
Committee Meeting

of

ASSEMBLY AGRICULTURE AND WASTE MANAGEMENT COMMITTEE

ASSEMBLY BILL Nos. 50 (ACS), 2568, 2811, and 2837

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

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

DATE: May 1, 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
Assemblywoman Nia H. Gill
Assemblyman Reed Gusciora



ALSO PRESENT:

Algis P. Matioska	Thea M. Sheridan
Leonard J. Colner	<i>Assembly Majority</i>
<i>Office of Legislative Services</i>	<i>Committee Aide</i>
<i>Committee Aides</i>	

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 and welcome to this Committee meeting. Would everyone rise for a Pledge Allegiance to the flag. (participants comply)

Good morning, again. Thank you for your attendance. Today we will take up three pieces of legislation with the possibility of releasing them, and then we'll have, for discussion purposes, A-50 and the related financial help to the problems that are recognized in A-50.

May I have a 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 is not here.

Assemblyman Gusciora.

ASSEMBLYMAN GUSCIORA: Present.

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

ASSEMBLYMAN GIBSON: At this point in time we will continue the public hearing on Assembly Bill No. 50 and, as far as I can see, anyone wanting to provide additional testimony.

Allan Collins, New Jersey Association of Counties. Would Mr. Collins please share with us his current thoughts on A-50?

A L L A N C O L L I N S: Good morning, I have a prepared statement. Chairman Gibson, members of the Committee--

ASSEMBLYMAN GIBSON: Is your mike on?

MR. COLLINS: Is it on now?

ASSEMBLYMAN GIBSON: Yes.

MR. COLLINS: Chairman Gibson, members of the Committee, thank you for the opportunity to testify this morning. I'm testifying on behalf of the New Jersey Association of Counties Solid Waste Committee, chaired by Mercer County Executive Robert D. Prunetti, which continues to meet regularly to discuss this important issue.

After further review of the legislation, the Solid Waste Committee recommended and the New Jersey Association of County Board of Directors voted to support the attached amendments. We respectfully request that your Committee consider including the suggested language and any subsequent drafts of A-50.

For the Committee's information, the amending languages addressed three issues of concern:

1) The counties that have issued debt for resource recovery projects which have not, for whatever reason, been constructed that those

facilities continue to have the ability to recoup those costs through the environmental investment charges;

2) To ensure the legal obligations of counties with interdistrict agreements entered into prior to the dissolution of flow control remain binding;

3) The abilities of counties, which were appropriated State loans, to both have the money released to them and to be able to utilize those funds to help pay down environmental investment costs.

Again, on behalf of the New Jersey Association Counties, I want to express our appreciation for the opportunity to comment. NJAC looks forward to working with you in the future on this legislation. As always, NJAC staff and members are available for any questions or suggestions you may have on this important issue.

Thank you.

ASSEMBLYMAN GIBSON: Thank you. Those comments--

MR. COLLINS: I believe they were distributed to the Committee.

ASSEMBLYMAN GIBSON: Thank you.

Any questions for the testifier from the members of the Committee? (no response)

Thank you very much.

Mr. David Brown, Mercer Citizens for Public Accountability.

Would Mr. Brown like to testify?

DAVID BROWN: Good morning, Chairman.

My name is David Brown. I'm a resident of Trenton, a member of Mercer Citizens for Public Accountability and also of a local home owners' group called the Island Civic Association of Trenton.

I have a few comments about A-50. The bill seems to address two different issues. The first of these is the need to make our statutes reflect and be in compliance with a Supreme Court decision. I support the provisions of the bill which do that.

The other subject in A-50 is what it calls the recovery of environmental investment costs. I respectfully submit that everything in the bill relating to this subject should be eliminated or should become a separate bill, which I would not support. Obviously, stranded investments must be paid -- I don't oppose that -- but this bill would create a way of paying them which was not available before and, in my opinion, should not be made available.

The traditional American way of paying our bills at the local and county level is through property taxes by means of tipping fee surcharges to finance stranded investments. This bill would enable our authorities and county governments to engage in an indirect kind of taxation that is less visible and more confusing to the public but which, ultimately, would have the same effects on the individual taxpayer's pocketbook.

Devising such an indirect way of generating revenue is hardly a way of preserving and building trust in our government. These provisions would also negatively impact the State's urban centers by creating a mechanism for forcing them to pay stranded investment costs on a per ton basis instead of on a per assessed property value basis.

The problems now faced by the urban centers hurt everyone, everywhere, in various ways, and we should not devise a mechanism which would burden them with a larger share of the stranded investment costs.

ASSEMBLYMAN GIBSON: Thank you, Mr. Brown.

I want to point out, as clearly as I can, that A-50 does not propose to add a surcharge to the existing tipping fees. Quite the contrary, it proposes to take that part of the tipping fee, that includes those costs that have been incurred prior to now, and gives the authorities the ability to transfer that -- perhaps in the method that you said, through local taxes, through the distribution of rateables. That's one of the many methods that the bill proposes to do. Other methods could be to distribute that cost, again, taking it out of the tipping fee so that the tipping fee can be as low as it possibly could so that the tipping fee can be as competitive as it needs to be to continue to function, and to transfer that down, based on, all probability, past tonnages that came from that municipality.

If for example, in Mercer County -- it's a poor example because Mercer County does not have a project that is proceeding at this point in time. Let me use a county like Union. If Union County has a debt and has a tipping fee of somewhere around \$90 a ton, they want to continue to function, they want to continue to utilize the facility that's there disposing of trash, in order to do that, after this decision -- after this judge's verdict comes into play -- they will not get any trash there at \$90 a ton because there may be somewhere else that the municipalities in Union could be free to go at \$40, \$50, and \$60 per ton, and they will just go away from there. So, in order to make those municipalities or to permit those municipalities to utilize this facility that's

close to them, they have to bring that tipping fee down not up. The surcharges will not be added. The cost of the incinerator will be removed from the tipping fee or a portion of it. That portion, then, will be transferred to the municipalities in a decision that Union County, as the bill is presently drafted -- in a manner that Union County decides is best for the constituents of Union County, either by distributing it through local property taxes based on rateables or distributing it through local property taxes based on the amount of tonnage that that particular municipality contributed or disposed of at that facility in the previous five years.

If that municipality then chooses not to use Union County's incinerator, in the example that I'm using, and go somewhere else, they are free to do that, but they had an obligation -- at least as anticipated in this bill -- they had an obligation to pay their proportionate share of the cost of installing or constructing that facility.

Was I clear, and was that what you thought A-50 was doing when you introduced the testimony that you just did?

MR. BROWN: Chairman, there might be something of a misunderstanding as far as what I was trying to get at here. My understanding is that before the bill would be passed, counties and authorities are not able to use tipping fees for recovering stranded investment costs, that is bonds that have been sold but are not being employed in some kind of facility, and that this bill enables tipping fee proceeds to be used for that purpose.

ASSEMBLYMAN GIBSON: Currently tipping fees are set at rate to include all of these fixed costs -- that's the current system -- because they will not have a guaranteed customer in the future. That's what the judge

mandated, that you will now be free to go across State lines if you wish, because they can't guarantee that flow of trash. That customer-- They will not be able to repay those bonds because they will be out of business shortly because no one will choose to go there at \$90 and \$100 a ton. That's the current situation.

A-50 proposes to give them the authority to lower that tipping fee, to lower it as competitive as they need to do to continue to receive that trash, which has been designed to be the most efficient location for that area. When they lower that, the trash will undoubtedly continue to go there. But, in order to lower that, the costs that went into building that facility has to be distributed somehow. A-50 gives them the ability to distribute that in a number of ways that that particular county will choose to utilize so that the debt can be satisfied and, yet, the tipping fee can be as low as it needs to be to continue to encourage them to use it. Is that clearer?

MR. BROWN: A little bit. Thank you.

Just a question, sir, referring to an example. Let's say, for an example, in Mercer County we have a large debt and the project was not built. Now, can Mercer County Improvement Authority go to the State and get permission to use an increase in tipping fees to pay down that stranded investment?

ASSEMBLYMAN GIBSON: They can currently do that. If in fact they do that after July of 1998, no one will go there. So that would be a disincentive for them to do that. They would defeat their own purpose. First of all, the tipping fees are currently higher than they can be and to be as competitive as they may be. To add dollars to that in order to recover their

fixed costs, they are just going to defeat themselves. I don't see that as a current--

MR. BROWN: Okay, but they would legally not be able to do that, currently, but the bill enables them to do that.

ASSEMBLYMAN GIBSON: No, just the opposite. They can now do that. The bill, in the future if the bill becomes law, gives them the authority to recover these fixed costs other than at a tipping fee.

Thanks for your testimony. It gave me a chance to explain the bill a little bit more thoroughly than maybe I have been doing, presuming that some of these things are already on the record.

MR. BROWN: Okay, I think I need to look at it again, and we'll talk about it again.

ASSEMBLYMAN GIBSON: And we'd be happy to talk again.

MR. BROWN: Thank you very much.

ASSEMBLYMAN GIBSON: Thank you for your testimony.

Did anyone else wish to testify on A-50?

Yes, sir. You may begin.

DAVID PRINGLE: David Pringle, I'm the Campaign Director for the New Jersey Environmental Federation.

I wasn't planning on testifying today, both myself and Sharon Finlayson, our Board Chair, has already testified before the Committee on the bill, but in light of the most recent testimony, I just wanted to clarify our position to the bill as the bill develops and as we develop our position, which is that we strongly support, obviously, needing to repay the debt. What we want to change in the bill is how do we most fairly assess the burden of the

debt proportionately. We are disturbed that the five existing incinerator companies that operate these incinerators have guaranteed profit margins. The Camden incinerator has a 25 percent guaranteed profit margin at no risk, yet they are not sharing any of the burden of paying back this debt. We recognize that those contractual obligations are based on, depending on the county, either between the county or the county's MUA and the incinerator operator. None the less, there are several avenues available to the State to encourage these companies to renegotiate the contracts and/or establish some form of fees or, god forbid, taxes on the incinerator industry to help pay back this debt.

Just to kind of give you the idea of the amount of money we are potentially talking about if this avenue is explored, the Camden incinerator has, as I said, a 25 percent guaranteed profit margin. Most people I've talked to think giving them a guaranteed profit margin on the range of 5 percent to 10 percent is certainly reasonable. The difference in 5 percent to 10 percent and 25 percent would be roughly \$4 million a year. I am doing research to try and get at what the other incinerators' situations are, but if they are reasonably comparable, and you factor that over 20 years, that's about \$400 million. So that's roughly a quarter to a third of the overall stranded investment. So we would encourage the Committee to take a look at how we can get incinerator operators to pay their fair share.

Certainly the counties that have the debt need to pay their fair share, and I think that the way the bill goes after it sets up a system for those counties to do so is a fair one as long as the incinerator operators are paying their share and the State also takes on some responsibility. It's kind of a catch-22. On the one hand, the counties that have this debt are saying that it's

unfair for us to have to pay this back, “We’re only doing what the State told us to do,” the State mandate-State pay issue. On the other hand, you have counties like Monmouth County who rejected the State’s position and found alternatives to building these incinerators, so it’s kind of unfair to ask citizens of Monmouth and Burlington County to pay back debt in Essex and Camden County. That’s why it’s our position that we think the fairest way to go is to split this burden between the counties that have the debt, the incinerator operators, and the State, because they had the State mandate-State pay.

I agree with Dave Brown that this bill should be separated. There are two totally separate issues here: how we handle the stranded investment and what should the solid waste hierarchy in this State be. We are very disturbed that the DEP has turned this situation into a crisis. We really look at it as an opportunity to reevaluate how this State manages its solid waste and reinvigorate how the State handles solid waste, going back to the draft Solid Waste Management Plan of 1993, which established a hierarchy of source reductions, number one, and land filling and incineration at the bottom.

ASSEMBLYMAN GIBSON: Let me respond to some of what you said.

First of all, there is some private debt in some of these major companies that is not protected and is not necessarily recoverable by A-50, it’s the public debt -- that portion of it-- We have had amendments proposed from time to time to make sure all the debt was recoverable by A-50, and we have, to date, resisted that.

The second thing is that you talked about 25 percent guaranteed profit margin -- I don’t know anything at all about that -- and if in the research

that you said that you are continuing to do if, in fact, you find some specific -- some documentation that indicates there is such types of profit margins out there, then I would appreciate you sharing that with us. I would also say that for you and for the rest of the people in the room that are interested in A-50, we have introduced, for public consumption now, a proposed Committee amendment that takes the bulk of a hundred and some pages of amendments and reduces it down in a much more confined way.

I invite you to look at the proposed Committee Substitute. The proposed Committee Substitute, it's much more concise, and I think that's where the future testimony or continuing testimony should zero in on.

While you're here, though, let's also open up for discussion, if you have any comments, on the other bills that are up for discussion today, which are bills that propose, in one form or another, some State contribution to the problem.

Do you have any testimony to offer on any of these other three bills?

MR. PRINGLE: We don't have a specific position on any of the individual bills. We look at them all combined, and if they are part of a package that the State takes some responsibility, has the counties that have the debt take some responsibility, and the incinerator operators take some responsibility, we would support them.

We currently have no position, but I think if-- When we get to the point where some of these bills start moving, if these bills move on their own without the incinerator operators paying their fair share, I think the

Federation would ultimately oppose them on their own. As a full package, I think we would support.

Is the condensed amendments what was available last Friday, or is there a new version?

ASSEMBLYMAN GIBSON: That's what was available last Friday, yes.

MR. PRINGLE: We are still reviewing that and I will certainly provide-- I expect to have the numbers fully crunched by the end of next week, and I will get those to you immediately.

ASSEMBLYMAN GIBSON: Thanks for your help.

Does anyone else wish to testify on A-50 or any of the financial aid bills that address the A-50 problem?

I would note -- just put it on the record -- that Mr. William Harrison from the Pinelands Commission had proposed an amendment to A-50 which includes their standard language to make sure that the Pinelands is recognized in the process, and we will be incorporating that in the Committee Substitute.

Other than that, any members of the Committee have anything to add? (negative response)

Okay, I'll close the hearing, thank you all for being here.

(MEETING CONCLUDED)