

tributing, dispensing or possessing with the intent to distribute or dispense any controlled dangerous substance or controlled substance analog for profit. The affirmative defense established in this section shall be proved by the defendant by a preponderance of the evidence. Nothing herein shall be construed to establish an affirmative defense with respect to a prosecution for an offense defined in any other section of this chapter.

2. This act shall take effect immediately, but shall not affect the sentencing of a person convicted of a violation occurring before the effective date but shall be inoperative until the enactment into law of Assembly Bill No. 3270 of 1986.

Approved April 15, 1987.

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## CHAPTER 102

AN ACT concerning mandatory Statewide source separation and recycling of solid waste, supplementing P.L. 1970, c. 39 (C. 13:1E-1 et seq.), amending and supplementing other parts of the statutory law, and making appropriations.

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

**C. 13:1E-99.11 Findings, declarations.**

1. (New section) The Legislature finds that removing certain materials from the municipal solid waste stream will decrease the flow of solid waste to sanitary landfill facilities, aid in the conservation and recovery of valuable resources, conserve energy in the manufacturing process, and increase the supply of reusable raw materials for the State's industries; and that the recycling of reusable waste materials will reduce substantially the required capacity of proposed resource recovery facilities and contribute to their overall combustion efficiency, thereby resulting in significant cost-savings in the planning, construction, and operation of these resource recovery facilities.

The Legislature further finds that the expeditious identification of local, national and international markets and distribution networks for recyclable materials is a necessary prerequisite to the orderly development of mandatory Statewide county and municipal recycling programs; and that the State must institute and complete studies of market stimulation for recyclable materials.

The Legislature further finds that the State may most appropriately demonstrate its long-term commitment to proper solid waste management by establishing a mandatory Statewide source separation and recycling program, and by increasing the purchase of recycled paper and paper products by the various agencies and instrumentalities of the State Government.

The Legislature therefore declares that it is in the public interest to mandate the source separation of marketable waste materials on a Statewide basis so that reusable materials may be returned to the economic mainstream in the form of raw materials or products rather than be disposed of at the State's overburdened landfills, and further declares that the recycling of marketable materials by every municipality in this State, and the development of public and private sector recycling activities on an orderly and incremental basis, will further demonstrate the State's long-term commitment to an effective and coherent solid waste management strategy.

**C. 13:1E-99.12 Definitions.**

2. (New section) As used in sections 1 through 24 of this 1987 amendatory and supplementary act:

"Beverage" means milk, alcoholic beverages, including beer or other malt beverages, liquor, wine, vermouth and sparkling wine, and nonalcoholic beverages, including fruit juice, mineral water and soda water and similar nonalcoholic carbonated and noncarbonated drinks intended for human consumption;

"Beverage container" means an individual, separate, hermetically sealed, or made airtight with a metal or plastic cap, bottle or can composed of glass, metal, plastic or any combination thereof, containing a beverage;

"County" means any county of this State of whatever class;

"Department" means the Department of Environmental Protection;

"Designated recyclable materials" means those recyclable materials, including metal, glass, paper, or plastic containers, food waste, corrugated and other cardboard, newspaper, magazines, or high-grade office paper designated in a district recycling plan to be source separated in a municipality pursuant to section 3 of this amendatory and supplementary act;

"Disposition" or "disposition of designated recyclable materials" means the transportation, placement, reuse, sale, donation, transfer

or temporary storage for a period not exceeding six months of designated recyclable materials for all possible uses except for disposal as solid waste;

“District” means a solid waste management district as designated by section 10 of P.L. 1975, c. 326 (C. 13:1E-19), except that, as used in the provisions of this amendatory and supplementary act, “district” shall not include the Hackensack Meadowlands District;

“District recycling plan” means the plan prepared and adopted by the governing body of a county and approved by the department to implement the State Recycling Plan goals pursuant to section 3 of this amendatory and supplementary act;

“Market” or “markets” means the disposition of designated recyclable materials source separated in a municipality which entails a disposition cost less than the cost of transporting the recyclable materials to solid waste facilities and disposing of them as municipal solid waste at the facility utilized by the municipality;

“Municipality” means any city, borough, town, township or village situated within the boundaries of this State;

“Municipal solid waste stream” means all residential, commercial and institutional solid waste generated within the boundaries of any municipality;

“Paper” means and includes all newspaper, high-grade office paper, fine paper, bond paper, offset paper, xerographic paper, mimeograph paper, duplicator paper, and related types of cellulosic material containing not more than 10% by weight or volume of non-cellulosic material such as laminates, binders, coatings, or saturants;

“Paper product” means any paper items or commodities, including but not limited to, paper napkins, towels, corrugated and other cardboard, construction material, toilet tissue, paper and related types of cellulosic products containing not more than 10% by weight or volume of non-cellulosic material such as laminates, binders, coatings, or saturants;

“Plastic container” means any hermetically sealed, or made airtight with a metal or plastic cap, container with a minimum wall thickness of not less than 0.010 inches, and composed of thermoplastic synthetic polymeric material;

“Post-consumer waste material” means any product generated by a business or consumer which has served its intended end use, and

which has been separated from solid waste for the purposes of collection, recycling and disposition and which does not include secondary waste material or demolition waste;

“Recyclable material” means those materials which would otherwise become municipal solid waste, and which may be collected, separated or processed and returned to the economic mainstream in the form of raw materials or products;

“Recycled paper” means any paper having a total weight consisting of not less than 50% secondary waste paper material;

“Recycled paper product” means any paper product consisting of not less than 50% secondary waste paper material;

“Recycling” means any process by which materials which would otherwise become solid waste are collected, separated or processed and returned to the economic mainstream in the form of raw materials or products;

“Recycling center” means any facility designed and operated solely for receiving, storing, processing and transferring source separated, nonputrescible or source separated commingled nonputrescible metal, glass, paper, plastic containers, and corrugated and other cardboard, or other recyclable materials approved by the department;

“Recycling services” means the services provided by persons engaging in the business of recycling, including the collection, processing, storage, purchase, sale or disposition, or any combination thereof, of recyclable materials;

“Secondary waste material” means waste material generated after the completion of a manufacturing process;

“Secondary waste paper material” means paper waste generated after the completion of a paper making process, such as post-consumer waste material, envelope cuttings, bindery trimmings, printing waste, cutting and other converting waste, butt rolls and mill wrappers; except that secondary waste paper material shall not include fibrous waste generated during the manufacturing process, such as fibers recovered from waste water or trimmings of paper machine rolls, fibrous byproducts of harvesting, extractive or woodcutting processes, or forest residue such as bark;

“Source separated recyclable materials” means recyclable materials, including but not limited to, paper, metal, glass, food waste,

office paper and plastic which are kept separate and apart from residential, commercial and institutional solid waste by the generator thereof for the purposes of collection, disposition and recycling.

**C. 13:1E-99.13 District recycling plan.**

3. (New section) a. Each county shall, within six months of the effective date of this amendatory and supplementary act and after consultation with each municipality within the county, prepare and adopt a district recycling plan to implement the State Recycling Plan goals. Each plan shall be adopted as an amendment to the district solid waste management plan required pursuant to the provisions of the "Solid Waste Management Act," P.L. 1970, c. 39 (C. 13:1E-1 et seq.).

b. Each district recycling plan required pursuant to this section shall include, but need not be limited to:

(1) Designation of a district recycling coordinator;

(2) Designation of the recyclable materials to be source separated in each municipality which shall include, in addition to leaves, at least three other recyclable materials separated from the municipal solid waste stream;

(3) Designation of the strategy for the collection, marketing and disposition of designated source separated recyclable materials in each municipality; and

(4) Designation of recovery targets in each municipality to achieve the maximum feasible recovery of recyclable materials from the municipal solid waste stream which shall include, at a minimum, the following schedule:

(a) The recycling of at least 15% of the prior year's total municipal solid waste stream by the end of the first full year succeeding the adoption and approval by the department of the district recycling plan; and

(b) The recycling of at least 25% of the second preceding year's total municipal solid waste stream by the end of the second full year succeeding the adoption and approval by the department of the district recycling plan.

For the purposes of this paragraph, "total municipal solid waste stream" means the sum of the municipal solid waste stream disposed of as solid waste, as measured in tons, plus the total number of tons of recyclable materials recycled.

c. Each district recycling plan, in designating a strategy for the collection, marketing and disposition of designated recyclable materials in each municipality, shall accord priority consideration to persons engaging in the business of recycling or otherwise lawfully providing recycling services on behalf of a county or municipality on January 1, 1986, if that person continues to provide recycling services prior to the adoption of the plan and that person has not discontinued these services for a period of 90 days or more between January 1, 1986, and the date on which the plan is adopted.

d. Notwithstanding the provisions of the "Solid Waste Management Act," P.L. 1970, c. 39 (C. 13:1E-1 et seq.), each district recycling plan may be modified after adoption pursuant to a procedure set forth in the adopted plan as approved by the department.

**C. 13:1E-99.14 Contracts for recycling services.**

4. (New section) a. Each county shall, within six months of the adoption and approval by the department of the district recycling plan required pursuant to section 3 of this amendatory and supplementary act, solicit proposals from, review the qualifications of, and enter into contracts or agreements on behalf of municipalities with persons providing recycling services or operating recycling centers for the collection, storage, processing, and disposition of recyclable materials designated in the district recycling plan in those instances where these services are not otherwise provided by the municipality, interlocal service agreement or joint service program, or other private or public recycling program operator.

b. In the event that a county is unable to enter into contracts or otherwise execute agreements to market specific designated recyclable materials in order to achieve the designated recovery targets set forth in the district recycling plan, the county may petition the department for a temporary exemption from the provisions of subsection a. of this section for these specified materials. The department is authorized to grant, deny or conditionally grant the exemption. If the exemption is denied, the department shall assist the county in identifying and securing markets for the recyclable materials designated in the district recycling plan. Any exemption granted by the department shall not exceed one year in duration, and shall be granted or renewed only upon a finding that the county has made a good faith effort to identify and secure markets for its recyclable materials. Each county shall continue to solicit those recycling services necessary to achieve the maximum feasible recovery targets in each municipality as set forth in the district recycling plan.

**C. 13:1E-99.15 Exemption.**

5. (New section) Any county which has prepared and adopted a district recycling plan as an amendment to the district solid waste management plan required pursuant to the provisions of the "Solid Waste Management Act," P.L. 1970, c. 39 (C. 13:1E-1 et seq.), and the district recycling plan has been approved by the department prior to January 1, 1987, shall be exempt from the provisions of sections 3 and 4 of this amendatory and supplementary act. To be eligible for an exemption pursuant to this section, a county shall have established and implemented a county-wide mandatory source separation and recycling program for at least three recyclable materials, in addition to leaves, and shall have demonstrated that it has secured markets for these materials.

**C. 13:1E-99.16 Municipal recycling program.**

6. (New section) Each municipality in this State shall, within 30 days of the effective date of this amendatory and supplementary act, designate one or more persons as the municipal recycling coordinator. Each municipality shall establish and implement a municipal recycling program in accordance with the following requirements and schedule:

a. Within six months of the adoption by the county and approval by the department of the district recycling plan required pursuant to section 3 of this amendatory and supplementary act, each municipality shall provide for a collection system for the recycling of the recyclable materials designated in the district recycling plan as may be necessary to achieve the designated recovery targets set forth in the plan in those instances where a recycling collection system is not otherwise provided for by the generator or by the county, interlocal service agreement or joint service program, or other private or public recycling program operator.

b. The governing body of each municipality shall, if it has not already done so, within 30 days of the effective date of any contracts or agreements entered into by the county or other local government unit to market one or more of the specific designated recyclable materials as required pursuant to section 4 of this amendatory and supplementary act, adopt an ordinance which requires persons generating municipal solid waste within its municipal boundaries to source separate from the municipal solid waste stream, in addition to leaves, the specified recyclable materials for which markets have been secured and, unless recycling is otherwise provided for by the generator, place these specified recyclable materials for collection in the manner provided by the ordinance.

c. The governing body of each municipality shall, within 30 days of the effective date of the ordinance adopted pursuant to subsection b. of this section and at least once every 36 months thereafter, conduct a review and make necessary revisions to the master plan and development regulations adopted pursuant to P.L. 1975, c. 291 (C. 40:55D-1 et seq.), which revisions shall reflect changes in State, county and municipal policies and objectives concerning the collection, disposition and recycling of designated recyclable materials.

The revised master plan shall include provisions for the collection, disposition and recycling of recyclable materials designated in the municipal recycling ordinance adopted pursuant to subsection b. of this section, and for the collection, disposition and recycling of designated recyclable materials within any development proposal for the construction of 50 or more units of single-family residential housing or 25 or more units of multi-family residential housing and any commercial or industrial development proposal for the utilization of 1,000 square feet or more of land.

d. The governing body of a municipality may exempt persons occupying commercial and institutional premises within its municipal boundaries from the source separation requirements of the ordinance adopted pursuant to subsection b. of this section if those persons have otherwise provided for the recycling of the recyclable materials designated in the district recycling plan from solid waste generated at those premises. To be eligible for an exemption pursuant to this subsection, a commercial or institutional solid waste generator annually shall provide written documentation to the municipality of the total number of tons recycled.

e. The governing body of each municipality shall, on or before July 1, 1988 and on or before July 1 of each year thereafter, submit a recycling tonnage report to the New Jersey Office of Recycling in accordance with rules and regulations adopted by the department therefor.

f. The governing body of each municipality shall, within six months of the effective date of the ordinance adopted pursuant to subsection b. of this section and at least once every six months thereafter, notify all persons occupying residential, commercial, and institutional premises within its municipal boundaries of local recycling opportunities, and the source separation requirements of the ordinance. In order to fulfill the notification requirements of this subsection, the governing body of a municipality may, in its discretion, place an advertisement in a newspaper circulating in the mu-

municipality, post a notice in public places where public notices are customarily posted, include a notice with other official notifications periodically mailed to residential taxpayers, or any combination thereof, as the municipality deems necessary and appropriate.

**C. 40A:4-45.34 County budget "cap" exception.**

7. (New section) Any additional expenditures for the collection, storage, processing or disposition of recyclable materials, or the procurement of recycling services made by, or any expenditures of revenues received by, any county as a result of the provisions of P.L. 1981, c. 278 (C. 13:1E-92 et al.), as amended and supplemented, and the provisions of sections 1 through 30, inclusive, and sections 32 and 36 of P.L. 1987, c. 102 (C. 13:1E-99.11 et al.) shall, for the purposes of P.L. 1976, c. 68 (C. 40A:4-45.1 et seq.), be considered an exception to the spending limitations imposed thereby.

**C. 40A:4-45.35 Municipal budget "cap" exception.**

8. (New section) Any additional expenditures for the collection, storage, processing or disposition of recyclable materials, or the procurement of recycling services made by, or any expenditures of revenues received by, any municipality as a result of the provisions of P.L. 1981, c. 278 (C. 13:1E-92 et al.), as amended and supplemented, and the provisions of sections 1 through 30, inclusive, and sections 32 and 36 of P.L. 1987, c. 102 (C. 13:1E-99.11 et al.) shall, for the purposes of P.L. 1976, c. 68 (C. 40A:4-45.1 et seq.), be considered an exception to the spending limitations imposed thereby.

**C. 13:1E-99.17 Bidding for collection, disposal of recyclable materials.**

9. (New section) A municipality may require that every solid waste collector or solid waste transporter registered pursuant to sections 4 and 5 of P.L. 1970, c. 39 (C. 13:1E-4 and 13:1E-5) and holding a certificate of public convenience and necessity pursuant to sections 7 and 10 of P.L. 1970, c. 40 (C. 48:13A-6 and 48:13A-9) bid on a contract for the collection or disposition of recyclable materials, if required to do so by the district recycling plan of the county in which the collector or transporter engages in solid waste collection or transportation services.

**C. 13:1E-99.18 Identification as recyclable container.**

10. (New section) a. No plastic or bi-metal beverage container shall be identified as a recyclable container unless the department determines that a convenient and economically feasible recycling system for that specific container is available.

b. The department shall adopt, upon consultation with the appropriate industries and pursuant to the provisions of the "Adminis-

trative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.), any rules and regulations necessary to implement the provisions of this section.

**C. 13:1E-99.19 Written determination.**

11. (New section) a. Within 18 months of the effective date of this amendatory and supplementary act, the department shall make a written determination as to whether a convenient and economically feasible mechanism for the collection, recycling, and marketing of plastic or bi-metal beverage containers is available to counties and municipalities in this State. A determination by the department that such a mechanism is available shall be based upon a finding that the manufacturers of plastic or bi-metal beverage containers and the beverage manufacturing industries have achieved, by the end of the previous 12 months, the recycling, on a percentage basis, of plastic or bi-metal beverage containers at a rate at least equal to the recovery rate achieved for glass or aluminum beverage containers during that one-year period, whichever is less.

b. In the event that the department makes a written determination that the manufacturers of plastic or bi-metal beverage containers and the beverage manufacturing industries have not achieved the recycling of plastic or bi-metal beverage containers at a recovery rate at least equal to that achieved for glass or aluminum beverage containers as provided in subsection a. of this section, the department shall transmit its findings to the Governor and the Legislature, including appropriate recommendations for the proper disposition or recycling of these containers.

**C. 13:1E-99.20 Disposition, recycling of automobile tires.**

12. (New section) Within 18 months of the effective date of this amendatory and supplementary act, the department shall prepare a report on convenient and economically feasible methods for the disposition or recycling of scrap automobile tires which may be available to counties and municipalities. The department shall investigate various methods for the recovery or reuse of automobile tires from the municipal solid waste stream, including, but not limited to, incineration, artificial reef construction, retreading, asphalt paving material manufacture, sludge composting and energy recovery, and shall report to the Governor and the Legislature thereon, including a recommendation that a deposit be imposed on automobile tires, if warranted by the findings.

**C. 13:1E-99.21 Use of leaf composting facility.**

13. (New section) a. Within 12 months of the effective date of this amendatory and supplementary act, all leaves collected by a municipality pursuant to the provisions of section 14 of this amendatory and supplementary act shall be transported to a leaf composting facility. Each district recycling plan shall identify the leaf composting facility or facilities to be utilized by each municipality within the county. Any two or more counties may negotiate an interdistrict agreement for the development or use of a leaf composting facility. Notwithstanding the provisions of section 18 of P.L. 1975, c. 326 (C. 13:1E-27) or any other law, rule or regulation to the contrary, the Board of Public Utilities shall not have jurisdiction over, or otherwise regulate the tariffs or return of, a leaf composting facility approved by the department.

b. No sanitary landfill facility in this State shall accept for final disposal truckloads composed primarily of leaves at any time, except that leaves source separated from solid waste may be accepted by a sanitary landfill facility in those instances where the facility has provided and maintains for that purpose separate leaf composting facilities, and the composted leaves are utilized as part of the final vegetative cover for the landfill, or for other uses as a soil conditioning material.

**C. 13:1E-99.22 Municipal leaf collection.**

14. (New section) Within 12 months of the effective date of this amendatory and supplementary act, each municipality in this State shall, by a duly adopted ordinance of its governing body, provide for a collection system for leaves generated from residential premises, and require that persons occupying residential premises within its municipal boundaries shall, for the period from September 1 to December 31 of each year, source separate leaves from solid waste generated at those premises and, unless leaves are stored or recycled for composting or mulching by the generator, place the leaves for collection in the manner provided by the ordinance.

**C. 13:1E-99.23 Preference to materials paid with public funds.**

15. (New section) All State and local agencies responsible for the maintenance of public lands in this State shall, to the maximum extent practicable and feasible, give due consideration and preference to the use of compost materials in all land maintenance activities which are to be paid for with public funds.

**C. 13:1E-99.24 Purchase of recycled paper, products.**

16. (New section) The provisions of P.L. 1971, c. 257 (C. 52:34-21 et seq.) or any rules and regulations adopted pursuant thereto to the contrary notwithstanding, the Director of the Division of Purchase and Property in the Department of the Treasury shall, upon consultation with the department, review and modify all bid and product specifications relating to the purchase of recycled paper or recycled paper products so that the specifications do not discriminate against, but encourage the maximum purchase of products made from recycled paper or recycled paper products. Preference shall be given to recycled paper or recycled paper products with the highest percentage of post-consumer waste material.

**C. 13:1E-99.25 Contracts for recycled paper, products.**

17. (New section) a. In purchasing any paper or paper products for use by the various agencies and departments of the State government or for any county, municipality or school district pursuant to P.L. 1969, c. 104 (C. 52:25-16.1 et al.), the Director of the Division of Purchase and Property, whenever the price is competitive for the purpose intended, shall make contracts available for those items which are manufactured or produced from recycled paper or recycled paper products. For the purposes of this section, "competitive" means a price within 10% of the price of items which are manufactured or produced from virgin paper products.

b. The Director of the Division of Purchase and Property, after formal advertisement and solicitation of proposals for recycled paper or recycled paper products, and having received no competitive proposals for recycled paper or recycled paper products, may award the contract for paper or paper products manufactured or produced from virgin paper products in the manner prescribed by law. Any award or contract made for virgin paper products shall not relieve the director of any future obligation to make available contracts for recycled paper or recycled paper products as provided in subsection a. of this section.

**C. 13:1E-99.26 Cooperative purchase.**

18. (New section) The Director of the Division of Local Government Services in the Department of Community Affairs shall, pursuant to the "Local Public Contracts Law," P.L. 1971, c. 198 (C. 40A:11-1 et seq.), permit counties, municipalities and authorities, and the State Board of Education shall, pursuant to the "Public School Contracts Law," N.J.S. 18A:18A-1 et seq., permit any board of education, to cooperatively purchase recycled paper or products

made from recycled paper products procured by the Division of Purchase and Property.

**C. 13:1E-99.27 Increasing percentage of recycled paper.**

19. (New section) a. The total dollar amount of recycled paper or recycled paper products purchased by the State shall be as follows:

Not less than 10% of the paper or paper products purchased on or after July 1, 1987 shall be made from recycled paper or recycled paper products, not less than 30% by July 1, 1988, and not less than 45% by July 1, 1989.

Priority procurement consideration shall be given to recycled paper or recycled paper products with the highest percentage of post-consumer waste material.

b. The Director of the Division of Purchase and Property, after formal advertisement and solicitation of proposals for recycled paper or recycled paper products, and having received no competitive proposals for recycled paper or recycled paper products, may award the contract for paper or paper products manufactured or produced from virgin paper products in the manner prescribed by law. Any award or contract made for virgin paper products shall not relieve the director of any future obligation to purchase recycled paper or recycled paper products as provided in subsection a. of this section.

**C. 13:1E-99.28 Recyclable paving materials.**

20. (New section) The provisions of R.S. 27:2-1 et seq. or any rules and regulations adopted pursuant thereto to the contrary notwithstanding, the Commissioner of Transportation shall, upon consultation with the department, review and modify all bid and paving material and sub base specifications relating to the purchase of recyclable asphalt pavement, crushed concrete sub base, foundry slag and paving materials utilizing recycled materials, including, but not limited to, crumb rubber from automobile tires, ash, glass and glassy aggregates, to provide that the specifications encourage the maximum purchase of recyclable asphalt pavement and paving materials utilizing recycled materials.

**C. 13:1E-99.29 Asphalt purchases.**

21. (New section) The provisions of R.S. 27:2-1 et seq. or any rules and regulations adopted pursuant thereto to the contrary notwithstanding, the Commissioner of Transportation shall, upon consultation with the department, review and modify if necessary all bid specifications relating to the purchase of asphalt or recycled asphalt pavement to provide that the specifications encourage the use of fuel

derived from waste oil as a furnace or boiler fuel by manufacturers of asphalt or recycled asphalt pavement.

**C. 13:1E-99.30 Compliance with district recycling plan.**

22. (New section) a. The provisions of P.L. 1970, c. 39 (C. 13:1E-1 et seq.) or any rules and regulations adopted pursuant thereto to the contrary notwithstanding, on or after July 1, 1987, the department shall not issue a registration statement or engineering design approval for any new or expanded solid waste facility in any county unless the person or party proposing to construct or operate the facility submits written documentation and any other evidence the department may require demonstrating to the department's satisfaction that the goals of the relevant district recycling plan required by section 3 of this amendatory and supplementary act have been incorporated into the plans for the proposed facility.

b. The department may adopt, pursuant to the provisions of the "Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.), any rules and regulations necessary to implement the provisions of this section.

**C. 13:1E-99.31 Resource recovery facility to comply with district recycling plan.**

23. (New section) a. The provisions of section 6 of P.L. 1970, c. 40 (C. 48:13A-5) to the contrary notwithstanding, on or after July 1, 1987 the Board of Public Utilities shall not award a franchise to any person or party proposing to construct or operate a resource recovery facility unless the person or party proposing to construct or operate the facility submits written documentation and any other evidence the board may require demonstrating to the satisfaction of the board that the goals of the relevant district recycling plan required by section 3 of this amendatory and supplementary act have been incorporated into the plans for the proposed facility.

b. The board may adopt, pursuant to the provisions of the "Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.), any rules and regulations necessary to implement the provisions of this section.

**C. 13:1E-99.32 Short title.**

24. Sections 1 through 24 inclusive of this 1987 amendatory and supplementary act shall be known and may be cited as the "New Jersey Statewide Mandatory Source Separation and Recycling Act."

25. Section 2 of P.L. 1975, c. 291 (C. 40:55D-2) is amended to read as follows:

**C. 40:55D-2 Purpose of the act.**

2. Purpose of the act. It is the intent and purpose of this act:
  - a. To encourage municipal action to guide the appropriate use or development of all lands in this State, in a manner which will promote the public health, safety, morals, and general welfare;
  - b. To secure safety from fire, flood, panic and other natural and man-made disasters;
  - c. To provide adequate light, air and open space;
  - d. To ensure that the development of individual municipalities does not conflict with the development and general welfare of neighboring municipalities, the county and the State as a whole;
  - e. To promote the establishment of appropriate population densities and concentrations that will contribute to the well-being of persons, neighborhoods, communities and regions and preservation of the environment;
  - f. To encourage the appropriate and efficient expenditure of public funds by the coordination of public development with land use policies;
  - g. To provide sufficient space in appropriate locations for a variety of agricultural, residential, recreational, commercial and industrial uses and open space, both public and private, according to their respective environmental requirements in order to meet the needs of all New Jersey citizens;
  - h. To encourage the location and design of transportation routes which will promote the free flow of traffic while discouraging location of such facilities and routes which result in congestion or blight;
  - i. To promote a desirable visual environment through creative development techniques and good civic design and arrangement;
  - j. To promote the conservation of historic sites and districts, open space, energy resources and valuable natural resources in the State and to prevent urban sprawl and degradation of the environment through improper use of land;
  - k. To encourage planned unit developments which incorporate the best features of design and relate the type, design and layout of residential, commercial, industrial and recreational development to the particular site;

- l. To encourage senior citizen community housing construction;
- m. To encourage coordination of the various public and private procedures and activities shaping land development with a view of lessening the cost of such development and to the more efficient use of land;
- n. To promote utilization of renewable energy resources; and
- o. To promote the maximum practicable recovery and recycling of recyclable materials from municipal solid waste through the use of planning practices designed to incorporate the State Recycling Plan goals and to complement municipal recycling programs.

26. Section 19 of P.L. 1975, c. 291 (C. 40:55D-28) is amended to read as follows:

**C. 40:55D-28 Preparation; contents; modification.**

19. Preparation; contents; modification.

a. The planning board may prepare and, after public hearing, adopt or amend a master plan or component parts thereof, to guide the use of lands within the municipality in a manner which protects public health and safety and promotes the general welfare.

b. The master plan shall generally comprise a report or statement and land use and development proposals, with maps, diagrams and text, presenting, at least the following elements (1) and (2) and, where appropriate, the following elements (3) through (12):

(1) A statement of objectives, principles, assumptions, policies and standards upon which the constituent proposals for the physical, economic and social development of the municipality are based;

(2) A land use plan element (a) taking into account and stating its relationship to the statement provided for in paragraph (1) hereof, and other master plan elements provided for in paragraphs (3) through (12) hereof and natural conditions, including, but not necessarily limited to, topography, soil conditions, water supply, drainage, flood plain areas, marshes, and woodlands; (b) showing the existing and proposed location, extent and intensity of development of land to be used in the future for varying types of residential, commercial, industrial, agricultural, recreational, educational and other public and private purposes or combination of purposes; and stating the relationship thereof to the existing and any proposed zone plan and zoning ordinance; and (c) showing the existing and proposed location of any airports and the boundaries of any airport hazard areas de-

lineated pursuant to the "Air Safety and Hazardous Zoning Act of 1983," P.L. 1983, c. 260 (C. 6:1-80 et seq.); and (d) including a statement of the standards of population density and development intensity recommended for the municipality;

(3) A housing plan element pursuant to section 10 of P.L. 1985, c. 222 (C. 52:27D-310), including, but not limited to, residential standards and proposals for the construction and improvement of housing;

(4) A circulation plan element showing the location and types of facilities for all modes of transportation required for the efficient movement of people and goods into, about, and through the municipality, taking into account the functional highway classification system of the Federal Highway Administration and the types, locations, conditions and availability of existing and proposed transportation facilities, including air, water, road and rail;

(5) A utility service plan element analyzing the need for and showing the future general location of water supply and distribution facilities, drainage and flood control facilities, sewerage and waste treatment, solid waste disposal and provision for other related utilities, and including any storm water management plan required pursuant to the provisions of P.L. 1981, c. 32 (C. 40:55D-93 et seq.);

(6) A community facilities plan element showing the existing and proposed location and type of educational or cultural facilities, historic sites, libraries, hospitals, firehouses, police stations and other related facilities, including their relation to the surrounding areas;

(7) A recreation plan element showing a comprehensive system of areas and public sites for recreation;

(8) A conservation plan element providing for the preservation, conservation, and utilization of natural resources, including, to the extent appropriate, energy, open space, water supply, forests, soil, marshes, wetlands, harbors, rivers and other waters, fisheries, endangered or threatened species wildlife and other resources, and which systematically analyzes the impact of each other component and element of the master plan on the present and future preservation, conservation and utilization of those resources;

(9) An economic plan element considering all aspects of economic development and sustained economic vitality, including (a) a comparison of the types of employment expected to be provided by the economic development to be promoted with the characteristics of the

labor pool resident in the municipality and nearby areas and (b) an analysis of the stability and diversity of the economic development to be promoted;

(10) A historic preservation plan element (a) indicating the location, significance, proposed utilization and means for preservation of historic sites and historic districts, and (b) identifying the standards used to assess worthiness for historic site or district designation;

(11) Appendices or separate reports containing the technical foundation for the master plan and its constituent elements; and

(12) A recycling plan element which incorporates the State Recycling Plan goals, including provisions for the collection, disposition and recycling of recyclable materials designated in the municipal recycling ordinance, and for the collection, disposition and recycling of recyclable materials within any development proposal for the construction of 50 or more units of single-family residential housing or 25 or more units of multi-family residential housing and any commercial or industrial development proposal for the utilization of 1,000 square feet or more of land.

c. The master plan and its plan elements may be divided into subplans and subplan elements projected according to periods of time or staging sequences.

d. The master plan shall include a specific policy statement indicating the relationship of the proposed development of the municipality, as developed in the master plan to (1) the master plans of contiguous municipalities, (2) the master plan of the county in which the municipality is located, (3) the State Development and Redevelopment Plan adopted pursuant to the "State Planning Act," sections 1 through 12 of P.L. 1985, c. 398 (C. 52:18A-196 et seq.) and (4) the district solid waste management plan required pursuant to the provisions of the "Solid Waste Management Act," P.L. 1970, c. 39 (C. 13:1E-1 et seq.) of the county in which the municipality is located.

27. Section 29 of P.L. 1975, c. 291 (C. 40:55D-38) is amended to read as follows:

**C. 40:55D-38 Contents of ordinance.**

29. Contents of ordinance. An ordinance requiring approval by the planning board of either subdivisions or site plans, or both, shall include the following:

a. Provisions, not inconsistent with other provisions of this act, for submission and processing of applications for development, including standards for preliminary and final approval and provisions for processing of final approval by stages or sections of development;

b. Provisions ensuring:

(1) Consistency of the layout or arrangement of the subdivision or land development with the requirements of the zoning ordinance;

(2) Streets in the subdivision or land development of sufficient width and suitable grade and suitably located to accommodate prospective traffic and to provide access for firefighting and emergency equipment to buildings and coordinated so as to compose a convenient system consistent with the official map, if any, and the circulation element of the master plan, if any, and so oriented as to permit, consistent with the reasonable utilization of land, the buildings constructed thereon to maximize solar gain; provided that no street of a width greater than 50 feet within the right-of-way lines shall be required unless said street constitutes an extension of an existing street of the greater width, or already has been shown on the master plan at the greater width, or already has been shown in greater width on the official map;

(3) Adequate water supply, drainage, shade trees, sewerage facilities and other utilities necessary for essential services to residents and occupants;

(4) Suitable size, shape and location for any area reserved for public use pursuant to section 32 of this act;

(5) Reservation pursuant to section 31 of this act of any open space to be set aside for use and benefit of the residents of planned development, resulting from the application of standards of density or intensity of land use, contained in the zoning ordinance, pursuant to subsection 52 c. of this act;

(6) Regulation of land designated as subject to flooding, pursuant to subsection 52 e., to avoid danger to life or property;

(7) Protection and conservation of soil from erosion by wind or water or from excavation or grading;

(8) Conformity with standards promulgated by the Commissioner of Transportation, pursuant to the "Air Safety and Hazardous Zoning Act of 1983," P.L. 1983, c. 260 (C. 6:1-80 et seq.), for any airport hazard areas delineated under that act; and

(9) Conformity with a municipal recycling ordinance required pursuant to section 6 of P.L. 1987, c. 102 (C. 13:1E-99.16);

c. Provisions governing the standards for grading, improvement and construction of streets or drives and for any required walkways, curbs, gutters, streetlights, shade trees, fire hydrants and water, and drainage and sewerage facilities and other improvements as shall be found necessary, and provisions ensuring that such facilities shall be completed either prior to or subsequent to final approval of the subdivision or site plan by allowing the posting of performance bonds by the developer;

d. Provisions ensuring that when a municipal zoning ordinance is in effect, a subdivision or site plan shall conform to the applicable provisions of the zoning ordinance, and where there is no zoning ordinance, appropriate standards shall be specified in an ordinance, pursuant to this article; and

e. Provisions ensuring performance in substantial accordance with the final development plan; provided that the planning board may permit a deviation from the final plan, if caused by change of conditions beyond the control of the developer since the date of final approval, and the deviation would not substantially alter the character of the development or substantially impair the intent and purpose of the master plan and zoning ordinance.

28. Section 29.3 of P.L. 1975, c. 291 (C. 40:55D-41) is amended to read as follows:

**C. 40:55D-41 Contents of site plan ordinance.**

29.3. Contents of site plan ordinance. An ordinance requiring site plan review and approval pursuant to this article shall include and shall be limited to, except as provided in sections 29 and 29.1 of this act standards and requirements relating to:

- a. Preservation of existing natural resources on the site;
  - b. Safe and efficient vehicular and pedestrian circulation, parking and loading;
  - c. Screening, landscaping and location of structures;
  - d. Exterior lighting needed for safety reasons in addition to any requirements for street lighting;
  - e. Conservation of energy and use of renewable energy sources;
- and

f. Recycling of designated recyclable materials.

29. Section 76 of P.L. 1975, c. 291 (C. 40:55D-89) is amended to read as follows:

**C. 40:55D-89 Periodic reexamination.**

76. Periodic reexamination. The governing body shall, at least every six years, provide for a general reexamination of its master plan and development regulations by the planning board, which shall prepare and adopt by resolution a report on the findings of such reexamination, a copy of which report and resolution shall be sent to the county planning board and the municipal clerk of each adjoining municipality. The first such reexamination shall have been completed by August 1, 1982. The next reexamination shall be completed by August 1, 1988. Thereafter, a reexamination shall be completed at least once every six years from the previous reexamination. The reexamination report shall state:

a. The major problems and objectives relating to land development in the municipality at the time of the adoption of the last reexamination report.

b. The extent to which such problems and objectives have been reduced or have increased subsequent to such date.

c. The extent to which there have been significant changes in the assumptions, policies and objectives forming the basis for the master plan or development regulations as last revised, with particular regard to the density and distribution of population and land uses, housing conditions, circulation, conservation of natural resources, energy conservation, collection, disposition, and recycling of designated recyclable materials, and changes in State, county and municipal policies and objectives.

d. The specific changes recommended for the master plan or development regulations, if any, including underlying objectives, policies and standards, or whether a new plan or regulations should be prepared.

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

**C. 40A:11-2 Definitions.**

2. Definitions. As used herein the following words have the following definitions, unless the context otherwise indicates:

(1) "Contracting unit" means:

- (a) Any county; or
  - (b) Any municipality; or
  - (c) Any board, commission, committee, authority or agency, which is not a State board, commission, committee, authority or agency, and which has administrative jurisdiction over any district other than a school district, project, or facility, included or operating in whole or in part, within the territorial boundaries of any county or municipality which exercises functions which are appropriate for the exercise by one or more units of local government, and which has statutory power to make purchases and enter into contracts or agreements for the performance of any work or the furnishing or hiring of any materials or supplies usually required, the cost or contract price of which is to be paid with or out of public funds.
- (2) "Governing body" means:
- (a) The governing body of the county, when the purchase is to be made or the contract or agreement is to be entered into by, or in behalf of, a county; or
  - (b) The governing body of the municipality, when the purchase is to be made or the contract or agreement is to be entered into by, or on behalf of, a municipality; or
  - (c) Any board, commission, committee, authority or agency of the character described in subsection (1)(c) of this section.
- (3) "Contracting agent" means the governing body of a contracting unit, or any board, commission, committee, officer, department, branch or agency which has the power to prepare the advertisements, to advertise for and receive bids and, as permitted by this act, to make awards for the contracting unit in connection with purchases, contracts or agreements.
- (4) "Purchase" is a transaction, for a valuable consideration, creating or acquiring an interest in goods, services and property, except real property or any interest therein.
- (5) "Materials" includes goods and property subject to chapter 2 of Title 12A of the New Jersey Statutes, apparatus, or any other tangible thing, except real property or any interest therein.
- (6) "Professional services" means services rendered or performed by a person authorized by law to practice a recognized profession, whose practice is regulated by law, and the performance of which services requires knowledge of an advanced type in a field of learning

acquired by a prolonged formal course of specialized instruction and study as distinguished from general academic instruction or apprenticeship and training. Professional services may also mean services rendered in the performance of work that is original and creative in character in a recognized field of artistic endeavor.

(7) "Extraordinary unspecifiable services" means services which are specialized and qualitative in nature requiring expertise, extensive training and proven reputation in the field of endeavor.

(8) "Project" means any work, undertaking, program, activity, development, redevelopment, construction or reconstruction of any area or areas.

(9) "Work" includes services and any other activity of a tangible or intangible nature performed or assumed pursuant to a contract or agreement with a contracting unit.

(10) "Homemaker—home health services" means at home personal care and home management provided to an individual or members of his family who reside with him, or both, necessitated by the individual's illness or incapacity. "Homemaker—home health services" includes, but is not limited to, the services of a trained homemaker.

(11) "Recyclable material" means those materials which would otherwise become municipal solid waste, and which may be collected, separated or processed and returned to the economic mainstream in the form of raw materials or products.

(12) "Recycling" means any process by which materials which would otherwise become solid waste are collected, separated or processed and returned to the economic mainstream in the form of raw materials or products.

(13) "Marketing" means the marketing of designated recyclable materials source separated in a municipality which entails a marketing cost less than the cost of transporting the recyclable materials to solid waste facilities and disposing of the materials as municipal solid waste at the facility utilized by the municipality.

(14) "Municipal solid waste" means all residential, commercial and institutional solid waste generated within the boundaries of a municipality.

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

**C. 40A:11-15 Duration of certain contracts.**

15. Duration of certain contracts. All purchases, contracts or agreements for the performing of work or the furnishing of materials, supplies or services shall be made for a period not to exceed 12 consecutive months, except that contracts or agreements may be entered into for longer periods of time as follows:

(1) Supplying of

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

(b) Fuel or oil for use of airplanes, automobiles, motor vehicles or equipment for any term not exceeding in the aggregate, two years;

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

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

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

(4) The recycling of solid waste, including the collection of methane gas from a sanitary landfill facility, for any term not exceeding 25 years, when such contract is in conformance with a solid waste management plan approved pursuant to P.L. 1970, c. 39 (C. 13:1E-1 et seq.), and with the approval of the Division of Local Government Services and the Department of Environmental Protection. The contracting unit shall award the contract to the highest responsible bidder, notwithstanding that the contract price may be in excess of the amount of any necessarily related administrative expenses; except that if the contract requires the contracting unit to expend funds only, the contracting unit shall award the contract to the lowest responsible bidder. The approval by the Division of Local Government Services of public bidding requirements shall not be required for those contracts exempted therefrom pursuant to section 5 of P.L. 1971, c. 198 (C. 40A:11-5);

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

- (6) Insurance, for any term of not more than three years;
- (7) Leasing or servicing of automobiles, motor vehicles, machinery and equipment of every nature and kind, for a period not to exceed three years; provided, however, such contracts shall be entered into only subject to and in accordance with the rules and regulations promulgated by the Director of the Division of Local Government Services of the Department of Community Affairs;
- (8) The supplying of any product or the rendering of any service by a telephone company which is subject to the jurisdiction of the Board of Public Utilities for a term not exceeding five years;
- (9) Any single project for the construction, reconstruction or rehabilitation of any public building, structure or facility, or any public works project, including the retention of the services of any architect or engineer in connection therewith, for the length of time authorized and necessary for the completion of the actual construction;
- (10) The providing of food services for any term not exceeding three years;
- (11) On-site inspections undertaken by private agencies pursuant to the "State Uniform Construction Code Act" (P.L. 1975, c. 217; C. 52:27D-119 et seq.) for any term of not more than three years;
- (12) The performance of work or services or the furnishing of materials or supplies for the purpose of conserving energy in buildings owned by, or operations conducted by, the contracting unit, the entire price of which to be established as a percentage of the resultant savings in energy costs, for a term not to exceed 10 years; provided, however, that such contracts shall be entered into only subject to and in accordance with rules and regulations promulgated by the Department of Energy establishing a methodology for computing energy cost savings;
- (13) The performance of work or services or the furnishing of materials or supplies for the purpose of elevator maintenance for any term not exceeding three years;
- (14) Leasing or servicing of electronic communications equipment for a period not to exceed five years; provided, however, such contract shall be entered into only subject to and in accordance with the rules and regulations promulgated by the Director of the Division of Local Government Services of the Department of Community Affairs;

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

(16) The provision of water supply services or the designing, financing, construction, operation, or maintenance, or any combination thereof, of a water supply facility, or any component part or parts thereof, including a water filtration system, for a period not to exceed 40 years, when the contract for these services is approved by the Division of Local Government Services in the Department of Community Affairs, the Board of Public Utilities, and the Department of Environmental Protection pursuant to P.L. 1985, c. 37 (C. 58:26-1 et seq.). For the purposes of this subsection, "water supply services" means any service provided by a water supply facility; "water filtration system" means any equipment, plants, structures, machinery, apparatus, or land, or any combination thereof, acquired, used, constructed, rehabilitated, or operated for the collection, impoundment, storage, improvement, filtration, or other treatment of drinking water for the purposes of purifying and enhancing water quality and insuring its potability prior to the distribution of the drinking water to the general public for human consumption, including plants and works, and other personal property and appurtenances necessary for their use or operation; and "water supply facility" means and refers to the real property and the plants, structures, interconnections between existing water supply facilities, machinery and equipment and other property, real, personal and mixed, acquired, constructed or operated, or to be acquired, constructed or operated, in whole or in part by or on behalf of a political subdivision of the State or any agency thereof, for the purpose of augmenting the natural water resources of the State and making available an increased supply of water for all uses, or of conserving existing water resources, and any and all appurtenances necessary, useful or convenient for the collecting, impounding, storing, improving, treating, filtering, conserving or transmitting of water and for the preservation and protection of these resources and facilities and providing for the conservation and development of future water supply resources;

(17) The provision of solid waste disposal services by a resource recovery facility, the furnishing of products of a resource recovery facility, the disposal of the solid waste delivered for disposal which

cannot be processed by a resource recovery facility or the waste products resulting from the operation of a resource recovery facility, including hazardous waste and recovered metals and other materials for reuse, or the design, financing, construction, operation or maintenance of a resource recovery facility for a period not to exceed 40 years when the contract is approved by the Division of Local Government Services in the Department of Community Affairs, the Board of Public Utilities, and the Department of Environmental Protection; and when the facility is in conformance with a solid waste management plan approved pursuant to P.L. 1970, c. 39 (C. 13:1E-1 et seq.). For the purposes of this subsection, "resource recovery facility" means a solid waste facility constructed and operated for the incineration of solid waste for energy production and the recovery of metals and other materials for reuse; or a mechanized composting facility, or any other solid waste facility constructed or operated for the collection, separation, recycling, and recovery of metals, glass, paper, and other materials for reuse or for energy production;

(18) The sale of electricity or thermal energy, or both, produced by a resource recovery facility for a period not to exceed 40 years when the contract is approved by the Board of Public Utilities, and when the facility is in conformance with a solid waste management plan approved pursuant to P.L. 1970, c. 39 (C. 13:1E-1 et seq.). For the purposes of this subsection, "resource recovery facility" means a solid waste facility constructed and operated for the incineration of solid waste for energy production and the recovery of metals and other materials for reuse; or a mechanized composting facility, or any other solid waste facility constructed or operated for the collection, separation, recycling, and recovery of metals, glass, paper, and other materials for reuse or for energy production;

(19) The provision of wastewater treatment services or the designing, financing, construction, operation, or maintenance, or any combination thereof, of a wastewater treatment system, or any component part or parts thereof, for a period not to exceed 40 years, when the contract for these services is approved by the Division of Local Government Services in the Department of Community Affairs and the Department of Environmental Protection pursuant to P.L. 1985, c. 72 (C. 58:27-1 et seq.). For the purposes of this subsection, "wastewater treatment services" means any service provided by a wastewater treatment system, and "wastewater treatment system" means equipment, plants, structures, machinery, apparatus, or land, or any combination thereof, acquired, used, constructed, or operated for the storage, collection, reduction, recycling, reclamation, disposal, sepa-

ration, or other treatment of wastewater or sewage sludge, or for the final disposal of residues resulting from the treatment of wastewater, including, but not limited to, pumping and ventilating stations, facilities, plants and works, connections, outfall sewers, interceptors, trunk lines, and other personal property and appurtenances necessary for their operation;

(20) The supplying of materials or services for the purpose of lighting public streets, for a term not to exceed five years, provided that the rates, fares, tariffs or charges for the supplying of electricity for that purpose are approved by the Board of Public Utilities.

All multi-year leases and contracts entered into pursuant to this section, except contracts for the leasing or servicing of equipment supplied by a telephone company which is subject to the jurisdiction of the Board of Public Utilities, contracts involving the supplying of electricity for the purpose of lighting public streets and contracts for thermal energy authorized pursuant to subsection (1) above, construction contracts authorized pursuant to subsection (9) above, contracts and agreements for the provision of work or the supplying of equipment to promote energy conservation authorized pursuant to subsection (12) above, contracts for water supply services or for a water supply facility, or any component part or parts thereof authorized pursuant to subsection (16) above, contracts for resource recovery services or a resource recovery facility authorized pursuant to subsection (17) above, contracts for the sale of energy produced by a resource recovery facility authorized pursuant to subsection (18) above, contracts for wastewater treatment services or for a wastewater treatment system or any component part or parts thereof authorized pursuant to subsection (19) above, shall contain a clause making them subject to the availability and appropriation annually of sufficient funds as may be required to meet the extended obligation, or contain an annual cancellation clause.

The Division of Local Government Services shall adopt and promulgate rules and regulations concerning the methods of accounting for all contracts that do not coincide with the fiscal year.

32. Section 5 of P.L. 1971, c. 198 (C. 40A:11-5) is amended to read as follows:

**C. 40A:11-5 Exceptions.**

5. Exceptions. Any purchase, contract or agreement of the character described in section 4 of this act may be made, negotiated or awarded by the governing body without public advertising for bids and bidding therefor if

(1) The subject matter thereof consists of

(a) (i) Professional services. The governing body shall in each instance state supporting reasons for its action in the resolution awarding each contract and shall forthwith cause to be printed once, in a newspaper authorized by law to publish its legal advertisements, a brief notice stating the nature, duration, service and amount of the contract, and that the resolution and contract are on file and available for public inspection in the office of the clerk of the county or municipality, or, in the case of a contracting unit created by more than one county or municipality, of the counties or municipalities creating such contracting unit; or (ii) Extraordinary unspecifiable services. The application of this exception shall be construed narrowly in favor of open competitive bidding, where possible, and the Division of Local Government Services is authorized to adopt and promulgate rules and regulations limiting the use of this exception in accordance with the intention herein expressed. The governing body shall in each instance state supporting reasons for its action in the resolution awarding each contract and shall forthwith cause to be printed, in the manner set forth in subsection (1)(a)(i) of this section, a brief notice of the award of such contract;

(b) The doing of any work by employees of the contracting unit;

(c) The printing of legal briefs, records and appendices to be used in any legal proceeding in which the contracting party may be a party;

(d) The furnishing of a tax map or maps for the contracting party;

(e) The purchase of perishable foods as a subsistence supply;

(f) The supplying of any product or the rendering of any service by a public utility, which is subject to the jurisdiction of the Board of Public Utilities, in accordance with tariffs and schedules of charges made, charged or exacted, filed with said board;

(g) The acquisition, subject to prior approval of the Attorney General, of special equipment for confidential investigation;

(h) The printing of bonds and documents necessary to the issuance and sale thereof by a contracting unit;

(i) Equipment repair service if in the nature of an extraordinary unspecifiable service and necessary parts furnished in connection with such service, which exception shall be in accordance with the requirements for extraordinary unspecifiable services;

- (j) The publishing of legal notices in newspapers as required by law;
  - (k) The acquisition of artifacts or other items of unique intrinsic, artistic or historical character;
  - (l) Election expenses;
  - (m) Insurance, including the purchase of insurance coverage and consultant services, which exception shall be in accordance with the requirements for extraordinary unspecifiable services;
  - (n) The doing of any work by handicapped persons employed by a sheltered workshop;
  - (o) The provision of any service or the furnishing of materials including those of a commercial nature, attendant upon the operation of a restaurant by any nonprofit, duly incorporated, historical society at or on any historical preservation site;
  - (p) Homemaker—home health services performed by voluntary, nonprofit agencies;
  - (q) The purchase of materials and services for a law library established pursuant to R.S. 40:33-14, including books, periodicals, newspapers, documents, pamphlets, photographs, reproductions, microforms, pictorial or graphic works, copyright and patent materials, maps, charts, globes, sound recordings, slides, films, filmscripts, video and magnetic tapes, and other audiovisual, printed, or published material of a similar nature; necessary binding or rebinding of law library materials; and specialized library services;
  - (r) On-site inspections undertaken by private agencies pursuant to the “State Uniform Construction Code Act” (P.L. 1975, c. 217; C. 52:27D-119 et seq.) and the regulations adopted pursuant thereto; or
  - (s) The marketing of recyclable materials recovered through a recycling program.
- (2) It is to be made or entered into with the United States of America, the State of New Jersey, county or municipality or any board, body, officer, agency or authority thereof and any other state or subdivision thereof.
- (3) The contracting agent has advertised for bids pursuant to section 4 on two occasions and (a) has received no bids on both occasions in response to its advertisement, or (b) the governing body

has rejected such bids on two occasions because the contracting agent has determined that they are not reasonable as to price, on the basis of cost estimates prepared for or by the contracting agent prior to the advertising therefor, or have not been independently arrived at in open competition, or (c) on one occasion no bids were received pursuant to (a) and on one occasion all bids were rejected pursuant to (b), in whatever sequence; any such contract or agreement may then be negotiated and may be awarded upon adoption of a resolution by a two-thirds affirmative vote of the authorized membership of the governing body authorizing such contract or agreement; provided, however, that:

(i) A reasonable effort is first made by the contracting agent to determine that the same or equivalent materials or supplies, at a cost which is lower than the negotiated price, are not available from an agency or authority of the United States, the State of New Jersey or of the county in which the contracting unit is located, or any municipality in close proximity to the contracting unit;

(ii) The terms, conditions, restrictions and specifications set forth in the negotiated contract or agreement are not substantially different from those which were the subject of competitive bidding pursuant to section 4 of this act; and

(iii) Any minor amendment or modification of any of the terms, conditions, restrictions and specifications, which were the subject of competitive bidding pursuant to section 4 of this act, shall be stated in the resolution awarding such contract or agreement;

provided further, however, that if on the second occasion the bids received are rejected as unreasonable as to price, the contracting agent shall notify each responsible bidder submitting bids on the second occasion of its intention to negotiate, and afford each such bidder a reasonable opportunity to negotiate, but the governing body shall not award such contract or agreement unless the negotiated price is lower than the lowest rejected bid price submitted on the second occasion by a responsible bidder, is the lowest negotiated price offered by any responsible supplier, and is a reasonable price for such work, materials, supplies or services.

Whenever a contracting unit shall determine that a bid was not arrived at independently in open competition pursuant to subsection (3) of this section it shall thereupon notify the county prosecutor of the county in which the contracting unit is located and the Attorney General of the facts upon which its determination is based, and when

appropriate, it may institute appropriate proceedings in any State or federal court of competent jurisdiction for a violation of any State or federal antitrust law or laws relating to the unlawful restraint of trade.

33. Section 2 of P.L. 1981, c. 278 (C. 13:1E-93) is amended to read as follows:

**C. 13:1E-93 Additional findings, declarations.**

2. The Legislature finds that New Jersey must continue to seek solutions to its energy, environmental and economic problems; that solutions to these problems require proper solid waste and resource recovery management; that the generation of municipal solid waste is increasing while landfill capacity is decreasing; that the siting of environmentally secure landfills is an area of serious concern and limited choice; that the planning and construction of waste-to-energy resource recovery facilities requires substantial capital expenditures and a guaranteed flow of processible and combustible waste; and that the disposal of reusable waste materials is wasteful of valuable resources.

The Legislature further finds that the recycling of waste materials decreases waste flow to landfill sites, substantially reduces the required capacity and cost of proposed waste-to-energy resource recovery facilities while contributing to their overall combustion efficiency through the removal of noncombustible and nonprocessible materials at the source, recovers valuable resources, conserves energy in the manufacturing process, and offers a supply of domestic raw materials for the State's industries; that a comprehensive recycling plan and program is necessary to achieve the maximum practicable recovery of reusable materials from solid waste in this State; and that such a plan will reduce the amount of waste to landfills, result in significant cost savings in the planning and construction of waste-to-energy resource recovery facilities, conserve energy and resources, and recover materials for industrial uses.

The Legislature finds that an uncluttered landscape is among the most priceless heritages which New Jersey can bequeath to posterity; that it is the duty of government to promote and encourage a clean and safe environment; that the proliferation and accumulation of carelessly discarded litter may pose a threat to the public health and safety; that the litter problem is especially serious in a State as densely populated and heavily traveled as New Jersey; and that unseemly litter has an adverse economic effect on New Jersey by

making the State less attractive to tourists and new industry and residents.

The Legislature, therefore, declares it to be in the energy, environmental, and economic interests of the State of New Jersey to implement a comprehensive Statewide recycling plan and to establish a clean communities account to develop resources to be used in a litter abatement and removal pickup plan as provided for by law.

34. Section 3 of P.L. 1981, c. 278 (C. 13:1E-94) is amended to read as follows:

**C. 13:1E-94 "Recycling Act" definitions.**

3. As used in this act:

a. "Department" means the State Department of Environmental Protection;

b. "Division" means the Division of Taxation in the Department of the Treasury;

c. "Director" means the Director of the Division of Taxation in the Department of the Treasury;

d. "Litter" means any used or unconsumed substance or waste material which has been discarded, whether made of aluminum, glass, plastic, rubber, paper, or other natural or synthetic material, or any combination thereof, including, but not limited to, any bottle, jar or can, or any top, cap or detachable tab of any bottle, jar or can, any unlighted cigarette, cigar, match or any flaming or glowing material or any garbage, trash, refuse, debris, rubbish, grass clippings or other lawn or garden waste, newspapers, magazines, glass, metal, plastic or paper containers or other packaging or construction material, but does not include the waste of the primary processes of mining or other extraction processes, logging, sawmilling, farming or manufacturing;

e. "Litter-generating products" means the following specific goods which are produced, distributed, or purchased in disposable containers, packages or wrappings; or which are not usually sold in packages, containers, or wrappings but which are commonly discarded in public places; or which are of an unsightly or unsanitary nature, commonly thrown, dropped, discarded, placed, or deposited by a person on public property, or on private property not owned by him:

(1) Beer and other malt beverages;

- (2) Cigarettes and tobacco products;
- (3) Cleaning agents and toiletries;
- (4) Distilled spirits;
- (5) Food for human or pet consumption;
- (6) Glass containers sold as such;
- (7) Groceries;
- (8) Metal containers sold as such;
- (9) Motor vehicle tires;
- (10) Newsprint and magazine paper stock;
- (11) Drugstore sundry products, but not including prescription drugs or nonprescription drugs;
- (12) Paper products and household paper;
- (13) Plastic or fiber containers made of synthetic material and sold as such, but not including any container which is routinely reused, has a useful life of more than one year and is ordinarily sold empty at retail;
- (14) Soft drinks and carbonated waters; and
- (15) Wine;

f. "Litter receptacle" means a container suitable for the depositing of litter;

g. "Municipality" means any city, borough, town, township or village situated within the boundaries of this State;

h. "Public place" means any area that is used or held out for use by the public, whether owned or operated by public or private interests;

i. "Recycling" means any process by which materials which would otherwise become solid waste are collected, separated or processed and returned to the economic mainstream in the form of raw materials or products;

j. "Sold within the State" or "sales within the State" means all sales of retailers engaged in business within the State and, in the case of manufacturers, wholesalers and distributors, all sales of products for use and consumption within the State. It shall be presumed that all sales of manufacturers, wholesalers and distributors sold

within the State are for use and consumption within the State unless the taxpayer shows that the products are shipped out of State for out-of-State use;

k. "Tax period" means every calendar month or any other period as may be prescribed by rule and regulation adopted by the director, on the basis of which the owner or operator of a solid waste facility is required to report to the director pursuant to section 4 of P.L. 1981, c. 278 (C. 13:1E-95);

l. "Taxpayer" means the owner or operator of a solid waste facility or the manufacturer, wholesaler, distributor, or retailer of litter-generating products subject to the tax provisions of section 4 of P.L. 1981, c. 278 (C. 13:1E-95) or section 6 of P.L. 1985, c. 533 (C. 13:1E-99.1), as the case may be.

35. Section 4 of P.L. 1981, c. 278 (C. 13:1E-95) is amended to read as follows:

**C. 13:1E-95 Recycling tax.**

4. a. There is levied upon the owner or operator of every solid waste facility a recycling tax of \$1.50 per ton of all solid waste accepted for disposal or transfer at the facility. In the event that any solid waste is measured upon acceptance for disposal or transfer by other than tons, the tax shall be levied on the equivalents thereof as shall be determined by the director. The tax shall not be imposed on the owner or operator of a resource recovery facility, upon the acceptance of solid waste for disposal at that facility, or on the owner or operator of a solid waste transfer station facility which is designed and operated solely for receiving and transferring solid waste from collection vehicles to haulage vehicles for the purposes of facilitating the transportation of solid waste, upon the acceptance of solid waste for transfer to an in-State solid waste facility for permanent disposal.

b. (1) Every owner or operator of a solid waste facility shall, on or before the 20th day of the month following the close of each tax period, render a return under oath to the director on such form as may be prescribed by the director indicating the number of tons of solid waste accepted for disposal or transfer which is subject to the tax pursuant to subsection a. of this section and at said time owner or operator shall pay the full amount of tax due.

(2) Every owner or operator of a solid waste facility which accepts solid waste for disposal or transfer and which is subject to the tax under subsection a. of this section shall, within 20 days after the first

acceptance of this waste, register with the director on forms prescribed by him.

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

d. Any taxpayer who shall fail to file his return when due or to pay any tax when the same becomes due, as herein provided, shall be subject to such penalties and interest as provided in the "State Tax Uniform Procedure Law," R.S. 54:48-1 et seq. If the Division of Taxation determines that the failure to comply with any provision of this section was excusable under the circumstances, it may remit such part or all of the penalty as shall be appropriate under such circumstances.

e. (1) (Deleted by amendment, P.L. 1987, c. 76.)

(2) (Deleted by amendment, P.L. 1987, c. 76.)

f. In addition to the other powers granted to the director in this section, he is hereby authorized and empowered:

(1) To delegate to any officer or employee of his division such of his powers and duties as he may deem necessary to carry out efficiently the provisions of this section, and the person or persons to whom such power has been delegated shall possess and may exercise all of said powers and perform all of the duties delegated by the director;

(2) To prescribe and distribute all necessary forms for the implementation of this section.

g. The tax imposed by this section shall be governed in all respects by the provisions of the "State Tax Uniform Procedure Law," R.S. 54:48-1 et seq., except only to the extent that a specific provision of this section may be in conflict therewith.

36. Section 5 of P.L. 1981, c. 278 (C. 13:1E-96) is amended to read as follows:

**C. 13:1E-96 State Recycling Fund.**

5. a. The State Recycling Fund (hereinafter referred to as the "fund") is established as a nonlapsing, revolving fund. The fund shall be administered by the Department of Environmental Protection, and shall be credited with all tax revenue collected by the division pursuant to section 4 of P.L. 1981, c. 278 (C. 13:1E-95). Interest received on moneys in the fund and sums received as repayment of principal and interest on outstanding loans made from the fund shall be credited to the fund. The Department of Environmental Protection, in the administration of the fund, is authorized to assign to the New Jersey Economic Development Authority the responsibility for making credit evaluations of applicants for loans, for servicing loans on behalf of the department, and, the provisions of any other law to the contrary notwithstanding, for making recommendations as to the approval or denial of loans pursuant to this section. The department is further authorized to pay or reimburse the authority in the amounts as the department agrees are appropriate for all services rendered by the authority in connection with any assignment of responsibility under the terms of this section out of moneys held in the fund for loans and the loan guarantee program.

b. Moneys in the fund shall be allocated and used for the following purposes and no others:

(1) Not less than 40% of the estimated annual balance of the fund shall be used for the annual expenses of a program for recycling grants to municipalities or counties in those instances where a county, at its own expense, provides for the collection, processing and marketing of recyclable materials on a regional basis. The amount of these grants shall be calculated on the basis of the total number of tons of recyclable materials annually recycled from residential, commercial and institutional sources within that municipality, or group of municipalities in the case of a county recycling program, except that no such grant shall exceed \$10.00 per ton of materials recycled. The department may allocate a portion of these grant moneys as bonus grants to municipalities and counties in those instances where a municipality or county, at its own expense, provides for the collection of recyclable materials in its recycling program. The department shall announce each year the total amount of moneys available in the bonus grant fund.

A municipality may distribute a portion of its grant moneys to nonprofit groups that are located within that municipality and which have contributed to the receipt of the recycling grant, except that this distribution shall not exceed the value of approved documented tonnage contributed by a nonprofit group.

To be eligible for a grant pursuant to this subsection, a municipality or county in the case of a county recycling program shall demonstrate that the materials recycled by the municipal or county recycling program were not diverted from a commercial recycling program already in existence on the effective date of the ordinance or resolution establishing the municipal or county recycling program.

No recycling grant to any municipality shall be used for constructing or operating any facility for the baling of wastepaper or for the shearing, baling or shredding of ferrous or nonferrous materials;

(2) Not less than 35% of the estimated annual balance of the fund shall be used to provide low interest loans or loan guarantees to recycling businesses and industries, and to provide moneys for research into collection, market stimulation and reuse techniques applicable to recycling or the disposition of recyclable materials, or to contract for market studies, and to establish a sufficient reserve for a loan guarantee program for recycling businesses and industries;

(3) Not more than 7% of the estimated annual balance of the fund shall be used for State recycling program planning and program funding, including the administrative expenses thereof;

(4) Not more than 8% of the estimated annual balance of the fund shall be used for county recycling program planning and program funding, including the administrative expenses thereof; and

(5) Not less than 10% of the estimated annual balance of the fund shall be used for a public information and education program concerning recycling activities.

37. Section 6 of P.L. 1981, c. 278 (C. 13:1E-97) is amended to read as follows:

**C. 13:1E-97 Rules, regulations.**

6. a. The Commissioner of the Department of Environmental Protection shall adopt, pursuant to the "Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.), such rules and regulations as are necessary to effectuate this act. These rules and regulations shall be proposed within 90 days of the effective date of this

section, and thereafter adopted as provided in the "Administrative Procedure Act."

b. The director shall adopt, pursuant to the "Administrative Procedure Act," such rules and regulations as are necessary to effectuate this act.

38. Section 7 of P.L. 1981, c. 278 (C. 13:1E-98) is amended to read as follows:

**C. 13:1E-98 Collection of tax as surcharge; order to increase tariffs.**

7. a. The provisions of any law to the contrary notwithstanding, the owner or operator of any solid waste facility may collect the tax imposed pursuant to section 4 of P.L. 1981, c. 278 (C. 13:1E-95) as a surcharge on any tariff established pursuant to law for the solid waste disposal operations of the facility.

b. The Board of Public Utilities shall, within 90 days of the effective date of P.L. 1987, c. 102 (C. 13:1E-99.11 et al.), issue an appropriate order increasing current tariffs established pursuant to law for solid waste collection operations by an amount equal to the total increase in the relevant solid waste disposal tariff pursuant to subsection a. of this section. In issuing this order, the board shall be exempt from the provisions of R.S. 48:2-21.

39. Section 10 of P.L. 1981, c. 278 is amended to read as follows:

10. This act shall take effect on January 1, 1982, except that section 6 of P.L. 1981, c. 278 (C. 13:1E-97) shall take effect immediately. Section 4 of P.L. 1981, c. 278 (C. 13:1E-95) shall expire on December 31, 1996.

**C. 13:E-99.33 Outside BPU jurisdiction.**

40. (New section) a. Any person engaged in the business of solid waste collection or solid waste disposal in accordance with the provisions of P.L. 1970, c. 40 (C. 48:13A-1 et seq.) may engage in recycling or otherwise provide recycling services.

b. Notwithstanding the provisions of P.L. 1970, c. 40 (C. 48:13A-1 et seq.) or any other law, the Board of Public Utilities shall not have jurisdiction over charges or rates for recycling or services provided by persons engaging in the business of recycling or otherwise providing recycling services in this State. The revenues generated by persons engaging in the business of recycling or otherwise providing recycling services shall not be included within the computation of current or adjusted tariffs established pursuant to law for solid waste collection.

**C. 13:1E-99.34 Recycling centers.**

41. (New section) a. Notwithstanding the provisions of P.L. 1970, c. 39 (C. 13:1E-1 et seq.) or any other law, rule or regulation to the contrary, no recycling center as defined in section 2 of P.L. 1987, c. 102 (C. 13:1E-99.12) shall be required by the department to obtain a registration statement, engineering design approval, or approval of an environmental and health impact statement prior to the commencement of operations.

b. No recycling center shall receive, store, process or transfer any waste material other than source separated nonputrescible or source separated commingled nonputrescible metal, glass, paper, or plastic containers, and corrugated and other cardboard without the prior approval of the department.

**C. 54:10A-5.3 Recycling equipment tax credit.**

42. (New section) a. A taxpayer who purchases recycling equipment certified by the Commissioner of the Department of Environmental Protection pursuant to subsection b. of this section, to be used exclusively within this State, except for vehicles which are to be used primarily within this State, shall be entitled to a credit as provided herein against the tax imposed pursuant to section 5 of P.L. 1945, c. 162 (C. 54:10A-5) in an amount equal to 50% of the cost of the recycling equipment less the amount of any loan received pursuant to section 5 of P.L. 1981, c. 278 (C. 13:1E-96). The tax imposed pursuant to section 5 of P.L. 1945, c. 162 shall first be reduced by the amount of any credit allowable pursuant to section 19 of P.L. 1983, c. 303 (C. 52:27H-78) prior to applying the credit allowed pursuant to this section. The amount of the credit claimed in the tax year for which certification of equipment is received, and the amount of credit claimed therefor in each tax year thereafter, shall not exceed 20% of the amount of the total credit allowable, shall not exceed 50% of the tax liability which would be otherwise due, and shall not reduce the amount of tax liability to less than the statutory minimum provided in subsection (e) of section 5 of P.L. 1945, c. 162. For the purposes of this section, "recycling equipment" means new vehicles used exclusively for the transportation of post-consumer waste material, or new machinery or new apparatus used exclusively to process post-consumer waste material and manufacturing machinery used exclusively to produce finished products, the composition of which is at least 50% post-consumer waste materials.

"Post-consumer waste material" means any product generated by a business or consumer which has served its intended end use, and

which has been separated from solid waste for the purposes of collection, marketing and disposition and which does not include secondary waste material or demolition waste; and "secondary waste material" means waste material generated after the completion of a manufacturing process.

b. In order to qualify for the tax credit pursuant to subsection a. of this section, the taxpayer shall apply for a certification from the Commissioner of the Department of Environmental Protection that certifies that the equipment purchased qualifies as recycling equipment as defined in subsection a. of this section. The certification shall specifically indicate the date of purchase, a description of the equipment, and the cost, and state that the equipment has not previously qualified for a credit pursuant to this section either for the owner or for a previous owner.

Upon certification, the Commissioner of the Department of Environmental Protection shall submit a copy thereof to the taxpayer and the Director of the Division of Taxation. When filing a tax return that includes a claim for a credit pursuant to this section, the taxpayer shall include a copy of the certification and a statement that the recycling equipment is in use in the applicable tax year and is used exclusively in New Jersey, except for vehicles which shall be used primarily in New Jersey. Any credit shall be valid in the tax year in which the certification is approved and any unused portion thereof may be carried forward into subsequent years as provided in subsection a. of this section.

The Commissioner of the Department of Environmental Protection, in consultation with the Director of the Division of Taxation, shall adopt rules and regulations establishing technical specifications and certification requirements for the qualification of recycling equipment for the credit established pursuant to this section.

c. On or before January 31 of each year, the Commissioner of the Department of Environmental Protection shall submit a report to the Governor, the State Treasurer, and the Legislature setting forth the number of certifications that were approved during the preceding calendar year and the cost of each type of recycling equipment which has been certified as qualifying for the credit.

**C. 13:1E-99.35 Requirements for motor oil sales.**

43. (New section) a. On or after July 1, 1987, no person shall sell, or offer for sale, at retail or at wholesale for direct retail sale in this State any motor oil in containers for use off the premises unless:

(1) Every container of lubricating or other oil is clearly marked or labeled as containing a recyclable material which shall be disposed of after use only at a used oil collection center; and

(2) The motor oil retailer shall conspicuously post and maintain, at or near the point of sale, a durable and legible metal sign, not less than 11 inches by 15 inches in size, informing the public of the importance of the proper collection and disposal of used oil, and how and where used oil may be properly disposed. For the purposes of this section, "motor oil retailer" means any person who sells to consumers more than 500 gallons of lubricating or other oil annually in containers for use off the premises where sold.

b. The Commissioner of the Department of Environmental Protection shall adopt, pursuant to the provisions of the "Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.) any rules and regulations necessary to implement the provisions of this section.

**C. 13:1E-99.36 Sign posting.**

44. (New section) a. On or after July 1, 1987, every owner or operator of a used oil collection center shall post and maintain a durable and legible metal sign, not less than 11 inches by 15 inches in size, in a prominent location, informing the public that it is a collection site for the disposal of used oil. For the purposes of this section, "used oil collection center" means any reinspection station permitted by the Division of Motor Vehicles in the Department of Law and Public Safety, or retail service station which has a used oil collection tank on the premises, or any site which accepts used oil for recycling.

b. The Commissioner of the Department of Environmental Protection shall adopt, pursuant to the provisions of the "Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.) any rules and regulations necessary to implement the provisions of this section.

**C. 13:1E-99.37 Mandatory Source Separation and Recycling Program Fund.**

45. (New section) a. The "Statewide Mandatory Source Separation and Recycling Program Fund" is established as a special account in the Department of the Treasury. The fund shall be administered by the State Treasurer and shall be the depository of all moneys appropriated by the Legislature pursuant to this 1987 amendatory and supplementary act or any subsequent act for the purposes of assisting counties and municipalities in the implementation of the

county and municipal recycling program requirements of sections 3, 4 and 6 of this amendatory and supplementary act, and for studies of markets for recyclable materials as provided in section 48 of this amendatory and supplementary act.

b. The moneys in the fund shall be allocated and used to provide State aid to counties and municipalities for implementing the recycling program requirements of sections 3, 4 and 6 of this amendatory and supplementary act. The amount of this State aid shall be calculated based on the proportion which the housing units of a county or municipality bear to the total housing units in the State, except that no municipality shall receive less than .001% of the amount apportioned to aid all municipalities. Total housing units shall be determined using the most recent federal decennial population estimates for New Jersey and its municipalities filed in the office of the Secretary of State.

c. Within 30 days of the effective date of this amendatory and supplementary act, the State Treasurer shall pay and distribute to the chief fiscal officer of every county and municipality in this State, from moneys in the "Statewide Mandatory Source Separation and Recycling Program Fund," an amount equal to the local government unit's proportionate share of the State aid as calculated pursuant to subsection b. of this section.

**C. 40A:4-45.36 Exemption from county tax levy limitations.**

46. (New section) Any moneys due a county pursuant to the provisions of section 45 of P.L. 1987, c. 102 (C. 13:1E-99.37) shall be State aid and exempt from the limitations put on county tax levies pursuant to P.L. 1976, c. 68 (C. 40A:4-45.1 et seq.).

**C. 40A:4-45.37 Exemption from municipal expenditure limitations.**

47. (New section) The receipt and expenditure by a municipality of the moneys which a municipality receives under section 45 of P.L. 1987, c. 102 (C. 13:1E-99.37) shall be exempt from the limitations on municipal expenditures imposed pursuant to section 3 of P.L. 1976, c. 68 (C. 40A:4-45.3).

**C. 13:1E-99.38 Marketing studies.**

48. (New section) a. Of the moneys appropriated from the General Fund to the "Statewide Mandatory Source Separation and Recycling Program Fund" pursuant to section 52 of this amendatory and supplementary act, there is allocated the sum of \$200,000.00 which shall be dedicated to studies of markets for recyclable materials, and of local, national and international distribution networks

for recyclable materials. These funds shall be distributed by the Commissioner of Environmental Protection through the New Jersey Office of Recycling as grants to qualified colleges and universities in this State or contracts to private firms which can demonstrate the administrative and technical capability to undertake studies of this nature. Each study shall focus on a particular recyclable material, including, but not limited to, automobile tires, paper, and plastic beverage containers. In contracting for these studies, the New Jersey Office of Recycling shall specify that consideration shall be accorded to alternative pricing structures and marketing strategies, including so-called "negative pricing," in order to determine whether the competitive disposition and marketing of recyclable materials may be achieved through means other than traditional price structures and commodity sales and transactions.

b. The New Jersey Office of Recycling in the Department of Environmental Protection shall, within nine months of the effective date of this amendatory and supplementary act, transmit copies of the studies prepared pursuant to subsection a. of this section to the governing bodies of each county and municipality in the State. These studies shall be made available to the general public at a cost not to exceed the cost of reproduction and distribution.

**C. 13:1D-18.3 Office of Recycling.**

49. (New section) a. There is established in the Department of Environmental Protection a New Jersey Office of Recycling. All of the functions, powers and duties heretofore exercised by the Department of Energy and the commissioner thereof pursuant to P.L. 1981, c. 278 (C. 13:1E-92 et seq.) are transferred to and vested in the New Jersey Office of Recycling in the Department of Environmental Protection and the commissioner thereof. The New Jersey Office of Recycling shall be under the immediate supervision of an administrator who shall be appointed by the Commissioner of Environmental Protection and who shall be in the unclassified service of the State.

b. The administrator shall administer the work of the New Jersey Office of Recycling under the direction of the commissioner and shall perform any other functions of the department as the commissioner may prescribe.

c. Whenever in any law, rule, regulation, order, contract document, judicial or administrative proceeding or otherwise, reference is made to the de facto Office of Recycling under the joint administration of the Departments of Energy and Environmental Protection,

the same shall mean and refer to the New Jersey Office of Recycling in the Department of Environmental Protection.

d. All transfers directed by this section shall be made in accordance with the "State Agency Transfer Act," P.L. 1971, c. 375 (C. 52:14D-1 et seq.).

**C. 13:1E-99.39 Report to Legislature.**

50. (New section) The Commissioner of Environmental Protection shall prepare a report to the Legislature concerning the implementation of this amendatory and supplementary act, including a recommendation that the continuation of the tax imposed pursuant to section 4 of P.L. 1981, c. 278 (C. 13:1E-95) is necessary to ensure the achievement of the State Recycling Plan goals and the success of county and municipal recycling programs in meeting the designated recovery targets set forth in the district recycling plans, if warranted by the circumstances. This report shall be transmitted to the Legislature not later than April 1, 1990, and shall be revised, and modified if necessary, at least once every three years thereafter.

51. There is appropriated from the General Fund to the New Jersey Office of Recycling in the Department of Environmental Protection the sum of \$500,000.00, to implement the provisions of this amendatory and supplementary act.

52. There is appropriated from the General Fund to the "State-wide Mandatory Source Separation and Recycling Program Fund" created pursuant to section 45 of this amendatory and supplementary act the sum of \$8,000,000.00. Of this amount, not more than 85% shall be apportioned to aid municipalities to implement the provisions of section 6 of this amendatory and supplementary act, and not more than 15% shall be apportioned to counties to implement the provisions of section 3 and section 4 of this amendatory and supplementary act, all as provided in section 45 of this amendatory and supplementary act. The amount appropriated pursuant to this section shall be repaid to the General Fund, from moneys deposited in the "State Recycling Fund" established pursuant to section 5 of P.L. 1981, c. 278 (C. 13:1E-96), in annual installments not to exceed \$1,000,000.00 per fiscal year beginning January 1, 1988 and annually thereafter until the full amount is repaid according to a schedule of repayments determined by the State Treasurer.

53. This act shall take effect immediately except that section 35 shall take effect the first day of the third month following enactment and except that section 42 shall be applicable on and after the first

day of the sixth month following enactment and shall expire on December 31, 1996, except that any unused credits claimed prior to January 1, 1997 shall be allowable after December 31, 1996 in accordance with the provisions of section 42.

Approved April 20, 1987.

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### CHAPTER 103

AN ACT concerning domestic violence and amending P.L. 1979, c. 337.

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

1. Section 4 of P.L. 1979, c. 337 (C. 30:14-4) is amended to read as follows:

**C. 30:14-4 Advisory Council on Domestic Violence.**

4. a. There is created an Advisory Council on Domestic Violence which shall consist of 19 members: the Director of the Division on Women in the Department of Community Affairs, the Director of the Division of Youth and Family Services and the Director of the Division of Public Welfare in the Department of Human Services, the Director of the Administrative Office of the Courts, the Commissioner of the Department of Education, the Attorney General, or their designees, and one representative of Legal Services of New Jersey, one former domestic violence shelter resident, one representative of the Police Chiefs Association, one representative of the County Prosecutors Association, one representative of the New Jersey State Nurses Association, one representative of the Mental Health Association in New Jersey, one representative of the New Jersey Crime Prevention Officers Association, one representative of the New Jersey Hospital Association, one representative of the Violent Crimes Compensation Board, and four representatives of the New Jersey Coalition for Battered Women to be appointed by the Governor.

b. The advisory council shall:

(1) Monitor the effectiveness of the laws concerning domestic violence and make recommendations for their improvement;

(2) Review proposed legislation governing domestic violence and make recommendations to the Governor and the Legislature;