

# VIRGINIA ACTS OF ASSEMBLY -- 2012 RECONVENED SESSION

## CHAPTER 834

*An Act to amend and reenact § 10.1-1411 of the Code of Virginia, relating to recycling rate report.*

[S 676]

Approved April 18, 2012

**Be it enacted by the General Assembly of Virginia:**

**1. That § 10.1-1411 of the Code of Virginia is amended and reenacted as follows:**

§ 10.1-1411. Regional and local solid waste management plans.

A. The Board is authorized to promulgate regulations specifying requirements for local and regional solid waste management plans.

To implement regional plans, the Governor may designate regional boundaries. The governing bodies of the counties, cities and towns within any region so designated shall be responsible for the development and implementation of a comprehensive regional solid waste management plan in cooperation with any planning district commission or commissions in the region. Where a county, city or town is not part of a regional plan, it shall develop and implement a local solid waste management plan in accordance with the Board's regulations. For purposes of this section, each region or locality so designated shall constitute a solid waste planning unit.

B. The Board's regulations shall include all aspects of solid waste management including waste reduction, recycling and reuse, storage, treatment, and disposal and shall require that consideration be given to the handling of all types of nonhazardous solid waste generated in the region or locality. In promulgating such regulations, the Board shall consider urban concentrations, geographic conditions, markets, transportation conditions, and other appropriate factors and shall provide for reasonable variances and exemptions thereto, as well as variances or exemptions from the minimum recycling rates specified herein when market conditions beyond the control of a county, city, town, or region make such mandatory rates unreasonable.

C. The Board's regulations shall permit the following credits, provided that the aggregate of all such credits permitted shall not exceed five percentage points of the annual municipal solid waste recycling rate achieved for each solid waste planning unit:

1. A credit of one ton for each ton of recycling residue generated in Virginia and deposited in a landfill permitted under subsection M of § 10.1-1408.1;

2. A credit of two percentage points of the minimum recycling rate mandated for the solid waste planning unit for a source reduction program that is implemented with the solid waste planning unit. The existence and operation of such a program shall be certified by the solid waste planning unit;

3. A credit of one ton for each ton of any solid waste material that is reused; and

4. A credit of one ton for each ton of any nonmunicipal solid waste material that is recycled.

D. Each solid waste planning unit shall maintain a minimum recycling rate for municipal solid waste generated within the solid waste planning unit pursuant to the following schedule:

1. Except as provided in subdivision 2, each solid waste planning unit shall maintain a minimum 25% *percent* recycling rate; or

2. Each solid waste planning unit shall maintain a minimum 15% *percent* recycling rate if it has (i) a population density rate of less than 100 persons per square mile according to the most recent United States Census, or (ii) a not seasonally adjusted civilian unemployment rate for the immediately preceding calendar year that is at least 50% *percent* greater than the state average as reported by the Virginia Employment Commission for such year.

After July 1, 2007, no permit for a new sanitary landfill, incinerator, or waste-to-energy facility, or for an expansion, increase in capacity, or increase in the intake rate of an existing sanitary landfill, incinerator, or waste-to-energy facility shall be issued until the solid waste planning unit within which the facility is located has a solid waste management plan approved by the Board in accordance with the regulations, except as provided in this subsection. Failure to attain a mandated municipal solid waste recycling rate shall not be the sole cause for the denial of any permit or permit amendment, except as provided herein for sanitary landfills, incinerators, or waste-to-energy facilities, provided that all components of the solid waste management plan for the planning unit are in compliance with the regulations. The provisions of this subsection shall not be applicable to permits or permit amendments required for the operation or regulatory compliance of any existing facility, regardless of type, nor shall it be cause for the delay of any technical or administrative review of pending amendments thereto.

E. *Each solid waste planning unit or locality with a population of greater than 100,000 persons according to the most recent United States census shall prepare and submit a recycling survey report to the Department of Environmental Quality annually. Each solid waste planning unit or locality with a population of 100,000 or less according to the most recent United States census shall prepare and*

*submit a recycling survey report to the Department of Environmental Quality once every four years. Recycling survey reports submitted once every four years shall only be required to include information for the most recent single year. The first reports submitted pursuant to this section shall be submitted by April 30, 2013, for the reporting year ending December 31, 2012.*

F. If a county levies a consumer utility tax and the ordinance provides that revenues derived from such source, to the extent necessary, be used for solid waste disposal, the county may charge a town or its residents, establishments and institutions an amount not to exceed their pro rata cost, based upon population for such solid waste management if the town levies a consumer utility tax. This shall not prohibit a county from charging for disposal of industrial or commercial waste on a county-wide basis, including that originating within the corporate limits of towns.