

PUBLIC HEARING

before

SENATE COMMITTEES ON ENERGY, AGRICULTURE  
AND ENVIRONMENT AND COUNTY AND MUNICIPAL  
GOVERNMENT

on

SENATE BILL NO. 624  
(Solid Waste Management)

Held:  
March 11, 1974  
Assembly Chamber  
State House  
Trenton, New Jersey

MEMBERS OF COMMITTEES PRESENT:

Senator Joseph L. McGahn (Chairman)  
Senator Martin L. Greenberg (Vice Chairman)  
Senator Thomas G. Dunn  
Senator Bernard J. Dwyer  
Senator Raymond J. Zane

Also:

Assemblyman H. Donald Stewart  
Assemblyman Richard Van Wagner

\* \* \* \* \*

UNITED STATES

DEPARTMENT OF THE INTERIOR

LAND OFFICE

WASHINGTON, D. C.

1910

RECORDS OF THE DEPARTMENT

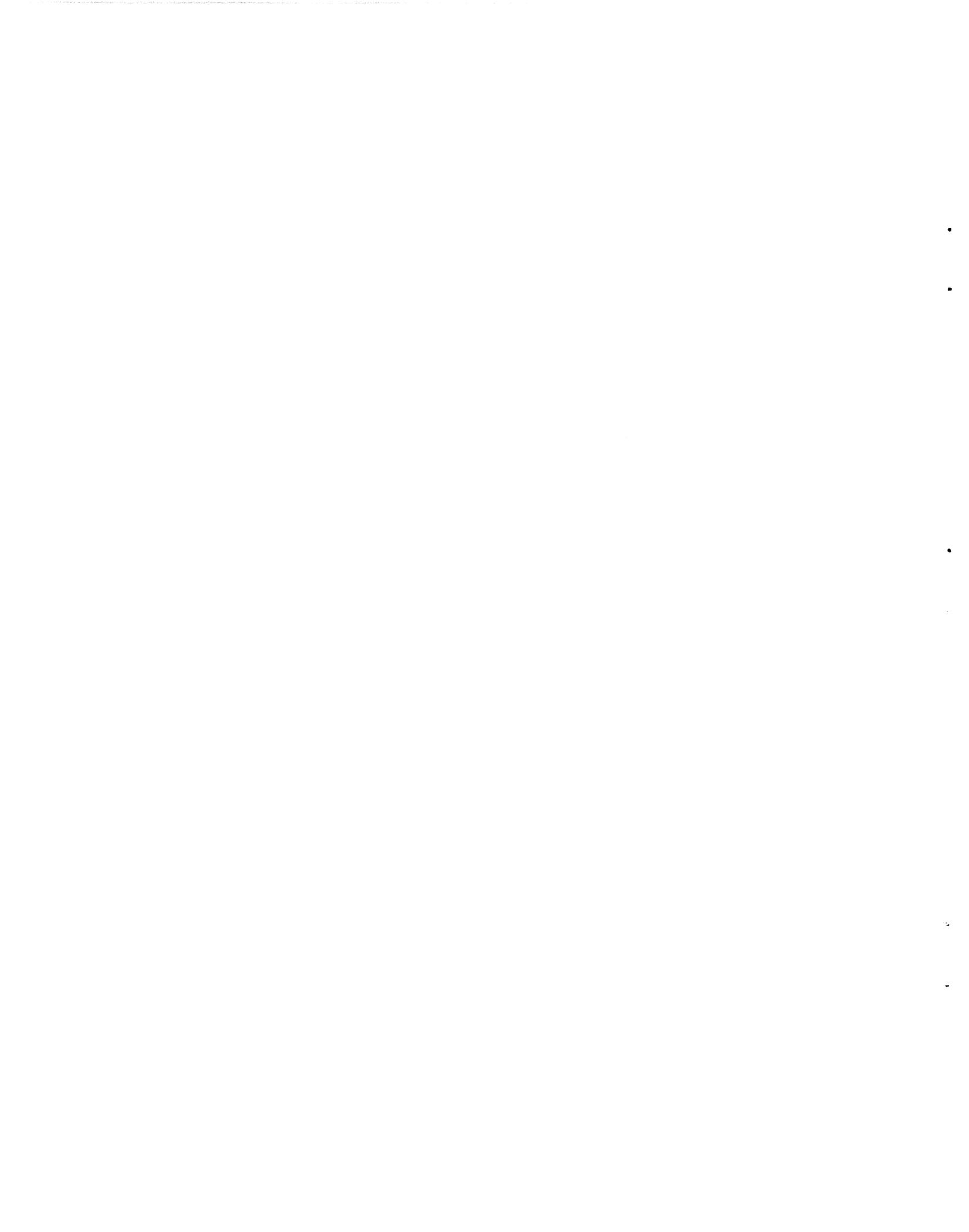
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SENATE, No. 624

STATE OF NEW JERSEY

INTRODUCED JANUARY 28, 1974

By Senators FELDMAN, MERLINO, BATEMAN, MUSTO,  
McGAHN and DWYER

Referred to Committee on Energy, Agriculture and Environment

AN ACT to amend the title of "An act concerning solid waste management; creating an Advisory Council on Solid Waste Management in the State Department of Environmental Protection, and relating to the department's functions, power and duties," approved May 6, 1970 (P. L. 1970, c. 39, C. 13:1E-1 et seq.), so that the same shall read "An act concerning solid waste management; designating solid waste management districts within the State and regulating solid waste collection and disposal therein; creating an Advisory Council on Solid Waste Management in the State Department of Environmental Protection, and relating to the department's functions, power and duties"; to amend and supplement the body of said act; and repealing P. L. 1971, c. 461, approved February 29, 1972.

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

1 1. The title of P. L. 1970, c. 39 is amended to read as follows:  
2 An act concerning solid waste management; *designating solid*  
3 *waste management districts within the State and regulating*  
4 *solid waste collection and disposal therein*; creating an Advisory  
5 Council on Solid Waste Management in the State Department of  
6 Environmental Protection, and relating to the department's func-  
7 tions, power and duties.

1 2. Section 1 of P. L. 1970, c. 39 (C. 13:1E-1) is amended to read  
2 as follows:

3 1. This act shall be known, and may be cited, as the "Solid Waste  
4 Management Act **[(1970)]**."

1 3. Section 2 of P. L. 1970, c. 39 (C. 13:1E-2) is amended to read  
2 as follows:

3 2. a. The Legislature finds **[and declares]** that the collection,  
4 disposal and utilization of solid waste is a matter of grave concern  
5 to all citizens and is an activity thoroughly affected with the public

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

6 interest; that the health, safety and welfare of the people of this  
7 State require efficient and reasonable solid waste collection and  
8 disposal service or efficient utilization of such waste; [and that the  
9 current solid waste crisis should be resolved not only by the enforce-  
10 ment of more stringent and realistic regulations upon the solid  
11 waste industry, but also through the development and formulation  
12 of Statewide, regional, county, and intercounty plans for solid  
13 waste management and guidelines to implement the plans] *that the*  
14 *management of solid waste in New Jersey consists largely of piece-*  
15 *meal, uncoordinated activities developed to meet the immediate*  
16 *needs of local governments with little, if any, regard for regional*  
17 *planning and coordination; that local units of government acting*  
18 *on their own, despite the most dedicated and sincere efforts, lack*  
19 *the financial resources, scope of alternatives and expertise to plan,*  
20 *develop and implement efficient and effective solutions to their*  
21 *solid waste problems; and that, for the most part, the solid waste*  
22 *planning and management process is adversely affected by the*  
23 *absence of area-wide structures, the limitations of local initiative,*  
24 *the general inadequacy of State technical assistance, the paucity*  
25 *of State grants for solid waste experimentation, the failure of the*  
26 *State to establish guidelines for the preparation of county and*  
27 *intercounty plans, and the failure to implement county and inter-*  
28 *county solid waste collection, disposal and utilization operations.*

29 *b. The Legislature, therefore, declares that it is the policy of*  
30 *this State to*

31 *(1) Establish a statutory framework within which all solid waste*  
32 *collection, disposal and utilization activity in this State may be*  
33 *coordinated;*

34 *(2) Designate each county in this State and the Hackensack*  
35 *Meadowlands District as a Solid Waste Management District, and*  
36 *provide each county and the Hackensack Meadowlands Develop-*  
37 *ment Commission with the power, singly or jointly with one or more*  
38 *other distric's, to develop and implement a comprehensive solid*  
39 *waste management plan which meets the needs of every municipality*  
40 *within each such county and within the Hackensack Meadowlands*  
41 *District;*

42 *(3) Provide citizens and municipalities with opportunities to*  
43 *contribute to the development and implementation of solid waste*  
44 *management plans by requiring public hearings prior to their*  
45 *adoption and by the creation of advisory municipal councils;*

46 *(4) Protect the bondholders of the several incinerator authori-*  
47 *ties, solid waste management authorities, municipal public utility*

48 *authorities, county improvement authorities, and other public*  
 49 *authorities concerned with solid waste management functions and*  
 50 *facilities, while coordinating their activities under solid waste*  
 51 *management plans;*

52 *(5) Establish a meaningful and responsible role for the State*  
 53 *in the solution of solid waste problems by granting the Department*  
 54 *of Environmental Protection and the Solid Waste Advisory Coun-*  
 55 *cil the power, not only to regulate and supervise all solid waste*  
 56 *collection and disposal facilities and operations and to register all*  
 57 *persons engaged in the collection or disposal of solid waste in this*  
 58 *State, but also to develop through a Statewide solid waste manage-*  
 59 *ment plan objectives, criteria and procedures to assure the orderly*  
 60 *preparation and evaluation of the solid waste management plans*  
 61 *developed by every solid waste management district, and to ap-*  
 62 *prove, modify, or reject such solid waste management plans on the*  
 63 *basis of their conformity with such objectives, criteria and proce-*  
 64 *dures, to develop and implement such a plan where none is approved*  
 65 *or forthcoming from any solid waste management district, to arbi-*  
 66 *trate disputes between solid waste management districts in the*  
 67 *development and implementation of solid waste management plans,*  
 68 *to utilize the funds received by the department from registration*  
 69 *fees and such other funds as may be from time to time appropriated*  
 70 *to it to support and undertake experimental projects and programs*  
 71 *of research and development to determine the most efficient, sani-*  
 72 *tary and economical ways of collecting, disposing, limiting and*  
 73 *utilizing solid waste, and to take such other actions in accordance*  
 74 *with the policies set forth in this act, all in the manner and extent*  
 75 *hereinafter provided.*

1 4. Section 3 of P. L. 1970, c. 39 (C. 13:1E-3) is amended to read  
 2 as follows:

3 3. For purposes of this act, unless the context clearly requires  
 4 a different meaning:

5 a. "Solid waste" means garbage, refuse, and other discarded  
 6 materials resulting from industrial, commercial and agricultural  
 7 operations, and from domestic and community activities, and shall  
 8 include all other waste materials including liquids disposed of  
 9 incident thereto except it shall not include solid animal and vege-  
 10 table wastes collected by swine producers licensed by the State  
 11 Department of Agriculture to collect, prepare and feed such wastes  
 12 to swine on their own farms.

13 b. "Solid waste collection" means the activity related to pick-up

14 and transportation of solid waste from its source or location to a  
15 disposal site.

16 c. "Solid waste disposal" means the storage, treatment, utiliza-  
17 tion, processing, or final disposal of solid waste.

18 d. "Solid waste management" includes all activities related to  
19 the collection and disposal of solid wastes by any person engaging  
20 in such process.

21 e. "Council" means the Advisory Council on Solid Waste  
22 Management.

23 f. "Department" means the State Department of Environ-  
24 mental Protection.

25 g. "Commissioner" means the Commissioner of Environmental  
26 Protection in the State Department of Environmental Protection.

27 h. "Solid waste facilities" mean and include the plants, struc-  
28 tures and other real and personal property acquired, constructed  
29 or operated or to be acquired, constructed or operated by any  
30 person pursuant to the provisions of this or any other act, including  
31 transfer stations, incinerators, sanitary landfill facilities or other  
32 plants for the disposal of solid waste and all vehicles, equipment  
33 and other real and personal property and rights thereon and  
34 appurtenances necessary or useful and convenient for the collection  
35 or disposal of solid waste in a sanitary manner.

36 i. "Public authority" means any solid waste management au-  
37 thority created pursuant to the "solid waste management authori-  
38 ties law," P. L. 1968, c. 249 (C. 40:66A-32 et seq.); municipal  
39 utility authority created pursuant to the "municipal utility au-  
40 thorities law," P. L. 1957, c. 183 (C. 40:14B-1 et seq.); incinerator  
41 authority created pursuant to the "incinerator authorities law,"  
42 P. L. 1948, c. 348 (C. 40:66A-1 et seq.); county improvement au-  
43 thority created pursuant to the "County Improvement Authorities  
44 Law," P. L. 1960, c. 183 (C. 40:37A-44 et seq.), or any other public  
45 body corporate and politic created for solid waste management  
46 purposes in any county or municipality pursuant to the provisions  
47 of any law.

48 j. "Hackensack Meadowlands District" means the area within  
49 the jurisdiction of the Hackensack Meadowlands Development  
50 Commission created pursuant to the provisions of the "Hackensack  
51 Meadowlands Reclamation and Development Act," P. L. 1968, c.  
52 404 (C. 13:17-1 et seq.).

53 k. "Hackensack Commission" means the Hackensack Meadow-  
54 lands Development Commission created pursuant to the provisions  
55 of the "Hackensack Meadowlands Reclamation and Development  
56 Act," P. L. 1968, c. 404.

1 5. Section 4 of P. L. 1970, c. 39 (C. 13:1E-4) is amended to read  
2 as follows:

3 4. a. The department shall have power to supervise solid waste  
4 collection and disposal facilities or operations, and shall in the  
5 exercise of such supervision require the registration of new and  
6 existing solid waste collection and disposal facilities and opera-  
7 tions; and may exempt from the requirement of registration any  
8 class of solid waste collection or disposal facility or operation.

9 b. The department in reviewing the registration statement for  
10 a new solid waste collection operation or solid waste disposal  
11 facility or operation and in determining the conditions under which  
12 it may be approved, shall [give due consideration to community  
13 development of comprehensive regional solid waste collection and  
14 disposal in order to be assured, insofar as is practicable, that all  
15 proposed facilities, installations and operations shall conform to  
16 reasonably contemplated development of comprehensive community  
17 or regional solid waste collection and disposal facilities and opera-  
18 tions and to any Statewide, regional, county and intercounty plans  
19 for solid waste management] *not approve the registration of any*  
20 *new operation or facility that does not conform to the solid waste*  
21 *management plan of the solid waste management district in which*  
22 *such operation or facility is to be located, as such plan shall have*  
23 *been approved by the department as hereinafter provided. Prior*  
24 *to the approval by the department of the solid waste management*  
25 *plan of any solid waste management district, the department may*  
26 *grant only conditional approval to any new solid waste collection*  
27 *or disposal operation or facility planned to be located in any such*  
28 *district. Such conditional approval shall be valid for a period of*  
29 *1 year, or until the solid waste management plan shall have been*  
30 *approved by the department, whichever comes sooner, at which*  
31 *time such conditional approval shall expire and any such con-*  
32 *ditionally-approved solid waste collection or disposal operation or*  
33 *facility shall be required to register with the department under*  
34 *the same conditions as a new solid waste collection or disposal*  
35 *operation or facility; provided, however, that nothing herein*  
36 *contained shall be construed as exempting any conditionally-*  
37 *approved solid waste collection or disposal operation or facility*  
38 *from any codes, rules and regulations of the department concern-*  
39 *ing solid waste collection and solid waste disposal activities. The*  
40 *fee for such conditional approval shall be the appropriate fee*  
41 *established in section 5 of the act of which this act is amendatory*

42 *and supplementary, notwithstanding the length of time for which*  
 43 *it is applicable.*

1 6. Section 5 of P. L. 1970, c. 39 (C. 13:1E-5) is amended to read  
 2 as follows:

3 5. a. Unless exempted by the department, no person shall here-  
 4 after engage or continue to engage in the collection or disposal of  
 5 solid waste in this State without first filing a registration statement  
 6 and obtaining approval thereof from the department.

7 b. The registration statement shall be made on forms provided  
 8 by the department and shall contain such information as may be  
 9 prescribed by the department. *Upon the approval of any such*  
 10 *registration statement, and annually thereafter, the person filing*  
 11 *same shall pay to the department a registration fee of \$100.00 in*  
 12 *the case of a person engaging in solid waste collection, or \$500.00*  
 13 *in the case of a person engaging in solid waste disposal, or \$600.00*  
 14 *in the case of a person engaging in both solid waste collection and*  
 15 *disposal. Upon payment of the appropriate registration or*  
 16 *registration renewal fee, as the case may be, such person shall*  
 17 *receive a registration certificate or renewal thereof, as the case*  
 18 *may be. The State and any of its political subdivisions, public*  
 19 *agencies and public authorities shall be deemed a person within*  
 20 *the meaning of this act.*

21 c. No registration shall be approved by the department when in  
 22 the opinion of the department such solid waste collection or disposal  
 23 **system** facility or operation will not meet the standards or  
 24 criteria set forth in *this amendatory and supplementary act or in*  
 25 *regulations as may be promulgated under authority of this*  
 26 *amendatory and supplementary act.*

1 7. Section 6 of P. L. 1970, c. 39 (C. 13:1E-6) is amended to read  
 2 as follows:

3 6. a. The department **may** *shall*, in addition to such other  
 4 powers as it may possess by law:

5 **a.** (1) Undertake a program of research and development for  
 6 the purpose of determining the most efficient, sanitary and  
 7 economical way of collecting, disposing and utilizing solid waste.

8 **b.** (2) Formulate and promulgate, amend and repeal codes,  
 9 rules and regulations concerning solid waste collection and solid  
 10 waste disposal activities. *Such codes, rules and regulations shall*  
 11 *establish the procedures relating to the preparation and submission*  
 12 *of environmental impact statements prior to the construction,*  
 13 *acquisition, or operation of any solid waste facility, and shall*  
 14 *establish standards for the construction and operation of solid*

15 *waste facilities, which standards shall include, but not be limited*  
 16 *to, provisions requiring: the maintenance of ground water quality*  
 17 *monitoring wells to check water pollution; periodic monitoring of*  
 18 *water quality by chemical analysis; measures to check methane*  
 19 *gas production at sanitary landfills; plans for erosion control;*  
 20 *revegetation procedures and plans for the maintenance, upkeep, and*  
 21 *ultimate reuse of any sanitary landfill site; adequate cover*  
 22 *material; safety measures; rodent, insect, bird, dust, fire and odor*  
 23 *control programs; and such other measures as shall be deemed*  
 24 *necessary to protect the public health and safety and the natural*  
 25 *environment.*

26 All codes, rules and regulations heretofore adopted by the Public  
 27 Health Council relating to refuse disposal shall continue in full  
 28 force and effect and be enforceable by the department, subject to  
 29 its power as herein provided to amend or repeal the same.

30 **[c.]** (3) Develop, **[and]** formulate, promulgate and review for  
 31 the purpose of revising or updating not less than once every 2 years,  
 32 a Statewide solid waste management plan **[and guidelines to imple-**  
 33 **ment the plan]** which shall provide the objectives, criteria and  
 34 standards for the evaluation of solid waste management plans  
 35 prepared pursuant to the provisions of this amendatory and supple-  
 36 mentary act for solid waste management districts in this State;  
 37 and to the extent practicable, encourage and assist in the develop-  
 38 ment and formulation of **[regional, county and intercounty]** such  
 39 solid waste management plans and guidelines to implement **[the]**  
 40 such plans. In the development and formulation of the Statewide  
 41 solid waste management plan the department shall consult with  
 42 relevant agencies and instrumentalities of the Federal Government,  
 43 and the aforesaid objectives, criteria and standards provided by  
 44 said Statewide solid waste management plan shall conform, to the  
 45 extent practicable, or as may be required, to the provisions of any  
 46 Federal law concerning such objectives, criteria and standards.

47 (4) Make an annual report to the Governor and the Legislature  
 48 evaluating the operation of this amendatory and supplementary  
 49 act, including any recommendations deemed necessary by the  
 50 department to better effectuate the purposes hereof.

51 b. The department may, in addition:

52 **[d.]** (1) Acquire, by purchase, grant, contract or condemnation,  
 53 title to real property, for the purpose of demonstrating new  
 54 methods and techniques for the collection, disposal and utilization  
 55 of solid waste;

56 **[e.]** (2) Purchase, operate and maintain, pursuant to the provi-

57 sions of this act, any facility, site, laboratory equipment or machin-  
58 ery necessary to the performance of its duties pursuant to this act;

59 **[f.]** (3) Apply for, receive and expend funds from any public  
60 or private source;

61 **[g.]** (4) Contract with any other public agency, *including county*  
62 *and municipal boards of health*, or corporation incorporated under  
63 the laws of this or any other state for the performance of any  
64 function under this act. *Any such contract with a county or*  
65 *municipal board of health may provide for the inspection and*  
66 *monitoring of solid waste facilities; the enforcement of the depart-*  
67 *ment's standards therefor; and the training of county or municipal*  
68 *health officers engaged in such inspection, monitoring or enforce-*  
69 *ment;*

70 (5) *Make grants to assist in experimenting with new methods*  
71 *of solid waste collection, disposal, or utilization, pursuant to the*  
72 *provisions of sections 21 through 25 of this amendatory and supple-*  
73 *mentary act;*

74 **[h.]** (6) Construct and operate, on an experimental basis,  
75 incinerators or other facilities for the disposal or utilization of  
76 solid waste, to provide the various municipalities and counties of  
77 this State, the Board of Public Utility Commissioners, *the Hacken-*  
78 *sack Commission*, and the Division of Local **[Finance]** *Government*  
79 *Services* in the Department of Community Affairs with statistical  
80 data on costs and methods of solid waste collection and disposal;

81 **[i.]** (7) Make annual and such other reports as it may deem  
82 proper to the Governor and the Legislature evaluating the demon-  
83 strations *and experiments* conducted during each calendar year.

1 7.1. Section 7 of P. L. 1970, c. 39 (C. 13:1E-7) is amended to read  
2 as follows:

3 7. a. There is hereby created in the department an Advisory  
4 Council on Solid Waste Management which shall consist of 11  
5 members, three of whom shall be the President of the Board of  
6 Public Utility Commissioners, the Commissioner of Community  
7 Affairs, and the Commissioner of Health, or their designees, who  
8 shall serve ex officio, and eight citizens of the State, *four of whom*  
9 *shall be actively engaged in the business of either solid waste*  
10 *collection or solid waste disposal, or both, and four of whom shall*  
11 *be representing the general public to be appointed by the Governor,*  
12 *with the advice and consent of the Senate. The Governor shall*  
13 *designate a chairman and vice chairman of the council from the*  
14 *public members who shall serve at the will of the Governor.*

15 b. Of the eight members first to be appointed three shall be ap-

16 pointed for terms of 2 years, three for terms of 3 years and two for  
17 terms of 4 years. Thereafter all appointments shall be made for  
18 terms of 4 years. All appointed members shall serve after the  
19 expiration of their terms until their respective successors are ap-  
20 pointed and shall qualify, and any vacancy occurring in the  
21 appointed membership of the council by expiration of term or other-  
22 wise, shall be filled in the same manner as the original appointment  
23 for the unexpired term only, notwithstanding that the previous  
24 incumbent may have held over and continued in office as aforesaid.

25 c. Members of the council shall serve without compensation but  
26 shall be reimbursed for expenses actually incurred in attending  
27 meetings of the council and in performance of their duties as  
28 members thereof.

1 8. Section 8 of P. L. 1970, c. 39 (C. 13:1E-8) is amended to read  
2 as follows:

3 8. The Advisory Council on Solid Waste Management is em-  
4 powered to:

5 a. Request from the commissioner such information concerning  
6 solid waste programs *and solid waste management plans* as it may  
7 deem necessary;

8 b. Consider any matter relating to the preservation and im-  
9 provement of solid waste programs *and solid waste management*  
10 *plans*, and advise the commissioner thereon;

11 c. From time to time submit to the commissioner any recom-  
12 mendations which it deems necessary for the proper conduct and  
13 improvement of solid waste programs *and solid waste management*  
14 *plans*;

15 d. Study solid waste programs *and the solid waste management*  
16 *plans submitted by the commissioner*, and make its recommenda-  
17 tions thereon to the commissioner;

18 e. Study any regulations promulgated by the department and the  
19 Public Health Council in regard to solid waste and make its recom-  
20 mendations for their improvement to the commissioner;

21 f. Study and investigate the state of the art and the technical  
22 capabilities and limitations of regulations concerning solid waste  
23 and report their finding and recommendations thereon to the  
24 commissioner;

25 g. Study and investigate the need for programs for the long  
26 range technical support of solid waste programs *and solid waste*  
27 *management plans*, and report their findings and recommendations  
28 thereon to the commissioner;

29 h. Hold public hearings in regard to existing solid waste statutes

30 and regulations and upon the state of the art and technical capabili-  
31 ties and limitations in solid waste and report its recommendations  
32 thereon to the commissioner.

1 9. Section 11 of P. L. 1970, c. 39 (C. 13:1E-11) is amended to read  
2 as follows:

3 11. During the first registration year of each applicant, or the  
4 year following any violation of this act resulting in a revocation of  
5 registration, the department is authorized to give temporary ap-  
6 proval of registrations conditioned upon the applicant effecting  
7 specified additions, changes or improvements in methods of opera-  
8 tion and equipment within such time and manner as may be required  
9 by the department; *provided, however, that no such temporary*  
10 *approval shall be given for a time longer than 1 year. The fee for*  
11 *such temporary approval shall be the appropriate fee established*  
12 *in section 5 of the act of which this act is amendatory and supple-*  
13 *mentary, notwithstanding the length of time for which it is given.*

1 10. Every county in the State of New Jersey and the Hackensack  
2 Meadowlands District is hereby designated a solid waste manage-  
3 ment district.

1 11. a. Within 180 days after the effective date of this amendatory  
2 and supplementary act, the respective boards of chosen freeholders,  
3 in the case of counties, and the Hackensack Commission, in the  
4 case of the Hackensack Meadowlands District, shall develop and  
5 formulate, pursuant to the procedures herein contained, a solid  
6 waste management plan for each respective solid waste manage-  
7 ment district; *provided, however, that the commissioner may ex-*  
8 *tend such period for a maximum of 45 additional days upon the*  
9 *certification of the board of chosen freeholders or the Hackensack*  
10 *Commission, as the case may be, of the causes of the delay in*  
11 *developing and formulating a plan, and upon the commissioner's*  
12 *determination that an extension will permit the development and*  
13 *formulation of a solid waste management plan as required herein.*  
14 Every such solid waste management plan shall be developed and  
15 formulated to be in force and effect for a period of 10 years, upon  
16 the expiration of which a new plan shall be developed and formu-  
17 lated pursuant to the procedures herein contained; *provided, how-*  
18 *ever, that every such plan shall contain provisions for automatic*  
19 *review thereof not less than once every 2 years following the ap-*  
20 *proval thereof by the department, which review shall be under-*  
21 *taken by the board of chosen freeholders or the Hackensack Com-*  
22 *mission, as the case may be; and, provided further, however, that*  
23 every such plan may be reviewed at any time by the department.

24 Upon such review, if the board of chosen freeholders, the Hacken-  
25 sack Commission, or the department, as the case may be, determines  
26 that any solid waste management plan, or any part thereof, is  
27 inadequate for the purposes for which it was intended, such board  
28 of chosen freeholders or the Hackensack Commission, as the case  
29 may be, shall develop and formulate a new solid waste management  
30 plan, or any part thereof, and such new plan, or part thereof, shall  
31 be adopted thereby pursuant to the procedures contained in section  
32 14 of this amendatory and supplementary act.

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

39 b. (1) To assist each board of chosen freeholders in the develop-  
40 ment and formulation of the solid waste management plans re-  
41 quired herein, an advisory municipal council shall be constituted  
42 in every county and shall be composed of the mayor of each  
43 municipality within the county or his designee. In the Hackensack  
44 Meadowlands District, the Hackensack meadowlands municipal  
45 committee, established pursuant to article 4 of P. L. 1968, c. 404  
46 (C. 13:17-7 and 13:17-8), is hereby designated an advisory muni-  
47 cipal council for the purposes of this amendatory and supplementary  
48 act; provided, however, that nothing herein contained shall be  
49 construed as in any way altering the powers, duties and respon-  
50 sibilities of the Hackensack meadowlands municipal committee  
51 except as herein specifically provided. The respective boards of  
52 chosen freeholders and the Hackensack Commission shall consult  
53 with the relevant advisory municipal council at such stages in the  
54 development and formulation of the solid waste management plan  
55 as each such board of chosen freeholders or the Hackensack Com-  
56 mission, as the case may be, shall determine; provided, however,  
57 that a solid waste management plan shall be adopted as hereinafter  
58 provided only after consultation with the relevant advisory muni-  
59 cipal committee.

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

64 (a) Consult with the county or municipal government agencies  
65 concerned with, or responsible for, water pollution control, water

66 policy, water supply, or zoning or land use within the solid waste  
67 management district; and

68 (b) Review such plans for solid waste collection and disposal  
69 proposed by, or in force in, any municipality or municipalities  
70 within the solid waste management district, to determine the suit-  
71 ability of any such plan, or any part thereof, for inclusion within  
72 the solid waste management plan of the solid waste management  
73 district.

1 12. a. Every solid waste management plan shall be based upon  
2 and shall be accompanied by a report containing:

3 (1) An inventory of the sources, composition, and quantity of  
4 solid waste generated within the solid waste management district  
5 in the year in which the report is prepared;

6 (2) Projections of the amounts and composition of solid waste  
7 to be generated within the district in each of the 10 years following  
8 the year in which the report is prepared; provided, however, that  
9 in the formulation of its solid waste management plan every board  
10 of chosen freeholders may deduct from the actual amount of solid  
11 waste generated within the solid waste management district in the  
12 year in which the report is prepared, and projected for each of the  
13 10 years following said year, the total solid waste tonnage treated  
14 and disposed on a daily basis in the Hackensack Meadowlands  
15 District by every municipality within said solid waste management  
16 district as of July 1, 1968, which deduction shall be pursuant to the  
17 guarantee provided in P. L. 1968, c. 404, section 9.1 (C. 13:17-10);

18 (3) An inventory and appraisal, including the identity, location,  
19 and life expectancy, of all solid waste facilities within the solid  
20 waste management district, including such facilities operated by  
21 any person, and the identity of every person engaging in solid  
22 waste collection or disposal within the district; and

23 (4) An analysis of existing solid waste collection systems and  
24 transportation routes within the solid waste management district.

25 b. Every solid waste management plan shall include:

26 (1) The designation of a department, unit or committee of the  
27 county government, in the case of counties, or of the Hackensack  
28 Commission, in the case of the Hackensack Meadowlands District,  
29 to supervise the implementation of the solid waste management  
30 plan and to report thereon at such times as may be required by  
31 the board of chosen freeholders or the Hackensack Commission,  
32 as the case may be:

33 (2) A statement of the solid waste disposal strategy to be applied  
34 in the solid waste management district, which strategy may be

35 based upon landfill, incineration and landfill, shredding and landfill,  
36 or any other method of solid waste disposal; and a plan for using  
37 terminated landfill disposal sites, if any, in the solid waste manage-  
38 ment district;

39 (3) A survey of potential sites within the district for the location  
40 of a sufficient number of solid waste facilities to handle the actual  
41 and projected amounts of solid waste contained in the report ac-  
42 companying the plan.

43 Upon a certification to the commissioner by the board of chosen  
44 freeholders or the Hackensack Commission, as the case may be,  
45 of the absence of available suitable sites for such solid waste  
46 facilities within the solid waste management district, the survey  
47 required herein shall designate potential sites for such facilities  
48 located in another solid waste management district; provided,  
49 however, that such certification shall be accompanied by a copy  
50 of the contract or agreement entered into by the concerned boards  
51 of chosen freeholders or the Hackensack Commission, as the case  
52 may be, authorizing the use by a solid waste management district  
53 of solid waste facilities located in another solid waste management  
54 district, and providing for the acquisition of such lands and rights  
55 and interests therein as may be required within the solid waste  
56 management district in which the solid waste facilities are to be  
57 located. Upon the failure for any reason of the concerned boards  
58 of chosen freeholders or the Hackensack Commission, as the case  
59 may be, to make such a contract or to reach such an agreement,  
60 the board of chosen freeholders or the Hackensack Commission, as  
61 the case may be, seeking to locate said solid waste facilities in  
62 another solid waste management district shall certify such failure  
63 to the commissioner.

64 Upon the receipt of any such certification of failure, the com-  
65 missioner shall cause a study to be made by the department to  
66 determine the suitable location of solid waste facilities for the use  
67 of the solid waste management district for which such certification  
68 was made. In such study, the commissioner may request the sub-  
69 mission of any specifications or other information he deems neces-  
70 sary from any solid waste management district, and the board  
71 of chosen freeholders or the Hackensack Commission, as the case  
72 may be, shall submit all such material so requested. In determining  
73 the suitable location of solid waste facilities, the commissioner  
74 shall weigh the relative feasibility of alternative locations in terms  
75 of such factors as environmental impact, transportation patterns  
76 and their comparative costs, compatibility with the current land

77 use policies in the immediate area of the alternative locations, as  
78 well as with the Statewide solid waste management plan and such  
79 other master plans and planning policies as may exist at the  
80 municipal, county, regional or State levels, and such other criteria  
81 as the commissioner deems relevant.

82 Upon the completion of said study the commissioner shall:

83 (a) Require the certifying board of chosen freeholders or the  
84 Hackensack Commission, as the case may be, to locate the required  
85 solid waste facilities within its own solid waste management district  
86 and as part of the solid waste management plan therefor; or

87 (b) Require any other board of chosen freeholders or the Hacken-  
88 sack Commission, as the case may be, to provide solid waste  
89 facilities, or parts thereof, within its solid waste management  
90 district and as part of the solid waste management plan therefor,  
91 for the use of the certifying solid waste management district;  
92 provided, however, that the full cost of any such solid waste  
93 facilities, or of any part thereof to the extent of use thereof, shall  
94 be borne by the solid waste management district making use of same.

95 In the adoption of any solid waste management plan pursuant  
96 to the provisions of section 14 of this amendatory and supple-  
97 mentary act, no board of chosen freeholders nor the Hackensack  
98 Commission, as the case may be, shall alter any part required by  
99 a determination made by the commissioner as herein provided  
100 concerning the location of any solid waste facilities.

101 Notwithstanding the provisions of section 11 of this amendatory  
102 and supplementary act, the time taken by the commissioner from  
103 the receipt of any certification of failure pursuant to this section  
104 to the completion of the study required herein concerning such  
105 certification of failure, shall be in addition to, and shall not count  
106 towards, the 180 days permitted in said section 11 for the develop-  
107 ment and formulation of a solid waste management plan.

108 (4) A survey of proposed collection districts and transportation  
109 routes, with projected transportation costs from collection districts  
110 to potential locations of solid waste facilities;

111 (5) The procedures for coordinating all activities related to  
112 the collection and disposal of solid waste by every person engaging  
113 in such process within the solid waste management district, which  
114 procedures shall include the agreements entered into as provided  
115 herein between the board of chosen freeholders or the Hackensack  
116 Commission, as the case may be, and every such person; and the  
117 procedures for furnishing the solid waste facilities contained in the  
118 solid waste management plan; and

119 (6) The method or methods of financing solid waste management  
120 in the solid waste management district pursuant to the solid waste  
121 management plan.

1 13. In order to preserve and maintain the State's pledges and  
2 covenants with the holders of any bonds issued by any public  
3 authority, no solid waste management plan shall include provisions  
4 for establishing any solid waste facility in competition with such  
5 facilities operated, or for which bonds have been issued, by any  
6 such public authority; provided, however, that every board of  
7 chosen freeholders and the Hackensack Commission is hereby  
8 authorized and empowered in the development and formulation of  
9 a solid waste management plan to enter into any contract or agree-  
10 ment with any public authority within any solid waste management  
11 district providing for or relating to solid waste collection and solid  
12 waste disposal. Any such contract or agreement may provide for  
13 the furnishing of solid waste facilities either by or to the solid  
14 waste management district, or the joint construction or operation  
15 of solid waste facilities. Every such contract or agreement shall  
16 conform to all the requirements of law for contracts or agreements  
17 made by any public authority, and may include such provisions  
18 for the fixing of rates and charges, and for the furnishing of solid  
19 waste facilities, as the board of chosen freeholders or the Hacken-  
20 sack Commission, as the case may be, deems necessary in the  
21 development and formulation of a solid waste management plan to  
22 coordinate all activities relating to solid waste collection and solid  
23 waste disposal within the solid waste management district, and  
24 for the furnishing of adequate and suitable solid waste facilities  
25 therein. Every board of chosen freeholders and the Hackensack  
26 Commission, as the case may be, is hereby further authorized and  
27 empowered to purchase the bonds of any public authority, and to  
28 purchase any solid waste facilities of any public authority upon a  
29 contract or agreement therewith for any such solid waste facility  
30 purchase.

1 14. a. Pursuant to the procedures herein contained, the respec-  
2 tive boards of chosen freeholders, in the case of counties, and the  
3 Hackensack Commission, in the case of the Hackensack Meadow-  
4 lands District, shall have the power, after consultation with the  
5 relevant advisory municipal council, to adopt a solid waste manage-  
6 ment plan for the relevant solid waste management district; pro-  
7 vided, however, that if in any solid waste management district the  
8 procedures contained in this section are not commenced within  
9 181 days after the effective date of this amendatory and supple-

10 mentary act, unless the commissioner shall have extended the time  
11 for the development and formulation of a solid waste management  
12 plan pursuant to section 11 of this amendatory and supplementary  
13 act, and unless a certification of failure shall have been received  
14 by the commissioner pursuant to section 12 b. (3) of this amenda-  
15 tory and supplementary act, the department shall have the power  
16 to develop, formulate and, pursuant to the procedures herein con-  
17 tained, adopt and promulgate a solid waste management plan for  
18 any such solid waste management district.

19 b. Upon the development and formulation of a solid waste  
20 management plan, and after consultation with the relevant advisory  
21 municipal council, the relevant board of chosen freeholders, in the  
22 case of counties, or the Hackensack Commission, in the case of the  
23 Hackensack Meadowlands District, shall prepare a map showing  
24 the boundaries of the solid waste management district and the  
25 location of all existing and proposed solid waste facilities. In the  
26 event such solid waste management plan proposes to locate solid  
27 waste facilities in another solid waste management district, a map  
28 of such other district, showing the location of the proposed facili-  
29 ties, shall be prepared. Said map shall be appended to a copy of  
30 the district's solid waste management plan, to which shall also be  
31 appended a copy of the report accompanying said plan. Said map,  
32 plan and report shall be sent by mail to the mayor of each munici-  
33 pality within the county, in the case of counties, and in the case of  
34 the Hackensack Meadowlands District, said map, plan and report  
35 shall be maintained at the main office of the Hackensack Com-  
36 mission.

37 c. The board of chosen freeholders, or the Hackensack Commis-  
38 sion, as the case may be, shall thereupon cause a hearing to be held  
39 at an appointed time and place for the purpose of hearing persons  
40 interested in, or who would be affected by, the adoption of the solid  
41 waste management plan for the relevant solid waste management  
42 district, and who are in favor of or are opposed to such adoption.

43 d. A notice of such hearing shall be given setting forth the  
44 purpose thereof and stating that a map, plan and report have been  
45 prepared and can be inspected at the offices of every municipality  
46 within the county, or at the main office of the Hackensack Commis-  
47 sion, as the case may be. A copy of such notice shall be published  
48 in a newspaper of general circulation in the solid waste management  
49 district once each week for 2 consecutive weeks, and the last publica-  
50 tion shall be not less than 10 days prior to the date set for the hear-  
51 ing. A copy of the notice shall be mailed at least 10 days prior to the

52 date set for the hearing to the last owner, if any, of each parcel of  
53 property within or without the district on which it is proposed to  
54 locate any solid waste facilities pursuant to the district's solid waste  
55 management plan. Such mailing shall be according to the assess-  
56 ment records of the municipality where such parcel is located and  
57 shall be sent to the last known postal address of such owners. A  
58 notice shall also be sent to any and all persons at his, or their,  
59 last known address, if any, whose names are noted on said assess-  
60 ment records as claimants of an interest in any such parcel. The  
61 assessor of such municipality shall make a notation upon the said  
62 records when requested so to do by any person claiming to have an  
63 interest in any parcel of property in such municipality. Failure to  
64 mail any such notice shall not invalidate the adoption of any solid  
65 waste management plan.

66 e. At the hearing, which may be adjourned from time to time, the  
67 board of chosen freeholders, or the Hackensack Commission, as the  
68 case may be, shall hear all persons interested in the solid waste  
69 management plan and shall consider any, and all, written objections  
70 that may be filed and any evidence which may be introduced in  
71 support of the objections, or any opposition to the adoption of  
72 the solid waste management plan for the solid waste management  
73 district. After the hearing the board of chosen freeholders, or the  
74 Hackensack Commission, as the case may be, shall, by resolution,  
75 adopt or reject, in whole or in part, the solid waste management  
76 plan for the solid waste management district. The adoption of all or  
77 a part of a solid waste management plan, if supported by substantial  
78 evidence, shall be binding and conclusive upon all persons affected  
79 by the adoption. If all or any part of the solid waste management  
80 plan is adopted, the board of chosen freeholders, or the Hackensack  
81 Commission, as the case may be, within 10 days after such adoption,  
82 shall cause to be served a copy of the resolution of adoption upon  
83 each person who filed a written objection at or prior to the hearing;  
84 provided, the address of the objector was stated in, or upon, the  
85 written objection.

86 Such service may be made (1) by delivering a copy of the resolu-  
87 tion personally to the objector, (2) by mailing such copy addressed  
88 to the objector according to his said stated address, or (3) leaving  
89 such copy at said stated address for the objector with a person of  
90 suitable age and discretion.

91 f. Any person who shall have filed such a written objection with  
92 the board of chosen freeholders, or the Hackensack Commission,  
93 as the case may be, may have the adoption of a solid waste manage-

94 ment plan reviewed by the Superior Court of New Jersey by pro-  
95 cedure in lieu of prerogative writs. An action for such review shall  
96 be commenced within 30 days after the adoption by the board of  
97 chosen freeholders, or by the Hackensack Commission, as the case  
98 may be. In any such action, the said court may make any incidental  
99 order that shall be deemed by the court to be proper.

100 g. Upon the adoption of a solid waste management plan in its  
101 entirety, the board of chosen freeholders or the Hackensack Com-  
102 mission, as the case may be, shall forthwith submit such plan, and  
103 a copy of the transcript of every public hearing held thereon, and a  
104 complete record of the dates and results of all consultation with  
105 governmental agencies and the relevant advisory municipal com-  
106 mittee, to the commissioner. Upon the adoption of a part or parts  
107 of a solid waste management plan, the board of chosen freeholders  
108 or the Hackensack Commission, as the case may be, shall certify  
109 the fact of such partial adoption to the commissioner, and such  
110 board of chosen freeholders or the Hackensack Commission, as the  
111 case may be, shall, notwithstanding any previous extension granted  
112 pursuant to any of the provisions of this amendatory and supple-  
113 mentary act, have an additional 45 days from the date of such  
114 certification to adopt a solid waste management plan in its entirety,  
115 which adoption shall be pursuant to all the procedures contained  
116 herein for the adoption of solid waste management plans.

117 h. Every board of chosen freeholders and the Hackensack Com-  
118 mission shall adopt a solid waste management plan in its entirety  
119 and submit same to the commissioner, with a copy of the transcript  
120 of every public hearing held thereon, and a complete record of the  
121 dates and results of all consultation with governmental agencies and  
122 the relevant advisory municipal committee, within 270 days after the  
123 effective date of this amendatory and supplementary act; provided,  
124 however that if the commissioner shall have granted an extension  
125 of time for the development and formulation of such plan pursuant  
126 to section 11 of this amendatory and supplementary act, or an  
127 extension of time for the adoption of any such plan in its entirety  
128 pursuant to this section, or both, the time for adoption and sub-  
129 mission to the commissioner as required herein shall be increased to  
130 a maximum of 315 days in the case of either such extension, or 360  
131 days in the case of both such extensions; and, provided further,  
132 however, that if the commissioner shall have received a certification  
133 of failure pursuant to section 12 b. of this amendatory and supple-  
134 mentary act, the time for adoption and submission to the commis-  
135 sioner, notwithstanding any other increase authorized in this

136 amendatory and supplementary act, shall be increased by the  
137 number of days taken by the commissioner from the date of such  
138 receipt to the completion of his study concerning such certification  
139 of failure.

140 i. Upon the failure of any board of chosen freeholders or the  
141 Hackensack Commission, as the case may be, to adopt a solid waste  
142 management plan in its entirety and to submit same to the commis-  
143 sioner, with a copy of the transcript of every public hearing held  
144 thereon, and a complete record of the dates and results of all  
145 consultation with governmental agencies and the relevant advisory  
146 municipal committee, within the time prescribed in subsection h. of  
147 this section, the department shall have the power to develop and  
148 formulate a solid waste management plan in its entirety for any  
149 such solid waste management district, either including therein or  
150 excluding therefrom any part or parts of such plan as may have  
151 been adopted by the board of chosen freeholders or the Hackensack  
152 Commission, as the case may be. Following the holding of a public  
153 hearing pursuant to the procedures contained herein, the depart-  
154 ment shall have the power to adopt and promulgate such solid waste  
155 management plan in its entirety for any such solid waste manage-  
156 ment district. Any solid waste management plan so adopted and  
157 promulgated by the department for any solid waste management  
158 district shall be subject to the same review by the Superior Court  
159 as solid waste management plans otherwise adopted pursuant to  
160 this section.

1 15. a. Upon receipt by the commissioner of a solid waste manage-  
2 ment plan adopted in its entirety, and a copy of the transcript of  
3 every public hearing held thereon, as required pursuant to section  
4 14 of this amendatory and supplementary act, he shall:

5 (1) Study and review the solid waste management plan according  
6 to the objectives, criteria and standards developed in the State-  
7 wide solid waste management plan developed and formulated by  
8 the department pursuant to the provisions of section 6 of the act  
9 to which this act is amendatory and supplementary; and

10 (2) Submit a copy of said plan for review and recommendations  
11 to the Advisory Council on Solid Waste Management in the depart-  
12 ment, and to the agencies, bureaus and divisions within the  
13 department concerned with, or responsible for, environmental  
14 quality, including, but not limited to, the Bureau of Solid Waste  
15 Management, Bureau of Air Pollution Control, Bureau of Geology,  
16 and the Bureau of Water Pollution Control, or their successors.

17 b. After completing his study and review of the solid waste

18 management plan, and upon receipt of the recommendations thereon  
19 provided for in subsection a. (2) of this section, if any, but in no  
20 event later than 90 days after his receipt of said plan, the com-  
21 missioner shall determine whether to approve, modify, or reject  
22 any such solid waste management plan, and shall certify such  
23 determination to the board of chosen freeholders or to the Hacken-  
24 sack Commission, as the case may be, which submitted such plan.

25 c. If the commissioner determines to approve any solid waste  
26 management plan, or if the commissioner has made no determina-  
27 tion within 90 days after his receipt of any such plan, the board of  
28 chosen freeholders or the Hackensack Commission, as the case may  
29 be, shall proceed, pursuant to the requirements of this amendatory  
30 and supplementary act, to implement such solid waste management  
31 plan in the relevant solid waste management district.

32 d. If the commissioner determines to modify or reject any solid  
33 waste management plan, or any part thereof, the certification re-  
34 quired of him herein shall be accompanied by a detailed statement  
35 prepared by the commissioner indicating the reasons for any  
36 modification or rejection, and outlining the action to be taken  
37 thereon. In outlining such action the commissioner shall direct the  
38 board of chosen freeholders or the Hackensack Commission, as the  
39 case may be, to make any modification in, or replace any rejected  
40 part of, a solid waste management plan, either with or without  
41 holding another public hearing in the solid waste management  
42 district. Such direction shall be based upon the commissioner's  
43 determination, in his discretion, that such modification, or the part  
44 rejected, is or is not minor, and that such modification or replace-  
45 ment may or may not be made without substantially modifying or  
46 altering other aspects of the solid waste management plan; pro-  
47 vided, however, that a public hearing shall be required upon a rejec-  
48 tion by the commissioner of any solid waste management plan in its  
49 entirety.

50 e. (1) If the commissioner directs the holding of another public  
51 hearing in the solid waste management district, such hearing shall  
52 be held within 45 days after such direction and shall be conducted  
53 pursuant to the procedures contained in section 14 of this  
54 amendatory and supplementary act for the conduct of public hear-  
55 ings held prior to the adoption of solid waste management plans.  
56 Following any such public hearing on any modification to, or re-  
57 placement of, any solid waste management plan, or any part thereof,  
58 the board of chosen freeholders or the Hackensack Commission, as  
59 the case may be, holding same shall formally adopt a modification

60 to, or replacement of, the solid waste management plan, or any part  
61 thereof, and shall submit same to the commissioner.

62 (2) If the commissioner directs that the modification or replace-  
63 ment may be made without the holding of another public hearing,  
64 the board of chosen freeholders or the Hackensack Commission,  
65 as the case may be, shall have 45 days after such direction within  
66 which to adopt any such modification or replacement, and to submit  
67 same to the commissioner.

68 The commissioner shall have 30 days from the date of receipt of  
69 any submission under either (1) or (2) herein to approve such  
70 modification or replacement or to reject same, and he shall certify  
71 such approval or rejection to the board of chosen freeholders or the  
72 Hackensack Commission, as the case may be, which submitted same.  
73 If the commissioner approves such modification or replacement, or  
74 if the commissioner has made no such certification within 30 days  
75 after his receipt thereof, the board of chosen freeholders or the  
76 Hackensack Commission, as the case may be, shall proceed, pur-  
77 suant to the requirements of this amendatory and supplementary  
78 act, to implement the solid waste management plan in the relevant  
79 solid waste management district. Upon a rejection of any modifica-  
80 tion or replacement submitted to him pursuant to this section, or  
81 upon the failure of a board of chosen freeholders or the Hackensack  
82 Commission, as the case may be, to submit any modification or  
83 replacement as required herein, the commissioner shall have the  
84 power to adopt and promulgate any modification or replacement he  
85 deems necessary with respect to the solid waste management plan,  
86 and upon the certification of the commissioner, the board of chosen  
87 freeholders or the Hackensack Commission, as the case may be, shall  
88 proceed, pursuant to the requirements of this amendatory and  
89 supplementary act, to implement the solid waste management plan  
90 in the relevant solid waste management district with the modifica-  
91 tions or replacements adopted by the commissioner.

92 f. The commissioner shall maintain on file in the department a  
93 copy of every solid waste management plan adopted and approved  
94 pursuant to this amendatory and supplementary act, and a copy of  
95 the Statewide solid waste management plan developed and  
96 formulated by the department. Such plans are hereby declared to  
97 be public records and shall be subject to all the provisions of P. L.  
98 1963, c. 73 (C. 47:1A-1 et seq.) concerning such public records.

1 16. a. Every action taken pursuant to the provisions of this  
2 amendatory and supplementary act by any county is hereby  
3 declared to be a county purpose and the costs thereof may be paid

4 out of the general funds of the county and from the proceeds of any  
5 grants for this purpose from the State, Federal Government or any  
6 agency thereof.

7 b. In the performance of any responsibilities or requirements  
8 pursuant to this amendatory and supplementary act, any county  
9 may adopt and come under the "County Solid Waste Disposal  
10 Financing Law," P. L. 1970, c. 242 (C. 40:66A-31.1 et seq.); pro-  
11 vided, however, that after the effective date of this amendatory and  
12 supplementary act every action taken by any county under the  
13 aforesaid "County Solid Waste Disposal Financing Law" shall be  
14 pursuant to the adopted and approved solid waste management plan  
15 of the solid waste management district constituting said county.

16 c. Every action taken pursuant to the provisions of this act by  
17 the Hackensack Commission, is hereby declared to be a corporate  
18 purpose of said Hackensack Commission and the costs thereof may  
19 be paid out of the general funds of said Hackensack Commission;  
20 from the proceeds of any grants for this purpose from the State,  
21 Federal Government or any agency thereof; from any bonds which  
22 the said Hackensack Commission is authorized to issue for any  
23 such corporate purpose; and from any special assessments levied  
24 by said Hackensack Commission against real estate located within  
25 improvement districts which said Hackensack Commission is  
26 authorized to form within the Hackensack Meadowlands District  
27 pursuant to the provisions of article 8 of P. L. 1968, c. 404  
28 (C. 13:17-39 to 13:17-59).

1 17. Prior to the construction, acquisition, or operation of any  
2 solid waste management facility in any solid waste management  
3 district pursuant to the adopted and approved or promulgated solid  
4 waste management plan therefor, the person proposing such con-  
5 struction, acquisition, or operation, in addition to preparing an  
6 environmental impact statement on such facility in such form as  
7 shall be required by the commissioner pursuant to the provisions of  
8 section 6 of the act to which this act is amendatory and supple-  
9 mentary, shall make or cause to be made such preliminary surveys,  
10 investigations, studies, borings, maps, plans, drawings, and  
11 estimates of costs and of revenues as the commissioner may deem  
12 necessary relating to the type of such solid waste facility.

13 The results of such environmental impact statements, surveys,  
14 investigations, studies, borings, maps, plans, drawings, and  
15 estimates required by the commissioner shall be submitted to the  
16 commissioner for approval. No person may proceed to construct,  
17 acquire, or operate any solid waste facility without having first

18 obtained the approval of the commissioner. Such approval shall be  
19 granted only if the commissioner determines that:

20 a. The proposed construction, acquisition, or operation is con-  
21 sistent with the adopted and approved or promulgated solid waste  
22 management plan of the solid waste management district within  
23 which the solid waste facility is to be located; and

24 b. Any such proposed solid waste facility will be constructed or  
25 acquired, and operated, pursuant to the standards adopted and  
26 promulgated therefor by the department pursuant to the provisions  
27 of section 6 of the act to which this act is amendatory and supple-  
28 mentary.

1 18. Any solid waste facility constructed, acquired or operated  
2 pursuant to the provisions of this amendatory and supplementary  
3 act shall be deemed a public utility and shall be subject to such  
4 rules and regulations as may be adopted by the Board of Public  
5 Utility Commissioners in accordance with the provisions of the  
6 "Solid Waste Utility Control Act of 1970" (P. L. 1970, c. 40,  
7 C. 48:13A-1 et seq.). The application of any board of chosen free-  
8 holders or of the Hackensack Commission to operate any solid waste  
9 facility shall be considered at a public hearing by the Board of  
10 Public Utility Commissioners.

1 19. Subject to such terms as agreed upon by a board of chosen  
2 freeholders or the Hackensack Commission, as the case may be, any  
3 municipality within which any solid waste facility is located pur-  
4 suant to an adopted and approved solid waste management plan,  
5 shall be entitled to any or all of the following benefits in considera-  
6 tion for the use of land within its municipal boundaries as the  
7 location of such solid waste facility:

8 a. The receipt of annual sums of money in lieu of taxes on such  
9 property in such amount as may be agreed upon between the board  
10 of chosen freeholders or the Hackensack Commission, as the case  
11 may be, and the municipality, and each such board of chosen free-  
12 holders and the Hackensack Commission is empowered to make  
13 such payments and each such municipality is empowered to accept  
14 such payments and to apply them in the manner in which taxes may  
15 be applied in such municipality; provided, however, that no such  
16 annual payment with respect to any parcel of such property shall  
17 exceed the amount of taxes paid thereon for the taxable year im-  
18 mediately prior to the time of its use as the location of such solid  
19 waste facility;

20 b. Preferential rates charged for the services provided by the  
21 solid waste management district for any solid waste disposed of at

22 a solid waste facility within said municipality, which rate discounts  
23 shall not be in excess of 25% ;

24 c. The right to reacquire at no cost to said municipality, any real  
25 or personal property used by the solid waste management district  
26 in connection with the operation of any solid waste facility upon the  
27 expiration of the time interval agreed upon, or the termination of  
28 the uses for which such property was originally acquired, unless  
29 prior to such expiration or termination the board of chosen free-  
30 holders or the Hackensack Commission, as the case may be, entered  
31 into a new agreement for the continued use of such property.

32 Any real property reacquired by a municipality in accordance  
33 with paragraph c. of this section, shall be repaired and, as nearly as  
34 practicable, restored to its original condition, including, in the case  
35 of a sanitary landfill, adequate landscaping of the final earth cover-  
36 ing to conform with the immediately surrounding terrain, by and  
37 at the expense of the board of chosen freeholders or the Hackensack  
38 Commission, as the case may be, or adequate compensation made  
39 therefor by said board of chosen freeholders or the Hackensack  
40 Commission, as the case may be.

41 In the event that any municipality and any board of chosen free-  
42 holders or the Hackensack Commission, as the case may be, fail to  
43 reach an agreement on the benefits authorized herein in considera-  
44 tion for the use of land within municipal boundaries as the location  
45 of a solid waste facility, the commissioner, after consultation with  
46-47 the relevant board of chosen freeholders or the Hackensack Com-  
48 mission, as the case may be, with the mayor of the relevant munic-  
49 ipality, and with the relevant advisory municipal council, shall fix  
50 such terms and establish such benefits as he shall deem appropriate.

1 20. a. The provisions of any other law to the contrary notwith-  
2 standing, no public authority, county or municipality shall issue  
3 any bonds or other obligations for the erection, construction, opera-  
4 tion or maintenance of any solid waste facility after the effective  
5 date of this amendatory and supplementary act unless such erection,  
6 construction, operation, or maintenance shall have been approved  
7 by the commissioner pursuant to the provisions of section 17 of this  
8 amendatory and supplementary act; provided, however, that noth-  
9 ing in this act shall be construed as to limit or alter the rights vested  
10 by law in any public authority, county or municipality to fulfill the  
11 terms of any agreement made with the holders of any bonds or other  
12 obligations issued by the public authority prior to the effective date  
13 of this amendatory and supplementary act, or as to in any way  
14 impair the rights or remedies of the holders of such bonds.

15 b. Nothing herein contained shall be construed as to interfere  
16 with, or in any way modify, the provisions of any contract for  
17 solid waste collection or solid waste disposal in force in any solid  
18 waste management district upon the effective date of this act; pro-  
19 vided, however, that no renewal of any such contract upon the  
20 expiration or termination of the original term thereof, and no new  
21 contract for solid waste collection or solid waste disposal, shall be  
22 entered into after the effective date of this act, unless such renewal  
23 or such new contract shall conform with the applicable provisions  
24 of the approved solid waste management plan of the relevant solid  
25 waste management district. In the event that no solid waste  
26 management plan has been approved for a solid waste management  
27 district, no contract renewal or new contract for solid waste collec-  
28 tion or solid waste, disposal shall be entered into for a period in  
29 excess of 1 year from the date of such contract renewal or new  
30 contract in such solid waste management district.

1 21. a. The commissioner may make, or contract to make, a State  
2 grant to any person engaged in solid waste collection, disposal or  
3 utilization activities, to assist said person in experimenting with  
4 new methods of solid waste collection, disposal or utilization, includ-  
5 ing but not limited to, material recycling and energy recovery  
6 demonstration projects, intermunicipal waste collection and dis-  
7 posal systems projects, and coordinated multiusage of terminated  
8 sanitary landfill disposal sites projects. Any person engaged in  
9 solid waste collection, disposal or utilization activities may apply to  
10 the commissioner for a State grant: provided, however, that the  
11 application has been approved by the board of chosen freeholders,  
12 or the Hackensack Commission, as the case may be, as in con-  
13 formity with the adopted and approved solid waste management  
14 plan of the solid waste management district within which the  
15 experimental project is to be undertaken. The applicant shall  
16 submit a copy of the plan for any solid waste collection, disposal or  
17 utilization experimental project for which a State grant is sought  
18 and such other detailed information concerning the project, includ-  
19 ing maps, data, plans, estimated costs, and method of financing, as  
20 the commissioner may require by rules and regulations promulgated  
21 hereunder.

22 b. The commissioner shall review and evaluate all applications  
23 submitted to him pursuant to subsection a. of this section, and shall  
24 establish such priorities for making grants pursuant to this  
25 amendatory and supplementary act as shall give due regard to the  
26 degree to which the experimental project for which a State grant is

27 sought will have a beneficial and long term effect on solid waste  
28 collection, disposal and utilization methods in this State.

1 22. The commissioner may issue commitments for, and may make  
2 or contract to make, grants pursuant to section 21 of this amenda-  
3 tory and supplementary act, upon his approval of any application  
4 submitted to him therefor and the finding that:

5 a. The proposed plan for the solid waste collection, disposal or  
6 utilization project is consistent with the adopted and approved solid  
7 waste management plan of the solid waste management district  
8 within which the project is to be undertaken and is in conformity  
9 with the objectives, criteria and standards contained in the State-  
10 wide solid waste management plan;

11 b. The estimated funds available to the applicant for the  
12 experimental project, including loans and grants from any depart-  
13 ment or agency of the United States, local grants-in-aid, and the  
14 proposed State grant, will be sufficient to meet all the probable  
15 costs of the experimental project and assure its completion; and

16 c. There is no legal impediment or bar to the implementation  
17 and completion of the experimental project.

1 23. Any commitment issued by the commissioner and any con-  
2 tract based thereon shall, in addition to such other terms, covenants  
3 and conditions as the commissioner may require, provide that no  
4 change may be made in any experimental project assisted with a  
5 State grant without the prior written approval of the commissioner.

1 24. The commissioner shall be entitled to make such inspections  
2 of any project, and lands, buildings, improvements or facilities  
3 thereon; to request and secure the submission of certifications, data,  
4 maps, documents and other information by the applicant; to audit  
5 and examine any books and records of the applicant; and to require  
6 such periodic reports as shall be necessary to ascertain the progress  
7 of any experimental project assisted with a State grant pursuant to  
8 this amendatory and supplementary act and the extent of com-  
9 pliance with the contract for the grant.

1 25. a. There is hereby created in the Department of the Treasury  
2 a special fund which shall be known as the Solid Waste Manage-  
3 ment Research and Development Fund. There shall be included in  
4 said fund all the moneys received by the department from registra-  
5 tion and registration renewal fees, and all moneys appropriated by  
6 the Legislature for inclusion therein. The State Treasurer, with  
7 the advice of the commissioner, may invest and reinvest any moneys  
8 in said fund, or any portion thereof, in legal obligations, of this  
9 State or any political subdivision thereof or the United States. Any

10 income or interest on, or increment to, moneys so invested or re-  
11 invested shall be included in said fund.

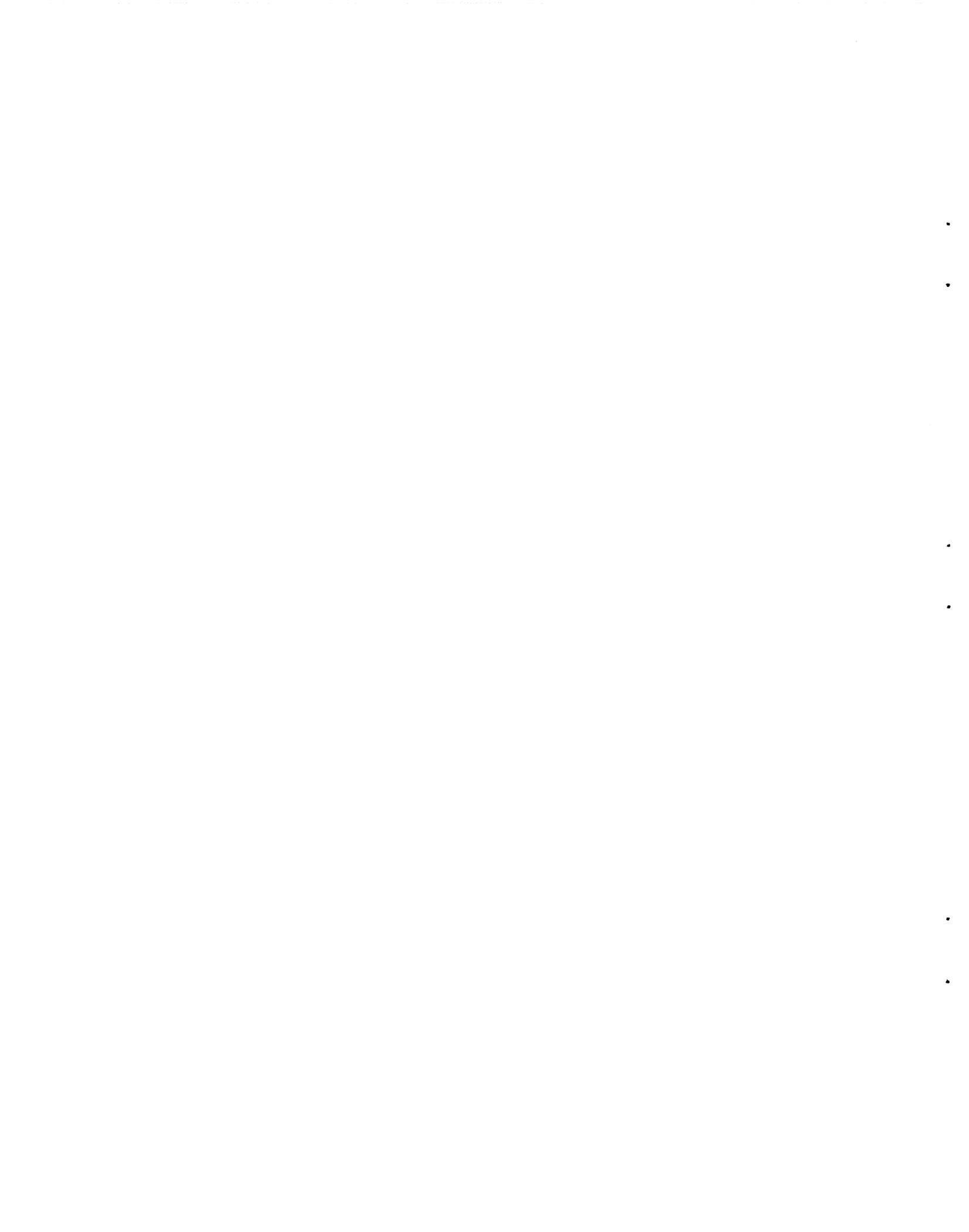
12 b. Upon the approval by the commissioner of any application for  
13 a State grant pursuant to this amendatory and supplementary act,  
14 the commissioner may requisition and warrant, and the State  
15 Treasurer shall pay over, the moneys in said fund, or any portion  
16 thereof, to the contracting person in accordance with commitments  
17 made and contracts entered into pursuant to this amendatory and  
18 supplementary act.

19 c. Nothing herein shall be construed as requiring the commis-  
20 sioner to approve any application for any State grant or to expend  
21 the moneys in the aforesaid Solid Waste Management Research and  
22 Development Fund solely for the purposes of making such State  
23 grants, and the commissioner is hereby authorized and empowered,  
24 in his discretion, to requisition and warrant the moneys in said  
25 fund, or any portion thereof, and the State Treasurer shall pay  
26 such moneys over to the department, for any experimentation with,  
27 or demonstration of, new methods and techniques for the collection,  
28 disposal and utilization of solid waste, including the acquisition of  
29 real property, the purchase of any facility, site, laboratory, equip-  
30 ment or machinery as authorized pursuant to section 6 of the act to  
31 which this act is amendatory and supplementary.

1 26. The object and design of this amendatory and supplementary  
2 act being the protection and preservation of public health, safety  
3 and welfare, and the creation of solid waste management districts  
4 based upon the counties of this State and the Hackensack Meadow-  
5 lands District, through which the management of solid waste in  
6 New Jersey may be undertaken in a comprehensive manner, this  
7 amendatory and supplementary act shall be liberally construed and  
8 the powers granted and the duties imposed by this amendatory and  
9 supplementary act shall be construed to be independent and  
10 severable. If any one or more sections, clauses, sentences or parts  
11 of this amendatory and supplementary act shall for any reason be  
12 questioned in any court, and shall be adjudged unconstitutional or  
13 invalid, such judgment shall not affect, impair or invalidate the  
14 remaining provisions thereof, but shall be confined in its operation  
15 to the specific provisions so held unconstitutional or invalid.

1 27. P. L. 1971, c. 461, approved February 29, 1972 (C. 13:1E-16  
2 et seq.), is hereby repealed.

1 28. This act shall take effect immediately.



SENATOR JOSEPH L. McGAHN (Chairman): Good morning, ladies and gentlemen. This is the first meeting of the Joint Senate Committee on Energy, Environment and Agriculture, in conjunction with the County & Municipal Government Committees of both the Senate and Assembly, and we will come to order.

Firstly, our apologies for being late in getting started but we had some details that we had to work out.

The hearings today will be conducted on Senate Bill 624, the prime sponsor of which is Senator Matthew Feldman.

I would like to introduce myself. I am Senator Joseph McGahn. To my right and to your immediate left is Senator Martin Greenberg, Chairman of the County and Municipal Government Committee of the Senate, who is co-chairing this meeting with me; Assemblyman VanWagner; Assemblyman Don Stewart. In the room but not with us at the moment is Senator Ray Zane. To my immediate left, Senator Bernard Dwyer; and on my extreme left, Senator Thomas Dunn.

We will call the individuals in the order that we have here on the agenda. If any individual testifying has a written statement, the Committee would prefer to have that prior to the time that you do testify.

The record on this public hearing will be kept open for a period of two weeks following this date so that anybody wishing to send in supplemental or additional statements may do so. Address it to Mr. David Mattek and we will see that it's put in the public record.

Forthwith, I will call the first witness, Senator Feldman.

M A T T H E W F E L D M A N: Distinguished colleagues:  
I gave your Secretary a copy of my remarks and, with the  
indulgence of the Committee, I would like to present  
them verbally to each and every one of you.

New Jersey is confronting an increasing problem  
of managing solid waste. Every year over 7 million tons  
of refuse is generated in the State and, if recent trends  
continue, we could be faced with twice or three times  
this amount by the end of the century. Despite this  
threat to the health and welfare of our citizens and  
our environment, we are still searching for effective  
approaches to the problem. A great number of juris-  
dictions collect, carry and dispose of the volumes of  
domestic and industrial waste, both contractually and  
as a municipal function, yet many of the municipalities  
in New Jersey are no longer able to provide for the  
disposal of refuse they generate and must look for  
disposal sites well beyond their boundaries. At the  
same time, because most local governments have failed  
to provide sites and other disposal facilities in  
their plans, we are faced with shrinking land resources  
to meet increasing refuse volumes.

Finally, while we are hopeful of improved  
technology to help reduce the dependence on sanitary  
land fills, we must be cognizant of the commensurate  
problem of air pollution which is attendant to  
incineration and the yet unresolved economic problems  
of other proposed refuse management techniques.

The Legislature recognized many of these problems  
when it passed the Solid Waste Management Act of 1970,  
but we failed to make the provisions binding on our  
local governments and, as a result, the move toward  
effective regionalization of solid waste management  
has been very slow. Inadequate funding has hampered

the ability of the responsible state agencies to provide the necessary assistance and guidelines for the implementation of statewide and regional solid waste plans.

Recently, the New Jersey Supreme Court confirmed this fact when it restated the permissive provisions of the Solid Waste Management Act of 1970 empowering the Department of Environmental Protection to regulate the solid waste function in the State. But the court went even further when it noted that "the Legislature has assumed the responsibility for regulating solid waste management on a statewide basis through regional, county and intercounty plans." Moreover, the court also emphasized the continuation of the crisis in this area and the lack of resolution to these problems and declared "if additional legislation is required to confer needed power and authority, prompt recommendation of legislative action should be made."

S-624, the Solid Waste Management Act, is a response to these conditions and to other findings of the County and Municipal Government Study Commission, which are contained in its report "Solid Waste; A Coordinated Approach.

In this bill we are proposing to do the following: first, to district the State into 22 solid waste management regions along county lines plus the Hackensack Meadowlands District. As you know, the latter has been charged by the Legislature with the responsibility for dealing with the refuse of over 100 municipalities which used the landfill facilities at the time of its creation. We feel that county government is the proper framework for managing solid waste in New Jersey. Indeed, Bergen County has been operating a county sanitary landfill facility since 1955.

Mercer County has moved to place solid waste management in the County Improvement Authority and almost every other county has proposed some plans for areawide approaches to its solid waste problems. Some of these plans have been vetoed by local governments for various reasons, many of which are understandable in light of its nuisance aspects. Other communities in which this problem is less urgent have deferred the search for longer-ranged solutions on the basis of present economies. S-624 would initially recognize the interdependence of communities within our 21 counties, and create the conditions for dealing with the problem on a coordinated, areawide basis.

The second major provision of this Act is a legislative order mandating the preparation of a plan within a specified time period. We felt it desirable to establish such "deadlines" in recognition of the need to expedite the implementation of areawide plans. We also provided a time frame for review procedures and for possible amendments of the initial plans. The need for this dispatch was stressed in the recent court decision - "no statewide plan for solid waste management has been shown and we assume none exists .....it is essential that a statewide master plan be prepared forthwith and regionalization of facilities undertaken.....In 1970 the Legislature declared that a solid waste crisis existed in this State. Three and one-half years have elapsed since then and we have not yet resolved the admitted crisis."

A third provision deals with the assurances of adequate consultation in the process of formulating the various management plans. We felt that we must allay the concern of our municipalities not only on the location of disposal sites but also on the various

safeguards - fiscal, aesthetic and environmental - attendant to site location. In addition, since counties are not perfect waste management regions, we are providing for consultation with neighboring counties in the process of developing these plans. Further, in full recognition of the private sector's role in operating most of the facilities in New Jersey the Management Plan requires discussions with the solid waste industry, as well.

The Management Plan is not merely a designation of new sites to be acquired. It is our desire to evaluate on an ongoing basis the whole process of waste generation in the State: collection routes; the utilization of transfer stations; alternative disposal methods, and recovery of materials. We have therefore provided for the reexamination of the plan every two years to allow for changes reflecting technological advances in solid waste management. We feel we should not be locked in to existing methods based entirely on least-cost solutions.

A major aspect of this bill deals with the role of state government in the solid waste function. There are several realities which we accepted in preparing this legislation. First, that the state already has the paramount position in discharging this function. Both the Department of Environmental Protection and the Public Utilities Commission are statutorily empowered to intervene in certain aspects of waste management. In fact, the recent court decision affirms state preemption of the solid waste management function. However, because of varying pressures in New Jersey's regions, a single project or facility for the entire state is obviously impractical and a series of county, intercounty or regional approaches is considered more sensible.

But what happens if local disagreements interfere with the initiation or implementation of a plan? Or as another example, what happens when a county, after making a sincere effort to find a solution to its waste problems within its own boundaries is unable to do so and must rely on its neighbor for a landfill site or other type of facility possibly in the face of objection from the neighboring county? It is clear that state government must be in a position to assist the counties in resolving differences, to arbitrate disputes, to work out regional solutions and to perform the necessary work when counties fail to discharge their responsibilities. S-624 provides for those duties. It also provides for the state preparation of an overall framework to serve as a guide for evaluating the county plans and for reconciling any differences among the various counties.

Finally, reference was already made to the rapid changes in technology which could affect solid waste management in the future. We are providing in the bill a fund to conduct experimental studies of alternate means of solid waste disposal, resource recovery, incineration for the creation of energy and other related possibilities.

In summary, we feel that S-624 will go a long way toward achieving a coordinated approach based on areawide planning to the waste management problems confronting the State. We also feel that this legislation is sufficiently flexible to allow for participation and inputs into the plans by individuals, local governments and the industry so that arbitrary and unilateral actions can be avoided. Ultimately, however, we require results, and the bill provides for the mechanisms to arrive at them.

Effective solutions will require commitment of resources. The Department of Environmental Protection will need additional resources to carry out these new responsibilities and to assist the counties in meeting theirs. We feel that such outlays will be warranted to achieve the objectives of this bill.

Thank you.

SENATOR MCGAHN: Thank you, Senator.

The criticism has been raised or will be raised that this bill would represent a virtual death warrant to the private solid waste industry in New Jersey. Do you feel that that is a valid statement?

SENATOR FELDMAN: I do not. I think it's a fear of the unknown. I know that the county plans would be reviewed. I know that there is some fear too of home rule being dissipated by a plan such as this. But all these plans will be reviewed by municipal advisory boards representing all municipalities in the county. I feel the public interest is at stake and I feel there can be cooperation with the private sector as well as the public sector.

SENATOR MCGAHN: Do you feel the language of the bill is clear enough so that private industry therefore would have nothing to worry about or do you --

SENATOR FELDMAN: Well, I feel it's clear enough. However, this hearing will be most important and there may be suggestions from your Committee - you have a very fine Committee here -- amendments to the bill or some suggestions. Nothing is ever perfect. You have a Bill of Rights to the Constitution of the United States. We have amendments. I mean, I guess it's the purpose of the hearing. And how you evaluate the bill, my testimony, the testimony of other witnesses, with

your deliberations, I know we will come out with a pretty good bill. But the important thing is, we have to move, we have to move quickly because time is running out.

SENATOR MCGAHN: When a perfect bill is drafted we will all go home.

Senator Greenberg?

SENATOR GREENBERG: I would like to go back for a moment, Senator, to the question that was just raised with regard to the fear stressed by some that this bill represents a virtual death warrant to the private solid waste industry. We will be getting to the private industry as their representatives testify here. But, as the sponsor of the bill, can you tell us whether there was consideration and concern, if any, in the drafting of this legislation with the place of private industry in the bill.

SENATOR FELDMAN: Well the bill was drafted by the County and Municipal Government Study Commission, after much evaluation and thought was given to this. Again, I would like to hear the fears that are going to be announced by the private sector and I want to know what their fears really are.

SENATOR GREENBERG: Fine. You've expressed my views. I would like to know what they are too and I am anxiously awaiting them. But there is no doubt in your mind that a crisis does exist at this time.

SENATOR FELDMAN: There's no doubt. I can speak now as a former Mayor of a community, eight years of stewardship of the municipality of Teaneck, and having served in the Senate in '66 and '67, and the problem is something that should have been taken care of years ago. And I know that this Legislature will have the determination and clairvoyancy to prevent

a catastrophe for the generations to come by our action now. And this is the only thing we can do.

SENATOR GREENBERG: Thank you. You're to be complimented on your support and endorsement and sponsorship of this legislation.

SENATOR McGAHN: We're talking about a pre-oil embargo crisis also, Senator.

Senator Zane?

SENATOR ZANE: No questions.

SENATOR McGAHN: Senator Stewart?

SENATOR STEWART: No questions.

SENATOR McGAHN: Assemblyman VanWagner?

ASSEMBLYMAN VAN WAGNER: I just have one question, Senator, and I am sponsoring a companion measure in the Assembly so I am in sympathy with your aim. But we do have before us a statement that there does not in fact exist a crisis in terms of landfill, and I was wondering if you could just back up a little bit and point out again the need in terms of the sanitary landfill availability.

SENATOR FELDMAN: Well, I believe in this pamphlet - Solid Waste; A Coordinated Approach - we have some documentation. I do know that land is running out. Land today is the most valuable asset that Americans have and, pray tell, where is the land going to be especially in such a highly industrialized and urban state of New Jersey, where will the land be found in the future for the solid waste disposal? And I think it is something which is staring us right in the eye as we ride around the State and we know the problems of other municipalities and of counties. I haven't got documentation at my fingertips but I know that I will send that documentation in to the Committee.

SENATOR McGAHN: I think if I might address myself to that, the legislative policy of the State of

New Jersey is already declared, that there is a crisis existing. This is in a court decision. Disposition of solid waste in this State has reached crisis proportions. The legislative response to this crisis was the enactment of the two statutes, the Solid Waste Control Act of 1970 and the Solid Waste Management Act of 1970. So I think we are talking about a matter of semantics. From the standpoint of policy of the Legislature, a crisis does in fact exist.

SENATOR FELDMAN: Well, the courts have decreed that. It's just that if you want the documentation of just how much land is available, this is what I thought the questioner wanted.

ASSEMBLYMAN VAN WAGNER: Well, no. I underscore what Senator McGahn said. I think the answer to the crisis situation has been answered for us, not only by the past Legislature but by the courts themselves in their recent decision.

SENATOR MCGAHN: It depends on whether we're using the New Jersey Legislature's definition of crisis or Mr. Nixon's definition of crisis, actually.

Senator Dunn?

SENATOR DUNN: Well, I have no questions, Mr. Chairman, but I would like to make this very brief statement that, as a Mayor of a large municipality in Union County and as a former Freeholder of Union County, and speaking only about Union County, I can confirm that there is indeed a crisis as far as disposal of solid waste in Union County. And this is borne out by a study made, known as The Disco Report, which at a subsequent date I will add to the testimony.

SENATOR MCGAHN: Thank you Senator. No further questions?

SENATOR DUNN: No questions.

SENATOR McGAHN: Thank you very much, Senator.

SENATOR FELDMAN: Thank you.

SENATOR McGAHN: Mr. Goodenough, Department of Environmental Protection.

R I C H A R D D. G O O D E N O U G H: Mr. Chairman and members of these Committees, my name is Richard D. Goodenough. I am Director of the Division of

Environmental Quality in the Department of Environmental Protection. This is the Division of State Government which has the responsibility for administering New Jersey's programs in Air Pollution, Pesticide Control, Noise Control, Radiation Protection and Solid Waste Management. I am extremely pleased to talk with you this morning about S. 624 and the effect that bill will have on the Department's responsibilities in solid waste management. It also is an odd sort of relief to talk about an issue which doesn't involve having to worry about a shortage. If there's one thing we have an abundance of--it's Garbage!

"Solid Waste," of course, is polite euphemism for "garbage." Until now, its management has been the step-child of the environmental movement. Air and water pollution have gotten more attention, perhaps because you can see, and

smell, air and water pollution. But solid waste is different. As long as the men pick it up in their trucks, and the trucks turn the corner and go away, for most people the garbage is never heard from again. We seem to think that if you can't see it, it won't hurt you. Yet it can come back to haunt us in other forms such as polluted streams contaminated underground water supplies and fires. Today, we find that unless the stepchild receives some immediate attention, he may turn out to be the nastiest child of all. And time is running out.

Although I hesitate to use the word "crisis" at a time when that word is applied to so many facets of our lives--energy crisis, monetary crisis, food crisis--I can think of no word more appropos of the Solid Waste situation in New Jersey. This crisis has not sprung fully armed fom nowhere. It is the product of years of profligate waste of our natural resources, of a failure to take into account the external costs of our "disposal bottle" way of life and of a failure to confront squarely the problem.

New Jersey, the most densely populated and urbanized state in the Union, has increased in just the past ten years from 750 people per square mile to 1000 people per square mile. At the same time, the County and Municipal Study Commission reports that during this period, municipal solid waste expenditures increased 156 percent and became the sixth most expensive municipal service. And things

are not improving. It is conservatively estimated that in 1970 the residents of New Jersey produced 6.9 million tons of solid waste and by the year 2000, we will be producing 22.3 million tons per year. Another way of stating this is that we estimate New Jersey produces in excess of 35,000,000 pounds of solid waste per day.

It is curious that in a society that has put men on the moon we still dispose of solid waste as we have done since time began; we burn it and we bury it. Primarily, we bury it. This may have been acceptable in a pastoral society of bygone days, but in 1974 we can no longer afford this luxury without actively striving for acceptable alternatives. As the fuel shortage has so graphically taught us, our natural resources are finite and we must ask ourselves if we can afford to use valuable materials just once. Or should we maximize the value of those materials by recovering them and using them again in other productive ways? I believe that the ultimate solution to our solid waste crisis is a total system of resource recovery. We are still some years away from the total solution, but some encouraging technological advances have been made. In addition, changing economic conditions are making alternatives more economically feasible. There could be no better time to plan. As we move toward more sophisticated systems of resource recovery, we must continue to dispose of some of our solid waste in landfills. But this must be

done in an environmentally acceptable manner and in a system which will provide the most efficient disposal at the lowest cost. I do not mean just financial costs, but the external costs also. The air, water pollution and health hazards associated with poorly located, designed and operated landfills are real costs that must be included in any cost-benefit analysis, and in the long run, they may be the most significant costs of all.

I am not pleased with the record of the past in this field of "garbology" and not proud of our capability for coping with the problem. Our Bureau of Solid Waste Management has but 20 employees presently and of this number only 11 are professional in the sense that they have college degrees. The budget under which we currently operate this Bureau is only \$208,000 although I must say that a substantial increase has been recommended by Governor Byrne and for this, I am grateful. Unlike our Air Pollution program which is well-staffed and is probably the best in the Nation, our Solid Waste program is far behind many states. The National Sanitation Foundation recommended in 1973, that our staff should be 36.8 man years and our budget \$840,000.

Contrary to some recent reports, our Bureau of Solid Waste Management did produce a State Plan for Solid Waste Management. This plan is now several years old and is conceptual in nature. It did provide much of the basis and

data for the excellent 1972 report on solid waste produced by the County and Municipal Government Study Commission.

Gentlemen, we heartily endorse S.624 and I commend the several sponsors. Its enactment would be a significant step in preventing the "Garden State" from becoming the "Garbage State." It would establish a rational framework for the total management of solid waste in New Jersey, and would combine properly the responsibilities of our three levels of government.

The central components of the system envisioned by this bill are a state solid waste management plan which the Department of Environmental Protection is mandated to prepare and district plans to be prepared by the Board of Chosen Freeholders of each county and by the Hackensack Meadowlands Development Commission. The bill establishes these units as Solid Waste Management Districts. We support this concept of establishing districts as the most prudent and feasible system for dealing with solid waste. In fact, our Solid Waste Management Plan of 1970 proposed this concept. However, I do have some recommendations to make with respect to specifics in the bill and its implementation.

The bill proposes stringent time schedules under which its provisions would have to be accomplished. We support this concept of mandating the completion date but reluctantly believe that the time estimates envisioned are unrealistic.

Under the bill, the districts would have 180 days from the effective date of this act to prepare their plans. At the same time, the state would be preparing its own plan. In light of the complexities involved in bringing aboard needed personnel, in letting contracts, and in arranging the necessary financing we feel that the proposed time schedules are too short to allow the state and the counties to fulfill adequately their functions under this bill. In place of this scheme, we recommend that time for preparation of the plan be extended to 450 days and that the counties be given a lead time of 90 days to arrange for the necessary funding.

For the same reasons we also recommend that the time period for the adoption of plans by the districts and the period for review by the Commissioner be extended from 90 days to 150 days. While we appreciate the urgency of the situation, we also appreciate the time and effort needed to do work which will affect the citizens of this state for years to come. On balance, the time periods we recommend will fulfill both necessities.

One necessity that has not been addressed in the bill is money. Enactment of this bill will double the work load of the Bureau of Solid Waste Management. Among other tasks, it must prepare a state plan, review district plans, draw up criteria for the review of environmental impact statements and review those statements. If a district

fails to act, the state must formulate, adopt and implement a plan for that district. Yet, despite these increased duties, there is no appropriation in this bill. Some will say "take your chances with the budget process like everyone else." I say that this is landmark legislation which without adequate funding may become mere words. We recommend that an appropriation of \$300,000 be made to increase the Bureau's currently proposed 1975 operating budget to \$600,000. We have estimated that this is the minimum amount needed to fulfill the mandate of this legislation.

The responsibilities of the counties are also greatly increased. S. 624 mandates that the counties undertake comprehensive regional planning for solid waste management. A few counties have done some solid waste planning but little county planning work of the kind contemplated by this bill has been accomplished. In order that the counties be financially capable of developing district plans, which are the keystone of this legislation, we recommend an appropriation of \$1,000,000 to be distributed by the state to the counties on a 50/50 matching fund basis under an equitable need formula to be established by the Department. This will help insure that the counties are capable of carrying out their duties under this legislation.

I fully realize the great difficulty which a new request for \$1 million causes. I am completely aware of the

horribly complex fiscal problems with which government is struggling. Yet, we are spending approximately \$300 million per year in New Jersey to take our garbage away from the curb. In that context, it seems reasonable to spend \$2 million of state and county money to plan things properly. That's a figure equal to seven tenths of one percent of the current yearly bill society is paying to take the garbage some place.

The bill does deal with money in establishing a Research and Development fund. However, the fund would be financed through fees to be charged by the Bureau and any appropriation made by the legislature for that purpose. In so far as the number of solid waste facilities will be declining with the advent of district solid waste management, the amount of money produced by fees will decline and the Research and Development fund balance will also decline. While we agree that such a fund is worthwhile, we recommend that this authority be given to the Department and that we include requests for the same in our annual budget request.

There is another difficulty with the proposed fees. The Department has proposed a fee schedule under authority that would be revoked by this legislation. We believe that our proposed fee schedule is more in line with the actual costs associated with each application and is thus more reasonable. I believe these fees should go to the General Treasury. Also, the proposed bill would allow collection.

of fees only upon approval of an application. This would mean that the Bureau may go through many weeks of work, but if they reject the application, then no fees are collected. We recommend that the fees be collected upon application, not upon approval. The fee schedule proposed in the bill would result in a yearly collection of \$180,000. The fees generated in one year by the fee schedule proposed by the Department will amount to approximately \$300,000. This, coincidentally, is the amount of increase we recommend in the Bureau's budget. The net deficit in the state budget will be, zero.

While I'm on the subject of money, let me turn to the penalty provision in the law. While this is not changed by the proposed law we feel the maximum amount of penalty should be increased from \$1,000 per day to \$3,000 per day. This increased amount would bring the penalty provision in line with other recently enacted laws, including the Noise Control Act and the Pesticide Control Act. The provision of allowing the Department to rebate up to 90% of any fine collected when compliance is accomplished will continue.

The Solid Waste Management Act (1970) like the Noise Control and Pesticide Acts established an advisory council composed of certain state government officials and members of the general public to advise the Department of Environmental

Protection on solid waste matters. The council members are appointed by the Governor. S. 624 would require that four of the eight public members be members of the solid waste industry. While we are not opposed to industry representation on the council, we do feel that the Governor should have the authority and discretion to appoint whomever he feels will best serve in those positions. We, therefore, recommend that this provision of the bill be deleted.

The bill also creates other councils. These are to be advisory councils composed of the mayors of all municipalities of a county. The Board of Chosen Freeholders must consult with its council prior to the adoption of the district plan. While we appreciate and acknowledge the interest of the municipalities in the plan, we are aware of the fact that this would result in very large groups in some counties. We recommend that the Board of Chosen Freeholders of each county be given the latitude to determine that type of advisory group it determines to be most appropriate. This should give the municipalities adequate input into the plan while at the same time, enabling the county to perform its duties under this bill.

It is true that under this bill the municipalities will lose some of their traditional authority to manage their own solid waste. But it is equally true that solid waste cannot be managed efficiently at the local level.

I believe that the municipalities will gain more than they will lose. They will gain the benefits of a rational, efficient management system that benefits from the economies of scale that a county-wide system will produce. Regionalization of solid waste management is the only feasible and prudent way to handle solid waste. The sponsors of this legislation realize this. S. 624 would repeal Chapter 461 of the laws of 1971, which gave the Department the authority to set fees and which enabled municipalities to establish health and environmental standards more stringent than those set by the state. The N. J. Supreme Court has told us that municipalities can do so if those regulations are not in derogation of regionalization. The job given to the counties is not an easy one. Tough decisions must be made and the counties must have the authority to do so. In order to insure that a plan be successfully adopted and implemented, we recommend that the municipalities be specifically prohibited from establishing any regulation of solid waste collection or disposal which does not conform to the county program to be established. The comprehensive nature of this bill and the enormity of the problem require pre-emption of this field by the county. But again, the benefits the municipalities will derive from a county-wide system will far outweigh what they have relinquished.

As you know, the Public Utility Commission regulates the economic aspects of solid waste disposal and collection.

Undoubtedly, you will be receiving the benefit of PUC's testimony, but I suggest that their existing authority, especially with respect to franchising, be closely examined as it relates to the provisions of this bill.

I have given a general idea of our feelings on S. 624. In a few days, we will submit to this Committee a detailed list of specific recommended changes in the language of those parts of the bill to which I have referred today.

Thank you very much. I will be pleased to attempt to respond to any questions that you may have.

SENATOR MCGAHN: Thank you very much.

In your experience, what has been the alacrity with which a local unit of government complies with mandates sent out by the State? We're talking now specifically about the time period that you suggested. Instead of the language of the bill that the time period be extended to 450 days for development and formulation of the plan, and 150 days for the implementation and review by the Department. Is this correct?

MR. GOODENOUGH: That's correct, yes. I think we will all probably still have problems meeting even those time constraints. I think the problem is serious enough that we ought to set that for our goal and attempt to make it.

SENATOR MCGAHN: Basically, though, on the part of the solid waste districts that are established by this act, the longer that you give any local unit of government, whatever it may be, to comply, the later they will be in actually attempting to comply with this. At least, if they designate an intent to do it, they are going to be starting, and certainly if they apply

for an extension of this, I think the Department would, very frankly, be willing to give it.

In keeping with that also, we're talking here now about a minimum of 600 days, which is roughly 20 months. So, therefore, assuming that the act was signed into law at this particular point in time, you really would not need the increased funding in fiscal year 1975. It could not be implemented, really, until fiscal year 1976.

MR. GOODENOUGH: Well, the funding that we're talking about is funding that we believe is necessary to do the planning, produce the plans that are required by this act.

Our best estimate here is that it will cost about \$2 million to produce the 22 plans required by this bill. My suggestion is that, if we can find the fiscal resources, perhaps the State ought to find \$1 million to match with \$1 million of county money. But certainly when those plans are done and when the year and one-half's time has gone by and it becomes time to move on to the implementation phase, to buy sites, to buy some of the new Rube Goldberg machines that are coming on the market to separate waste, that will require additional funding.

SENATOR McGAHN: You've recommended deletion of private representation on the advisory council, leaving, if you will, four public members. Do you feel that it is inappropriate to have an individual or somebody with expertise in either the collection end or disposal techniques, the knowledge of this, and, furthermore, do you feel that the other public members should have certain qualifications, such as a professional engineer, an environmentalist, or whatnot?

MR. GOODENOUGH: I think it's in the public

interest to have a variety of people on the council. I think it's also in the public interest to have a rather high degree of expertise represented on the council. I think fundamentally, though, as a basic principle I think the Chief Executive ought to have the authority to appoint whoever he sees fit to do it. The problem, when you legislate the type of person to be on a council, there are immediately several other sorts of people that you might think too should be represented. If the solid waste industry itself should be represented, then perhaps the secondary materials handling industry ought to be represented, the recycling industry, the environmental organizations, and it can quickly become quite unwieldy. So my suggestion is that the Chief Executive have the authority to do what he sees fit.

SENATOR MCGAHN: Up until this point in time, has the Solid Waste Advisory Council served any useful function?

MR. GOODENOUGH: Yes, it has. I don't think it has been as useful as it might have been. But, on the other hand, it's rather a new council too.

SENATOR MCGAHN: Senator Greenberg?

SENATOR GREENBERG: Yes, just one or two questions.

There has been a great deal of study already given to the problem, both on a statewide basis and on a county basis, is that not true, Mr. Goodenough?

MR. GOODENOUGH: Yes, that is true.

SENATOR GREENBERG: And, frankly, the problem in general are problems of general applicability throughout the State. Now individual problems may differ but the need for a solution to the crisis situation is very general. Don't you agree with that?

MR. GOODENOUGH: I agree with that. It varies

around the State, from county to county, but it is generally a problem throughout the State.

SENATOR GREENBERG: Why do you feel, then, that six months is not sufficient for us to start moving on this problem?

MR. GOODENOUGH: Well, let me answer you in this way. I'm young enough, I think, to want to get the job done as quickly as possible, young enough to have the vigor to do that. I think maybe I'm just old enough to be pragmatic enough to realize how long it takes sometimes to get things done in this unwieldy system of government. Even on the day when the Governor signs a piece of legislation giving an operating agency supposedly the funding necessary to do the job, there are all of the other things that we must go through, like dealing with our Budget people, dealing with Civil Service, having the jobs set up, having the tests announced, people hired, so forth and so on. Two and three months go by very quickly when we attempt to gear up a program.

SENATOR GREENBERG: That's because there's a form of Parkinson's law that applies to everything that government does. The more time you give it, the longer it takes.

I would like for you to explain very briefly, if you can, what you mean by your statement that the authority in the PUC with regard to franchising be closely examined as it relates to the provisions of this bill.

MR. GOODENOUGH: Under the law passed in 1970, the Public Utility Commission was granted the authority to grant franchises and also to set rates. My suggestion to you is that you look at their testimony carefully with respect to how they see their existing authority

meshing in with the provisions of this bill because, in a certain sense, this bill sets up districts which might amount to a franchising area. I think those things ought to be looked at side by side.

SENATOR GREENBERG: Thank you.

SENATOR McGAHN: Assemblyman VanWagner?

ASSEMBLYMAN VAN WAGNER: No questions.

SENATOR McGAHN: Assemblyman Stewart?

ASSEMBLYMAN STEWART: Dick, do we have anybody in the private or the public sector now - we're talking about under this bill - who does, let's say, ocean dumping of solid waste and, if so, will this particular proposal affect that in any way?

MR. GOODENOUGH: I'm not sure I understood your question. Garbage is no longer dumped in the ocean. That was done several years ago.

ASSEMBLYMAN STEWART: We have nothing that would be under the jurisdiction of this bill that is dumped in the ocean by a private or public concern in New Jersey?

MR. GOODENOUGH: Well, there are chemicals dumped in the ocean, in approved dumping grounds, chemicals generated by industries in our State. And it might very well be that if the industry were to find they had a problem with the Federal Environmental Protection Agency and they could no longer dump their chemicals in the ocean, as they're doing today, then they would look for alternative sites, undoubtedly land-based sites, and then they would come up against the provisions of the county disposal plans that would be developed under the aegis of this bill. So there wouldn't be a direct, immediate effect, but there could very well be as time goes on. Our authority in New Jersey to deal with the practices of ocean dumping was preempted by Congress when it passed the Federal Ocean Dumping Law two years ago.

ASSEMBLYMAN VAN WAGNER: Under the provisions of this bill, in your opinion, - I realize I am asking your opinion - would another state be precluded from using any of the facilities or any of the regions set up under this bill?

MR. GOODENOUGH: Not under this bill. The last Legislature passed a bill to ban out-of-state garbage from coming into New Jersey.

ASSEMBLYMAN VAN WAGNER: Wasn't that overturned?

MR. GOODENOUGH: No. As a matter of fact it's not overturned. As a matter of fact, our Deputy Attorney General prosecuting the case is here today. The suit was brought against the State on that bill and went to the Superior Court and a decision was handed down saying that the provisions of the bill were unconstitutional and flew in the face of Interstate Commerce Laws. But the Judge reserved the effect of his decision until we had time to appeal to the Appellate Division. We did that immediately and at that hearing the Judge decided that the three-judge panel ought to hear the case. And right now we're awaiting a hearing date before the three-judge panel. So that question has really not been resolved at this time.

SENATOR MCGAHN: Senator Zane?

SENATOR ZANE: No questions.

SENATOR MCGAHN: Senator Dunn?

SENATOR DUNN: Mr. Goodenough, on page 7 of your presentation, and just for clarification, you make reference to an appropriation of \$1 million to be distributed by the State to the counties. You are talking about a total of \$1 million, not \$21 million.

MR. GOODENOUGH: \$1 million, yes. I know that will be hard enough to get.

SENATOR DUNN: Point number 2, talking about

the financing or the budgeting that would be necessary to implement this bill once it became law, you make no reference to possible Federal participation. Are there any funds available that would help the State in budgeting?

MR. GOODENOUGH: There's absolutely none. It's one of those curious things as we look at our friends in Washington. We get \$1.9 million per year in federal money to run our air pollution programs and there are really no strings attached to that money at all; we can use it as we see fit to clean up the air in New Jersey. But solid waste is a tremendous problem in New Jersey too and we get next to nothing. We felt very happy about four months ago, we did get a grant of \$60,000. That's all. And there is no indication from the Federal Government that they're going to change this policy of believing that garbage is a local problem and not have the Federal Government involved in it.

SENATOR DUNN: Then it seems to me that it would take some exploration on our part to entice some federal funds to aid the State in such a worthwhile project as this.

MR. GOODENOUGH: Well, I agree with you. And just last week I met with the Governor's Representative in Washington, whose job it is to search out money for whatever projects we think are worthwhile, and with this Representative, Marilyn Barry, - perhaps you know her - we toured our modest facilities with the National Bureau of Solid Waste and we talked at length about the need to get that Bureau some help. And I am hopeful that Marilyn Barry will be able to find some help for us in Washington but I am not too optimistic about it. But we are going to proceed with that, we're going to try, and whenever the opportunity presents itself we're going

to see if we can get some additional help from Washington. This is most necessary.

SENATOR DUNN: Thank you.

SENATOR McGahn: Senator Dwyer?

SENATOR DWYER: Mr. Goodenough, the bill defines liquids also as solid waste. And in view of the fact that the Federal Government might discontinue the dumping of liquids in the ocean, do you think that the term "liquid" should be included in this bill or should we at this juncture preclude the dumping of liquids into a solid waste landfill?

MR. GOODENOUGH: Well, that's one question that we really haven't quite fully answered yet, to be very honest with you. And that's going to be one of the things on our list that we're going to give you in the next few days, that is a definition.

SENATOR DWYER: The definition of a liquid.

MR. GOODENOUGH: And solid waste.

SENATOR DWYER: Do you think you might be recommending that chemical liquids, industrial chemical liquids, not be dumped in a solid waste landfill operation?

MR. GOODENOUGH: Well, they shouldn't be dumped in a solid waste landfill operation unless the design and location of the landfill is such that we believe that it's environmentally acceptable. It is possible to engineer landfills, especially new landfills, to be able to take some pretty toxic material, but it's something that has to be approached very, very carefully.

SENATOR DWYER: We're basically concerned with the homeowner and garbage. Do you think we should take liquids out of this bill and maybe have separate and distinct legislation to cover the dumping of liquid

industrial waste?

MR. GOODENOUGH: No. I think whatever ought to be done ought to be a part of this bill.

SENATOR DWYER: Of this bill. But you will be giving us a lot of data on the liquid dumping of chemicals and so on.

MR. GOODENOUGH: I will.

SENATOR DWYER: Thank you.

SENATOR McGAHN: Thank you very much.

Mr. Applegate? Mr. Applegate or any representative from the State Chamber of Commerce. (No response)

Mr. John Sully, Middlesex County Solid Waste Program.

J O H N S U L L Y: Mr. Chairman and distinguished members of the Senate and Assembly: My name is John Sully and I am a staff member of the Middlesex County Planning Board; also Project Manager of the County's Solid Waste Management Program.

The Program was established in late 1972, aided by a grant from Federal EPA, to conduct a study leading to the establishment of a county waste management plan, program and organization. This study should be complete about the end of March, we hope.

My perspective on S-624, therefore, reflects that of a county which has, over the last year and one-half, been in the process of doing the most basic task that this bill would mandate, preparing a countywide solid waste management plan, a plan which I believe will include all the elements required by section 12 of this bill.

My point in giving you this background is not to prove that I'm a particular expert on this because,

looking around this room, I would be rather reluctant to claim that based on the people I see. But I do believe that our experience offers some insight into the strength and weakness of the bill, from the viewpoint of a county which has been grappling with the kinds of problems that the bill is trying to deal with, developing a viable regional approach to solid waste management within the present New Jersey context.

To further help you understand the perspective from which I view the bill, let me quickly review some basic facts about solid waste management in Middlesex County.

There are some 20 landfills. We provide landfill space for what is the second or third largest waste shed in New Jersey. The dubious distinction of being the first, of course, goes to the Hackensack Meadowlands.

In 1972 these 20 landfills received about one and one-half million tons of solid waste. About two-thirds of this came from within the county and about one-third of it came from outside the county, - four adjacent counties of Union, Somerset, Mercer and Monmouth. Some waste also came in from New York, although there was not much at that time. Out-of-state waste, of course, has increased since the ban on out-of-state waste deposited in the Meadowlands went into effect.

I should note here also, parenthetically, that Middlesex County's wastes do stay within the County.

The immense quantity of waste that I've mentioned suggests that we have considerable existing disposal space in Middlesex County and, relative to most counties, we do. And this is both a blessing and

a curse. Probably enough to last for about eight to ten years, with normal increases in waste quantities resulting from increased population and the ever-increasing per capita waste production. But at the same time, Middlesex is one of the fastest growing counties in the State with a current population exceeding 600,000, and this population will double by the year 2,000.

Therefore, despite the adequacy of current disposal space for the very near term, it doesn't take much of a crystal ball for us to see that we will have a major disposal problem on our hands before long, a problem whose solution will clearly be beyond the capabilities of individual municipalities, a problem requiring not only new processing disposal methods but also an effective coordinated regional waste management strategy if the expected disposal demands are to be met efficiently and economically with minimum disruptions of desired county and municipal landuse development patterns and with minimum disruptions in municipal budgets.

To make the specific dimensions of this problem a little more concrete, let me give you just a few more statistics.

Currently available landfill space is being exhausted in Middlesex County at the rate of somewhere between 70 and 90 acres a year. That's a good rate for consumption of landfill space. This is hard to pin down exactly but we estimate that this will rise to an average of 125 to 140 acres per year between 1975 and 1985, using the present landfill techniques, that is with no significant change in the system.

After the present landfills are exhausted, major new sites are going to be needed, and they are

going to be needed and used up at the rate of between 125 and 140 acres a year. These sites are going to have to be good sites, located far better than the present ones. The existing sites, as I am sure most of you know, both in Middlesex County and in many other places in Northern Jersey, are located in marine tidal marsh and other low-lying areas, and this kind of location will not be suitable and will not be acceptable to the State, as we understand it, for new landfills.

So these new sites are going to be economically and, no doubt, politically expensive regional facilities.

Any alternatives to a total landfill strategy, whether they be dry fuel preparation, heat recovery incineration or any other new technology, are going to require large amounts of capital and, to be economical, will have to serve major subregional areas, not single municipalities.

Therefore, we feel that there is no alternative to effective regional planning for waste management as mandated by this bill. And, therefore, we strongly support this intent.

Now the counties may not in every instance be the most desirable units for waste planning in New Jersey but, because a county is an existing jurisdiction, it probably represents the most logical district for planning to begin, and it is a serviceable unit.

This bill acknowledges both the good points and the problems of this, I think, implicitly. And under the bill's terms we should be able to devise plans that will begin to get at intermunicipal waste management problems.

With the State's assistance to help resolve intercounty problems, well drafted county plans

appear to be the most feasible building blocks for better statewide solid waste management, since they can be done at a level low enough to be sensitive to individual community needs but high enough, we hope, to actually do something about these needs.

That we have reached this conclusion is not at all surprising. We've heard sentiments along the same lines from previous speakers, and both the State Plan and the very excellent Musto Commission's Report - Solid Waste; A Coordinated Approach - as well as numerous Federal and other reports have supported this basic viewpoint. But county planning is not going to be enough. There is an important problem which we feel has been inadequately treated in these past reports, the ones that are common in circulation, probably because of a certain reluctance to encourage an already abundant parochialism which comes to bear on solid waste disposal. This is the complex problem of interregional waste movements.

For a variety of reasons, waste moved between municipalities and between counties - there are two good reasons for such movement, the first is the lack of existing or potential disposal space near the point of waste generation; the second is the economic superiority of regional disposal sites where enough waste can be assembled to permit economical disposal given the high cost of operating a landfill properly under the current regulations.

This economy, of course, can only be favorable in the context of overall system costs when the required haul distance is not too long. In other words, a regional site, although it may offer low actual disposal cost, might be quite uneconomical in terms of the overall system if you had to go too far to get to it. Hauling is

a very expensive component of the overall waste management cost.

However, there are some basic problems with the present legal and institutional context for intermunicipal and intercounty waste disposal. Two situations are common.

Some communities and regions with adequate space to meet their own disposal needs are very reluctant to meet others needs within their borders. Other communities or regions with adequate potential disposal space to meet their own needs prefer not to dispose of their own garbage at home when there is the option of sending it elsewhere, even at higher overall costs. Their ability to send waste out, away, allows them the luxury of not coming to grips with their own problem, since that would be politically unpopular, given the availability of an alternative. No one wants anyone else's garbage. And from the way many landfills are run, that's not particularly surprising. Many communities don't even want their own garbage if they can afford to ship it elsewhere.

Now we're probably all familiar with these phenomena. However, an important fact is that the system as presently constituted, with most major landfills classed as utilities, under the jurisdiction of PUC, allows the kind of unrestricted access to existing facilities that makes regional planning difficult to impossible, and the assumption of local or regional responsibilities for waste disposal very risky, in the face of other available alternatives.

If this seems rather abstract, let me give you a recent example of what I mean, an example that is very close to home.

Mercer County recently tried to establish a

regional landfill to serve this area's disposal needs. The chosen site had good access, was adjacent to a major highway, and it was approved and supported by the Department of Environmental Protection, which is no mean feat in this day of higher standards. The site was to serve several municipalities which at the time were sending their garbage some 17 miles, plus or minus, to Mount Holly in Burlington County. One of the principal reasons for the new site was that this type of haul is very expensive and the increased cost of disposal would be more than offset by the impact of the reduction in haul time on the collection system costs.

But what was the real situation? Under the utility concept, neither Mount Holly nor Burlington County could declare private landfill sites off-limits to Mercer County's municipalities.

The site operators, on their part, actually wanted the business. On the other side, Hamilton Township very clearly did not want the new landfill, no matter how much money could be saved by whom. There were a number of reasons why but perhaps the dominant one was that the landfill was to be located on potential industrial land which in time could be expected to yield good ratables for the Township.

We figure that this general problem, that is landfills or other kinds of waste facilities to be located on good land is a problem that we are going to see more and more of as we run out of marine tidal marsh which is presently licensed.

In this case though, what was the decision? The decision was, of course, to continue to haul to Mount Holly.

Now, without attempting to judge the merits

of the decision in this case, I think we can learn some things from it. First, under the utility concept the availability of most major sites to any registered hauler means that any such site must take whoever comes to the gate, no matter what his point of origin, no matter what it cost him to get there. This openness has both its good and its bad points.

Secondly, a community can take its garbage wherever it likes, providing it is willing to bear the haul costs.

Third, as a result of these two facts, under the present laws county attempts to improve solid waste management practices can be effectively stymied so long as an affordable alternative exists, even if that alternative perpetuates an inefficient and uneconomical system.

I will cite another example of this in a minute.

It makes no difference if the chosen alternative places or will ultimately place severe burdens on the host community or region. It makes no difference if the chosen alternative is the most expensive. It makes no difference if local or regional attempts at solid waste planning will be put in disarray because of an unexpected rise in waste quantities and the resultant decrease in local or regional landfill space, both of these resulting from decisions made elsewhere, outside of the municipality, the host municipality, outside of the host county.

Now, having used a convenient example from another county, let me explain why we in Middlesex County are so sensitive to this issue.

Middlesex County is clearly on the receiving

end, and we expect to be so for some time, or at least as long as our region disposes of all of its waste in landfills. But we don't exactly relish this because it diminishes our own landfill space. We recognize the inevitability of it under the current all landfill system.

Areas to the north of us, from which we get the great bulk of our imports, do not have the landfill space which they need. We do. It's very simple and it's not illogical, the present pattern. Therefore, we have scaled our plans to accommodate this need in the short term at about the present quantities. But there is a disposal crisis and I know that we do resist using that word unnecessarily but I think it can be fairly applied here, and it is growing in Northern New Jersey.

The Hackensack Meadowlands states it has less than three years' capacity left. We are the next nearest disposal area to many communities presently served by the Meadowlands. In fact, right now we receive wastes from haulers serving some of the same communities which also send garbage north to the Meadowlands.

The Meadowlands Commission and Union County are presently seeking new solutions to their disposal dilemma. We are very concerned with what will happen if these solutions are not found and are not implemented soon enough for whatever reason.

Let's look at recent history in this case. The giant incinerator that was proposed for the Meadowlands was ultimately rejected for a variety of reasons, and not all of these were bad reasons. Planning did, though, have to start afresh. Union County's previous attempt, cited in the Musto Commission Report,

to develop some landfill space within the County proved to be politically infeasible. It was not physically infeasible and it was not economically infeasible. It was infeasible because an alternative existed which was sites located north in the Meadowlands and south in Middlesex County, no matter that the particular landfills being used, north and south, had a remaining life of only three or four years at that time. This life is lower now. The fact was and is that because there were no defined waste management districts, no established regional responsibilities, no controls over where a community's waste went, Union County's implementation of its own plan was stymied, as in Mercer County.

Incidentally here, lest someone should counter that the Meadowlands is a defined district with legislative responsibilities to accommodate the waste of 118 communities, this is, of course, true, but it should be noted that this works in one direction only. None of those 118 communities must haul to the Meadowlands. The Meadowlands must take the garbage as it comes but any community can choose to haul elsewhere.

Now it's possible that we are getting a bit paranoid about this but it has occurred to us that if the Meadowlands were to implement a vastly improved but relatively high-cost processing and disposal system tomorrow - the higher cost seems likely but the timing I think is a bit off judging by the pace of action - Middlesex County might very quickly become the recipient of very substantial quantities of new waste which would inundate our sites and precipitate a disposal crisis which we would then have to solve.

Lest this seem too farfetched, it should

be pointed out that the Musto Commission's Report suggests just about this kind of scenario, which I call The Progressive Crisis Theory. As one area of existing landfills become filled, a crisis develops and all waste must go to the next nearest area, dramatically shortening the expectant life of existing facilities there. This process continues until we're all hauling to Cape May.

Now, this theory assumes that no improved means of dealing with waste will be implemented and no new landfills developed. So far this assumption is largely correct.

While the much-publicized recent developments in energy recovery, material separation, shredding, baling, and so forth, are familiar to all of us and would suggest that disposal need not mean only landfill, although this will always be a component of the disposal system, about the only significant technological developments in New Jersey, in the year and a half, or so, since the Musto Commission's Report was released, have been the development, the planning, and the building in some cases of transfer stations designed to enable more economical long hauling of waste. Transfer stations do not solve the disposal problem. They do just what the name implies, they transfer it somewhere else, out of the municipality, out of the county and hopefully, in some cases perhaps, out of the State.

What I am leading up to is simply this: The creation of districts of responsibility for solid waste management, and particularly for the disposal side of it, is absolutely essential to orderly solid waste management in New Jersey. It is critical not only that these districts be responsible for the waste

generated within them but also that the municipalities which comprise the districts be required to work within the context of the district to participate in whatever system is determined to be most appropriate for the district even if this involves the very real political hazards of land condemnation, higher disposal costs and the larger and ever-present issue of meaningful regional controls in a home rule context.

I am not suggesting here that this will mean that there will be no interregional transport of wastes, although clearly this should be kept to a minimum, and I think this is implied in the bill. However, the establishment of districts should mean that those solutions which can be found within the district will be employed as expeditiously as possible, with full state backing to facilitate the needed action in every possible way.

We believe, then, that this bill's provision for district definition, the responsibilities it places on the district, and the required conformance to district plans are very much on target and we strongly support them.

In summary then, we support the principal provisions of this bill as consistent with the needs of the waste management situation in New Jersey as we have come to perceive them from our own county's perspective.

Now Planners being the bureaucrats, as they are, are known to be a bit longwinded when they're stumping for their favorite proposals, so I hope that you will indulge me if I go on just a bit more and critique briefly some of the specific proposals of the bill.

In the description, found on page 2 of the

bill - the description of management consists of piecemeal, uncoordinated activities, and so forth - what's here is basically excellent. However, it seems important, and this has been I think brought up to a degree today and I am sure it will be brought up considerably further by members of the private sector, that some more mention, we believe, should be made of the private sector. In our area, at least, over 60% of the waste stream, to begin with, is industrial and commercial waste. That is to say, wastes that are not normally within the purview of a municipality. Municipalities don't normally collect them, they don't normally dispose of them. Less than 40% comes under the realm of local government activity.

In general, it also should be noted that the present waste management system is dominated by the private sector, in all respects. The private sector generates the waste, it collects it and it disposes of it. So perhaps there should be more acknowledgement there.

Now on page 3, the bill speaks of the roles of the Department of Environmental Protection and the Solid Waste Advisory Council. However, this section makes no mention of the Public Utilities Commission, and I think, as Mr. Goodenough has pointed out, PUC's role in waste management and the interaction of its presently stated or assumed responsibilities, with the implications of this legislation, do have to be considered I think perhaps a bit more carefully.

As I have already said, the implication of the utility concept under which a site which is registered, open for business, with the Public Utilities

Commission must be open or must provide service to anyone.

This concept under which solid waste services came in 1970, with Chapter 40, Laws of 1970, and particularly the open system which I've described, pose serious constraints on improved solid waste management. It is critical, we think, that potential conflict between this bill and the Solid Waste Utilities Control Act of 1970 be resolved and that due consideration should be given to PUC's present control over certain parts of the system.

Now, on page 5 - let me say that we very strongly support lines 19 through 23 which require conformance of any new facilities to the county's plan. As I have stated, without this kind of required conformance, these plans will not really have any meaning if there is escape from the system. Now I am assuming here that the system will be rationally devised and, as Mr. Goodenough pointed out, that there will be more benefit to the municipalities than there will be potential detriment and that they will perceive this.

Nonetheless, one of the key problems of the existing system has been the ability to escape and that planning won't function, the money will be essentially down the drain without the kind of conformance envisioned here. And we do support that.

On page 6, since this talks about money, I want to second what Mr. Goodenough had to say in that the money for increased county and state solid waste management is going to have to come from somewhere.

Without critiquing the appropriateness of these registration fees, which I certainly cannot do, I would like to suggest that serious consideration be given to

a disposal surtax of at least 20¢ per ton or a nickel a yard on waste disposed of. Such a tax would raise nearly \$300,000 per year in Middlesex County alone. Such a tax, collected by the State and shared with the counties on an equitable basis would not buy new facilities but it would support planning at the desired level, would support better enforcement and monitoring that is very much needed, and it would assist some demonstration projects.

Now on page 7, on the standards for planning. It has been unclear to me, in reviewing this act, whether or not the standards outlined later in the act for the county solid waste plans are the standards by which the State will evaluate these plans. I get the impression that they are not. And, therefore, it would seem desirable that the objectives, criteria and standards by which the counties' plans would be evaluated by the State be issued before the planning begins. Otherwise, we have that old game which I'm sure you were familiar with in college where the Professor teaches the course and then the game at the end of it is to figure out what he's going to ask you about on the exam. Well, that may have been an interesting academic game but it doesn't promote good planning. So we do feel it appropriate that these standards be published before planning is required to begin.

Now on page 8, lines 70 to 73, related to the money business, no provision is made here for State grants to counties for planning. If the State places this new requirement on counties, there should be some provisions for the State to share at least part of the cost of such planning which will be neither simple nor cheap in the State's more populous areas.

Now, as I've suggested, the State might get the money to do this from a disposal surtax.

On page 10 of the bill, you will undoubtedly hear more about this today, and you've heard a little bit already, but the 180 days envisioned here for planning seems to us, from our experience, to perhaps be a bit short.

There are a number of considerations, and the general issue of start-up time has already been mentioned, but it would be likely that in most counties this planning would have to be carried out by a consultant. Now to find a consultant, to draw up the scope of services, to get him on board, to get the Freeholders to sign it - sign the contract and all the rest of this - takes time and it could very well pull out a month or two from that 180 days that was envisioned.

If the county wanted to develop its own expertise and do this itself, let's say through its engineering department or its planning department, it would also - because there are very few people around who are particularly knowledgeable about solid waste -- it would take a while to develop an in-house capability to do this. And I speak here from the perspective of a county which got its grant in the midsummer of 1972, a grant which was to last a year, and we're just sort of getting finished up now which is going to be early spring of 1974. And I think we have both a good consultant and we have at least a fulltime staff which may be a luxury which some counties can't afford.

Two hundred and seventy days for this might be a more realistic time, especially for the more complex areas of the State. And these, of course, are the areas that need the planning the worst.

Now, on the other hand, Parkinson's Law has

been cited here, and this is right. If what is contemplated at the end of six months is really a kind of preliminary draft subject to change from various angles, and this is really to me almost implied here that there will be a county draft plan and this will be reviewed and sort of shot at from all kinds of angles. If its contemplated that this would only be a sort of preliminary draft, then the six months for many counties may be enough but it would have to be, I think, with that implicit provision to get the ball rolling. And you might come up with a satisfactory plan in a year or a year and a half under that. But I don't see less than 270 days and probably not less than a year to get this done right.

Now on the advisory municipal council, it was observed earlier that this could be a little unwieldy in some counties with too many municipalities. I suppose that's probably true. We've had two advisory councils working with us. One of them would meet the requirements for this of individuals appointed by Mayors, and the other is a more freely chosen group, as envisioned by Mr. Goodenough, where we tried to go out and pick from various segments of the community, from municipalities large and small, Republican and Democrat, solid waste experts, engineers, members of the industry, and so on. And we made this our policy committee. And I think our experience with this has been that it has worked pretty well because we get enough people to get a pretty good view of the various approaches and the various understandings of this.

I would suggest, therefore, it may be that the advisory municipal council as proposed here - this may be too large. I am really not going to deal with that question but what I do think is important is that there be provision for a broadening of this committee. This

may be making it larger which I suppose could defeat some of the purpose, but broaden the committee through the representatives of the private solid waste industry. I don't think we've been co-opted by the solid waste industry but we have found it very instructive to talk on a regular basis with these people and to get their perspective on these matters. And I think this is absolutely essential for devising feasible county plans under the present system.

I think also there should be provision for citizens at-large in this.

Now as presently stated there are no minimum meeting requirements and I think that this probably ought to be in there because there is a very real danger of a committee like this being formed, being designed to give really good feedback but just always being too hard to get it together. And I would suggest that a minimum of six meetings would not be too many. If you are going to have a committee like that, the committee will only work if it's used and if the people on the committee know what you're talking about when you come to talk to them. Otherwise, there is never a meeting of the minds and every meeting is a tremendous rehash.

Also on page 11, the provisions for who the Board of Freeholders will consult with, we would recommend adding mandatory consultation with major industrial and commercial waste producers, which account for an awful lot of the waste in New Jersey. We talked just about the municipal system where we bit off only maybe a third of the system and that clearly isn't going to solve any crisis. Second, that they should consult with potential consumers of recoverable resources contained in the waste. And, third, that

there be mandatory consultation with representatives of the private collection processing and disposal systems presently within the district or serving the district.

Now one final comment here. Over on page 12 of the bill, around line 7, the provision for projecting the amounts of solid waste in each of the ten years following, I think is probably a bit academic. What we recommend there is that a projection rather be made for the base year, for the planning year, then for the fifth year and tenth year and probably for a sense of perspective the twentieth year.

On line 18, an inventory and appraisal of sites. This appraisal we believe should include an engineer's evaluation of each site's location, the quality of development and the quality of operation. Efficiency should be clearly identified. And we also believe that the cost of each disposal operation should be identified. In other words, what does it cost per yard or per ton to run this facility.

Down on line 23, an analysis of existing solid waste collection systems - this analysis should also include the cost per ton and per household for municipalities.

Now analysis of costs, particularly within municipal budgets, are difficult, and this has been spoken to by many reports. The Seton Hall study particularly addresses this. I think the Musto Commission Report also refers to it.

The point here is that we all know that we could have a perfect solid waste collection and disposal system if we could pay for it, but we don't know frequently what we're paying for now. And we, therefore, can't judge the increased cost of a proposed

change.

Now our experience has been that municipalities, by and large, are paying far more for solid waste management than appears in the municipal line-item budget. There is not program budgeting except I just believe in only one instance, and the cost built up backward, giving the municipal employees involved in the system, giving the number of trucks operated and so forth, the retirement and Social Security and all those things which tend to be taken out of the solid waste department's budget the costs turn out to be somewhat higher than usually envisioned. So it's very difficult to identify the cost of the present system. We've got to know true costs to judge the implications of any proposals.

On page 12, also, line 33 - a statement of the solid waste disposal strategy - here we believe that the trend should be identified as one strategy. The trend means continuing to use conventional landfill. That's what is used now. And just as to cost, to understand, to get a perspective on a proposed change in the system - let's say a switch to energy recovery, to material separation and various metal recovery, getting newspapers out of a system or whatever you want to do -- to understand the impact that this might have on the development of the area being planned for, we have to know what the effect of the system would be if simply landfill were to be employed. That's very important and I think it has helped us get a real sense of what we feel is the unviability of a hundred percent landfill system in our region and in the whole northeastern Jersey. Landfill is not going to work. The space is not there for it.

The projection of the status quo or least changed system will help to get perspective on this.

On page 14, lines 87 through 91. We would recommend that the first part of this paragraph read: "Require any other board of chosen freeholders or the Hackensack Meadowlands Development Commission, as the case may be, to accept the estimated types and quantities of solid waste previously certified or such type or portions thereof within its district as part of the solid waste management plan thereof and under such terms, conditions and time limits as the commissioners shall deem necessary and adequate pursuant to this act."

Now taking a big jump over to page 26 - the establishment of a special fund, the Solid Waste Management Research and Development Fund, down at the bottom of the page. To reiterate my earlier statement, I would like to recommend provision or consideration of a disposal surcharge of at least 20¢ per ton of waste and that the proceeds be collected and placed in this fund, in this special fund on a yearly basis concurrent with site reregistration.

On page 27, on how the funds will be spent, we would like to suggest that the following provision be included: "For the five years following the adoption of this act, 50% of the annual revenues received into this fund shall be made available in the form of grants for the purposes stated in section 21 (a) of this act."

Let me just close on a brief further note about funding. From our experience, we want very strongly to second what Mr. Goodenough said about the present inadequacy of State funding. While I believe in our case we've had all the assistance we could hope for within the present system from the Bureau of Solid Waste Management, there is clear evidence that the present level of funding is inadequate. It's inadequate

to do the kind of enforcement that's needed, it's inadequate to do the kind of monitoring that's needed, it's inadequate to provide - and something that will be very important under this county planning -- to provide the kind of technical assistants that counties like us are going to need. People who are planning for the counties, whether they be county employees or consultants, are going to have to go to the Bureau of Solid Waste Management and get some help. They are going to need people there with the time and the facts at hand to do it. So, for all these reasons, I think it is clear that there must be provision within this bill, we feel, for a higher level funding of the Bureau and of these activities in general.

I will be glad to entertain any questions.

SENATOR GREENBERG: Mr. Sully, what was the amount of your Federal grant?

MR. SULLY: \$80,000.

SENATOR GREENBERG: Did you exceed the grant in your study, exceed the amount of the grant?

MR. SULLY: Yes. The agreement was that the county would put up about \$38,000 in addition to the Federal portion of \$80,000, and we have in fact -- I ran a double check on this the other day -- we've in fact spent about that out of County money. So the total planning cost has been in the neighborhood of \$120,000. It will be at least that by the time we finish.

SENATOR GREENBERG: How do you intend to finance your program after your planning stage?

MR. SULLY: Well, this is a very good question. There are a number of ways to do this, and this disposal surtax is one that we have thought might be workable in

the longterm beyond the present system to continue to fund county solid waste department or whatever agency activities, it's going to be clear that our County is going to need some kind of a unit that deals with strictly solid waste. And initially there would simply have to be provisions for this in the general budget. But our basic feeling is that the monies to deal with solid waste should be findable and should be generated from within the solid waste system to, in a larger sense, get the money to build facilities. When you're talking about solid waste facilities today, beyond landfill, although landfill is expensive, you're talking about something in the order, for the most popularly talked about systems, of seven to nine million dollars for a thousand tons a day system. And that's a lot of money. In our case we could easily absorb three of these, three individual facilities like this. So we might be talking about a total system facility costing \$30 million.

The only way to do this, we feel, is through the creation of a county authority which would be empowered to sell bonds to raise the money.

Now Connecticut has taken a little different tack on this, and this is one that New Jersey would be well advised to look at, which I believe the State Conference of Mayors has been talking a good bit about, and this is a State Resources Recovery Authority where the State sells the bonds and then makes the money available to local districts which agree to conformance basically with the State system. It makes the money available for the facility.

SENATOR GREENBERG: Thank you.

SENATOR McGahn; Senator Dunn?

SENATOR DUNN: Mr. Chairman, the witness made

reference to a situation in Union County, and very generally and very quickly, for the edification of the members of this Committee, I would like to tell you what happened there.

Union County spent thousands of dollars recently conducting a study of its problems with disposal of garbage and came up with a proposal that would have other municipalities dumping some of it in the City of Linden. I make note of the fact that Assemblyman Gregorio left the room before the witness made note of this fact. Assemblyman Gregorio is also Mayor of Linden.

The City of Elizabeth has been allowing suburban towns to dump in its city for the past 40 to 50 years. The City of Elizabeth now finds itself with no place to dump its garbage or anyone else's, so it had to stop. And when the DISCO Report, financed by county government, came out and suggested that we use Linden, Mayor Gregorio or Assemblyman Gregorio had an ordinance adopted that prohibits any outside city from dumping within the City of Linden. So the City of Elizabeth must now haul its garbage to the Kearny meadows at a cost of more than - somewhere between two and three hundred thousand dollars a year over and above the regular garbage contract because of this ordinance adopted by the City of Linden, which shows the complete futility of the situation as it now stands and it shows the great merit of setting up a regional control over solid waste disposal. And I can see the reluctance of some towns that do have the land available to allow others to come in to it but what we have been cooperating on for forty or fifty years just cannot be done in other towns today.

So I think the situation that this gentleman

alluded to bears out the need for legislation of this type or something very similar to it.

Thank you.

SENATOR McGAHN: Thank you very much, Mr. Sully. Your testimony has been extremely helpful.

Mayor John Davidson, New Jersey State League of Municipalities.

J O H N P. D A V I D S O N: Mr. Chairman, distinguished members of the Joint Committee, ladies and gentlemen: My name is John P. Davidson. I am Mayor of the Borough of Chatham and President of the New Jersey State League of Municipalities. I am here today speaking on behalf of the League. As you know, the League represents 562 of the 567 municipalities in New Jersey.

The problem with solid waste disposal is one of the major concerns facing municipalities today. The rapidly diminishing availability of suitable landfill areas makes it clear that some kind of coordinated management planning on an areawide basis is essential. Such a mechanism is provided in the bills before us today - Senate 624 and Assembly 1180. These bills reflect the general recommendations made by the County and Municipal Government Study Commission following extensive research. As you know, the League is represented on that Commission, and there was considerable municipal input into the final recommendations.

The League gives its general support to both the underlying philosophy of these bills and their general implementation provisions.

The bills call for the creation of a statewide solid waste management plan comprised of constituent plans prepared respectively by the twenty-one counties and the Hackensack Meadowlands District. The authority of the State to regulate the solid waste disposal industry and to establish necessary administrative procedures has been clearly determined by our State Supreme Court. From a Home Rule standpoint, therefore, we cannot dispute the constitutional basis for such a statewide management plan. And in fact we recognize that a comprehensive plan of some kind is essential if New Jersey is going to be able to accommodate its solid waste disposal needs by the end of this decade.

We do, however, have several recommendations and suggestions for clarification regarding some of the specific provisions for implementing the plan. First, we feel that the timetable for completion of a management plan by each county, as contained on page 10 of the bills, is unrealistic. The 180 day period, even with the opportunity for a 45 day extension, is entirely too short. The implementation of the purposes of this legislation requires a workable transition period as New Jersey moves from a totally uncoordinated hodgepodge of private and public collection and disposal activities to a highly coordinated county and statewide plan. We would suggest that a timetable of at least two to three years be substituted.

The bills make provision for advisory municipal councils to be created in each county. While we certainly endorse this provision for municipal involvement, we believe that, as presently worded, it does not go far enough. The existing language reads, and I quote "a solid waste management plan shall be adopted as hereinafter provided only after consultation with the relevant advisory committee". The League strongly supports the concept of regionalism, but regionalism can work only when there is full opportunity for local identification and input into the decision-making process. We believe that the

provision for "consultation does not insure ample opportunity for viable participation in the preparation of county plans by the respective municipalities. We therefore recommend a more structured, formalized procedure which will ensure that participation. There must be some opportunity for public hearings on the county plans, appeal procedures, etc.

In concluding these brief remarks, let me state again that we give our general support to the legislation. We urge amendments along the lines that we suggested to provide greater opportunity for local participation in molding respective county plans.

SENATOR MCGAHN: Thank you very much, Mr. Mayor.

Questions? Assemblyman VanWagner.

ASSEMBLYMAN VAN WAGNER: Mayor, I don't want to put you on the spot but I would like to ask you a question. I am interested in your comment concerning the home rule prerogative.

Do you feel at all that this type of planning poses any threat at all to the home rule prerogatives, as a Mayor of a community?

MAYOR DAVIDSON: Well, I would compromise a bit on that, if necessary. I would say if a county was broken up into five regions, in Morris County we have 39 communities and if you can get 39 people agreeing - if you find this in the Legislature - all at once, without taking a great deal of time, you tell me how.

ASSEMBLYMAN VAN WAGNER: I mean, you seem to be saying here - and I am in agreement with it - that the prerogative of home rule is not violated as long as the local municipality has the provision for input into any type regional plan.

MAYOR DAVIDSON: Yes.

ASSEMBLYMAN VAN WAGNER: Thank you.

MAYOR DAVIDSON: Now one other comment along that line. If you don't have that, a large city may overwhelm other cities or towns.

Nothing has been said about impact statements. Now it takes a long while to bring about and finalize impact statements, and that's one of the reasons for the two to three years.

SENATOR McGAHN: Senator Zane?

SENATOR ZANE: No questions.

SENATOR McGAHN: Senator Dunn?

SENATOR DUNN: No, thank you.

SENATOR McGAHN: Thank you very much, Mayor. We certainly shall take into consideration the recommendations that you have made in the final markup of the bill.

Mrs. Susanna Waterman.

S U S A N N A W A T E R M A N: Thank you for the opportunity to speak this morning. I am Susanna Waterman and my testimony is on behalf of the New Jersey Chapter of the Sierra Club. I will not read my entire testimony this morning, in deference to the Committee and the lateness of the hour. Many of the points have already been covered this morning, which are included in our statement, but I would like to just reaffirm some of the major points.

The position of the Sierra Club is in support of S624, which is long overdue, and with some recommendations we support it.

The evidences of need are staggering in the State. Dozens of municipalities continue to make studies and attempts doomed to failure due to lack of long-range planning, lack of financial and technical

resources, and a real lack of alternatives. As they face the day-to-day problems, the situation gets worse. Costs escalate, landfill runs out, populations increase, as does the amount of waste. Inadequate facilities are closed down as they become more costly to operate, to maintain or upgrade and more costly to replace. Municipalities are restricted in their options as mandatory Federal and state pollution control legislation is passed to protect the health and welfare of the citizens.

I have written into the testimony two particular incidents of the inability of both a municipality and a region to cope with the situation. I refer to Princeton Borough and its very complex problems and its increasing difficulty in solving its own local problems; and then the already commented upon problem with the Mercer County Improvement Authority which was stalled because of an inability to come to a decision on the siting of the fill.

I would like to make a quick rundown on the response of the State to encourage the Committee to get moving on this bill. The response to the critical situation has been minimal, even as the Federal Government cut appropriations for state aid and dumped the responsibility directly into the laps of each state.

The Solid Waste Management Act of 1970 gave the State statutory authority which it did not implement. Regional planning was stressed but the DEP was simply to "give due consideration" to the developing of existing or "reasonably contemplated" regional approaches. Nothing was done.

Then the Musto Report came out in 1972 providing the framework for S-624, and not until this Administration introduced this bill in January

was any action taken which was recommended by the report.

Comment has already been made this morning on the State Supreme Court decision that the State having preempted the field of solid waste they better get busy and produce something with some teeth in it.

The major provisions in S-624 we support. We are particularly interested in the fact that there was no provision for funding in the bill, and we are interested in the matching grant policy with the funds administered by the DEP. The monies, once they're appropriated, must be taken scrupulous care of and not given to any district until rules for overseeing the use of the money are clearly defined, and the standards and specifications for supervision must be prerequisites to any money.

The Bureau of Solid Waste is going to require a substantial increase in its budget. An adequate and qualified staff will be required to oversee the planning, design, construction, implementation and enforcement of the State plan. Even without the potential of this act, the present budget commitment is still small.

For purposes of comparison - and I will just end on this note in a plea for increased budgeting for the Bureau of Solid Waste - it might interest the Committee to know the amount of money spent by the DOT for picking up litter on New Jersey highways was more than four times the entire budget of the Bureau of Solid waste in 1972-73.

Thank you.

SENATOR McGAHN: Thank you very much, Mrs. Waterman.

Assemblyman VanWagner, any questions?

ASSEMBLYMAN VAN WAGNER: No.

SENATOR McGAHN: Senator Dunn?

SENATOR DUNN: No questions.

SENATOR McGAHN: Senator Dwyer?

SENATOR DWYER: No.

SENATOR McGAHN: Thank you very much.

Mr. Ian Walker.

I A N R. W A L K E R: Mr. Chairman and members of the Committee, my name is Ian Walker, Executive Director of the Stony Brook-Millstone Watersheds Association with offices in Pennington, New Jersey.

The Watersheds Association gives support to S-624 and urges its speedy passage and its thorough implementation.

Provisions in S-624 which designate solid waste management districts and regulate solid waste collection and disposal therein are sorely needed to relieve New Jersey's solid waste crisis.

Reference has been made to the Solid Waste Management Act of 1970 and the acknowledgement then by the Legislature that New Jersey has a severe problem.

Reference has been made to the Musto Commission Report which with characteristic thoroughness and candor pointed out the State's problem in 1972.

More recently, six environmental groups in a letter brought this point home to Governor Byrne. And on January 22, of this year, the Supreme Court, in reference to the problem, urged the State to get on with a solution and suggested, as has been pointed out, that if additional legislation was required then let's address ourselves to that.

The Association believes that S-624 is required because it balances the desperate need for regional management on the one hand and local interests on the

other hand. We think it would overcome local opposition which has in nearly every case prevented the construction of new regional and sanitary landfills.

Several counties have taken the initiative to solve their solid waste problems. Mercer County has been mentioned. Others are beginning studies. And I would suggest, based on Mercer's experience and that of others, that local officials will support the regional concept until it is announced that their municipality offers the best site for the disposal facility. At this time they turn up their noses, wrap themselves in green and white bunting of the environmental movement and vow to go to court if necessary to block the plan. This was the fate of the original Mercer County proposal and, I suspect, the fate of others. And Senator Dunn's comments of a few moments ago alluded to this.

On the question of Morris County that was referred to, 39 towns and the question of how do you get them together, I just suggest that you could get 38 of them together in this day and age by locating it in the 39th municipality.

The Watersheds Association thinks that solid waste management lends itself to management districts as proposed in S-624. We think the problem of solid waste is far less complex, for instance, than water quality management or water supply management, and it can in our view be managed as proposed by the legislation.

It is also the Association's belief that landfills are the immediate answer to the solid waste problem and that landfills can be sanitary. Unfortunately, most residents of the State have never experienced a carefully engineered sanitary landfill but instead equate all solid waste disposal with the view from the

northern reaches of the New Jersey Turnpike. So our laxity in the past has created a problem which is five percent a technical and scientific problem and ninety-five percent a political and social problem.

We think that the following features of S-624 will help considerably to overcome this political and social problem.

1. Provisions for political involvement, in our view, are sufficient to protect the legitimate local interests without sacrificing the state efforts to solve this crisis. And among these provisions are advisory municipal councils; public hearings; public access to maps, plans and data; uniform state-set objectives, criteria and procedures; and the state power to develop and implement plans when none is approved or prepared by the county.

I think in a question brought up by a previous speaker, that it's unwieldy to have all the municipalities involved, - I think it's very important to give them the opportunity certainly to become involved because as final plans are announced, if the final plan involves them directly they should have had a say in the planning in the beginning.

The second point which we think is very important in S-624, especially from our experience in this area is that host municipalities shall be entitled to benefits in consideration for the use of their land, payments in lieu of taxes and so on.

Third, and very important, and which is being worked on now by the Bureau of Solid Waste Management, is standards for construction and operation of facilities as provided for in Section 6 which I think should allay many local concerns about protection of the environment in the case of sanitary landfills.

And, finally, the requirement in Section 6 that the DEP make an annual report to the Governor and the Legislature evaluating the operation of the act is an addition for which the sponsors should receive possibly a certificate of merit. Such an evaluation process, if built into the 1970 Act, might have permitted the Governor and the Legislature to judge state performance before January of 1974. However, it's the Association's belief that this requirement - that is of annual reporting - will be meaningless unless a high standard of reporting is demanded and, in fact, serious consideration should be given to such an evaluation being performed by an agent of the Legislature independent of the DEP or the Advisory Council on Solid Waste Management. In-house reviews are lamentably prone to glossing over administrative deficiencies, sustaining reputations, concealing past errors and protecting associates. This observation should in no way be construed as a reflection on the present management or operation of the Bureau of Solid Waste Management. It is just a common sense observation about human nature.

We also believe that S-624 will result in landfill planning and design which is far superior to landfills now in operation. This conclusion is based upon our analysis of a number of designs submitted both by the private sector and by counties.

S-624 contains no provisions for increasing the operating budget of the Bureau of Solid Waste Management or of providing funds to meet grant requirements. I hope that the sponsors of this legislation will take it upon themselves to see that the Bureau's operating budget is sufficient to support the increased responsibilities mandated by the legislation.

The Association recommends also that guidelines for district planning be carefully drawn and the work of the districts supervised to help insure that plans get off to a good start and that the districts receive proper guidance and support from the Department of Environmental Protection.

And some reference and questions have been raised about the time involved or what time should be given for planning. Director Goodenough has alluded to this. And, in a way, I think his comments are well taken. Had we had similar guidelines and taken proper time, and so on, in our supervision and supports attached to grants given in the 1960's for feasibility studies for regional sewage studies we would not be doing many of them over today.

Municipalities have recognized for some time that they cannot continue to try to solve their solid waste problems alone. Boards of Freeholders have responded to their calls for help but have in turn been frustrated because the State has lacked the power, resources and, at least in the past, the incentive to help. Citizen groups have been similarly frustrated in their attempts to find immediate answers, protect the environment and begin resource recovery operations on a regional basis. The State must hurry to catch up because it must lead if any of us are to be successful.

Again, we strongly support S-624.

SENATOR McGAHN: Thank you very much, Mr. Walker.

I have no questions.

Mr. David Moore.

Gentlemen, we will hear testimony until 1 o'clock at which time we will recess until 2 o'clock. Following Mr. Moore, I have a Mr. Bruce MacDonald,

Solid Waste Council; after that, Mr. Robert Halsey, Mr. John Filiberto, Mr. Ted Schwartz, Mr. W. Dumont VanDorn, Mr. VanVliet, and Joseph Picardi.

I would assume that probably we will not be getting beyond Mr. MacDonald this morning. So I think we can establish that at the moment and say we will start at 2 o'clock with Mr. Halsey, followed by Mr. Filiberto, Mr. Schwartz, Mr. VanDorn, Mr. VanVliet and Mr. Picardi, this afternoon.

D A V I D M O O R E: Mr. Chairman, thank you very much for the invitation to participate in this hearing.

My name is David Moore. I serve as spokesman for the Committee for Resource Recovery, a coalition of environmental groups, secondary material industries, and government agencies, headquartered in Hackensack, New Jersey.

The Committee for Resource Recovery is a single-purpose organization comprised of over 340 citizen groups organized for the purpose of finding resource recovery alternatives for the landfill and incinerator programs currently in operation in the Hackensack Meadowlands "garbageshed". The goal of the group is to promote and implement a plan to recover all of the economically recoverable material in the solid waste stream now going into the Meadowlands District, with the intent of setting a precedent that can be followed throughout New Jersey.

The Committee for Resource Recovery supports the concepts of S-624 with the following general recommendations.

I might add at this point that I am in the position this morning of agreeing with almost everything that has gone on before.

1. That the Meadowlands Commission not be

considered as a 22nd county for the purposes of this legislation or, alternatively, that other special districts that may be created be enabled to have the same responsibility. Parts of several counties contribute solid waste to the Meadowlands District, what is left, say in Essex or Passaic or Morris County, may not be sufficient to effectively set up an efficient recovery system.

Now I may not have understood the intent of this point in the bill but I still feel that the Meadowlands Commission should not be saddled with greater and greater solid waste responsibility, which is its present position. Consultation, as provided in the bill, may not be sufficient for this.

2. That the definition of solid waste facilities be broadened to specifically include recycling and resource recovery facilities. It is not clear in the definition in the bill where disposal stops and remanufacturing begins.

We, on this particular group, look at solid waste as a natural resource, perhaps a misplaced one, but certainly a raw materials allocation problem rather than any other.

3. Provide for the coordination of action of the Public Utilities Commission and the Department of Environmental Protection in the setting of rates and the regulation of collection, processing, and disposal facilities.

Although cooperation exists at the present time, coordination appears to be insufficient and should be mandated as part of this legislation.

4. Provide sufficient funds for the implementation of this act in the Department of Environmental Protection - you've heard a great deal

about this already this morning.

5. Provide for an education or public information program to assist solid waste management districts in implementing plans.

6. Arrange for more effective compliance schedules. Again, this has been discussed at great length this morning.

If money does become a part of this piece of legislation, and I think obviously that it should, perhaps financial incentives could be offered to those who have done the most toward making progress in implementing this plan.

S-624 must be made stronger, mandating resource recovery where it is economically feasible in New Jersey. It is clear to us that recovery is a viable private business venture if incentives are offered and if current regulations are adequately enforced to prevent environmental degradation.

Used paper and metal processors are having a difficult time obtaining sufficient materials to stay in operation. Over 25 valuable metals are on the endangered species list and many others have a life expectancy of only a few decades. Our solid waste must be recycled in a few years. Our lead time is short indeed.

A great deal of energy can be saved - and I can stress that point that resource recovery from an energy standpoint appears to be by far the most efficient process compared to what we do today.

Large volumes of scarce materials can be kept in productive use, and much money can be saved by the proper treatment of secondary materials. We have the market, the available technology and the public support to solve the solid waste problem in New Jersey.

All we need is an action program to get moving.

Thank you very much.

SENATOR McGAHN: Thank you very much, Mr. Moore. Are there any questions? (No questions) Thank you, sir.

Mr. Bruce MacDonald. This will be the last one to testify this morning. Following Mr. MacDonald's testimony, we will recess until 2 o'clock.

B R U C E W. Mac D O N A L D: Members of the New Jersey Senate and fellow citizens: My name is Bruce MacDonald, and I am pleased to testify here today as a member of the New Jersey Advisory Council on Solid Waste Management. While my testimony reflects only my own views on S-624, they are shared in large part by the rest of the Council.

I heartily support S-624 and consider it an important and farsighted contribution to responsible solid waste management in the State. I am encouraged by the strong emphasis placed by the bill on local and state solid waste management planning, the collection of solid waste data, - which is important to planning - the strong impetus given to state-initiated efforts in research and development, and the expanded role given to the Commissioner of Environmental Protection, his Bureau of Solid Waste Management, and the Advisory Council on Solid Waste Management. I offer for your consideration the following observations and suggestions for the bill.

First, with regard to the Advisory Council itself, I support the proposed inclusion of solid waste industry representatives on the Council. The inclusion of industry people as well as private citizens and ex-officio members will provide a stronger input of awareness of industry problems and needs as well as the kind of

insight and experience that the Council currently lacks. I would suggest, however, that the concept of industry representation be broadened to include reclamation and resource recovery as well as those of collection and disposal.

I would also suggest that the Advisory Council not only be empowered but also should be required to hold annual hearings and issue an annual report on New Jersey's solid waste problems and proposed solutions. This would provide a means by which industry and the public could express their concerns and suggestions on solid waste management in New Jersey, the kind of forum which has hitherto not existed. Such a statutory requirement would also provide a greater focus for Council activities, which would encourage more active participation by its members, a problem that has plagued us since our inception.

Moving on to the other provisions of the bill, it appears that no deadline is placed on the submission of the State solid waste management plan, while the district plans are due before 180 days after the effective date of the bill. Since the State solid waste management plan is to provide the objectives, criteria, and standards for the evaluation of solid waste management plans prepared pursuant to the provisions of this act for solid waste management districts in this State, I would suggest that the submission of the district solid waste management plans be required a specified period following the completion of the State plan. Otherwise, unless the State can make public its new plan or modify and update its old 1970 plan in appreciably less than 180 days after the effective date of this bill, which seems extremely unlikely, the districts may very well

put forth plans that conflict with State objectives. Furthermore, tying the submission of district plans to the completion of the State plan will give the districts a longer period of time in which to prepare more in-depth plans. 180 days is probably too short a period of time for a district to prepare a plan in the depth that this bill correctly calls for. It would almost certainly be too short if the district sought outside funding to support the preparation of the plan. To insure that the districts make orderly progress toward the completion of their plans, an interim or draft report could be required after 180 days from the effective date of this bill.

There may also be a timing problem embedded in the bill arising from requiring the Commissioner to make a ruling on district solid waste management plans within 90 days of receipt of such plans. For one or two plans there should be no problem in their evaluation. However, should all 22 districts submit plans at approximately the same time, as seems likely from the wording of the bill, it would be impossible to give all of these plans more than just a cursory review. This is especially true of the Advisory Council's role, since we are a part-time voluntary organization. For these reasons, a longer period for State evaluation of the district plans should be considered.

The farsighted and environmentally beneficial provisions of S-624 will go a long way toward remedying New Jersey's ever-worsening solid waste woes. The important additional duties which the Commissioner is tasked to perform by this bill will probably require a larger staff in the Bureau of Solid Waste Management, something which I feel has been long overdue. It is my hope that among the added personnel will be a professional planner and a systems analyst, which will reflect the

evolution of the Bureau's role from that of strictly enforcement to a multi-disciplinary role of enforcement, planning, research and development.

Finally, I applaud the proposed establishment of a Solid Waste Management Research and Development Fund. This approach will provide critically needed funds for solid waste research and development that have not been available in the past. It is my suggestion that these funds be available for planning and evaluation studies on solid waste as well as experimentation and demonstration. Such studies are usually required prior to experimentation and demonstration and cannot always be performed in-house.

In closing, I would just like to repeat my strong support for S-624, a very timely and important piece of legislation for all of New Jersey.

Thank you.

SENATOR MCGAHN: Mr. MacDonald, thank you.

Since, as you mention here, you are a part-time voluntary organization, do you not see this being somewhat incompatible with your request that the Council be required to hold public hearings and issue an annual report? Would that not really necessitate additional staff and additional budgeting as far as the State is concerned?

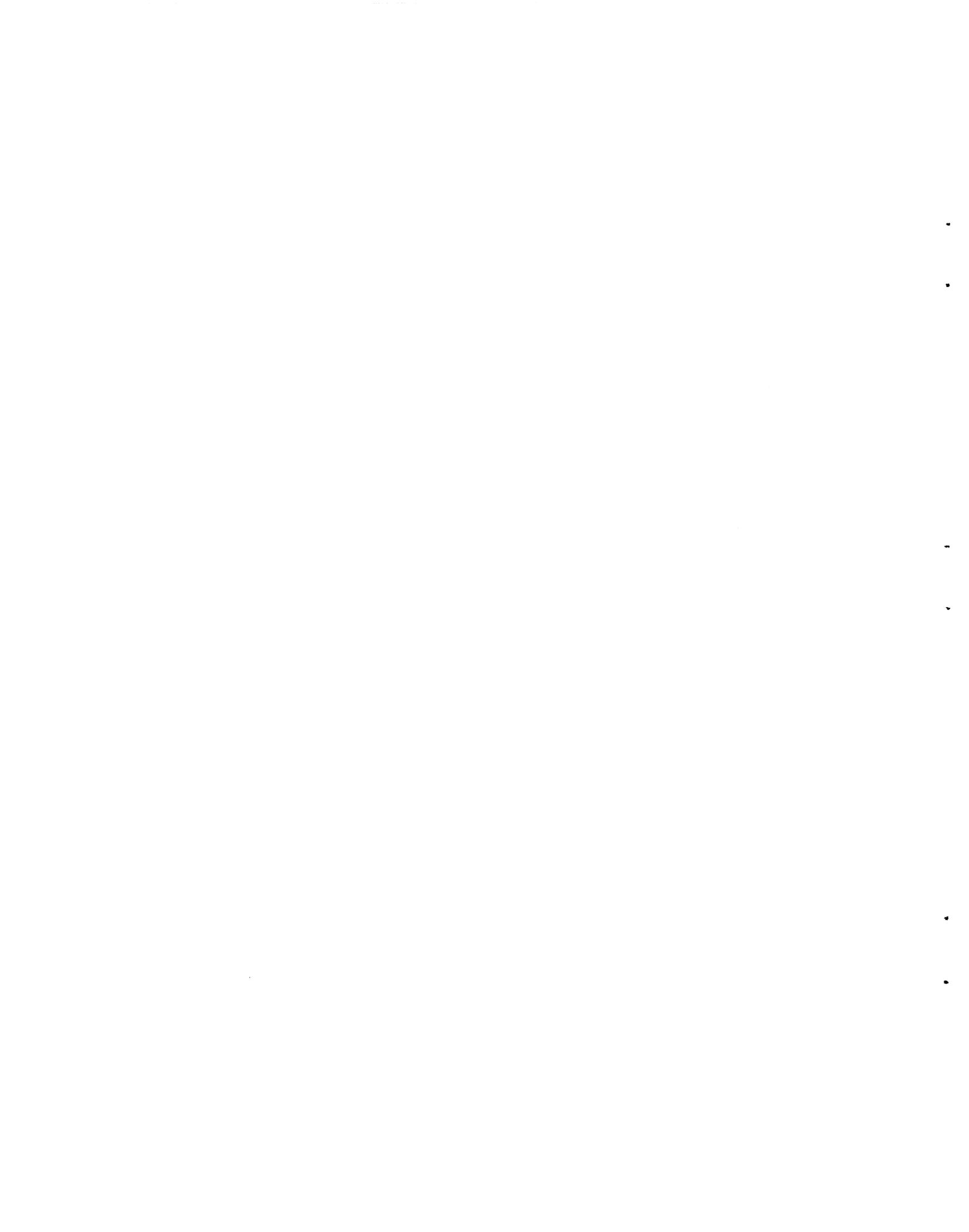
MR. MacDONALD: I think you're correct. And I would add, aside from this prepared statement, that that would probably be required.

SENATOR MCGAHN: I have no further questions. Does any member have any questions? (No questions)

Thank you very much.

This hearing will recess until 2 P.M.

(recess for lunch)



(Afternoon Session)

SENATOR MC GAHN: Good afternoon ladies and gentlemen. The afternoon session of the public hearing on bill S-624 will commence.

Before starting, as I mentioned previously, the record on this public hearing will be open for approximately two weeks. Should anybody care to address themselves to this Committee with remarks, expanding upon remarks already made, or simply coming up with statements that otherwise they would have been unable to present, I would suggest they send them this Committee in care of Mr. David Mattek. That mail address is Room 227, State House, Trenton, New Jersey, Zip Code 08625.

I will now call Mr. Robert Halsey.

R O B E R T     D.     H A L S E Y: My name is Robert D. Halsey. I am Planning Director for Monmouth County and I am here today on behalf of the Monmouth County Board of Chosen Freeholders. With me is Mr. Knud Scholer, who was recently appointed by the Freeholders to supervise the construction and operation of Monmouth County's Regional Landfill and Reclamation Project.

The Board has not yet had an opportunity to review proposed Senate bill 624 in detail and take an official position. However, the Board is concerned over the impact of this bill and has asked me to appear before this Committee and comment on several items of interest to Monmouth County. We respectfully request that the records of this hearing be kept open for a thirty day period in order that the Board can submit a detailed written statement for inclusion into the hearing record.

Monmouth County is in the process of establishing a County owned and operated solid waste disposal facility. It has acquired or is in the process of acquiring approximately 400 acres of land to serve as a regional sanitary landfill. The New Jersey Department of Environmental Protection has issued Monmouth County a permit to operate a sanitary landfill on a portion of this tract. This solid waste disposal operation will feature the shredding of refuse and ferrous metal recovery in the initial phase of operation; and a more complete resource recovery system will be installed at a future date. The contracts for manufacturing of the shredders have already been awarded and bids have been advertised for several other major pieces of equipment for the project.

Having been closely involved with the planning and development of Monmouth County's regional landfill and reclamation project, I see several elements in the proposed law which would make the County's task even more cumbersome and complex than it has been to date. I respectfully submit that under the proposed law, Monmouth County would not have been able to proceed as far towards establishing its landfill and reclamation project as it has under existing laws.

Monmouth County concurs with the objective of establishing a comprehensive statewide solid waste management program in which the County plays a significant role. Senate Bill 624 appears to

create a good basic framework for accomplishing this objective, but it does not eliminate the many complexities which often cause necessary and desirable projects to bog down in administrative red tape.

A major concern of Monmouth County is the need for a means for protecting a County's interests in facilities developed under the existing laws and regulations. Monmouth County, proceeding in reliance on State approval of its plans, is already committed to expenditures of nearly \$750,000. out of an estimated total cost of approximately \$2,000,000. needed to begin operation of our project.

The 180 day time limit on the preparation of a solid waste plan is totally inadequate. This is an extremely complex subject and a short time limit will lead to "cook-book" planning. Monmouth County has previously prepared studies and plans on this subject; but even with all of the work that we have done, it is unlikely that we could meet this time schedule, particularly in view of the information required by this Act. An 18 to 24 month time limit would seem to be more realistic.

The section requiring consultation with various County and local agencies seems both cumbersome and vague. The word "consult" needs a specific definition, and the use of the words "concerned with" includes almost every local governing body, planning board, sewerage authority, board of adjustment and environmental council.

The section which would enable one County to locate its facilities in another County might generate a tendency for the more urbanized counties to seek less expensive solutions by locating landfills in less densely developed counties, rather than meeting the problem directly and investigating more advanced methods of disposal and resource recovery. I would recommend that this safety valve provision be tightened considerably, in order to discourage practices similar to that now practiced by New York City as it affects northern New Jersey.

The section of the Act involving the Public Utilities Commission would seem to create a potential jurisdictional problem between the Commission and the Department of Environmental Protection. The Act should more clearly define the responsibility for setting the limits of service areas, in order that the counties could take this into account in developing their plans.

The section of the Act providing for payments in lieu of taxes, preferential rates and right to re-acquire property creates several problems. The question of payments in lieu of taxes should be part of an overall study of this subject, since it opens a sensitive area of issue affecting all State and County owned lands.

The provision in this section for preferential rates could encourage counties to seek landfill site locations on the basis of the future waste-generation potential of the host community instead of seeking the best available site.

The right of a municipality to re-acquire the property could hamper Monmouth County's plans to establish County Park facilities on the finished landfill.

The above observations and comments are based upon a brief review of a draft of the proposed act. They are offered in a constructive manner and intended to point out the need for additional study and refinement of the act prior to further action.

In summary it would appear that, while this act mandates a significant role for County Government in solid waste management, it overly restricts the ability of the County to effectively carry out that mandated role. Thank you.

ASSEMBLYMAN VAN WAGNER: Just one question, Mr. Halsey. On page 4, regarding the provision in this section for preferential rates, etc., would you clarify what you mean by that a little bit?

MR. HALSEY: Yes. There is a provision in the draft copy which I have, which I assume is in the bill as introduced, providing that the municipality in which the landfill would be located could be eligible for reduced rates, up to a maximum of 25%. This could influence a decision by a county locating the site. If you had alternates I would think one would tend to seek the municipality with the least growth potential to hold down the cost of providing this reduced rate.

ASSEMBLYMAN VAN WAGNER: But at the same time the cost in locating in that type of municipality might be prohibitive in itself.

MR. HALSEY: Not necessarily. This would depend on the site conditions.

SENATOR MC GAHN: Thank you very much, Mr. Halsey. This Committee will note your constructive recommendations and we will certainly consider those when we consider the final bill. Thank you.

Mr. John Filiberto? Mr. Filiberto will be accompanied by Mr. Ted Schwartz.

J O H N C. F I L I B E R T O: Mr. Chairman, Honorable Members of the Committee, my name is John C. Filiberto of Chester, New Jersey and I am Chairman of the Solid Waste Industry Council of New Jersey. I have been engaged in the solid waste collection and disposal business for more than 20 years and have represented New Jersey's solid waste industry at many conferences and forums throughout the country.

We, of the solid waste industry, appreciate this opportunity to appear before you today. On behalf of the industry, I intend to present an overview of S-624, as we see it. Following my general commentary, our legal counsel, Theodore A. Schwartz, will provide our point by point reactions to the proposed legislation.

The solid waste industry has had a long and honorable record of service to the community - not only in New Jersey, but throughout the nation. This was most clearly pointed out in a recent nationwide Harris Poll, which showed that solid waste collectors, along with doctors, are the national institutions in which Americans have the greatest faith and confidence. These were the only two institutions cited by more than 50 percent of the respondents to the poll, ranking ahead of the police, the press, the church, Congress, attorneys and the White House.

I cite the results of the Harris Poll in view of what appears to us to be a virtual exclusion -- deliberate or otherwise -- of references to the role of the private solid waste industry in S-624, and what also appears to be an omission of any reference to the rights of those privately engaged in collection or disposal of solid waste in New Jersey.

We believe the Poll clearly demonstrates the growth in stature of the private solid waste industry in the United States in recent years. No longer is there a negative connotation attached to participation in the industry; rather the American people -- who incidentally resist additional government control in many areas -- are recognizing more and more that the service we provide is a vital and economical part of their everyday life. This makes it even more important now than ever before for government to stay out of the solid waste business.

In view of this, New Jersey's solid waste industry insists that the private contractor, as a representative of the free enterprise system which has long flourished in this country, cannot be ignored in legislation affecting solid waste management. His rights must be protected against incursions by government in any form -- national, state or local.

We agree with recent statements by the Supreme Court and others that New Jersey needs a statewide solid waste management plan. I would respectfully point out to the Committee, however, that such a plan could have been produced if Chapters 39 and 40 of the 1970 legislation had simply been implemented as the Legislature intended them to be.

We disagree, however, with the State's contention that there is a crisis with regard to available disposal sites. We state, most emphatically, that there is not such a crisis, and to support that contention, we are conducting our own study in this area. The so-called "crisis", as well as S-624 itself, derived from a report of the County and Municipal Government Study Commission, which in turn took its figures from the New Jersey State Solid Waste Management Plan prepared by Planners Associates, Inc. of Newark for the Department of Environmental Protection.

Unfortunately, neither of these reports accurately reflects the actual amount of disposal area available. For example, a landfill operator who owns a 300-acre site would find it practical to register only 100 acres at a time -- the 100 acres which he will be using for a specific period. Therefore, the remaining 200 acres of available land would not appear in reports based on existing registrations.

Also, these reports estimate available disposal area on the basis of one lift (a 12-foot layer over 100 acres) per landfill, instead of the two to four lifts which are standard. On this basis, the so-called "crisis" reports are based upon only one-fourth of the disposal site area actually available.

We believe that this miscalculation, as well as others that can be cited in the two reports, must be corrected before there can be any serious action on new legislation or new regulations which use these faulty reports for source material.

The Solid Waste Industry Council is already on record as offering to help underwrite and to make its engineering knowhow available to the Department of Environmental Protection for a joint study to produce a truly accurate inventory of suitable sites available in the State.

Entirely apart from our disagreement regarding available disposal areas, we see a number of very serious implications in S-624. I will touch on this briefly, and Mr. Schwartz will detail our comments later.

S-624 could well overturn local zoning ordinances. We urge the Committee to take a long hard look at the manner in which the bill would appear to undercut our long tradition of home rule for municipalities.

S-624 discriminates against private solid waste operation by granting unfair advantages to county and other governmental bodies.

S-624 contains provision on taxation which are clearly against private operators.

S-624 creates still another conflict between two agencies of the State of New Jersey -- the Public Utilities Commission and the Department of Environmental Protection -- which were already given regulatory authority over the solid waste industry by the original Chapters 39 and 40. We see this as leading to an even more chaotic regulatory situation than already exists.

In summary, therefore, S-624 represents a virtual death warrant for the private solid waste industry in New Jersey. It does so by granting inordinate special powers to county and other government authorities, at the expense not only of the individual operator but also of the taxpayers.

For example, Seton Hall University conducted a study which showed that local taxpayers paid substantially more for solid waste service provided by a municipality than for the same service under private operation. Indeed, in citing the great disparity in cost between municipal and private operation, Dr. Robert J. Senkier, Dean of Seton Hall's Graduate School of Business Administration, said: "Solid waste collection and disposal is one of the essential services that a municipality can turn over to private enterprise."

New Jersey's solid waste industry is ready and willing to cooperate with the State and any of its agencies and departments in the development of a solid waste plan which will provide for the most economic and efficient collection and disposal of solid waste. We do not see S-624, as now written, accomplishing this objective.

We insist that any such legislation must recognize the traditional role of private enterprise. Without such recognition, there can be no effective plan for solid waste management in New Jersey. Thank you.

SENATOR MC GAHN: Thank you very much, Mr. Filiberto, for the comments concerning the Harris Poll in rating solid waste collectors along with doctors as being the highest rated. I just wonder, what is the malpractice rate amongst solid waste collectors vis-a-vis doctors?

MR. FILIBERTO: I couldn't give you the answer to that one.

SENATOR MC GAHN: If I actually get the thrust of your presentation, you are telling government,

basically, to stay out of the solid waste business, that you can do it much more economically; you can do it at a cheaper cost to the affected units of government. Is this correct, in essence?

MR. FILIBERTO: I would say so.

SENATOR MC GAHN: Would you, therefore, make this commitment to the State as a whole - to Cape May, to Atlantic County, to Camden, to Gloucester, to Salem, as well as the Northeastern part of the State?

MR. FILIBERTO: On behalf of the industry, I would say so, yes.

SENATOR MC GAHN: But you have no figures to substantiate the fact that this service could be provided more economically in the areas that I mentioned, rather than in the areas where - despite the fact that we may have some conflict concerning the term "crisis", and I think here a definition might not be ill advised-- Whether a crisis exists in the form that President Nixon uses the term "crisis" for or not, I think that a problem does exist.

As I mentioned this morning, certainly from a legislative standpoint at least, the policy declaration and the thrust of the two acts that were enacted in 1970 at least stated that a crisis exists. I am sure they did not define it. I don't particularly go for definitions anyway. I think, depending upon which side of the fence you are on, you can define anything, any way you want to.

My main question here is, are you attempting to say to government, "get out and do not provide a service to the people. We can do it for you. We can guarantee you this will be done. We can

guarantee that we will be able to dispose of this in areas that will not have anything to do with, or conflict with, where you want it to be. If your municipality does not want to come up with a sanitary landfill, we will take it someplace else. We can truck it and we can do it much more economically?

MR. FILIBERTO: Senator, we have been doing this very thing, to date.

SENATOR MC GAHN: But remember, I am talking Statewide. I am talking about Cape May as well as Salem, Gloucester, Atlantic County, etc. I am not talking now about isolated instances, as far as the densely populated Northeastern part of the State and/or Middlesex County, and/or Monmouth County is concerned.

MR. FILIBERTO: I think that our industry is prepared to make that commitment.

SENATOR MC GHAN: Can you speak, therefore, for your industry?

MR. FILIBERTO: Yes, sir. I think I answered your question. I think our industry is prepared to make that commitment. I think that we have been doing this since garbage and private industry has been around. We see that we can continue to do it. Many of us have plans on the drawing board right now along the lines of the more sophisticated methods of disposal. We see a possibility, if S-264 goes through, of all that effort, which we have expended, going right down the drain.

SENATOR MC GAHN: It is your contention, then, that S-624 completely precludes private industry?

MR. FILIBERTO: As it is written now, yes. We see that private industry is not--

SENATOR MC GAHN: In other words, you think the language is unclear and it does not specifically

spell out this?

MR. FILIBERTO: That's right.

SENATOR MC GAHN: In spite of the fact that I think we, as a Committee, certainly have no intention of seeing that private industry is completely ruled out of this and, of course, government taking it over completely?

One other thing. You have been critical, I think, here in the projections that have been made as to the amount of sanitary landfill that is available. I think, by the same token, if you find yourself having a practice where you do have 300 or 500 acres that you intend to utilize in years to come as a sanitary landfill, certainly you cannot, under these circumstances, fault the individuals that are doing the investigating if you do not come up with these additional acres to include in their inventory of sanitary landfill, because at the present time this is not a designated land use.

My question is, what is to guarantee that this is going to be used for that particular purpose when if the owner of this land, let's say, in the next year or two, decides that he will not utilize the remaining portion of this sanitary landfill designated but will put it into industrial development, assuming that the zoning ordinance will permit it?

MR. FILIBERTO: My answer to that would be this: Had the Board of Public Utilities seen fit to do that which they were empowered to do, that is, mainly, enfranchisement of the solid waste industry, the land available - that which was registered and non-registered - would be of record. The very thing that you are trying to accomplish with this piece of legislation would have already been accomplished. We are three

years under the acts of 1970, going into four years. The very thing that you are trying to accomplish here could have been accomplished a year ago, two years ago.

SENATOR MC GAHN: You are assuming, then, that every law that is enacted, every rule and regulation that is laid down, is going to be completely complied with; that, actually, in the overwhelming knowledge and omnipotence of the Board, whether it be the PUC or something else, they are going to do everything which is basically right? Unfortunately, this is not the history of government. Unfortunately, everything has a gestational period. And, unfortunately, any particular law that is enacted always has loopholes in it. So this is the reason why amendments and supplements have to be made concerning that.

I don't think it is our purpose here to criticize the PUC.

MR. FILIBERTO: I didn't say that.

SENATOR MC GAHN: Maybe, possibly, in fact, you do.

May I say that I think it is a valid point - that you point out these discrepancies and these criticisms so that this Committee can take, basically, positive action upon it.

You made one statement here, "S-624 could well overturn local zoning ordinances." In the area of solid waste disposal the State has already preempted the local prerogative as far as sanitary waste disposal is concerned.

I, for three consecutive weeks, have heard the flag of "home rule" waived in front of my face. This is a tradition; it is a myth. We had a tradition of home rule. When a municipality finds itself

involved in a situation that it cannot cope with, and that it cannot provide the type of services that are required of it by its constituents, then it looks to "big brother", whether "big brother" be the State and/or the federal government. Basically, the tradition of home rule is in essence a ploy. This has been preempted. So I don't think, really, that this is basically a problem as far as that is concerned.

I fail to be convinced with statistics on one side or the other. I deal with statistics every day and let me tell you one thing, any drug firm can come up with any group of statistics they want to prove their point; you can get any management firm in the country today to come up with statistics and a study that will be, certainly, a little bit biased toward the individuals who are providing a service. Your points are well taken but these are some things I wanted to question. I have no further questions.

SENATOR GREENBERG: Mr. Filiberto, I welcome the opportunity to hear you and I trust you will understand that my questions are really motivated by an effort to fully understand what your objections are to this bill.

After listening to the reading of your prepared statement, I have some questions and I would like to put them to you.

I don't quite understand what you mean when you say - when you refer to the death knell nature of this legislation on your industry. Could you explain in detail for us what you meant by that statement?

MR. FILIBERTO: In reading the proposed legislation, we see absolutely no area for private industry. This is our interpretation of what we see there in the legislation.

SENATOR GREENBERG: What do you mean by area? Do you mean there will be no function for private industry?

MR. FILIBERTO: That's correct.

SENATOR GREENBERG: Well, what does private industry do now in connection with waste disposal - solid waste disposal? It picks it up?

MR. FILIBERTO: I'm sorry, I couldn't hear you.

SENATOR GREENBERG: I said, what does private industry do now with regard to solid waste disposal? It picks it up. First it creates it, in part, by manufacturing. Then it picks it up, transports it to a location, which is generally a landfill area, and it disposes of it.

Now are you referring to all aspects that I have just articulated, or one or more particular aspects of the industry?

MR. FILIBERTO: Well, I see, at present, one aspect and I see in the near future, possibly, the second aspect.

The first aspect I see is that of disposal and the second aspect I see is that of collection.

The plan - it is not very clear as to just what is intended, what is to be planned, what is to be done.

SENATOR GREENBERG: Let me ask you a few more questions. Assuming that private industry were still permitted to pick up and transport under this legislation, would your position be the same with regard to its death knell to that phase of your industry?

MR. FILIBERTO: Would you repeat that?

SENATOR GREENBERG: Assuming that private industry was still permitted to enter into the actual,

physical picking up, transporting and delivery of solid waste, would your fear still be the same with regard to the death knell statement that you made in your earlier testimony?

MR. FILIBERTO: I think that if the legislation which is there were more clear in what you said to be true, no, we wouldn't feel that way.

SENATOR GREENBERG: All right.

You are familiar with the bill in its requirement for an inventory and appraisal, on page 12, subparagraph 3 of paragraph 12, referring to all facilities operated by any person, and the identity of every person engaging in solid waste collection or disposal within the district for the purpose of determining who is doing what, so that an adequate bank of information could be obtained exactly for the purpose you are now talking about.

MR. FILIBERTO: Well, that is what it doesn't say. There is no question that it refers to an inventory but it does not say what is to be done with that inventory.

SENATOR GREENBERG: We understand and we agree with each other that your position would not be in opposition to the bill if, in fact, the bill were to permit, and provided for permission of, private industry to engage in that activity?

MR. FILIBERTO: Yes. With the other statement that I made, that portions of it be made more clear.

SENATOR GREENBERG: Now in reading over your statement, I noted that you changed the word disposal area to landfill area as you read through it. I assume that that was intentional and I am interested by it.

MR. FILIBERTO: At what point did that happen?

SENATOR GREENBERG: On page four, in the second paragraph. Your statement reads, "Entirely apart from our disagreement regarding available disposal areas. . ." Do you see it?

MR. FILIBERTO: O.K.

SENATOR GREENBERG: "Entirely apart from our disagreement regarding available disposal areas", etc. - you read it, "Entirely apart from our disagreement regarding available landfill areas". The distinction is meaningful and I assume that it was intentional.

MR. FILIBERTO: No, not really. That seems to be a typographical error.

SENATOR GREENBERG: Your point is, I assume, that landfill areas are readily available in this State and that they will be available for some time to come?

MR. FILIBERTO: That's correct.

SENATOR GREENBERG: That's basically the point. Therefore there is no crisis situation?

MR. FILIBERTO: That's correct.

SENATOR GREENBERG: Requiring hasty adoption of this or any other legislation?

Do you understand that one of the purposes of this bill is also to deal with the subject of the use of land and the diminishing supply of land in this State and the use of land for landfill purposes as opposed to other methods of disposing of solid waste? This is why I thought your choice of words was significant.

In the regional report of the Port Authority of New York and New Jersey, June 1973, they point out that despite efforts to reduce volume through compacting or shredding, landfills demand a great deal of space. In urban areas limited land resources can be put to higher usage. Are you familiar with

the general concept in any of that? Do you agree with that or do you disagree with it?

MR. FILIBERTO: Well, if you recall, one of my answers was this: Many of us, many firms engaged in the collection and disposal business, have authorized their consulting firms to look into, develop, and many of us have plans under way with regard to more updated disposal methods which may incorporate a more sophisticated means of disposal, other than landfilling. However, in all of our determinations and in all of our investigations, so far, landfilling-- While you can certainly reduce the volume, should these methods finally come to pass, you will still need a certain amount of landfill area, maybe not to the extent that it is now being used but certainly there will be need for them.

SENATOR GREENBERG: Has your research resulted in a conclusion as to the wisdom of utilization of -- reclamation, separation, and reuse of our waste products?

MR. FILIBERTO: Yes.

SENATOR GREENBERG: Do you think that is a good thing for us to attempt to accomplish?

MR. FILIBERTO: If it can be accomplished, yes.

SENATOR GREENBERG: It is a very costly process.

MR. FILIBERTO: That's true.

SENATOR GREENBERG: Would private industry have the ability to engage in this?

MR. FILIBERTO: Absolutely.

SENATOR GREENBERG: Why hasn't it been done?

MR. FILIBERTO: Well, if you understand private industry, we have, number one-- Let me just give you a little background. Number one, I think if you

take a broad look at what private industry, along with our own government, has done toward upgrading what is today called "sanitary landfills", - the industry prefers to call it "controlled landfilling", this is how we term it - we have made great strides and are continuing to make great strides in that particular area.

We are a competitive industry, so therefore we have to be very careful in the area of economics. I can no longer, nor can any member of our Association, place myself in competitive jeopardy by expending funds which would make my bidding out of line, if you understand what I am saying.

SENATOR GREENBERG: I do and I agree with you and I think that, basically, the reason why the industry has not, cannot, and will not get involved in the reclamation program that I have just discussed with you, or in a more efficient and useful manner of disposing of our waste - and I do not find fault with the industry - I think, is a matter of economic necessity; that it keep itself on a competitive basis. That is, basically, exactly what was just stated by the Chairman, Senator McGahn, as one of the motivating reasons for the serious consideration of this type of legislation. It is not that we find fault with the industry nor that we want to do it harm but where the citizens and industry cannot, for any one of a number of reasons, solve a problem that is becoming more and more complex and difficult, then it is time for government to move in and utilize the full abilities of its expertise and resources to attempt to deal with them.

MR. FILIBERTO: I appreciate what you just said. There is just one thing; as time progresses most industries become more efficient, more efficient in the manner in which they deal with everyday problems. We of the industry have been doing that. For us even to be at a position where we are actually going to the drawing boards with plans, I think, indicates that we are able to cope with that problem.

We can, certainly, forward additional information along this line to this Committee.

SENATOR GREENBERG: Thank you very much.

MR. FILIBERTO: You are welcome.

ASSEMBLYMAN VAN WAGNER: Mr. Filiberto, I am somewhat confused as to your statement on page 2 where you say, "I cite the results of the Harris Poll . . . . of what appears to us to be a virtual exclusion - deliberate or otherwise - of references to the role of the private solid waste industry in S-624. . . ." Are you implying that there was any intent in introducing this type of legislation to deliberately exclude the private waste industry - or private industry from this?

MR. FILIBERTO: It would appear from reading it, yes.

ASSEMBLYMAN VAN WAGNER: I frankly don't see any area where the solid waste industry is excluded.

MR. FILIBERTO: Well, there is no mention of it other than for an inventory-taking sort of thing.

ASSEMBLYMAN VAN WAGNER: But there is still no exclusion of it?

MR. FILIBERTO: To that extent.

ASSEMBLYMAN VAN WAGNER: Right.

SENATOR MC GAHN: Senator Dunn?

SENATOR DUNN: Mr. Filiberto, I'd like to continue along the same lines as started by Senator Greenberg and others. First of all, I don't know the intent of the prime sponsors of this bill, but I know that it would not be my intent to drive out of business people who are presently involved in the garbage disposal business.

You come on rather strong with your language in implying that that is one of the intents of the bill, should it be enacted into law. Now may I, just for a moment, ask you to explain to me, if you will, or if you can, - and be specific, let's talk about the City of Elizabeth-- I don't have any figures in front of me. If I had known that I was going to take this line today I would have brought them with me but perhaps before these hearings are over I can obtain some figures that will enlighten the Committee as to my concern. Just this year we signed a new contract for three years with the sole bidder of that contract. It involves a couple of million dollars per year for picking up of garbage in the City of Elizabeth and disposing it in the Kearny Meadowlands.

If this proposed legislation became law, how would we drive the Roselli Brothers, or anyone else, out of business. I can't quite understand that.

MR. FILIBERTO: Well, the thing is-- We are sort of putting the cart before the horse here. Let me see if I can collect my thoughts.

SENATOR MC GAHN: Mr. Filiberto, since Mr. Schwartz is going to be testifying also and since he is the attorney for you, I think that any questions

directed to you that you find yourself having difficulty answering, if Mr. Schwartz would like to answer them we will accept the answer from him.

SENATOR DUNN: Let me rephrase that. It is not the intent, as I understand it, of the Senate or the Assembly to kill the garbage disposal business as it is operated today by private enterprise - unless I am totally in the dark. I don't believe it to be the intent of the Senate or the Assembly. But you have made a point of dramatizing the fact that that is our goal, or our intent. I just can't read anything in this proposed legislation that would bear out what you are trying to make of this thing. So, I'd like to have you illustrate for us how, if S-624 becomes law, we would drive out of business the firm that just successfully won the garbage business for the City of Elizabeth.

MR. FILIBERTO: If, in developing your county plan, you should exclude that contractor which is presently servicing that particular municipality then you have driven him out of business.

SENATOR DUNN: What do we exclude? Are you suggesting that this bill--

MR. FILIBERTO: This is what I am saying. I think your bill is just not clear enough in its intent.

SENATOR DUNN: Well, do you think that the bill implies that this would force the City of Elizabeth to set up its own garbage collection and disposal business?

MR. SCHWARTZ: Just to expound a little on Mr. Filiberto's statement, if you look at one of the provisions in the bill, which is towards the end of the document - on page 25, top line, subsection b. -

"Nothing herein contained shall be construed as to interfere with, or in any way modify, the provisions of any contract for solid waste collection or solid waste disposal in force in any solid waste management district upon the effective date of this act; provided, however, that no renewal of any such contract upon the expiration or termination of the original term thereof, and no new contract for solid waste collection or solid waste disposal, shall be entered into after the effective date of this act, unless such renewal or such new contract shall conform with the applicable provisions of the approved solid waste management plan of the relevant solid waste management district. In the event that no solid waste management plan has been approved for a solid waste management district, no contract renewal or new contract for solid waste collection or solid waste disposal shall be entered into for a period in excess of 1 year from the date of such contract renewal or new contract in such solid waste management district"-- Let's take for example the City of Elizabeth. You have a contractor now--

SENATOR DUNN: For three years.

MR. SCHWARTZ: He has a three year contract. If this bill were enacted, that contractor would be protected in fulfilling that contract for three years. However, at the termination of that period of time, if the Solid Waste Management Plan is so adopted as to not encompass that type of service being provided by a private collector, then he can no longer - the City can no longer issue a contract for solid waste collection to that particular collector.

SENATOR DUNN: Well, at the end of the three year period the City of Elizabeth would not be precluded from setting up new specifications and

requirements and advertise them for a new contract.

MR. SCHWARTZ: That's correct.

SENATOR DUNN: You say they would?

MR. SCHWARTZ: No, I am saying you are correct.

SENATOR DUNN: Well, how is that forcing the City of Elizabeth into its own private disposal system?

MR. SCHWARTZ: Let's say the Board of Freeholders comes up with a solid waste management plan. According to Senate 624, that plan encompasses not only the disposal but collection. Let's say the plan says that in the City of Elizabeth the collection will be done in another manner, other than by private contractor.--

SENATOR DUNN: Well, I don't read that into this at all. You are giving the opinion that the language of this bill could mandate that the City of Elizabeth go into the garbage business as a city service, rather than using private enterprise. Incidentally, for your benefit, studies for our City showed that it is more economical to have a private scavenger than it would be to have a city service.

But you are saying that this could force the City of Elizabeth into its own garbage, scavenger operation.

MR. SCHWARTZ: It is a possibility. I say it is a possibility for the simple fact that why would the law permit a contract renewal for only a year, or until such time as a solid waste management plan is adopted - whichever comes first?

SENATOR DUNN: Well, I can't see that. I fail to see that. Unless I stand to be corrected by the sponsors, that is certainly not the intent of it. I think you are stretching a point rather thinly by implying that.

MR. SCHWARTZ: I have always known - not only as an attorney but by being in state government for five years and participating in the drafting of legislation at times - that paper is cheap and if you can explain yourself and be more explicit, then do so. What we are saying in Mr. Filiberto's testimony -- I will, of course get into it in much greater detail and point out to you every instance in this bill where private industry has been neglected and where private industry can, in effect, be put out of business.

The legislation could be made a lot more clear if that is your intent, that private industry not be excluded and that they are considered in the plans that are developed for solid waste disposal. The way we have read the bill, there is virtually no consideration of the solid waste industry from the private sector point of view except for two portions of the bill, the one I just mentioned to you and the one that Senator Greenberg referred to on the inventory. Otherwise there is no mention of it, and I will show you, point by point, in about ten or fifteen instances where this bill discriminates completely against private industry.

That may not have been the sponsors' intent, but in reading the bill and hoping to avoid having it interpreted by a court of law - which we don't think is the proper approach - if we can clean it up in Committee to make it more explicit as to what your intent is, that is what we are desirous of accomplishing in our testimony.

SENATOR DUNN: Wouldn't it be better then to have the witness state that the industry disagrees,

or finds fault with some of the language in the bill rather than to say that the intent is to drive private enterprise out of the garbage/scavenger business?

MR. SCHWARTZ: Senator, it appears, from the reading of the bill, that the bill could do that very thing you have just mentioned.

SENATOR DUNN: All right. Let me-- Isn't it true that, of late, most of the people involved in the garbage/scavenger business have, one way or another, joined large conglomerates?

MR. SCHWARTZ: First of all, before I answer that question, I know representatives of the industry are very sensitive about the use of terms. Number one, nobody in this business is a scavenger. The definition of a scavenger, under the State Sanitary Code, is one that goes out on a sanitary landfill and picks up spent material.

SENATOR DUNN: I certainly meant no affront by that. I am somewhat familiar with the contract with the City of Elizabeth and I think in--

MR. SCHWARTZ: So am I.

SENATOR DUNN: --the contractual terms of our contract the word scavenger is spelled out quite clearly.

MR. SCHWARTZ: I am familiar with that contract.

SENATOR DUNN: I am certainly not going to apologize for that remark because I-- Unless you insist that we use the word "sanitary engineers" or something like that. I meant nothing derogatory by it. I am just using the terms of the industry.

MR. SCHWARTZ: Well, some industries.

SENATOR DUNN: Isn't it true, of late, that

those who are engaged in the business of disposing of solid waste have joined a large conglomerate?

MR. SCHWARTZ: Some of them. You are speaking from an experience with a particular contractor.

SENATOR DUNN: No. How about the large ones - most of the large ones?

MR. SCHWARTZ: Well, there has been a movement by large public companies to acquire solid waste collection and disposal facilities in the State of New Jersey. That is true.

There are also large operators, like Mr. Filiberto, who run a fairly substantial operation that can stand or fall on their own. But the answer to your question is, yes, there has been a movement.

I can speak from experience because I am involved in the movement because I happen to represent one of the largest public companies in the solid waste collection business in the United States.

SENATOR DUNN: Well, Mr. Schwartz, if this is true - and you admit this is true - that more and more of them are going into this conglomerate setup, isn't it possible that two or three of these conglomerates could very easily wind up controlling the entire garbage disposal industry in the State of New Jersey, thus showing a need for more regulation of the business?

MR. SCHWARTZ: I don't think so because, Senator, if you recall we are a public utility and as a public utility, we are subject to rigorous economic control. Every acquisition that occurs in the State of New Jersey by a large company must be approved by the Board of Public Utility Commissioners. They have been, on occasion, approving transfers. There are

transfers of business going on every day of the week in this particular area.

But as far as a conglomerate - and I will use your term - taking over the solid waste business in New Jersey and having two or three, I will let Mr. Filiberto answer that because he is more familiar with the operational trend of the "conglomerate" - as you call them - than I am.

MR. FILIBERTO: There have been some companies merging with national public companies. There are a number of national public companies who are involved - not one, two or three, it is more like eight or ten. So you have a pretty even distribution in that regard.

There hasn't been a surge of mergers with regard to completion. I would estimate - and this is strictly an estimate - if there has been 15 companies in the entire state of New Jersey which have actually completed negotiations, at this point, I think it is a lot. I think you will find it is under that number. This is strictly an estimate.

SENATOR DUNN: Wouldn't you find that those 15 were probably the 15 largest in the State?

MR. FILIBERTO: No.

SENATOR DUNN: It is my understanding of this bill that - to repeat what I have said several times already, and others have said it - it is not the intent of this legislation to kill private enterprise; it is more or less to take an inventory of the land that is available and to see that the land that is appropriate for landfill is used for that purpose.

I attempted to illustrate this morning a situation that the City of Elizabeth finds itself in.

It is a border City to the City of Linden and all kinds of studies show that Linden would be the ideal place for Elizabeth and other suburban towns to dump their garbage in view of the exhaustion of land in Elizabeth after some 40 years of allowing other towns to dump there. Because of political objections and ordinances from our neighboring town of Linden, we are forced to haul our garbage all the way to Kearny at a cost of some 300,000 dollars a year over and above the regular contract.

Now it seems to me that one of the intents of this bill is to have a sensible approach if land is available for waste disposal right next door to a City like Elizabeth. It would be more economical to the City and to the County and to the State to have it dumped in Linden, for example. It would be far more economical than having it hauled to Kearny.

I think that this is one of the main aims of the legislation.

MR. FILIBERTO: That may be true that that might be the aim but that does not necessarily mean that that would be the result.

SENATOR DUNN: Well, this is one of the reasons why at this point I feel inclined to go along with it because it is absolutely asinine that a City like - I hate to keep using that one Town as an example but when we have land only yards away from the City of Elizabeth available for garbage dumping, it is foolish to force an added cost on the taxpayers of Elizabeth to take it to Kearny. This bill would rectify that.

Just let me say that I fail to see, despite Mr. Schwartz's pointing out the language here, how we can drive out of business, for example, the firm that has the contract with the City of Elizabeth for a three year period because at the end of that

three year period we would have to put out bids anyway and we might find at that time that it would be more economical for the City to run its own garbage disposal business rather than have private enterprise do it. That risk would stand whether we had this law or not. That is all I have to say.

SENATOR DWYER: Mr. Filiberto, you say there is no crisis in this industry and you say that the private sector is meeting all the problems in this industry.

MR. FILIBERTO: I'm sorry, I didn't hear you.

SENATOR DWYER: You say that the private sector is actually capable of, and has been, meeting all the problems in this particular area of government - solid waste. What prompted 6 or 7 or our counties to embark on a solid waste discovery program?

MR. FILIBERTO: With all due respect, you'd have to ask them that. I really can't answer that question.

SENATOR DWYER: Would it be your best guess that it was because they had a problem?

MR. FILIBERTO: No.

SENATOR DWYER: It would not be?

MR. FILIBERTO: No, not when you take into consideration that we have never really had an honest to goodness solid waste crisis in any way, shape or form in this State - I say that with all sincerity - to date.

SENATOR DWYER: Well, what prompted the Legislature, two or three years ago, to move for public utility regulation if there wasn't some type of a crisis at that particular moment in the history of this State?

MR. FILIBERTO: Possibly the industry leans in that direction because of the service it renders.

SENATOR DWYER: I'm not so sure I understand that particular answer.

MR. FILIBERTO: The thing is this, the solid waste industry services many individuals; possibly it just has a natural tendency toward being a public utility.

SENATOR DWYER: Being regulated by the Public Utility Commission, doesn't the Public Utility Commission regulate the amount of profit each corporation can receive each year?

MR. FILIBERTO: It sure does.

SENATOR DWYER: Is that a percentile figure?

MR. FILIBERTO: I would imagine.

SENATOR DWYER: Can anyone give that to me?

MR. SCHWARTZ: It depends. Right now it is very difficult for the Board to fix what is known as a rate base to build a profit from a certain point. What has happened is, everybody in the business has been required to file a tariff which lists all their rates and the PUC reviews the tariff schedule and if they have any questions as to the unreasonableness of the rates, or if somebody complains, they conduct an investigation, or inquiry, and issue an order to show cause and you bring your books and records in. They have been following that aspect very closely.

To get back to your point, Senator Dwyer, as to why the Legislature enacted the bill in 1970, at that time I was in State Government as a Deputy Attorney General representing the Department - the Environmental Protection Agency had just come in to play at that time, it was formerly the Department

of Health - and what happened was that local mayors complained about the exorbitant cost of collection and this prompted a joint investigation by both the Senate and the Assembly. The basic purpose, if you read through the records and testimony of those hearings, was to put some type of economic control on the industry and also to beef up the nonexistent solid waste laws - there really weren't any, you just had one set of regulations and there was no idea for a development of a plan or anything like that. That is how the 1970 legislation came about. I will get into this a little bit in my testimony.

SENATOR DWYER: Does the PUC in any way encourage private industry to spend any money in the areas of research and in developing pilot plans?

MR. SCHWARTZ: The answer is no to that question. They don't encourage it, no. They have the power to make sure that you provide safe, adequate and proper service and within the framework of those words you could construe them to mean that they are to get into more advanced methods of technology. But I would say a safe answer to your question would be no.

SENATOR DWYER: Has any private operator every filed an application with the Public Utility Commission seeking increased rates, more profit? Would that profit go into the area of research and development?

MR. SCHWARTZ: Senator, rate increase applications have been for survival, the ones that I have seen.

SENATOR DWYER: Only for survival?

MR. SCHWARTZ: Because the costs have gone up dramatically for collection and some increases were necessary. But I am not familiar with all of them.

SENATOR DWYER: I asked that question because Mr. Filiberto said that there were many sophisticated plans on the planning board by some in the industry.

MR. SCHWARTZ: Yes, there are. There presently are about five or six plans before the Hackensack Meadowlands Commission, by private industry, which call for various forms of resource recovery, recycling, etc. There are other plans by other operators who would like to get into the shredding, compacting, some form of resource recovery. Yes, I have seen them. They are there. They are ready to, hopefully, implement some of them. I think I answered your question.

SENATOR DWYER: You are familiar with Section 21 of this bill?

MR. SCHWARTZ: On the experimental aspects?

SENATOR DWYER: Yes.

MR. SCHWARTZ: Yes, I have read it.

SENATOR DWYER: It allows the State to make grants to any person engaged in the solid waste collection business, which would include the private sector.

MR. SCHWARTZ: Under the legislation which we presently operate, this same provision is in. However, the State has not seen fit to carry out that responsibility. I know myself, I have tried to ascertain funds from the State for a joint project for private industry to conduct some studies and the answer I got from the State was, we have no money available for this. I think that is a very sad situation.

SENATOR DWYER: Well, of course, this bill also attempts to generate money for that purpose.

MR. SCHWARTZ: Yes, but the funds, I think, that you will derive from this bill will not be adequate for that purpose.

SENATOR DWYER: But in view of the language in Section 21, it allows for grants to the private sector. In light of that, would you think that this bill is intended to put the private sector out of business?

MR. SCHWARTZ: When I present my testimony I will try to go through that.

SENATOR DWYER: I was asking Mr. Filiberto.

MR. SCHWARTZ: Oh, I'm sorry.

MR. FILIBERTO: Yes, I think whether it is the intent in those words - as you just put it - I really don't know. But it certainly isn't clear.

SENATOR DWYER: It is clear to me. Thank you very much.

SENATOR MC GAHN: I think this dialogue has been extremely important. For the first time we are confronted with a thrust on the part of industry that is contrary to what we intended the purpose of this bill to be.

Mr. Filiberto, solid waste collection and disposal is a function of government, is it not? The service is a function of government?

MR. FILIBERTO: In some instances, yes.

SENATOR MC GAHN: I think, basically, in all instances it is. It is one of the services that any urban area provides. Suburbia requires it today. Townships - it may be on their own. But you do not consider the collection of solid waste and the disposal of it as a service--

MR. FILIBERTO: It is a service.

SENATOR MC GAHN: --that should be provided, basically, by government - or should it be provided by private industry?

MR. FILIBERTO: I feel that private industry can certainly perform the service at a more economical level than government. This has been proven time and time again.

SENATOR MC GAHN: In municipalities of 3,000; in municipalities of 6,500; where you have counties of 75000 or 100,000; where you have 25 to 30 municipalities? Am I correct or not correct that the cost of this service is a function of the distance that solid waste must be carried, picked up and transported - forgetting capitalization cost originally? To a large degree the cost of this service depends upon how far it has to be transported to a landfill site, is that right?

MR. FILIBERTO: That is not the only criteria as far as the cost is concerned.

SENATOR MC GAHN: I didn't say the only -- I said it is a function - the cost. It is a large function--

MR. FILIBERTO: It is a factor.

SENATOR MC GAHN: It is a very large factor if we can go -- I have great faith in Senator Dunn's testimony that it is costing him 300,000 a year more in Elizabeth. So, therefore, under these circumstances, if this is a service that government is now facing up to that it must provide for its residents, except in widespread townships, does it not also follow that government has the right to make a decision that it can provide this service more economically through private entrepreneurship or, basically, through public

service?

MR. FILIBERTO: Would you repeat that again?

SENATOR MC GAHN: Yes. I said, assuming that this is a service that the citizens of a local unit of government request of their municipality, is it not then justifiably a determination of that unit of government as to which way the service can be more economically rendered - whether their own street and road or public works department can do this, or whether they put it out under contract? Is this not a proper function of the local unit of government?

MR. FILIBERTO: Yes, it certainly is.

SENATOR MC GAHN: So, therefore, in this instance the two can live side by side. Because there are certain areas in which private industry has not been able to provide this.

I would assume this is the reason why the counties, as Senator Dwyer has mentioned here, have come up with their own feasibility studies as far as solid waste disposal is concerned, because they do not have private industry in those counties that is able to provide the service as cheaply as they feel they can have it done otherwise.

Is it your position that the two cannot coexist; that government cannot provide this service, it must be provided only by private industry?

MR. FILIBERTO: No, that is not my position.

SENATOR MC GAHN: All right, fine. Then this is a little bit backing down from the statement that you made in your presentation, in essence.

Let me go a step further, you made reference to the Solid Waste Utility Control Act of 1970 and said, had this been implemented-- In other words,

if the PUC had simply come up with exclusive franchising for private industry in the solid waste disposal area, the situation then might not exist.

MR. FILIBERTO: As it exists today?

SENATOR MC GAHN: Correct.

MR. FILIBERTO: I think what I said was that had the Public Utility Commission completed what it was empowered to do and develop enfranchisement of some sort or other, most of what this bill incorporates would possibly have been completed.

SENATOR MC GAHN: But issuing franchises - these would, basically, be exclusive franchises within a district, an area, or whatever the situation may be. Under these circumstances then large enterprises, large industry, would be in a position where a small entrepreneur could not be, and in essence you would be pushing him out - it would be, basically, restraint of trade.

Very frankly, as mentioned before, this then could be a monopolistic trend in the State of New Jersey, as far as solid waste disposal is concerned.

MR. FILIBERTO: Public Utilities, I think, are a monopoly. This is why the Utilities Commission exists, to regulate monopolies.

SENATOR MC GAHN: Regulate them, but I think that we must admit - on the record - that they have not prohibited them, that, in fact, monopolies have occurred as a result of this kind of thing. That is a comment, not a question.

In reference to the one-year contract, public contracts and bidding law, I think, very frankly, which provides that a municipality shall put up for public bidding each year a particular contract, would preclude anything longer than, let's say, one year, Mr. Schwartz, if I am not mistaken

MR. SCHWARTZ: Senator, the one-year provision is only in this bill as a cutoff date if a solid waste management plan hasn't been adopted yet. The bill, I think, implies that there may be delays in adopting a plan and as a result of those delays a contract should not be given out for more than one year. I can see the sense to that.

SENATOR MC GAHN: Fine. I think we have devoted enough time to that.

For the record though, basically, private industry and government can live together?

MR. SCHWARTZ: Absolutely.

SENATOR MC GAHN: Thank you, sir.

Mr. Ted Schwartz?

T H E O D O R E A. S C H W A R T Z: The last time I had the good fortune to sit in this spot was when the Solid Waste Management Act of 1970 was up for adoption. I testified then on behalf of the State. It was our intention, with that particular act, to provide a more comprehensive approach toward solid waste disposal in the State of New Jersey and also to create a regulatory pattern as far as the economics of the industry were concerned.

The Solid Waste Management Act and the Solid Waste Utility Control Act were enacted in 1970. These two enactments provided for basic powers to the Department of Environmental Protection and the Board of Public Utility Commissioners. For the first time the solid waste business had become a public utility. As such, the solid waste business was subject to vigorous control.

It is clear that collection and disposal of solid waste is an necessity of life and thoroughly affected by public interest.

Along with the foresaid enactments, new solid waste disposal regulations became effective in revisions to Chapter 8 of the State Sanitary Code. For the first time those persons engaged in the solid waste business were required to file registration statements with the Department concerning their particular operations.

In accordance with the Solid Waste Utility Control Act those persons engaged in the solid waste business were required to file applications for certificates of public convenience and necessity, along with tariff and rate schedules.

Since the enactment of the Solid Waste Management Act in 1970, very few permanent registration statements, or certificates, have been issued by the Department for the operation of sanitary landfills or other forms of disposal sites - other forms of disposal, excuse me.

Over three years have elapsed and hundreds of registration statements have not been acted on by the Department. This situation has left the industry in almost a total state of mismanagement and chaos as a result of the Department's inaction.

Many disposal operators that we represent are anxious to implement their various plans and specifications that have been filed with the Department. Some have not done so because final approval has not been received from the Department.

It is the position of the Association and its members that if the Department had acted promptly and efficiently in reviewing the engineering plans and specifications that have been submitted by members of the Association, there would be no need

to propose the adoption of Senate bill 624.

I don't think it would be appropriate at this time to get into a discussion of the solid waste crisis. I think as Mr. Filiberto has adequately stated, we disagree. There are other reasons for the disagreement.

Under the Solid Waste Management Act, the Department, pursuant to the same, is empowered to undertake comprehensive programs for solid waste collection and disposal. To our knowledge, no action has been taken by the Department in undertaking a program of research and development for the purpose of determining the most efficient, sanitary and economical way of collecting, disposing and utilizing solid waste. No statewide solid waste management plan or guideline has been formulated by the Department. I will retract part of that statement since there was a study conducted in 1968, called a Solid Waste Management Plan. However, my review of that plan clearly indicates why the Department hasn't acted upon it because it is basically inadequate.

No activities have been undertaken by the Department for the purpose of demonstrating new methods and techniques for the collection, disposal, and utilization of solid waste. No contracts with public agencies or corporations have been entered into for the performance of any functions under the Act.

As a result of the time involved, I am going to cut short a lot of my statement. Basically I agree with the opinion of the State Supreme Court,

that the Department has not carried out its functions under the existing Solid Waste Management Act. I say that without any malice or any ill feelings towards the people who are responsible to carry out the programs. You know as well as I do that it is one thing to enact legislation but it is another thing to provide the monies necessary to implement the legislation. This program, as indicated by Director Goodenough, has lagged behind because of the lack of funding on behalf of the administration that was in power at the time that the act was adopted. As such, the Department was not able to carry out its functions and duties in a responsible manner.

I would think that if the Department were given the funds to carry out its responsibility under the act, as it is presently written, that we could handle the solid waste management problems in New Jersey adequately.

Additionally, powers were granted to the Advisory Council under the Solid Waste Management Act and their powers have not been carried out.

I believe a witness testified earlier today, from the Council, in that respect. There has been no investigation into the state of the art, technical capabilities and limitations in solid waste in New Jersey.

Presently there exists a dual regulatory scheme between the Department of Environmental Protection and the Board of Public Utility Commissioners. Throughout the last three years - three and one-half years - there has been conflict after conflict between these two agencies as far as the direction that they expect private operators to go in - for lack of a better word. We think that if this Committee wants

to adopt legislation that would be meaningful, and we know that you do, that it should take a good, hard look at the dual regulatory schemes that are presently in existence. We feel very strongly that a bill should - if a bill is to come out of this Committee - give serious consideration to establishing one agency for solid waste disposal and solid waste collection, as opposed to the dual scheme that you have now.

The ills of the Department, I feel, and its inability to carry out its enumerated powers concerning solid waste, should not be laid upon the solid waste industry. The industry is prepared to meet its commitment under responsible and practical regulatory schemes. Let's give a good example - take the Hackensack Meadowlands Commission. The Hackensack Meadowlands Commission developed a master zoning plan for the area. In developing the master zoning plan, they wiped out much acreage that could have been used for solid waste disposal. There are lands in the Hackensack Meadowlands area that have no ecological value whatsoever, which has been stated in reports prepared by the Department of Environmental Protection a number of months ago.

We feel that this practice on the part of the Hackensack Meadowlands Commission in excluding certain areas from solid waste disposal has brought the crisis - strike that-- We feel that they have brought the crisis upon themselves in that area and this can be substantiated very simply from documents in the hands of the Department of Environmental Protection.

Now under the bill that is presently being reviewed - it basically, in my view, is a planning bill and as a planning bill, if it stayed within

the confines of a planning bill it would provide a good end. However, the bill has much broader implications.

There was testimony this morning, I think by Director Goodenough, that in order to prepare 22 district plans, it would cost, I believe he said, \$2 million. I will state right here and now that there isn't enough talent in the State of New Jersey and in the Northeastern part of the United States to develop 22 plans in 22 counties. There are very few people that are engaged in solid waste disposal and collection that have the expertise necessary to go into these areas and develop adequate plans. So, I feel that this mandate to come up with plans in 22 counties, from a practical point of view, is going to be very difficult to achieve with the degree of expertise that the bill encompasses.

We see many drawbacks to the bill, as it is proposed. Basically, there is no mandatory requirement that requires a County Board of Freeholders, or the Hackensack Meadowlands Commission, to incorporate in its management plan private disposal operations. All that the bill sets forth in that regard is that an inventory be made of existing solid waste facilities. Making an inventory and including existing landfills or other disposal operations in the plan are two different things. We feel, in this area, that the bill can definitely be strengthened to make it mandatory that the County Board of Freeholders, in developing a management plan, include as part of the plan existing solid waste disposal facilities.

To give you a good example of the problem that

could be created: As this bill is written, the County Board of Freeholders can adopt a plan that calls for the establishment of a new solid waste disposal facility and that does not include the use of a private disposal facility that is presently in existence. Now if the plan - we will assume the plan goes through the test of the courts and it is approved by the Commissioner - in the particular county that we are talking about, were to dispose of solid waste in a particular new site, what do the existing landfill operators do? Do they close their doors? Because their existing landfills are not in conformity with the so-called solid waste management plan, they are virtually nonexistent.

Now let's look at the conflict that we have. Solid waste - the existing sanitary landfill or the solid waste disposal facility - is a public utility. By the county adopting a plan that excludes a public utility, you now have an interference with service and discontinuance of operations. In order to discontinue operation as a public utility, you have to file a petition for discontinuance before the Board of Public Utility Commissioners and get their permission. Now here is the first conflict that we have between the Board of Public Utility Commissioners and the proposed plan. What if the Board of Public Utility Commissioners say, "now wait a minute, you are a public utility and we want you to continue to provide service"? Well, then you would say, "how can I provide service when I have been planned out of existence. The Solid Waste Management Plan does not provide for the waste to be disposed of at my sanitary landfill."

I believe that when this bill was prepared there was very little consideration given to the interrelationship between the powers of the Board of Public Utility Commissioners in this area and the Department. Additionally, there are other laws which this bill would interfere with in other areas of concern, particularly local matters.

Now, how does this bill discriminate against private industry? In many sections of the bill the county plan would have preference. Let's say a county wanted to adopt a plan which included the establishment of a disposal site. Now if there is an existing solid waste disposal operation that is publicly run with public bonds, then the county plan is prohibited from developing any disposal operation that would be competitive with this existing solid waste facility.

Now why should an existing public solid waste facility have that type of protection, as opposed to a private operation? A private operation, although they do not have public bonds, they have notes and mortgages to pay, concerning the equipment that they use, concerning the cost of operation - why shouldn't they be protected in that respect, as far as competition is concerned? We feel that this is definitely discriminatory.

Additionally, if a county plan encompasses a solid waste facility operation, the bill provides that preferential treatment can be given to that municipality in the form of in lieu tax payments, 25% discounts and other sundry carrots that exist in the bill. In this particular section, the proposed bill is very, very unclear.

I will make reference to what we are talking about. On page 23, Section 19, line 1, "subject to such terms as agreed upon by a board of chosen freeholders. . . . any municipality within which any solid waste facility is located pursuant to an adopted and approved solid waste management plan, shall be entitled to any or all of the following benefits in consideration for the use of land within its municipal boundaries as the location of such solid waste facility." Now just reading that language, literally, particularly the words "any solid waste facility", what are we talking about? Are we talking about a private facility? Are we talking about a public facility? It could be construed either way.

Now, let's assume that they were talking about a private facility being encompassed within that subsection. A private facility would be required to make in lieu tax agreements with a municipality. The private facility would be required to set up preferential rates. Now you know as well as I do that if you are a public utility you can't give any preferential rates to anybody.

Now if that section only refers to a publicly operated facility, that public facility, according to this bill, is a public utility. Now if that public facility is a public utility, then it should be treated on the same footing as any other public utility. But, in this particular section, it is not; the public facility can give preferential rate treatment; the public facility can enter into in lieu tax agreements.

Now, let's look at this in lieu tax agreement provision. The amount of taxes that are to be given

back to a municipality are only those taxes that were assessed on the property in the year prior to the start up of the operation. Let's say the operation goes over 20 years, well the value of that property is certainly going to go up. If a private operator is encompassed under that section, a question would arise as to an increase in taxes. Each year the value of the land is going to go up and the private operator has to keep paying more and more taxes, whereas the county facility wouldn't have to; it would just be one fixed in lieu agreement. The private operator would have to pay the increased cost. We think that is definitely discriminatory.

On page 24, the municipality has "the right to reacquire at no cost to said municipality, any real or personal property used by the solid waste management district in connection with the operation of any solid waste facility", etc., now, again, they use the word "any solid waste facility". Are we talking about a private facility or are we talking about a publicly operated facility? There is no clear distinction under the law. If we are talking about a publicly operated facility, then we have another conflict with the Public Utility status of the public operation.

There is also a requirement on that page, continuing in subsection c, that the property be restored as nearly as practical to its original condition. Well, you are either going to operate a sanitary landfill or you are not going to operate it; you can't restore property to its original condition once you have operated a facility there.

There is no recognition in the bill for the obtaining of franchises by the private operator. Let's say a private operator applied to the Board of Public Utility Commissioners for a franchise and the Board grants the franchise. Let's say that franchise is in conflict with the Solid Waste Management Plan. Who prevails, the DEP or the PUC?

We also have other serious questions in this bill regarding a county disposal facility that would be considered as a public utility. We could have situations of economic frustration - of this utility over the so-called private utility - and the Public Utilities Law specifically prohibits any undue preferences of one facility over another.

There has been significant discussion concerning the time limit involved in preparing these various plans. To my mind there is a very serious timing conflict. Under one provision of the bill, Section 14, it requires that a plan be adopted within 180 days. Under Section 6 of the act, it requires the Department to formulate standards and criteria every two years for a solid waste management plan. Now in reviewing a proposed plan submitted by a solid waste management district, the Department has to apply its established criteria and standards. But if the Department doesn't have any standards or criteria, how can they possibly evaluate the plan? They are given two years in which to come up with a plan containing standards and criteria. So I think in this respect that the time limits in the bill have to be looked into very seriously.

Under an earlier section of the bill there is a provision that the Department cannot issue any new solid waste disposal or collection registration

until the solid waste management plan is adopted or until such time -- or one year, whichever is sooner. Now let's say a solid waste management plan is adopted-- strike that. Once a solid waste management plan is adopted and approved by the Department, that is the plan that has to be followed. No new registration for solid waste collection, or solid waste disposal, can be issued by the Department if it doesn't conform to that plan.

Now let's say you have -- We will assume that the intent of the bill, for this particular illustration, is not to exclude private industry. Let's say we have a private landfill operation; we have ten collectors picking the refuse in ten municipalities. According to this bill, no new collector and no new solid waste operator can get into business because they can never obtain a registration from the Department.

Additionally, in the early portions of the bill, reference is made to a new solid waste disposal or collection facility. We are very concerned as to what is meant by the word "new". I think it should be more clearly defined. If you have a situation, as Mr. Filiberto pointed out, where a landfill operator has 200 acres and he is operating on 100 acres, and, let's say, in 10 years he is ready to go to the second 100 acres, is that a new operation or is that a continuence of an existing operation? I think that the definition should be very clear as to what is meant by a new solid waste collection or disposal operation.

Additionally, there are requirements of environmental impact statements being submitted on various construction standards. We certainly feel

that any disposal operation in New Jersey should be operated in such a manner so as not to create any substantial environmental degradation. Existing landfills, or existing disposal operations, in our opinion, should not be required to file environmental impact statements because they are really meaningless. The operation is in existence. There are adequate standards and regulations which have to be met by existing operations which are the standards that should be followed.

If we have a solid waste disposal facility that has an approved registration by the Department - and the investment involved in a solid waste disposal facility is usually hundreds upon hundreds of thousands of dollars - we feel that these existing facilities, since their plans and specifications may have been approved by the Department and since they are continuing operations, should remain in operation to provide solid waste disposal services. We do not feel that the county plan should be disruptive or eliminate these particular operations.

Additionally, this bill prohibits a county from adopting a plan which includes the possible contracting of services with a private disposal operator in another county. We think that freedom of contract should be kept open and the county should have the ability to contract freely with private operators. Under this bill there is no provision made for entering into contracts with private operators in other counties. It seems to indicate that the only contracts that can be entered into are those between one county and another.

There has been a significant amount of discussion regarding cost factors in this particular industry and Mr. Filiberto has made the unequivocal statement that private industry can provide the service more economically than the public sector. We have found in studies, particularly the one conducted by Seton Hall, that private collection and disposal is cheaper. If we are to really ascertain what the true costs are of municipal disposal, an amendment should be made to this bill requiring municipalities to establish a uniform system of accounting procedures where all their costs of solid waste disposal and collection are reflected accurately.

What happens now is, municipalities have a tendency to bury costs in other portions of the budget, regarding solid waste collection, so you never see the true cost and the taxpayer doesn't see the true cost of public collection or public disposal. We suggest that an amendment, or supplement, be made to this bill, or some legislation be adopted to require municipalities to establish a uniform system of accounts.

We also suggest that municipal operations for collection and disposal, which are presently not encompassed within the jurisdiction of the board, be required to be regulated as public utilities. There was a bill in last year to that effect but it never was able to get out of committee.

Now I can go on and on but I know the hour is late. I have marked off various portions of the bill which point up what we feel are very serious problems.

I think the sum and substance of our testimony is that, number one, we feel the legislation

is not needed. We feel that if the Department were adequately funded, they could carry out their responsibilities under existing law. If you intend to adopt, or recommend the adoption of this legislation, then it should be amended to make it abundantly clear - to use the President's words - that private industry shall be included and shall be encompassed within the purview of any solid waste management plan.

There are millions of dollars worth of equipment and facilities that are operated by private collectors and I don't think that the Legislature would like to see that go to waste. We think that the private operations that are presently in existence, especially disposal operations, should remain and should be required to be part of the plan.

In developing the plan, the county is required to confer with a municipal advisory board and nowhere is there any provision that private industry is to be consulted on any of these plans. We feel that is another reason why we have been neglected and that the intent was not to consider our side of the picture or our know-how. There is no input whatsoever required from the private industry in formulating these plans.

I think I have taken up enough of your good time today with my remarks. If there are any questions or any additional material you need from me, I will be more than happy to provide it and I thank you for your patience and your indulgence.

SENATOR MC GAHN: Thank you, Mr. Schwartz. Despite the fact I am higher on the Harris Poll than a lawyer, I will certainly not get involved in questions in your area.

I think, however, I have gotten two points out of this. Number one, the term crisis can be used prospectively; if we don't have a crisis at the moment, by the time we get any action on this there will be a crisis. That is number one.

Number two, I think another point very well taken is the fact that we have here a gentleman who, in 1970, was largely responsible for what is in both of these bills and who, four years later, comes back and picks them, very ably, apart. Certainly, I think, in this particular incident that this will not be "no fault insurance" and I think the attorneys will still be able to keep going.

No - no more facetious remarks - we do appreciate the remarks that you made. We are cognizant of your position, with relation to private industry. I think, however, as I mentioned before there are certain areas in this State where private industry has not met the needs of the solid waste disposal situation and this is primarily one of the main thrusts for this.

I don't believe that the legislative intent of this bill was ever to preclude, or preempt, in this act, private industry.

I think the point made concerning the dual role of PUC and DEP and having this, if you will, possibly, under a single agency, there is a lot of merit to that. I don't think there is any doubt about that.

I have no further questions and I will now turn it over to the only attorney that we have here on the committee.

MR. SCHWARTZ: The one point I neglected to

mention, and which you should be aware of, is that recently the Governor signed into law an industrial pollution control financing act - I don't have the exact title - which does provide the private sector with the opportunity to finance pollution control projects, and I think it even mentions refuse and public utilities and things like that, with tax-exempt bonds. This legislation would, as far as the solid waste industry is concerned, totally frustrate the ability to utilize that legislation if we were not included and if it were not made clear that we were included in this particular legislation.

SENATOR GREENBERG: Ted, you made your presentation and the position of your client is very clear to me now. It is abundantly clear. It is crystal clear. It is perfectly clear.

I want to ask you one question. This is an important one to me. You talked in terms of the bill being amended to provide that private industry be required to be a part of the plans that may be formulated under this bill - or legislation - if it is enacted. Would private industry be satisfied - and I use that term understanding that they would prefer to have no legislation - if the bill were to make more clear the fact that private industry should not be discriminated against but that, in fact, could become a part of, and utilized, without the necessity for it being mandated?

MR. SCHWARTZ: Well, no. I think, Senator, that in the portions of the bill that require the counties to come up with a solid waste management plan, that there should be a provision that requires

the counties, in promulgating this plan, to include the existing solid waste disposal facilities, or other operations that are in existence. That is the type of protective language we are very much concerned about. We don't think just a statement in the bill that private industry should be recognized and should be dealt with fairly would be enough because there are other provisions in the bill that provide for preferential treatment - or gives a county solid waste disposal operation greater powers as a public utility than it does a private so-called public utility and we think that they should be on an equal footing as far as the powers that they have are concerned. Why shouldn't a private landfill - or private disposal facility also be empowered to give preferential rates to a municipality wherein the facility is located?

What we are saying is that we would like to see all public utilities that are providing the same service to be treated equally. So there are sections of the bill that could be dressed up in that respect.

SENATOR GREENBERG: I know it is late but I want to just pursue this for one more second. I am not referring to that. Let's assume for a moment that they could be treated as utilities, in fact they were performing a function which defined them as utilities, and that you and I have a disagreement as to what the interpretation of some language in here might mean-- Beyond that, as it now stands, the initial objection from the Chairman of the Association - and one which you have articulated as well - is that you are not mentioned in here. Subsequently you talked in terms of mentioning by

way of a specific declaration that they must be utilized in some fashion.

MR. SCHWARTZ: Included.

SENATOR GREENBERG: Short of that - and I don't think you can get it, I don't think you can accomplish that objective as a personal view - would the industry be satisfied with what I have described as recognition of its prior service and the fact that it should not be discriminated against?

MR. SCHWARTZ: Well, I would have to say no, Senator, because under the bill the county could come up with a solid waste management plan that eliminates existing sanitary landfills where you have, on a disposal operation, substantial investment; where you have landfill that can provide service for the next 10 or 20 years; and you have hundreds of thousands of dollars invested in equipment which could go down the drain. Of course, there would be a long, long, long legal battle. It may take 10 years.

SENATOR GREENBERG: I am warned and I would not like to see that.

MR. SCHWARTZ: I don't either. We don't want that.

SENATOR GREENBERG: I recognize the harm that would result from that. We have to balance the interests.

MR. SCHWARTZ: We feel that by this legislation that a county could legislate, or plan, us out of existence as far as existing facilities are concerned, and totally destroy us as a public utility.

I would be interested to see what the Public Utility Commission's remarks would be in this respect because their powers are being infringed

upon very substantially in this bill. I think you are going to create more of a chaotic condition, aside from the legal reviews that are provided in the bill, in attacking the plan.

I think that the counties should not be given the option. What, in effect, the bill does is give them the option to put us out of business. If they decided to do that, under this bill they can accomplish it.

SENATOR GREENBERG: Thank you very much. I appreciate your remarks.

SENATOR DUNN: I'd like to know what makes up the Solid Waste Industry Council? Who are the members - garbage collectors?

MR. FILIBERTO: That's correct. We are made up of some - the figure escapes me right now - approximately 11 Associations. We are an Association of Associations.

SENATOR DUNN: Do you have collectors and dumping ground operators?

MR. FILIBERTO: Yes. We have a complete cross-section of the industry.

SENATOR DUNN: Do any of your members own and operate-- You keep referring to solid waste facilities. I take it to mean you are talking about the landfill operation only.

MR. FILIBERTO: No, sir.

SENATOR DUNN: What would be something else besides the landfill operations?

MR. FILIBERTO: There are, as Mr. Schwartz pointed out, numerous proposals before the Hackensack Meadowlands which incorporate a bit more than landfill methods of disposal.

SENATOR DUNN: But currently speaking, what other facilities, other than landfill operations, are incorporated in the Industry Council?

MR. FILIBERTO: I would say, other than landfilling, none.

MR. SCHWARTZ: When you are talking about landfilling, Senator, there are other aspects to it. Some operators are involved in recycling operations at the landfill - in other words, where you reuse terminated landfill sites for new disposal. That is recognized and mentioned in the bill someplace.

This has been going on. Where old sites have been re-excavated and the material found to be decayed and inorganic - I guess that is the right word - you redeposit in the same place; this is like a recycling process.

There are other landfill operators that are looking into the mining of methane gas, which is something very new.

SENATOR DUNN: Both of you gentlemen made several references to the solid waste facilities that you are afraid of losing and you sort of draw a picture of structures of some type, like incinerators. Actually you are not talking about any facilities at all; you are talking about dumping grounds.

MR. SCHWARTZ: We are talking, basically, at this time, about sanitary landfill operations.

SENATOR DUNN: Yes. And Mr. Filiberto said that there is nothing else other than landfill.

MR. SCHWARTZ: I will carry it a little further, Senator. Many disposal operators have gotten into new techniques of sanitary landfill method. It is not just spreading the garbage on the land and

compacting it and putting on six inches of cover at the end of the day - or twelve inches of cover, whatever the case may be. A lot of operators have gotten into compaction equipment whereby the solid waste itself is compacted by special machines on landfill to make the compaction much greater than what is normally envisioned on the sanitary landfill. These machines may cost \$100 to \$150 thousand. So the landfill process, as such, is being improved upon steadily.

I think Senator McGahn asked a question - or maybe it was Senator Greenberg - about why hasn't the private sector developed different methods of solid waste disposal. Well, I will be very blunt about it; I don't think the public is ready to pay the price.

SENATOR DUNN: Well, I just want to drive home the point, if I can, that it is my understanding that the intent of this legislation is to help your industry, rather than to hurt it. So if you are innovating and experimenting with new methods of solid waste disposal, the intent of this legislation is to help you. It makes several references to making grants to you to help you with your innovations and to help you with experimentations and what not - I forget what the language is. There is no question about it; it wants to take an inventory as to what land is available for additional landfill and how it can be sensibly used.

I fail to see where anything in this legislation implies that we are trying to drive you out of business. The more I read it and the more I listen to you, the more I am convinced that the legislation is going to be of immeasurable help to the private

sector involved in the landfill operations or in solid waste disposal.

MR. SCHWARTZ: Well, I think, with all due respect, that's where we respectfully disagree. We think just the opposite.

I am happy to hear that that is the committee's intention. I don't think it would be at all difficult to-- It appears to be a consensus that your intent is not to exclude private industry but to make them a part of the solid waste picture. We would like to see the legislation corrected to make that clear; that we are to be part of the solid waste picture; that we are not to be planned out of existence by a County Board of Freeholders. That is what we are concerned about and I am glad to hear that that is your intent and I would hopefully, and respectfully, request that the bill be amended.

SENATOR DUNN: It is also our intent not to let the industry take advantage of a good thing.

MR. SCHWARTZ: Absolutely. We don't intend to do that. Garbage has always been picked up in New Jersey. There has never been a strike, like New York. I heard on the radio today, coming down, that there was a report issued by the City of New York that if private collectors picked up the refuse in New York City from residential areas, that the City would save \$75 million. I will leave you with that remark.

SENATOR MC GAHN: Before you leave, if I may-- Senator Dwyer?

SENATOR DWYER: That last remark - there was one additional part, there is no private collector that wants to pick up the garbage from the dwellings

of New York; so I really can't see the basis for that remark.

MR. SCHWARTZ: The basis is that it confirms what we have been saying all along, that private collection is less expensive and more economical.

I threw that out as a pun. We have dealing in the spirit of cooperation here without any adversity, so to speak.

SENATOR DWYER: One more question. You refer to the Seton Hall Study.

MR. SCHWARTZ: Yes.

SENATOR DWYER: I have heard that mentioned a number of times today and I would like to have a copy of that.

MR. SCHWARTZ: We will provide that.

SENATOR DWYER: When was this report published? What prompted Seton Hall to make that study?

MR. SCHWARTZ: I think it was a request by the industry.

SENATOR DWYER: Was it a request by the industry?

MR. SCHWARTZ: I don't know, I wasn't counsel at that time.

MR. FILIBERTO: As I recall it, and it does go back some time, it seems they became interested in the problem themselves and conducted the study.

SENATOR DWYER: Was there any grant made by the industry to the University?

MR. FILIBERTO: Yes, they did advertise for funds and the industry did contribute.

SENATOR DWYER: Thank you very much.

MR. SCHWARTZ: Senator, we have, on our staff, engineers who are experts in solid waste management and also a leading economist who has done work

for us in this area. We have been conducting some of our own investigations. We have submitted extensive reports to the Department of Environmental Protection when they prepared the new disposal regulations. It consumes about 130 pages. If you like, we can make those documents available to you - they are economic studies.

We also have offered to the Department - you should be aware of this - that we would participate jointly in an investigation by them as to what we do have in this State regarding sanitary landfill facilities and solid waste disposal facilities. We would participate and lend our engineering expertise and do it jointly and come back with whatever information is necessary. We also requested to assist in performing an economic study for the Department with regard to this particular industry.

We stand willing to do that, certainly, with the Committee. We would be more than willing to provide anything you feel would be necessary concerning this problem. Because I really feel that if we are really going to do the job right in this State, or try to improve what we have, let's really go for the whole ballgame. Let's look at the PUC - the interplay. Let's look at the cost involved at the municipal level. Let's really do a bang-up job. Let's attack the problem, not parcel by parcel but let's meet it head-on.

I think some of these suggestions that I have made about having one agency, consolidating the powers-- We are not casting any aspersions against the PUC. They are operating. They have budgetary limitations. They do the best they can. They are

very honorable people who are working very hard. But they are handicapped. There just aren't enough expert people in this area to really cope with this problem. I think Director Goodenough made the point very clearly, that water pollution and air pollution was very glamorous issues; they compare with motherhood and the flag. In the meantime everyone forgot about solid waste, and because they forgot about it it is going to come back to haunt us. I do think that we should pay more attention to it and provide more funding for the program.

We have been frustrated in our attempts to have joint studies with the Department because they don't have any money. So, I would like to see the entire area fully and completely attacked. If we are going to do it, let's do it right.

SENATOR DWYER: If I had known that you were going to editorialize, I wouldn't have asked the last question.

SENATOR MC GAHN: I think he anticipated my last question.

My last question is simply going to be for the record. In view of your previous remarks, would your industry be able to carry out, basically, the intent of this, as far as coming up with an inventory and land use plan for the various counties of the State?

MR. SCHWARTZ: The industry?

SENATOR MC GAHN: The industry.

MR. SCHWARTZ: Sure.

SENATOR MC GAHN: Could you guarantee that there would be good service?

MR. SCHWARTZ: We could come up with a plan.

Mr. Filiberto has made that abundantly clear. We are in it to stay.

SENATOR MC GAHN: Remember there happens to be, again, one primary difference between private enterprise and government service, as inefficient as the latter may be, and that is the profit motive.

MR. SCHWARTZ: Well, I am not going to comment on that.

SENATOR MC GAHN: Thank you very much, gentlemen. I think it has been very enlightening.

MR. SCHWARTZ: Thank you.

SENATOR MC GAHN: Mr. Dumont Van Dorn?

W. D U M O N T V A N D O R E N:

Mr. Chairman, members of the Committee and attendees, I welcome the opportunity to represent that beautiful and, yet, unspoiled County of Hunterdon at your meeting today.

First of all I'd like to say that Hunterdon County clearly endorses the basic concepts contained in S-624. After the public hearing that you are now holding and the testimony has been weighed by the Committee, we urge that the legislature will promptly proceed with the adoption of S-624 as modified.

I have a written statement prepared by the Chairman of the Hunterdon County Solid Waste Committee which was created by the Board of Freeholders about two and one-half years ago and which Committee has been actively engaged in developing a Solid Waste Management Program for the County of Hunterdon and is now well along in its development and exploration of it. Mr. Knispel, the Chairman, regrets he was unable to be with you today and he has asked me to read this to you.

I am in accord that solid waste can best be handled on a regional or a district basis. In Hunterdon County, this is our plan - to handle solid waste on a countywide basis.

I agree with S-624 that each county shall be a Solid Waste District.

On page 5-4a - I question the intent. Does this mean that the department will actually supervise operations and facilities? Or does it mean that the department shall supervise by setting up guides, rules or procedures? I feel that the actual supervision should be left to the county or district. (This, of course, to be under the guides set by the department.)

On page 6 - No. 5 (line 3 and further). Here it is mentioned the way in which a person can receive a permit. I feel that the district (county) should be consulted before a person is granted any permit. I feel that to make the operation of districts' facilities practical and workable, everyone within the district should use the facility. This cannot be done if separate permits are granted to persons without the knowledge - and perhaps the consent of the district.

On page 11 (lines 39-43) - Advisory municipal council - I feel that the proposed size of the advisory municipal council is completely too large. In Hunterdon County a five-member committee along with the County Planning Director and a Freeholder is handling the job well. According to S-624, in Hunterdon we would have a 26-member committee. It is difficult to get a non-paid council or committee together for meetings. Another reason - in many municipalities the Mayor is not a full-time position and he is already called on to serve on many committees. I strongly suggest that a five, seven or nine member committee be appointed by the Freeholders. The Act provides for consultations, reviews and hearings with municipal agencies and municipalities - so that there appears to be no need to have a representative for each municipality.

On page 12 (line 26) - a department, unit or committee is mentioned. Why can not the advisory council and this aforementioned department or committee be one and the same? It would appear that there will be a lot of committees and people involved before anything can be decided.

A final suggestion - that somewhere in this Act the use of a county or district facility be mandatory

I feel that unless all collectors make use of the district facility it will not be operated in a proper manner.

Thank you for proper consideration to the above suggestions.

SENATOR DWYER: Thank you, Mr. Van Doren.

Are there any questions? (No questions)

Thank you very kindly.

Mr. Steve E. Van Vliet, Gloucester County Board of Freeholders.

S T E V E E. V A N V L I E T:

Mr. Chairman, members of the Senate, I, Steve Van Vliet, have been directed by the Gloucester County Board of Chosen Freeholders to offer Gloucester County's comments on Senate Bill No. 624. I, personally, am employed by the consulting firm of Roy F. Weston, Incorporated, in Westchester, Pennsylvania, and I am currently the Project Manager for Roy F. Weston's efforts on the Gloucester County Solid Waste Management Plan.

The following two comments are the result of discussions with Gloucester County officials, and I will go through those now.

First, Gloucester County is in favor of the purpose and intent of Senate Bill No. 624. Effective solid waste management planning can result in maximum environmental benefits and minimum costs. Recognizing the value of the planning process, the Gloucester County Board of Chosen Freeholders has already undertaken the responsibility of developing a Solid Waste Management Plan. Municipalities and residences are increasingly voicing their dissatisfaction with escalating costs. Although such cost increases may be justified within the present system, they emphasize the need to find ways to counter-balance increasing

unit costs with improved efficiency. Comprehensive planning and analysis is the first stage to this end. Optimization in the solid waste system, with resulting efficient use of man-power and equipment, will pay rich dividends now and in the future. Detailed analysis of the solid waste management problem on a county and regional basis will enable county and state efforts to concentrate on modern operating and maintenance practices. The clean countryside, reduced urban litter, increased citizens' morale, positive public opinion, resource conservation and recovery, lower unit cost and more efficient use of environmental control monies are a few of the real advantages available. Solid Waste Management Planning is a technology. It requires the balanced integrations of many disciplines and resources. To assure Gloucester County and its residence that the plan will foster an effective, efficient and economical solid waste system, Gloucester County retained the consulting firms of Roy F. Weston, Incorporated, and McFarland, Johnson, Gibbons Engineers, Incorporated. Application of the powerful tools of modern solid waste management planning technology, such as computer models, enables the evaluation of complex relationships to be simplified while allowing many alternatives to be tested in a short period of time. The acquisition of a comprehensive and detailed data base for alternative system evaluations for Gloucester County Solid Waste Management Plan is currently in progress.

Secondly, Gloucester County would further like to suggest to the Senate Committee on Energy, Agriculture and Environment that serious consideration be given to extending the 180 day time allowed for the solid waste management districts for the development and submission of solid waste management plans. Gloucester County, upon in-depth analysis of the planning process, be-

believes that one year, at minimum, is required to develop an effective solid waste management plan.

Beyond these previous comments in behalf of Gloucester County, Mr. Chairman, I would like to add the following comments based on Roy F. Weston's experience with solid waste management planning.

Our experience in the development of approximately 20 solid waste management plans - county, intercounty, state, and interstate - leads us to believe that it is in the best interest of New Jersey and its residents to extend the developmental and review stages of solid waste management planning.

Our recent investigation disclosed that less than half of the districts in the state have taken the opportunity to develop their first solid waste management plan. Some of the district plans that do exist are not comprehensive and have not been approved by the Bureau of Solid Waste Management. An effective solid waste management planning study requires a thorough evaluation to include current and projected waste composition, quantities, distribution, land-use, transportation networks, resource recovery potential and proven technological systems. Further, a detailed assessment of political and legislative structure and physical constraints is necessary to maximize the utilization of local and regional resources. These activities are a prerequisite to the development of comprehensive solid waste management plans which can be implemented. We have seen too many plans developed to meet the letter rather than the spirit of the law, which lack the depth and insight of the law. For example, the solid waste allocation model (SWAM) will most likely be used in the Gloucester County Planning effort. This model, drawing upon an accurate and detailed data base, will generate, as an output, the optimal system, the

least cost mix, the site, and processing combination. A review of the results of such an analysis in the context of local, social, political and economic constraints brings the real issues into focus. The product, a specific and defensible plan of action, fosters effective transition between the plan and implementation and between the existing and recommended system. The solid waste management plans can be done in 180 days. However, a six month time requirement allows, at best, four months of active plan development. Four months does not allow sufficient time to involve citizens, industry and the affected agencies of government, both at home and the neighboring jurisdictions. A plan developed without such broad community participation does not elicit the prequired commitment of those individuals and organizations necessary for successful implementation. May we suggest the time limit be extended to one year, that the first progress report from each solid waste management district to the state be provided in 180 days and that there be a second progress report at the end of 270 days. Such an extension, based on our judgment, will bring significant returns to each district and the state.

In conclusion, this legislation will have a significant impact. Let us assure its impact is felt where it is most needed; that is, in contributing to the initiation of a sound solid waste management system in each district and in the state. We can do this by allocating adequate time to building a strong and comprehensive foundation, the plan. We can, then, move forward with perspective and confidence in keeping New Jersey the Garden State.

Thank you.

SENATOR DWYER: Thank you. Any questions?

ASSEMBLYMAN VAN WAGNER: I'd like to - if I might impose on your expertise - ask you a question. In your analysis of this particular bill - and I understand you're in the professional engineering field --

MR. VAN VLIET: That's correct.

ASSEMBLYMAN VAN WAGNER: Would see foresee - and this is hypothetical, I realize that - on the part of private industry, an increased or decreased participation in the overall area of solid waste disposal?

MR. VAN VLIET: This assessment is one of the integral parts of the planning process. Due to the nature of the planning that has been going on in Gloucester County, it is in its infancy now. This is an area which needs considerable attention to it. There is no preconceived notions as to the outcome of their participation and their involvement in the future. It will be analyzed indepth both in the industry in Gloucester County and the importation of waste from neighboring states also.

ASSEMBLYMAN VAN WAGNER: So, in other words, you would have to analyze the entire field of solid waste disposal? It would not be a question of one area taking precedence over another?

MR. VAN VLIET: That's correct. It is really a matter of looking at the problem, defining the problem in detail and arriving at solutions which are not only economical but will build a foundation for long-term effective management, be it private industry or public industry. It requires consideration of many methods beyond landfill and its potential problems which can arise many, many years from the date of the closing of the landfill.

ASSEMBLYMAN VAN WAGNER: Can I assume it would certainly take into consideration existing facilities?

MR. VAN VLIET: Yes, it will.

ASSEMBLYMAN VAN WAGNER: Thank you.

SENATOR DWYER: Are there any further questions?

(No questions)

Thank you.

Mr. Joseph Picardi.

J O S E P H P I C A R D I: My name is Joseph Picardi. I am a member of the Atlantic County Planning Department. I am here, today, representing the Atlantic County Board of Chosen Freeholders.

The Board of Chosen Freeholders of the County of Atlantic feels the same as the Legislature that the collection, disposal, and utilization of solid waste is a matter of grave concern to all citizens and is an activity thoroughly affected with the public interest; that the health, safety, and welfare of the people of this State and this County require efficient and reasonable solid waste collection and disposal service or efficient utilization of such waste and we understand the major role that counties are being asked to perform.

While we agree with the intent of S-624 establishing a statutory framework within which all solid waste collection disposal and utilization activity in this State may be coordinated, we do so with the following findings and recommendations:

Paragraph 11 Section (a) reads - "Within 180 days after the effective date of this amendatory and supplementary act, the respective boards of chosen freeholders . . . shall develop and formulate, pursuant to the procedures herein contained, a solid waste management plan . . ."

We believe that 180 days is unrealistic and allows insufficient time to develop a viable, effective solid waste management program. Solid waste management and disposal is a complicated, complex problem, the

solution of which relies upon modern complex technology. The legislation recognizes this in calling for the support and undertaking of experimental projects and programs of research and development. While the county has considerable expertise in its employ, there are no solid waste experts per se, which would necessitate contracting solid waste consultants. This process alone would take considerable time.

Furthermore, 180 days allows insufficient time to seek necessary federal or state grants-in-aid for such a study since the legislation, which is imposing an "edict" upon the counties, does not provide financial assistance with which to produce and implement the plan.

We also do not believe, and we see no proof to the contrary, that the state itself, through the Department of Environmental Protection could produce and implement a solid waste management plan in 180 days itself for any solid waste management district.

The time limit, I think, was one of the major factors brought out by most people today. Also, Mr. Goodenough, himself, stressed that the Department of Environmental Protection also does not have the resources to do the work that is entailed by this legislation.

Paragraph 19 Section (c) states - that the municipality has "the right to reacquire at no cost to said municipality any . . . property used by the solid waste management district . . . upon the expiration of the time interval agreed upon . . ." It further states that "any real property reacquired by a municipality . . . shall be repaired and, as nearly as practicable, restored to its original condition . . . by and at the expense of the board of chosen freeholders."

We feel there is no justification that

any property purchased by county-wide taxes or any solid waste facility financed by county-wide taxes should revert to any one municipality but rather this property should remain county property to be used for county parks or any county facility for the benefit of all the municipalities.

Now, I conclude with one of the problems brought up by the Board of Chosen Freeholders and that is that it is disturbed by the fact that State legislation can be passed without appropriate appropriations. This particular act comes after a time when the juveniles in need of a supervision program had just brought down upon the counties. It has been brought down upon the counties at a time when the budget has almost been put aside, laying additional responsibilities upon the county. The Board of Chosen Freeholders recognizes the problems of solid waste, but it also recognizes that it does not have the resources to do the job that must be done. With this I conclude.

SENATOR DWYER: Thank you, Mr. Picardi.

You made the point on time. We are very cognizant of the time restrictions in the bill. We are, also, very cognizant of the fiscal problem that the county might have. We understand that.

Thank you very much.

MR. PICARDI: Thank you.

SENATOR DWYER: Mr. Chris Burke from the New Jersey Public Interest Group.

(Not present)

Mr. Thomas J. Smith from Alpha, Incorporated.

T H O M A S J. S M I T H: My name is Thomas J. Smith and I am President of Alpha Corporation. I have prepared a written statement but the hour is late and I see no point in reading it, so I will not.

SENATOR DUNN: Tom, just for the record, it might be helpful if you would give some of your credentials.

MR. SMITH: My credentials in the solid waste business are relatively newly acquired. I have been President of some five railroads operating in whole or in part in this State. The purpose of the Alpha Corporation is to implement the rail transportation of solid waste. We have moved fairly well along, and we will be operational, hopefully, by the end of the year. (Mr. Smith's testimony can be found on page 106 A)

SENATOR DWYER: Thank you, Mr. Smith.

Mr. Vincent J. Dotoli, Representative of the South Jersey Landfill Operators Association.

Do you have a prepared statement, Mr. Dotoli?

V I N C E N T J. D O T O L I: No, I don't.

Thank you, Senator. I would like to state that I am Vincent J. Dotoli giving testimony, today, on behalf of the South Jersey Landfill Operators Association which is an association of both landfill operators and also solid waste collectors in South Jersey. I would also like to take this opportunity, on behalf of the South Jersey Landfill Operators Association, to state that we commend the Committee and each of the honorable Senators for calling for a public hearing and hearing both the viewpoints of private industry and also the public.

I would like to state that I feel that I am in the fortunate position of having spent more than five years with the New Jersey Board of Public Utility Commissioners and also being the attorney who had the Southern Ocean Case certified to the Supreme Court and had the opportunity to argue

that case before the State Supreme Court.

The Solid Waste Industry has - since the inception of the Solid Waste Management Act - urged much needed reform in the regulation of the Solid Waste Industry and has also urged the state agencies to consult with the Solid Waste Industry in matters concerning the industry. The end result, however, has been, basically, rejection on behalf of the New Jersey Board of Public Utility Commissioners and the New Jersey Department of Environmental Protection of the Solid Waste Industries' assistance. Furthermore, the end result has also been a statement by our Supreme Court, that after more than three years after the legislature declared there to be a solid waste crisis in the State, that crisis still exists. Furthermore, Senate Bill No. 624, itself, recognizes the general inadequacy of the State's technical assistance. The lack of responsible regulation by both the New Jersey Board of Public Utility Commissioners and the New Jersey Department of Environmental Protection has caused the Solid Waste Industry not to move forward as it should have in the last three and one-half years. The Supreme Court of New Jersey stated in Southern Ocean Landfill that new methods of solid waste collection and disposal should be developed. The Solid Waste Industry, however, instead of being able to devote their time and energy in the last three and one-half years to find the new methods of solid waste collection and disposal, has had to spend the last three and one-half years urging the New Jersey Board of Public Utility Commissioners to treat the Solid Waste Industry as a utility.

The legislature, approximately three and

one-half years ago, declared the Solid Waste Industry to be a public utility, but the New Jersey Board of Public Utility Commissioners has steadfastly refused to treat the industry as a utility. Not only hasn't the New Jersey Board of Public Utility Commissioners granted franchise areas to the Solid Waste Industry but, moreover, they have rejected the established policy of public convenience and necessity which is the foundation of all utilities.

The New Jersey Board of Public Utility Commissioners has since November 6, 1970, allowed the establishment of hundreds of new solid waste companies with little or no concern for public convenience and necessity; that is, the need for the service and the inadequacy of existing services. However, the problems are far from insurmountable. What is urgently needed in our State is a mandate from the legislature and our Governor to the New Jersey Board of Public Utility Commissioners to treat the Solid Waste Industry as a utility. The utility concept, if properly exercised and when functioning properly, can benefit both the public and the industry. The public is benefited because all aspects of the utilities' regulation, the utilities' rates and the utilities' service are controlled by the State. In turn, the utility benefits because the utility, through franchised areas, is assured of certain customers and, therefore, they can have reasonable assurances that in the future they will have the needed revenues to develop research and development programs and other capital expenditure programs which will enable the utility to seek better and more efficient and more economical ways to provide the utility service. I think that after reviewing the history of the Solid Waste Regulation in the State of New Jersey, one must

take a careful look at the statements made at this hearing by the New Jersey Department of Environmental Protection. The New Jersey Department of Environmental Protection has continually rejected the efforts of the Solid Waste Industry to become more involved in making suggestions and lending their expertise to the New Jersey Department of Environmental Protection.

What has been the result of this thinking and these policies? The result has been a proclamation by the Supreme Court that after more than three years of regulation, the State of New Jersey is still in a solid waste crisis, the same crisis that existed more than three years ago. Now the New Jersey Department of Environmental Protection, through its representative, is giving support to Senate Bill No. 624. The New Jersey Department of Environmental Protection has failed to responsibly plan for the solid waste needs of the State of New Jersey and now they seem to be saying that they are willing now to let the counties have a try at it. The New Jersey Department of Environmental Protection has also rejected the provision in Senate Bill No. 624 that provides for four members of the Solid Waste Advisory Council to be members of the Solid Waste Industry. This is not surprising because this has always been the response of this Department. The track record of this Department in the Solid Waste Industry has been a tragic failure both to the public and to the industry. What is needed in this State, in our opinion, is a long, hard look at the expertise or lack of expertise possessed by, not only the New Jersey Department of Environmental Protection, but also the New Jersey Board of Public Utility Commissioners. After a full review and investigation of these agencies, the conclusion can only emerge that more

expertise in Solid Waste Management is needed within these state agencies. Furthermore, individuals are needed in these state agencies with proper expertise and experience in Solid Waste Management. These suggestions have been addressed to the New Jersey Board of Public Utility Commissioners, but their reaction has been quite negative.

No one in the State of New Jersey wants a landfill in their neighborhood. Likewise, no one in the State of New Jersey really wants a power tower or a switching station in their neighborhood. However, the implementation of these utility functions is, in fact, a utility question and not a political question. Under Senate Bill No. 624 the location of a sanitary landfill, in our opinion, would, in fact, become a political question. Senator Feldman mentioned, what would happen if a county did not have adequate landfill facilities? We believe that question, in our opinion, is a utility question that should first be brought before the New Jersey Board of Public Utility Commissioners in accordance with the existing statutes in the State of New Jersey. Later, if an appeal is warranted, then an appeal can be brought to the Superior Court. However, for the Commissioner of the New Jersey Department of Environmental Protection to order, for example, that all Hudson County garbage should go to Monmouth County, we believe this question should be decided by a utility rather than by a County Board of Freeholders. This question should be decided by a utility with the expertise to best decide where this facility should be located to best service the interest of the public from a service standpoint. Nowhere in the Southern Ocean Case - which has been referred to at various times

during this hearing - has the Supreme Court ever hinted that a statewide or regional Solid Waste Plan should be developed by county government as opposed to private industry. We do, basically, share the same reservations that other members of the industry have put forth today. In fact, in the Southern Ocean Case, the Court upheld the right of a private sanitary landfill to operate without and free from the restrictions placed upon it by a local municipality. It is our position that Senate Bill No. 624 is, unfortunately, a product of the failure of the State to properly regulate the Solid Waste Industry. However, the State's failure to remedy the crisis should not be countered with an alternative which will create much greater problems. It has been our position - and it is the position of the South Jersey Landfill Operators Association - that that private sector can best serve the needs of the public of the State of New Jersey with solid waste collection in a more efficient and economical manner.

On November 20, 1972, Time Magazine stated in a Solid Waste article that other cities that have turned over all or part of their garbage business to private hands include Boston, Omaha, Detroit, Dallas, and Charleston, South Carolina. Indeed, only bureaucratic lethargy and union opposition prevent more cities from contracting with private companies. In spite of this and in spite of many studies taken, not only in the United States, but also here in New Jersey - and I specifically refer to the Seton Hall Study which is entitled, A Cost Study of Solid Waste Systems in Selected Communities in New Jersey by Seton Hall University, School of Business Administration, which study was dated, Spring of 1972. In spite of this

New Jersey now proposes, in our opinion, a system which would virtually turn over solid collection and disposal to county government.

Would the state turn over the production of electricity and gas to county government? I think that we should look at the solid waste utility industry in a similar light since it is, probably, one of today's most complex and most critical of all utilities. Not only has the Seton Hall Study been released, but we also have many examples right here in the State of New Jersey with regard to the general rejection by the citizenry of governmental take-over of solid waste systems. I can point out, very emphatically, the case in Jackson Township, New Jersey, in Ocean County where the electorate had before it, on a general election referendum, whether or not the Township of Jackson should institute a municipal solid waste selection system. This issue was fought very heatedly by all concerned. In the final analysis, after a full review of all the facts that would take place with regard to a municipal solid waste collection system, the voters of the Township of Jackson rejected by a margin of more than 2 to 1, the institution of a municipal solid waste collection system. Recently, we have seen that in Woodbridge, New Jersey, there is being considered the implementation of a private solid waste system and a scrapping of the present municipal system. We believe that the ultimate question with Senate Bill No. 624 is whether or not this bill is in the best interest of the public of the State of New Jersey. We believe that it is not. We believe that the effect of the bill will create a piecemeal approach to solid waste management in the State of New Jersey. We believe that the results of this bill will cause either more confusion and chaos

Furthermore, the end result of this piecemeal approach will be to increase the cost of solid waste collection and disposal to the public of the State of New Jersey. Also, the results of this bill could possibly be a situation in which solid waste becomes a political football and a financial fiasco within the State of New Jersey. What this bill really represents, in our opinion, is a countywide public subsidy. Senate Bill No. 624 represents a situation, in our opinion, in which an existing industry which has been servicing the public in an efficient and economical manner is now being turned over to county bodies which, admittedly, in almost all cases, lack the necessary expertise in solid waste management. It is our opinion - and we also believe - that it is urgent for the State of New Jersey to fully discuss this matter with the Federal government. We believe that after a full review is made of Senate Bill No. 624, it will be shown that counties are not the natural boundary lines for solid waste districts. In the South Jersey area, Camden County and Philadelphia have always been considered as one basic unit for solid waste collection and disposal services. If - in the final decision and in the final analysis - the Courts of either the State of New Jersey or of the United States decide that the recently-enacted legislation - outlawing and banning out of state solid waste from coming into the State of New Jersey - if that is adjudged to be unconstitutional by the Courts of the State or the Courts of the Country, then we believe that this would just be one of many examples that would pose a serious problem to a countywide system of solid waste management. If, in fact, a county gears up for the treatment of solid waste within that county and then it is subjected to a situation in which they cannot unconstitutionally bar out-of-state collectors and disposers from bringing

out-of-state- solid waste within the State of New Jersey that, of course, would cause a serious detriment to any county's plans. As has been stated before, this legislation still has not gone into effect because it has been restrained by the Superior Court of the State of New Jersey. Furthermore, it is our opinion that Senate Bill No. 624 is contrary to the Supreme Court decision in Ringley versus Parsippany - Troy Hills which declared the solid waste situation in the State of New Jersey to be such that it has to be controlled by a statewide agency with the necessary expertise to properly regulate this important industry. We believe that a careful review of the Ringley versus Parsippany - Troy Hills case, which along with the Southern Ocean Landfill case are the landmark cases in the State of New Jersey in the Solid Waste Utility Industry will indicate that Senate Bill No. 624, basically, goes against the thinking and the policies propounded in that decision. We also believe that the time has now come for the State of New Jersey to establish a commission or agency to exclusively deal with the solid waste crisis and the Solid Waste Industry. The New Jersey Board of Public Utility Commissioners has been given the authority to regulate some aspects of the Solid Waste Industry. However, even though the legislature has declared that more than 2,000 solid waste collection and disposal operations should come under the jurisdiction of the New Jersey Board of Public Utility Commissioners, that commission, to wit, the New Jersey Board of Public Utility Commissioners, has approximately the same number of employees now as it had prior to the enactment of the Solid Waste Utility Control Act. We have heard from the New Jersey Department of Environmental Protection and they tell us that they have only 22 employees

to regulate the Solid Waste Industry in New Jersey. Candidly, the State of New Jersey has taken a 19th century approach to a 20th century problem. This new state agency, which would exclusively regulate the Solid Waste Industry, could coordinate a state-wide regional plan for solid waste management in the State of New Jersey. It would eliminate duplication of costs and studies which we believe will certainly take place by instituting 21 county systems.

We would like the opportunity, on behalf of our association, to be able to present to the Committee, at some later date, a draft of what we are proposing today for consideration by the Committee.

SENATOR DWYER: Thank you, Mr. Dotoli.

Any questions? Senator Dunn.

SENATOR DUNN: How many landfill operators are in your organization?

MR. DOTOLI: Senator Dunn, we represent approximately fifteen landfill operators.

SENATOR DUNN: Fifty?

MR. DOTOLI: Fifteen within South Jersey and the association also represents solid waste collection utilities.

SENATOR DUNN : Thank you.

SENATOR McGAHN: My apologies for getting here late.

At the moment, what do you consider the principal problems that the South Jersey Landfill Operators are now encountering?

MR. DOTOLI: Well, thank you very much Senator McGahn.

We feel our principal problem is that the Solid Waste Industry, the landfill and the collection operations, have been, unfortunately, placed in a state of limbo. We have been placed within the New Jersey Board of Public

Utility Commissioners, but we have not been regulated as a utility. We have had all of the various disadvantages of being a utility but, frankly, not having any of the advantages of a utility. I, myself, have spent five years with the Public Utility Commission and I am familiar with, basically, all the aspects of public utility regulation in the State of New Jersey with regard to other utilities. We are the only utility in the State of New Jersey that has been subjected to a situation in which other utilities have been established, whether they be landfill utilities or whether they be solid waste collection utilities, without the establishment of public convenience and necessity; that is, without the showing of a new utility coming into the industry, that there is a need for that service and that there is the inadequacy of existing services. Of course, that does not take place and it has never taken place with regard to other utilities. Other utilities have enjoyed franchised areas they have been assured that they would have a certain number of customers. They have, therefore, been able to develop programs with regard to research and development that might take a 10 or 20 year span. Unfortunately, the Solid Waste Industry and the Solid Waste Collection and Landfill Industry has not been treated in that way.

SENATOR MCGAHN: Since you represent South Jersey - which in my understanding is somewhat different than North Jersey in scope of services - is it your testimony then that you feel the PUC has not been regulating the industry to the best advantage of the industry?

MR. DOTOLI: Yes, and, also, to the best advantage of the public. We feel that the Public Utility Commission, in all candor, has not regulated the Solid Waste Industry to the best interest of the

industry and, also, to the best interest of the public.

SENATOR MCGAHN: Do you feel that this industry, therefore, should be franchised?

MR. DOTOLI: Yes, I feel that if the industry is franchised and if the industry is treated as a utility, the situation would be such that in treating it as a utility it would operate as a utility. Many of the problems that we are faced with today would be alleviated by long-range planning and a long-range process to develop new ways to handle solid waste collection and to handle solid waste disposal in the State of New Jersey.

SENATOR MCGAHN: Do you feel that your company realizing, of course, in South Jersey -- some of the municipalities oftentimes have 2,000 or 3,000, with a great distance between the areas -- the fact is that a number of them are townships -- do you feel that a private industry can provide this type of service in South Jersey, economically and competitively with what the public sector is now doing?

MR. DOTOLI: Yes, I believe that can take place. The situation in Jackson Township is in Ocean County; it's, basically, in South Jersey. It was a situation in which the public had all the facts before them. In fact, the Jackson Township Taxpayers Association made a critical analysis of all the municipal collection systems in Ocean County. In the final analysis, they, unanimously, went on record in opposition to a municipal collection system after reviewing the facts, making the facts known to them, then coming up with their conclusions,

SENATOR MCGAHN: Would you have any cost figures that you could present to this Committee to substantiate that statement?

MR. DOTOLI: Yes. We would like to do that, Senator.

SENATOR MCGAHN: Thank you very much. I have no

further questions.

Are there any further questions? (No questions)

Thank you very much.

MR. DOTOLI: Thank you.

SENATOR MCGAHN: Do we have anyone else in the Assembly Chambers who wishes to testify? (No response)

I move the hearing be adjourned. Thank you, everybody, for holding on till the bitter end. If you recall, the record will be held open for an additional two weeks for any further supplemental testimony that anybody wishes to forward to Mr. David Mattek.

(Hearing Concluded)

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March 8, 1974

Senator Joseph McGahn, Chairman  
Committee on Energy, Agriculture and Environment  
Room 223, State House  
Trenton, New Jersey 08608

ATTENTION: David Mattek

RE: Senate No. 624

Dear Senator McGahn:

This letter should be included in the record of the public hearing held on March 11, 1974 on Senate Bill 624.

Alpha Fill, Inc. is a newly created corporation which is actively engaged in the long range solution to some of the major solid waste and industrial waste problems in the State of New Jersey. It is not my intention to burden this record with a protracted statement of the work this corporation is now doing; suffice to say that we enthusiastically support Senate No. 624 and the necessary creation of the solid waste management districts envisioned in the bill.

It is my firm belief that an integral part of the solid waste disposal system in New Jersey in the immediate future will be the substantial use of rail haul as an important alternative, and Alpha Fill, Inc. has been established to function in coordination with a major rail haul program. Substantial sums of money have already been invested in this corporation to achieve this end. Therefore, I would request that the bill include a statement to the effect that this kind of solution should be incurred within the state, and that delays should not arise in those companies already moving forward with answers to the solid waste crisis in this state.

I also would strongly recommend to this honorable committee that the bill have a statement of policy or an amendment included therein, in an additional section, setting forth the public policy of the state is not necessarily to restrict the transportation of solid waste and industrial waste into or out of the State of New Jersey. This presently existing prohibition against bringing solid waste into the state raises serious questions for some proposals. There are parts of the State of New Jersey which cannot develop sufficiently adequate disposal sites without

March 8, 1974

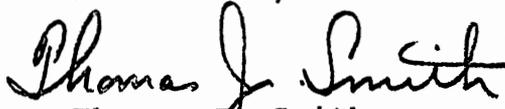
obtaining some of the solid and industrial wastes from adjoining states, and this should not be precluded if in the judgment of the Commissioner, this would assist the state in attaining its ultimate ends.

Moreover, there are many types of industrial waste in the State of New Jersey and particularly in the area of hazardous wastes which cannot be disposed of over a long term in the State of New Jersey. We, as a state, do produce a substantial amount of nuclear wastes, radioactive materials and these will be disposed of in various other parts of the country over the next few years. Of course, the amount of this waste material is increasing, therefore, if the State of New Jersey can and does limit a movement of industrial waste or solid waste into its state; then we must assume that every other state would have the same right, to so limit, and could also establish policy to restrict the importation into their states of hazardous materials. This, of course, would work to the serious detriment of our state. Moreover, many of the major corporations that function in the State of New Jersey have plants in nearby adjacent states. The economics of consolidating their liquid and industrial wastes into a single site disposal either in the other state or in this state are so compelling that they should not be artificially prevented from doing what is necessary, so long as their program is compatible with the policy set forth in Senate No. 624.

I thank you for the opportunity to present this statement to this committee.

Very truly yours,

ALPHA FILL, INC.

  
Thomas J. Smith  
President

TJS:df

# ALPHA

222 CEDAR LANE • TEANECK, N. J. 07666  
(201) 836-9381

THOMAS J. SMITH  
*President*

March 19, 1974

Senator Joseph McGahn, Chairman  
Committee on Energy, Agriculture and  
Environment  
Room 223, State House  
Trenton, New Jersey 08608

ATTENTION: David Mattek

RE: Senate No. 624

Dear Senator McGahn:

Thank you for the opportunity to appear before your committee on March 11, 1974.

The Alpha Corporation is the only company in the industry actively supporting Senate No. 624. A question was raised by Mr. Schwartz in his statement as to whether corporations coming into the business or corporations opening new disposal sites, will be able to obtain a registration certificate after this bill is enacted. I did not interpret the bill to prohibit the registering of corporations that were in full compliance with the present rules and regulations of the Department of Environment Protection.

Alpha Corporation has already invested a substantial amount of money in developing a unique solution for waste disposal. Hearings before the Water Policy and Supply Council began in October, continued through January, and are now concluded. A decision from the Board is expected within a few days.

The Alpha Corporation has been extremely careful, not only to be in full compliance with existing rules and regulations, but to comply in every way with the Proposed Rules and Regulations as well. Our facilities will readily accommodate any reasonable plans of a Waste Management District. I am sure it is not the intention of the New Jersey Legislature to compound the existing crisis by denying registration to those corporations in full compliance with, not only the letter, but the spirit of all present and proposed rules, regulations and statutes.

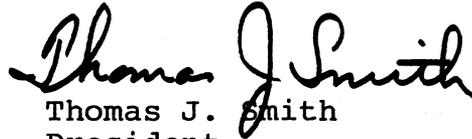
March 19, 1974

The language of Senate 624 providing for "conditional approval" valid for one year, needlessly chills investor enthusiasm. If the State's\* request that 450 days be provided for even preliminary plans by the counties is accepted, Senate 624 will, if interpreted as Mr. Schwartz indicated would, impose an unreasonable and unacceptable burden. Keep in mind that after the Waste Management District plans are approved, as contemplated by Senate 624, we will still be looking to a lead time of five years before the contemplated facilities are designed, financed, litigated, constructed and operational!

If this section is intended to restrict the issuing of new registration certificates, then I would respectfully request that it be amended to provide that those companies cooperating with the Department of Environmental Protection; and which have initiated certification proceedings and invested money in design, engineering and construction to obtain these certificates, be permitted to go forward.

Thank you very much for your continued interest in our problems.

Very truly yours,

  
Thomas J. Smith  
President

TJS:df

COLLEGE OF AGRICULTURE AND ENVIRONMENTAL SCIENCE  
*New Jersey Agricultural Experiment Station*  
*New Brunswick, New Jersey 08903*

March 19, 1974

Mr. David C. Mattek  
State of New Jersey  
Legislative Services Agency  
Division of Legislation Information  
and Research  
Room 128, State House  
Trenton, N. J. 08625

Re: S.624

Dear Mr. Mattek:

This letter is to acknowledge and support the testimony relating to S.624 given by Mr. Bruce MacDonald, a member of the Advisory Council on Solid Waste Management, on March 11, 1974 at the hearing conducted by the New Jersey Senate Committee on Energy, Agriculture and Environment.

The Advisory Council wishes to endorse the position expressed in Mr. MacDonald's statement to the Committee with particular emphasis on the following points:

1. The inclusion of industry representatives on the Advisory Council is enthusiastically supported with the recommendation that this representation include those engaged in reclamation and resource recovery as well as collection and disposal. We consider resource recovery to be the key to the solution of our solid waste problem.
2. The emphasis on planning which is placed in the Bill is a source of gratification to the Council. However, the time frame for the submission of plans seems unrealistic. Additional time should be allowed and possibly the sequence should be adjusted. It is suggested that the State plan be issued as an initial step and, to permit or encourage conformity with the State plan, set the time for submission of district plans at a specified date after receipt of the State plan.

3. The Council has had the opportunity to evaluate the work of the Bureau of Solid Waste Management in the Department of Environmental Protection for nearly two years and we are impressed with the competence and dedication of the staff. However, it is strongly felt that the Bureau is grossly understaffed to accomplish the mission assigned to it under S.624. Provision should be made for additional staff, particularly professionals in the planning area.

Respectfully submitted,



Harry E. Besley  
Chairman

Advisory Council on  
Solid Waste Management

heb/w



SOMERSET COUNTY PLANNING BOARD  
COUNTY ADMINISTRATION BUILDING  
SOMERVILLE, N. J. 08876

AREA CODE 201  
725-4700

JOHN J. SENESY, CHAIRMAN  
LEONARD B. GALYEAN, VICE CHAIRMAN  
BJORN E. FIRING, FREEHOLDER & SECRETARY  
FRANK S. FAGUNDUS, JR.  
HENRY O. MOTTERN  
SAMUEL E. PATULLO  
ROBERT F. SCHWENKER, JR.  
THOMAS E. DECKER, COUNTY ENGINEER  
THOMAS E. MAGGIO, FREEHOLDER  
  
WILLIAM E. ROACH, JR., PLANNING DIRECTOR

March 8, 1974

The Honorable Joseph L. McGahn  
Senator, State of New Jersey  
Chairman  
Senate Committee on Energy,  
Agriculture and Environment  
State House  
Trenton, N.J. 08625

Dear Senator McGahn:

I am writing this letter at the request of Freeholder Thomas E. Maggio for inclusion in the record of the Hearing which will be held on Monday, March 11, 1974, on Senate Bill No. 624.

Somerset County has long been concerned with the matter of solid waste disposal. Some ten years ago our Planning Board initiated a study on this subject, long before this matter became a matter of wide public concern. Subsequent to that date, the Board of Freeholders officially accepted the responsibility for disposing of solid waste on a regional basis. Regrettably, we have been unable, to date, to find a site meeting with the acceptance of municipal officials. We support the general concepts for creating Solid Waste Management Districts to include the 21 Counties as set forth in the Senate Bill No. 624. We would, however, make two observations which we think would improve this legislation:

1. Since County Boards of Freeholders will be obligated to become involved in solid waste disposal, it would be in order to have a Freeholder serving on the State Advisory Council on Solid Waste Management, and such representation should be specified in the Law.
2. The definition of "Public Authority" should be modified to permit Counties to carry out responsibilities of this Act without creating still another public agency or authority. A Solid Waste Management Plan could be completed by an existing County office or consultant and then the Plan could be implemented by the Board of Chosen Freeholders through an existing County-line agency, such as a County Engineer, or a County Department of Public Works.

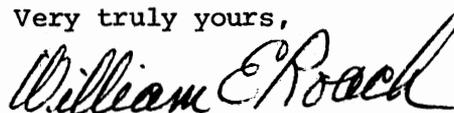
The Honorable Joseph L. McGahn

March 8, 1974

Such an arrangement should be provided for in this Law, thereby eliminating the needless creation of another single-purpose County Agency.

Your consideration of these two recommendations will be greatly appreciated.

Very truly yours,

A handwritten signature in cursive script that reads "William E. Roach". The signature is written in dark ink and is positioned above the typed name.

William E. Roach, Jr.  
Planning Director

vc

cc: Freeholder-Director T. E. Maggio  
County Administrator G. E. Millard



TOWN OF WEST ORANGE, NEW JERSEY

LOUIS P. FALCONE  
Mayor

TELEPHONE  
(201) 736-1500

Committee on Energy, Agriculture and Environment,  
c/o Senator McGahn,  
Trenton, N.J.

Re Senate # 624

March 13, 1974

Gentlemen:

In 1972 the Town of West Orange launched a municipal recycling program to combat the problems of solid waste for which the State and County bureaucracies were and still are unprepared. Speakers' testimony at the March 12th public hearings reinforced the conviction that northeastern New Jersey will not be ready for the solid waste crisis when it hits.

Therefore we hope that the constructive legislation suggested below will be incorporated into No. 624, or other legislation, and not shunted aside as was our attempt to testify on Monday when spokesmen for delay and special interests held sway.

Whereas it is prudent to reclaim paper products and glass before collection of solid wastes and since most Essex County communities will adopt such a program not only for ecological reasons, but for economic reasons, therefore the Legislature must provide municipalities with the means to conduct mandatory reclamation programs efficiently until the Counties untrack themselves:

(1) As far as the substitution of language is practical, paragraph 27 of N.J.S.A. 40:66A-32 to -62 should be lifted virtually intact and readopted, substituting "municipality" for "solid waste management authority" with the understanding that the amendment will apply only to mandatory paper and glass recycling programs, that glass shall be understood to mean flint, amber and green glass, and that paper shall be understood to mean uncontaminated newspaper, old corrugated board, and mixed papers as designated by each municipality.

The reasons for the amendment are precisely the same as those which prompted the original language of the solid waste management authorities law in 1968.

(2) Each County must be provided with enabling legislation <sup>in</sup> those communities within its jurisdiction in which mandatory recycling programs are adopted.

For instance, earlier this year when the Essex County Planning Department and Public Works Department were planning their budgets, the County's Waste Management Officer and the County Engineer, at our suggestion, attempted to budget for personnel and equipment to transport glass to be reclaimed in dump trailers which can haul four times the tonnage as municipal trucks. Each Essex municipality would have been saved the cost of using the smaller trucks, thereby encouraging more towns to involve themselves in glass collection and storage. West Orange enlarged its glass storage bin areas on the strength of the County representatives' hearty endorsement of the concept only to find that the service was ruled illegal by the Essex County Counsel!

Those are our two suggestions; we hope that you will regard them as constructive interim steps to be acted upon immediately.

Yours very Truly,

RICHARD A. MENKES, Consultant Coordinator      SAMUEL FIERRA, Waste Management Officer  
West Orange Department of Waste Management, 66 Main St., West Orange, N.J. 07052  
(201) 736-3719

Paragraph 27 of the solid waste management law provides that no one shall engage in any activities which will be competitive with the purposes of the solid waste program. Furthermore, it declares that it has been determined that it is necessary for the health and welfare of a waste management district's inhabitants to use the facilities and services of the waste management program, and that a resolution may be passed by the solid waste management authority (in this case: the municipality) requiring use of the service and facilities under such rules and regulations which shall be fixed and established.

(This explanation accompanies the letter to the State Senate dated March 13th, 1974 from the W.O. D.W.M.)

*Samuel Fierro*



City of Clifton NEW JERSEY 07015

WILLIAM HOLSTER  
CITY MANAGER

CITY HALL  
ROOM 207-PHONE (201) 473-2600

March 8th, 1974

Senate County and Municipal Government Committee  
Attention: S. Caramalis, Secretary  
Assembly Chamber  
State House  
Trenton, New Jersey

Re: Opposition to Senate 624

Gentlemen:

A reading of Senate 624 would appear to propose by this Bill, an extension of the theory and philosophy of the State Agencies' present roles in the solid wastes management field as established under P. L. 1970 and P. L. 1971.

Our basic objection to this Bill and the present law is that the State Agencies continue as regulatory Agencies without increasing their role in leadership, research, experimentation, design, scheduling and implementing of improvement requirements

We believe that the letter of September 10th, 1973 written to the Members of the Lower Passaic Valley Solid Waste Management Authority and the attachments (included with this objection to S-624) are explanatory of the basic objection spelled out above.

S-624 in its present form would strengthen the present law concerning regulatory power at the State level by establishing a single State unit to be designated as the "Advisory Council on Solid Waste in the State Department of Environmental Protection", but it fails completely in its establishment of powers and duties to impose the duty of research by the Department of Environmental Protection and distributing this research downward to lower levels of government with requirements to meet Department of Environmental Protection schedules and establishing some sort of language for necessary subsidation for equity throughout the State.

An example of the frustration in the diluted and fragmented research projects which would be continued under this Bill is dramatically pointed up by the unfinished work of the Lower Passaic Valley Solid Waste Management Authority.



**City of Clifton** NEW JERSEY 07015

WILLIAM HOLSTER  
CITY MANAGER

CITY HALL  
ROOM 207-PHONE (201) 473-2600

(2)

After years of research, design studies and procedures, a method of solid waste disposal (high temperature burning) appeared most suitable to meet all operational and environmental requirements at the local level and the State level.

This research, design and contract specifications was undertaken with complete knowledge and participation by the proper regulatory State Agency (Department of Health), but at the crucial moment of finalization of contract financing, etc., the State Agency advised it could not approve the process until the plant was constructed and tested after a shakedown period. This decision immediately posed financial, contractual and delay problems.

In the interim, while these points were being ironed out, the inflation in our economy set in and the problems of municipal and regional financial equities became very distorted.

The State should no longer allow further fragmentation of research with its concomitant delays and increased cost, but must solve the problem at the State level and direct scheduling, financing (through rates and subsidies) and construction.

While we think this Bill moves in the right direction, we feel that it should be held in abeyance until a State Agency can study the practical problems indicated in the attached material.

The present philosophy of the Legislature and State Agencies to have the roots grow from the branches, in our opinion, will be no more fruitful than the multi-fragmented studies at the local levels have been in the past.

Very truly yours,

*W. Holster*  
William Holster  
City Manager

WH:IS



City of Clifton NEW JERSEY 07015

WILLIAM HOLSTER  
CITY MANAGER

CITY HALL  
ROOM 207-PHONE (201) 473-2600

*Handwritten signature/initials*

September 10, 1973

To the Members of the  
Lower Passaic Valley Solid Waste  
Management Authority

Gentlemen:

I believe the attached is a concensus summary of our meeting with legislative candidates and representatives and governor candidate representatives. Before we send it out, we are mailing it to you so that you might comment on the same since it is imperative that we get reaction from the persons named above at the earliest possible moment.

We are sending this material to the representatives on September 17th so if there is anything you would like to add, please get the information to us prior to that date.

Very truly yours,

*Handwritten signature of William Holster*

William Holster  
City Manager

*Handwritten vertical text: W/C 9-11-73*

WH/IS

Attach.



WILLIAM HOLSTER  
CITY MANAGER

City of Clifton NEW JERSEY 07015

CITY HALL  
ROOM 207-PHONE (201) 473-2600

September 6th, 1973

Summary of comments made by members of the Lower Passaic Valley Solid Waste Management Authority at its meeting on September 5th, 1973, attended by representatives of the Governor candidates, Legislators or their representatives, and candidates for the Legislature.

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The attached articles which appeared in the Paterson Evening News and Passaic-Clifton Herald News September 6th, 1973 generally covers the meeting comment, but we would briefly add salient points for emphasis.

Great amounts of monies are being expended by Municipalities, Counties and regional group for surveys, analysis assays, air pollution studies, thermodynamic etc. While this points up the awareness of the local levels of this great problem, the duplication cost is staggering and without positive action at the regulatory level (State - through P.U.C., D.E.P. and H.M.D.C.) the results are inconclusive and chaotic. The State must take a more active and productive part in this problem solving.

The Lower Passaic Valley Solid Waste Management Authority recommends the following:

1. Establishment of one State agency with overall authority and sufficient funds (utilizing any Federal Funds available) to conduct comprehensive waste studies. (This would amount to

compiling information already available from the extensive studies completed by local and regional agencies (such as the Lower Passaic Valley Solid Waste Management Authority) review technical and engineering data and research material on the latest technology and methods available (this too is compilation and review) and planning studies to determine area resources. The problem here is disposal. This must be done on a State wide basis and related cost throughout the State must be made equitable.

Example: if sanitary land fill in say Mercer, Middlesex, Monmouth, Ocean and Burlington County is available under a planned State program until say 1985 and Bergen, Essex, Hudson, Passaic and Union Counties must go into a higher cost method in 1975 (dates to be determined by the State Agency) some State aids or compensation to offset these inequities in cost should be made available during this ten year period to the northerly counties through State agency operation and control of both the landfill and the higher cost method. These aids or rate subsidies would not only establish a planned technical program, but promote a balanced economy in the State at the same time go a long way toward a better environment.

2. The Legislature and regulatory State agency or agencies should not permit any new or additional so called landfill operations (we say they are open dumping) until the State agency (referred to in (1) ) has completed its comprehensive plan and has held public hearing, etc.
3. The State agency in its master plan should operate all disposal programs throughout the State establishing rules, rates and satellite locations.

All cost, including capital, operation and maintenance should be chargeable to users (which would include all public or private scavenger and other users in the State).

(3)

The State in carrying out item (3) may find it more economical and efficient to enter into contracts with private proprietary entities to carry out the solid waste disposal function, but in all cases, regulations, rates, etc., should be the responsibility of the State agency and balanced through the State agencies control of the rates. We are attaching clippings and articles relating to this proposal.

Should the State philosophy not be inclined in the directions outlined above, the minimum the State should do is to establish an agency that will provide the research and make decisions concerning approval of certain methods, establishing priority dates and furnish financial assistance to subordinate governmental agencies.



# LEAGUE OF WOMEN VOTERS OF NEW JERSEY

460 BLOOMFIELD AVENUE, MONTCLAIR, NEW JERSEY 07042 TELEPHONE 746-1465 AREA CODE 201

TESTIMONY ON S.624 AMENDMENTS TO SOLID WASTE ACT OF 1970

## SENATE ENERGY, AGRICULTURE & ENVIRONMENT COMMITTEE

The following testimony is submitted by the League of Women Voters of New Jersey on Senate Bill 624, which amends the Solid Waste Management Act of 1970. We regret we were unable to attend the public hearing to present this testimony.

The position of the League of Women Voters, arrived at after study and by consensus of our members, is that our State government should assume an active role in achieving solutions to our solid waste problems, but that responsibility for the actual solutions must remain at the local regional level. The state role should include: aid to the local regional governments in planning and implementing solid waste systems, establish criteria and standards for collection and solid waste facilities, offer technical and financial assistance to solid waste districts, and encourage and support the education and participation of the general public on these issues.

In general, S-624 merits League support because it establishes a structure wherein the state is assigned an active role in guiding, implementing, and monitoring solid waste management, while delegating the responsibility for development and operation to the regional level. The provision for local health officials to perform as contractual agents for the inspection and monitoring of solid waste facilities can alleviate many of the problems of enforcement.

The League recommends several changes in the bill without which we believe many of the stated goals will not be realized, and the intent of the act frustrated.

Our major concern is the inadequate provision for funding. Section 2, b:5 directs the Department of Environmental Protection "utilize the funds received by the department from registration fees and such other funds as may be from time to time appropriated", (our emphasis) Sections 21-25 directs the Department to provide for state grants and establish a Solid Waste Management Research and Development Fund in the Department of Treasury. (More)

Other sections assign responsibility for planning, reviewing and monitoring of county authority proposals and facilities. It is perfectly clear to us that the provisions of section 2, b:5 are inadequate to fulfill these responsibilities. It is also clear that funding of the Department of Environmental Protection over the years since the passage of the original Solid Waste Management Act of 1970 have been inadequate to carry out the duties it is assigned.

Funding provisions must be made on a planned basis over a period of time, and these funds must be commensurate with the duties assigned. The League recommends that specific funding provisions be included in, or attached to, this. Failure to make adequate funding provisions for the implementation of the amended bill will render it useless.

The League believes solutions in solid waste management could be implemented by an initial, short term "crash program," followed by a project of refinement as technology expands. A major three year effort, with an operating budget for the Bureau of Solid Waste of \$600,000 per year should be sufficient to insure that the Dept. of Environmental Protection will be able to carry out the duties assigned in this bill.

A second concern is the current provisions which grant the authority for implementation of plans and operation of facilities for solid waste management to county government alone. The bill limits the role of municipal governments and the general public as follows:

Section 11b limits the role of municipal governments to participation on an Advisory Municipal Council, which assists the freeholders in the development of county solid waste plans; Section 14c outlines provisions for public hearings which permit public comment as a final stage of plan preparation.

Although the League feels these roles are adequate with reference to the planning stage, we do not believe that the responsibility for the implementation and operation of these plans should be placed solely at the county government level.

The League believes that solid waste is essentially a local problem. Numerous municipalities will be involved in each district; solid waste facilities will be located in one or more municipalities within each district; there will have to be contractual arrangements with municipal governments; and the major financial burden for solid waste systems will remain at the local level.

(More)

In view of all this, it would seem more constructive if a measure of self determination were granted to municipal governments.

The League recommends that this statute provide for equal representation on the "governing body" or "authority" for county government, municipal governments, and the general public which make up the solid waste district. We believe a common problem can be solved more expeditiously by drawing on the resources of those who contribute to that problem. Efforts must be made to direct what could be disparate interests into a unified approach for a common goal. We believe that this cooperative structure will lessen the tendency to consider solid waste management as a "political plum" rather than a requirement that must be provided to the public in the most efficient manner at the most reasonable cost.

Another concern is that what seems to be an oversight in amending this law has the potential for subverting a major intent of the bill. The addition of numerous statements at the beginning of the bill seem to clearly indicate the intention that resource and/or energy recovery be an integral part of solid waste management. However in Section 3c, "solid waste disposal" is defined as "storage, treatment, utilization, process, or final disposal." This definition is not consistent with the general usage of the term "disposal" as it is currently applied in the industry. Current usage defines disposal as the "act of getting rid of" as in "final disposal." The phrase "resource and/or energy recovery" has come into use to describe and include "processing, treatment and utilization."

The League therefore recommends that the definition of "solid waste disposal" be amended to limit it to "storage, processing, or final disposal." A second term, "resource and/or energy recovery" should be added with the definition "processing, treatment, and utilization." Inclusion of this phrase and redefinition of "disposal" would remove ambiguity and eliminate the need for interpretation. In order to insure no misunderstanding of intent, we suggest all phrases in the act that refer to "solid waste collection and disposal" be changed to read "solid waste collection, disposal, resource and/or energy recovery."



# The League for Conservation Legislation

Box 605, Teaneck, N. J. 07666

REPLY TO:

At an Open Membership Meeting of the League for Conservation Legislation, a state-wide public interest group, held on March 9, 1974 at Kenilworth, N.J., a motion was made and passed to support Senate Bill No. 624 as a major step in solid waste management throughout the State.

At its Annual Meeting on May 5, 1973, the League membership had voted to support Assembly Bill No. 1630, sponsored by Assemblymen Baer, Burstein and Hynes, also dealing with the regulation of solid waste disposal operations by the State Department of Environmental Protection and supplementing the Solid Waste Management Act (ch. 39 P.L. 1970) as does S-624.

The League is particularly concerned with recovery of waste materials through recycling. Separation of waste should be put ahead of compaction as a priority. Separation of newspaper from garbage should be done at the household level. We commend the efforts of the Hackensack Meadowlands Commission to persuade the 118 municipalities now dumping in the Meadowlands to initiate programs for separation and collection of paper to feed recycling mills. The League also strongly supports efforts to force use of returnable beverage containers, thus abating littering, reducing landfill and saving raw materials and energy.

Frank J. Oliver, President

The League for Conservation Legislation

March 9, 1974

NEW JERSEY PUBLIC INTEREST RESEARCH GROUP (NJPIRG)  
32 West Lafayette Street  
Trenton, New Jersey 08608 (609) 393-7474

Written testimony of Christopher J. Burke, NJPIRG Executive Director, to be made a part of the record of the Senate Agriculture, Energy and Environment Committee hearing of March 11, 1974.

INTRODUCTION

Good morning. I am Christopher J. Burke, Executive Director of the New Jersey Public Interest Research Group (NJPIRG).

NJPIRG is a non-partisan, non-profit, student-funded and student-directed research corporation supported by college students on eight New Jersey campuses. NJPIRG's major areas of concern are land use and transportation, health care, environmental protection, consumer action, race and sex discrimination, corporate responsibility and government operations. My remarks are largely excerpted from a report completed by a project in which Rutgers law and undergraduate students participated last year.

NJPIRG'S POSITION

There is a critical solid waste crisis in New Jersey. Passage of S624 can only be considered a first step toward alleviating this crisis. The current major disposal method of landfill uses up about 750 acres of land each year in New Jersey and will exhaust currently dedicated landfill capacity by 1982. The estimated 309 million tons of waste produced in New Jersey between 1982 and the year 2000, equivalent to 27,750 landfill acres, presents an awesome disposal gap.<sup>1</sup>

It is our position that the "crunch" resulting from increasing waste generation and commensurately decreasing landfill capacity presents an imminent environmental, economic and social crisis in New Jersey. The state's five northeast counties (Hudson, Passaic, Bergen, Essex, and Union) will have exhausted landfill capacity within the next two years. Due to the limited availability of landfill areas, the crunch is being felt throughout the state as municipalities and counties try to enlarge the

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<sup>1</sup> Solid Waste: A Coordinated Approach, State of New Jersey, County and Municipal Gov't Study Commission, September 1972. 109 A

capacity of currently operating landfills, try to locate new areas for landfill, and search for new solid waste disposal techniques.

The current major disposal method of landfill causes severe water pollution, aesthetic pollution, sanitation, and litter problems in New Jersey. These costs are passed on to New Jersey taxpayers indirectly through 1) increased taxes for water treatment, litter collection, and disposal operation; 2) lost recreational opportunities; 3) declining human health and increased medical care costs; and 4) increased social inconvenience.

Environmental, economic, and social costs caused by continuance of present disposal methods preclude these methods from being acceptable solutions to narrowing the disposal gap. Finding socially, environmentally, and economically acceptable methods of waste disposal will, in the future, incur substantial economic costs for New Jersey. In addition, these costs will increase with time, and therefore the sooner alternative waste disposal methods are developed, the less the increased financial burden. Since these costs are borne by New Jersey consumers and taxpayers, it is in the best public interest to minimize costs through immediate implementation of plans for new solid waste disposal techniques, waste load reduction, incentives for recycling, and expanded government enforcement and action.

#### A CASE STUDY: THE UNSANITARY LANDFILL

I will now turn to a specific landfill operation that demonstrates the need for comprehensive immediate action.

The Kinsley Landfill in Deptford Township is used and has been used for the disposal of chemical and industrial wastes, many of which come from out-of-state chemical firms in nearby Philadelphia. Between April 1972 and February 1973, more than one million gallons of chemicals were dumped at the site. These wastes have included paint thinners, plastic solvents and banana oil. Fecal material and other solid waste account for the remainder of the wastes deposited.<sup>2</sup> These materials, many of which are toxic or pathogenic, come into contact with surface and/or ground waters

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<sup>2</sup> Letter to N.J. Dept. of Environmental Protection dated Feb. 21, 1973.

near the landfill site, in direct violation of Regulation 6a.1 of the New Jersey Refuse Disposal Regulations.

The nauseating odors experienced by residents near the landfill are not uncommon for such operations in New Jersey. One can smell such odors on the Turnpike through the Meadowlands up to one mile away from their sources. But the Kinsley Landfill causes far more than aesthetic pollution. Since September 1972, the local residents have suffered from sore throats, headaches, nausea, and intestinal disorders, all of which have resulted in whole or in part from the odors and from the condition of their water supply, brought about by the Kinsley Landfill.

On February 14, 1973, members of the New Jersey Public Interest Research Group drew samples from one of the neighbor's tap water. Tests revealed that the cyanide level of .020 ppm is twice that set for safe drinking water by the United States Public Health Service, and the phenol count (.021 ppm) is 21 times the U.S. Public Health Service and New Jersey safe standard. The results also revealed a high total bacteria count/with a further increase in the total count which could lead to the appearance of pathogenic bacteria. In light of these findings NJPIRG advised the residents to discontinue any use of water from their wells. Our test results were registered with the N.J. Dept. of Environmental Protection (DEP) in a formal complaint dated February 11, 1973.

On February 15, 1973, Mr. Powell of the DEP contacted a resident in the area and informed her that he had conducted tests of the stream waters around the Kinsley Landfill during the week of February 5, 1973. He reported finding leaching of heavy metals and phenols from the landfill. This leaching of hazardous substances into the waters of New Jersey constitutes a direct violation of the New Jersey Water Quality Act of 1971, N.J.S.A. 858:10-23.1 et seq., so as to warrant immediate legal action by the DEP.

In its reply to NJPIRG's formal complaint DEP stated that the operators of the Kinsley Landfill were under administrative order to halt the dumping of harmful chemicals at the site.<sup>3</sup> In early June, Bureau of Solid Waste officials at DEP cited test results from samples taken March 5 that showed the resident's tap water met water

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Letter from DEP to NJPIRG dated March 21, 1973.

quality standards. Further DEP action included a consent order which was refused by the operators of the landfill.

Recent information supplied by one of the local residents, however, directly contradicts DEP's assertions that pollution from the Kinsley Landfill has abated. Tests conducted April 11 show a phenol count of .191 ppm, or 191 times the U.S. Public Health Service standard! Tests in May 1973 also show the phenol count over .191 ppm.<sup>4</sup> The tenfold increase in phenol in the residents' tap water over two months' time could only occur if dumping of illegal substances were continued. Residents in the area continue to transport safe water in from outside sources, pending further DEP and/or company action. The resident's well has been closed by local health officials since NJPIRG's investigation last spring.

#### THE NEED FOR COMPREHENSIVE ACTION

This severe case of environmental destruction, nuisance to public health, non-compliance with state law, and social inconvenience is not uncommon in New Jersey.

A random sampling of several landfill operations in New Jersey shows that almost all of them pose severe environmental, legal, and social problems.

S624 is a critically important step to begin to solve these massive problems, and thus receives the full endorsement of the New Jersey Public Interest Research Group. However, a comprehensive approach is needed now to attack the complex and impending catastrophe that will surely occur if immediate action is not taken. This comprehensive approach should include:

- 1) a serious well-funded state effort to implement resource-recovery and recycling on a large-scale basis in New Jersey.
- 2) new methods of waste separation that improve the heat value of recycled fuel currently appear as feasible solutions to the solid waste disposal gap--and the energy crisis. M & T Chemicals Co. of New Jersey (Rahway) has devised such a method which it says recycles 85-90% of a waste load. This fuel is relatively clean (low sulfur content) and efficient (B.T.U. value = 10,000

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versus 5,000 for raw garbage and 19,000 for oil). The operation processes garbage at a cost of approximately \$4.00 a ton, making it economically competitive with current methods. Such an operation is currently under consideration as a possible solution in the Hackensack Meadowlands.

Innovative recovery operations such as these must become more common as we deplete landfill capacities. The initial costs of such operations will necessitate substantial financial outlays by local, state and federal government. Because of the inflationary spiral, the necessary "lead-time" essential for the implementation of new technologies and various other factors, costs for initiation of recovery methods will increase with time. Immediate action on the part of federal, state and local governments to develop and implement new methods will alleviate the impending solid waste disposal crises, reduce the financial costs of new technologies, and thereby minimize the tax burden on New Jersey citizens.

Thus, we recommend that this committee consider a substantial financial allocation to fund demonstration projects for resource recovery in New Jersey. Recent committee action to forestall such critically needed legislation is not in the public interest and such procrastination will ultimately result in increased economic and environmental costs of solid waste disposal.

We also recommend:

- 1) Commitment to a large-scale waste reduction effort by implementing mandatory home separation and municipal collection of newspapers.
- 2) Encouraging success of waste reduction efforts by a multi-media campaign to educate the public concerning recycling and the solid waste burden in New Jersey.
3. The state should examine and enact legislation placing a tax on excessively packaged items and non-returnable beverage containers.
- 4) Establishment of one agency to regulate all aspects of solid waste management. Such an agency would encompass both DEP and PUC current functions.
- 5) Finally, we recommend a substantial increase in the annual budget of the Bureau of Solid Waste, DEP. This money is critically needed, not only to adequately

carry out the intent of S624, but also to adequately enforce currently existing legislation in the solid waste area. This state spends four times as much picking up litter off our highways as it does on enforcing and carrying out state solid waste legislation.

Thank you for your attention and allowing me the opportunity to present the views of NJPIRG in this area.

April 3, 1974

The Honorable Joseph L. McGahn  
1421 Atlantic Avenue  
Atlantic City, New Jersey 08401

Dear Senator McGahn:

While I support the present legislative efforts to address the existing crisis in the field of solid waste management, I feel several suggestions concerning the content of Senate Bill 624 should be weighed prior to final consideration of the bill.

#### Public Bidding

Presently, an oligopoly exists in the field of solid waste management. The situation is not, therefore, analogous to that of other public utilities in the field of electric power or telephone service in which a single service provider is available in a given geographical area. The granting of public utility status to solid waste facilities within S-624 exempts them from the requirement of seeking bids for services sought from private sources. I believe this provision provides insufficient safeguards for taxpayers who must bear the financial burden for these services.

I recommend, therefore, that the bill be amended, in the interest of protecting taxpayers through the fostering of competition among private vendors by providing that, when a management district or any public element of the management district chooses to contract for any solid waste service, public bidding be required, as I have urged our County authority to do.

#### Membership of Advisory Council

Section 7.1 of S-624 amends P.L. 1970, c.39 (C.13:2E-7) to provide that four of the citizen members of the Advisory Council on Solid Waste Management must be actively involved in the business of either solid waste collection, solid waste disposal or both. It does not, however, guarantee any representation for individuals actively engaged in the field within the public sector. As a result, local government, both county and municipal, is not assured of adequate participation on the Advisory Council. I recommend that at least two representatives of municipalities or counties or the agencies or authorities thereof, actively engaged in the field of solid waste management be included as members of the Advisory Council.

### Distinction between Collection and Disposal

My final recommendation concerns a major element of the philosophy underlying S-624. It is my belief that this measure fails to take into account sufficiently existing public collection operations throughout the State.

A distinction can be made between the collection and disposal elements of solid waste management. While the State Supreme Court in the Southern Ocean Landfill, Inc. v. Township of Ocean decision addressed the overall problem of solid waste management, the nature of the collection service requires that ample consideration be given to municipal interests. Broad differences in the required and desired levels of service exist among municipalities in the same county. The rate of collection of solid waste and the type of collection practiced, be it curbside, garage, alley or other, are decisions which should legitimately remain in local hands. A municipality should retain the power to define the quality aspects of service which its citizens desire and are willing to finance. S-624 does not provide this protection.

A second basis for distinguishing between collection and disposal functions concerns the clear crisis in disposal and the nonexistence of what may truly be deemed a crisis in collection. While there are clearly existing weaknesses and abuses in collection operations and practices around the State, the situation cannot, in my estimation, be characterized as potentially critical.

For these reasons I request that the Committee investigate means of requiring adequate recognition of existing municipal collection operations and procedures by the respective management district in the development of its plan. The present provisions are insufficient. In particular, the possibility of giving municipalities final power to determine the collection operations within their boundaries, after public consideration of the recommendations of the management district, subject to the review of the Commissioner of the Department of Environmental Protection, should be weighed. The unique character of solid waste collection services could be measured by the municipal governing body after receiving technical advice from the management district. Efficiencies recommended by the management district could be combined with the priorities of the municipality. Any conflict resulting from the interface between the municipality's collection proposal and the management district's disposal proposal would be resolved in favor of the management district. In this way the crisis in disposal would be addressed while preserving the municipality's prerogative in the area of collection.

Sincerely yours,

Arthur J. Holland

The Ocean County Board of Chosen Freeholders have carefully reviewed and analyzed the provisions of Senate Bill 624, known as the "Solid Waste Management Act" and request that this statement become part of the hearing record of the Senate Committee on Energy, Agriculture and Environment.

The Ocean County Board of Freeholders strongly supports the concepts reflected in this comprehensive revision of the 1970 Act dealing with solid waste management in the State. The proposed Act clearly defines the role and responsibility of State and County Government to replace the piecemeal, uncoordinated activities carried out on the basis of expediency by the 567 municipalities in New Jersey. While some municipalities exercised foresight in establishing solid waste disposal facilities to serve their long-term needs, this has been the exception. A variety of inherent problems intervene in most municipalities which make it impossible to solve the problems of solid waste management within the confines of one community. The utilization of the counties as the building blocks for the planning and management of solid waste will guarantee area wide solutions to the problems in this field which have emerged in all areas of New Jersey. The ability to phase in meaningful resource recovery programs with advancements in technology will be enhanced under the area wide institutional structure of County Government.

The inclusion of provision under Section 6a. (2) to guarantee the protection of ground water supplies from contamination caused by sanitary landfills is particularly important to Ocean County. Ocean County depends exclusively on ground water for its potable water supplies and we are vitally concerned with the future preservation of this valuable resource. The prospect exists that

even with careful control within Ocean County our ground water could be contaminated from leachate originating in other counties without uniform State-wide control to assure the preservation of our vital ground water supplies.

We also recognize the need for building a foundation of municipal support for the County solid waste management plan. The requirement for the establishment of a municipal advisory committee with official representation designated by each mayor is necessary and vital to the transfer of solid waste management from the municipal to the County level. We envision the collection of refuse in Ocean County to remain a local responsibility and this must be coordinated with the selection of sites and method of disposal incorporated in the County plan.

Our careful review of this proposed legislation revealed four areas where we would like to recommend amendments to improve the workability of the Act. Section 6a. (3) requires the State to develop a state-wide solid waste management plan including objectives, criteria and standards. However, no time limit is established for the development of this plan. If the Counties are mandated to prepare plans in the absence of the state framework being in existence serious conflicts could develop with resources and time being wasted. A lack of overall State guidance concerning the standards and criteria to be used in evaluating and approving a County solid waste management plan should of necessity proceed County expenditures for the development of a solid waste management plan.

The second and related concern is with the severe time limit for formulating the County plan. In our view the complexities of collecting and analyzing data, developing and evaluating alternative

strategies for solid waste management, selecting an alternative plan and building a foundation of local support for the plan cannot be achieved in 180 days. At the present time, we are in the final stages of evaluating consultant proposals in Ocean County for developing a solid waste management plan. In each instance the consultants provided for one (1) year to complete the plan. None of them felt that a meaningful plan could be developed by compressing the term of work to six (6) months. I would urge extending the time to complete and submit the required County plan from 180 days to one (1) year under Section 12.

The third item which should be considered is providing state aid to assist the Counties in carrying out the new and additional responsibilities thrust upon them by this legislation. It is our understanding that the New Jersey Department of Environmental Protection recommended a program of state aid in the form of grants to carry out the planning for solid waste management. The legislation should be amended to include an appropriation of one million dollars (\$1,000,000) for the purpose of assisting the Counties.

The final critical amendment which is essential to incorporate in this Act is under Sec. 12a. (3). In the event that a suitable location for solid waste facilities does not exist within a solid waste management district the consent of the Board of Freeholders should be a condition required as a prerequisite from the County where the facilities are proposed to be located by the Department of Environmental Protection. This amendment is necessary to protect the integrity of the solid waste management district from super-imposing by State edict a major disposal facility which could destroy the concepts of a carefully prepared district plan.

The Ocean County Board of Chosen Freeholders endorse the proposed Solid Waste Management Act as meaningful legislation designed to establish a logical hierarchy of governmental responsibility in the field of solid waste management. We recognize that many provisions in the Act are based on careful and exhaustive research by the County and Municipal Government Study Commission and reflect an awareness of the inherent difficulties of converting solid waste management to a regional level of government. We would appreciate the Committee giving thoughtful consideration to the amendments we have suggested which would strengthen the legislation and improve its ability to achieve the goals of the proposed Act.

AUG 14 1985

A handwritten signature, possibly the letter 'l', written in black ink.

