

By Mr. Hermann of North Andover, petition of Joseph N. Hermann that provision be made for municipal solid waste disposal. Natural Resources and Agriculture.

**The Commonwealth of Massachusetts**

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

**AN ACT TO PROVIDE MUNICIPAL SOLID WASTE DISPOSAL.**

*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 twenty-one of chapter forty-D of the General Laws as  
2 most recently amended is hereby further amended to read in its  
3 entirety as follows:—

4 *Section 21(a).* A municipality acting by and through an author-  
5 ity may finance solid waste disposal facilities in the same manner  
6 provided by this chapter for industrial development facilities,  
7 except as otherwise hereinafter provided. A municipality acting by  
8 and through an authority may, subject to a vote as hereinafter  
9 provided, use and occupy, or transfer the right to use and occupy to  
10 another party, or transfer the right to use and occupy to another  
11 party, a solid waste disposal facility, which may be a facility  
12 intended to achieve economies of scale by serving the solid waste  
13 disposal needs of the municipality and any other public or private  
14 person, as the user and in such a case a financing document shall  
15 not be required but there shall be a trust agreement which shall  
16 provide that the bonds secured thereby are payable only from the  
17 revenues of the facility. Such a trust agreement may include any  
18 provision relating to solid waste disposal payment therefor or  
19 other matters which might be included in a contract under para-  
20 graph (g) of this section. Solid waste disposal facilities financed  
21 hereunder shall not be subject to the requirements of sections

22 forty-four A through forty-four L of chapter one hundred and  
23 forty-nine.

24 (b) A city or town, acting in the manner specified in section two,  
25 may by vote declare that an authority is needed therein for the  
26 financing of solid waste disposal facilities under this chapter but  
27 shall not be empowered to so finance solid waste disposal facilities,  
28 except as an incident to industrial development facilities, unless  
29 such declaration is made. No city or town shall use and occupy a  
30 solid waste disposal facility as the user unless in the vote making  
31 the aforesaid declaration, or in a separate vote similarly adopted,  
32 specific authority for such use and occupancy is conferred. Votes  
33 hereunder shall be made separately from a vote declaring that an  
34 authority is needed to finance industrial development facilities,  
35 except such as constitute or are incidental to said solid waste  
36 disposal facilities. Votes hereunder and such declarations may be  
37 made successively but only one authority shall be organized under  
38 this chapter in any city or town except as otherwise provided with  
39 respect to consolidated authorities.

40 (c) A certificate of organization issued by the state secretary  
41 shall indicate whether the authority has solid waste disposal pow-  
42 ers or industrial development powers or both and if the authority is  
43 authorized to act as a user of a solid waste disposal facility the  
44 certificate of organization shall so state. When a new power is  
45 added by city or town action under this chapter, an amended  
46 certificate of organization shall be issued accordingly. Certificates  
47 of organization so issued by the state secretary shall be conclusive  
48 evidence that the authority has the powers as set forth therein.

49 (d) A vote to consolidate authorities taken prior to December  
50 seventh, nineteen hundred and seventy-three, shall not be deemed  
51 to include the function of financing solid waste disposal facilities.  
52 A vote taken thereafter to so consolidate may include said function  
53 of financing solid waste disposal facilities or industrial develop-  
54 ment facilities, or both. If said vote does not specify the function or  
55 functions, it shall be taken to refer only to the financing of indus-  
56 trial development facilities. No consolidated authority shall use  
57 and occupy a solid waste disposal facility as user unless in said vote,  
58 or in a separate vote similarly adopted, specific authority for such

59 use and occupancy is conferred and a plan for disposition of the  
60 facility upon dissolution of the consolidated authority is approved.

61 (e) Dissolution proceedings in the manner provided in section  
62 two shall apply to authorities having functions relative to solid  
63 waste disposal facilities or to industrial development facilities, or  
64 both, but no authority which is the user of a solid waste disposal  
65 facility shall be dissolved until arrangements have been made for  
66 the assumption of use and occupancy thereof by the municipality,  
67 or pursuant to plan for disposition in the case of a consolidated  
68 authority.

69 (f) The requirements of clauses (e), (g) and (k) of subsection (2)  
70 of section twelve shall not apply to solid waste disposal facilities  
71 projects. It shall be necessary, however, that the MIFA board find,  
72 after consultation with the secretary of environmental affairs, that  
73 a substantial public benefit will result from the project and that the  
74 proposed facilities are consistent with state plans for the conserva-  
75 tion of the natural resources of the commonwealth and for the  
76 construction of such solid waste disposal facilities.

77 (g) All cities, towns and other public agencies and private par-  
78 ties are authorized from time to time to contract with users, includ-  
79 ing municipalities which are users, or operators of solid waste  
80 disposal facilities established or to be established under the provi-  
81 sions of this section for the disposal of refuse, garbage and waste or  
82 for the purchase or use of by-products or residue resulting from the  
83 operation of such facilities. Such contracts may be for such periods  
84 as agreed upon by the parties, and without limiting the generality  
85 of the foregoing, may include provisions which may be imposed on  
86 either party, or both, for the delivery of minimum amounts of  
87 refuse, garbage and waste and for payments based thereon regard-  
88 less of the amounts actually delivered or disposed, unit prices,  
89 which may be graduated, and adjustments thereof. Such payments,  
90 unit prices or adjustments need not be specifically stated in said  
91 contract but may be determined by formulae if set forth therein.  
92 Such contracts may include provisions for additional payments to  
93 the user or operator or other contracting parties for failure to  
94 perform, provisions for arbitration and reasonable restrictions  
95 against other disposal by cities, towns, or other public agencies of  
96 the substances covered thereby while the contract is in force and

97 disposal under the contract is practicable. In the case of a city or  
98 town, such contracts may be entered into by officers acting under  
99 the authority of the city council of a city or the town meeting in the  
100 case of a town, which authorization may be general. The obliga-  
101 tions represented by the payments to be made in such a contract  
102 shall not be included in any determination of the borrowing capacity  
103 of such city or town under any limitation on its indebtedness. Such  
104 a contract shall not be subject to section four of chapter forty and  
105 shall not be precluded by the acceptance of section nine A of  
106 chapter ninety-two. To the extent of uncommitted capacity, any  
107 municipality shall be entitled to contract with a user or an operator  
108 of solid waste disposal facilities established or to be established  
109 hereunder.

110 (h) The establishment and operation of solid waste disposal  
111 facilities hereunder shall be subject to applicable laws except as  
112 otherwise provided herein. Reasonable requirements may be  
113 imposed thereon by proceedings or regulations pursuant to section  
114 one hundred and fifty-A of chapter one hundred and eleven but the  
115 assignment of a site may not be rescinded, other than on appeal  
116 from the original assignment, pursuant to said section or other-  
117 wise. In the event that solid waste disposal facilities financed in  
118 whole or in part hereunder include or are to include facilities for the  
119 production of steam as a by-product, either the financing authority  
120 or a corporation, whether domestic or foreign, or other person  
121 owning, occupying or operating the facilities shall have the powers  
122 granted by section twelve of chapter one hundred and fifty-eight  
123 but the production and sale of such steam and the foregoing grant  
124 of powers shall not cause such a corporation to be otherwise  
125 subject to chapter one hundred and fifty-eight or excluded from  
126 chapter one hundred and fifty-six or one hundred and fifty-six B or  
127 cause such a corporation to be deemed a heat or power company  
128 for the purposes of the corporation laws of the commonwealth.

129 (i) A municipality acting by and through an authority in con-  
130 nection with a project for solid waste disposal facilities financed  
131 under this chapter may apply for, accept and use any federal or  
132 state grant or loan for such project.