ASSEMBLY ENVIRONMENT, NATURAL RESOURCES, AND SOLID WASTE COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3577

STATE OF NEW JERSEY

DATED: SEPTEMBER 23, 2024

The Assembly Environment, Natural Resources, and Solid Waste Committee reports favorably Assembly Bill No. 3577.

This bill would incentivize the development and construction of anaerobic digestion facilities that process food waste within the State by providing a tax credit against the corporation business tax to compensate a taxpayer for the costs incurred during the development and construction of the anaerobic digestion facility. The tax credit would be available for a period of six years.

The bill defines "anaerobic digestion facility" as a facility that operates and hosts an anaerobic digester. The bill defines "anaerobic digester" as a device that promotes the decomposition of organic material into simple organics and gaseous biogas products, in the absence of elemental oxygen, by means of controlling temperature and volume, and that includes a methane recovery system. The bill also defines "food waste" to mean food processing vegetative waste, food processing residue generated from processing and packaging operations, overripe produce, trimmings from food, food product over-runs from food processing, soiled and unrecyclable paper generated from food processing, and used cooking fats, oil, and grease. "Food waste" does not include food donated by the generator for human consumption, any waste generated by a consumer after the generator issues or sells food to the consumer, or any waste regulated by 7 C.F.R. ss.330.400 through 330.403 and 9 C.F.R. s.94.5.

The amount of the tax credit provided by the bill may not exceed the lesser of: (1) 50 percent of the costs incurred to develop and construct the anaerobic digestion facility; or (2) $250,000. The bill would also limit the cumulative total of tax credits awarded pursuant to the bill to $15 million.

To qualify for the tax credit allowed pursuant to this section, a taxpayer would be required to apply to the Commissioner of Environmental Protection (commissioner) for a certification that provides: (1) that the anaerobic digestion facility developed by the taxpayer is eligible for the tax credit; and (2) the amount of the tax credit. The application to the commissioner would be required to demonstrate that the anaerobic digestion facility was developed and constructed prior to applying for the tax credit. The application would

also be required to include a receipt demonstrating the total cost of the development and construction of the anaerobic digestion facility, a certification that the anaerobic digestion facility will be used to process food waste, and any other information determined relevant by the Department of Environmental Protection (DEP). The bill would require the DEP, in consultation with the Director of the Division of Taxation, to adopt rules and regulations as are necessary to implement the bill's provisions

Finally, the bill would require the DEP, no later than six years after the bill's effective date, to prepare and submit to the Governor, the State Treasurer, and the Legislature, a report that, at a minimum, summarizes the effectiveness of the tax credit in incentivizing the development and construction of anaerobic digestion facilities that process food waste in the State.

According to the United States Department of Agriculture, between 30 and 40 percent of food in the United States is wasted. In 2017, nearly 41 million tons of food waste was generated and only 6.3 percent of that food waste was diverted from landfills and incinerators for composting. The Food and Agriculture Organization of the United Nations (FAO) reports that unwanted and discarded food squanders resources, including water, land, energy, labor, and capital, and that when food waste is dumped into a landfill, it rots and creates methane, which is a powerful greenhouse gas. Food waste also contributes to approximately 8 percent of all human-caused greenhouse gas emissions.

A valuable way to divert waste food waste from landfills is anaerobic digestion. Food waste can be converted through anaerobic digestion to produce biogas, which can be used to generate heat and electricity, or can be injected into the natural gas pipeline. According to the DEP, electricity produced from the combustion of biogas from food waste qualifies for Class I Renewable Energy Certificates from the Board of Public Utilities.

According to the United States Environmental Protection Agency (EPA), there are three types of anaerobic digestion facilities that accept food waste, such as stand-alone food waste digesters, on-farm digesters that co-digest food waste, and digesters at water resource recovery facilities that co-digest food waste. A 2017-2018 report by the EPA concerning anaerobic digestion facilities that accept food waste in the United States, reported that there are only four anaerobic digestion facilities that accept food waste in New Jersey. The EPA also reports that there are many anaerobic digestion facilities in the country that currently do not accept or process food waste.

Overall, this bill would incentivize the development of anaerobic digestion facilities that accept food waste in the State in an effort to reduce food waste, limit the amount of food waste being dumped into landfills and incinerators, and further protect the environment from the adverse effects of climate change.