

WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

Introduced

House Bill 4505

FISCAL
NOTE

BY DELEGATE HANSHAW (MR. SPEAKER)

BY REQUEST OF THE EXECUTIVE

Introduced February 02, 2022; Referred to the
Committee on Energy and Manufacturing then
Government Organization]

1 A BILL to repeal §22C-3-22 of the Code of West Virginia, 1931, as amended; and to amend and
 2 reenact §22C-3-1, §22C-3-3, §22C-3-4, §22C-3-5, §22C-3-6, §22C-3-7, §22C-3-8, §22C-
 3 3-9, §22C-3-10, §22C-3-11, §22C-3-12, §22C-3-13, §22C-3-14, §22C-3-15, §22C-3-16,
 4 §22C-3-17, §22C-3-19, §22C-3-20, §22C-3-21, §22C-3-23, §22C-3-24, and §22C-3-26 of
 5 said code, all relating to abolishing the West Virginia Solid Waste Management Board and
 6 transferring its functions, rights, powers, and duties to the Department of Environmental
 7 Protection; declaring that the department is bound by actions previously taken by the Solid
 8 Waste Management Board; removing or repealing obsolete provisions relating to the
 9 former board; and correcting and revising citations to related sections of said code.

Be it enacted by the Legislature of West Virginia:

**ARTICLE 3. ~~SOLID WASTE MANAGEMENT BOARD~~ ADMINISTRATION OF SOLID
WASTE MANAGEMENT.**

§22C-3-1. Short title.

1 This article shall be known and cited as the “Administration of Solid Waste Management
 2 ~~Board Act.~~”

§22C-3-3. Definitions.

1 As used in this article, unless the context clearly requires a different meaning:

2 (1) ~~“Board” means the solid waste management board provided for in section four of this~~
 3 ~~article, the duties, powers, responsibilities and functions of which are specified in this article~~

4 (2) ~~“Bond” or “solid waste disposal revenue bond” means a revenue bond or note issued~~
 5 ~~by the solid waste management board, previously known as the West Virginia resource recovery-~~
 6 ~~solid waste disposal authority~~ Department of Environmental Protection, to effect the intents and
 7 purposes of this article.

8 (3) “Construction” includes reconstruction, enlargement, improvement and providing
 9 furnishings or equipment for a solid waste disposal project.

10 (4) "Cost" means, as applied to solid waste disposal projects, the cost of their acquisition
11 and construction; the cost of acquisition of all land, rights-of-way, property, rights, easements,
12 franchise rights and interests required by the ~~board~~ Department of Environmental Protection for
13 such acquisition and construction; the cost of demolishing or removing any buildings or structures
14 on land so acquired, including the cost of acquiring any land to which such buildings or structures
15 may be moved; the cost of diverting highways, interchange of highways and access roads to
16 private property, including the cost of land or easements therefor; the cost of all machinery,
17 furnishings and equipment; all financing charges and interest prior to and during construction and
18 for no more than eighteen months after completion of construction; the cost of all engineering
19 services and all expenses of research and development with respect to solid waste facilities; the
20 cost of all legal services and expenses; the cost of all plans, specifications, surveys and estimates
21 of cost and revenues; all working capital and other expenses necessary or incident to determining
22 the feasibility or practicability of acquiring or constructing any such project; all administrative
23 expenses and such other expenses as may be necessary or incident to the acquisition or
24 construction of the project; the financing of such acquisition or construction, including the amount
25 authorized in the resolution of the ~~board~~ Department of Environmental Protection providing for
26 the issuance of solid waste disposal revenue bonds to be paid into any special funds from the
27 proceeds of such bonds; and the financing of the placing of any such project in operation. Any
28 obligation or expenses incurred by any governmental agency, with the approval of the ~~board~~
29 Department of Environmental Protection, for surveys, borings, preparation of plans and
30 specifications and other engineering services in connection with the acquisition or construction of
31 a project are a part of the cost of such project and shall be reimbursed out of the proceeds of
32 loans or solid waste disposal revenue bonds as authorized by the provisions of this article.

33 (5) "Governmental agency" means the state government or any agency, department,
34 division or unit thereof; counties; municipalities; watershed improvement districts; soil
35 conservation districts; sanitary districts; public service districts; drainage districts; regional

36 governmental authorities and any other governmental agency, entity, political subdivision, public
37 corporation or agency having the authority to acquire, construct or operate solid waste facilities;
38 the United States government or any agency, department, division or unit thereof; and any
39 agency, commission or authority established pursuant to an interstate compact or agreement.

40 ~~(6)~~ "Industrial waste" means any solid waste substance resulting from or incidental to any
41 process of industry, manufacturing, trade or business, or from or incidental to the development,
42 processing or recovery of any natural resource.

43 ~~(7)~~ "Owner" includes all persons, partnerships or governmental agencies having any title
44 or interest in any property rights, easements and interests authorized to be acquired by this article.

45 ~~(8)~~ "Person" means any public or private corporation, institution, association, firm or
46 company organized or existing under the laws of this or any other state or country; the United
47 States or the State of West Virginia; governmental agency; political subdivision; county
48 commission; municipality; industry; sanitary district; public service district; drainage district; soil
49 conservation district; solid waste disposal shed district; partnership; trust; estate; individual; group
50 of individuals acting individually or as a group; or any other legal entity.

51 ~~(9)~~ "Pollution" means the discharge, release, escape or deposit, directly or indirectly, of
52 solid waste of whatever kind or character, on lands or in waters in the state in an uncontrolled,
53 unregulated or unapproved manner.

54 ~~(10)~~ "Revenue" means any money or thing of value collected by, or paid to, the ~~solid waste~~
55 ~~management board~~ Department of Environmental Protection as rent, use fee, service charge or
56 other charge for use of, or in connection with, any solid waste disposal project, or as principal of
57 or interest, charges or other fees on loans, or any other collections on loans made by the ~~solid~~
58 ~~waste management board~~ Department of Environmental Protection to governmental agencies to
59 finance, in whole or in part, the acquisition or construction of any solid waste development project
60 or projects, or other money or property which is received and may be expended for or pledged as
61 revenues pursuant to this article.

62 (11) "Solid waste" means any garbage, paper, litter, refuse, cans, bottles, waste processed
63 for the express purpose of incineration, sludge from a waste treatment plant, water supply
64 treatment plant or air pollution control facility, other discarded material, including offensive or
65 unsightly matter, solid, liquid, semisolid or contained liquid or gaseous material resulting from
66 industrial, commercial, mining or community activities but does not include solid or dissolved
67 material in sewage, or solid or dissolved materials in irrigation return flows or industrial discharges
68 which are point sources and have permits under article five-a, chapter twenty of this code, or
69 source, special nuclear or byproduct material as defined by the Atomic Energy Act of 1954, as
70 amended, including any nuclear or byproduct material considered by federal standards to be
71 below regulatory concern, or a hazardous waste either identified or listed under article five-e,
72 chapter twenty of this code, or refuse, slurry, overburden or other waste or material resulting from
73 coal-fired electric power or steam generation, the exploration, development, production, storage
74 and recovery of coal, oil and gas, and other mineral resources placed or disposed of at a facility
75 which is regulated under chapter twenty-two, twenty-two-a or twenty-two-b of this code, so long
76 as such placement or disposal is in conformance with a permit issued pursuant to said chapters.
77 "Solid waste" does not include materials which are recycled by being used or reused in an
78 industrial process to make a product, as effective substitutes for commercial products, or are
79 returned to the original process as a substitute for raw material feedstock.

80 (12) "Solid waste facility" means any system, facility, land, contiguous land, improvements
81 on land, structures or other appurtenances or methods used for processing, recycling or disposing
82 of solid waste, including landfills, transfer stations, materials recovery facilities and other such
83 facilities not herein specified. Such facility is situated, for purposes of this article, in the county
84 where the majority of the spatial area of such facility is located.

85 (13) "Solid waste disposal project" or "project" means any solid waste facility, wastewater
86 treatment plants, sewer treatment plants, water and sewer systems and connecting pipelines the
87 acquisition or construction of which is authorized by the ~~solid waste management board~~

88 Department of Environmental Protection or any acquisition or construction which is financed, in
 89 whole or in part, from funds made available by grant or loan by, or through, the ~~board~~ Department
 90 of Environmental Protection as provided in this article, including all buildings and facilities which
 91 the ~~board~~ Department of Environmental Protection deems necessary for the operation of the
 92 project, together with all property, rights, easements and interests which may be required for the
 93 operation of the project.

94 (14) "Solid waste disposal shed" or "shed" means a geographical area which the ~~solid~~
 95 ~~waste management board~~ Department of Environmental Protection designates as provided in
 96 section eight of this article for solid waste management.

97 (15) "Solid waste facility operator" means any person or persons possessing or exercising
 98 operational, managerial or financial control over a commercial solid waste facility, whether or not
 99 such person holds a certificate of convenience and necessity or a permit for such facility.

**§22C-3-4. ~~Solid~~ Abolition of the solid waste management board; organization of board;
appointment and qualification of board members; their term of office, compensation
and expenses; director of board transfer of authority and responsibilities to the
Department of Environmental Protection.**

1 The solid waste management board is a ~~governmental instrumentality of the state and a~~
 2 ~~body corporate. The exercise by the board of the powers conferred on it by this article and the~~
 3 ~~carrying out of its purposes and duties are essential governmental functions and are for a public~~
 4 ~~purpose~~ hereby abolished. The Department of Environmental Protection is charged with carrying
 5 out the requirements of this article and assumes the rights and responsibilities formerly delegated
 6 to the solid waste management board.

7 The ~~board is composed of seven members. The secretary of the Department of Health~~
 8 ~~and Human Resources and the director of the Division of Environmental Protection, or their~~
 9 ~~designees, are members ex officio of the board. The other five members of the board are~~
 10 ~~appointed by the Governor, by and with the advice and consent of the Senate, for terms of one,~~

11 ~~two, three, four and five years, respectively. Two appointees shall be persons having at least~~
12 ~~three years of professional experience in solid waste management, civil engineering or regional~~
13 ~~planning and three appointees shall be representatives of the general public. The successor of~~
14 ~~each such appointed member shall be appointed for a term of five years in the same manner the~~
15 ~~original appointments were made and so that the representation on the board as set forth in this~~
16 ~~section is preserved, except that any person appointed to fill a vacancy occurring prior to the~~
17 ~~expiration of the term for which his or her predecessor was appointed shall be appointed only for~~
18 ~~the remainder of such term. Each board member serves until the appointment and qualification~~
19 ~~of his or her successor.~~

20 ~~No more than three of the appointed board members may at any one time be from the~~
21 ~~same congressional district or belong to the same political party. No appointed board member~~
22 ~~may be an officer or employee of the United States or this state. Appointed board members may~~
23 ~~be reappointed to serve additional terms. All members of the board shall be citizens of the state.~~
24 ~~Each appointed member of the board, before entering upon his or her duties, shall comply with~~
25 ~~the requirements of article one, chapter six of this code and give bond in the sum of \$25,000.~~
26 ~~Appointed members may be removed from the board only for the same causes as elective state~~
27 ~~officers may be removed.~~

28 ~~Annually the board shall elect one of its appointed members as chair, another as vice chair~~
29 ~~and appoint a secretary-treasurer, who need not be a member of the board. Four members of the~~
30 ~~board are a quorum and the affirmative vote of four members is necessary for any action taken~~
31 ~~by vote of the board. No vacancy in the membership of the board impairs the rights of a quorum~~
32 ~~by such vote to exercise all the rights and perform all the duties of the board. The person~~
33 ~~appointed as secretary-treasurer shall give bond in the sum of \$50,000. If a board member is~~
34 ~~appointed as secretary-treasurer, he or she shall give bond in the sum of \$25,000 in addition to~~
35 ~~the bond required in the preceding paragraph.~~

36 ~~The ex-officio members of the board shall not receive any compensation for serving as a~~

37 ~~board member. Each of the five appointed members of the board shall be paid the same~~
38 ~~compensation, and each member of the board shall be paid the expense reimbursement, as is~~
39 ~~paid to members of the Legislature for their interim duties as recommended by the citizens~~
40 ~~legislative compensation commission and authorized by law for each day or portion thereof~~
41 ~~engaged in the discharge of official duties. All such compensation and expenses incurred by~~
42 ~~board members are payable solely from funds of the board or from funds appropriated for such~~
43 ~~purpose by the Legislature and no liability or obligation shall be incurred by the board beyond the~~
44 ~~extent to which moneys are available from funds of the board or from such appropriation.~~

45 ~~The board shall meet at least four times annually and at any time upon the call of its chair~~
46 ~~or upon the request in writing to the chair of four board members.~~

47 ~~The board shall appoint a director as its chief executive officer. The director shall have~~
48 ~~successfully completed an undergraduate education and, in addition, shall have two years of~~
49 ~~professional experience in solid waste management, civil engineering, public administration or~~
50 ~~regional planning~~

**~~§22C-3-5. Board to designate and establish~~ Designation and establishment of disposal
sheds; construction, maintenance, etc., of disposal projects; loan agreements;
compliance with federal and state law.**

1 To accomplish the public policy and purpose and to meet the responsibility of the state as
2 set forth in this article, the ~~solid waste management board~~ Department of Environmental
3 Protection shall designate and establish solid waste disposal sheds and it may initiate, acquire,
4 construct, maintain, repair and operate solid waste disposal projects or cause the same to be
5 operated pursuant to a lease, sublease or agreement with any person or governmental agency;
6 may make loans and grants to persons and to governmental agencies for the acquisition or
7 construction of solid waste disposal projects by such persons and governmental agencies; and
8 may issue solid waste disposal revenue bonds of this state, payable solely from revenues, to pay
9 the cost of, or finance, in whole or in part, by loans to governmental agencies, such projects. A

10 solid waste disposal project shall not be undertaken unless the ~~board~~ Department of
11 Environmental Protection determines that the project is consistent with federal law, with its solid
12 waste disposal shed plan, with the standards set by the State Environmental Quality Board and
13 the ~~director~~ cabinet secretary of the Division of Environmental Protection for any waters of the
14 state which may be affected thereby, with the air quality standards set by the ~~said director~~ cabinet
15 secretary and with health standards set by the bureau of public health. Any ~~resolution of the board~~
16 decision of the cabinet secretary providing for acquiring or constructing such projects or for
17 making a loan or grant for such projects shall include a finding by the ~~board~~ Department of
18 Environmental Protection that such determinations have been made. A loan agreement shall be
19 entered into between the board and each governmental agency to which a loan is made for the
20 acquisition or construction of a solid waste disposal project, which loan agreement shall include
21 without limitation the following provisions:

22 (1) The cost of such project, the amount of the loan, the terms of repayment of such loan
23 and the security therefor, which may include, in addition to the pledge of all revenues from such
24 project after a reasonable allowance for operation and maintenance expenses, a deed of trust or
25 other appropriate security instrument creating a lien on such project;

26 (2) The specific purposes for which the proceeds of the loan shall be expended, the
27 procedures as to the disbursement of loan proceeds and the duties and obligations imposed upon
28 the governmental agency in regard to the construction or acquisition of the project;

29 (3) The agreement of the governmental agency to impose, collect, and, if required to repay
30 the obligations of such governmental agency under the loan agreement, increase service charges
31 from persons using said project, which service charges shall be pledged for the repayment of
32 such loan together with all interest, fees and charges thereon and all other financial obligations of
33 such governmental agency under the loan agreement;

34 (4) The agreement of the governmental agency to comply with all applicable laws, rules
35 and regulations issued by the ~~board~~ Department of Environmental Protection or other state,

36 federal and local bodies in regard to the construction, operation, maintenance and use of the
37 project; and

38 (5) Such other provisions, terms or conditions as the ~~board~~ Department of Environmental
39 Protection may reasonably require.

40 The ~~board~~ Department of Environmental Protection shall comply with all of the provisions
41 of federal law and of §22-15-1 *et seq.* of this code and any rules promulgated thereunder which
42 pertain to solid waste collection and disposal. Further, the Department of Environmental
43 Protection is bound by actions taken by the Solid Waste Management Board prior to the effective
44 date of this article.

**§22C-3-6. Powers, duties and responsibilities of ~~board~~ the Department of Environmental
Protection generally.**

1 The ~~solid waste management board~~ Department of Environmental Protection may
2 exercise all powers necessary or appropriate to carry out and effectuate ~~its corporate~~ the purpose
3 of this article. The ~~board~~ Department of Environmental Protection may:

4 (1) Adopt, and from time to time, amend and ~~repeal bylaws necessary and proper for the~~
5 ~~regulation of its affairs and the conduct of its business,~~ and rules promulgated pursuant to the
6 provisions of ~~chapter twenty-nine-a~~ §29A-3-1 et seq. of this code, to implement and make
7 effective its powers and duties.

8 ~~(2) Adopt an official seal.~~

9 ~~(3) Maintain a principal office which shall be in Kanawha County, and, if necessary,~~
10 ~~regional suboffices at locations properly designated or provided.~~

11 ~~(4)~~ (2) Sue and be sued in its own name and plead and be impleaded in its own name,
12 and particularly to enforce the obligations and covenants made under §22C-3-10, §22C-3-11, and
13 §22C-3-16 of this code. Any actions against the ~~board~~ Department of Environmental Protection
14 pursuant to this article shall be brought in the circuit court of Kanawha County.

15 ~~(5)~~ (3) Make loans and grants to persons and to governmental agencies for the acquisition

16 or construction of solid waste disposal projects and adopt rules and procedures for making such
17 loans and grants.

18 ~~(6)~~ (4) Acquire, construct, reconstruct, enlarge, improve, furnish, equip, maintain, repair,
19 operate, lease, or rent to, or contract for operation by a governmental agency or person, solid
20 waste disposal projects, and, in accordance with ~~chapter twenty-nine-a~~ §29A-3-1 et seq. of this
21 code, adopt rules for the use of such projects.

22 ~~(7)~~ (5) Make available the use or services of any solid waste disposal project to one or
23 more persons, one or more governmental agencies, or any combination thereof.

24 ~~(8)~~ (6) Issue solid waste disposal revenue bonds and notes and solid waste disposal
25 revenue refunding bonds of the state, payable solely from revenues as provided in section ten of
26 this article, unless the bonds are refunded by refunding bond, for the purpose of paying all or any
27 part of the cost of acquiring, constructing, reconstructing, enlarging, improving, furnishing,
28 equipping, or repairing solid waste disposal projects, or making loans to persons or to
29 governmental agencies for the acquisition, design or construction of solid waste disposal projects
30 or parts thereof.

31 ~~(9)~~ (7) Acquire by gift or purchase, hold, and dispose of real and personal property in the
32 exercise of its powers and the performance of its duties as set forth in this article.

33 ~~(10)~~ (8) Acquire in the name of the state, by purchase or otherwise, on such terms and in
34 such manner as it deems proper, or by the exercise of the right of eminent domain in the manner
35 provided in Chapter 54 of this code, such public or private lands, or parts thereof or rights therein,
36 rights-of-way, property, rights, easements and interests it deems necessary for carrying out the
37 provisions of this article, but excluding the acquisition by the exercise of the right of eminent
38 domain of any solid waste facility operated under permits issued pursuant to the provisions of
39 §22-15-1 *et seq.* of this code and owned by any person or governmental agency. This article does
40 not authorize the ~~board~~ Department of Environmental Protection to take or disturb property or
41 facilities belonging to any public utility or to a common carrier, which property or facilities are

42 required for the proper and convenient operation of such public utility or common carrier, unless
43 provision is made for the restoration, relocation or duplication of such property or facilities
44 elsewhere at the sole cost of the ~~board~~ Department of Environmental Protection.

45 ~~(14)~~ (9) Make and enter into all contracts and agreements and execute all instruments
46 necessary or incidental to the performance of its duties and the execution of its powers pursuant
47 to this article. The Department of Environmental Protection shall follow its purchasing rules
48 contained in 60 CSR 10. ~~When the cost under any such contract or agreement, other than~~
49 ~~compensation for personal services, involves an expenditure of more than \$2,000, the board shall~~
50 ~~make a written contract with the lowest responsible bidder after public notice published as a Class~~
51 ~~II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this~~
52 ~~code, the publication area for such publication to be the county wherein the work is to be~~
53 ~~performed or which is affected by the contract, which notice shall state the general character of~~
54 ~~the work and the general character of the materials to be furnished, the place where plans and~~
55 ~~specifications therefor may be examined and the time and place of receiving bids. A contract or~~
56 ~~lease for the operation of a solid waste disposal project constructed and owned by the board or~~
57 ~~an agreement for cooperation in the acquisition or construction of a solid waste disposal project~~
58 ~~pursuant to section sixteen of this article is not subject to the foregoing requirements and the~~
59 ~~board may enter into such contract or lease or such agreement pursuant to negotiation and upon~~
60 ~~such terms and conditions and for such period as it finds to be reasonable and proper under the~~
61 ~~circumstances and in the best interests of proper operation or of efficient acquisition or~~
62 ~~construction of such project. The board may reject any and all bids. A bond with good and~~
63 ~~sufficient surety, approved by the board, is required of all contractors in an amount equal to at~~
64 ~~least fifty percent of the contract price, conditioned upon the faithful performance of the contract~~

65 ~~(12)~~ (10) Employ managers, superintendents, engineers, accountants, Auditors and other
66 employees, and retain or contract with consulting engineers, financial consultants, accounting
67 experts, architects, attorneys, and such other consultants and independent contractors as are

68 necessary in its judgment to carry out the provisions of this article, and fix the compensation or
69 fees thereof. All expenses thereof are payable solely from the proceeds of solid waste disposal
70 revenue bonds or notes issued by the ~~board~~ Department of Environmental Protection, from
71 revenues and from funds appropriated for such purpose by the Legislature.

72 ~~(13)~~ (11) Receive and accept from any federal agency, subject to the approval of the
73 Governor, grants for or in aid of the construction of any solid waste disposal project or for research
74 and development with respect to solid waste disposal projects and solid waste disposal sheds
75 and receive and accept from any source aid or contributions of money, property, labor or other
76 things of value, to be held, used and applied only for the purposes for which such grants and
77 contributions are made.

78 ~~(14)~~ (12) Engage in research and development with respect to solid waste disposal
79 projects and solid waste disposal sheds.

80 ~~(15)~~ (13) Purchase fire and extended coverage and liability insurance for any solid waste
81 disposal project, ~~and for the principal office and suboffices of the board, insurance protecting the~~
82 ~~board and its officers and employees against liability, if any for damage to property or injury to or~~
83 death of persons arising from its operations and any other insurance the ~~board~~ Department of
84 Environmental Protection may agree to provide under any resolution authorizing the issuance of
85 solid waste disposal revenue bonds.

86 ~~(16)~~ (14) Charge, alter, and collect rentals and other charges for the use or services of
87 any solid waste disposal project as provided in this article, and charge and collect reasonable
88 interest, fees, and other charges in connection with the making and servicing of loans to
89 governmental agencies in furtherance of the purposes of this article.

90 ~~(17)~~ (15) Establish or increase reserves from moneys received or to be received by the
91 ~~board~~ Department of Environmental Protection to secure or to pay the principal of and interest on
92 the bonds and notes issued by the ~~board~~ Department of Environmental Protection pursuant to
93 this article.

94 ~~(18)~~ (16) Do all acts necessary and proper to carry out the powers expressly granted to
95 the ~~board~~ Department of Environmental Protection in this article.

§22C-3-7. Development of state solid waste management plan.

1 ~~On or before the first day of January, one thousand nine hundred ninety-three, the solid~~
2 ~~waste management board~~ Once every two years beginning in 2023, the Department of
3 Environmental Protection shall prepare an overall state plan for the proper management of solid
4 waste: *Provided*, That such plan shall be consistent with the findings and purposes of §22C-4-1
5 *et seq.*, §22-15-1 *et seq.*, and §22-15A-1 *et seq.* of this code: *Provided, however*, That such plan
6 shall incorporate the county or regional plans developed pursuant to §22C-4-8 and §22C-4-24 of
7 this code, as amended: *Provided further*, That such plan shall be updated every two years
8 following its initial preparation.

**§22C-3-8. Power of ~~board~~ the Department of Environmental Protection to collect service
charges and exercise other powers of governmental agencies in event of default;
power to require governmental agencies to enforce their rights.**

1 In order to ensure that the public purposes to be served by the ~~board~~ Department of
2 Environmental Protection may be properly carried out and in order to assure the timely payment
3 to the ~~board~~ Department of Environmental Protection of all sums due and owing under loan
4 agreements with governmental agencies, as referred to in §22C-3-5 of this code, notwithstanding
5 any provision to the contrary elsewhere contained in this code, in event of any default by a
6 governmental agency under such a loan agreement, the ~~board~~ Department of Environmental
7 Protection has, and may, at its option, exercise the following rights and remedies in addition to
8 the rights and remedies conferred by law or pursuant to said loan agreement:

9 (1) The ~~board~~ Department of Environmental Protection may directly impose, in its own
10 name and for its own benefit, service charges determined by it to be necessary under the
11 circumstances upon all users of the solid waste disposal project to be acquired or constructed
12 pursuant to such loan agreement, and proceed directly to enforce and collect such service

13 charges, together with all necessary costs of such enforcement and collection.

14 (2) The ~~board~~ Department of Environmental Protection may exercise, in its own name or
15 in the name of and as agent for the governmental agency, all of the rights, authority, powers and
16 remedies of the governmental agency with respect to the solid waste disposal project or which
17 may be conferred upon the governmental agency by statute, rule, regulation or judicial decision,
18 including, without limitation, all rights and remedies with respect to users of such solid waste
19 disposal project.

20 (3) The ~~board~~ Department of Environmental Protection may, by civil action, mandamus or
21 other judicial or administrative proceeding, compel performance by such governmental agency of
22 all of the terms and conditions of such loan agreement including, without limitation, the adjustment
23 and increase of service charges as required to repay the loan or otherwise satisfy the terms of
24 such loan agreement, the enforcement and collection of such service charges and the
25 enforcement by such governmental agency of all rights and remedies conferred by statute, rule,
26 regulation or judicial decision.

**§22C-3-9. Development and designation of solid waste disposal sheds by ~~board~~
Department of Environmental Protection.**

1 The ~~board~~ Department of Environmental Protection shall maintain the division of the state
2 into geographical areas for solid waste management which shall be known as solid waste disposal
3 sheds. The ~~board~~ Department of Environmental Protection may, from time to time, modify the
4 boundaries of such sheds in a manner consistent with the provisions of this section. Before it
5 modifies the sheds, the ~~board~~ Department of Environmental Protection shall consult with the
6 affected municipalities and county or regional solid waste authorities and obtain and evaluate their
7 opinions as to how many sheds there should be and where their boundaries should be located.
8 The ~~board~~ Department of Environmental Protection shall then cause feasibility and cost studies
9 to be made in order for it to designate the solid waste disposal sheds within each of which the
10 most dependable, effective, efficient and economical solid waste disposal projects may be

11 established. The sheds shall not overlap and shall cover the entire state.

12 The ~~board~~ Department of Environmental Protection shall designate the sheds so that:

13 (1) The goal of providing solid waste collection and disposal service to each household,
14 business and industry in the state can reasonably be achieved.

15 (2) The total cost of solid waste collection and disposal and the cost of solid waste
16 collection and disposal within each shed and per person can be kept as low as possible.

17 (3) Solid waste collection and disposal service, facilities and projects can be integrated in
18 the most feasible, dependable, effective, efficient and economical manner.

19 (4) No county is located in more than one shed: *Provided*, That the ~~board~~ Department of
20 Environmental Protection may divide a county among two or more sheds upon request of the
21 appropriate county or regional solid waste authority.

22 The ~~board~~ Department of Environmental Protection, in modifying the boundaries of solid
23 waste disposal sheds, is exempt from the provisions of Chapter 29A of this code.

**§22C-3-10. ~~Board~~ The Department of Environmental Protection empowered to issue solid
waste disposal revenue bonds, renewal notes and refunding bonds; requirements
and manner of such issuance.**

1 The ~~board~~ Department of Environmental Protection is hereby empowered to issue, from
2 time to time, solid waste disposal revenue bonds and notes of the state in such principal amounts
3 as the ~~board~~ Department of Environmental Protection deems necessary to pay the cost of or
4 finance, in whole or in part, by loans to governmental agencies, one or more solid waste
5 development projects, but the aggregate amount of all issues of bonds and notes outstanding at
6 one time for all projects authorized hereunder shall not exceed that amount capable of being
7 serviced by revenues received from such projects, and shall not exceed in the aggregate the sum
8 of \$100 million: *Provided*, That up to \$25 million may be issued for projects located or to be located
9 in areas which lack adequate sewer or water service and the area is in need of such services to
10 comply with federal requirements.

11 The ~~board~~ Department of Environmental Protection may, from time to time, issue renewal
12 notes, issue bonds to pay such notes and whenever it deems refunding expedient, refund any
13 bonds by the issuance of solid waste disposal revenue refunding bonds of the state. Except as
14 may otherwise be expressly provided in this article or by the ~~board~~ Department of Environmental
15 Protection, every issue of its bonds or notes are obligations of the ~~board~~ Department of
16 Environmental Protection payable out of the revenues and reserves created for such purposes
17 by the ~~board~~ Department of Environmental Protection, which are pledged for such payment,
18 without preference or priority of the first bonds issued, subject only to any agreements with the
19 holders of particular bonds or notes pledging any particular revenues. Such pledge is valid and
20 binding from the time the pledge is made and the revenue so pledged and thereafter received by
21 the ~~board~~ Department of Environmental Protection is immediately subject to the lien of such
22 pledge without any physical delivery thereof or further act and the lien of any such pledge is valid
23 and binding as against all parties having claims of any kind in tort, contract or otherwise against
24 the ~~board~~ Department of Environmental Protection irrespective of whether such parties have
25 notice thereof. All such bonds and notes shall have all the qualities of negotiable instruments.

26 The bonds and notes shall be authorized by resolution of the ~~board~~ Department of
27 Environmental Protection, bear such dates and mature at such times, in the case of any such
28 note or any renewals thereof not exceeding five years from the date of issue of such original note,
29 and in the case of any such bond not exceeding 50 years from the date of issue, as such resolution
30 may provide. The bonds and notes shall bear interest at such rate, be in such denominations, be
31 in such form, either coupon or registered, carry such registration privileges, be payable in such
32 medium of payment, at such place and be subject to such terms of redemption as the ~~board~~
33 Department of Environmental Protection may authorize. The ~~board~~ Department of Environmental
34 Protection may sell such bonds and notes at public or private sale, at the price the ~~board~~
35 Department of Environmental Protection determines. The bonds and notes shall be executed by
36 the ~~chair and vice chair of the board~~ cabinet secretary of the Department of Environmental

37 ~~Protection, both of whom who~~ may use facsimile or digital signatures. ~~The official seal of the board~~
38 ~~or a facsimile thereof shall be affixed thereto or printed thereon and attested, manually or by~~
39 ~~facsimile signature, by the secretary-treasurer of the board, and any coupons attached thereto~~
40 ~~shall bear the signature or facsimile signature of the chair of the board. In case any officer whose~~
41 ~~signature, or a facsimile of whose signature, appears on any bonds, notes or coupons ceases to~~
42 ~~be such officer before delivery of such bonds or notes, such signature or facsimile is nevertheless~~
43 ~~sufficient for all purposes the same as if he or she had remained in office until such delivery and,~~
44 ~~in case the seal of the board has been changed after a facsimile has been imprinted on such~~
45 ~~bonds or notes, such facsimile seal will continue to be sufficient for all purposes~~

46 Any ~~resolution~~ decision by the cabinet secretary authorizing any bonds or notes or any
47 issue thereof may contain provisions (subject to such agreements with bondholders or
48 noteholders as may then exist, which provisions shall be a part of the contract with the holders
49 thereof) as to pledging all or any part of the revenues of the ~~board~~ Department of Environmental
50 Protection to secure the payment of the bonds or notes or of any issue thereof; the use and
51 disposition of revenues of the ~~board~~ Department of Environmental Protection; a covenant to fix,
52 alter and collect rentals, fees, service charges and other charges so that pledged revenues will
53 be sufficient to pay the costs of operation, maintenance and repairs, pay principal of and interest
54 on bonds or notes secured by the pledge of such revenues and provide such reserves as may be
55 required by the applicable resolution; the setting aside of reserve funds, sinking funds, or
56 replacement and improvement funds and the regulation and disposition thereof; the crediting of
57 the proceeds of the sale of bonds or notes to and among the funds referred to or provided for in
58 the resolution authorizing the issuance of the bonds or notes; the use, lease, sale or other
59 disposition of any solid waste disposal project or any other assets of the ~~board~~ Department of
60 Environmental Protection; limitations on the purpose to which the proceeds of sale of bonds or
61 notes may be applied and pledging such proceeds to secure the payment of the bonds or notes
62 or of any issue thereof; agreement of the ~~board~~ Department of Environmental Protection to do all

63 things necessary for the authorization, issuance and sale of bonds in such amounts as may be
64 necessary for the timely retirement of notes issued in anticipation of the issuance of bonds;
65 limitations on the issuance of additional bonds or notes; the terms upon which additional bonds
66 or notes may be issued and secured; the refunding of outstanding bonds or notes; the procedure,
67 if any, by which the terms of any contract with bondholders or noteholders may be amended or
68 abrogated, the holders of which must consent thereto, and the manner in which such consent
69 may be given; limitations on the amount of moneys to be expended by the ~~board~~ Department of
70 Environmental Protection for operating, administrative or other expenses of the ~~board~~ Department
71 of Environmental Protection; and any other matters, of like or different character, which in any
72 way affect the security or protection of the bonds or notes.

73 In the event that the sum of all reserves pledged to the payment of such bonds or notes
74 is less than the minimum reserve requirements established in any resolution or resolutions
75 authorizing the issuance of such bonds or notes, the ~~chair of the board~~ cabinet secretary shall
76 certify, on or before December 1, of each year, the amount of such deficiency to the Governor of
77 the state, for inclusion, if the Governor shall so elect, of the amount of such deficiency in the
78 budget to be submitted to the next session of the Legislature for appropriation to the ~~board~~
79 Department of Environmental Protection to be pledged for payment of such bonds or notes:
80 *Provided*, That the Legislature is not required to make any appropriation so requested, and the
81 amount of such deficiencies is not a debt or liability of the state.

82 Neither the ~~members of the board~~ cabinet secretary nor any person executing the bonds
83 or notes are liable personally on the bonds or notes or are subject to any personal liability or
84 accountability by reason of the issuance thereof.

**§22C-3-11. Establishment of reserve funds, replacement and improvement funds and
sinking funds; fiscal agent; purposes for use of bond proceeds; application of
surplus.**

1 (a) Before issuing any revenue bonds in accordance with the provisions of this article, the

2 ~~board~~ Department of Environmental Protection shall consult with and be advised by the water
3 development authority as to the feasibility and necessity of the proposed issuance of revenue
4 bonds. Such consultation shall include, but not be limited to, the following subjects:

5 (1) The relationship of the proposed issuance of revenue bonds to the statutory debt
6 limitation provided for in section ten of this article;

7 (2) The degree to which the proceeds will be used for capital improvements in the form of
8 real or personal property;

9 (3) The extent to which the proposed use of proceeds coincides with the purposes of this
10 article;

11 (4) A weighing of the public benefit to be derived from the issuance as opposed to any
12 private gain; and

13 (5) The sufficiency of projected revenues available to the ~~board~~ Department of
14 Environmental Protection to pay the interest on indebtedness as it falls due, to constitute a sinking
15 fund for the payment thereof at maturity, or to discharge the principal within a prescribed period
16 of time.

17 (b) Prior to issuing revenue bonds under the provisions of this article, the ~~board~~
18 Department of Environmental Protection shall enter into agreements satisfactory to the water
19 development authority with regard to the selection of all consultants, advisors and other experts
20 to be employed in connection with the issuance of such bonds and the fees and expenses to be
21 charged by such persons, and to establish any necessary reserve funds and replacement and
22 improvement funds, all such funds to be administered by the water development authority, and,
23 so long as any such bonds remain outstanding, to establish and maintain a sinking fund or funds
24 to retire such bonds and pay the interest thereon as the same may become due. The amounts in
25 any such sinking fund, as and when so set apart by the ~~board~~ Department of Environmental
26 Protection, shall be remitted to the water development authority at least 30 days previous to the
27 time interest or principal payments become due, to be retained and paid out by the water

28 development authority, as agent for the ~~board~~ Department of Environmental Protection, in a
29 manner consistent with the provisions of this article and with the resolution pursuant to which the
30 bonds have been issued. The water development authority shall act as fiscal agent for the
31 administration of any sinking fund and reserve fund established under each resolution authorizing
32 the issuance of revenue bonds pursuant to the provisions of this article, and shall invest all funds
33 not required for immediate disbursement in the same manner as funds are invested pursuant to
34 the provisions of §22C-1-15 of this code.

35 (c) Notwithstanding any other provision of this article to the contrary, no revenue bonds
36 shall be issued, nor the proceeds thereof expended or distributed, pursuant to the provisions of
37 this article, without the prior approval of the water development authority. Upon such approval,
38 the proceeds of revenue bonds shall be used solely for the following purposes:

39 (1) To pay the cost of acquiring, constructing, reconstructing, enlarging, improving,
40 furnishing, equipping, or repairing solid waste disposal projects;

41 (2) To make loans to persons or to governmental agencies for the acquisition, design, and
42 construction of solid waste disposal projects, taking such collateral security for any such loans as
43 may be approved by the water development authority; and

44 (3) To pay the costs and expenses incidental to or necessary for the issuance of such
45 bonds.

46 (d) If the proceeds of revenue bonds issued for any solid waste disposal project exceed
47 the cost thereof, the surplus shall be paid into the fund herein provided for the payment of principal
48 and interest upon such bonds. Such fund may be used by the fiscal agent for the purchase or
49 redemption of any of the outstanding bonds payable from such fund at the market price, but not
50 at a price exceeding the price at which any of such bonds is in the same year redeemable, as
51 fixed by the ~~board~~ Department of Environmental Protection in its said resolution, and all bonds
52 redeemed or purchased shall forthwith be canceled, and shall not again be issued.

§22C-3-12. Legal remedies of bondholders.

1 Any holder of solid waste disposal revenue bonds issued under the authority of this article
2 or any of the coupons appertaining thereto, except to the extent the rights given by this article
3 may be restricted by the applicable resolution, may by civil action, mandamus or other proceeding,
4 protect and enforce any rights granted under the laws of this state or granted under this article,
5 by the resolution authorizing the issuance of such bonds, and may enforce and compel the
6 performance of all duties required by this article, or by the resolution, to be performed by the ~~board~~
7 Department of Environmental Protection or any officer or employee thereof, including the fixing,
8 charging and collecting of sufficient rentals, fees, service charges or other charges.

**§22C-3-13. Bonds and notes not debt of state, county, municipality or of any political
subdivision; expenses incurred pursuant to article.**

1 Solid waste disposal revenue bonds and notes and solid waste disposal revenue refunding
2 bonds issued under authority of this article and any coupons in connection therewith are not a
3 debt or a pledge of the faith and credit or taxing power of this state or of any county, municipality,
4 or any other political subdivision of this state, and the holders or owners thereof have no right to
5 have taxes levied by the Legislature or taxing authority of any county, municipality, or any other
6 political subdivision of this state for the payment of the principal thereof or interest thereon, but
7 such bonds and notes are payable solely from the revenues and funds pledged for their payment
8 as authorized by this article unless the notes are issued in anticipation of the issuance of bonds
9 or the bonds are refunded by refunding bonds issued under authority of this article, which bonds
10 or refunding bonds are payable solely from revenues and funds pledged for their payment as
11 authorized by this article. All such bonds and notes shall contain on the face thereof a statement
12 to the effect that the bonds or notes, as to both principal and interest, are not debts of the state
13 or any county, municipality, or political subdivision thereof, but are payable solely from revenues
14 and funds pledged for their payment.

15 All expenses incurred in carrying out the provisions of this article are payable solely from
16 funds provided under authority of this article. This article does not authorize the ~~board~~ Department

17 of Environmental Protection to incur indebtedness or liability on behalf of or payable by the state
 18 or any county, municipality, or political subdivision thereof.

§22C-3-14. Use of funds, properties, etc., by ~~board~~ Department of Environmental Protection; restrictions thereon.

1 All moneys, properties and assets acquired by the ~~board~~ Department of Environmental
 2 Protection, whether as proceeds from the sale of solid waste disposal revenue bonds or as
 3 revenues or otherwise, shall be held by it in trust for the purposes of carrying out its powers and
 4 duties, and shall be used and reused in accordance with the purposes and provisions of this
 5 article. Such moneys shall at no time be commingled with other public funds. Such moneys,
 6 except as otherwise provided in any resolution authorizing the issuance of solid waste disposal
 7 revenue bonds or except when invested, shall be kept in appropriate depositories and secured
 8 as provided and required by law. The resolution authorizing the issuance of such bonds of any
 9 issue shall provide that any officer to whom such moneys are paid shall act as trustee of such
 10 moneys and hold and apply them for the purposes hereof, subject to the conditions this article
 11 and such resolution provide.

**§22C-3-15. Audit of funds disbursed by the ~~board~~ Department of Environmental Protection
 and recipients thereof.**

1 Beginning in the fiscal year ending June 30, ~~1992~~ 2023, and every second fiscal year
 2 thereafter, the Legislature shall cause to be performed a post audit and a performance audit for
 3 the intervening two-year period of the recipients of any grant or loan provided by the ~~solid waste~~
 4 ~~management board~~ Department of Environmental Protection pursuant to this article. The audit
 5 shall cover the disbursement of such loans or grants provided pursuant to §22C-4-30 of this code,
 6 the use of such loans or grants by the recipient as well as all other appropriate subject matter.

**§22C-3-16. Rentals, fees, service charges and other revenues from solid waste disposal
 projects; contracts and leases of ~~board~~ Department of Environmental Protection;
 cooperation of other governmental agencies; bonds of such agencies.**

1 This section applies to any solid waste disposal project or projects which are owned, in
2 whole or in part, by the ~~board~~ Department of Environmental Protection.

3 The ~~board~~ Department of Environmental Protection may charge, alter and collect rentals,
4 fees, service charges or other charges for the use or services of any solid waste disposal project,
5 and contract in the manner provided by this section with one or more persons, one or more
6 governmental agencies, or any combination thereof, desiring the use or services thereof, and fix
7 the terms, conditions, rentals, fees, service charges or other charges for such use or services.
8 Such rentals, fees, service charges or other charges are not subject to supervision or regulation
9 by any other authority, department, commission, board, bureau, or agency of the state, and such
10 contract may provide for acquisition by such person or governmental agency of all or any part of
11 such solid waste disposal project for such consideration payable over the period of the contract
12 or otherwise as the ~~board~~ Department of Environmental Protection in its sole discretion
13 determines to be appropriate, but subject to the provisions of any resolution authorizing the
14 issuance of solid waste disposal revenue bonds or notes or solid waste disposal revenue
15 refunding bonds of the ~~board~~ Department of Environmental Protection. Any governmental agency
16 which has power to construct, operate, and maintain solid waste disposal facilities may enter into
17 a contract or lease with the ~~board~~ Department of Environmental Protection whereby the use or
18 services of any solid waste disposal project of the ~~board~~ Department of Environmental Protection
19 will be made available to such governmental agency and pay for such use or services such
20 rentals, fees, service charges, or other charges as may be agreed to by such governmental
21 agency and the ~~board~~ Department of Environmental Protection.

22 Any governmental agency or agencies or combination thereof may cooperate with the
23 ~~board~~ Department of Environmental Protection in the acquisition or construction of a solid waste
24 disposal project and shall enter into such agreements with the ~~board~~ Department of
25 Environmental Protection as are necessary, with a view to effective cooperative action and
26 safeguarding of the respective interests of the parties thereto, which agreements shall provide for

27 such contributions by the parties thereto in such proportion as may be agreed upon and such
28 other terms as may be mutually satisfactory to the parties, including, without limitation, the
29 authorization of the construction of the project by one of the parties acting as agent for all of the
30 parties and the ownership and control of the project by the ~~board~~ Department of Environmental
31 Protection to the extent necessary or appropriate for purposes of the issuance of solid waste
32 disposal revenue bonds by the ~~board~~ Department of Environmental Protection. Any governmental
33 agency may provide such contribution as is required under such agreements by the appropriation
34 of money or, if authorized by a favorable vote of the electors to issue bonds or notes or levy taxes
35 or assessments and issue notes or bonds in anticipation of the collection thereof, by the issuance
36 of bonds or notes or by the levying of taxes or assessments and the issuance of bonds or notes
37 in anticipation of the collection thereof, and by the payment of such appropriated money or the
38 proceeds of such bonds or notes to the ~~board~~ Department of Environmental Protection pursuant
39 to such agreements.

40 Any governmental agency, pursuant to a favorable vote of the electors in an election held
41 for the purpose of issuing bonds to provide funds to acquire, construct or equip, or provide real
42 estate and interests in real estate for a solid waste disposal project, whether or not the
43 governmental agency at the time of such election had the ~~board~~ Department of Environmental
44 Protection to pay the proceeds from such bonds or notes issued in anticipation thereof to the
45 ~~board~~ Department of Environmental Protection as provided in this section, may issue such bonds
46 or notes in anticipation of the issuance thereof and pay the proceeds thereof to the ~~board~~
47 Department of Environmental Protection in accordance with an agreement between such
48 governmental agency and the ~~board~~ Department of Environmental Protection: *Provided*, That the
49 legislative board of the governmental agency finds and determines that the solid waste disposal
50 project to be acquired or constructed by the ~~board~~ Department of Environmental Protection in
51 cooperation with such governmental agency will serve the same public purpose and meet
52 substantially the same public need as the project otherwise proposed to be acquired or

53 constructed by the governmental agency with the proceeds of such bonds or notes.

§22C-3-17. Maintenance, operation and repair of projects; repair of damaged property; reports by ~~board~~ Department of Environmental Protection to Governor and Legislature.

1 Each solid waste development project, when constructed and placed in operation, shall
2 be maintained and kept in good condition and repair by the ~~board~~ Department of Environmental
3 Protection or if owned by a governmental agency, by such governmental agency, or the ~~board~~
4 Department of Environmental Protection or such governmental agency shall cause the same to
5 be maintained and kept in good condition and repair. Each such project owned by the ~~board~~
6 Department of Environmental Protection shall be operated by such operating employees as the
7 ~~board~~ Department of Environmental Protection employs or pursuant to a contract or lease with a
8 governmental agency or person. All public or private property damaged or destroyed in carrying
9 out the provisions of this article and in the exercise of the powers granted hereunder with regard
10 to any project shall be restored or repaired and placed in its original condition, as nearly as
11 practicable, or adequate compensation made therefor out of funds provided in accordance with
12 the provisions of this article.

13 As soon as possible after the close of each fiscal year, the ~~board~~ Department of
14 Environmental Protection shall make an annual report of its activities for the preceding fiscal year
15 to the Governor and the Legislature. Each such report shall set forth a complete operating and
16 financial statement covering the ~~board's~~ Department of Environmental Protection's operations
17 undertaken pursuant to this article during the preceding fiscal year. The ~~board~~ Department of
18 Environmental Protection shall cause an audit of its books and accounts to be made at least once
19 each fiscal year by certified public accountants and the cost thereof may be treated as a part of
20 the cost of construction or of operation of its projects. A report of the audit shall be submitted to
21 the Governor and the Legislature.

§22C-3-19. Exemption from taxation.

1 The ~~board~~ Department of Environmental Protection is not required to pay any taxes or
2 assessments upon any solid waste disposal project or upon any property acquired or used by the
3 ~~board~~ Department of Environmental Protection or upon the income therefrom. Bonds and notes
4 issued by the ~~board~~ Department of Environmental Protection and all interest and income thereon
5 are exempt from all taxation by this state, or any county, municipality, political subdivision, or
6 agency thereof, except inheritance taxes.

§22C-3-20. Governmental agencies authorized to convey property.

1 All governmental agencies, notwithstanding any provision of law to the contrary, may
2 lease, lend, grant or convey to the ~~board~~ Department of Environmental Protection, at its request,
3 upon such terms as the proper authorities of such governmental agencies deem reasonable and
4 fair and without the necessity for an advertisement, auction, order of court, or other action or
5 formality, other than the regular and formal action of the governmental agency concerned, any
6 real property or interests therein, including improvements thereto or personal property which is
7 necessary or convenient to the effectuation of the authorized purposes of the ~~board~~ Department
8 of Environmental Protection, including public roads and other real property or interests therein,
9 including improvements thereto or personal property already devoted to public use.

**§22C-3-21. Financial interest in contracts, projects, etc., prohibited; gratuities prohibited;
penalty.**

1 No ~~officer, member or~~ employee of the ~~board~~ Department of Environmental Protection
2 may be financially interested, directly or indirectly, in any contract of any person with the ~~board~~
3 Department of Environmental Protection, or in the sale of any property, real or personal, to or by
4 the ~~board~~ Department of Environmental Protection. This section does not apply to contracts or
5 purchases of property, real or personal, between the ~~board~~ Department of Environmental
6 Protection and any governmental agency.

7 No ~~officer, member, or~~ employee of the ~~board~~ Department of Environmental Protection
8 may have or acquire any financial interest, either direct or indirect, in any project or activity ~~of the~~

9 ~~board~~ undertaken by the Department of Environmental Protection pursuant to this article or in any
10 services or material to be used or furnished in connection with any project or activity of the ~~board~~
11 Department of Environmental Protection undertaken pursuant to this article. If an ~~officer, member~~
12 ~~or~~ employee of the ~~board~~ Department of Environmental Protection has any such interest at the
13 time he or she becomes an ~~officer, member~~ or employee of the ~~board~~ Department of
14 Environmental Protection, he or she shall disclose and divest himself or herself of it. Failure to do
15 so is cause for dismissal from the position he or she holds with the ~~authority~~ Department of
16 Environmental Protection.

17 ~~This section does not apply in instances where a member of the board who is a contract~~
18 ~~solid waste hauler either seeks or has a financial interest, direct or indirect, in any project or~~
19 ~~activity of the board or in any services or material to be used or furnished in connection with any~~
20 ~~project or activity of the board: *Provided*, That member shall fully disclose orally and in writing to~~
21 ~~the board the nature and extent of any interest, prior to any vote by the board which involves his~~
22 ~~or her interest, withdraw from any deliberation or discussion by the board of matters involving his~~
23 ~~or her interest, and refrain from voting on any matter which directly or indirectly affects him or her~~

24 No ~~officer, member~~ or employee of the ~~board~~ Department of Environmental Protection
25 may accept a gratuity from any person doing business with the ~~board~~ Department of
26 Environmental Protection or from any person for the purpose of gaining favor with the ~~board~~
27 Department of Environmental Protection.

28 ~~Any officer, member or employee of the board who has any financial interest prohibited~~
29 ~~by this section or who fails to comply with its provisions is guilty of a misdemeanor, and, upon~~
30 ~~conviction thereof, shall be fined not more than \$1,000, or imprisoned in the county jail not more~~
31 ~~than one year, or both fined and imprisoned~~

§22C-3-22. Conduct of proceedings of board.

1 [Repealed.]

§22C-3-23. Regulation of solid waste collectors and haulers to continue under Public

Service Commission; bringing about their compliance with solid waste disposal shed plan and solid waste disposal projects; giving testimony at commission hearings.

1 Solid waste collectors and haulers who are “common carriers by motor vehicle,” as defined
 2 in §24A-1-2 of this code, shall continue to be regulated by the Public Service Commission in
 3 accordance with the provisions of Chapter 24a and rules promulgated thereunder. Nothing in this
 4 article gives the ~~board~~ Department of Environmental any power or right to regulate such solid
 5 waste collectors and haulers in any manner, but the Public Service Commission, when it issues
 6 a new certificate of convenience and necessity, or when it alters or adjusts the provisions of any
 7 existing certificate of convenience and necessity, or when it approves the assignment or transfer
 8 of any certificate of convenience and necessity, shall consult with the ~~board~~ Department of
 9 Environmental regarding what action it could take which would most likely further the
 10 implementation of the ~~board's~~ Department of Environmental Protection's solid waste disposal
 11 shed plan and solid waste disposal projects and shall take any reasonable action that will lead to
 12 or bring about compliance of such waste collectors and haulers with such plan and projects.

13 At any hearing conducted by the Public Service Commission pertaining to solid waste
 14 collectors and haulers on any of these matters, ~~any member of the board, the director or an~~
 15 ~~employee of the board designated by the director~~ the Department of Environmental Protection
 16 may appear before the commission and present evidence.

§22C-3-24. Cooperation of ~~board~~ Department of Environmental Protection and enforcement agencies in collecting and disposing of abandoned household appliances and motor vehicles, etc.

1 The provisions of this article are complementary to those contained in ~~article twenty-four,~~
 2 ~~chapter fifteen-a~~ §17-24A-1 et seq. of this code and do not alter or diminish the authority of any
 3 enforcement agency, as defined in ~~section two thereof~~ §17-24A-1 et seq. of this code, to collect
 4 and dispose of abandoned household appliances and motor vehicles, inoperative household

5 appliances and junked motor vehicles and parts thereof, including tires. The ~~board~~ Department of
6 Environmental Protection and such enforcement agencies shall cooperate fully with each other in
7 collecting and disposing of such solid waste.

§22C-3-26. Supersedure over county and regional solid waste authorities.

1 For purposes of exercising the authority provided under §22C-4-9a of this code, the ~~board~~
2 cabinet secretary of the Department of Environmental Protection may ~~by resolution~~ supersede
3 and exercise, in part or whole, the powers granted to only county or regional solid waste
4 authorities that operate solid waste facilities as provided in Chapter 7, Chapter 22, Chapter 22C,
5 and Chapter 24 of this code. Actions of the ~~board~~ cabinet secretary supersede those powers
6 granted to only county or regional solid waste authorities that operate solid waste facilities.

NOTE: The purpose of this bill is to abolish the West Virginia Solid Waste Management Board and, to create greater efficiencies, transfer its rights and responsibilities to the West Virginia Department of Environmental Protection Division of Water and Waste Management.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.