

WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

Committee Substitute

for

Senate Bill 554

BY SENATORS BLAIR (MR. PRESIDENT) AND BALDWIN

(BY REQUEST OF THE EXECUTIVE)

[Originating in the Committee on Natural Resources;

reported on February 15, 2022]

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-3-2, §22C-3-3, §22C-3-4, §22C-3-5, §22C-3-6, §22C-3-7, §22C-
3 3-8, §22C-3-9, §22C-3-10, §22C-3-11, §22C-3-12, §22C-3-13, §22C-3-14, §22C-3-15,
4 §22C-3-16, §22C-3-17, §22C-3-18, §22C-3-19, §22C-3-20, §22C-3-21, §22C-3-23, §22C-
5 3-24, §22C-3-25, and §22C-3-26 of said code, all relating to abolishing the West Virginia
6 Solid Waste Management Board and transferring its functions, rights, powers, and duties
7 to the Department of Environmental Protection; defining terms; declaring that the
8 department is bound by actions previously taken by the Solid Waste Management Board;
9 requiring development of state solid waste management plan once every two years
10 beginning 2023; removing or repealing obsolete provisions relating to the former board;
11 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.~~”

3 **§22C-3-2. Legislative findings; declaration of policy and responsibility; purpose and intent**
4 **of article.**

5 The Legislature finds that uncontrolled, inadequately controlled, and improper collection
6 and disposal of solid waste: (1) is a public nuisance and a clear and present danger to people;
7 (2) provides harborages and breeding places for disease-carrying, injurious insects, rodents, and
8 other pests harmful to the public health, safety, and welfare; (3) constitutes a danger to livestock
9 and domestic animals; (4) decreases the value of private and public property, causes pollution,
10 blight, and deterioration of the natural beauty and resources of the state and has adverse

11 economic and social effects on the state and its citizens; and (5) results in the squandering of
12 valuable nonrenewable and non-replenishable resources contained in solid waste.

13 Further, the Legislature finds that governmental agencies in the state and the private
14 sector do not have the financial and other resources needed to provide for the proper collection
15 and disposal of solid waste, that solid waste disposal sheds and projects must be established on
16 a relatively large scale to be economically feasible and stable, and that proper solid waste
17 collection and disposal at the lowest minimum cost can only be achieved through comprehensive
18 solid waste management.

19 It is declared to be the public policy and a responsibility of this state to assist efforts of
20 governmental agencies and the private sector to provide for the proper collection, disposal, and
21 recycling of solid waste and to solve and prevent the problems set forth in this article. It is the
22 purpose and intent of the Legislature in enacting this article to provide for the necessary,
23 dependable, effective, and efficient collection, disposal, and recycling of solid waste and to assist
24 and cooperate with governmental agencies and the private sector in achieving all the purposes
25 set forth in this article, and to encourage the recycling or extraction of recoverable resources from
26 such solid waste.

27 The Legislature finds that the public policy and responsibility of the state as set forth in
28 this section cannot be effectively attained without the funding, establishment, operation, and
29 maintenance of solid waste disposal projects as provided in this article.

§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, to effect the intents and purposes of this article.~~

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

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

32 "Department" means the Department of Environmental Protection.

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
45 article.

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

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

55 ~~(10)~~ “Revenue” means any money or thing of value collected by, or paid to, the ~~solid waste~~
56 ~~management board~~ department as rent, use fee, service charge, or other charge for use of, or in
57 connection with, any solid waste disposal project, or as principal of or interest or other fees on
58 loans, or any other collections on loans made by the ~~solid waste management board~~ department

59 to governmental agencies to finance, in whole or in part, the acquisition or construction of any
60 solid waste development project or projects, or other money or property which is received and
61 may be expended for or pledged as revenues pursuant to this article.

62 “Secretary” means the Secretary of the Department of Environmental Protection.

63 ~~(11)~~ “Solid waste” means any garbage, paper, litter, refuse, cans, bottles, waste processed
64 for the express purpose of incineration, sludge from a waste treatment plant, water supply
65 treatment plant or air pollution control facility, other discarded material, including offensive or
66 unsightly matter, solid, liquid, semisolid, or contained liquid or gaseous material resulting from
67 industrial, commercial, mining, or community activities, but does not include solid or dissolved
68 material in sewage, or solid or dissolved materials in irrigation return flows or industrial discharges
69 which are point sources and have permits under §20-5A-1 *et seq.* of this code, or source, special
70 nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, as amended,
71 including any nuclear or byproduct material considered by federal standards to be below
72 regulatory concern, or a hazardous waste either identified or listed under §20-5E-1 *et seq.* of this
73 code, or refuse, slurry, overburden or other waste or material resulting from coal-fired electric
74 power or steam generation, the exploration, development, production, storage and recovery of
75 coal, oil and gas, and other mineral resources placed or disposed of at a facility which is regulated
76 under §22-1-1 *et seq.*, §22A-1-1 *et seq.* , or §22B-1-1 *et seq.*, so long as such placement or
77 disposal is in conformance with a permit issued pursuant to said chapters. “Solid waste” does not
78 include materials which are recycled by being used or reused in an industrial process to make a
79 product, as effective substitutes for commercial products, or are returned to the original process
80 as a substitute for raw material feedstock.

81 ~~(12)~~ “Solid waste facility” means any system, facility, land, contiguous land, improvements
82 on land, structures, or other appurtenances or methods used for processing, recycling, or
83 disposing of solid waste, including landfills, transfer stations, materials recovery facilities, and

84 other such facilities not herein specified. Such facility is situated, for purposes of this article, in
85 the county where the majority of the spatial area of such facility is located.

86 ~~(13)~~ “Solid waste disposal project” or “project” means any solid waste facility, wastewater
87 treatment plants, sewer treatment plants, water and sewer systems, and connecting pipelines the
88 acquisition or construction of which is authorized by the ~~solid waste management board~~
89 department or any acquisition or construction which is financed, in whole or in part, from funds
90 made available by grant or loan by, or through, the ~~board~~ department as provided in this article,
91 including all buildings and facilities which the ~~board~~ department deems necessary for the
92 operation of the project, together with all property, rights, easements, and interests which may be
93 required for the operation of the project.

94 ~~(14)~~ “Solid waste disposal shed” or “shed” means a geographical area which the ~~solid~~
95 ~~waste management board~~ department designates as provided in section eight of this article for
96 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 is charged with carrying out the requirements of this
5 article and assumes the rights and responsibilities formerly delegated to the Solid Waste
6 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 shall designate and
3 establish solid waste disposal sheds and it may initiate, acquire, construct, maintain, repair, and
4 operate solid waste disposal projects or cause the same to be operated pursuant to a lease,
5 sublease, or agreement with any person or governmental agency; may make loans and grants to

6 persons and to governmental agencies for the acquisition or construction of solid waste disposal
7 projects by such persons and governmental agencies; and may issue solid waste disposal
8 revenue bonds of this state, payable solely from revenues, to pay the cost of, or finance, in whole
9 or in part, by loans to governmental agencies, such projects. A solid waste disposal project shall
10 not be undertaken unless the ~~board~~ department determines that the project is consistent with
11 federal law, with its solid waste disposal shed plan, with the standards set by the State
12 Environmental Quality Board and the ~~director~~ secretary for any waters of the state which may be
13 affected thereby, with the air quality standards set by the ~~said director~~ secretary and with health
14 standards set by the Bureau of Public Health. Any ~~resolution of the board~~ decision of the secretary
15 providing for acquiring or constructing such projects or for making a loan or grant for such projects
16 shall include a finding by the ~~board~~ department that such determinations have been made. A loan
17 agreement shall be entered into between the board and each governmental agency to which a
18 loan is made for the acquisition or construction of a solid waste disposal project, which loan
19 agreement shall include without limitation the following provisions:

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

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

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

32 (4) The agreement of the governmental agency to comply with all applicable laws, rules,
33 and regulations issued by the ~~board~~ department or other state, federal, and local bodies in regard
34 to the construction, operation, maintenance, and use of the project; and

35 (5) Such other provisions, terms, or conditions as the ~~board~~ department may reasonably
36 require.

37 The ~~board~~ department shall comply with the provisions of federal law and of §22-15-1 *et*
38 *seq.* of this code, and any rules promulgated thereunder which pertain to solid waste collection
39 and disposal. Further, the department is bound by actions taken by the Solid Waste Management
40 Board prior to the effective 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 may exercise all powers necessary or
2 appropriate to carry out and effectuate ~~its corporate~~ the purpose of this article. The ~~board~~
3 department 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 pursuant to this article shall be
14 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 10 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 §54-1-1 *et seq.* of this code, such public or private lands, or parts thereof or rights
36 therein, rights-of-way, property, rights, easements, and interests it deems necessary for carrying
37 out the provisions of this article, but excluding the acquisition by the exercise of the right of
38 eminent domain of any solid waste facility operated under permits issued pursuant to the
39 provisions of §22-15-1 *et seq.* of this code and owned by any person or governmental agency.
40 This article does not authorize the ~~board~~ department to take or disturb property or facilities
41 belonging to any public utility or to a common carrier, which property or facilities are required for

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

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

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

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

94 ~~(18)~~ (16) Do all acts necessary and proper to carry out the powers expressly granted to
95 the ~~board~~ department 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 shall prepare
3 an overall state plan for the proper management of solid waste: *Provided*, That such plan shall be
4 consistent with the findings and purposes of §22C-4-1 *et seq.*, §22-15-1 *et seq.*, and §22-15A-1
5 *et seq.* of this code: *Provided, however*, That such plan shall incorporate the county or regional
6 plans developed pursuant to §22C-4-8 and §22C-4-24 of this code, as amended: *Provided further*,
7 That such plan shall be updated every two years 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 may be
2 properly carried out and in order to assure the timely payment to the ~~board~~ department of all sums
3 due and owing under loan agreements with governmental agencies, as referred to in §22C-3-5 of
4 this code, notwithstanding any provision to the contrary elsewhere contained in this code, in event
5 of any default by a governmental agency under such a loan agreement, the ~~board~~ department
6 has, and may, at its option, exercise the following rights and remedies in addition to the rights and
7 remedies conferred by law or pursuant to said loan agreement:

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

13 (2) The ~~board~~ department may exercise, in its own name or in the name of and as agent

14 for the governmental agency, all of the rights, authority, powers and remedies of the governmental
15 agency with respect to the solid waste disposal project or which may be conferred upon the
16 governmental agency by statute, rule, regulation, or judicial decision, including, without limitation,
17 all rights and remedies with respect to users of such solid waste disposal project.

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

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

1 The ~~board~~ department shall maintain the division of the state into geographical areas for
2 solid waste management which shall be known as solid waste disposal sheds. The ~~board~~
3 department may, from time to time, modify the boundaries of such sheds in a manner consistent
4 with the provisions of this section. Before it modifies the sheds, the ~~board~~ department shall consult
5 with the affected municipalities and county or regional solid waste authorities and obtain and
6 evaluate their opinions as to how many sheds there should be and where their boundaries should
7 be located. The ~~board~~ department shall then cause feasibility and cost studies to be made in order
8 for it to designate the solid waste disposal sheds within each of which the most dependable,
9 effective, efficient, and economical solid waste disposal projects may be established. The sheds
10 shall not overlap and shall cover the entire state.

11 The ~~board~~ department shall designate the sheds so that:

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

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

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

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

21 The ~~board~~ department, in modifying the boundaries of solid waste disposal sheds, is
22 exempt from the provisions of §29A-1-1 *et seq.* 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 is hereby empowered to issue, from time to time, solid waste
2 disposal revenue bonds and notes of the state in such principal amounts as the ~~board~~ department
3 deems necessary to pay the cost of or finance, in whole or in part, by loans to governmental
4 agencies, one or more solid waste development projects, but the aggregate amount of all issues
5 of bonds and notes outstanding at one time for all projects authorized hereunder shall not exceed
6 that amount capable of being serviced by revenues received from such projects, and shall not
7 exceed in the aggregate the sum of \$100 million: *Provided*, That up to \$25 million may be issued
8 for projects located or to be located in areas which lack adequate sewer or water service and the
9 area is in need of such services to comply with federal requirements.

10 The ~~board~~ department may, from time to time, issue renewal notes, issue bonds to pay
11 such notes and whenever it deems refunding expedient, refund any bonds by the issuance of
12 solid waste disposal revenue refunding bonds of the state. Except as may otherwise be expressly
13 provided in this article or by the ~~board~~ department, every issue of its bonds or notes are obligations
14 of the ~~board~~ department payable out of the revenues and reserves created for such purposes by

15 the ~~board~~ department, which are pledged for such payment, without preference or priority of the
16 first bonds issued, subject only to any agreements with the holders of particular bonds or notes
17 pledging any particular revenues. Such pledge is valid and binding from the time the pledge is
18 made and the revenue so pledged and thereafter received by the ~~board~~ department is
19 immediately subject to the lien of such pledge without any physical delivery thereof or further act
20 and the lien of any such pledge is valid and binding as against all parties having claims of any
21 kind in tort, contract or otherwise against the ~~board~~ department irrespective of whether such
22 parties have notice thereof. All such bonds and notes shall have all the qualities of negotiable
23 instruments.

24 The bonds and notes shall be authorized by resolution of the ~~board~~ department, bear such
25 dates and mature at such times, in the case of any such note or any renewals thereof not
26 exceeding five years from the date of issue of such original note, and in the case of any such
27 bond not exceeding 50 years from the date of issue, as such resolution may provide. The bonds
28 and notes shall bear interest at such rate, be in such denominations, be in such form, either
29 coupon or registered, carry such registration privileges, be payable in such medium of payment,
30 at such place and be subject to such terms of redemption as the ~~board~~ department may authorize.
31 The ~~board~~ department may sell such bonds and notes at public or private sale, at the price the
32 ~~board~~ department determines. The bonds and notes shall be executed by the ~~chair and vice chair~~
33 ~~of the board secretary both of whom~~ who may use facsimile or digital signatures. ~~The official seal~~
34 ~~of the board or a facsimile thereof shall be affixed thereto or printed thereon and attested,~~
35 ~~manually or by facsimile signature, by the secretary-treasurer of the board, and any coupons~~
36 ~~attached thereto shall bear the signature or facsimile signature of the chair of the board. In case~~
37 ~~any officer whose signature, or a facsimile of whose signature, appears on any bonds, notes or~~
38 ~~coupons ceases to be such officer before delivery of such bonds or notes, such signature or~~
39 ~~facsimile is nevertheless sufficient for all purposes the same as if he or she had remained in office~~
40 ~~until such delivery and, in case the seal of the board has been changed after a facsimile has been~~

41 ~~imprinted on such bonds or notes, such facsimile seal will continue to be sufficient for all purposes~~

42 Any ~~resolution~~ decision by the secretary authorizing any bonds or notes or any issue
43 thereof may contain provisions (subject to such agreements with bondholders or noteholders as
44 may then exist, which provisions shall be a part of the contract with the holders thereof) as to
45 pledging all or any part of the revenues of the ~~board~~ department to secure the payment of the
46 bonds or notes or of any issue thereof; the use and disposition of revenues of the ~~board~~
47 department; a covenant to fix, alter, and collect rentals, fees, service charges, and other charges
48 so that pledged revenues will be sufficient to pay the costs of operation, maintenance, and repairs,
49 pay principal of and interest on bonds or notes secured by the pledge of such revenues and
50 provide such reserves as may be required by the applicable resolution; the setting aside of reserve
51 funds, sinking funds, or replacement and improvement funds, and the regulation and disposition
52 thereof; the crediting of the proceeds of the sale of bonds or notes to and among the funds referred
53 to or provided for in the resolution authorizing the issuance of the bonds or notes; the use, lease,
54 sale or other disposition of any solid waste disposal project or any other assets of the ~~board~~
55 department; limitations on the purpose to which the proceeds of sale of bonds or notes may be
56 applied and pledging such proceeds to secure the payment of the bonds or notes or of any issue
57 thereof; agreement of the ~~board~~ department to do all things necessary for the authorization,
58 issuance, and sale of bonds in such amounts as may be necessary for the timely retirement of
59 notes issued in anticipation of the issuance of bonds; limitations on the issuance of additional
60 bonds or notes; the terms upon which additional bonds or notes may be issued and secured; the
61 refunding of outstanding bonds or notes; the procedure, if any, by which the terms of any contract
62 with bondholders or noteholders may be amended or abrogated, the holders of which must
63 consent thereto, and the manner in which such consent may be given; limitations on the amount
64 of moneys to be expended by the ~~board~~ department for operating, administrative, or other
65 expenses of the ~~board~~ department; and any other matters, of like or different character, which in
66 any way affect the security or protection of the bonds or notes.

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

76 Neither the ~~members of the board~~ secretary nor any person executing the bonds or notes
77 are liable personally on the bonds or notes or are subject to any personal liability or accountability
78 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 shall consult with and be advised by the water development authority as to the
3 feasibility and necessity of the proposed issuance of revenue bonds. Such consultation shall
4 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 to pay the
14 interest on indebtedness as it falls due, to constitute a sinking fund for the payment thereof at
15 maturity, or to discharge the principal within a prescribed period of time.

16 (b) Prior to issuing revenue bonds under the provisions of this article, the ~~board~~
17 department shall enter into agreements satisfactory to the water development authority with
18 regard to the selection of all consultants, advisors, and other experts to be employed in connection
19 with the issuance of such bonds and the fees and expenses to be charged by such persons, and
20 to establish any necessary reserve funds and replacement and improvement funds, all such funds
21 to be administered by the water development authority, and, so long as any such bonds remain
22 outstanding, to establish and maintain a sinking fund or funds to retire such bonds and pay the
23 interest thereon as the same may become due. The amounts in any such sinking fund, as and
24 when so set apart by the ~~board~~ department, shall be remitted to the water development authority
25 at least 30 days previous to the time interest or principal payments become due, to be retained
26 and paid out by the water development authority, as agent for the ~~board~~ department, in a manner
27 consistent with the provisions of this article and with the resolution pursuant to which the bonds
28 have been issued. The water development authority shall act as fiscal agent for the administration
29 of any sinking fund and reserve fund established under each resolution authorizing the issuance
30 of revenue bonds pursuant to the provisions of this article, and shall invest all funds not required
31 for immediate disbursement in the same manner as funds are invested pursuant to the provisions
32 of §22C-1-15 of this code.

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

37 (1) To pay the cost of acquiring, constructing, reconstructing, enlarging, improving,

38 furnishing, equipping, or repairing solid waste disposal projects;

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

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

44 (d) If the proceeds of revenue bonds issued for any solid waste disposal project exceed
45 the cost thereof, the surplus shall be paid into the fund herein provided for the payment of principal
46 and interest upon such bonds. Such fund may be used by the fiscal agent for the purchase or
47 redemption of any of the outstanding bonds payable from such fund at the market price, but not
48 at a price exceeding the price at which any of such bonds is in the same year redeemable, as
49 fixed by the ~~board~~ department in its said resolution, and all bonds redeemed or purchased shall
50 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
4 proceeding, protect and enforce any rights granted under the laws of this state or granted under
5 this article, by the resolution authorizing the issuance of such bonds, and may enforce and compel
6 the performance of all duties required by this article, or by the resolution, to be performed by the
7 ~~board~~ department or any officer or employee thereof, including the fixing, charging, and collecting
8 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 to incur indebtedness or liability on behalf of or payable by the state or any county, municipality,
18 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, whether as
2 proceeds from the sale of solid waste disposal revenue bonds or as revenues or otherwise, shall
3 be held by it in trust for the purposes of carrying out its powers and duties, and shall be used and
4 reused in accordance with the purposes and provisions of this article. Such moneys shall at no
5 time be commingled with other public funds. Such moneys, except as otherwise provided in any
6 resolution authorizing the issuance of solid waste disposal revenue bonds or except when
7 invested, shall be kept in appropriate depositories and secured as provided and required by law.
8 The resolution authorizing the issuance of such bonds of any issue shall provide that any officer

9 to whom such moneys are paid shall act as trustee of such moneys and hold and apply them for
10 the purposes hereof, subject to the conditions this article 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 pursuant to this article. The audit shall cover the disbursement of
5 such loans or grants provided pursuant to §22C-4-30 of this code, the use of such loans or grants
6 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.

3 The ~~board~~ department may charge, alter, and collect rentals, fees, service charges, or
4 other charges for the use or services of any solid waste disposal project, and contract in the
5 manner provided by this section with one or more persons, one or more governmental agencies,
6 or any combination thereof, desiring the use or services thereof, and fix the terms, conditions,
7 rentals, fees, service charges, or other charges for such use or services. Such rentals, fees,
8 service charges, or other charges are not subject to supervision or regulation by any other
9 authority, department, commission, board, bureau, or agency of the state, and such contract may
10 provide for acquisition by such person or governmental agency of all or any part of such solid
11 waste disposal project for such consideration payable over the period of the contract or otherwise
12 as the ~~board~~ department in its sole discretion determines to be appropriate, but subject to the
13 provisions of any resolution authorizing the issuance of solid waste disposal revenue bonds or

14 notes or solid waste disposal revenue refunding bonds of the ~~board~~ department. Any
15 governmental agency which has power to construct, operate, and maintain solid waste disposal
16 facilities may enter into a contract or lease with the ~~board~~ department whereby the use or services
17 of any solid waste disposal project of the ~~board~~ department will be made available to such
18 governmental agency and pay for such use or services such rentals, fees, service charges, or
19 other charges as may be agreed to by such governmental agency and the ~~board~~ department.

20 Any governmental agency or agencies, or combination thereof, may cooperate with the
21 ~~board~~ department in the acquisition or construction of a solid waste disposal project and shall
22 enter into such agreements with the ~~board~~ department as are necessary, with a view to effective
23 cooperative action and safeguarding of the respective interests of the parties thereto, which
24 agreements shall provide for such contributions by the parties thereto in such proportion as may
25 be agreed upon and such other terms as may be mutually satisfactory to the parties, including,
26 without limitation, the authorization of the construction of the project by one of the parties acting
27 as agent for all of the parties and the ownership and control of the project by the ~~board~~ department
28 to the extent necessary or appropriate for purposes of the issuance of solid waste disposal
29 revenue bonds by the ~~board~~ department. Any governmental agency may provide such
30 contribution as is required under such agreements by the appropriation of money or, if authorized
31 by a favorable vote of the electors to issue bonds or notes or levy taxes or assessments and issue
32 notes or bonds in anticipation of the collection thereof, by the issuance of bonds or notes or by
33 the levying of taxes or assessments and the issuance of bonds or notes in anticipation of the
34 collection thereof, and by the payment of such appropriated money or the proceeds of such bonds
35 or notes to the ~~board~~ department pursuant to such agreements.

36 Any governmental agency, pursuant to a favorable vote of the electors in an election held
37 for the purpose of issuing bonds to provide funds to acquire, construct, or equip, or provide real
38 estate and interests in real estate for a solid waste disposal project, whether or not the
39 governmental agency at the time of such election had the ~~board~~ department to pay the proceeds

40 from such bonds or notes issued in anticipation thereof to the ~~board~~ department as provided in
41 this section, may issue such bonds or notes in anticipation of the issuance thereof and pay the
42 proceeds thereof to the ~~board~~ department in accordance with an agreement between such
43 governmental agency and the ~~board~~ department: *Provided*, That the legislative board of the
44 governmental agency finds and determines that the solid waste disposal project to be acquired
45 or constructed by the ~~board~~ department in cooperation with such governmental agency will serve
46 the same public purpose and meet substantially the same public need as the project otherwise
47 proposed to be acquired or constructed by the governmental agency with the proceeds of such
48 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, or if owned by a
3 governmental agency, by such governmental agency, or the ~~board~~ department or such
4 governmental agency shall cause the same to be maintained and kept in good condition and
5 repair. Each such project owned by the ~~board~~ department shall be operated by such operating
6 employees as the ~~board~~ department employs or pursuant to a contract or lease with a
7 governmental agency or person. All public or private property damaged or destroyed in carrying
8 out the provisions of this article and in the exercise of the powers granted hereunder with regard
9 to any project shall be restored or repaired and placed in its original condition, as nearly as
10 practicable, or adequate compensation made therefor out of funds provided in accordance with
11 the provisions of this article.

12 As soon as possible after the close of each fiscal year, the ~~board~~ department shall make
13 an annual report of its activities for the preceding fiscal year to the Governor and the Legislature.
14 Each such report shall set forth a complete operating and financial statement covering the ~~board's~~

15 department's operations undertaken pursuant to this article during the preceding fiscal year. The
16 ~~board~~ department shall cause an audit of its books and accounts to be made at least once each
17 fiscal year by certified public accountants and the cost thereof may be treated as a part of the
18 cost of construction or of operation of its projects. A report of the audit shall be submitted to the
19 Governor and the Legislature.

20 **§22C-3-18. Solid waste disposal revenue bonds lawful investments.**

21 The provisions of §12-6-9 and §12-6-10 of this code notwithstanding, all solid waste
22 disposal revenue bonds issued pursuant to this article are lawful investments for the West Virginia
23 Investments Management Board and are also lawful investments for financial institutions as
24 defined in §31A-1-2 of this code, and for insurance companies.

§22C-3-19. Exemption from taxation.

1 The ~~board~~ department is not required to pay any taxes or assessments upon any solid
2 waste disposal project or upon any property acquired or used by the ~~board~~ department or upon
3 the income therefrom. Bonds and notes issued by the ~~board~~ department and all interest and
4 income thereon are exempt from all taxation by this state, or any county, municipality, political
5 subdivision, or 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, at its request, upon such terms as the
3 proper authorities of such governmental agencies deem reasonable and fair and without the
4 necessity for an advertisement, auction, order of court, or other action or formality, other than the
5 regular and formal action of the governmental agency concerned, any real property or interests
6 therein, including improvements thereto or personal property which is necessary or convenient to
7 the effectuation of the authorized purposes of the ~~board~~ department, including public roads and
8 other real property or interests therein, including improvements thereto or personal property
9 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 may be financially interested,
2 directly or indirectly, in any contract of any person with the ~~board~~ department, or in the sale of any
3 property, real or personal, to or by the ~~board~~ department. This section does not apply to contracts
4 or purchases of property, real or personal, between the ~~board~~ department and any governmental
5 agency.

6 No ~~officer, member, or~~ employee of the ~~board~~ department may have or acquire any
7 financial interest, either direct or indirect, in any project or activity ~~of the board~~ undertaken by the
8 department pursuant to this article or in any services or material to be used or furnished in
9 connection with any project or activity of the ~~board~~ department undertaken pursuant to this article.
10 If an ~~officer, member or~~ employee of the ~~board~~ department has any such interest at the time he
11 or she becomes an ~~officer, member or~~ employee of the ~~board~~ department, he or she shall disclose
12 and divest himself or herself of it. Failure to do so is cause for dismissal from the position he or
13 she holds with the ~~authority~~ department.

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

21 No ~~officer, member or~~ employee of the ~~board~~ department may accept a gratuity from any
22 person doing business with the ~~board~~ department or from any person for the purpose of gaining
23 favor with the ~~board~~ department.

24 ~~Any officer, member or employee of the board who has any financial interest prohibited~~

25 ~~by this section or who fails to comply with its provisions is guilty of a misdemeanor, and, upon~~
26 ~~conviction thereof, shall be fined not more than \$1,000, or imprisoned in the county jail not more~~
27 ~~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 §24A-1-1 *et seq.* and rules promulgated thereunder. Nothing
4 in this article gives the ~~board~~ Department of Environmental Protection any power or right to
5 regulate such solid waste collectors and haulers in any manner, but the Public Service
6 Commission, when it issues a new certificate of convenience and necessity, or when it alters or
7 adjusts the provisions of any *ex post facto* provision existing certificate of convenience and
8 necessity, or when it approves *ex post facto* provision the assignment or transfer of any certificate
9 of convenience and necessity, shall consult with the ~~board~~ Department of Environmental
10 Protection regarding what action it could take which would most likely further the implementation
11 of the ~~board's~~ department's solid waste disposal shed plan and solid waste disposal projects and
12 shall take any reasonable action that will lead to or bring about compliance of such waste
13 collectors and haulers with such plan and projects.

14 At any hearing conducted by the Public Service Commission pertaining to solid waste
15 collectors and haulers on any of these matters, ~~any member of the board, the director or an~~
16 ~~employee of the board designated by the director~~ the department may appear before the
17 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
6 and such enforcement agencies shall cooperate fully with each other in collecting and disposing
7 of such solid waste.

8 **§22C-3-25. Liberal construction of article.**

9 The provisions of this article are hereby declared to be remedial and shall be liberally
10 construed to effectuate its purposes and intents.

§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 secretary may ~~by resolution~~ supersede and exercise, in part or whole, the powers granted to only
3 county or regional solid waste authorities that operate solid waste facilities as provided in §7-1-1
4 *et seq.* , §22-1-1 *et seq.* , §22C-1-1 *et seq.* , and §24-1-1 *et seq.* of this code. Actions of the
5 ~~board~~ secretary supersede those powers granted to only county or regional solid waste authorities
6 that operate solid waste facilities.