
OLR Bill Analysis

sSB 1081 (File 447, as amended by Senate “A,” “B,” and “C”)*

AN ACT CONCERNING RECYCLING AND JOBS.

SUMMARY:

This bill makes several changes to the state’s laws relating to recycling and solid waste management, as described in a section-by-section analysis below. Among other things, it:

1. increases the information scrap metal processors must provide to the Department of Energy and Environmental Protection (DEEP) commissioner to be exempt from needing a solid waste facility permit (§ 2);
2. broadens the scope of the law that requires certain generators of organic materials to separate organic materials from other solid waste and recycle them at composting facilities (§ 4);
3. requires the DEEP commissioner to consult with state or quasi-public agencies and identify opportunities to establish a recycling infrastructure investment program or expand an existing one (§ 5);
4. allows municipalities to adopt ordinances providing a property tax exemption for certain recycling machinery or equipment (§ 6);
5. requires DEEP to audit the Connecticut Resources Recovery Authority (CRRA) to, among other things, review its financial condition, and provide a summary of the audits’ findings (§ 7);
6. establishes a Resources Recovery Task Force to study the operations, financial stability, and business models of Connecticut’s resource recovery facilities (§ 8);

7. requires CRRA to develop a transition plan for either (a) long-term financial stability or (b) dissolution (§ 9); and
8. allows DEEP-approved solid waste contracts in force as of December 31, 2008 that are extended to exceed the law's 30-year duration limit (§ 501).

The bill also repeals several obsolete statutes and provisions relating to CRRA and makes several minor and technical changes.

*Senate Amendment "A" removes provisions in the original bill that:

1. created a program for technical assistance and incentives to towns and regions with a solid waste disposal unit-based pricing system ("pay-as-you-throw");
2. set goals for regional waste management authorities to provide towns with a regional option for solid waste management; and
3. prohibited solid waste collectors from mixing designated recyclables with other solid waste, regardless of whether they do so knowingly.

*Senate Amendment "B" removes the same provisions as Amendment "A" and:

1. adds the provisions relating to CRRA and the Resources Recovery Task Force,
2. requires scrap metal processors to include an estimate of the amount of metal received from Connecticut construction or demolition sites,
3. decreases the tonnage threshold requiring certain entities to recycle organic materials by 2020,
4. eliminates a provision in the original bill exempting certain solid waste collectors from providing reports on collected solid waste to municipalities, and

5. specifies that to be (a) an end user a manufacturer must make a marketable product and (b) a collector a person must hold him or herself out for hire regularly to collect solid waste instead of collecting such waste on a regular basis.

*Senate Amendment "C" exempts contract extensions of DEEP commissioner-approved solid waste contracts in force as of December 31, 2008 from the law's 30-year contract limitation.

EFFECTIVE DATE: October 1, 2013, except the property tax provision is applicable to assessment years starting on or after that date and the provisions relating to CRRA, the Resources Recovery Task Force, and the 30-year solid waste contract limitation take effect upon passage.

§§ 1 & 3 — SOLID WASTE DEFINITIONS

By law, a solid waste "collector" is anyone who holds himself out for hire to collect solid waste on a regular basis from residential, business, commercial, or other establishments. Collectors must annually register with and report to the municipalities in which they do business. The bill instead limits collectors to those people who hold themselves out for hire regularly to collect such waste. It specifies that collectors are not people who transport:

1. solid waste incidentally generated during professional or commercial activities unrelated to solid waste collection (e.g., home repairs) if it is (a) self-generated by the person's activities and (b) transported to an authorized recycling facility, permitted recycling facility, or permitted solid waste facility or
2. used materials to a (a) charitable organization that distributes reused household items or (b) retail facility that sells reused household items.

The bill also specifies that an "end user" under the solid waste management laws is a (1) person who uses a material for its original use or (2) manufacturer who uses a material as feedstock to make a marketable product.

§ 2 — SCRAP METAL PROCESSORS

Current law exempts scrap metal processors from obtaining a solid waste facility permit if they annually report to the DEEP commissioner, on March 31, the amount of scrap metal purchased or received from (1) a municipality, (2) a municipal or regional authority, (3) the state, or (4) a political subdivision of the state. Current law also requires that each municipality included in the report receive a copy of the information that relates to it.

The bill instead requires these processors, by July 31, 2014 and annually afterward, to report to the commissioner, on a form he prescribes, the amount of scrap metal generated in Connecticut and purchased or received by them for the prior fiscal year. They must include a good faith estimate of the amount received directly from Connecticut construction or demolition sites. The report must identify (1) the monthly amounts of scrap metal generated in the state, other recyclable materials generated in the state, and generated recycling residue, that the processor sends out; (2) the type of destination facility for the materials; and (3) whether the destination facility is in Connecticut.

§ 4 — ORGANIC MATERIALS

Under current law, commercial food wholesalers or distributors, industrial food manufacturers or processors, supermarkets, resorts, and conference centers that generate an average of at least 104 tons of source-separated organic materials a year must (1) separate the organic materials from other solid waste and (2) recycle the organic materials at a permitted source-separated organic material composting facility located within 20 miles of the generation site. They must do this within six months after at least two such facilities with a combined capacity to accept the generators' materials are open for business in Connecticut (see BACKGROUND).

Under the bill, beginning January 1, 2014, these large generators of organic material (i.e., generating at least 104 tons a year) located within 20 miles of an authorized, instead of permitted, source-separated organic material composting facility must recycle the organic materials

at any such facility with available capacity that will accept them.

Beginning January 1, 2020, the bill applies the separation and recycling requirements to commercial food wholesalers or distributors, industrial food manufacturers or processors, supermarkets, resorts, and conference centers (1) generating an average of at least 52 tons of source-separated organic materials a year and (2) located within 20 miles of an authorized source-separated organic material composting facility. Thus, these entities must (1) separate the organic materials from other solid waste and (2) recycle the organic materials at an authorized facility that has available capacity and will accept them.

Existing law, unchanged by the bill, allows these generators to compost the source-separated organic material or treat it with organic treatment equipment on-site.

§ 6 — PROPERTY TAX EXEMPTION

The bill allows municipalities to adopt ordinances exempting from the property tax recycling machinery or equipment installed on or after October 1, 2013. The exemption must apply only to the (1) increased value of the commercial or industrial property attributable to the machinery or equipment and (2) first 15 assessment years after installation.

§ 7 — CRRA AUDITS

The bill requires DEEP, in consultation with the Office of Policy and Management (OPM), to begin at least one audit of CRRA by June 30, 2013. It requires CRRA to (1) cooperate fully with any such audit and (2) pay the audits' costs as long as they do not exceed \$500,000 in total.

An audit may include a review or analysis of CRRA's:

1. audits or investigation, if any, conducted before the bill's passage;
2. financial condition;
3. short and long-term liabilities, such as liabilities (a) to bond

holders, employees, and former employees and (b) from lawsuits, leases, contracts, and other matters;

4. existing and projected revenues;
5. cash flow projections for each of the next three calendar years;
6. operations, such as human resources, facilities use, information technology services, and potential operating efficiencies;
7. internal controls, financial management, and risk management practices; and
8. transactions.

DEEP, in conjunction with OPM, must provide a summary of the audits' findings to the governor and the Appropriations, Environment, and Government Administration and Elections committees by October 30, 2013.

§ 8 — RESOURCES RECOVERY TASK FORCE

The bill establishes a 13-member Resources Recovery Task Force to study the operations, financial stability, and business models for resource recovery facilities operating in Connecticut.

Task Force Membership

The bill requires the task force to consist of the DEEP and administrative services (DAS) commissioners and the OPM secretary, or their designees, and ten members appointed by the legislative leaders and the governor.

Under the bill, the House speaker, Senate president pro tempore, House minority leader, and Senate minority leader each appoint one member who must be a municipal official or a representative of an organization that represents municipalities. The House majority leader must appoint a member who represents the solid waste hauling industry. The Senate majority leader appoints a member with energy procurement experience. The governor's four appointees must each represent resource recovery facilities in Connecticut or have energy

procurement experience.

Appointments to the task force must be made not later than 30 days after the bill's passage. The DEEP commissioner, or his designee, serves as the chairperson. The chairperson must schedule the first meeting for no later than 60 days after the bill's passage. Any task force vacancy must be filled by the appointing authority.

DEEP's administrative staff serves as administrative staff of the task force.

Report and Termination

The task force must submit its findings and recommendations to the Energy Committee by December 15, 2013.

The report must include (1) a review of the applicable laws and regulations on renewable energy certificate credits provided to resource recovery facilities in Connecticut and (2) an analysis of the financial status of the resource recovery facilities operating in the state, including whether bilateral purchasing agreements with resource recovery facility-based businesses and the state or municipalities would improve these facilities' long-term financial stability.

The report must provide recommendations on:

1. modifications to the renewable energy certificate credits laws, including the extent of the expected economic impact of the recommendation on resource recovery facilities, municipalities, and energy consumers;
2. improvements to the financial status of in-state resource recovery facilities;
3. changes to statutes and regulations on bilateral purchase agreements, including a description of the effect of the changes on the (a) anticipated structure of the agreements and (b) financial impact of the agreements on resource recovery facilities, municipalities, and energy consumers; and

4. whether such facilities should be considered electric municipal utilities for the municipalities they serve.

The report must include any other recommendations appropriate relating to the future of in-state resource recovery facilities and such facilities' long-term financial status.

The task force terminates when it submits the report or on December 15, 2013, whichever is later.

§ 9 — CRRA TRANSITION PLAN

The bill requires CRRA to develop a transition plan to (1) achieve a sustainable business model to improve its long-term financial stability or (2) dissolve it and dispose of its assets. The plan must be developed in consultation with the Resources Recovery Task Force and transmitted to the governor and the Energy and Environment committees by November 30, 2013.

CRRA, when it develops the plan, must detail and consider such things as:

1. costs and benefits of (a) closing or selling the Mid-Connecticut Resource Recovery Facility, (b) transitioning the facility to an alternative use such as a solid waste management facility, and (c) selling other CRRA assets;
2. reductions in CRRA expenses, such as management and legal fees, labor costs, and contract obligations;
3. CRRA's financial and legal liabilities, including an evaluation of whether the liabilities can be eliminated or mitigated;
4. operational requirements of CRRA's regional transfer stations, landfills, and any of CRRA's other functional roles;
5. CRRA's state-wide role in bonding, education, and development, and how the plan impacts that role; and
6. CRRA's post-closure responsibilities and liabilities for landfills it

cares for and controls.

§§ 10 & 11 — CRRA-RELATED OBSOLETE PROVISIONS

The bill repeals three obsolete statutes concerning CRRA related to the CRRA-Enron-Connecticut Light and Power Company (CL&P) transaction including (1) the attorney general’s supervision over legal claims from the transaction, (2) authority to temporarily borrow funds from the state to repay certain debt issued by CRRA, and (3) reporting requirements for the CRRA board of directors to describe efforts taken to mitigate the effects of lost revenue from the transaction. CRRA’s last Enron-related obligation to the state was paid in 2008.

The bill also repeals a statute requiring the CRRA board to establish special committees to study and present solid waste disposal options for municipalities contracting with CRRA, including private sector management, by a certain date before outstanding bonds for a waste management project mature.

It eliminates a provision establishing a steering committee of the CRRA board for the purposes of, among other things, establishing a financial restructuring plan to mitigate the impact of the CRRA-Enron-CL&P transaction on municipalities with CRRA contracts.

§ 501 — SOLID WASTE CONTRACT LIMITATION

Under current law, the length of contracts the state, municipalities, and municipal or regional authorities can make for solid waste collection, transport, separation, volume reduction, processing, storage, and disposal is limited to thirty years. The bill exempts from the limitation extensions of contracts approved by the DEEP commissioner and in force as of December 31, 2008.

BACKGROUND

Organic Materials and Composting Facilities

By law, “source-separated organic material” includes food scraps, food processing residue, and soiled or unrecyclable paper that are separated, at generation, from nonorganic materials (CGS § 22a-207(29)).

A “composting facility” is land, appurtenances, structures, or equipment where organic materials originating from another process or location and separated at generation from nonorganic material are recovered, using a process of accelerated biological decomposition of organic material under controlled aerobic or anaerobic conditions (CGS § 22a-207(28)).

COMMITTEE ACTION

Environment Committee

Joint Favorable Substitute

Yea 18 Nay 10 (03/27/2013)

Planning and Development Committee

Joint Favorable

Yea 18 Nay 0 (04/29/2013)