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SENATE JOINT RESOLUTION NO. 79

Senate Amendments in [] — February 17, 2004

Memorializing the Congress of the United States to [enact legislation that would allow states to regulate and impose a fee upon municipal solid waste imported from other states; promptly enact the State Waste Empowerment and Enforcement Provision Act of 2003 (HR 1123).]

Patrons Prior to Engrossment—Senators Obenshain, Bell, Blevins, Bolling, Cuccinelli, Deeds, Hanger, Mims, Newman, O'Brien, Rerras, Ruff and Wagner

Referred to Committee on Rules

WHEREAS, Virginia ranks second in the nation in the amount of municipal solid waste imported from other states, and the tonnage of waste imported in the State continues to grow, from 4.7 million tons in 1998 to 5.4 million tons in 2002; and

WHEREAS, the amount of municipal solid waste imported into Virginia is expected to continue to increase as other states close landfills; and

WHEREAS, the importation of significant amounts of municipal solid waste from other states is prematurely exhausting Virginia's limited landfill capacity; and

WHEREAS, the negative impacts of truck, rail, and barge traffic and litter, odors, and noise associated with waste imports occur not just at the location of final disposal but also along waste transportation routes; and current landfill technology has the potential to fail, leading to long-term cleanup and other associated costs; and

WHEREAS, under current federal law, Virginians are not permitted to regulate the amount of solid waste brought into Virginia each year; and

WHEREAS, the importation of municipal solid waste runs counter to the repeatedly expressed strong desire of Virginia's citizens for clean air, land, and water, and for the preservation of Virginia's unique historic and cultural character; and it is essential to promote and preserve these attributes; and

WHEREAS, the Commerce Clause of the United States Constitution and the interpretation and application of the Commerce Clause by the United States Supreme Court and other federal courts with respect to interstate solid waste transportation has left Virginia and other states with limited alternatives in regulating, limiting, or prohibiting the importation of municipal solid waste; and

WHEREAS, immunity from the Commerce Clause of the United States Constitution is required in order to give Virginia the authority to regulate the flow of out of municipal state solid waste; and

WHEREAS, it is the belief of the General Assembly of Virginia that state governments should be given more authority to manage [and promulgate appropriate fee structuring relating to] the importation of municipal solid waste into their jurisdictions; and

WHEREAS, the State Waste Empowerment and Enforcement Provision Act of 2003 (HR 1123), introduced in the United States House of Representatives on March 6, 2003, by [Representative Jo Ann Davis and co-sponsored by Congressmen Eric Cantor, Tom Davis, Virgil H. Goode, Jr., James P. Moran, Edward L. Schrock, and Frank R. Wolf the Congresswoman representing Virginia's First Congressional District and co-sponsored by a majority of Virginia's Congressional delegation] would bestow upon states the authority to regulate the receipt and disposal of out of state municipal solid waste without violating the Commerce Clause of the United States Constitution; and

[WHEREAS, the State Empowerment and Enforcement Act of 2003 provides states with protection from constitutional challenges to common sense regulation of trash haulers, which have previously been ruled to violate the Commerce Clause, and the power to require inspectors at landfills, incinerators, and transfer stations that accept out of state municipal solid waste; and]

WHEREAS, the State Waste Empowerment and Enforcement Provision Act of 2003 is the only meaningful manner in which Virginia can regulate the flow of out of state municipal solid waste into Virginia, now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the Congress of the United States be urged to promptly enact the State Waste Empowerment and Enforcement Provision Act of 2003 (HR 1123) [providing states with protection from constitutional challenges to common sense regulation of trash haulers, which have previously been ruled to violate the Commerce Clause of the Constitution, and the power to require inspectors at landfills, incinerators, and transfer stations that accept out of state municipal solid waste] ; and, be it

RESOLVED FURTHER, That the Clerk of the Senate transmit copies of this resolution to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Virginia Congressional Delegation so that they may be apprised of the sense of the

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58 General Assembly of Virginia in this matter.