subsection
 26 may award subfranchises pursuant to the provisions of section 81
 27 of P. L. c. (C.) (now pending before the Legis-
 28 lature as Assembly Bill No. 1778 of 1984), provided the subfran-
 29 chises do not alter the terms of a franchise awarded pursuant to
 30 this subsection.

31 c. Franchises awarded pursuant to this section shall be of suffi-
 32 cient area to support the estimated technical and economic needs of
 33 the resource recovery facility which is to serve the district or
 34 portion thereof.

35 d. For the purposes of this section, franchise shall mean the
 36 exclusive right to control the disposal of solid waste within a
 37 district as awarded pursuant to this section.

38 e. The board shall encourage the consolidation of all accounts,
 39 customers, routes and facilities by persons engaged in solid waste
 40 collection [or] within franchise areas or in solid waste disposal
 41 [within such] pursuant to a franchise [areas].

42 Nothing in section 11 of this act (C. 48:13A-10) shall be inter-
 43 preted to prevent the implementation of this section by the Board
 44 of Public [Utility Commissioners] Utilities.

1 36. Section 15 of P. L. 1971, c. 198 (C. 40A:11-15) is amended to
 2 read as follows:

3 15. Duration of certain contracts. All purchases, contracts or

4 agreements for the performing of work or the furnishing of ma-
 5 terials, supplies or services shall be made for a period not to exceed
 6 12 consecutive months, except that contracts or agreements may
 7 be entered into for longer periods of time as follows:

8 (1) Supplying of

9 (a) Fuel for heating purposes, for any term not exceeding
 10 in the aggregate, two years;

11 (b) Fuel or oil for use of airplanes, automobiles, motor
 12 vehicles or equipment for any term not exceeding in the aggre-
 13 gate, two years;

14 (c) Thermal energy produced by a cogeneration facility, for
 15 use for heating or air conditioning or both, of any term not
 16 exceeding 40 years, when the contract is approved by the Board
 17 of Public Utilities. For the purposes of this paragraph, "cogen-
 18 eration" means the simultaneous production in one facility of
 19 electric power and other forms of useful energy such as heating
 20 or process steam.

21 (2) (Deleted by amendment; P. L. 1977, c. 53.)

22 (3) The collection and disposal of garbage and refuse, for any
 23 term not exceeding in the aggregate, five years;

24 (4) The recycling of solid waste, for any term not exceeding 25
 25 years, when such contract is in conformance with a solid waste
 26 management plan approved pursuant to P. L. 1970, c. 39 (C. 13:1E-1
 27 et seq.), and with the approval of the Division of Local Government
 28 Services and the Department of Environmental Protection;

29 (5) Data processing service, for any term of not more than three
 30 years;

31 (6) Insurance, for any term of not more than three years;

32 (7) Leasing or servicing of automobiles, motor vehicles, [elec-
 33 tronic communications equipment,] machinery and equipment of
 34 every nature and kind, for a period not to exceed three years; pro-
 35 vided, however, such contracts shall be entered into only subject
 36 to and in accordance with the rules and regulations promulgated
 37 by the Director of the Division of Local Government Services of
 38 the Department of Community Affairs;

39 (8) The supplying of any product or the rendering of any service
 40 by a telephone company which is subject to the jurisdiction of the
 41 Board of Public Utilities for a term not exceeding five years;

42 (9) Any single project for the construction, reconstruction or
 43 rehabilitation of any public building, structure or facility, or any
 44 public works [projects] project, including the retention of the
 45 services of any architect or engineer in connection therewith, for
 46 the length of time authorized and necessary for the completion of
 47 the actual construction;

48 (10) The providing of food services for any term not exceeding
49 three years;

50 (11) On-site inspections undertaken by private agencies pur-
51 suant to the "State Uniform Construction Code Act" (P. L. 1975,
52 c. 217; C. 52:27D-119 et seq.) for any term of not more than three
53 years;

54 (12) The performance of work or services or the furnishing of
55 materials or supplies for the purpose of conserving energy in build-
56 ings owned by, or operations conducted by, the contracting unit,
57 the entire price of which to be established as a percentage of the
58 resultant savings in energy costs, for a term not to exceed 10 years;
59 provided, however, that such contracts shall be entered into only
60 subject to and in accordance with rules and regulations promulgated
61 by the Department of Energy establishing a methodology for com-
62 puting energy cost savings[.];

63 (13) *The performance of work or services or the furnishing of*
64 *materials or supplies for the purpose of elevator maintenance for*
65 *any term not exceeding three years;*

66 (14) *Leasing or servicing of electronic communications equip-*
67 *ment for a period not to exceed five years; provided, however, such*
68 *contract shall be entered into only subject to and in accordance*
69 *with rules and regulations promulgated by the Director of the Divi-*
70 *sion of Local Government Services of the Department of Com-*
71 *munity Affairs;*

72 (15) *Leasing of motor vehicles, machinery and other equipment*
73 *primarily used to fight fires, for a term not to exceed seven years,*
74 *when the contract includes an option to purchase, subject to and in*
75 *accordance with rules and regulations promulgated by the Director*
76 *of the Division of Local Government Services of the Department of*
77 *Community Affairs;*

78 (16) *The provision of solid waste disposal services by a resource*
79 *recovery facility, or the design, construction, operation or mainte-*
80 *nance of a resource recovery facility for a period not to exceed 40*
81 *years when the contract is approved by the Division of Local*
82 *Government Services in the Department of Community Affairs, the*
83 *Board of Public Utilities, and the Department of Environmental*
84 *Protection; and when the facility is in conformance with a solid*
85 *waste management plan approved pursuant to P. L. 1970, c. 39*
86 *(C. 13:1E-1 et seq.). For the purposes of this subsection, "resource*
87 *recovery facility" means a solid waste facility for the collection,*
88 *separation, recycling and recovery of metals, glass, paper and other*
89 *materials for reuse or for energy production.*

90 All multi-year leases and contracts entered into pursuant to this

91 section 15, except contracts for the leasing or servicing of equip-
 92 ment supplied by a telephone company which is subject to the
 93 jurisdiction of the Board of Public Utilities [or], *contracts for*
 94 *thermal energy authorized pursuant to subsection (1) above, con-*
 95 *struction contracts authorized pursuant to subsection (9) above, or*
 96 *contracts and agreements for the [provisions] provision of work or*
 97 *the supplying of equipment to promote energy conservation, au-*
 98 *thorized pursuant to subsection (12) above, or contracts for re-*
 99 *source recovery services or a resource recovery facility authorized*
 100 *pursuant to subsection (16) above shall contain a clause making*
 101 *them subject to the availability and appropriation annually of*
 102 *sufficient funds as may be required to meet the extended obligation*
 103 *or contain an annual cancellation clause.*
 104 The Division of Local Government Services shall adopt and
 105 promulgate rules and regulations concerning the methods of ac-
 106 counting for all contracts that do not coincide with the fiscal year.
 1 37. This act shall take effect immediately except for section 36
 2 which shall take effect the first day of the third month following
 3 enactment.

STATEMENT

The State's capacity to dispose of its non-hazardous solid waste through landfilling is rapidly diminishing. As required under the "Solid Waste Management Act," P. L. 1970, c. 39 (C. 13:1E-1 et seq.), each solid waste management district has prepared a plan for solid waste management. Most of the plans developed provide for the establishment of resource recovery facilities to replace the sanitary landfills currently in use. Resource recovery facilities provide an environmentally acceptable means of solid waste disposal and also will convert waste to energy and thereby be more economically efficient than landfilling.

The construction and initial operation of resource recovery facilities are highly capital intensive and, therefore, the owners or operators of the facilities may need to charge disposal fees which, at least initially, will be substantially higher than landfill disposal fees. In order to encourage and facilitate the provision of resource recovery services, it is necessary to reduce the initially high cost of these disposal services so that the fees are more competitive with landfill disposal fees.

This bill provides for a resource recovery investment tax on solid waste disposal at sanitary landfills to be placed in a resource recovery investment fund in each solid waste district for later use in

subsidizing the transition to resource recovery. The tax will be levied on all solid waste generated within each district at an initial rate of \$0.28 per cubic yard of waste. Thereafter, the tax will be automatically increased by \$0.28 at 18 months, 30 months, and 42 months after the tax is first imposed unless otherwise adjusted by the district with the approval of the Department of Environmental Protection. In addition, the bill provides for a surcharge on the tax to be levied on all out-of-district waste received in a district at a rate of \$0.21 per cubic yard. The funds generated by the surcharge will be retained in the resource recovery fund of the receiving district as compensation for accepting solid waste from another district and to provide an incentive to districts that send waste to another district to discontinue that practice.

This bill also provides for the imposition of an additional tax to be levied on all solid waste accepted at landfills at a rate of \$0.25 per cubic yard. At least 50% of the funds generated by this additional tax will be distributed among the 22 solid waste management districts for the purpose of preparing, revising, and implementing solid waste management plans. The remaining funds will be used by the Department of Environmental Protection for research, planning, permitting, regulating and enforcing the provisions of the Solid Waste Management Act and for administering the services tax fund.

To attract private sector financing of resource recovery facilities, it is necessary to remove any institutional impediments which now exist. This bill would encourage private sector financing of resource recovery facilities by establishing a method of procurement by local government through the use of long term negotiated contracts, designated franchises and simplified rate setting as an alternative to traditional public utility regulation. This process would be subject to strict scrutiny by the Department of Environmental Protection, the Board of Public Utilities and the Department of Community Affairs.

ASSEMBLYMAN HARRY A. McENROE (Chairman): Good morning. I would like to welcome everyone to our public hearing. Our Committee is comprised of members of the General Assembly of the State of New Jersey. We have the responsibility of conducting hearings regarding various legislation which affects the public, particularly county government and regional authorities.

We have held two prior public hearings on this particular bill, A-1778, of which I am the sponsor. Both of these gentlemen are members of this Committee, and they are cosponsors of the legislation. On my right is the Vice Chairman of the Committee, Assemblyman Thomas Pankok. Assemblyman Pankok resides in this great County of Salem, and he has served on the Board of Freeholders in this County for many years. He initiated this meeting today, and asked that our Committee come to the southern part of the State to address the questions and provide the forum for those individuals who wish to comment on the bill. Mr. Pankok has taken this responsibility very seriously. We have had other meetings which he has attended, and I want to congratulate Tom on bringing us here on such a pleasant afternoon in such an historic place. Certainly, the great history of New Jersey is reflected in the Town of Salem and in the kind of people they have sent to the legislature -- namely, Assemblyman Pankok.

Tom, I want to thank you very much for inviting us here this afternoon.

Also, we have Assemblyman John Hendrickson here, representing Ocean County, a nearby County which is also in southern New Jersey. John, again, is a cosponsor of the legislation.

I will comment just briefly, if I may, on the intent of the legislation. Of course, it establishes a framework for the orderly development of sanitary landfills and resource recovery, where applicable, across the State of New Jersey. All of us, I think, are aware of the diminishing capacity of landfill in our State and with the continual requirements of doing things in a more environmentally accepted manner.

The bill, in a very general way, establishes a framework. It establishes a new way of providing a stable source of funding for this

proposal, and of course, it impacts on how a county determines the methodology of solid waste disposal. It also allows the Board of Public Utilities to establish each of the counties which are referred to in the bill as "solid waste districts." It establishes them as the "holders of the franchise." In other words, they regulate the flow of solid waste within their particular districts.

As I mentioned, we have had two public hearings -- one in the State House, and one in Essex County. We are here this afternoon in Salem County.

We'll begin our proceedings by asking the Commissioner of the Department of the Public Advocate of the State of New Jersey, Mr. Joseph Rodriguez, to join us.

COMMISSIONER JOSEPH H. RODRIGUEZ: Thank you, Mr. Chairman.

ASSEMBLYMAN McENROE: I'm sure, Commissioner, you know my two colleagues. This is our Committee Aide, Ms. McNutt.

COMMISSIONER RODRIGUEZ: Yes, we have met. Assemblyman Pankok certainly realizes that it is a pleasure to welcome the members of our Legislature in North Jersey to sunny South Jersey. We will always welcome the North Jersey group to visit with us in this lovely part of our State.

I appreciate the opportunity to address this Committee, and for allowing me to share my views on resource recovery and solid waste disposal. I appreciate the opportunity because we're doing it in light of the gravity and complexity of the problems we are now facing.

The issue before us -- how to manage our solid waste problems over the coming years and decades -- is one that must be addressed with great care. The decisions we make today will have an impact on our children and our grandchildren.

Briefly, I wish to make the following points: We must now seek alternatives to landfill disposal. While resource recovery facilities may be one component of a comprehensive solid waste disposal plan, it should only be pursued along with other waste reduction methods, such as recycling, sewer separation, and composting.

Resource recovery facilities admit a host of pollutants, which may pose serious problems to our health and environment. In

order to reduce these hazards, the State of New Jersey must adopt the most stringent and comprehensive environmental standards to regulate the design and operation of resource recovery facilities.

With respect to the privatization alternative proposed in Assembly Bill 1778, I believe the rate-base rate of return approach traditionally followed by the Board of Public Utilities, together with the innovative rate-making techniques outlined in the resource recovery generic hearings, are sufficient to provide adequate economic incentives for the development of resource recovery facilities in this State. However, I recognize some investors believe that private contracts between counties and vendors are necessary to promote private investment in resource recovery facilities. As I will explain later in my testimony, I feel that modification of this option is needed to protect our communities, our consumers, and the public interest.

I would like to first address the importance of eliminating our dependency on landfills. According to the Department of Environmental Protection, only two to three years of landfill capacity exist in New Jersey. Therefore, we need, and must explore and develop, new approaches to solid waste disposal. Resource recovery facilities can certainly be one component of a comprehensive disposal strategy, but the hazards and costs associated with resource recovery must be addressed. I am happy to see, Mr. Chairman, that those issues will be addressed.

A review of the scientific literature reveals that resource recovery plants emit a number of pollutants and residue into the air. These include heavy metals, toxic organic substances, and acid gases. These toxic substances are released in forms that may result in chronic adverse health effects and environmental damage. For example, the New Jersey Department of Environmental Protection reports that resource recovery facilities in New Jersey are expected to generate some 283 tons of lead emissions in 1990. Lead is a toxic metal which affects the gastrointestinal system, the liver, the kidneys, the blood, and the central nervous system, and it has been identified as a carcinogenic substance.

Scientists have also consistently found toxic organic substances, such as dioxin, in resource recovery plants in both the United States and Europe. In addition, resource recovery facilities can produce substantial quantities of acid gas, even with the controls presently required under New Jersey law.

A large resource recovery facility could emit over a ton of hydrogen chloride daily. These acid gas emissions may irritate a person's eyes and throat, produce acid rain, and cause damage to certain crops, such as tomatoes and corn.

While we acknowledge resource recovery as a method of solid waste disposal, we should minimize the environmental and public health hazards associated with these facilities. The most common-sense method of reducing the environmental dangers of resource recovery is simply to burn less garbage. The State Advisory Committee on Recycling states that we can recycle 55% of our waste stream, and the State Office on Recycling has established an annual 25% recycling rate as its statewide recycling goal. If New Jersey recycled 25% of its waste stream, we could reduce the amount of solid waste incinerated and the amount of required landfill space by some 2,700 tons per day. As a result, fewer and smaller resource recovery facilities could dispose of New Jersey's solid waste.

A smaller resource recovery plant could incinerate less refuse and emit fewer pollutants into the air. It would also generate less residue for disposal in landfills. Moreover, a downsized resource recovery plant would require much lower capital and operational costs. For example, Essex County has downsized their proposed resource recovery plant by some 15% as a result of anticipated recycling programs. Essex County reports that this 15% reduction in plant size will reduce ash residue by at least 39,000 tons each year, and it will result in a savings of \$20 million or more in construction costs. If a recycling rate of 25% or higher were accomplished, emissions and costs would drop even further.

Recycling programs will also reduce toxic emissions from resource recovery plants in another manner. If certain items, such as metals and plastics, are removed from the waste stream before

incineration, the emissions of toxic organic substances, heavy metals, and acid gases will be substantially reduced.

A pre-combustion separation program will also improve the burning efficiency of resource recovery facilities. Waste components, such as metal, glass, plastic, oil, fiber, and organic matter have a higher resource value if they are recycled or processed, rather than incinerated for energy. When these materials are removed from the waste stream, the remaining solid waste will have an improved energy content. In order to achieve the recycling benefits I just described, I recommend the following actions:

The Department of Environmental Protection should require each resource recovery plant applicant to incorporate a waste reduction program into their planned operation before a plant is permitted to operate. Each county should incorporate a mandatory recycling component into its solid waste management plan. Recycling would not only be environmentally beneficial to the counties, but it would also make economic sense to adopt such a program.

The State of New Jersey should aggressively seek to develop markets for recycled goods, and we should create economic incentives and financial assistance to encourage waste reduction and recycling programs.

With regard to Assembly Bill 1778, this Committee could dramatically improve the economic climate for waste and reduction of recycling by addressing Section 15 of the bill, so that the Resource Recovery Investment Tax could be used for waste reduction and recycling programs, as well as for resource recovery. If these measures are adopted, New Jersey will significantly reduce the size of our waste stream, cause fewer pollutants to be emitted from resource recovery facilities, and extend the life of our State's diminishing number of landfills.

In addition to reducing the size of our waste stream, the State of New Jersey should also issue comprehensive and vigorous environmental regulations to reduce emissions of harmful pollutants and to address the hazardous nature of the residue.

Although the New Jersey Department of Environmental Protection is currently drafting standards for the design and operation of resource recovery facilities, it is essential that these standards be in place before facilities are permitted to operate.

We seek the adoption of operational and design standards by the DEP which would require applicants to incorporate the best available control technology into the design of their facilities to reduce toxic emissions. The Department of Environmental Protection should also issue regulations which specify both ambient air standards and emission rates for the heavy metals and toxic organic substances which are emitted from resource recovery facilities.

In order to minimize any adverse health effects to an environmental impact of resource recovery plants, DEP should, at the outset, establish a program for continuous testing of the effects of the plants' emission. This testing should include an evaluation of the toxicity of resource recovery plant emissions and of the ash residue.

More specifically, the bill makes an assumption that the resource recovery tipping fees significantly exceed landfill rates, and therefore, must be subsidized. Although we understand that is a legitimate concern, we simply want to address this Committee's attention to the fact that the co-generation component of the plan certainly is one that lends itself to some flexibility with respect to generating greater income if we address the cost of electricity, which certainly could affect what the future tax could be. This is something which should be addressed.

Secondly, with respect to the option of the so-called privatization of private contract, as I said before, we're in agreement with the Board, in determining its generic hearing last month, that it could be done through the Board and by its regulations. We certainly feel that is a better mechanism. Yet, understanding that we are definitely in a crisis situation in New Jersey, and understanding that we must do something to encourage addressing that problem, so that we can once and for all stop dumping garbage where we draw our drinking water, we feel that the alternative which is being recommended is a reasonable one.

We suggest, however, that the Board have the right to make specific conditions when it has to contract for the purpose of approval, before any approval is made. We suggest that it be given the right to send a contract back for renegotiation if, in fact, they find something which is not acceptable in the contract. A review should be made, and the Board should be permitted to make the review, anytime there is an alteration to the contract. The bill says, "substantial alteration," but we think the public interest is so definitely involved that "any alteration" should be given back to the Board for its review.

The review process incorporates a 90-day period. We, therefore, feel that the bill should be clearer on the procedure to be followed within that 90-day period, so that the limitation will not be a burden on the clear airing of the party's concerns in addressing issues that may be in the public interest. We feel confident that rules and regulations can be developed by our Department and by the Board of Public Utilities in order to meet what we believe is the necessary timing to meet the crisis that is in place. It is certainly something that should be addressed, so that the review process doesn't, in any way, foreclose the ability of legitimate concerns to be aired and addressed, if, in fact, they are to occur.

A technical amendment to Section 28: It provides for the funding of the Division of Rate Counsel. Where the funding is in keeping with the way we are now funded, I would suggest that because this is a start-up bill, that a provision be made for the first year of funding to include the one-tenth of one percent of the estimated gross revenues of the facility during the first year of its operation. In order to permit the funding to start up, before you have the year experience, there would have to be a triggering mechanism during the first year. Then, of course, every subsequent year could follow consistently with the way we are now funded in rate cases.

With respect to Section 31, we feel that the Board of Public Utilities, as it awards the franchise series, should also be the body which awards the sub-franchises. They should be given the ability to pass judgment on what occurs when a sub-franchise is recommended.

Finally, with respect to Section 33, it reads, "Any additional expenditure shall be considered an expenditure mandated by law." It would be our strong recommendation that it should read, "Any reasonable expenditure." It should be considered as expenditures mandated by State law. We certainly think the word "reasonable" gives greater public interest protection than the word "additional." At least it gives some right to review in the in public interest.

I am well aware that the members of this Committee are now faced with a tough decision on how the State will dispose of its solid waste. Assembly Bill 1778, if enacted, will raise roughly \$24 million a year to subsidize the costs of constructing, operating, and maintaining resource recovery facilities. These facilities may be an important part of our solid waste disposal approach; however, my concern is that the term "resource recovery" is considered synonymous with large incinerator facilities. Instead, it is my position that resource recovery should be defined more broadly. The term "resource recovery" should be viewed as a comprehensive and multi-faceted approach to solid waste disposal, which encompasses waste reduction and recycling methods, as well as incineration. The approach to our solid waste crisis has several benefits. It will substantially reduce our waste stream and extract considerable value in the form of recycled goods and energy from the solid waste generated by our society.

Resource recovery, in the broad sense I have defined it, must be conducted in an environmentally-safe manner and with appropriate financial incentives for recycling. Such a response to our solid waste crisis will not only benefit our environment and public health, but it will also reduce our dependency on landfills.

With that, Mr. Chairman, I thank you for the opportunity to be here and to make these remarks to this Committee.

ASSEMBLYMAN McENROE: Thank you very much, Commissioner. Your testimony is certainly very comprehensive, and we hope we will be provided with a copy of it.

COMMISSIONER RODRIGUEZ: Yes, what I will do is, I will provide a copy. It is not in final form, inasmuch as yesterday we had another hearing which went longer into the evening than I had expected. We will provide you with my testimony.

ASSEMBLYMAN McENROE: As you know, your comments are quite comprehensive, and they are certainly well received. The hearings we held previously also questioned the lack of the emphasis for recycling in the body of the bill, which I, as sponsor, recognize. The various definitions which I think you have helped to improve, I think, are worthy of consideration by the Committee. Your general comments regarding the goal we should establish for recycling and for potentially doing the job better are certainly welcome. The continuous testing by the DEP regarding air emissions is a matter, again, that we appreciate, because I think there is concern obviously on the part of the Committee, and myself as sponsor, that we address the matter of air emissions. Again, this is a matter that has been brought to us by the public, and to find the Public Advocate coming here and advising of your concern, is more impressive to us than any other testimony.

We do plan an additional hearing, at which time we will address the general question of air emissions as they relate to resource recovery facilities. In other words, it will go beyond the parameters of this particular bill, and it will address that question. Based on the hearing which we will tentatively schedule for May 14 at the State House, we will be addressing those concerns and possibly amending the bill to strengthen those areas of responsibility. Your proposal for continuous regulation certainly makes considerable sense.

COMMISSIONER RODRIGUEZ: If I may, my great concern is that we have dramatically recognized that we no longer can depend on landfills. It calls for no innovative approach. That, in essence, is taking place.

I would hate to see the effort lost by the lack of understanding of what it is that is occurring, because we now know that to continue to rely on landfill will be unacceptable.

I appreciate the opportunity to share these views, because one thing we can't get into is to suggest that nothing be done because we know that what we have is unacceptable. That is why I appreciate the opportunity to be heard.

ASSEMBLYMAN McENROE: Thank you very much. Are there any comments of the Vice Chairman? (no response) Are there any comments of Assemblyman Hendrickson? (no response)

Thank you, Commissioner. We appreciate your coming before us.

COMMISSIONER RODRIGUEZ: Thank you.

ASSEMBLYMAN McENROE: The next individual who has requested to be heard is Mr. John Purves, the Director of the Division of Solid Waste, Department of Health, Camden. Mr. Purves, will you join us?

Mr. Purves, I would like to introduce Mr. Pankok, the Vice Chairman of the Committee, and Mr. Hendrickson, a member of the Committee.

JOHN R. PURVES: Hello. I believe all of you have copies of my testimony.

ASSEMBLYMAN McENROE: Yes, we do.

MR. PURVES: Good afternoon, Chairman McEnroe and members of the Assembly County Government and Regional Authorities Committee. I welcome this opportunity to offer testimony on behalf of Camden County concerning Assembly Bill 1778.

I am the Administrator of the Division of Solid Waste Management for Camden County. As Administrator, I am responsible for the initiation and implementation of Camden County's Solid Waste Management Plan, of which resource recovery is a major objective.

I would like to commend the New Jersey Department of Environmental Protection and Assemblyman McEnroe for their bold initiative in sponsoring legislation that will make the necessary changes to foster the development of resource recovery in New Jersey. Many of these changes are supported by Camden County, and Camden County urges expeditious passage in the Legislature.

Before I comment on the legislation, I would like to describe the current status of solid waste planning in Camden County.

The County has sited one mass-burn, waste-to-energy facility in the County Solid Waste Management Plan which has been certified by the Commissioner of the New Jersey Department of Environmental Protection. A second waste-to-energy project has received formal approval by the Camden County Solid Waste Advisory Council. A public hearing has been scheduled for this project on May 1 before the Board of Chosen Freeholders. This second project, to be implemented by a

separate Solid Waste Management Authority, has gone through extensive review, and I expect expeditious inclusion in the County plan. A third facility, which will co-compost trash and sludge, has received formal approval by the Solid Waste Advisory Council, and they will wait for a public hearing to be held within thirty days. Again, I expect quick inclusion in the County plan. A fourth project is currently undergoing a third-party engineering review, and a fifth project is currently under review by the Solid Waste Advisory Council.

As can be seen by the above, Camden County is wasting no time in the development of alternative, environmentally-sound solid waste disposal facilities. The residents of this County have accepted the fact that we all must share in the responsibility of finding acceptable alternatives to landfills.

Another factor has contributed to the willingness of Camden County municipalities to accept resource recovery. The cheap disposal costs associated with landfills throughout New Jersey do not exist in Camden County. Three of our municipalities use a transfer station whose disposal rate approaches \$30.00 a ton. In addition, the Pennsauken Sanitary Landfill, which will be directed waste from 10 Camden County municipalities is currently before the Board of Public Utilities, asking for a new tariff of between \$40.00 and \$50.00 a ton. Thus, cheap landfill fees that have, heretofore, been a disincentive to the development of more expensive resource recovery projects is not an impediment to their development in Camden County.

There are, however, other serious impediments to their development, one of the most important being the procurement of these projects by the public sector. Camden County began a process last summer to procure a full-service vendor using the RFQ (Request for Qualification) preselection/RFP (Request for Proposal) concept. This process is ideally suited to select a vendor with experience in the field and with a proven track record of success. Camden County relied upon two prior Attorney General Opinions, dated July 1982 and January 1983, which provided an exemption from the local Public Contracts Law requirement of competitive bidding. However, after the hiring of financial advisors and bond counsel, and after meeting with the

Department of Environmental Protection, the Department of Community Affairs, and the Attorney General's Office, it became apparent that there was no clear-cut exemption and that there existed no recognized or legitimate RFQ/RFP procurement process in New Jersey.

This bill provides a procurement process which meets the needs of industry and enables municipal and county governments to get on with the business of selecting vendors. I applaud this change and encourage its passage as written.

A second problem has been the regulation of the solid waste industry as public utilities in New Jersey by the Board of Public Utilities. Testimony was given before the Board during their generic hearings last summer that suggested difficulty in financing these projects as long as they were considered public utilities, the reason being, that the Internal Revenue Service may not allow the considerable tax benefits to be utilized by development of these projects. These tax benefits make resource recovery attractive, and without these benefits, there may be little involvement by the private sector.

I encourage the passage of legislation that attempts to change the role of the BPU to allow a more favorable ruling by the IRS and which provides incentives for private industry to come to New Jersey to develop these projects. I hope the Legislature attempts to solicit expert advice in this field prior to enactment. The industry is very skeptical of involvement in New Jersey, while the BPU is involved, and the input by the industry is absolutely necessary.

The issue I am most concerned about is the myriad of taxes that will be imposed by the State if the bill passes as presently drafted. I understand the underlying basis for these taxes is the fact that cheap landfills in the State have been a disincentive to the development of more expensive resource recovery. This bill seeks to increase the costs of landfills so that resource recovery is attractive, and it also provides a fund to be used for financing these capital-intensive projects.

For a number of reasons, we are opposed to the imposition of all these taxes. First, Camden County faces some of the highest tipping fees at landfills already. If the BPU grants Pennsauken's rate

request, we will have tipping fees that exceed the range for resource recovery. The taxes imposed by this legislation will not result in Camden County moving more quickly to develop resource recovery; it will only serve to raise the cost to the taxpayers from the towns that use these landfills. Most of the costs at the Pennsauken Landfill are the result of it being a state-of-the-art landfill, with leachate collection, and a treatment system. Additional taxes on these landfills will only serve as a disincentive to the upgrading of our landfills.

Secondly, Camden County is moving as quickly as possible to finance these projects. We certainly hope that three to four will be well under way this year. Financing arrangements will have to be completed in the next few years, well in advance of the development of a sufficient fund to effectively assist in financing even one project in the State. We see this fund as providing money in the future for State programs, and not assisting Camden County, whose projects will need financial assistance very soon. This taxing structure will benefit counties which delay resource recovery and will penalize those which are well advanced.

Since these taxes will not provide sufficient revenues for years to come, and while Camden County continues to be in the unenviable position of high tipping fees, we would prefer developing an alternative funding mechanism. Perhaps placing a surcharge on our own municipalities or surcharging waste disposal in Camden County will result in a fund to be used by the facilities we will soon develop.

A third objection to the imposition of taxes is the requirements which will be imposed to adequately supervise the collection of these taxes and the distribution of the fund. We must be careful that we don't make counties responsible for hiring accounting teams, as well as the need now to have planners, engineers, and attorneys. I believe this burden will direct our energy away from sound environmental planning to a bureaucracy of tax collectors.

The only tax that this County can support is the imposition of surcharges on waste which is sent out of the County. This may come as a surprise from a county which sends part of its waste stream to a

neighboring county. However, this appears to be an equitable and just approach. I would like to point out that serious thought must be given to the enforcement of commercial waste haulers that cross county lines and dispose of mixed loads -- mixed loads meaning loads from a number of different communities, or more than one county. The industry will be hard-pressed to accurately report this type of waste generation.

In summary, I would like to state that the very necessary changes regarding procurement and BPU regulation should move forward as quickly as possible. The comprehensive plan on taxes should be considered at a later date, after a more careful review by county government and the solid waste industry. The taxing proposals may prove too controversial and will only serve to delay the other more important legislative changes.

Thank you.

ASSEMBLYMAN McENROE: Thank you very much, Mr. Purves. You have raised some additional points for the consideration of the Committee.

I want to ask you one question. Since Camden County is deciding on more than one facility within it, it is my understanding that there are strong incentives financially to size a resource recovery facility which could handle 2000 tons per day. In other words, the larger the facility, the more economies are available from the viewpoint of financial commitment. If you are going to build one, you are better off building a large one. Does Camden recognize that? I'm sure your planners have addressed that.

MR. PURVES: Well, Camden County has approximately 1300 to 1400 tons, so we really can't consider a facility of that size, unless we go to adjacent counties, which we have approached in the past. I think you are well aware that most counties want to do it on their own, so we haven't looked at that size. I think that size is certainly economical, provided you are looking at energy generation in the form of electricity. I think, though, if you are looking at sizing facilities or siting facilities close to potential energy users -- steam customers -- that changes dramatically.

One of the things we first saw in our planning process was, if you could size facilities closest to those energy users, to the steam requirements of customers, you would have the best return. There is really a hierarchy of returns. I think the best return is selling hot water and cooling water. We see that in such facilities as National Tennessee throughout Germany and Switzerland. After that is steam generation, and then electricity sales. So, if you are looking at a large facility, and you are only going to sell electricity, you are going to need a very large facility.

What we have been able to do in the County is to take a look at the various steam customers to see what is necessary for them, and we size facilities accordingly. We've done that with our second waste-to-energy project which is being sited in Pennsauken. They have two energy customers there -- two steam customers. It fits very nicely with their needs.

We have another facility, which is not a waste-to-energy facility, but is a co-composting facility. Again, that fits very well with the needs of a community to dispose of its sludge and trash.

So, we've really looked at what the needs of the communities are, and what would be best able to fit in with those needs, as well as the solid waste disposal.

We also found out through this process that by siting smaller facilities, a number of communities in the County share the burden of solid waste disposal. I think that is very important. It is very important that a municipality does not feel it is the only municipality that must take the entire waste stream from the county or even beyond the county. I think it tends to feel that it is being "dumped on," so to speak.

I think we have been able to go through and site more than one facility. In fact, we're hoping that very soon we'll site our fourth facility. The communities recognize that they must all share in the burden. We found it works out much better. It is easier to site them, and it is easier to implement them and develop them.

ASSEMBLYMAN McENROE: I congratulate the County on its success in siting these facilities, because it is one weak part of the effort. In fact, the siting question is a major question.

MR. PURVES: It certainly is the biggest hurdle they have to face in the very beginning of the process. That is right.

ASSEMBLYMAN McENROE: I appreciate your testimony. I find the recommendation on Page 6 of placing a surcharge on your own municipalities for their waste intriguing, and I will report to the Committee regarding your concern with beginning the funding mechanism with the privatization concept and the franchising question.

It seems to me that if we're going to establish a framework and commit our resources statewide to doing things in a better and more environmentally-sound way, you can't divorce that from the financial responsibilities of providing the funding. It seems to me that the environmental aspects and the economic aspects should travel down the road together. That is why the funding is triggered by the passage of the bill, as are the other parts of the bill.

Are there any questions? Assemblyman Hendrickson?

ASSEMBLYMAN HENDRICKSON: I have just one. Has Camden County done any cost analysis on what you are proposing?

MR. PURVES: As you know, the BPU sets the rates on these facilities, so it is very difficult at this time to make an agreement with various vendors in terms of what that final cost is going to be. In many ways, it is really a little early for that. An example of that is, Pennsauken, which is looking at a 450-ton per day facility, which will handle more than the Township of Pennsauken. It has set up a Solid Waste Management Authority to implement that project. We've been negotiating with them for two years, but it has only been in the last few months that we reached an agreement, and we have started the process of placing them in the County plan.

One of the concerns of the County has always been what the tipping fee is going to be. Can we establish it now? I think we've realized you can't do that at this point. They are just now starting their RFQ/RFP process, and we are really not going to know until we sign a contract with a vendor.

We're a little bit ahead of that. Their expectations are somewhere around \$22.00 to \$25.00 per ton. I think that may escalate as we take a look at the air standards and what will be necessary from an air pollution standpoint.

The Borough of Haddonfield, with the co-composting operation, is looking at making a contact with a sole-source vendor at around \$26.00 a ton. So, they are all around that same ball-park figure.

ASSEMBLYMAN HENDRICKSON: Thank you very much.

MR. PURVES: Okay, thank you.

ASSEMBLYMAN McENROE: Thank you very much. We appreciate your testimony.

We have two individuals who are representing Signal RESCO, which is a private concern involved in resource recovery planning and operation. Is Ms. MacArthur or Mr. Felago here? (affirmative reply)

Thank you. What is your name?

DOROTHY MacARTHUR: Dorothy MacArthur.

ASSEMBLYMAN McENROE: It is nice to meet you. These are the other members of the Committee: Mr. Hendrickson and Mr. Pankok.

MS. MacARTHUR: Thank you. I appreciate the opportunity to make comments before this Committee this afternoon.

I am Dorothy MacArthur, Research Associate with Signal RESCO, Inc., of New Brunswick, New Jersey, and I am presenting the following statement on behalf of Richard T. Felago, Project Manager, Business Development, in charge of New Jersey Projects. Signal RESCO was formed as a result of a merger between Wheelabrator-Frye, Inc., Hampton, New Hampshire, and the Signal Companies, LaJolla, California. It was created through the integration of the refuse-to-energy business activities of both companies -- the Energy Systems Division of Wheelabrator-Frye and the Solid Waste Systems Division of UOP.

Signal RESCO, Inc. pioneered the private ownership of resource recovery facilities in the United States with its RESCO project in Saugus, Massachusetts, which has been operating continuously since 1975. Currently, Signal RESCO has the following projects in various stages of implementation:

1. Our 2000-ton per day Pinellas County facility, located in St. Petersburg, Florida commenced operations in May, 1983. A third 1000-ton per day unit has already been financed by the County. Construction on that unit will commence shortly.

2. Westchester RESCO, Peekskill, New York, a 2250-ton per day facility, began commissioning in March, 1984. Commercial operations are scheduled for June, 1984.

3. The 2250-ton per day Baltimore RESCO facility, currently under construction near the newly-renovated harbor area of Baltimore, is more than 50% complete, with operations expected toward the end of 1984.

4. Construction on the 1500-ton per day North Andover project commenced in 1983, with commercial operations expected in 1985.

5. Negotiations are under way for projects in Bridgeport, Connecticut; Worcester, Massachusetts; and San Diego, California.

6. Signal RESCO is actively involved in projects for Middlesex and Gloucester Counties.

The proposed legislation, Assembly Bill 1778, has been introduced in an attempt to foster the "orderly development" of resource recovery projects in New Jersey. It seeks to accomplish this objective in two ways: (1) a series of taxes on existing landfills to be escrowed to offset higher tipping fees at resource recovery facilities; and (2) institution of a procurement process for resource recovery implementation.

The New Jersey Department of Environmental Protection is to be commended for taking an active role in attempting to solve the solid waste disposal crisis facing New Jersey, and for supporting the implementation of resource recovery as a means to meet that crisis. DEP recognizes that it is the price disparity between high-technology resource recovery facilities and low-technology landfills which has delayed the implementation of these important projects. DEP further recognizes the fact that there will be instances in which two or more districts will need to work together to find a mutually agreeable solution to their solid waste disposal problem. They are trying to find a means for "host" districts to be compensated for accepting waste from other districts.

Signal RESCO has several concerns, however, regarding whether or not the legislation, as proposed, will accomplish its objective of hastening the development of resource recovery in New Jersey, either

through the use of the taxes planned or through the use of the procurement process.

The legislation deals with the imposition of several new taxes, all for various funds. Using current waste generation statistics, these taxes will raise approximately \$6 million in the first year to be distributed among the twenty-two solid waste districts. Recognizing the fact that administrative costs will further reduce that amount, it would appear that a significant impact will not be made toward reducing resource recovery costs for several years. As we all know, New Jersey does not have several years to wait before implementing resource recovery.

The task of administering these various taxes is also a source of concern. By its own admission, DEP is understaffed. Will sufficient staff be allocated to cope with the additional record keeping required by the imposition of these new taxes?

Wouldn't the necessary funds be raised more efficiently through the use of a bond act or through the utilization of the existing BPU tariff-setting procedure to adjust prevailing landfill tariffs to a level where they would be more in line with resource recovery costs?

Assembly Bill 1778 addresses a procurement process for the selection of a project developer. We believe a more expeditious method would be to allow counties to select a developer based on a comprehensive review of qualifications and to allow that selected developer a time frame in which to complete project implementation, using the existing mechanism of shared review by DEP and BPU as enumerated in the Solid Waste Management Act and the Solid Waste Utility Control Act. This method assures maximum public scrutiny and testimony as an application moves through the approval process. The mechanism is already in place. To change the mechanism at this juncture, before a resource recovery application has been through the system, could interject an element of uncertainty into project implementation and cause reluctance on the part of investors to undertake financing in these capital-intensive projects.

Signal RESCO appreciates the efforts of the Legislature to deal with the solid waste dilemma facing New Jersey and applauds the effort to move the State toward the future with technologically-efficient and environmentally-sound solid waste disposal.

ASSEMBLYMAN McENROE: Thank you very much, Ms. MacArthur. I appreciate your comments and those of your colleagues at Signal RESCO.

I have a few questions. I am not sure if your comment regarding the approximate \$6 million that would be raised is really on target. Do we have other figures on that?

MS. McNUTT: I don't have them with me.

ASSEMBLYMAN McENROE: Is it more than \$6 million?

MS. McNUTT: I think altogether for the first year, yes, it is.

ASSEMBLYMAN McENROE: We anticipate considerably more than \$6 million to be raised by taxation during the first year.

MS. MacARTHUR: Well, we had figured roughly--

ASSEMBLYMAN McENROE: (interrupting) So, our figures are a bit different than yours.

MS. MacARTHUR: We were figuring roughly \$1.00 per ton during the first year.

ASSEMBLYMAN McENROE: The other comment I want to make is with regard to the procurement process. You, in a sense, recommend that it be handled through a professional contract agreement, which is a long way from the tight control exercised by the State now under our current public bidding laws. What we are doing is providing flexibility in a particular area where we all recognize there is a special kind of science we are using and a special kind of engineering approach to resolve our problems. We are now asking for a low-bid process. We think we are providing great flexibility in the procurement process, so we are moving away from the public bidding concept into, I think, an area where negotiation is encouraged. I think that is a more appropriate way to ensure that the public's interest is protected than by just going on a professional contract basis, which you seem to be recommending.

MS. MacARTHUR: We are recommending reviewing qualifications of several contractors and then selecting one. Then you can give that contractor a certain amount of time to implement the project. If he doesn't, you can go to the next one.

ASSEMBLYMAN McENROE: Was that used in your Saugus, Peekskill, and Baltimore plants?

MS. MacARTHUR: Saugus was a sole source. Peekskill was a sequential negotiation. There was another contractor, and the deal was not consummated, so they came to us.

ASSEMBLYMAN McENROE: How about Baltimore?

MS. MacARTHUR: There were two contractors, and then they selected Wheelabrator-Frye.

ASSEMBLYMAN McENROE: Okay, thank you. Are there any further questions from the Committee? (no response) If there are no further questions, we thank you very much for coming before us this afternoon.

Your comments are certainly going to be given very careful scrutiny by the Committee. Thank you.

MS. MacARTHUR: Thank you.

ASSEMBLYMAN McENROE: The next individual is Laurine Petrella representing Edgeboro Disposal, Inc. Is Ms. Petrella here?

LORRAINE TELEKY-PETRELLA: Yes. Good afternoon.

ASSEMBLYMAN McENROE: I would like to introduce the members of the Committee. I am the Chairman, Mr. McEnroe. On my right is Mr. Pankok, Mr. Hendrickson, and our Committee Aide, Ms. McNutt.

MS. TELEKY-PETRELLA: It is a pleasure to be here, and I welcome the opportunity to address the Committee.

ASSEMBLYMAN McENROE: Do you have any prepared testimony for us?

MS. TELEKY-PETRELLA: I will be giving it to you subsequent to today.

ASSEMBLYMAN McENROE: We would appreciate that, because it helps us very much. Thank you.

MS. TELEKY-PETRELLA: I am Lorraine Teleky-Petrella, the attorney for Edgeboro Disposal, Inc. Edgeboro is one of the largest

landfill operators in the State of New Jersey. It is located in Middlesex County.

On May 6, 1970, or almost fourteen years ago today, New Jersey took an unprecedented step when the Solid Waste Utility Control Act and the Solid Waste Management Act became effective. These were companion bills where the legislative findings in each of these Acts was the collection, disposal, and utilization of solid waste. They required efficient and reasonable solid waste collection and disposal service, or efficient utilization of such waste.

More particularly, by virtue of the Solid Waste Management Act, stringent environmental regulations were enacted where existing landfills had to upgrade their facilities with environmental improvements so as to prevent escape or migration of leachate and/or contaminants from the site.

So as to assure there would be equitable rate increases for the extensive environmental improvements necessitated by the Solid Waste Management Act, the Legislature, in its wisdom, further provided that rates for the collection and disposal of solid waste should be regulated by the Board of Public Utilities. Heretofore, or prior to 1970, the economic rates in the solid waste industry had been set in the marketplace by arm's length transactions. Because of unfounded fears of price gouging that might be brought about by extensive and expensive environmental improvements, landfill operators found themselves in an unenviable position. Environmental controls and upgrading of existing facilities meant the expenditure of millions of dollars, which the operators could not even begin to recoup until they had gone through the costly and time-consuming rate hearings before the BPU.

The enactment of the Solid Waste Management Act was a step in the right direction. The time had come when it was recognized that the earth's natural resources were not finite, and that affirmative steps had to be taken to abate additional environmental degradation.

Edgeboro emphatically supports sound environmental regulations. The matter of economic regulations is another story. Unfortunately, here we are, 14 years later, only to have exhaustive

proof that the goals of the Solid Waste Utility Act have not been met, and that the BPU is not even close to getting a passing grade. The problem is not with the BPU, per se, but rather that this agency and its regulations are geared for public utilities such as telephone, gas, and electric -- not landfills.

The rate-base rate of return just does not fit into the solid waste industry. The Solid Waste Control Act provides specifically for the Board of Public Utilities to establish just and reasonable rates for the disposal of solid waste. It is just as unreasonable to be dictated to by the interaction of the marketplace. What the BPU has effectively accomplished is that rates have been kept artificially low, which has actually encouraged and attracted out-of-state garbage to the State. This, therefore--

ASSEMBLYMAN McENROE: (interrupting) Are you addressing our bill?

MS. TELEKY-PETRELLA: Yes, I am.

ASSEMBLYMAN McENROE: All right, thank you.

MS. TELEKY-PETRELLA: This, therefore, diminished the valuable landfill space. This is very important because it gives you a little bit of backdrop into where we were and how we got where we are today.

ASSEMBLYMAN McENROE: Okay, thank you.

MS. TELEKY-PETRELLA: The out-of-state garbage that has come into the State has diminished the valuable landfill space in the State. It has also chased away or failed to attract investors who would be unable to get a fair rate of return on their investment.

On behalf of Edgeboro, I am only addressing the concept and issue of economic regulation of disposal rates where the artificially low rates have deprived landfill operators of receiving sufficient funds to operate efficiently.

Assembly Bill 1778 proposes to cure the ills of 14 years of failure with more of the same medicine, a misunderstood remedy, which will continue to be ineffective as an incentive to the resource recovery plants we all seek. What is most interesting is that amendments to the Solid Waste Management Act, 14 years ago,

incorporated resource recovery plants into the purpose and goals; however, here we are, 14 years later, or 8 years after those amendments, and we are not much closer to getting resource recovery on line in any of the districts any sooner.

It is not that Edgeboro Disposal is opposed to resource recovery -- quite to the contrary. In fact, Edgeboro has not only been an advocate of resource recovery, but for the past several years, it has participated in the development of Signal RESCO and the resource recovery plant's plans for East Brunswick, New Jersey. That will be adjacent to the Edgeboro facility.

Assembly Bill 1778 proposes to tax the few remaining landfill operators in hopes of making resource recovery a reality by providing capital for the initial construction and operation of resource recovery facilities. The remedy is misunderstood because it is based on a faulty premise -- high landfill costs, which will lead to building resource recovery plants. Historically in this country and abroad, this simply has not been the case.

Resource recovery plants go ahead for only one reason, and that is, there simply is no longer any land to dispose of the waste. It is undisputed that there is a need for resource recovery. As recently as last Wednesday, April 18, an editorial in The Sentinel, a local newspaper in East Brunswick, acknowledged the need for resource recovery. What is interesting about this editorial is that the plant and office of The Sentinel is located on Edgeboro Road, which would be the main thoroughfare to gain access to the resource recovery facility.

One doesn't have to travel too far to see how high rates simply do not encourage or even contribute to bringing resource recovery on line. We heard testimony earlier this afternoon that Camden now has a \$40.00 to \$50.00 per ton fee. There is a \$32.00 per ton tipping fee in Montgomery County, Maryland, which did not persuade its citizens to accept this extremely well-thought-out resource recovery project. A \$50.00 per ton disposal fee in Hempstead, Long Island is not making the town fathers move any faster in retesting the rebuilt Hempstead resource recovery facility.

The current cost of \$21.00 per ton in New York City is the driving force toward resource recovery. The mere lack of a disposal alternative is the driving force. This is also the case in Florida where there are at least five projects that are operating or are in planning stages, as well as in Connecticut, Massachusetts, and upstate New York, where resource recovery is moving ahead. Thus, if New Jersey wants the impetus for resource recovery, it can effectively do so by allowing landfills to become filled. But, this cannot be done without considering the need for landfill sites for the disposal of the residue from the resource recovery facility.

The few remaining landfills now -- with resource recovery around the corner -- take on greater significance in the State. If these operators are expected to continue to serve a vital public need, they must be able to charge reasonable rates, not artificially low rates, for the disposal of solid waste. Raising rates by taxes, as proposed in Assembly Bill 1778, will not accomplish the goal or remedy the failures and shortcomings of the Solid Waste Utility Act. Rather than additional economic regulations, which just put the operators further into the bureaucratic quagmire, efforts must be made to deregulate the rates and let the marketplace dictate the changes for solid waste disposal.

The hands of time must be pushed back to cure the ills. Assembly Bill 1778 will merely compound and exacerbate the problem. The Solid Waste Management Act provides for sufficient remedies to encourage or compel the districts to keep their own solid waste within their boundaries. Therefore, additional charges, as proposed in Assembly Bill 1778, will merely add more money to the bureaucratic coffers, without actually bringing resource recovery on line.

While advocates of resource recovery might support rapid filling up of existing landfills, these landfills cannot become exhausted in a manner that is environmentally unsound, or which prevents the owner from guaranteeing the protection of the environment for many years after closure. For this, landfill owners need adequate capital and adequate compensation for their risks. The nation has long known that the most effective way to provide an incentive for quality

service is to establish standards to protect the consumer and allow the market to set the costs of meeting these standards. This is the way almost every other state in the nation sets landfill rates. In urban areas, the typical cost is from \$16.00 to \$19.00 per ton, a difference from approximately \$10.00 per ton that the Edgeboro operators currently receive, exclusive of taxes.

Edgeboro would be satisfied with a per ton rate increase to \$16.00, with a yearly escalation based on the cost of living -- that is, assuming the current environmental regulations remain in full force and in effect without further modifications.

The BPU's current regulation is that the rate-base rate of return prohibits such a rate at this time, although such a number is certainly competitive with our sister states, which are not economically regulated.

A decent and reasonable return on investment would enable operators in New Jersey to acquire the necessary capital and continually upgrade the operations. As previously stated, resource recovery facilities need landfills -- environmentally sound landfills -- for their residue, as well as the backup for their facilities. Environmentally-sound landfills need economic viability. Putting the burden of financing resource recovery plants on the backs of landfill owners is neither sound environmentally, nor equitable economic policy.

Edgeboro is not suggesting that the marketplace determine the rates overnight. Edgeboro urges that Assembly Bill 1778 instead mandate an evaluation by the DEP, or the various county solid waste management districts, of the rates which are paid elsewhere, out of the State, so that we could support environmentally-sound landfills. After the study is done, the Board of Public Utilities should be notified of that appropriate tariff. The \$16.00 per ton figure, as was previously mentioned, is realistic, based on Edgeboro's review of rates in other states, which have been established by the marketplace.

Middlesex County landfill owners and operators certainly have not been guilty of excessive tipping fees. We expect this to be the case in most of the other counties in the State. Since the State is now divided into twenty-two districts, it seems to us that a regulation

which would apply only to a district or to those districts where abuses are found to exist, would be the intelligent, fair, and practical way to control the disposal industry. These procedures would act as a deterrent for abuse and would correct the current practice of penalizing the innocent in order to protect the guilty.

The understanding of landfill operations is reflected in Assembly Bill 1778, as evidenced by the bill's requirement that a solid waste service tax be used for a nonspecified purpose, and is to be rendered by the operator to the State on the twentieth day of each month. This places the operator in the role of financing the State, since disposal accounts are commonly delinquent due to slow payments from industrial and municipal customers, and particularly private customers who need to collect their accounts prior to their being able to pay the landfill.

To give you some idea of the magnitude of the hastily-devised measure before us, let us consider the immediate imposition of the twenty-five-cent and twenty-eight-cent per cubic yard fees. What impact would that have on Edgeboro? This would generate over \$1.5 million in the first year, an amount that we estimate is greater than planning budgets of half of the counties in this State, and certainly greater than the planning needs for the three counties Edgeboro serves. Thus, the handful of landfill operators who are able to survive the arbitrary tariff regulations enacted in 1970 are now being asked to bail out the State's foolhardy practices with a measure that is not only inequitable, but is also the least effective in achieving everyone's goal -- environmentally sound waste disposal.

It is time to end the bureaucratic nightmare with respect to economic regulations that have been costly, time-consuming, counterproductive, and frustrating. Assembly Bill 1778 merely compounds existing problems. A more appropriate remedy would be to deregulate solid waste rates so that resource recovery could be brought line by concerned, reasonable investors.

Thank you.

ASSEMBLYMAN McENROE: Thank you very much. We appreciate your testimony. You've made some interesting points, and you've

presented a compelling argument for review of the bill. I can appreciate your point and your concern about your industry being collection agents for the State. That is reasonable -- that the revenue be accountable on the twentieth day after the end of the prior month. It is a mechanism that we think is reasonable, and it gives the landfills a twenty-day period in which to develop their reports properly and collect the revenues.

The concept of having the tax paid at the landfill, of course, is derived from prior legislation -- the Recycling Act and the Landfill Closure Act procedure. Of course, I don't know what the alternative would be in order to have the tax generated at the place of disposal, which would be the landfill.

MS. TELEKY-PETRELLA: Well, I think the other alternative is to just let the marketplace-- What we have seen in other states is to let resource recovery come on line with the private investors, without having a tax at the landfill. The \$25 million that is expected in the first year is certainly not going to get us any closer.

ASSEMBLYMAN McENROE: The intent of the bill is to get us closer -- to provide a framework for the development and encouragement of resource recovery in New Jersey as a new direction. I think the \$25 million is a commitment. When you talk about a statewide budget, \$25 million is not a lot of money to spend, but it certainly would impress the public of the seriousness of the problem and the intent by the Legislature to proceed with a solution.

MS. TELEKY-PETRELLA: We're just looking at other states which have had similar experiences. It doesn't appear as though resource recovery is predicated on dollars alone; it appears to be the availability of landfill space.

ASSEMBLYMAN McENROE: I think the comment in your testimony regarding the crisis, which we all recognize, is important. I'm glad to hear that, because it is the driving force behind the legislation -- not to raise revenue. It is simply to resolve the difficult problem of finding an alternative way to landfilling.

MS. TELEKY-PETRELLA: You know, we use the example of New York and the \$21.00 per ton fee, but we have New York garbage coming

into this State. Why? It is because it is less expensive for them to dispose of their garbage in New Jersey. This is a concern, I think, we have to address.

ASSEMBLYMAN McENROE: I would respectfully like to comment that we feel that is addressed within the legislation.

Thank you. Are there any other comments or questions from the members? (no response)

MS. TELEKY-PETRELLA: I will submit my testimony in writing.

ASSEMBLYMAN McENROE: Thanks, we appreciate that. We will go over it very carefully. Thank you very much.

We have two gentlemen representing Kingsley Landfill, Mr. McMullen and Mr. Moore. Are they here? Will you join us, please?

NICHOLAS MANNINO: Neither Mr McMullen, nor Mr. Moore, could be here today. My name is Nicholas Mannino, and I am here to represent Kingsley Landfill. I have a short statement.

ASSEMBLYMAN McENROE: Thank you. Will you spell your name for us, please?

MR. MANNINO: Yes, M-A-N-N-I-N-O.

ASSEMBLYMAN McENROE: Thank you very much. I'm sure you've met the members of the Committee.

MR. MANNINO: Yes. Thank you for the opportunity to address the Committee today.

We, at Kingsley, support the intent of Assembly Bill 1778, to speed the introduction of resource recovery in New Jersey. However, we feel that one of the major issues regarding resource recovery, which is not addressed in the bill, is the siting of resource recovery plants in the back-up landfill that will be necessary.

ASSEMBLYMAN McENROE: Mr. Mannino, will you please identify the location of Kingsley Landfill?

MR. MANNINO: It is in Deptford, New Jersey -- in Gloucester County. Presently there is no incentive for a community to site a landfill, or a resource recovery plant, for that matter. Therefore, we feel Assembly Bill 1778 is the correct form to address this issue.

We propose a twenty-five-cent per cubic yard tax to be collected for the host community that makes the difficult decision to

host either a landfill or a resource recovery plant. We feel this money will act as an incentive to site the plant, and also to help defray costs of the host community, which would involve police protection and road work that would be necessary for repairs on the road.

That is all I have to say today.

ASSEMBLYMAN McENROE: Thank you very much. We appreciate your favorable comments.

Next on our list is Mr. Dixon, who is representing Gloucester County. Robert Dixon?

Mr. Dixon, I'm sure you are familiar with the members of the Committee. Will you kindly advise us of your background and responsibilities?

ROBERT DIXON: My name is Bob Dixon, and I am the Solid Waste Coordinator for the County of Gloucester.

Mr. Chairman, we thank you for the opportunity to be here today before your Committee to present our comments on a very comprehensive and complex piece of legislation. I would like to give you a little background as to the status we in Gloucester County are in as far as managing our solid waste problem.

We are the host County for the Kingsley Landfill, which I believe is the single largest landfill in the State in terms of intake. The County is a major importing county of waste. We have taken steps to comply with Chapter 326 of the provisions in the Solid Waste Management Act.

On April 18, I think a most significant step was taken by our County by designating a vendor, Signal RESCO, Inc., to provide us with all of the background in order to implement a resource recovery facility in Gloucester County. We have taken other steps too. We have signed an Interdistrict Waste Flow Agreement with Salem County, which sets up the parameters for interdistrict waste flows.

On the same day, April 18, the Gloucester County Board of Freeholders held a public hearing and unanimously adopted an Interdistrict Waste Flow Agreement with the County of Camden for the portion of that County's waste which flows into the Kingsley Landfill.

On May 1, a reciprocal hearing, in agreement, I hope, will be held by the County of Camden. So, we've come a long way in trying to control our waste problems. There are many more problems to be overcome, and I think Assembly Bill 1778 is a good starting point in addressing some of those problems.

In an overall context, this bill, in our opinion, contains four major sections. It has a new legislative mechanism to raise the costs of traditional waste disposal to a level where high-technology disposal can be competitive. It will also provide a revenue stream to assist the State and the management districts to implement the high-tech alternatives that are the express preference in the State plan.

I think it also contains a significant revamping, if you will, of the Public Contracts Law, to accommodate the procurement of high technology, which is both expensive and complex. I think it sets a framework, and I think it does a major part in revamping.

It modifies, to some extent, the prior provisions of the planning functions that were contained in the original Solid Waste Management Act -- or Chapter 326, I guess, as we all refer to it. It is probably the first time in a single piece of legislation where the Legislature is going to introduce BPU to DEP. (laughter)

I think that is a significant step also, since we do have a dual-regulatory function -- often at odds with each other.

ASSEMBLYMAN McENROE: It is interesting the way you put that -- BPU to DEP. That was very correct. (laughter)

MR. DIXON: My basic comments will center on the first part, the revenue mechanism, which our attorneys are still sifting through, if you will. I have some other generalized comments, though, on the other portions of the bill.

In Section 3, one of the questions we have is, does the definitional quality of the first paragraph where the taxes are levied against all waste disposal facilities apply to sole-source municipal facilities and/or sole-source commercial industrial facilities? It is not a question that requires a response right now; it is just a question we have.

In more specific terms, I will address the solid waste service tax, which is covered under Section 3a. Probably the best piece of documentation I have seen or read, defining the state of solid waste in the State of New Jersey, was published as a joint effort between DEP and the American Lung Association. It is called, "Throwing it Away in New Jersey." It was published last year. In that document, which lists most of the major landfills, it is estimated that between 11 million and 14 million tons of solid waste are disposed of in New Jersey each year. If you take a look at a 25% levy to service the Solid Waste Service Fund, a yield on an annual basis, utilizing that 3.5 conversion factor to cubic yards -- which we are talking about here -- has a potential to raise somewhere between \$9.6 million and \$12.3 million. We have no problem with that, but we do have some reservations about other sections in the bill which allocate those funds.

Under the distribution formula contained therein, the Department of Environmental Protection would assume 50% of this Fund for their own administrative and programmatic purposes. The remaining 22 districts then would be allocated the other 50%. The method of allocation is on population. I understand your dilemma when you try to find and devise an equitable method of distributing money, and it is nice to devise a method where everyone will agree. But, we would just like to point out what we feel are perhaps some inequities in this plan.

Gloucester County represents about 2.7% of the State's population. The Kingsley Landfill in our County, which we are charged to monitor and somewhat enforce-- If we accept the figures of between 11 million and 14 million tons annually, it disposes of between 10.7% and 13.6% of the entire solid waste load in the State. We feel that the Committee should consider an additional funding mechanism to provide for those districts which provide a disproportionate share of the disposal capacity within the State. Off the top of my head, they would be Gloucester, Middlesex, and Ocean Counties.

ASSEMBLYMAN McENROE: Hackensack-Meadowlands.

MR. DIXON: And, Hackensack, which is the district which goes across four counties, I believe.

ASSEMBLYMAN McENROE: We have to be fair about this.
(laughter)

MR. DIXON: My next comment will address Section 3b, (1) and (2), a, b and c, which evolves around the Resource Recovery Investment Tax Fund in the creation of this. We look at these sections to have, if you will, four purposes: to raise revenues; to implement resource recovery throughout the State; as a method to escalate that revenue stream over a given period of time; and, as a procedure in which an adjustment to those revenues can be made through economic studies to determine the exact viability and relationship between the cost of landfilling and the cost of resource recovery, which can be performed within 18 months and certified by the State. It would apply to a specific district.

In the last part, there is a method -- actually in conjunction with Section 14 -- to allocate those revenues. We may squabble over whether the twenty-eight cents, the fifty-six cents, or the \$1.12 of the escalation provision provided in the bill is adequate or inadequate. I don't know if anyone really has a handle on that number, with the exception of Essex County, because they are the furthest along in this process. But, we do have some problems with the method of allocation.

If we have interpreted how the district accounts will be established under the provisions of this statute, it would appear that each account would be based upon an evaluation of the amount of solid waste generated within each of the 22 districts. At the State level, it may very well be that when you are playing with 11 million to 14 million, it is a very tolerable ball park to play in. But, you are not only going to be allocating significant sums of money among the districts and into the accounts; you are going to be allocating a knowledge of how much solid waste, in each particular district, is vital, as you go through the implementation of resource recovery. As we were told when we went through our process, the cost per ton of construction is between \$75,000 and \$100,000 per ton, depending upon the final disposition of the APC control devices decided upon. That is a significant number. If you only err by 50 tons, you are talking

about \$350,000 to \$500,000. Financed over a minimum of 20 years, that is a very substantial sum of money, gentlemen.

We don't have the mechanism in place to measure how much waste is generated to allocate these funds. Gloucester County, as part of its management plan -- some of the numbers on the printout are an example of what we are doing -- is spending strictly County funds, to the tune of \$80,000 to \$100,000 per year to monitor that, so we can have a reasonable handle. I emphasize the word "reasonable" on the amount of waste that is generated in our County and the waste that is generated outside of our County, but is disposed of within its borders.

I will cite an example of some of the problems we have with information. The State charges importing counties to go to exporting counties and negotiate Interdistrict Waste Flow Agreements. There are two separate sets of data we can utilize. In 1983, we began this process. There is a concrete piece of information that is submitted by every landfill operator in the State. This is a quarterly report, with a daily log sheet. On this basis, the Closure Fund and the Recycling Fund are assessed. That is a hard piece of data. The only piece of data we have that comes close to approximating the origin of waste is the New Jersey Department of Environmental Protection's Hauler/Collector Report. Information is turned in annually by the hauler/collectors as part of their licensing procedures.

When we sat down with the two pieces of data to try to allocate waste into our facility, the differential between the Hauler/Collector Reports and the landfill reporting mechanism was 250%.

We would suggest that out of that State portion of the Service Fund which will be raised through the State, a portion be dedicated specifically to developing, perhaps through the new O&D regulations that have just been put into effect, some way to store that data, and at least manipulate it, so that we have a good idea of how much is coming from where. I think that is an essential part, because if there is a major misallocation when you are talking in terms of \$13 million, \$15 million, or \$20 million, there can be a substantial disagreement. It could cause enough friction, perhaps, to shoot a bill.

With regard to Section 3c, (1) and (2), the importation levy, I find myself in somewhat a unique position, since I guess there is going to be a lot of testimony on both sides of this. My testimony might be much different if I came from an exporting county.

ASSEMBLYMAN HENDRICKSON: Well said. (laughter)

MR. DIXON: I do have a technical question. In Section 2e, a district is defined according to a New Jersey statute. The numbers I gave you-- Approximately 60% of the waste of the 5000 to 6000 tons a day that are disposed of at the Kingsley Landfill originates out of State. Having sat through nine months of negotiations with the City of Philadelphia, it must be nice to try to come across the river and identify us as a solid waste management district under a New Jersey statute. When did you fill in the river? (laughter)

This is a problem. Based upon that, our interpretation is that we could not assess either the twenty-one-cent or the forty-two-cent additional assessment on out-of-state entities, because it is defined as "district." Perhaps research by your staff could clarify--

ASSEMBLYMAN McENROE: (interrupting) You raise an interesting question.

MR. DIXON: Right, I would direct your staff to investigate this.

The purpose of Section 3c, (1) and (2), seems to be a carrot and a stick -- it depends on where you are -- to exporting districts in order to develop their own solid waste disposal facilities. However, I have spent an awful lot of time recently traveling the New Jersey Turnpike to Route 287 to sit in Judge Stein's courtroom. We faced an additional 600 tons per day redirection upon the closure of Hamm's Landfill. Apparently, those types of figures do not bother some counties that export. What the number is, I don't know, but I don't think either twenty-one cents or forty-two cents -- particularly if we're talking about a city like Philadelphia, where they are talking about mega-dollars for their waste disposal costs -- makes that much difference. I think it has to be substantially higher, as an importing county. If I came from an exporting county, I would probably scream the other way.

Perhaps there should be some type of flexibility built into the standard, rather than a hard dollar and cents viewpoint, based upon the amount you have and the length of time in exporting and importing.

There is a reference to Section 17, I believe, in 3a, which says, "Upon determination that a county has not made sufficient progress in implementing its solid waste management plan, you can then kick in the additional twenty-one cents." In the packet I gave you, there was a clipping from Monday's Philadelphia Inquirer. A great hoax we had with Philadelphia was with regard to the City starting to handle a substantial portion of their own problem. I guess what they have done is, they have allocated \$50,000 to study other alternatives, rather than to spend \$147 million. When they have an available alternative at \$3.12-- I forgot to mention that the Kingsley Landfill is also the cheapest landfill in the State. At \$3.12 a yard, there is very little incentive, when that landfill is 12 miles away from the City of Philadelphia, to go to other Pennsylvania facilities that are a distance of 50 miles to 60 miles.

My next comment will be a very general comment, and it deals with the procurement procedure that begins in Section 18 and continues, I believe, through the next 18 sections. Gloucester County has initiated a process under a prior Attorney General's opinion as to how to procure a vendor and a facility in the private sector. We have gone a substantial distance into this process, and this is one of the areas that our attorneys are looking at very closely to find out what modifications may occur as the bill passes through. However, we would not like to lose three, six, or nine months as this bill proceeds through the legislative process. We would prefer to be grandfathered in with the process we have started -- to continue along that path. If there are substantial changes and we have to fit into a different type of box than we're in, the harm, I think, would far outweigh the good.

ASSEMBLYMAN McENROE: That was part of our original intention -- to provide that kind of flexibility for plants that have already--

MR. DIXON: (interrupting) I read the pertinent sections five or six times, but I'm not an attorney. I became very confused, and our attorneys are now looking at them. They are a little bit confused as to their relationship.

I think if you are a good way into the process, consideration should be given to counties that are that far into the process.

ASSEMBLYMAN McENROE: If we can improve the language, again, with advice of counsel-- It is our intention to recognize those kinds of plants.

MR. DIXON: Our particular process is proceeding under the Attorney General's opinion, dealing with full-service contracts, where you use an RFQ vendor selection, initial contract negotiations, final development aspects, and bidding of the project. There is some thought that there may be some restrictive language in the procurement process which is encompassed in the bill. We wouldn't like to lose the time while this proceeds through its process.

I have one last comment. The bill provides some major modifications to the planning process, I believe, starting somewhere in the vicinity of Page 16, Section 36. We don't find a major problem with that, but it does appear that if this bill is adopted with the language as is, we would be starting an entirely new planning cycle, 360 days after the enactment, etc.

It would probably be nice for us because we would have to start our mandated two-year update, and we would probably be starting our preparation in July of this year, so that might help us a little bit. Or, we may just continue with the two-year update. I'm not sure exactly, because the language is a shallow clause. That is our only comment.

I thank you for your attention, and I hope you will consider our remarks.

ASSEMBLYMAN McENROE: Thank you, Mr. Dixon. Obviously, you are well-versed in your craft, and you are well aware--

MR. DIXON: (interrupting) It is really an art.

ASSEMBLYMAN McENROE: (continuing) But, you are well-versed as far as the intentions of the bill are concerned. We appreciate your comments.

I would ask, if you can, to refine the points you've made and present them to our Committee in writing. In my opinion, you have

presented some major arguments for review, and we appreciate your overall support of the measure. Those comments would be very helpful. I respect you because you have brought some really interesting comments to the attention of the Committee.

MR. DIXON: My comments will be brushed up and made presentable for insertion into your record. We will be waiting for our attorneys' comments too, so hopefully they can be inserted into the package.

We would like to have staff put us on your mailing list when you go back to Trenton. One of the more difficult things we have down here is checking when bills come up, and as they proceed through the process, we often find about them in the next day's newspaper.

ASSEMBLYMAN McENROE: We're not going to prolong the review of this bill. We're trying to--

MR. DIXON: (interrupting) We would just like to be notified as it proceeds through, Mr. Chairman.

ASSEMBLYMAN McENROE: (continuing) We're trying to get everyone to review it with some haste and to offer testimony in a most timely way, so whatever you can do to help us, we would appreciate it.

MR. DIXON: Thank you.

ASSEMBLYMAN McENROE: Do you have a question, Mr. Hendrickson?

ASSEMBLYMAN HENDRICKSON: No, just a suggestion. I was wondering what you think would be fair regarding the levy of taxes and regarding what the importing county could levy on the garbage being disposed of there -- on the solid waste. You made a comment that you had some idea.

MR. DIXON: I think it would depend. I would suggest that if you are dealing with Salem County, twenty-one cents may be a very vigorous stimulus. Forty-two cents may not be a stimulus to Camden County. In prior testimony, you heard that many landfills were going at \$47.00 to \$48.00 per ton. Our present landfill is in the area of \$10.00 to \$12.00 a ton.

ASSEMBLYMAN McENROE: Your other comment--

MR. DIXON: (interrupting) When I go to Philadelphia, that is-- I just don't know. I know that Philadelphia turned back a study to EPA approximately four years ago, and they indicated that until their exportation costs reached approximately \$75 per ton, it didn't make any sense for them to go into high technology at the City level. I don't think they have enough land for landfill.

ASSEMBLYMAN HENDRICKSON: What you are saying is, perhaps the fee could be based on the economics of each county.

MR. DIXON: With some flexibility. I am not sure of the answer because of the legal ramifications in the Supreme Court decision.

ASSEMBLYMAN HENDRICKSON: That is fine; I understand.

ASSEMBLYMAN McENROE: Your comment about how long the host counties have been enduring the circumstances is an interesting one. Thank you.

MR. DIXON: Thank you.

ASSEMBLYMAN McENROE: The next individual we have on our agenda is Mr. Chris Warren, representing the Salem County Planning Board.

CHRISTOPHER J. WARREN: I am Chris Warren, the County Planning Director for Salem County. I also appreciate the opportunity to speak before the Committee and having the convenience of being right downstairs from my office for a change.

ASSEMBLYMAN McENROE: You can thank your good friend, Assemblyman Thomas Pankok for that.

MR. WARREN: I would like to give you a little background about where Salem County is in terms of solid waste management, before I get into my prepared comments. The County developed a plan in 1979, which called for the closure of municipal dumps. We basically had an on-line landfill in each community in the County, and the plan advocated the creation of environmentally-sound landfill.

The County took the controversial step of siting a landfill, and it attempted to implement a landfill on a county-wide basis. We have been involved in litigation for approximately 16 months with regard to that site.

With regard to resource recovery, we sought to find a steam market, and we have had comments about the economics of resource recovery, particularly mass burning. We have found, even on the small scale of Salem County -- Salem County being the smallest county in the State of New Jersey -- that the economics are better than you would expect, provided you have a good steam market. Unfortunately, in this County, we were unable to negotiate an agreement with one of our industries which we thought was suitable for resource recovery. We are now looking at co-generation, or just a generation of electricity by itself. We are also looking at co-composting as an alternative for a small county. However, we have, to some extent, been hampered by insufficient planning funds, and in that regard, we wish your bill had been in place three years ago.

The Salem County Planning Staff supports the passage of A-1778 because this bill would further improve the potential for resource recovery facility development in each and every county in New Jersey. Specifically, the bill would subsidize the development of resource recovery facilities and would eliminate existing constraints to the procurement of these facilities.

However, we do have comments on specific provisions of the bill which require more attention.

1. The bill would establish a solid waste services' tax at the rate of twenty-five cents per cubic yard on all solid waste accepted for disposal at a sanitary landfill. Section 13 indicates that these funds will be appropriated to the Department of Environmental Protection, and that at least 50% of the annual balance will be redistributed to the counties based upon their population. No district would receive less than 2% of the amount apportioned to aid all districts.

It is recommended that the counties' portion of this fund be redistributed based upon annual waste generation rates, rather than population, so that counties with high levels of seasonal residents, and those with a large industrial base, will receive an amount for planning which will commensurate with their waste disposal problem. The 2% minimum is strongly supported since it would ensure a basic level of planning assistance for all counties.

You have had testimony on other concepts of how to redistribute the funds, particularly in those counties receiving a disproportionate amount of waste, but, population is clearly not the most appropriate criteria.

2. The legislation would levy a twenty-eight cents per cubic yard tax on all solid waste accepted for disposal at a landfill for the establishment of a Resource Recovery Investment Tax Fund for each district. This rate could be adjusted by the district, with the approval of the Department, and would have built-in adjustments which would bring the tax up to \$1.12 per cubic yard within four years.

Instead of a fixed-rate schedule, consideration should be given to a more flexible approach in which counties would be required to conduct a financial analysis and submit a financial plan within one year of the effective date of the act to the DEP. The plan would enable each county to set an appropriate investment tax, within reasonable limits, and it would avoid an undesirable situation which would occur in several counties because of the way the bill is presently structured. In counties which will shortly have a county landfill accepting all of the waste generated within the district, users of the landfill would be required to pay this tax, which would be transmitted to the State by the county, yet could be redistributed back to the county to help operate the landfill under Section 15 of the bill. Therefore, this provision of the bill should be restructured to permit counties to assess a resource recovery investment tax after submission and approval of a financial plan, rather than the imposition of fixed charges, which were set without considering the circumstances of a particular solid waste management district.

I think the testimony you heard with regard to the variance in rates and the significance of the twenty-eight cents per cubic yard figure would help support this position. At the present time, Salem County communities are paying about \$3.00 to \$5.00 per ton for disposal. You have had testimony that other counties are paying about \$30.00 per ton at landfills. So, a fixed charge will not apply to each and every county, and the bill should provide some flexibility for counties to determine the level of differential and the way to make up the differential between landfilling and resource recovery.

3. The bill would also assess a twenty-one cents surcharge on tax on out-of-county waste to further assist counties which receive a disproportionate amount of waste for disposal in their districts. We support this tax since it would provide an economic incentive for counties to reduce their waste flow or to develop in-county disposal facilities.

4. Furthermore, the bill provides for the assessment of a penalty against those counties that have failed to make a good-faith effort to fulfill their solid waste planning responsibilities. However, this additional surcharge has a limit of twenty-one cents per cubic yard above the normal surcharge, which would be assessed against exported waste.

Instead of a cap on this penalty, it is recommended that this surcharge be increased at a rate of twenty-one cents per year to ensure that each county has an economic incentive to take care of its waste disposal problem. A fear that has been expressed by the public in this and other counties is that counties which site and develop environmentally-sound landfills will receive waste under emergency waste flow directives from adjacent counties that fail to implement their management plans and have had their existing landfills closed by enforcement actions. The additional surcharge will help prevent this problem, provided that it is permitted to increase to a level where action is taken by the exporting county.

5. With the imposition of these new taxes, it becomes imperative that landfill operators be required to more carefully monitor the amount of waste being disposed of in their facilities. Up until now, there has been significant variance between waste generation estimates and reported disposal volumes at various landfills throughout the State. Although solid waste is a difficult commodity to tax because it varies dramatically in volume depending upon the type of collection vehicle, an effort should be made by the Department to ensure that these taxes are being assessed equitably and that reported disposal rates compare favorably with waste generation estimates.

6. Section 15 of the legislation establishes the procedures for disbursement of the Resource Recovery Investment Tax Fund and

defines eligible expenses. Since an environmentally-sound landfill is needed in each district to handle residual from a resource recovery plant to dispose of non-processable waste, and to serve as a back-up facility during planned and unplanned downtime, we strongly support the provision which enables resource recovery fund moneys to be used for sanitary landfill development and operation in appropriate circumstances.

However, we would recommend two minor changes. First, reference is made to an interim landfill facility being eligible for resource recovery tax revenues. In our opinion, these funds should be available to an interim landfill, but for a limited period time, such as five years. Secondly, Subsection 3c permits the use of Resource Recovery Tax Fund revenues to be used to support a landfill operation on a long-term basis in districts which demonstrate that resource recovery is not feasible for the disposal of solid waste in that district. This provision should be deleted, since it is contrary to the objectives of the legislation. There are various low-technology resource recovery options which are technically feasible for small counties, but their economic feasibility has been a constraint to their development. However, if this fund is permitted to accumulate, the initial economic differential of resource recovery facilities could be overcome. Therefore, Subsection 3c of Section 15 should be deleted to ensure that the Resource Recovery Investment Tax Fund be committed only to landfills that are designed to be interim or back-up disposal facilities.

An important aspect of this bill is that it would amend existing Public Contracts Law provisions to enable long-term, negotiated contracts with qualified private vendors. The bill establishes a rigorous private procurement process which seeks to satisfy the almost contradictory objectives of being fair to all vendors, sufficiently flexible to permit negotiation of contract terms, and yet structured to ensure that the public interest is protected. The process described in the bill would involve the selection of qualified vendors who are requested to submit proposals. Once a contract is negotiated with a specific vendor, a public hearing process

is required regarding the contract terms and the contract is submitted, along with the public hearing report, to the DEP, the DCA, and the BPU. Therefore, in the abstract, the process ensures public involvement and State agency scrutiny. In actual practice, this process may be quite time-consuming and unwieldy if there is opposition from dissatisfied parties. However, there may not be any other way to ensure that the public interest is being served and that the selection process is equitable to all concerned.

Section 30 enables contracting units that have already substantially complied with this contractual process to award contracts pursuant to this legislation. This area needs more careful attention to define "substantial compliance." If this section is not clarified, the potential for litigation or confusion about the validity of existing agreements may result.

In summary, we support the intent of this legislation, which is to improve the economic feasibility of resource recovery facilities. However, we support a more flexible approach which would enable counties to assess taxes based upon the district's needs. In its present form, the legislation could cost waste generators in this small County over \$300,000 per year within four years. Even though a large portion of these funds would be available to the County for resource recovery facility development, each county should be permitted to determine the level of subsidy necessary for resource recovery facility development and to structure a financial plan to overcome the initial economic differential between landfilling and resource recovery.

More importantly, the legislation structures a procurement and a contractual process that is rigorous, yet equitable, and one which eliminates many of the existing constraints to the procurement of resource recovery facilities.

ASSEMBLYMAN McENROE: Thank you, Mr. Warren. That is obviously a very well-prepared paper on the position of your Planning Board. I commend the Planning Board for their indepth knowledge of the intentions of the legislation. This will be a report that we will review carefully before any final disposition of the bill is made. You made some excellent points.

ASSEMBLYMAN PANKOK: Very good, Chris.

MR. WARREN: Thank you.

ASSEMBLYMAN McENROE: Are there any questions? (no response)
Thank you, sir.

MR. WARREN: Thank you.

ASSEMBLYMAN McENROE: We now have, I believe, our final speaker, Mr. Edward M. Cornell, Jr. We have copies of his testimony. Is there anyone else in attendance who wishes to be heard by the Committee? (no response) Mr. Cornell's comments are being made on behalf of the Waste Management Association. Mr. Cornell, on my right is Mr. Pankok, and on my left is Mr. Hendrickson.

EDWARD M. CORNELL, JR.: Thank you very much for allowing us to come at this late hour without having been scheduled for this hearing today. We did show up in Newark, but as you know, it was kind of hectic up there, so we left after about an hour.

ASSEMBLYMAN McENROE: We enjoyed it very much.

MR. CORNELL: I'm sure you did. We do appreciate the opportunity to address you today on a subject that is of great concern to our industry, which is the collector/haulers of solid waste in the State.

My name is Edward Cornell, and I am the spokesman for the Waste Management Association of New Jersey. Having served the residents of our State as an elected and an appointed official, I am well aware of studies and histories regarding the demise of landfills in New Jersey and elsewhere.

Fourteen years ago, our officials knew that a severe disposal gap existed, but nothing was done to correct or to improve the situation. Consequently, in the 1980's, we react to everything with emergency lights blinking -- some justified, I'm sure, and some not justified. We believe Assembly Bill 1778 may indeed be justified.

Waste Management Association and its members become more alarmed everyday with regard to how our members receive information from both the Department of Environmental Protection and the Board of Public Utilities concerning regulatory decisions and notices of public hearings.

If the transporters didn't read the local papers, or didn't belong to trade organizations like Waste Management Association, they wouldn't know what our regulators wanted from them. That is not meant for this particular hearing; it is to point out that although we are a very serious part of the solution to this problem, in many cases, we are the last ones to be included in the deliberations.

I believe the industry -- the collector/haulers -- is in agreement with the new technologies of resource recovery, material recovery, and recycling. It certainly will give our drivers and our equipment a better atmosphere in which to work.

We have a basic philosophy, and I know all of our members agree -- that we will take the solid waste anywhere you desire. We will collect and pay all the necessary State taxes and pay all the required fees.

Our basic plea to you today is that you mandate to both of the regulatory agencies that govern our business destiny -- that someone design a system which will allow new costs of collecting solid waste imposed upon us by new taxes, landfill tipping increases, and new regulations either by the BPU, the DEP, or others to be passed on immediately to the generators of the solid waste -- the public. Legislation such as A-1778 should carry with it instruction to the regulatory agencies to immediately act on increases to the collector/haulers so that rates to the generators of solid waste will take place on the same date that the taxes or other increases become effective. We never seem to get approval retroactively. In past cases, some of our members have had to foot the bill to the tune of about \$70,000 or \$80,000 out of their own pockets before they received approval. That is appalling to any business, not only to the solid waste industry.

The State's problems surrounding the collecting and disposing of the public's and the industry's solid waste have been around for years, far too many years. The subject nationally has been neglected by all levels of government far too long; we all agree. A few additional weeks won't hurt.

What I am suggesting today is that no increased costs be added on to the tab until the machinery is set in motion assuring that no businessman gets hurt financially.

We know this bill contains pass-through language, and we thank you, but we are concerned that the language wouldn't cover the constant revision of the taxes over the years they will be in place.

From Waste Management Association's viewpoint, the tax, outside of the obvious economic impact to our citizens, raises some problems.

The permanent funding of the DEP, without legislative oversight, will allow the DEP to run rampant through our State, administering and forcing virtually any policy the Commissioner may decide to appropriate, with no budgetary constraints, and possibly not within the intent of this legislation.

As to the other aspects of the bill, a resource recovery facility is defined to mean a solid waste facility for collection, separation, recycling and recovery of metals, glass, paper, and other materials for reuse or for energy production. This definition is important in that the bill permits each solid waste district to designate portions of the district as a franchise area to be served by one or more persons engaged in operating a resource recovery facility.

The bill does not speak to whether a county can give a franchise for a resource recovery facility, which would conflict or compete with existing in-district resource recovery facilities. If the definition of resource recovery facility is read as broadly as we believe it can be read, these provisions would undoubtedly affect existing and planned transfer stations and intermediate material recovery facilities where the operator proposes to conduct operations for separation of material. Indeed, it could well be read to include facilities such as wastepaper facilities which accept material presently on a mixed regulated/unregulated basis. This is one aspect of the bill that will have to be clarified, as many of the Association's members either have such facilities in operation, or are planning construction of such facilities.

In closing, I would like to state that it may come as news to some present here today, but our industry has done more for the social and environmental aspects of the country's waste than anyone else in this room. Our owners, drivers, helpers, and pickers have taken the public's solid waste and transported it to landfills, which others have designated for decades. If we didn't, each one of us would be living on top of our own waste and dying at an even more rapid pace.

Whether or not this method is environmentally sound and not a pollutable process, we'll leave that to the scientists, engineers, resource recovery people, and even that young fellow up in Newark -- the 11-year old -- who is afraid for his life, and he has every right to be afraid.

What I have seen personally in Pinellas County, Florida in their resource recovery facility -- I took a tour of the place -- is far more environmentally acceptable than what we have today.

Thank you.

ASSEMBLYMAN McENROE: Thank you, Mr. Cornell. We appreciate your testimony. I congratulate your industry and all you have done socially and environmentally for all of us in this State. The points you made, I think, are well-intended, and I appreciate the comment regarding the impact of taxes on private haulers. I assure you, it is our intention-- When we propose and support a revenue-raising bill of this magnitude, it is never the intention to ask you to absorb taxes that are rightfully owed by the generators.

MR. CORNELL: May I address that just for a second?

ASSEMBLYMAN McENROE: Sure.

MR. CORNELL: We do appreciate that, as I said, but the trend has been that way in the past. We are a new association; we were established in 1982. We are not the New Jersey Trade Waste Association, which of course, ran into some problems that we all know about. As you know, I was a former Deputy Commission of Community Affairs for the State.

We are in the process of changing our methods and our outlook on the solid waste industry, just as you are. The members of our

Association are bent on earning their keep, but being respected, just as other businessmen in this State are. In the past, we haven't been, because a few have strayed from the normal course of business. That doesn't necessarily mean, as you and I know, that all politicians are crooked just because there are a couple who are crooked. What we're trying to say is, I represent some very law-abiding company owners who are very interested in number one, getting into the transfer stationing facilities, which is the existence of that industry today, and number two, being part of the decision-making and planning process that you are effecting today.

As the other gentleman said, we are looking forward to being put your mailing list as an Association. Our address is at the top of our presentation. If you have any chores you would like me to do as far as surveying the industry, or getting people to sit with you on your Committee, I would be more than happy to do so.

Oh, by the way, I have a recent newsletter with me, which I sent to the legislature. It has articles in it regarding Pinellas County, and it also has the generic proceedings in it. I abbreviated it for our members. The reason I am bringing that up is, here again, we're trying to encourage our members to know the terminology you will be using, and what is going on in their industry. I'll leave these here for you if you wish.

ASSEMBLYMAN McENROE: Thank you very much. Our Committee has a continual responsibility for reviewing solid waste and resource recovery facilities, so we'll put you on our list. You'll be invited to attend each of our Committee meetings, which are normally scheduled in the Annex.

MR. CORNELL: I intend to be there. I have only been with the Association about seven months, and I am a lobbyist. I am their lobbyist, as well as their consulting Executive Director.

ASSEMBLYMAN McENROE: We look forward to seeing you. Are there any comments?

ASSIMBLYMAN PANKOK: I have one comment. I had the pleasure about a year ago of having dinner with a southern New Jersey group of haulers. They are businessmen who are really dedicated to their

industry. They are very proud of what they do, and I had a very enjoyable evening with them.

MR. CORNELL: Thank you. I appreciate that. I might just talk about that for a second.

We have been in a position where we have not yet asked any State official to address our meetings because of the obvious cooling-down period from the last situation with the Trade Waste Association. Occasionally I would like to have you come to address our group. They are interested, and I can promise you that you will be treated with the fullest respect that you deserve as State officials.

Thank you.

ASSEMBLYMAN McENROE: Thank you very much. I appreciate that. Is there anyone else who wishes to be heard by the Committee? (no response) We appreciate everyone's attendance and participation in our hearing. This concludes our third public hearing in an attempt to review and resolve the difficulties within A-1778. We'll be voting on the bill, hopefully, within the next month, and then we expect it will proceed to the Assembly for vote right after that.

Thank you all for your attendance. My thanks to my colleagues for their participation and attendance today.

(HEARING CONCLUDED)