



Senate

General Assembly

File No. 387

February Session, 2008

Substitute Senate Bill No. 636

Senate, April 1, 2008

The Committee on Environment reported through SEN. MEYER of the 12th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING RESOURCES RECOVERY FACILITY CONTRACTS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective from passage*) (a) On and after December
2 31, 2008, no owner or operator of a resources recovery facility, as
3 defined in section 22a-207 of the general statutes, including any facility
4 operated by the Connecticut Resources Recovery Authority established
5 under chapter 446e of the general statutes, or a facility for disposal or
6 recycling of ash residue from a resources recovery facility, shall charge
7 a tipping fee or other fee for disposal of such municipal solid waste or
8 ash residue at such facility in excess of the rate approved by the
9 Department of Public Utility Control. The provisions of this subsection
10 shall not apply to any owner or operator of a resources recovery
11 facility or facility for the disposal or recycling of ash residue from a
12 resources recovery facility that (1) is an operating committee
13 established pursuant to subsection (c) of section 22a-221 of the general
14 statutes or regional or municipal authority other than the authority

15 specified in this subsection, or (2) on the effective date of this section,
 16 has a written contract with an operating committee for disposing
 17 municipal solid waste or ash residue at such facility and the operating
 18 committee establishes the tipping fee for disposal of solid waste or ash,
 19 provided the exception in this subdivision shall only apply during the
 20 term of such contract or any extension of such contract.

21 (b) Any rate approved by the Department of Public Utility Control
 22 pursuant to this section shall (1) be just and reasonable, (2) be
 23 sufficient, but not more than necessary to allow the owner or operator
 24 to (A) cover its operating and capital costs, (B) attract needed capital,
 25 and (C) maintain its financial integrity, and yet provide appropriate
 26 protection to the relevant public interests, both existing and
 27 foreseeable; and (3) reflect prudent and efficient management of the
 28 facility operation.

29 (c) Notwithstanding the provisions of subsections (a) and (b) of this
 30 section, the department may approve an interim increase in any rate if
 31 the department determines that such increase is necessary to prevent
 32 substantial and material deterioration of the financial condition of the
 33 owner or operator, to prevent substantial deterioration of the adequacy
 34 and reliability of the facility's operations.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section

ENV *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 09 \$	FY 10 \$
Public Utility Control, Dept.	CC&PUCF - Cost	Significant	Significant
All	Various - See Below	See Below	See Below

Note: CC&PUCF=Consumer Counsel and Public Utility Control Fund

Municipal Impact:

Municipalities	Effect	FY 09 \$	FY 10 \$
Various Municipalities	See Below	See Below	See Below

Explanation

This bill subjects certain resource recovery facilities to Department of Public Utility Control (DPUC) regulations. DPUC currently does not regulate this type of utility and would have to establish a unit with subject matter expertise in this area. This would involve hiring a supervising technical analyst (\$81,000), a lead rate specialist (\$80,000), and a utilities examiner (\$72,000).¹

This bill could also result in additional costs to the Connecticut Resources Recovery Authority (CRRA) and member municipalities if it were regulated by DPUC, since CRRA could incur an assessment from DPUC for its oversight activities.

This bill could also result in savings to municipalities if the DPUC regulated tip fee were lower than the current fee of \$81 per ton for the Bridgeport Project, \$69 per ton for the Mid-CT Project (in Hartford), \$60 per ton for the Southeast Project (in Preston), and \$59 per ton for the Wallingford Project.

¹ The total fiscal impact of \$384,000 for FY 09 includes salary, fringe benefits, and other expenses associate with a new hire.

It should be noted that CRRA waste-to-energy project tip fees are set from 120 to 150 days prior to the end of each fiscal year, and standard DPUC filing requirements take at least nine months.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**sSB 636*****AN ACT CONCERNING RESOURCES RECOVERY FACILITY CONTRACTS.*****SUMMARY:**

This bill prohibits, starting December 31, 2008, owners or operators of certain resources recovery and ash residue facilities from charging a tipping or other fee for solid waste disposal that exceeds a rate approved by the Department of Public Utility Control (DPUC). It applies to resource recovery facilities operated by the Connecticut Resources Recovery Authority and facilities that dispose of, or recycle, ash residue from resource recovery facilities. The bill excludes resource recovery facilities and ash residue facilities owned or operated by (1) an operating committee established by law or (2) a regional or municipal authority other than the CRRA. It also exempts resource recovery facilities and ash residue facilities that, on the date the bill takes effect, have a written contract to dispose of municipal solid waste or ash residue with an operating committee, and the committee sets the tipping fee. This exemption applies only during the term of the contract or a contract extension.

The bill requires DPUC to set rates that are (1) just and reasonable and (2) sufficient, but not more than necessary, to allow the owner or operator to cover its operating and capital costs, attract needed capital, and maintain its financial integrity. The fee must protect relevant existing and foreseeable public interests, and reflect prudent and efficient facility management.

The bill authorizes DPUC to approve an interim increase in any rate if it determines one is needed to prevent substantial and material deterioration of the owner or operators' financial condition, to prevent substantial deterioration of the adequacy and reliability of the facility's

operation.

EFFECTIVE DATE: Upon passage

BACKGROUND

Resource Recovery Facilities

By law, these are facilities that reclaim energy from municipal solid waste (CGS § 22a-207 (9)). There are six resource recovery facilities in the state. CRRA operates four of them: Bridgeport, Hartford (the Mid-Connecticut Project), Preston (the Southeast Project), and Wallingford.

The other two resource recovery facilities are located in Bristol and Lisbon. The Bristol facility is owned by Covanta of Bristol, Inc., which contracts with the Bristol Resource Recovery Facility Operating Committee/Tunxis Recycling Operating Committee. The Lisbon plant is owned by the Eastern Connecticut Resource Recovery Authority.

CRRA

CRRA is a quasi-public agency that plans, designs, builds, and operates solid waste disposal, volume reduction, recycling, intermediate processing, and resources recovery facilities (CGS § 22a-261).

Operating Committees

By law, any municipality or two more municipalities may enter into a contract for the long-term provision of solid waste disposal services. Any such contract may authorize the creation of a committee consisting of representatives of any municipality that is a party to the contract (CGS § 22a-221(c)).

Ash Residue Facilities

Two landfills in the state are permitted to accept and dispose of this ash. The CRRA ash landfill in Hartford is expected to close at the end of 2008. The Wheelabrator ash landfill in Putnam is estimated to reach capacity and close by 2018.

COMMITTEE ACTION

Environment Committee

Joint Favorable Substitute

Yea 26 Nay 4 (03/14/2008)