

OFFICE OF LEGISLATIVE RESEARCH
PUBLIC ACT SUMMARY



PA 13-285—sSB 1081

Environment Committee

Planning and Development Committee

AN ACT CONCERNING RECYCLING AND JOBS

SUMMARY: This act makes several changes in the state’s laws relating to solid waste management. Among other things, it:

1. makes certain solid waste and used material transporters exempt from registration and reporting requirements applicable to solid waste collectors;
2. 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;
3. broadens the scope of the law requiring certain organic materials generators to separate the materials from other solid waste and recycle them at composting facilities;
4. requires the DEEP commissioner to consult with state or quasi-public agencies to identify opportunities to establish a new recycling infrastructure investment program or expand an existing one;
5. allows municipalities to adopt ordinances providing a property tax exemption for certain recycling machinery or equipment; and
6. allows certain solid waste contracts to be extended beyond the law’s 30-year term limit.

The act establishes a Resources Recovery Task Force to study the operations, financial stability, and business models for resource recovery facilities in Connecticut. It requires (1) DEEP to audit the Connecticut Resources Recovery Authority (CRRA) and provide a summary of the audits’ findings and (2) CRRA to develop a transition plan for either long-term financial stability or dissolution.

The act also repeals several obsolete CRRA-related provisions and makes other minor and technical changes.

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 solid waste contract term limitation take effect upon passage.

§§ 1 & 3 — SOLID WASTE DEFINITIONS

By law, a solid waste collector must, among other things, register with and provide certain information to each municipality where he or she collects solid waste. Under prior law, “solid waste collectors” were people who held themselves out for hire to collect solid waste on a regular basis from residential, business,

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commercial, or other establishments. The act instead makes collectors 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 activity 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 or permitted recycling facility or a 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 act 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

Prior law exempted scrap metal processors from obtaining a solid waste facility permit if they annually reported 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. It also required that each Connecticut municipality included in the report receive a copy of the information that related to it.

Under the act, to be exempt from obtaining the permit, these processors, by July 31, 2014 and annually afterward, must 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 that the processor sends out of scrap metal generated in-state, other recyclable materials generated in-state, and generated recycling residue; (2) the type of destination facility for the materials; and (3) whether the destination facility is in Connecticut.

§ 4 — ORGANIC MATERIALS

The act broadens the scope of the law requiring certain organic materials generators to separate the materials and recycle them at composting facilities by (1) establishing specific dates for when they must do so, (2) making smaller generators comply with the law, and (3) requiring generators to recycle the materials at authorized facilities instead of only at permitted facilities (see BACKGROUND).

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

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materials opened for business in the state. The act eliminates these requirements as of October 1, 2013.

Instead, under the act, beginning January 1, 2014, these same large generators of organic materials (i.e., facilities generating at least 104 tons a year) located within 20 miles of an authorized, instead of permitted, source-separated organic material composting facility, must separate the materials from other solid waste and recycle the materials at any such facility with available capacity that will accept them.

Beginning January 1, 2020, the act applies these requirements to generators (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.

By law, generators may comply with the requirements by composting the source-separated organic materials or treating it with certain organic treatment equipment on-site. The law also requires permitted facilities receiving the organic materials to provide DEEP with a summary of the fees charged for receiving it.

§ 6 — PROPERTY TAX EXEMPTION

The act 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 act 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 investigations conducted before July 12, 2013;
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.

With OPM, DEEP 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 act 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 act requires the task force to consist of the DEEP and administrative services commissioners and the OPM secretary, or their designees, and ten members appointed by the legislative leaders and the governor.

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 must be made by August 11, 2013. The DEEP commissioner, or his designee, serves as the chairperson. The chairperson must schedule the first meeting, which must be held by September 10, 2013. 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 and Technology Committee by December 15, 2013.

The report must include (1) a review of the applicable laws and regulations on renewable energy certificate credits given to in-state resource recovery facilities and (2) an analysis of the financial status of the resource recovery facilities operating in Connecticut, 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, if any, to the renewable energy certificate credits laws, including the modification's expected economic impact on resource recovery facilities, municipalities, and energy consumers;
2. improvements to the financial status of in-state resource recovery facilities;
3. changes to laws 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.

It must also include any other recommendations appropriate to the future of

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in-state resource recovery facilities and their 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 act requires CRRA to develop a transition plan for (1) achieving a sustainable business model to improve its long-term financial stability or (2) dissolving it and disposing of its assets. The plan must be developed in consultation with the Resources Recovery Task Force (see above) and provided to the governor and the Energy and Technology and Environment committees by November 30, 2013.

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

1. consequences 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 expenses, such as management and legal fees, labor costs, and contract obligations;
3. CRRA's financial and legal liabilities and whether they can be eliminated or mitigated;
4. operational requirements of its regional transfer stations, landfills, and its other functional roles;
5. its statewide role in bonding, education, and development, and how the plan affects that role; and
6. its post-closure responsibilities and liabilities for landfills it cares for and controls.

§§ 10 & 12 — REPEALED CRRA-RELATED PROVISIONS

The act 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 CRRA's legal matters and claims from the transaction, (2) authority to temporarily borrow funds from the state to repay certain debt issued by CRRA, and (3) a reporting requirement for CRRA's 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 act repeals a statute requiring CRRA's board to establish a special committee to study and present options for disposing of solid waste from municipalities contracting with CRRA, including private sector management, by a certain date before outstanding bonds for a waste management project administered by CRRA mature.

It also eliminates a provision establishing a CRRA board steering committee to (1) establish and implement a financial restructuring plan to mitigate the impact of the CRRA-Enron-CL&P transaction on municipalities with CRRA contracts and (2) review CRRA's finances and administration.

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§ 11 — SOLID WASTE CONTRACT EXTENSIONS

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

BACKGROUND

Organic Material 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 material (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)).

Related Acts

PA 13-42 establishes a mattress stewardship program to manage discarded mattresses. The program, designed by a nonprofit council, is funded by a fee on most mattresses sold in Connecticut. Mattress producers who fail to participate in the program are prohibited from selling mattresses in the state.

PA 13-247 requires DEEP and CRRA to enter into a memorandum of understanding to make DEEP assume the legal obligations from closing the Ellington, Hartford, Shelton, Wallingford, and Waterbury landfills.

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