
Committee Meeting

of

ASSEMBLY AGRICULTURE AND WASTE MANAGEMENT COMMITTEE

ASSEMBLY BILL No. 50 (ACS)

(“Solid Waste Management and Environmental Investment Cost Recovery Act”)

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

DATE: May 12, 1997
10:00 a.m.

MEMBERS OF COMMITTEE PRESENT:

Assemblyman John C. Gibson, Chair
Assemblyman Anthony R. Bucco, Vice-Chair
Assemblyman Larry Chatzidakis
Assemblyman Melvin Cottrell
Assemblywoman Connie Myers
Assemblyman Reed Gusciora



ALSO PRESENT:

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

Thea M. Sheridan
*Assembly Majority
Committee Aide*

Yollette Ross
*Assembly Democratic
Committee Aide*

Meeting Recorded and Transcribed by
The Office of Legislative Services, Public Information Office,
Hearing Unit, State House Annex, CN 068, Trenton, New Jersey

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ASSEMBLYMAN JOHN C. GIBSON (Chairman): Good morning. I thank everybody for being here.

Let's rise and have a flag salute. (participants recite Pledge of Allegiance)

Good morning and welcome to the Agriculture and Solid Waste Management Meeting this morning. We will take two bills up this morning, one related to underground tanks providing the farmers the ability to remove their own tanks and another bill regarding packaging. The A-50 and the related financing bills we'll continue on public hearing, but in all probability, it will not be released this morning. Our target at least at this point in time is to release it at our next public hearing. I'll have more comments on that later, but for those of you who might be guided by that information, I pass it out early.

Roll call, please.

MR. COLNER (Committee Aide): Assemblyman Gibson?

ASSEMBLYMAN GIBSON: Here.

MR. COLNER: Assemblyman Bucco?

ASSEMBLYMAN BUCCO: Here.

MR. COLNER: Assemblyman Chatzidakis?

ASSEMBLYMAN CHATZIDAKIS: Present.

MR. COLNER: Assemblyman Cottrell?

ASSEMBLYMAN COTTRELL: Here.

MR. COLNER: Assemblywoman Myers?

ASSEMBLYWOMAN MYERS: Here.

MR. COLNER: Assemblywoman Gill isn't here.

Assemblyman Gusciora?

ASSEMBLYMAN GUSCIORA: Present.

ASSEMBLYMAN GIBSON: We have a quorum. (tape recorder shut off until testimony on Assembly Bill No. 50 taken)

I will now take up a continuation of the public hearing on A-50 and the related bills that have to do with some State financing of the problems related to A-50. The schedule that we had for this particular piece of legislation, I believe now, has to be somewhat accelerated.

I thank the Committee members, all those that have testified to date in bringing A-50 to the point it is. This is, I believe, the sixth public hearing we've had on this bill. In all probability the bill will be considered for release at our next hearing. So those of you that may have final testimony on A-50 between either today or between now and the 12 of June, we certainly invite that. I will open the hearing for additional testimony.

I've been reminded that there are additional technical amendments that have been prepared, that anytime after the meeting, that those that are interested should pick those up.

Perhaps our first testifier can be Art Maurice, New Jersey Business and Industry. Art. Here he comes bringing his suitcase with him.

Thank you, Art, for your participation in the legislation so far, and your additional testimony is appreciated.

A R T H U R J. M A U R I C E: Would you like me over here, Assemblyman?

ASSEMBLYMAN GIBSON: Yes.

MR. MAURICE: How's that?

ASSEMBLYMAN GIBSON: Try it again.

MR. MAURICE: Hello, hello. Contact. There you go.

Good morning. The New Jersey Business and Industry Association opposes Assembly Bill No. 50, and we'd like to recommend specific amendments.

Assembly Bill No. 50 could be the most important economic development legislation that this State Legislature will consider this year. I don't need to tell you that New Jersey's business and residential consumers pay the highest solid waste disposal costs in the nation. Our high disposal costs are a direct result of the State government's decision in the mid-1970s to direct the disposal of solid waste to specific facilities regardless of cost. You have the opportunity through Assembly Bill No. 50 to correct this policy.

We know what the judiciary thinks of our monopoly system of solid waste flow control. New Jersey's flow control laws are unconstitutional because they discriminate against out-of-state facilities which cannot now compete to take New Jersey's solid waste. The same Appeals Court decision, however, allows our State to continue regulating the flow of solid waste within its borders. We think continuing solid waste flow control within New Jersey's borders is a mistake.

The surest, quickest way to reduce costs in any business is to promote competition. Assembly Bill No. 50, however, prohibits open economic competition by allowing counties to restrict the abilities of environmentally sound solid waste disposal facilities to operate within their borders for no reason other than to restrict competition. The bill goes even further by expressly prohibiting any county from allowing new disposal

facilities to operate that would compete against existing facilities financed with county bonds, regardless of how much money consumers could save. In addition, the bill waives local government bidding laws so that local governments can contract with an existing incinerator for disposal at any cost without going out to bid. To deny free entry into the in-state solid waste disposal markets restricts competition and artificially inflates prices.

Speaking of prices, the BIA is concerned that under the legislation, solid waste disposal costs might actually increase. The Board of Public Utilities has adopted a useful policy as regards stranded cost recovery in the electric industry, which can work equally well in this substitute. The BPU mandates, as a condition for the recovery of stranded costs by electric utilities, a 5 percent to 10 percent reduction in electric rates. Likewise, the BIA recommends amendments to the substitute to require a similar reduction in consumer solid waste disposal rates as a precondition for a county or authority recovering its stranded costs. Also, the BPU has mandated that each electric utility submit a mitigation plan to reduce stranded costs. The BIA recommends that each county or authority seeking stranded cost recovery submit for approval a mitigation plan to the BPU or applicable government entity with specific expertise in solid waste issues. This reviewing entity should also make a determination as to allowable, recoverable stranded cost amounts.

The definition of stranded costs, called environmental investments in the substitute, should be amended to include only solid waste facility costs where outstanding debt is at risk. Other types of noncapital costs, including program costs and taxes, can be mitigated through legislation eliminating these requirements. Therefore, no stranded cost recovery should be necessary.

The substitute provides several approaches for the recovery of stranded costs, including the assessment of fees directly on consumers, whether or not they now utilize the facility in question, or on governments in the form of additional property taxes. The Department of Community Affairs is given the ability to impose either charge. NJBIA opposes these sections.

The Association feels the system of stranded cost recovery outlined in the substitute will perpetuate the tax collection and assessment infrastructure, which sole purpose is to weigh trash for tax assessment purposes and employ regulatory staff. Also, the BIA fears that taxpayers in counties with major facilities will be forced to pay for all stranded costs, especially where the legality of interdistrict agreements for cost sharing is in doubt.

The BIA therefore recommends that State general obligation bonds be issued to recover stranded costs, much as the State is considering for electric utilities stranded costs. For example, with a total outstanding obligation of 1.2 billion, a 25 percent stranded rate would require a bond issue of \$300 million which can be amortized over 35 years as taxable debt with annual State debt service costs of approximately \$23 million. This solution avoids interdistrict litigation, property tax increases, the maintenance of a costly and inefficient tax collection infrastructure, and correctly allocates the payment of these stranded costs on the one level of government responsible for our defunct solid waste regulatory system, New Jersey State government.

Thank you.

ASSEMBLYMAN GIBSON: Thank you, Mr. Maurice.

The Committee is very concerned with the position of NJBIA, and it is an important position and an important group in this State.

There are a couple of things, though, I think I disagree within your testimony, and I would like to point them out and we'll have continued dialogue on that I'm sure.

The bidding portion-- Although that's causing some concern in some quarters, the bidding portion is back in. The municipalities and the authorities must now bid for the continued business so that they are not at an unfair competition with out of state. It is a constitutional issue. It has been raised. The bill has been amended so that constitutional question is raised -- or is resolved. It raises further questions, but that's where it is now. So your testimony which indicates that they have unfair competition -- the municipalities and MUAs -- that is not the case as I interpret what we have written on the amended bill.

The other thing is -- I hope it's in the bill -- it's been my policy right from the beginning that municipalities will be free to go where they wish, not just out of state but within the State. We could have written a piece of legislation that says that intrastate is, in fact, regulated. We have deregulated the industry including intrastate. So if, in fact, a municipality is on the edge of a county, once the environmental investment is decided upon, that particular municipality should be free to go to an adjacent county or out of state. That decision will be based on their decision to save money, either because of haul length or because of lower tipping fees. That's the legislation that I believe we've crafted here. If there is some language that you think should be clearer as a result of that, we'd invite that.

MR. MAURICE: I will be happy to send you that language, Assemblyman.

ASSEMBLYMAN GIBSON: All right.

Thank you very much for your testimony this morning.

MR. MAURICE: Thank you.

ASSEMBLYMAN GUSCIORA: Mr. Chairman, a question?

ASSEMBLYMAN GIBSON: Assemblyman Gusciora.

ASSEMBLYMAN GUSCIORA: Art, has BIA or anyone on its behalf formed a legal opinion as to whether A-50 would have a continued chilling effect on the commerce clause? Essentially, are we going to be back into the courts if A-50 passes, becomes law?

MR. MAURICE: We haven't. Although from the summaries I've seen of the Appellate Court ruling, it does seem, as the Chair has stated, very narrowly drawn to the intrastate competition issue.

ASSEMBLYMAN GUSCIORA: Thanks.

ASSEMBLYMAN GIBSON: Thank you, Mr. Maurice.

Mayor Tim McDunough. He's also a member of the Warren County Pollution Control Financing Authority.

Mayor.

MAYOR TIMOTHY C. McDONOUGH: Thank you, Mr. Chairman.

I'm here really representing two different constituencies. As Chairman Gibson said, I'm Mayor of a small town up in Warren County called Hope Township, and I'm also here as the Treasurer of the Pollution Control Financing Authority of Warren County. As you know, we have a tremendous stake in this legislation. But I'm really here to thank you on the outset for acknowledging, of those members of this Committee that I've spoken to, that

Warren County has a unique situation and that A-50 as it currently stands really does not address adequately our concerns in Warren County.

I must tell you, Mr. Chairman, that I was very encouraged, and I took your words back to Warren County over the weekend. I was very encouraged to hear your remarks last Friday at the Solid Waste Association of North America's meeting in Princeton, in which you said, in your own words, that Warren County is a victim of circumstances and that it concerns you very much. You went on to say that you need to find a way to deal with our situation, meaning Warren County's situation. I must tell you that we're very encouraged about that and look forward to working with you on that.

I know you've heard from many Warren County officials over the course of the hearings with regards to A-50. I'm not going to get into any more specific details; although, I would like to just remind you to and ask you to take a look at the recent letter that was sent to you by our Chairman, Mr. Harry Pool, which is dated May 5, with regards to the interdistrict agreements that we have in Warren County and what that means to us in terms of handling the parts of A-50 that are concerned with that.

I think we are very concerned in Warren County, as I think you should be, too, of the message that this bill sends to, in its current condition, the voters not only of Warren County, but throughout the State of New Jersey. Because, in essence, if this bill is passed the way it is, it basically is turning its back on a county that has done everything that it was supposed to do. And as you know, Warren County was the first county to open up a waste energy facility. It was the first county to construct a multiline landfill to handle its own ash. It was the first county to put together interdistrict agreements. As

you know, we've put agreements together with Hunterdon and Somerset County, and this allowed Hunterdon and Somerset County to forego the construction of these very expensive facilities. So basically we have done everything we have been told to do by the State of New Jersey, and we've done more than that. Our concern is that if some of the provisions in A-50 are not changed to better address the concerns of Warren County, then you are really turning your backs on people that do what they've been told to do.

In closing, I'm just here to tell you that Warren County continues to be very involved in this process. We want to be more involved in it. We thank Connie Myers for her tremendous efforts on our behalf. As a member of the Pollution Control Financing Authority -- and we have representatives from the county themselves here -- we are available at any time to continue the dialogue to try and help A-50 be a bill that will not only help all the counties in the State of New Jersey, but also help Warren County, which is my concern at this time.

So thank you very much.

ASSEMBLYMAN GIBSON: Mayor, thank you for your testimony.

I just would comment similarly as I commented Friday: A-50, when it initially came out upheld all the interdistrict agreements that was part of the original drafting of the bill. We found that that was creating some problems, and then we eliminated all the district agreements. And as you say, because you were the first, perhaps the early bird in this case, may be the separating things between your particular agreement, which at least the Chair and members of this Committee are very much in sympathy with, will be the

reason why perhaps your interdistrict agreement could hold and perhaps the others may stay out. But that will be the ongoing process that this legislation will receive. At least in your case though, I'm very sympathetic to the agreements that were entered into and the need to find some statutory authority in those in A-50.

MAYOR McDONOUGH: I appreciate that.

ASSEMBLYMAN GIBSON: Is Bill Wolfe in the audience? Would he like to testify from the Sierra Club?

Mr. Wolfe, good morning.

WILLIAM WOLFE: Good morning, Mr. Chairman. Thanks for the opportunity to be here.

I'm Bill Wolfe. I'm the Policy Director of the Sierra Club. The Sierra Club is a conservation and natural resource organization. We have okayed policies to serve the earth. When we--

ASSEMBLYMAN GIBSON: Try the other microphone.

MR. WOLFE: This mike?

ASSEMBLYMAN GIBSON: Yes. Try that.

MR. WOLFE: Is that better?

ASSEMBLYMAN GIBSON: Push it.

MR. WOLFE: Is that better?

ASSEMBLYMAN GIBSON: Yes.

MR. WOLFE: Okay.

At the outset of the hearings on this legislation, we offered to work with the Committee and yourself in trying to craft amendments to the bill to protect New Jersey's commitment to efforts to reduce the generation waste and

to recycle to the maximum feasible extent. I think we're all in consensus in the Legislature, and for some time now, that efforts to reduce the amount of waste we generate and recycle, to the extent we can, is the most cost-effective and environmentally sound approach to managing solid waste.

The Sierra Club has supported competition in the solid waste industry. We opposed waste flow as a barrier both to competition, cost-effective solid waste management, and additional aggressive recycling, because there were flaws in the State legislation that said competition couldn't go beyond certain parameters. What we feel is we like to work with the bill to provide the competition that's necessary to meet the court mandates but that will preserve the historical commitment to recycling in this State and new programs designed to reduce the amount of waste we generate.

Specifically what we'd like to see in the bill that is not there at this point -- and we could draft specific amendments which I will do before the next go-around--

ASSEMBLYMAN GIBSON: Promptly.

MR. WOLFE: --promptly -- are provisions that link the current statutory recycling goals with the municipal contract and the stranded cost recovery provisions of the bill such that as we go forward into a managed competition mode that we have an ability to say-- Because we're saying right now to municipalities and counties the 60 percent rates are statutory mandates, but there's no mechanism in the bill we see that as the market drives costs down, there's going to be a rush to reduce cost and shed programs that both recycle and reduce waste. We can't have a purely market approach, and yet counties have to have and municipalities have to have an ability--

Although the bill permissively gives them that ability to recover the operational costs of those programs and the historical investment in those programs, we would like to see that mandated. That those programs (A) are conducted, (B) that there is a mechanism in the bill to fund them whether they're privately provided or publicly provided, and that there is mechanism to collect those revenues similar to the approach to, what I'll call, stranded investment or some costs.

I find myself almost in complete agreement with the remarks of BIA, as the more effective approach, is to come up with stipulating the parameters under which the competition is to occur similar to the dereg in the electric industry. We'd like to offer some written suggestions along those lines to tighten the bill up with respect to funding those programs. As the bill is currently drafted, we feel very serious long run danger to those programs and the ability in New Jersey recycling.

ASSEMBLYMAN GIBSON: Thank you for your comments.

Mayor Paul Matacera and Mayor Lee Allen, both from the League of Municipalities.

Good morning, Mayors.

You'll have to push that button again now. (referring to microphone)

MAYOR PAUL MATACERA: There we go.

ASSEMBLYMAN GIBSON: How's that?

MAYOR MATACERA: Thank you, Assemblyman.

Mr. Chairman, good morning and thank you for the opportunity to be able to speak on behalf of the New Jersey State League of Municipalities.

To my right is Mayor Allen from Roosevelt, and I am Mayor Paul Maticera of the Township of North Brunswick. I am a past President of the League, and I am presently serving as Chairman of the League's Solid Waste Committee.

As a preface to my remarks on A-50, Mr. Chairman, I'd like to express our appreciation for the work you have done thus far to address the enormous problem of how to revise the State's solid waste management system. I recognize the complexity of this task you have undertaken and made necessary by the *Carbone* and *Atlantic Coast* decisions.

I understand the time constraints under which you and your colleagues have labored. I realize the difficulties you have encountered in your efforts to be fair to the many stakeholders effected by such a significant policy change, particularly when the most important stakeholder of all is the taxpayer and has no clear-cut stake but, instead, has a variety of interests defined by the boundaries of a county line.

In short, Mr. Chairman, I sympathize with you. As you know, the League has had a difficult time grappling with this issue as well. Several months ago, we put together a committee of local officials representing municipalities with varying demographic profiles. In good faith, we set out to review all the proposals pending, A-50 among them, which set out to revise the State's solid waste management system.

It became abundantly clear, however, that given the dynamics of the policy-making process on the issue, it would be to our own best interest and, perhaps, most helpful to the Legislature if we concentrated our efforts on outlining our own objectives. Although we are able now to state those

objectives briefly and, I hope, clearly, it was with difficulty we experienced in our own consensus-building process that prompted me to express my sympathy to you earlier.

As you know, Mr. Chairman, it is no easy job getting people to agree on how to dispose of \$1.7 billion debt that will ultimately be paid for by the New Jersey taxpayers. In fact, such an agreement is likely impossible, but I am prepared today to offer to you our Committee's objectives, and, in so doing, I will attempt to provide what we believe to be the most agreeable solution to dispose of this massive debt.

It is the League's view that the stranded debt is a problem created in large part by the State through its mandates on county-sponsored disposal programs. And because of our consistent advocacy of the State pay for State mandate principle, we believe the State should provide a financial structure in which there is an equitable distribution of the responsibility to pay off the debt.

To accomplish this, a State-mandated debt needs to be determined, and the definition of environmental investment costs in A-50 is a good starting point to do so. With a definition of State-mandated debt in hand, a manner of funding the debt remains necessary, and here our objective represents a significant departure in philosophy from which we see in A-50.

It is the League's position that the debt should be paid for with a statewide fee or other levy. Call it what it will be, but we believe a statewide levy could be added to the tipping fee. So as to clearly identify the revenue source, the application of the levy should be on all solid waste. Otherwise, the impact on those paying for the debt will be exacerbated.

We believe the debt service should be calculated based on the total waste generated within the State, even that which is disposed out of state. And we think the debt service should be collected by the haulers for the State in the same manner that prior tonnage fees and taxes have been collected. This mechanism is in place and proven.

One final comment on our objectives regarding the debt service, and that is, the life of the debt service provision should not exceed the life of the debt. Also, there must be some kind of assurance that the State will not divert any debt service revenue into other areas of the State budget. It appears that you have addressed this concern by defining those items which are considered environmental investment costs, though a specific sunset provision would clarify the limitations of what you have termed the environmental investment charge.

Before moving on, Mr. Chairman, let me say that I realize we are making our public appeal to you, as a statewide solution to the debt problem, rather late in the ball game. As I earlier inferred, our organization had some difficulty coming to a consensus on the philosophy of how to pay and how to come to know to share that philosophy. We cannot realistically hope for all the changes we seek.

But now that we are able, it is important for us today to state our views of the matter, and I hope you can appreciate our perspective. Apparently, it is shared by others. I understand groups such as the Business and Industry Association, Mr. Maurice just spoke about, likewise have proposed a funding system that equally spreads the cost of the debt statewide rather than on a county-by-county basis.

Language in your bill acknowledges that the debt incurred by the counties and the authorities are a result of State mandates. So if that is the case, what we are saying today is that the State should pay for these mandates. To your credit, Mr. Chairman, it appears that some of the other concerns we've expressed to you in writing are addressed in the latest version of A-50. We have maintained that the method by which solid waste collection is provided should remain a local option. A-50 allows that option.

Collection service for multifamily residential properties would no longer be mandated under A-50. This would have been a costly proposition in a number of municipalities, and you have recognized and addressed the problem. We feel comfortable that A-50 provides the necessary accountability to ensure that all solid waste generated within the counties will be included in the stranded debt calculations and payments. And finally, we believe we have preserved the integrity of the hauler system by maintaining hauler licensing requirements.

Again, let me say that we are appreciative of the work you have done thus far, and on behalf of our constituents, we are grateful to you for your serious consideration of our concerns. But ours is a different philosophy. It seems unfair to us that municipalities in certain counties will be asked to contribute to a State-created problem considerably more than the municipalities in others.

So for our constituency as a whole, we must oppose A-50. Should the bill be released from Committee today or on June 12, we would of course want to continue to work and we will continue to work with you, the sponsor,

as we get on to June 12 to see how we may be able to come and build some additional consensuses.

I want to thank you very much for the opportunity to appear before you and your Committee.

ASSEMBLYMAN GIBSON: Thank you very much for your testimony.

Mayor, did you want to say anything else?

MAYOR LEE ALLEN: No, I'm just here--

ASSEMBLYMAN GIBSON: Well, thank you, Mayor Matacera, for your work on A-50. Where we've gotten today has-- We've gotten here with your help.

Let me say a couple of things though. One, that the \$1.7 billion worth of debt is, in fact, being paid for by the citizens of the State of New Jersey through the municipalities, through the MUA. It's being paid for now on those municipal budgets through the tipping fees. This simply changes whether it's on a tipping fee or whether it's received through an assessment to the municipalities should the particular counties choose one of the many items in A-50. One of the many menu items.

So the point is that it's not a State mandate that's going to be changed to the municipalities. It's in the municipal budgets today. And as a matter of fact, because of what I said earlier in this hearing, the opportunity to not restrict intrastate flow, that cost could, in fact, come down on the State as a whole.

We had another conversation that I'd like to put on the record. It will save us one letter. We're very busy as you note. You were concerned

about how a tax bill might appear from the individual taxpayer, whether that would show up as environmental investment on a tax bill. That is not our intention, and I don't think that that needs to be done. What our intention is, is that should a county choose to transfer a portion of the environmental investment to a municipality, that the municipal budget heretofore showing costs for disposal of solid waste -- collection of solid waste will show less costs for disposal of solid waste because the tipping will come down. Those costs will be replaced by an item, environmental investment. That's part of the budget work annually by a municipality. It will not be a specific thing under-- In my opinion, it should not be and will not be anything that will in fact appear on a tax bill.

Now, just to some general comments. On Friday's conference, where we had the -- what they called SWANA, Solid Waste Association (*sic*), one of the speakers indicated that A-50 tries to do all things for all people. That would be very nice. As a matter of fact, maybe that's what it has tried to do. But today, I think, we've heard testimony that no one quite likes it. So I learned earlier, when I became a legislator, that if no one quite likes something, you're sort of getting close to where you should be. So maybe we are getting close on A-50. If one group likes it and the other group doesn't, it's not necessarily the best legislation. Today I think everybody went on record. No one liked it today. (laughter) So maybe we are, in fact, getting close.

I will note that the representatives of Union County gave us written testimony that will, in fact, be part of today's record. You can rest assure to that.

Maybe some comments just about the schedule of where we are. Most of you in the room do know that the Appellate Court upheld the decision that the Federal Court made some time ago. That decision was that waste flow in New Jersey is, in fact, unconstitutional. The Appellate Court upheld that. What they did, in addition to that, that instead of having a two-year time frame with which to craft a new legislation or a new plan from the date of the last appeal, that two-year generosity has been taken away from us. So I would imagine there will be some appeal process from the administration. That appeal process-- They have 90 days with which to go in front of the Supreme Court. The Supreme Court will go in recess probably within that 90-day period. The Supreme Court, as I understand it, reports back the first Monday in October. That turns out to be October 6. So we may not have any waste flow control, or regulation, as we know it today in New Jersey, as early as October 6.

That requires that at least the work of this Committee be accelerated. As I said earlier, today is not necessarily the day to release the bill, but I think, it would be prudent to release it by next meeting and send it on its way so that it can get the attention of the rest of the Legislature and whatever revisions that each of the individual members of the Legislature feel are necessary as we work our way toward-- Now someone did, in fact-- Someone additional did sign up to testify.

Does anybody have any questions for the two Mayors? (no response)

Thank you, Mayors.

MAYOR MATAACERA: Thank you very much, Assemblyman. Again, we look forward to working with you in the future on the bill.

ASSEMBLYMAN GIBSON: Dave Pringle. Did you want to introduce or have some testimony, Dave?

You'll have to push the button again, because it seems--

Try it now. (referring to microphone)

DAVID PRINGLE: Can you hear me? There we go.

Good morning. Again, my name is David Pringle. I am the Campaign Director for the New Jersey Environmental Federation. The Committee is well aware, as I've testified several times, as well as our Chair, Sharon Finlayson, about the Federation's concerns about A-50. In particular, we feel the fundamental premise of the bill is flawed, in that, it is in our view a taxpayer-funded bailout of the incinerator industry.

The A-50 attempts to answer the question, "How do we adhere to recent Federal court rulings and keep incinerators viable?" We think that latter part of that sentence is flawed. We think the better question that A-50 should be looking at is, how do we adhere to the court's rulings in the most environmentally and economically beneficial way.

We continue to urge the Committee to reevaluate how they're looking at the court's rulings. We are drafting now, and I know it's not on the time frame that the Committee Chair has set -- and I understand the drive to get things moving here-- But I think we will have the bill ready by your next Committee hearing and introduced.

Specifically, what our bill will do is pay off the debt, pay off the stranded investment, and not just look at taxpayers and ratepayers as sources

of income to pay off this debt, but also the incinerator companies themselves. As I testified at the last hearing, all five incinerator companies that operate these incinerators have guaranteed profit margins, and in Camden's instance, it's 25 percent at no risk. We think that any bill that is going to be paying off incinerator debt without looking at the incinerator companies and their shareholders is flawed.

Second, our bill will phase out the environmentally and economically costly incinerator industry. And then finally, go to the heart of this matter and take advantage of the opportunity that the recent court rulings create, which is to reestablish the solid waste hierarchy of source reduction in the top tier; recycling, composting, and reuse as a second tier; and landfiling as the last option; with incinerators not even on the list. And over a three-to-five-year time frame, we phase out the five existing incinerators in New Jersey.

All that being said is hypothetical. There are several amendments that we would support to A-50 that we think would significantly improve the bill: the two recycling amendments that Bill Wolfe of the Sierra Club testified to ensuring that the mandatory recycling continues under this new regulatory framework, as well as mandatory funding of existing recycling programs.

There are four other amendments that, I think, have been drafted and distributed to the Committee, or will be shortly, that we support to A-50. The first is a mandatory audit and public disclosure of the results of that audit of the stranded investment before the State pays back any of that stranded investment. This is the taxpayers' money, and I think taxpayers have a right to know how that money has been spent to date. I think the Committee will

find some very interesting results including bond money floated in Mercer County to build an incinerator was siphoned off to pay for a baseball stadium. If that's the case, I think we need to be looking at more than just taxpayers, ratepayers, and even the incinerator industry. Everyone loves the Trenton Thunder, but if their stadium was built on incinerator money, maybe they should be helping pay back some of this debt as well.

The second amendment we would support is public disclosure of the guaranteed profit margins of the existing incinerator operators. I've had a lot of difficulty getting the hard data. I think the public, as well as the Committee, will be outraged at the sweetheart deals that these companies have, especially in the light of under the current bill that their funding isn't even tapped into.

The third would be to require mandatory renegotiation of the contracts between the incinerator operators and their host county or MCIA or what have you. These contracts were negotiated under extremely different circumstances than are the situation today. While it may appear unusual, if not illegal, for the State to come in and require renegotiation of third-party contracts, most, if not all, of these contracts make the contracts null and void if circumstances have dramatically changed. We maintain that in light of the various court rulings that those circumstances have changed and would provide a terrific opportunity to get a much fairer deal from the existing incinerator operators.

Finally, A-50 is essentially a massive deregulation of the solid waste industry much more so than any of the other utilities. I think it's vital that the Department of Environmental Protection maintain a vigilant role in

regulating the solid waste industry to ensure that consumers, taxpayers, and ratepayers aren't ripped off in a totally deregulated industry.

On that note, I will close and take questions. I will get you this bill, hopefully, by June 12.

ASSEMBLYMAN GIBSON: Mr. Pringle, I'm disappointed that you're somewhat tardy, and you've been in this process early on, a participant of this, and we did ask for certain information from you including your written proposed amendments. I would urge you again to get them in early and not wait until the hearing of the 12th to get them in. And then, some of your statements regarding 25 percent profits are highly questionable, and I ask for some documentation of that. So I will assume that that doesn't, in fact, exist, unless I do get that documentation.

MR. PRINGLE: I will immediately get you the documentation for Camden. I should be able to get that to you by the end of the week. I am equally frustrated in getting the rest of the information. That's one of the reasons we support mandatory public disclosure of the profit margins and contracts that the incinerators currently operate under. I wish I had the bill. I, more than anyone, wish I had a bill to offer you today.

ASSEMBLYMAN GIBSON: Any questions from any Committee members?

All right. Thank you for your testimony.

With that, I'll--

RICHARD M. BUCK: My name is Richard Buck, and I work for a county executive, Robert Prunetti.

I don't know where Mr. Pringle got his information, but I just want to make a technical clarification that no incinerator monies were used to build the stadium. Similar allegations were made during a political campaign in Mercer County, and we would be happy to provide Mr. Pringle with that documentation to prove that did not occur. I just wanted to make that clear for the record. So I don't want-- This is a very important piece of legislation. I don't want the legislators under the impression that monies that will be used for incinerator projects or to cancel out the debt will be used for recreational facilities.

ASSEMBLYMAN GIBSON: Thank you.

MR. BUCK: Thank you.

ASSEMBLYMAN GIBSON: I'll close the hearing.

ASSEMBLYMAN COTTRELL: Mr. Chairman?

I'd like to comment. We've been on this bill for quite a while now. We listen. People have more than adequate amount of time to present their case. Every week I hear a different story from the same people. They keep changing, they keep changing. And I praise you on your patience.

ASSEMBLYMAN GIBSON: Push your button, Assemblyman.
(referring to microphone)

ASSEMBLYMAN COTTRELL: I praise you on your patience. I think it's time that if they can't put their act together by next week-- Now, I haven't mentioned it at hearings. I heard a man say, "I'll have it next week, I'll have it next week, have it next week." That's not good enough for me. I prepare my work. I prepare before I come here. We talk about it, and you and I and the Committee, and we're working on this bill very hard. If they have

a problem, if it's been presented to us (indiscernible) so that we don't have to wait to the last minute to put this bill in. I'm prepared to vote this bill in today, and I'm willing to give people a chance, but I think June 12 is their last chance. And at our next meeting, come in-- They should have their act together. They've had plenty of time. I think we've been on this ever since last year. And certainly in seven or eight months, you should be able to get your act together. So I say we should be prepared to make our decision on the next meeting.

ASSEMBLYMAN GIBSON: All right.

ASSEMBLYMAN COTTRELL: I might be out of line, and you can tell me if I'm so.

ASSEMBLYMAN GIBSON: No, that's fine, Assemblyman.

Thank you very much.

ASSEMBLYMAN GUSCIORA: Mr. Chairman?

ASSEMBLYMAN GIBSON: Assemblyman.

ASSEMBLYMAN GUSCIORA: I just have a comment that Michelangelo's Sistine Chapel wasn't painted in one day. I applaud you for your efforts for A-50, but I still think that it's evolving and that there are additional comments. I think that we are well advised to wait and get the best possible bill out there.

ASSEMBLYMAN GIBSON: Thank you for that, but there probably are other legislators, also, that want to contribute to the process, but thank you both for your comments.

Assemblyman Rooney.

ASSEMBLYMAN JOHN E. ROONEY: Thank you, Mr. Chairman.

I wasn't sure whether the bill was going to be reported out today. I apologize for arriving late. I had some other things to do. Just to clarify some of the things that I did here.

Number one, there really is no stay on this particular situation because of the July decision. There was a two-year stay that Judge Irenas had granted. This was not really done this time. At that time, I asked Steptoe and Johnson, the attorneys that brought this original case to the Supreme Court, if I went out as a Mayor of my town, would he defend me? At that time, he told me, "No," because of the stay. I got a call from him on Friday. This decision came down on Thursday. And he told me, he said, "You can go out now." He said, "I'll defend you, and I'll defend you on contingency." And you have to understand-- People up there and back here have to understand what's happened since July of 1996. The State has had to pay \$1 million in legal fees to the plaintiffs on this case. That will again happen if towns start to go out, and we are then accosted, shall I say, by the State and sued by them under an unconstitutional law. Any legal fees that we incur will go to the accrual of the State of New Jersey, not to us.

So I caution you on that. We do have some urgency here. I think I've suggested right along that there are many issues of this bill that could be voted out immediately. The only issue that's a problem for all of us, because we haven't been able to come to a decision on that, is how do we pay the debt.

Now I've suggested-- My bills had statewide solution. I backed off from that position. I'll tell you flat out, I have backed off from that

position. And basically what I suggest is that there be a solution for the incinerated counties. For those five incinerators, the State has to take an active role in helping them pay their debt. They were responsible for the incinerators being built. They should step up to the plate and say, "Okay, we want those incinerators to exist, and we'll help them to be competitive at least for a period of time." The rest of the counties that either have no debt or have little debt can assume that responsibility.

In my County in Bergen, we have a \$121 million in debt. If we look at that in terms of garbage, if we pay \$20 a ton, each of the municipalities, we could pay off our own debt within 10 years. So that's a solution that I'm offering to my county executive. I would suggest that the rest of us go to all of our county executives and do the same, find out what that debt is and how we can help pay off the debt. We've got to come to a solution. We've got to come to it quickly, and I think what we should do is sort out the wheat from the chaff. You get rid of the first four issues of this problem immediately. The debt is the only thing that should remain. We shouldn't be confusing this issue with how do we pay off the bonded indebtedness, because that's going to be the tough one.

I'll suggest what I can at any time. I'll be available to assist and to help, but I would like to be part of the process also. The other thing I would ask OLS is to say, "Can you do this?" in one bill. I seriously don't think you can. We've always had a policy of having one bill per issue. And one omnibus bill here taking so many issues is not only a problem as far as I'm concerned, because we've never done this in the past, but I think it's a problem in the fact that we're confusing the whole thing. So perhaps we should be looking at-- I

don't care whose name is on it, but we should be looking at an issue by issue, get rid of those issues, get them the hell out of here, get them to the floor as quickly as possible, and let's deal with the problems that remain. The problem is the bonded indebtedness. That's all I have.

Thank you.

ASSEMBLYMAN GIBSON: Thank you, Assemblyman.

Not in seeing anybody else eagerly jump forward, I'm going to close the hearing, and thank you all for being here.

(HEARING CONCLUDED)