HOUSE . . . . . No. 3953

By Mr. Bevilacqua of Haverhill, petition of Francis J. Bevilacqua relative to the authority of the Bureau of Solid Waste Disposal in the Department of Public Works. Natural Resources and Agriculture.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Seventy-Four.

AN ACT AMENDING THE AUTHORITY OF THE BUREAU OF SOLID WASTE DISPOSAL IN THE DEPARTMENT OF PUBLIC WORKS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 16 of the General Laws is hereby
2 amended by striking out section 19 as appearing in section 1 of
3 chapter 834 of the acts of 1969, and inserting in place thereof,
4 the following section: –
5 *Section 19.* The department may:
6 (1) Dispose of solid wastes, from whatever source, in
7 any manner and at any site which is concurred in by the
8 department of natural resources and the department of pub-
9 lic health, provided that provisions of section one hundred
10 and fifty A of chapter one hundred and eleven shall not
11 apply. Notwithstanding the foregoing, plans, design and
12 operation of any solid waste disposal facility shall be subject
13 to the approval of the department of public health.
14 (2) With the concurrence of the department of natural
15 resources and the department of public health, purchase,
16 lease, acquire, receive by gift or take by eminent domain
17 under the provisions of chapter seventy-nine, any land,
18 structures, facilities and easements necessary for solid waste
19 disposal.
20 (3) Hire such experts, engineers, and any other per-
21 sonnel deemed necessary, from such funds as may be appro-
22 priated from the Solid Waste Disposal Fund.

(4) Contract with users, public and private, including agencies of the commonwealth and its political subdivisions, to dispose of solid wastes.

(5) Contract with any person, firm, corporation or body politic to plan, design, manage, construct, maintain or operate solid waste disposal facilities, handle, transport or process solid waste, and to otherwise implement sections eighteen through twenty-four, inclusive.

(6) Accept any gifts or grants of money or property, whether real or personal, from any source, including without limitation the United States of America or its agencies relative to the disposal of solid wastes.

(7) Dispose of by sale or otherwise any personal property, including without limitation reclaimed solid waste, by-products of solid waste, the personal property no longer necessary for purposes of sections eighteen through twenty-four, inclusive.

(8) With the concurrence of the department of natural resources and the department of public health, dispose of any land acquired under this section upon termination of a solid waste disposal facility or completion of use of a site, in the best interest of the commonwealth, and for a use compatible with local zoning by-laws or ordinances, provided, however, that in no event shall such land be disposed of unless said department offers, in writing, to convey such land at no cost to: first, with respect to land acquired by the department which was in prior public ownership, to the public body from which it was acquired; and second, with respect to any land to the city or town wherein such land lies, and such offer is not accepted within two months after being made or is refused by the public body, or the mayor or selectmen of said city or town.

(9) Conduct a program of study, research and demonstration, by itself or in cooperation with other governmental agencies, relating to new and improved methods of solid waste disposal.

(10) Make grants to cities, towns, districts and persons to encourage improved methods of solid waste disposal.

(11) Conduct information and education programs relative to solid waste disposal. Encourage the reutilization of solid waste, recycling, and resource recovery and develop and support economic and other incentives for the reutilization of solid waste.

(12) Conduct personnel training programs relative to solid waste disposal.

(13) Establish minimum standards for operating personnel at solid waste disposal facilities and establish a certification program for persons meeting such minimum standards.

(14) With the cooperation of the department of natural resources and the department of public health, inspect facilities established pursuant to sections eighteen through twenty-four, inclusive, to insure compliance with any existing laws, rules and regulations relative thereto.

(15) Cooperate with appropriate federal agencies or the agencies of other states, or with interstate agencies in matters related to solid waste disposal.

(16) Cooperate with and assist departments, boards, officials and institutions of the commonwealth or its political subdivisions with respect to matters related to solid waste disposal.

(17) Establish a program to assist cities and towns, participating in the state solid waste disposal program in their solid waste disposal by cost sharing with any such city or town, or group thereof, for up to fifty percent of the capital costs of one of the following projects: construction of transfer facilities; upgrading of an existing municipal refuse incinerator; conversion of an existing municipal refuse incinerator to a transfer facility; upgrading existing transfer facilities. No payments shall be made hereunder to a city or town, or group thereof, unless a project application is submitted to the department and such project meets the minimum requirements established by the department for such projects, nor until said city or town has appropriated its share of the capital costs of said project. Payments by the department to cities and towns made under said assistance

program shall be made in accordance with a payment schedule approved by the commissioner of administration.

(18) With the concurrence of the department of natural resources and the department of public health, and subject to the provisions of chapter thirty A, promulgate rules and regulations relating to the storage, collection, transportation, transfer, and disposal of solid waste with respect to facilities established pursuant to sections eighteen through twenty-four, inclusive. The superior court in equity shall have jurisdiction to enforce such rules and regulations.

(19) With the concurrence of the department of natural resources and the department of public health, designate solid waste disposal districts and solid waste disposal regions to carry out the purposes of sections eighteen through twenty-four, inclusive. Solid waste disposal districts shall, wherever practicable, consist of a single city or town, or a part thereof, or two or more contiguous cities and towns, or cities and towns, or parts thereof. Solid waste disposal regions shall consist of one or more contiguous solid waste disposal districts. Solid waste generated within a solid waste disposal region designated and established under the provisions of this section shall be disposed within said region or a contiguous region unless otherwise approved by the governor. Any city or town who, after a public hearing held jointly by the department and the department of public health, is found to be unwilling or unable to operate its solid waste disposal facility in compliance with existing state laws, rules and regulations, including without limitation the laws, rules and regulations relating to operation of solid waste disposal facilities, air pollution, water pollution, wetland protection and protection of waters of the commonwealth shall be required to participate in the state program of solid waste disposal. The superior court in equity shall have jurisdiction to enforce such participation.

The department of public health, on a continuing basis, shall review and make recommendations to the department on the manner of operation and adequacy from a public health standpoint of any solid waste disposal facility

planned, established or operated under the provisions of sections eighteen through twenty-four, inclusive, and the department shall implement such recommendations, subject to appropriation.

SECTION 2. Section 20 of said chapter 16, as appearing in section 1 of chapter 834 of the acts of 1969, is hereby amended by adding the following sentence: –

The administrative costs of operating said bureau shall be paid from the general fund.

SECTION 3. Said chapter 16 is hereby further amended by striking out sections 21, 22 and 23, as appearing in section 1 of chapter 834 of the acts of 1969, and inserting in place thereof the following sections: –

Section 21. The department, with the concurrence of the department of natural resources and the department of public health, shall develop and maintain a comprehensive statewide master plan for solid waste disposal, subject to the approval of the Governor, including any necessary provisions to meet the eligibility requirements under any federal program for financial aid in solid waste disposal. The department, with the cooperation of the department of natural resources and the department of public health, shall investigate and study the solid waste disposal needs of the commonwealth and, after a public hearing, shall develop and submit to the appropriate regional planning agencies for their review and comment, proposed programs for solid waste disposal, including plans for their implementation. Such programs and plans shall be consistent with the statewide master plan developed and maintained pursuant to this section.

Section 22. Each city and town of the commonwealth shall annually pay money into the treasury of the commonwealth to meet the capital costs of the state solid waste disposal program, including without limitation the capital costs of state facilities and the cost sharing of capital costs of cities and towns, or groups thereof, pursuant to section nineteen, in proportion to the average percentage of valuation and population, determined as to any city or town by adding together the percentage which

28 the population of such city or town bears to the total population
29 of the cities and towns of the commonwealth, and dividing this
30 sum by two. For purposes of this section, the term valuation
31 shall mean the last equalized valuation as determined by the state
32 tax commission, in accordance with the provisions of section 10C
33 of chapter 58 of the General Laws. For purposes of this section,
34 the term population shall mean the population as determined by
35 the latest federal or state census. The department shall, from
36 time to time, after a public hearing, adopt or amend a schedule
37 of user fees applicable to all users, both public and private, of
38 state solid waste disposal facilities constructed, maintained and
39 operated pursuant to the provisions of sections eighteen through
40 twenty-four, inclusive. Such schedule of user fees may include
41 provisions for differential rates for special wastes, including with-
42 out limitation hazardous wastes, bulky wastes and specially pre-
43 pared wastes. Such schedule shall include provisions for discon-
44 tinued rates for cities or towns wherein a state regional solid
45 waste disposal facility is located during the period in which said
46 facility is operated.
47 *Section 23.* Money received or appropriated by the common-
48 wealth relative to solid waste disposal, including but not limited
49 to funds appropriated from the general fund, user fees, funds
50 received from assessments on cities and towns, as provided in
51 sections twenty-two and twenty-four, grants, gifts and proceeds
52 from the sale of recovered materials, and from any other source
53 shall be credited on the books of the commonwealth to a fund to
54 be known as the Solid Waste Disposal Fund. The Solid Waste
55 Disposal Fund shall be expended, subject to appropriation and
56 the laws relating to state finance, for the purposes of manage-
57 ment, maintenance, and operation of solid waste disposal facili-
58 ties and any other activities authorized by sections eighteen
59 through twenty-four, inclusive, and expenses incidental thereto,
60 and for the debt and interest costs relating to any bonds issued to
61 meet the expenditures necessary to carry out the provisions of
62 sections eighteen through twenty-four, inclusive.

1 SECTION 4. Section 24 of said chapter 16, as appearing in
2 section 1 of chapter 834 of the acts of 1969, is hereby amended
3 by striking out the first three sentences and inserting in place
4 thereof the following sentence: –

5 The department shall maintain records of the cost of carrying
6 out the provisions of sections eighteen through twenty-four, in-
7 clusive, and shall notify the treasurer of the commonwealth of
8 the estimated amounts of money due the commonwealth from
9 the cities and towns of the commonwealth, and such amounts
10 shall be assessed by the state treasurer and included and made a
11 part of the sum charged to such city or town and shall be paid by
12 such city or town into the state treasury, as provided by section
13 twenty of chapter fifty-nine, provided that any such city or town
14 may in any year anticipate in whole or in part its assessment and
15 appropriate, raise and deposit the amount thereof with the state
16 treasurer, and any sum so deposited shall be credited against such
17 assessment.

1 SECTION 5. Section 2A of chapter 834 of the acts of 1969,
2 as inserted by section 2 of chapter 1023 of the acts of 1971, is
3 hereby amended by striking out after the word, "sixteen", in line
4 8 the word, "and", and inserting at the end of the first paragraph
5 the following: –
6 and (4) conducting programs of study, research and demon-
7 stration relating to new and improved methods of solid waste
8 disposal, making grants to encourage improved methods of solid
9 waste disposal, providing financial assistance to cities and towns
10 in their solid waste disposal, and for expenses incidental thereto,
11 all as authorized by section nineteen of said chapter sixteen.