

TITLE 2: NATURAL RESOURCES
DIVISION 3: THE ENVIRONMENT

§ 3551. The Establishment of the Solid Waste Management Revolving Fund.

(a) There is hereby established within the Commonwealth Treasury a Solid Waste Management Revolving Fund which shall be accounted for separately from the General Fund.

(b) All monies received from direct appropriation, or as payment of fees pursuant to this Act, any tipping fees collected from any Commonwealth solid waste management facility, solid waste user fees assessed directly on residents and businesses, advance disposal fees and any other sources of solid waste management funding, such as federal grants or loans, shall be deposited into the revolving fund. Expenditure authority over the revolving fund is vested in the Secretary of the Department of Public Works. Revolving fund monies shall be available for expenditure without further appropriation and without fiscal year limitations.

(c) The Secretary of the Department of Finance shall allocate the Solid Waste Management Revolving Fund into four sub-accounts. Subject to the promulgation of appropriate rules and regulations prescribing CNMI-wide fees as described in subsection (b), three sub-accounts shall be established with one for each of the respective Senatorial Districts. The fourth sub-account shall be for financial assurance requirements for permitting facilities within the Commonwealth.

(d) Unless specifically exempted or otherwise required by law, any funds earmarked for deposit into the Solid Waste Management Revolving Fund shall be subject to the allocation provided under subsection (c) herein. Provided, however, that 10 percent of the total of any earmarked funds shall be allocated to the sub-account of the First Senatorial District and 10 percent of the total of any earmarked funds shall be allocated to the sub-account of the Second Senatorial District.

(e) The Solid Waste Revolving Fund and any sub-accounts thereof shall be audited on an annual basis.

Source: PL 13-42, § 3, modified.

Commission Comment: PL 13-42, which took effect December 19, 2002, contained the following short title, findings and purposes, severability, and savings clause provisions:

Section 1. [Short Title]. This Act shall be known as the “Solid Waste Management Revolving Account Act of 2002.”

Section 2. Findings and Purposes. The Legislature finds that the NMI Constitution guarantees every person within the Commonwealth a clean and healthy environment. It further finds that maintaining the environment is in the best interest of all citizens of the Commonwealth, and is essential to the maintenance of a healthy tourist industry. The Legislature acknowledges that in order to preserve our islands, the Commonwealth must provide for the adequate management of solid waste, minimizing litter and illegal dumping, and eliminating the pollution that results from the improper disposal of potentially hazardous wastes such as used oil, car batteries, and tires.

TITLE 2: NATURAL RESOURCES
DIVISION 3: THE ENVIRONMENT

With the completion of the new Integrated Solid Waste Management System for Saipan and the upgrading of the solid waste management facilities on Tinian and Rota, the costs of the environmentally sound management of solid waste in the Commonwealth will continue to increase and the development of an adequate funding source to partially cover the increased costs is essential to the economic well being of our residents.

In addition, the Legislature finds that the diversion of solid waste from disposal, and the preservation of our limited landfill capacity, is in the best interest of the Commonwealth, and that providing a stable, long term funding source is essential to developing projects maximizing diversion such as recycling and composting.

The proper closure of the Puerto Rico Dump, including the transformation of the site into a public park, is not only an environmental requirement but an economic necessity given the current site's location and its impact on tourism. The Legislature finds that existing Capital Improvement funding resources are inadequate to properly pay for the costs of closure and that identifying other sources of funding is essential to complete final closure and reclamation of the current site.

The Legislature further finds that an established source of revenue must be identified for use as financial assurance in the event of the necessity of closing one or more of the cells at the Marpi Landfill at any time in the future.

Therefore, the Legislature finds that in order to insure long term contractual mechanisms can be developed for the operation of the new landfill, provide a stable funding source for recycling and composting activities, provide an established potential funding source for any future financial assurance that may be required to close one or more cells at the Marpi Landfill, and to contract for alternative (private sector) funding of the closure of the PRD, a special revolving fund must be established. Revenue sources must be clearly [sic] identified for deposit into the revolving fund.

Therefore, it is also the intent of this Act to establish a Solid Waste Management Revolving Fund into which ten percent of the revenue generated by 4 CMC § 1402, any tipping fees collected from any Commonwealth solid waste management facility, solid waste user fees assessed directly on residents and businesses, advance disposal fees and any other sources of funding, such as federal grants or loans for solid waste management, shall be deposited.

While the Legislature finds that only with clearly identified revenue sources will the Commonwealth be able to meet future demands, it is also clear that the Commonwealth finds itself in a period of fiscal limitations. The diversion of general fund revenue for solid waste management poses hardships for other vital government programs. Therefore, it is clear to the Legislature that any revenue source earmarked for deposit into a special revolving fund for solid waste management must be offset in the general fund so that funding one critical service does not adversely impact another equally vital program. The Division of Solid Waste Management within the Department of Public Works in consultation with the Governor's Solid Waste Management Task Force estimate [sic] that

TITLE 2: NATURAL RESOURCES
DIVISION 3: THE ENVIRONMENT

funding for all aspects of solid waste management within the Commonwealth requires approximately \$3.8 million per annum. This funding can be achieved from a combination of earmarking of existing excise taxes, collection of tipping fees and other future solid waste management assessments, as well as grant revenues. It is intended that utilization of general fund revenue in addition to the earmarking be kept at a minimum. However, future needs may require such appropriation. To assure available revenue if such appropriation is necessary and to offset revenue earmarked for the special revolving fund additional revenue sources must be established. It has been determined that by imposing a tax rate of .42% ad valorem on all consumer goods as defined therein, approximately \$3,000,000 can be generated under present economic conditions. This translates into forty-two cents per \$100 of consumer goods brought into the CNMI. Therefore, it is the intent of the Legislature to establish an Environmental Beautification Tax for deposit into the General Fund to off-set the earmarked portion of the excise taxes deposited into the Solid Waste Management Revolving Fund.

. . .

Section 8. Severability. If any provisions of this Act or the application of any such provision to any person or circumstance should be held invalid by a court of competent jurisdiction, the remainder of this Act or the application of its provisions to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

Section 9. Savings Clause. This Act and any repealer contained herein shall not be construed as affecting any existing right acquired under contract or acquired under statutes repealed or under any rule, regulation or order adopted under the statutes. Repealers contained in this Act shall not affect any proceeding instituted under or pursuant to prior law. The enactment of the Act shall not have the effect of terminating, or in any way modifying, any liability, civil or criminal, which shall already be in existence on the date this Act becomes effective.