

THE GENERAL ASSEMBLY OF PENNSYLVANIA

# HOUSE BILL

No. 1843 Session of  
1985

INTRODUCED BY SAURMAN, J. L. WRIGHT, NAHILL, L. E. SMITH,  
HERSHEY, B. SMITH, DISTLER, GEIST, SHOWERS, MICHLOVIC, ARTY,  
GODSHALL, FOX, FLICK, SEMMEL, MORRIS, KUKOVICH AND JOSEPHS,  
OCTOBER 28, 1985

REFERRED TO COMMITTEE ON CONSERVATION, OCTOBER 28, 1985

AN ACT

1 Providing for resource recovery and recycling and for recycling  
2 responsibilities of counties; providing for further duties of  
3 the Departments of Environmental Resources and Revenue;  
4 imposing a solid waste services tax, a resource recovery  
5 investment tax and a solid waste import tax; establishing the  
6 Solid Waste Services Tax Fund, the Resource Recovery  
7 Investment Tax Fund and County Resource Recovery Investment  
8 Tax Fund; providing for contracts for resource recovery and  
9 recycling facilities and services, for recycling plans of  
10 counties and municipalities, and for plastic beverage  
11 containers and deposits thereon; establishing the Plastics  
12 Recycling Fund; providing for metal beverage containers and  
13 deposits thereon; establishing the Bimetal Container  
14 Recycling Fund; providing for PVC containers, for leaves and  
15 for automobile tires and deposits thereon; establishing the  
16 Automobile Tire Recycling Fund; providing penalties; and  
17 making appropriations.

18 The General Assembly finds that decreasing waste flow to  
19 landfill sites, recovering valuable resources, conserving energy  
20 in the manufacturing process, and increasing the supply of  
21 reusable raw materials for this Commonwealth's industries will  
22 be enhanced by removing certain materials from the solid waste  
23 stream at the source of generation, and that the recycling of  
24 reusable waste materials substantially reduces the required

1 capacity of proposed waste to energy facilities while  
2 contributing to their overall combustion efficiency, thereby  
3 resulting in significant costs savings in the planning,  
4 construction, and operation of such resource recovery  
5 facilities. The General Assembly further finds that this  
6 Commonwealth may most appropriately demonstrate its long-term  
7 commitment to proper solid waste management and resource  
8 recovery by establishing a mandatory Statewide recycling  
9 program.

10 The General Assembly therefore declares that it serves the  
11 public interest to mandate the recycling of reusable waste  
12 materials on a Statewide basis so that reusable materials may be  
13 returned to the economic mainstream in the form of raw materials  
14 or products rather than disposed at this Commonwealth's  
15 overburdened landfills, and that the recycling of recoverable  
16 materials by every municipality and the development of public  
17 and private sector recycling activities on an orderly and  
18 incremental basis shall further demonstrate this Commonwealth's  
19 long-term commitment to solving its solid waste problems.

20 TABLE OF CONTENTS

21 PART I. GENERAL PROVISIONS

22 Chapter 1. Preliminary Provisions

23 Section 101. Short title.

24 Section 102. Definitions.

25 Section 103. Rules and regulations.

26 PART II. REVENUE AND CONTRACTS

27 Chapter 3. Revenue

28 Subchapter A. Preliminary Provisions

29 Section 301. Definitions.

30 Section 302. Rules and regulations.

1       Subchapter B.   Taxes

2   Section 321.   Solid waste services tax.

3   Section 322.   Resource recovery investment tax.

4   Section 323.   Solid waste import tax.

5   Section 324.   Registration.

6   Section 325.   Tax returns.

7   Section 326.   Determination of tax by department.

8   Section 327.   Interest.

9   Section 328.   Local taxation.

10   Section 329.   Penalty.

11   Chapter 5.   Funds and Program

12   Section 501.   Solid Waste Services Tax Fund.

13   Section 502.   Citizens' advisory committees.

14   Section 503.   Resource Recovery Investment Tax Fund.

15   Section 504.   County Resource Recovery Investment Tax Fund.

16   Section 505.   Administration of county investment tax fund

17                   by department.

18   Chapter 7.   Contracts for Facilities and Services

19   Section 701.   Contracts for resource recovery facilities

20                   and services.

21   Section 702.   Requests for proposals.

22   Section 703.   Review of proposals.

23   Section 704.   Designation of vendor.

24   Section 705.   Submission of contract to department.

25   Section 706.   Public hearings.

26   Section 707.   Decision of department.

27   Section 708.   Required provisions of contracts for resource

28                   recovery facilities.

29   Section 709.   Exemption.

30   Section 710.   Lease or sale of sites.

PART III. RECYCLING

Chapter 21. County Recycling Plan

Section 2101. Preparation of county recycling plan.

Section 2102. Content of plan.

Section 2103. Recycling businesses.

Section 2104. Modification of plan.

Section 2105. Contracts for recycling services.

Section 2106. Municipal recycling program.

Section 2107. Collectors and transporters.

Section 2108. Collectors serving municipalities.

Section 2109. Recycling plan responsibilities.

Chapter 23. Containers and Materials

Section 2301. Containers.

Section 2302. Plastic beverage containers.

Section 2303. Plastics Recycling Fund.

Section 2304. Metal beverage containers.

Section 2305. Bimetal Container Recycling Fund.

Section 2306. PVC prohibited.

Section 2307. PVC containers.

Section 2308. Brickpacks prohibited.

Section 2309. Leaves.

Section 2310. Automobile tires.

Section 2311. Automobile Tire Recycling Fund.

PART IV. MISCELLANEOUS PROVISIONS

Chapter 99. Miscellaneous Provisions

Section 9901. Repeals.

Section 9902. Effective date.

The General Assembly of the Commonwealth of Pennsylvania  
hereby enacts as follows:

PART I

1 GENERAL PROVISIONS

2 CHAPTER 1

3 PRELIMINARY PROVISIONS

4 Section 101. Short title.

5 This act shall be known and may be cited as the Waste  
6 Recycling Law.

7 Section 102. Definitions.

8 Subject to additional or inconsistent definitions contained  
9 in subsequent provisions of this act which are applicable to  
10 specific provisions of this act, the following words and phrases  
11 when used in this act shall have the meanings given to them in  
12 this section unless the context clearly indicates otherwise:

13 "Beverage." Alcoholic beverages, including beer or other  
14 malt beverages, liquor, wine, vermouth and sparkling wine, and  
15 nonalcoholic beverages, including fruit juice, mineral water and  
16 soda water and similar nonalcoholic carbonated drinks intended  
17 for human consumption.

18 "Beverage container." An individual, separate, sealed bottle  
19 or can composed of glass, metal or plastic, or any combination  
20 thereof, containing a beverage.

21 "Contract file." A file established and maintained by a  
22 contracting unit, in which the contracting unit shall maintain a  
23 copy of its request for qualifications issued pursuant to  
24 section 701, a list of vendors responding to its request for  
25 qualifications, a copy of its request for proposals issued  
26 pursuant to section 702, a list of qualified vendors submitting  
27 proposals, and a document outlining the general criteria used by  
28 the contracting unit in selecting a proposal.

29 "Contracting unit." Any county, city, borough, incorporated  
30 town, township or municipal authority.

1 "County investment tax fund." A County Resource Recovery  
2 Investment Tax Fund established under section 504.

3 "County recycling plan." The plan prepared and adopted by  
4 the governing body of a county and approved by the department.

5 "Department." The Department of Environmental Resources of  
6 the Commonwealth.

7 "Designated recyclable materials." Those recyclable  
8 materials, including, but not limited to, metal, glass, or  
9 paper, plastic containers, food waste, corrugated and other  
10 cardboard, newspaper, magazines, or high-grade office paper  
11 designated in a county recycling plan to be source separated.

12 "Independent public accountant." A certified public  
13 accountant or a registered public accountant.

14 "Investment tax." The resource recovery investment tax  
15 imposed under section 322.

16 "Investment tax funds." The Resource Recovery Investment Tax  
17 Fund containing subaccounts for each county established under  
18 section 503.

19 "Municipality." A city, borough, incorporated town or  
20 township.

21 "Municipal solid waste stream." All residential, commercial  
22 and institutional solid waste generated within the boundaries of  
23 any municipality.

24 "Out-of-county solid waste." Any solid waste which is  
25 accepted for disposal in a county and which was generated  
26 outside the receiving county.

27 "Paper product." Any paper items or commodities, including,  
28 but not limited to, paper napkins, towels, corrugated and other  
29 cardboard, construction material, toilet tissue, high-grade  
30 office paper, fine paper, bond paper, offset paper, xerographic

1 paper, mimeographic paper and duplicator paper.

2 "Person" or "party." Any person, firm, corporation,  
3 association, municipality, municipal authority or interstate  
4 agency or authority.

5 "Plastic container." A plastic beverage container, or any  
6 container composed of plastic having a capacity of 12 ounces or  
7 more, containing a food or nonfood product.

8 "Postconsumer waste material." Any product which is  
9 generated by a business or consumer, which has served its  
10 intended end use, which has been separated from solid waste for  
11 the purposes of collection, recycling and disposition, and which  
12 does not include secondary waste material or demolition waste.

13 "Proposed contract." A contract negotiated by a contracting  
14 unit under this act, or a substantial renegotiation of a  
15 contract approved under this act if the renegotiation is  
16 determined to be substantial by the department.

17 "PVC." Polyvinyl chloride or polyvinylidene chloride.

18 "Qualified vendor." Any person or party financially  
19 qualified for, and technically and administratively capable of,  
20 undertaking the design, financing, construction, operation or  
21 maintenance, or any combination thereof, of a resource recovery  
22 facility or of providing resource recovery services, as provided  
23 in section 701.

24 "Recyclable material." Those materials which would otherwise  
25 become solid waste and which may be collected, separated or  
26 processed and returned to the economic mainstream in the form of  
27 raw materials or products.

28 "Recycled paper product." Any product having a total weight  
29 consisting of not less than 50% secondary wastepaper material  
30 and not less than 10% postconsumer waste material for high-grade

1 office paper, and fine, bond and offset paper products, and not  
2 less than 25% postconsumer waste materials for all other paper  
3 products.

4 "Recycling." Any process by which materials which would  
5 otherwise become solid waste are collected, separated or  
6 processed and returned to the economic mainstream in the form of  
7 raw materials or products.

8 "Recycling center." Any facility designed and operated  
9 solely for receiving, storing, processing and transferring  
10 source separated or source separated commingled nonputrescible  
11 metal, glass, paper, plastic containers, plastic beverage  
12 containers, and corrugated and other cardboard, newspaper,  
13 magazines, and high-grade office paper.

14 "Recycling facility." A facility at which materials which  
15 would otherwise become solid waste are collected, separated or  
16 processed and returned to the economic mainstream in the form of  
17 raw materials or products.

18 "Recycling services." The services provided by persons  
19 engaging in the business of recycling, including the collection,  
20 processing, storage, and disposition of recyclable materials.

21 "Sanitary landfill facility." A solid waste facility at  
22 which solid waste is deposited on or in the land as fill for the  
23 purpose of permanent disposal or storage for a period exceeding  
24 six months. The term shall not include any waste facility  
25 approved for disposal of hazardous waste.

26 "Secondary waste material." Waste material generated after  
27 the completion of a manufacturing process.

28 "Secondary wastepaper material." Paper waste generated after  
29 the completion of a paper-making process, including, but not  
30 limited to, envelope cuttings, bindery trimmings, printing



1 waste, cutting and other converting waste, butt rolls and mill  
2 wrappers; except that secondary wastepaper material shall not  
3 include fibrous waste generated during the manufacturing  
4 process, such as fibers recovered from wastewater or trimmings  
5 of paper machine rolls, fibrous byproducts of harvesting,  
6 extractive or woodcutting processes, or forest residue such as  
7 bark.

8 "Services tax." The solid waste services tax imposed under  
9 section 321.

10 "Services tax fund." The Solid Waste Services Tax Fund  
11 established under section 501.

12 "Source separated recyclable materials." Recyclable  
13 materials, including, but not limited to, paper, metal, glass,  
14 food waste, office paper and plastic which are kept separate and  
15 apart from residential, commercial and institutional solid waste  
16 by the generator thereof for the purposes of collection,  
17 disposition and recycling.

18 "Vendor." Any person or party proposing to undertake the  
19 design, financing, construction, operation or maintenance, or  
20 any combination thereof, of a resource recovery facility or the  
21 providing of resource recovery services.

22 "Waste importation tax." The solid waste import tax imposed  
23 under section 323.

24 Section 103. Rules and regulations.

25 (a) General rule.--The department shall, in the manner  
26 provided by law, promulgate the rules and regulations necessary  
27 to carry out, with the exception of chapter 3, the provisions of  
28 this act.

29 (b) Design of facilities.--The department shall adopt rules  
30 and regulations for the engineering design of resource recovery

1 facilities, to include a requirement that state-of-the-art air  
2 emission technology be installed to control the emission of  
3 hydrocarbons, particulates, dioxins, nitrogen oxides, carbon  
4 monoxide, heavy metals, hydrochloric acid, sulfur oxides and  
5 other acid gases and pollutants from each resource recovery  
6 facility which is expected to emit these pollutants.

7 PART II

8 REVENUE AND CONTRACTS

9 CHAPTER 3

10 REVENUE

11 SUBCHAPTER A

12 PRELIMINARY PROVISIONS

13 Section 301. Definitions.

14 The following words and phrases when used in this chapter  
15 shall have the meanings given to them in this section unless the  
16 context clearly indicates otherwise:

17 "Department." The Department of Revenue of the Commonwealth.

18 Section 302. Rules and regulations.

19 The department shall, in the manner provided by law,  
20 promulgate the rules and regulations necessary to carry out this  
21 chapter.

22 SUBCHAPTER B

23 TAXES

24 Section 321. Solid waste services tax.

25 (a) Imposition.--There is hereby imposed upon the owner or  
26 operator of every sanitary landfill facility a solid waste  
27 services tax. This tax shall be imposed on the owner or operator  
28 at the initial rate of 50¢ per ton of solids and 0.2¢ per gallon  
29 of liquids on all solid waste accepted for disposal at a  
30 sanitary landfill facility.

1 (b) Increase.--On the first day of the first calendar year  
2 following the imposition of this tax, and annually thereafter,  
3 the rate of the services tax shall be increased by 5¢ per ton of  
4 solids.

5 (c) Exception.--No services tax shall be levied on the owner  
6 or operator of a sanitary landfill facility for the acceptance  
7 for disposal of the waste products resulting from the operation  
8 of a resource recovery facility.

9 Section 322. Resource recovery investment tax.

10 (a) Imposition.--There is hereby imposed upon the owner or  
11 operator of every sanitary landfill facility a resource recovery  
12 investment tax. The investment tax shall be levied on the owner  
13 or operator at the initial rate of \$1 per ton of solids and 0.4¢  
14 per gallon of liquids on all solid waste accepted for disposal  
15 at a sanitary landfill facility.

16 (b) Schedule of increase.--The rate of the investment tax  
17 shall be increased in accordance with the following schedule:

18 (1) On the first day of the first calendar year  
19 following the imposition of the investment tax, the rate of  
20 the investment tax shall increase to \$2 per ton of solids.

21 (2) On the first day of the second calendar year  
22 following the imposition of the investment tax, the rate of  
23 the investment tax shall increase to \$3 per ton of solids.

24 (3) On the first day of the third calendar year  
25 following the imposition of the investment tax, the rate of  
26 the investment tax shall increase to \$4 per ton of solids.

27 (c) Exception.--No investment tax shall be levied on the  
28 owner or operator of a sanitary landfill facility for the  
29 acceptance for disposal of the waste products resulting from the  
30 operation of a resource recovery facility.

(d) Termination of tax.--The investment tax shall no longer be levied on the owner or operator of a sanitary landfill on and after the first day of the 11th year following the effective date of this section.

Section 323. Solid waste import tax.

(a) Imposition.--There is hereby imposed upon the owner or operator of every sanitary landfill facility which accepts out-of-county solid waste a solid waste import tax.

(b) Rate.--The waste import tax shall be imposed on the owner or operator at the initial rate of \$1 per ton of solids and 0.4¢ per gallon of liquids on all out-of-county solid waste accepted for disposal at a sanitary landfill facility. On the first day of the third calendar year following the imposition of the waste import tax, the rate of the waste import tax shall be increased to \$4 per ton of solids, and annually thereafter the rate of the waste import tax shall be increased by \$2 per ton of solids.

(c) Measurement.--If any owner or operator of a sanitary landfill facility determines the quantity of solid waste accepted for disposal by a measure other than tons or gallons, the taxes imposed pursuant to this section shall be levied at an equivalent rate as determined by the department.

(d) Exception.--No waste import tax shall be levied on the owner or operator of a sanitary landfill facility for the acceptance for disposal of the waste products resulting from the operation of a resource recovery facility.

(e) Federal agencies.--No taxes shall be levied on the owner or operator of a sanitary landfill facility for the acceptance of solid waste generated exclusively by an agency of the Federal Government if a solid waste collector submits to the owner or

1 operator an itemized invoice, signed and verified by an  
2 authorized officer of the Federal agency, indicating the number  
3 of tons of solid waste to be disposed of, and a copy of the  
4 contract with the Federal agency for the collection of solid  
5 waste with an effective date prior to the effective date of this  
6 act. Taxes shall be levied on the owner or operator for  
7 acceptance of solid waste generated by a Federal agency if the  
8 contract between the Federal agency and the solid waste  
9 collector was entered into, or renewed, on or after the  
10 effective date of this act.

11 (f) Termination of tax.--The waste import tax shall no  
12 longer be levied on the owner or operator of a sanitary landfill  
13 facility which accepts out-of-county solid waste on or after the  
14 first day of the 11th calendar year following the effective date  
15 of this section.

16 Section 324. Registration.

17 Every owner or operator of a sanitary landfill facility which  
18 accepts solid waste for disposal and which is subject to the  
19 taxes imposed under this chapter, shall register with the  
20 department on registration forms prescribed by the department  
21 within 20 days after the first acceptance of that waste.

22 Section 325. Tax returns.

23 (a) Required information.--The tax return form shall require  
24 the following information, and any other information the  
25 department may deem necessary:

26 (1) The total number of tons of solids and gallons of  
27 liquids accepted for disposal during the previous calendar  
28 quarter.

29 (2) The number of tons of solids and gallons of liquids  
30 accepted, and the place of origin of out-of-county waste

1       accepted for disposal during the previous calendar quarter.

2           (3) The amount of each tax paid based upon the amount of  
3       solid waste accepted.

4       (b) Time of payment.--Every owner or operator of a sanitary  
5       landfill facility shall, on or before the 20th day of the month  
6       following the close of each quarterly tax period, render a  
7       return under oath to the department and pay the full amount of  
8       taxes due as stated in the return.

9       Section 326. Determination of tax by department.

10       If a return required by this chapter is not filed, or if a  
11       return when filed is incorrect or insufficient in the opinion of  
12       the department, the amount of tax due shall be determined by the  
13       department from such information as may be available. Notice of  
14       the determination shall be given to the taxpayer liable for the  
15       payment of the tax. This determination shall finally and  
16       irrevocably fix the tax unless the person against whom it is  
17       assessed, within 30 days after receiving notice of the  
18       determination, applies to the department for a hearing, or  
19       unless the department on its own motion redetermines the same.  
20       After the hearing, the department shall give notice of its  
21       determination or redetermination to the person against whom the  
22       tax was assessed.

23       Section 327. Interest.

24       Due and unpaid taxes shall accrue interest at the rate  
25       provided for in section 806 of the act of April 9, 1929  
26       (P.L.343, No.176), known as The Fiscal Code.

27       Section 328. Local taxation.

28       An excise tax may be imposed upon owners or operators of  
29       landfill facilities by cities of the second class, second class  
30       A, and third class; borough; towns; townships of the first and

1 second class; and school districts, including independent school  
2 districts, of the second, third and fourth class. An excise tax  
3 under this section shall not be deemed to be in violation of  
4 section 2(3) of the act of December 31, 1965 (P.L.1257, No.511),  
5 known as The Local Tax Enabling Act.

6 Section 329. Penalty.

7 (a) Offense defined.--Any person failing to file a return,  
8 failing to pay the tax, or filing or causing to be filed, or  
9 making or causing to be made, or giving or causing to be given,  
10 any return, certificate, affidavit, representation, information,  
11 testimony or statement required or authorized by this chapter,  
12 or rules or regulations adopted pursuant hereto, which is  
13 willfully false, or failing to keep any records required by this  
14 chapter or rules and regulations adopted hereunder, shall, in  
15 addition to any other penalties herein or elsewhere prescribed,  
16 be guilty of a summary offense and shall be subject to a minimum  
17 fine of \$100 for each day of such failure.

18 (b) Evidence.--The certificate of the director to the effect  
19 that a tax has not been paid, that a return has not been filed,  
20 that information has not been supplied or that inaccurate  
21 information has been supplied pursuant to this chapter or rules  
22 or regulations adopted pursuant hereto shall be presumptive  
23 evidence thereof.

## 24 CHAPTER 5

### 25 FUNDS AND PROGRAM

26 Section 501. Solid Waste Services Tax Fund.

27 (a) Establishment.--There is hereby established a separate  
28 account in the State Treasury to be known as the Solid Waste  
29 Services Tax Fund, hereinafter referred to as the services tax  
30 fund. This fund shall be administered by the department and

1 shall be the depository for the revenues generated by the  
2 services tax, and any interest earned thereon. Prior to the  
3 disbursement of any moneys in the services tax fund, the cost of  
4 administration and collection of the services tax shall be paid  
5 to the Department of Revenue out of the fund, up to an amount  
6 not to exceed 2% of the total revenues deposited in the fund  
7 during the fiscal year.

8 (b) Purposes.--The moneys in the services tax fund shall be  
9 allocated and used to provide State aid to counties for  
10 preparing, revising, and implementing solid waste management  
11 plans. The moneys may also be used by the counties to support  
12 community oversight projects and to establish a citizens'  
13 advisory committee.

14 (c) Distribution.--A county receiving fund moneys shall not  
15 expend more than 2% of the amount of aid received in any year  
16 for the costs of administering the aid. Fund moneys shall be  
17 distributed to the counties on the basis of the total amount of  
18 solid waste generated from within each county during the  
19 previous calendar year as determined by the department, except  
20 that no county shall receive less than 2% of the revenues  
21 deposited in the services tax fund during each calendar year. In  
22 the event that the department determines, pursuant to section  
23 505, that any county has failed to fulfill its solid waste  
24 management planning responsibilities, the department may  
25 withhold for an entire year or until the county fulfills its  
26 responsibilities, all or a portion of the amount of moneys that  
27 county would have received in any year pursuant to this section.  
28 Any moneys withheld for an entire year shall be distributed  
29 among the remaining counties in the same proportion as the other  
30 moneys were distributed.



1 Section 502. Citizens' advisory committees.

2 Any county may appoint a citizens' advisory committee  
3 comprised of interested local officials and citizens. An  
4 appointed citizens' advisory committee may develop and implement  
5 oversight projects and conduct community awareness programs  
6 regarding resource recovery facilities in a county.

7 Section 503. Resource Recovery Investment Tax Fund.

8 (a) Establishment.--There is hereby established a separate  
9 account in the State Treasury to be known as the Resource  
10 Recovery Investment Tax Fund, hereinafter referred to as the  
11 investment tax fund. This fund shall contain subaccounts for  
12 each county to be held by the State Treasurer and shall be the  
13 depository for revenues generated by the investment tax and the  
14 waste importation tax, and any interest earned thereon, and  
15 shall be disbursed pursuant to this section. Prior to the  
16 disbursement of any moneys in the investment tax fund as  
17 provided hereunder, the cost of administration and collection of  
18 the taxes shall be paid to the Department of Revenue out of that  
19 fund, up to an amount not to exceed 2% of the total revenues  
20 deposited into the fund during the fiscal year.

21 (b) Allocation.--The Department of Revenue shall allocate  
22 the moneys in the investment tax fund as follows:

23 (1) The investment tax revenues collected by the  
24 Department of Revenue resulting from the amount of solid  
25 waste generated from within each county shall be deposited in  
26 each county's subaccount.

27 (2) The investment tax revenues collected by the  
28 Department of Revenue and not otherwise deposited in an  
29 investment tax fund subaccount pursuant to paragraph (1)  
30 shall be deposited in the receiving county's subaccount.

1           (3) The waste importation tax revenues collected by the  
2     Department of Revenue resulting from the acceptance of out-  
3     of-county solid waste shall be deposited in the receiving  
4     county's subaccount.

5     Section 504. County Resource Recovery Investment Tax Fund.

6       (a) Establishment.--Each county shall establish a County  
7     Resource Recovery Investment Tax Fund which shall be the  
8     depository for the moneys appropriated to each county pursuant  
9     to this section, and shall be administered by the governing body  
10    of each county.

11      (b) Expenditures.--The moneys deposited by the Department of  
12    Revenue in each investment tax fund subaccount shall be  
13    appropriated to each county for deposit in its county investment  
14    tax fund and shall be expended only in accordance with a plan  
15    prepared and approved pursuant to subsection (c) and only for  
16    the following purposes:

17           (1) To reduce the rates charged to all users by a  
18     resource recovery facility serving the county. A county may  
19     achieve reductions through the use of moneys in its county  
20     investment tax fund to pay directly part of the fees charged  
21     for disposal to all users of a resource recovery facility.

22           (2) To design, finance, construct, operate or maintain  
23     environmentally sound state-of-the-art sanitary landfill  
24     facilities to be utilized for disposing of those solid wastes  
25     which cannot be processed by a resource recovery facility or  
26     the waste products resulting from the operation of a resource  
27     recovery facility.

28           (3) To design, finance, construct, operate or maintain  
29     environmentally sound state-of-the-art sanitary landfill  
30     facilities to be utilized for disposal of solid waste, on a

1 long-term basis, if a county can demonstrate to the  
2 satisfaction of the department that utilization of a resource  
3 recovery facility is not feasible for disposal of the solid  
4 waste generated in that county.

5 (4) To finance the closing costs for the proper closure  
6 of any terminated sanitary landfill facility located within a  
7 county.

8 (5) To administer the investment tax fund, up to an  
9 amount not to exceed 2% of the total moneys appropriated to  
10 the fund during the fiscal year.

11 (c) Plan.--Each county, within two years of the effective  
12 date of this act, and prior to the disbursement of any funds in  
13 its county investment tax fund, shall prepare a plan which shall  
14 outline the proposed uses of moneys in the county investment tax  
15 fund as well as establish a schedule for the disbursement of the  
16 moneys.

17 (d) Audit.--Each county shall, by October 31 of each year in  
18 which moneys remain in its district investment tax fund, file an  
19 audit of the district investment tax fund and any expenditures  
20 therefrom with the Department of Revenue and the Department of  
21 Environmental Resources. The audit shall be conducted by an  
22 independent public accountant.

23 (e) Joint fund.--Upon approval by the department, two or  
24 more counties may establish a joint investment tax fund to  
25 receive the investment tax fund revenues.

26 Section 505. Administration of county investment tax fund by  
27 department.

28 (a) Finding by department.--If the department determines  
29 that a county has failed to fulfill its solid waste management  
30 planning responsibilities pursuant to this act, the department

1 may assume the administration of the county investment tax fund  
2 of that county and may use the moneys in the fund for the  
3 purposes authorized under section 504(b) for the benefit of that  
4 county.

5 (b) Basis of funding.--A determination by the department  
6 that the county has failed to fulfill its planning  
7 responsibilities may be based upon a finding that the county has  
8 not made a good faith effort toward identifying sufficient  
9 available suitable sites for solid waste facilities within the  
10 county or negotiating interdistrict agreements to provide for  
11 the disposal needs of the county.

## 12 CHAPTER 7

### 13 CONTRACTS FOR FACILITIES AND SERVICES

14 Section 701. Contracts for resource recovery facilities and  
15 services.

16 (a) Contract file.--A contracting unit may enter into a  
17 contract with a vendor for the design, financing, construction,  
18 operation or maintenance, or any combination thereof, of a  
19 resource recovery facility, or for the provision of resource  
20 recovery services, pursuant to this act. Any contracting unit  
21 intending to enter into a contract with a vendor shall establish  
22 a contract file, which shall be open to members of the public  
23 for inspection at the offices of the contracting unit. Any  
24 contract entered into may be awarded for a period not to exceed  
25 40 years.

26 (b) Qualifications of vendors.--A contracting unit which  
27 intends to enter into a contract with a vendor shall issue a  
28 request for qualifications of interested vendors. The request  
29 for qualifications shall include a general description of the  
30 resource recovery services required by the contracting unit, the

1 minimum acceptable qualifications to be possessed by a vendor  
2 proposing to enter into a contract for the provision of these  
3 services, and the date by which vendors must submit their  
4 qualifications. In addition to all other factors bearing on  
5 qualifications, the contracting unit shall consider the  
6 reputation and experience of the vendor, and may consider  
7 information which might result in debarment or suspension of a  
8 vendor from State contracting, and may disqualify a vendor if  
9 the vendor has been debarred or suspended by any Commonwealth  
10 agency. The request for qualifications shall be published in at  
11 least one appropriate professional or trade journal and in at  
12 least one newspaper of general circulation in the jurisdiction  
13 which would be served under the terms of the proposed contract.

14 (c) List of qualified vendors.--After reviewing the  
15 qualifications submitted by vendors pursuant to subsection (b),  
16 the contracting unit shall establish a list of qualified  
17 vendors, which shall include the criteria applied by the  
18 contracting unit in selecting the qualified vendors, and shall  
19 publish the list in the same publications in which the request  
20 for qualifications were published pursuant to subsection (a).  
21 Any vendor designated by a contracting unit as a qualified  
22 vendor shall be a person or party financially, technically and  
23 administratively capable of undertaking the design, financing,  
24 construction, operation or maintenance, or any combination  
25 thereof, of a resource recovery facility, or providing for  
26 resource recovery services.

27 Section 702. Requests for proposals.

28 Upon the selection of qualified vendors pursuant to section  
29 701, the contracting unit shall issue a request for proposals to  
30 the qualified vendors, which shall include a detailed

1 description of the resource recovery facility and services  
2 required, the format and procedure to be followed in submitting  
3 proposals, the specific information which qualified vendors must  
4 provide in the proposal, a statement setting forth the relative  
5 importance of factors, including cost, which the contracting  
6 unit will consider in evaluating a proposal submitted by a  
7 qualified vendor, and any other information which the  
8 contracting unit deems appropriate. The request for proposals  
9 shall include the date and time of day by which, and the place  
10 at which, the proposals shall be submitted to the contracting  
11 unit. The contracting unit may extend the deadline for  
12 submission of proposals, but this extension shall apply to all  
13 qualified vendors, who shall be provided with simultaneous  
14 written notification of this extension.

15 Section 703. Review of proposals.

16 A contracting unit shall review proposals submitted by  
17 vendors pursuant to section 702 in such a manner as to avoid  
18 disclosure of the contents of any proposal to vendors submitting  
19 competing proposals. If provided for in the request for  
20 proposals, the contracting unit may conduct discussions with  
21 qualified vendors who have submitted proposals for the purpose  
22 of clarifying any information submitted in the proposal or  
23 assuring that the vendor fully understood and responded to the  
24 requirements set forth in the request for proposals. If, as a  
25 result of these discussions, the contracting unit decides to  
26 revise the request for proposals, it shall immediately notify,  
27 in writing, each qualified vendor which has submitted a proposal  
28 of any such revision or revisions to the request for proposals.  
29 In the event of any revision in the request for proposals, a  
30 qualified vendor shall be permitted to submit revisions to its

1 proposal prior to contract negotiations. In conducting  
2 discussions with qualified vendors, a contracting unit shall not  
3 disclose information derived from proposals submitted by  
4 competing qualified vendors.

5 Section 704. Designation of vendor.

6 Upon a review of the proposals submitted by qualified vendors  
7 pursuant to section 703, a contracting unit shall designate one  
8 or more qualified vendors whose proposal or proposals the  
9 contracting unit finds, in writing, to be the most advantageous  
10 to the public, taking into consideration price and the  
11 evaluation factors set forth in the request for proposals. Upon  
12 making this designation, the contracting unit may begin  
13 negotiations with the qualified vendor or vendors and may  
14 negotiate a proposed contract with a qualified vendor or  
15 vendors, which shall include the accepted proposal.

16 Section 705. Submission of contract to department.

17 (a) Review by department.--A contracting unit shall submit  
18 any proposed contract negotiated with a qualified vendor  
19 pursuant to this act to the department for review and approval  
20 pursuant to this article.

21 (b) Notice.--Notice of submission of a proposed contract  
22 shall be given to the department at least ten days prior  
23 thereto.

24 (c) Additional information.--The department shall have 15  
25 days from the date of receipt of a proposed contract to request  
26 the contracting unit to supply additional information or  
27 documentation concerning the proposed contract. The contracting  
28 unit shall provide written responses to these requests within  
29 ten days of receipt of the request. Any supplemental requests  
30 for information shall be made within five days of receipt of the

1 written responses to the initial requests. The contracting unit  
2 shall provide written responses to any supplemental requests  
3 within ten days of receipt of the supplemental requests. The  
4 schedule may be modified by the consent of the contracting unit  
5 or the department, as the case may be.

6 Section 706. Public hearings.

7 (a) Time and place.--A contracting unit shall hold a public  
8 hearing on a proposed contract no sooner than 30 days nor later  
9 than 45 days following submission of the proposed contract for  
10 review and approval. This public hearing shall be held in the  
11 area to be served under the terms of the proposed contract.

12 (b) Notice to department and municipalities.--The  
13 contracting unit shall provide at least 20 days advance written  
14 notice of a public hearing to be held on a proposed contract to  
15 the department, the clerk of each municipality within the area  
16 to be served under the terms of the proposed contract, and to  
17 the county clerk of each county, in whole or in part, within the  
18 area to be served under the terms of the proposed contract.

19 (c) Notice to general public.--A contracting unit shall also  
20 provide advance notice to the public of a public hearing to be  
21 held on a proposed contract. This notice shall be published once  
22 a week for two consecutive weeks in at least one newspaper of  
23 general circulation in the area to be served under the terms of  
24 the proposed contract. The second notice shall be published at  
25 least ten days prior to the date of the public hearing. These  
26 notices shall include the date, time and location of the public  
27 hearing and a general description of the proposed contract, and  
28 shall inform the public of the availability of copies of the  
29 proposed contract for inspection by any interested party at the  
30 offices of the contracting unit. Upon request, the contracting



1 unit shall provide any interested party with a copy of the  
2 proposed contract at a cost not to exceed the actual cost of  
3 reproducing the proposed contract and any supporting  
4 documentation.

5 (d) Conduct of hearing.--At a public hearing, any interested  
6 party may present statements or questions concerning the terms  
7 and conditions of the proposed contract. Prior to the conclusion  
8 of the public hearing, the contracting unit shall respond to  
9 questions concerning the proposed contract raised by any  
10 interested party. The contracting unit shall provide that a  
11 verbatim record be kept of the public hearing. The record of the  
12 public hearing shall be kept open for a period of 15 days  
13 following the conclusion of the hearing, during which interested  
14 parties may submit written statements to be included in the  
15 hearing record. The contracting unit shall provide that a  
16 hearing report be printed, which shall include the verbatim  
17 record of the public hearing, written statements submitted by  
18 interested parties, and a statement prepared by the contracting  
19 unit summarizing the major issues raised at the public hearing  
20 and the contracting unit's specific response to these issues.  
21 The contracting unit shall make copies of the transcript of the  
22 hearing report available to interested parties, upon request, at  
23 a cost not to exceed the actual cost of printing.

24 (e) Copy of report to department.--Within 45 days of the  
25 close of the public hearing, the contracting unit shall submit a  
26 copy of the hearing report to the department.

27 Section 707. Decision of department.

28 (a) Procedure.--Within 30 days of receipt of the hearing  
29 report submitted by a contracting unit, the department shall  
30 approve or conditionally approve the proposed contract submitted

1 by the contracting unit. The department shall approve the  
2 proposed contract if it finds that the terms of the proposed  
3 contract are consistent with the county solid waste management  
4 plan. If the department conditionally approves the proposed  
5 contract, it shall state, in writing, the revisions which must  
6 be made to the proposed contract to receive approval, and the  
7 contracting unit may prepare and submit to the department a  
8 revised proposed contract. If the department determines that the  
9 revisions are substantial, the contracting unit shall hold a  
10 public hearing on the revisions as provided for in this chapter.  
11 In the alternative, the county solid waste management plan may  
12 be amended pursuant to law so as to be consistent with the terms  
13 of the proposed contract.

14 (b) Approval.--Within 30 days of receipt of the hearing  
15 report submitted by a contracting unit, the department shall  
16 approve the proposed contract if it finds, in writing, that the  
17 terms of the proposed contract are in compliance with this act  
18 and that the terms of the proposed contract will result in the  
19 provision of services or facilities necessary for the health,  
20 safety, welfare, convenience or betterment of the recipients or  
21 users of these services or facilities, that the terms and  
22 provisions of the proposed contract are not unreasonable,  
23 exorbitant or impracticable and would not impose an undue and  
24 unnecessary financial burden on the citizens residing in or  
25 served by the contracting unit nor materially impair the ability  
26 of the contracting unit to punctually pay the principal and  
27 interest on its outstanding indebtedness and to supply other  
28 essential public improvements and services.

29 Section 708. Required provisions of contracts for resource  
30 recovery facilities.

1 Any contract to be awarded to a vendor under this act, or any  
2 other contracting procedure permitted by law for resource  
3 recovery facilities, shall include, where applicable, but not be  
4 limited to, provisions concerning:

5 (1) Allocation of the risks of financing and  
6 constructing a resource recovery facility, such risks to  
7 include:

8 (i) Delays in project completion.

9 (ii) Construction cost overruns and change orders.

10 (iii) Changes necessitated by revisions in laws,  
11 rules or regulations.

12 (iv) Failure to achieve the required operating  
13 performance.

14 (v) Loss of tax benefits.

15 (vi) The need for additional equity contributions.

16 (2) Allocation of the risks of operating and maintaining  
17 a resource recovery facility, such risks to include:

18 (i) Excess downtime or technical failure.

19 (ii) Excess labor or materials costs due to  
20 underestimation.

21 (iii) Changes in operating procedure necessitated by  
22 revisions in laws, rules or regulations.

23 (iv) Changes in the amount or composition of the  
24 solid waste delivered for disposal.

25 (v) Excess operation or maintenance costs due to  
26 poor management.

27 (vi) Increased costs of disposal of the resource  
28 recovery facility residue.

29 (vii) The increased costs associated with the  
30 disposal of solid waste delivered to a resource recovery

1 facility which cannot be processed at the facility.

2 (viii) The costs of disposal of recovered material  
3 which cannot be sold.

4 (3) Allocation of the risks associated with  
5 circumstances beyond the control of any party to the  
6 contract.

7 (4) Allocation of the revenues from the sale of energy  
8 or other recovered metals and other materials for reuse.

9 (5) Default and termination of the contract.

10 (6) The periodic preparation by the vendor of an  
11 operating performance report and an audited balance statement  
12 of the facility which shall be submitted to the contracting  
13 unit and the department.

14 (7) The intervals at which the contract shall be  
15 renegotiated.

16 (8) Employment of current employees of the contracting  
17 unit whose positions will be affected by the terms of the  
18 contract.

19 (9) Competitive bidding procedures, or other methods of  
20 cost control, to be utilized by the vendor in obtaining any  
21 goods or services, the cost of which will automatically be  
22 included, pursuant to the terms of the contract, in the rates  
23 to be charged at the resource recovery facility.

24 (10) The formulas to be used to determine the charges,  
25 rates or fees to be charged for the resource recovery  
26 services, and the methodology or methodologies used to  
27 develop these formulas.

28 Section 709. Exemption.

29 (a) Certain contracting units.--Any contracting unit which  
30 has issued a request for qualifications, a request for

1 proposals, or both, as the case may be, or has initiated formal  
2 negotiations with a qualified vendor or two or more qualified  
3 vendors within 30 days after the effective date of this act may  
4 petition the department for an exemption from the provisions of  
5 section 701(b) and (c), section 702 and section 703. Upon  
6 receiving this exemption from the department, a contracting unit  
7 may negotiate a proposed contract with a vendor pursuant to the  
8 provisions of section 704, and shall submit the proposed  
9 contract for review and approval pursuant to section 705 through  
10 section 707.

11 (b) Certain other contracting units.--Any contracting unit  
12 which has negotiated a contract for resource recovery facilities  
13 or services with a vendor prior to the effective date of this  
14 act, and has held a public hearing on the contract, may petition  
15 the department for an exemption from the provisions of section  
16 701(b) and (c) through section 706. Upon receiving an exemption  
17 authorized pursuant to this subsection, the contracting unit  
18 shall submit the contract to the department for the review and  
19 approvals required pursuant to section 707. The provisions of  
20 section 707 to the contrary notwithstanding, the department  
21 shall approve or conditionally approve a contract submitted for  
22 review under this subsection within 60 days of the receipt of  
23 the contract. If the department conditionally approves the  
24 proposed contract, it shall state, in writing, the revisions  
25 which must be made to the proposed contract to receive approval,  
26 and the contracting unit may prepare and submit a revised  
27 proposed contract. If the department determines that the  
28 necessary revisions are substantial, the contracting unit shall  
29 hold a public hearing on the revisions.

30 Section 710. Lease or sale of sites.

1       Notwithstanding the provisions of any other law, rule or  
2 regulation to the contrary, a contracting unit may lease or sell  
3 the site for a resource very facility to a qualified vendor  
4 which has been awarded a contract pursuant to any other  
5 contracting procedure permitted by law for resource recovery  
6 facilities.

7                               PART III

8                               RECYCLING

9                               CHAPTER 21

10                           COUNTY RECYCLING PLAN

11 Section 2101. Preparation of county recycling plan.

12       Each county shall, within six months of the effective date of  
13 this act and after consultation with each municipality within  
14 the county, prepare a county recycling plan.

15 Section 2102. Content of plan.

16       Each county recycling plan shall include, but need not be  
17 limited to:

18           (1) Designation of a county recycling coordinator.

19           (2) Designation of the recyclable materials to be source  
20 separated in each municipality, which shall include, at a  
21 minimum, aluminum beverage containers, and at least two other  
22 recyclable materials separated from the municipal solid waste  
23 stream.

24           (3) Designation of the strategy for the collection and  
25 disposition of source separated recyclable materials in each  
26 municipality.

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

(i) The recycling of at least 15% of the municipal solid waste stream by the end of the first full year succeeding the adoption of the recycling plan.

(ii) The recycling of at least 25% of the municipal solid waste stream by the end of the second full year succeeding the adoption of the plan.

Section 2103. Recycling businesses.

Each recycling plan, in designating the strategy for the collection and disposition of recyclable materials in each municipality, shall first give due consideration to any person engaging in the business of recycling or otherwise lawfully providing recycling services on behalf of the municipality on January 1, 1985, 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, 1985, and the date the plan is adopted.

Section 2104. Modification of plan.

A county recycling plan may be modified after adoption pursuant to the procedure promulgated by the department.

Section 2105. Contracts for recycling services.

(a) Contracts.--Each county shall, within six months of the adoption of its recycling plan, solicit proposals from, review the qualifications of, and enter into contracts 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. Each county shall

1 continue to solicit recycling services as may be necessary to  
2 achieve the maximum feasible recovery targets in each  
3 municipality as set forth in the recycling plan.

4 (b) Exemption.--In the event that a county is unable to  
5 enter into contracts or otherwise execute agreements as  
6 described in subsection (a), the county may petition the  
7 department for a temporary exemption from this section. The  
8 department is authorized to grant, deny or conditionally grant  
9 the exemption, and shall advise the county as to the steps that  
10 may be taken to identify and secure markets for the recyclable  
11 materials designated in the recycling plan. Any exemption  
12 granted by the department shall not exceed one year in duration,  
13 and shall be granted only upon a finding that the county has  
14 made a good faith effort toward identifying and securing markets  
15 for its recyclable materials.

16 Section 2106. Municipal recycling program.

17 (a) Coordinator.--Each municipality shall, within 30 days of  
18 the effective date of this act, designate one or more persons as  
19 the municipal recycling coordinator.

20 (b) Municipal collection system.--Within six months of the  
21 adoption of the county recycling plan, each municipality shall  
22 provide for a collection system for the recycling of the  
23 recyclable materials designated in the county recycling plan as  
24 may be necessary to achieve the designated recovery targets set  
25 forth in the plan in those instances where a recycling  
26 collection system is not otherwise provided for by the generator  
27 or by the county, interlocal service agreement or joint service  
28 program, or other private or public recycling program operator.

29 (c) Separation of containers.--The governing body of each  
30 municipality shall, if it has not already done so, within 30



1 days of the effective date of any contracts or agreements  
2 entered into between the county or other local government unit  
3 and persons providing recycling services, adopt an ordinance  
4 which requires that persons generating municipal solid waste  
5 within its municipal boundaries shall source separate aluminum  
6 beverage containers and at least two other recyclable materials  
7 from the municipal solid waste stream and, unless recycling is  
8 otherwise provided for by the generator, place the recyclable  
9 materials for collection in the manner provided by the  
10 ordinance.

11 (d) Exemption.--The governing body of a municipality may  
12 exempt persons occupying commercial and institutional premises  
13 within its municipal boundaries from the source separation  
14 requirements of the ordinance, if those persons have otherwise  
15 provided for the recycling of the recyclable materials  
16 designated in the county recycling plan from solid waste  
17 generated at those premises. To be eligible for this exemption,  
18 a commercial or institutional solid waste generator shall  
19 annually provide written documentation to the municipality of  
20 the total number of tons recycled.

21 (e) Report.--The governing body of each municipality shall,  
22 on July 1, 1987, and on July 1 of each year thereafter, submit a  
23 recycling tonnage report to the department in accordance with  
24 the rules and regulations of the department.

25 (f) Notice.--The governing body of each municipality shall,  
26 within six months of the effective date of its ordinance, and at  
27 least once every six months thereafter, notify all persons  
28 occupying residential, commercial and institutional premises  
29 within its municipal boundaries of local recycling  
30 opportunities, and the source separation requirements of the

1 ordinance.

2 Section 2107. Collectors and transporters.

3 Every solid waste collector or solid waste transporter shall  
4 provide for the collection or disposition of recyclable  
5 materials, or otherwise provide recycling services, if required  
6 to do so by the county recycling plan of the county in which the  
7 collector or transporter engages in solid waste collection or  
8 transportation services.

9 Section 2108. Collectors serving municipalities.

10 Every solid waste collector or solid waste transporter  
11 bidding on municipal contracts for the provision of solid waste  
12 collection or transportation services shall also bid on  
13 contracts for the collection or disposition of recyclable  
14 materials, or for the provision of recycling services, if  
15 requested to do so by the governing body of the municipality or  
16 contracting unit advertising for bids or bidding therefor.

17 Section 2109. Recycling plan responsibilities.

18 (a) Refusal to accept certain material.--The governing body  
19 of any county with an adopted recycling plan may, after  
20 notifying the department, prohibit the acceptance for final  
21 disposal as solid waste at any solid waste disposal facility  
22 located within the county which accepts out-of-district solid  
23 waste, any recyclable materials designated in the county  
24 recycling plan of the sending county in the event that the  
25 department determines, pursuant to subsection (b), that the  
26 sending county has failed to fulfill its county recycling plan  
27 responsibilities.

28 (b) Determination by department.--The department may  
29 determine that a county has failed to fulfill its district  
30 recycling plan responsibilities as required by this act. A

1 determination by the department that a county has failed to  
2 fulfill its recycling plan responsibilities may be based upon a  
3 finding that the county has not made a good faith effort toward  
4 entering into contracts or executing agreements with persons  
5 providing recycling services or otherwise providing for the  
6 collection and disposition of designated recyclable materials as  
7 may be necessary to achieve the designated recovery targets set  
8 forth in its recycling plan.

9 CHAPTER 23

10 CONTAINERS AND MATERIALS

11 Section 2301. Containers.

12 (a) Composition mark.--Within 12 months of the effective  
13 date of this act, every plastic and metal beverage container and  
14 plastic container sold or offered for sale in this Commonwealth  
15 shall be clearly marked with a code on each container indicating  
16 its composition and identification as a nonrecyclable or  
17 recyclable material.

18 (b) Detachable parts or nondegradable connecting devices.--

19 (1) Within 12 months of the effective date of this act,  
20 no beverage container shall be sold or offered for sale in  
21 this Commonwealth in a metal container designed and  
22 constructed so that part of the container is detachable, or  
23 in containers connected to each other by plastic rings or  
24 similar devices which are nondegradable.

25 (2) For purposes of this subsection, the term  
26 "nondegradable" means not capable of disintegrating by  
27 naturally occurring biological or physical processes in the  
28 outdoors, within a period of three years after manufacture,  
29 into fragments that are small in relation to the original  
30 size, or into particles of a molecular weight that is low

1 when compared to that of the original material.

2 Section 2302. Plastic beverage containers.

3 (a) Collection and recycling.--Within 18 months of the  
4 effective date of this act, the department shall make a written  
5 determination as to whether a convenient and economically  
6 feasible method for the collection, recycling and marketing of  
7 at least 55% of the plastic beverage containers and plastic  
8 containers annually sold in this Commonwealth is available to  
9 counties and municipalities in this Commonwealth. In the event  
10 that the department determines that such a method is not  
11 available, the department shall hold a public hearing thereon  
12 within 30 days of making the determination. At the public  
13 hearing, the manufacturers of plastic beverage containers and  
14 plastic containers, or their designated representatives, shall  
15 have the burden of proof to show that such a method is available  
16 and that the department's determination is unwarranted. Within  
17 45 days of the conclusion of the hearing, the department shall  
18 make a final determination, which action shall be considered to  
19 be final agency action for the purposes of Title 2 of the  
20 Pennsylvania Consolidated Statutes (relating to administrative  
21 law and procedure).

22 (b) Deposit.--In the event that the department makes a final  
23 determination after the public hearing that a convenient and  
24 economically feasible method for the collection, recycling and  
25 marketing of at least 55% of the plastic beverage containers and  
26 plastic containers sold annually in this Commonwealth is not  
27 available, there is imposed on these items a deposit, not less  
28 than 10¢ nor more than 25¢ per container, and a refund value,  
29 not less than 5¢ nor more than 15¢ per container, when empty,  
30 depending on size.

1 Section 2303. Plastics Recycling Fund.

2 There is hereby established a separate account in the State  
3 Treasury to be known as the Plastics Recycling Fund. This fund  
4 shall be administered by the department and shall be credited  
5 with a sum equal to not more than 10¢ per plastic container sold  
6 within this Commonwealth during the previous calendar year. The  
7 moneys in the fund shall be used solely for the development of  
8 systems for the proper disposition and recycling of plastic  
9 containers, and to that end the moneys in the fund are hereby  
10 appropriated to the department on a continuing basis.

11 Section 2304. Metal beverage containers.

12 (a) Collection and recycling.--Within 18 months of the  
13 effective date of this act, the department shall make a written  
14 determination as to whether a convenient and economically  
15 feasible method for the collection, recycling and marketing of  
16 at least 55% of the metal beverage containers composed of more  
17 than one alloy, and commonly referred to as "bimetal  
18 containers," sold annually in this Commonwealth is available to  
19 counties and municipalities in this Commonwealth. In the event  
20 that the department determines that such a method is not  
21 available, the department shall hold a public hearing thereon  
22 within 30 days of making the determination. At the public  
23 hearing, the manufacturers of bimetal beverage containers, or  
24 their designated representatives, shall have the burden of proof  
25 to show that such a method is available and that the  
26 department's determination is unwarranted. Within 45 days of the  
27 conclusion of the hearing, the department shall make a final  
28 determination, which action shall be considered to be final  
29 agency action for the purposes of Title 2 of the Pennsylvania  
30 Consolidated Statutes (relating to administrative law and

1 procedure).

2 (b) Deposit.--In the event that the department makes a final  
3 determination, after the public hearing, that a convenient and  
4 economically feasible method for the collection, recycling and  
5 marketing of at least 55% of the bimetal beverage containers  
6 sold annually in this Commonwealth is not available, there is  
7 imposed on these items a deposit, not less than 10¢ nor more  
8 than 25¢ per container, and a refund value, not less than 5¢ nor  
9 more than 15¢ per container, when empty, depending on size.

10 Section 2305. Bimetal Container Recycling Fund.

11 There is hereby established a separate account in the State  
12 Treasury to be known as the Bimetal Container Recycling Fund.  
13 This fund shall be administered by the department and shall be  
14 credited with a sum equal to not more than 10¢ per bimetal  
15 beverage container sold within this Commonwealth during the  
16 previous calendar year. The moneys in the fund shall be used  
17 solely for the development of systems for the proper disposition  
18 and recycling of bimetal beverage containers, and to that end  
19 the moneys in the fund are hereby appropriated to the department  
20 on a continuing basis.

21 Section 2306. PVC prohibited.

22 On and after July 1, 1986, no waste-to-energy resource  
23 recovery facility located in this Commonwealth shall accept or  
24 receive for processing or incineration any plastic containers  
25 composed of polyvinyl chloride or polyvinylidene chloride,  
26 commonly referred to as "PVC" or "PVC packaging."

27 Section 2307. PVC containers.

28 (a) Collection and recycling.--Within 18 months of the  
29 effective date of this act, the department shall make a written  
30 determination as to whether a convenient and economically

1 feasible method for the collection, recycling and marketing of  
2 at least 55% of the plastic containers composed of polyvinyl  
3 chloride or polyvinylidene chloride, commonly referred to as  
4 "PVC" or "PVC packaging," sold annually in this Commonwealth is  
5 available to counties and municipalities in this Commonwealth.  
6 In the event that the department determines that such a method  
7 is not available, the department shall hold a public hearing  
8 within 30 days of making the determination. At the public  
9 hearing, the manufacturers of plastic containers composed of PVC  
10 or PVC packaging, or their designated representatives, shall  
11 have the burden of proof to show that such a method is available  
12 and that the department's determination is unwarranted. Within  
13 45 days of the conclusion of the hearing, the department shall  
14 make a final determination, which action shall be considered to  
15 be final agency action for the purposes of Title 2 of the  
16 Pennsylvania Consolidated Statutes (relating to administrative  
17 law and procedure).

18 (b) Sales prohibited.--In the event that the department  
19 makes a final determination, after the public hearing, that a  
20 convenient and economically feasible method for the collection,  
21 recycling and marketing of at least 55% of the PVC plastic  
22 containers sold annually in this Commonwealth is not available,  
23 six months after this final determination, no person shall sell,  
24 or offer for sale, at retail or at wholesale for direct retail  
25 sale in this Commonwealth, any beverage or product packaged in a  
26 plastic beverage container or plastic container composed of  
27 polyvinyl chloride or polyvinylidene chloride.

28 Section 2308. Brickpacks prohibited.

29 On or after July 1, 1987, no person shall sell, or offer for  
30 sale, at retail or at wholesale for direct retail sale in this

1 Commonwealth, any beverage packaged in nonrecyclable, aseptic  
2 packaging composed of aluminum, paper and plastic, or in  
3 combination thereof, commonly referred to as a "brickpack."  
4 Section 2309. Leaves.

5 (a) Acceptance by landfills.--On or after September 1, 1986,  
6 and annually thereafter, no sanitary landfill facility in this  
7 Commonwealth shall accept for final disposal, between the months  
8 of September and December, any leaves generated from residential  
9 premises which are suitable for composting.

10 (b) Leaf collection.--On or after September 1, 1986, each  
11 municipality shall, by ordinance, provide for a collection  
12 system for leaves generated from residential premises, and  
13 require that persons occupying residential premises within its  
14 municipal boundaries shall source separate leaves from solid  
15 waste generated at those premises and, unless leaves are  
16 recycled for composting by the generator, place the leaves for  
17 collection in the manner provided by the ordinance.

18 (c) Compost materials.--All Commonwealth and local agencies  
19 responsible for the maintenance of public lands in this  
20 Commonwealth shall, to the maximum extent practicable and  
21 feasible, give due consideration and preference to the use of  
22 compost materials in all land maintenance activities which are  
23 to be paid with or out of public funds.

24 Section 2310. Automobile tires.

25 (a) Collection and recycling.--Within 24 months of the  
26 effective date of this act, the department shall make a written  
27 determination as to whether a convenient and economically  
28 feasible method for the collection, recycling and marketing of  
29 at least 55% of the automobile tires sold annually in this  
30 Commonwealth is available to counties and municipalities in this



1 Commonwealth. In the event that the department determines that  
2 such a method is not available, the department shall hold a  
3 public hearing within 30 days of making the determination. At  
4 the public hearing, the manufacturers of automobile tires, or  
5 their designated representatives, shall have the burden of proof  
6 to show that such a method is available and that the  
7 department's determination is unwarranted. Within 45 days of the  
8 conclusion of the hearing, the department shall make a final  
9 determination, which action shall be considered to be final  
10 agency action for the purposes of Title 2 of the Pennsylvania  
11 Consolidated Statutes (relating to administrative law and  
12 procedure).

13 (b) Deposit.--In the event that the department makes a final  
14 determination after the public hearing that a convenient and  
15 economically feasible method for the collection, recycling and  
16 marketing of at least 55% of the automobile tires sold annually  
17 in this Commonwealth is not available, there is imposed on every  
18 automobile tire sold, or offered for sale, in this Commonwealth  
19 a deposit, not to exceed \$3 per tire, and each tire shall have a  
20 minimum refund value of \$1.50 per tire when returned to the  
21 place of purchase of any retailer, distributor or wholesaler who  
22 sells, or offers for sale, tires of the same kind, size and  
23 brand. Every automobile tire shall be clearly identified by a  
24 stamp, label, or other mark securely affixed to the tire,  
25 bearing the inscription "Pennsylvania Recycling Deposit" and  
26 indicating the refund value.

27 Section 2311. Automobile Tire Recycling Fund.

28 There is hereby established a separate account in the State  
29 Treasury to be known as the Automobile Tire Recycling Fund. This  
30 fund shall be administered by the department and shall be

1 credited with a sum equal to not more than \$1.50 per automobile  
2 tire sold within this Commonwealth during the previous calendar  
3 year. The moneys in the fund shall be used solely for the  
4 development of systems for the proper disposition and recycling  
5 of tires, and to that end the moneys in the fund are hereby  
6 appropriated to the department on a continuing basis.

7 PART IV

8 MISCELLANEOUS PROVISIONS

9 CHAPTER 99

10 MISCELLANEOUS PROVISIONS

11 Section 9901. Repeals.

12 All acts and parts of acts are repealed insofar as they are  
13 inconsistent with this act.

14 Section 9902. Effective date.

15 This act shall take effect in one year.