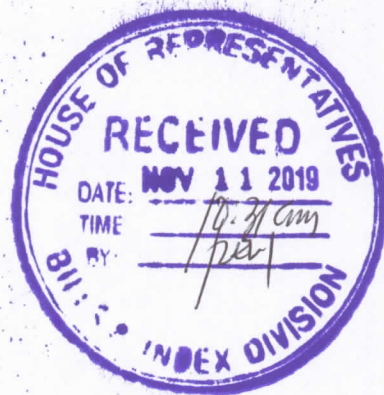




Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

Eighteenth Congress
First Regular Session

HOUSE BILL NO. 5401



Introduced by Representative Jocelyn Sy Limkaichong

EXPLANATORY NOTE

Solid waste management has been a recurring concern in the Philippines for several decades. Various problems are associated with poor waste management such as health risks, groundwater contamination, and exacerbation of flooding. In 2012, data from the National Solid Waste Management Commission Secretariat reveals that only about 4% or 56 local government units (LGUs) are using sanitary landfills and such low compliance was attributed to the high cost needed to close dumpsites, and the limited financial and technical assistance extended to the LGUs.

Republic Act 9003, also known as the Ecological Solid Waste Management Act, is a landmark legislation passed in 2000 that was enacted to resolve waste problems in the country. It has been lauded for its integrated approach to solid waste management. However, more than a decade since this law's enactment, it has yet to be implemented to its full potential. Some of the compounding factors include weak implementation of the law at the local level and the prevailing 'Not in My Backyard Attitude' which is evident in limited coordination among local government units.

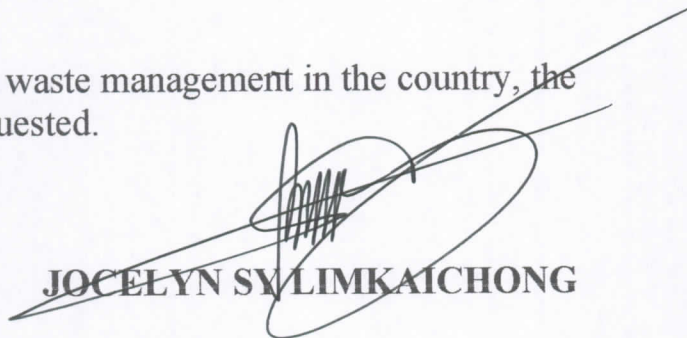
This bill seeks to promote waste to energy as a feasible approach to address the pressing solid waste problem in the country. Waste to energy involves the process of converting waste products into some form of energy. The waste to energy approach involves thermal waste technology which includes waste incineration. It has been observed to be one of the effective methods in dealing with municipal wastes. However, Section 20 of Republic Act 8479 or the Philippine Clean Air Act contains a prohibition on the incineration of municipal and bio-hazardous waste. Furthermore, the Solid Waste Management Act has prescribed sanitary landfills as the primary method for final waste disposal and explicitly excluded incineration.

Memorandum Circular 2002-05 of the Department of Environment and Natural Resources clarified that any thermal treatment technology, whether burn or non-burn, that meets the emission standard in Section 19 of RA 8749 is allowed to be operated in the country. Accordingly, this bill indicates that incineration of toxic and hazardous wastes shall only be allowed in state of the art, environmentally-sound and safe facilities which are proven to emit minimal air pollutants and whose concentrations meet the standards as provided for in RA 8749.

Municipal solid waste incineration technology and waste to energy facilities are being utilized in several countries such as Singapore, Taiwan and Japan. Waste to energy facilities are said to be able to reduce waste volume by 90% and has limited environmental impact. Waste to energy plants have also been strongly considered for their potential to offer an alternative to landfill for the disposable of non-recyclable wastes.

The proposed bill aims to provide guidance in the regulation of waste treatment technology and the implementation of waste to energy approach to ensure compliance to standards and guidelines as indicated in the Clean Air Act. It outlines the roles and responsibilities of concerned agencies such as the Department of Environment and Natural Resources, Department of Energy, and National Solid Waste Commission as well as local government units and operators of the facilities. Finally, the bill seeks to amend Section 20 of the Clean Air Act to lift the ban on incineration.

In light of the pressing problem of poor solid waste management in the country, the immediate passage of this bill is urgently requested.



JOCELYN SY LIMKAICHONG



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AN ACT

REGULATING THE USE OF TREATMENT TECHNOLOGY FOR MUNICIPAL AND HAZARDOUS WASTES, REPEALING FOR THE PURPOSE SECTION 20 OF REPUBLIC ACT NO. 8749, ENTITLED "THE PHILIPPINE CLEAN AIR ACT OF 1999"

Be it enacted by the Senate and the House of Representatives of the Philippines in Congress assembled:

SECTION 1. *Title.* — This Act shall be known and referred to as the "Regulation of Waste Treatment Technology Act".

SECTION. 2. *Regulation of Waste Treatment Technology.* — Thermal and other treatment technologies for the disposal of municipal and hazardous wastes, or for the processing of any material for fuel, whether for commercial use or not, shall be designed and operated to meet the standards established in this Act and its implementing rules and regulations: *Provided*, That these technologies shall be fitted with equipment that will continuously monitor, record and make publicly available the reported data on their emissions or air pollutant concentrations: *Provided*, however, That units that recover energy shall be prioritized: *Provided*, further, That entities utilizing units shall incorporate in their facilities or operations proper materials recovery program: *Provided, finally*, That thermal treatment units shall treat wastes at a temperature of not less than eight hundred fifty degrees centigrade (850°C).

SECTION 3. *Waste-to-Energy Facility.* - A waste to energy (WTE) facility shall be considered a solid waste management facility and shall be exempted from the

ban on incineration under Section 20 of Republic Act No. 8749, otherwise known as the Clean Air Act of 1999: *Provided*, That the facility shall comply with Section 19 of the same Act. A WTE facility shall be required to have arrangements with a sanitary landfill as a disposal site for any waste generated from its operations.

In addition to the provisions of this Act, the segregation, collection, transfer, storage, and transport of solid waste as feedstock for a WTE facility, and the waste treatment process of the WTE facility shall be governed by Republic Act No. 9003 and Republic Act No. 8749, while the energy production aspect of the WTE facility shall be governed by Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act of 2001, Republic Act No. 9367, otherwise known as the Biofuels Act of 2006, and Republic Act No. 9513, otherwise known as the Renewable Energy Act of 2008, whichever is applicable.

SECTION 4. *Role of the Department of Environment and Natural Resources (DENR).* - The DENR shall be primarily responsible for the implementation and enforcement of this Act. In addition to its powers and functions under Republic Act No. 9003 and Republic Act No. 8759, the DENR shall:

- (a) Issue necessary environmental permits and clearances such as the Environmental Compliance Certificate as mandated by PD 1586;
- (b) Formulate relevant policies, standards and guidelines for the disposal of municipal and hazardous wastes;
- (c) Promote the use of state-of-the-art, environmentally-sound and safe technologies for the handling, treatment, thermal or nonthermal destruction, utilization, and disposal of residual wastes;
- (d) Include a WTE strategy in the National Solid Waste Management Status Report;
- (e) Based on the program created by the National Solid Waste Commission, provide technical and other capability building assistance and support to the LGUs to determine the potential of WTE facilities in their respective localities;
- (f) Recommend policies to eliminate barriers in the uptake and construction of WTE facilities from a solid waste management perspective;
- (g) Exercise visitorial and enforcement powers to ensure strict compliance of WTE facilities with this Act, Republic Act No. 9003, and Republic Act No. 8759.

SECTION 5. Role of Local Government Units (LGUs) in Setting Up Treatment Facilities. - The LGUs are hereby mandated to promote, encourage and implement in their respective jurisdiction a comprehensive solid waste management plan that includes a WTE strategy, waste segregation, recycling and composting.

The establishment of treatment facilities shall be facilitated by LGUs within a region, province, or strategically clustered LGUs in consonance with their respective ten (10)-year solid waste management plans made consistent with the national solid waste management framework established pursuant to Republic Act No. 9003, otherwise known as the "Ecological Solid Waste Management Act of 2000". The solid waste management plans of all the LGUs shall be subjected to the approval of the National Solid Waste Management Commission (NSWMC). The location of the thermal facility should be consistent with the Comprehensive Land Use Plan of the LGUs.

Host LGUs are authorized to enter into:

- (i) Clustering arrangements with other LGUs for a common WTE facility, on their own or upon recommendation of the Provincial Solid Waste Management Board,
- (ii) Long term contracts with WTE facilities, on their own or with clustered LGUs, and
- (iii) Joint ventures, public private partnerships, cooperative undertakings under Sec. 33 of Republic Act No. 7160, otherwise known as the Local Government Code of 1991, as amended, and other contractual arrangement allowed by other existing laws, rules, regulations, and their respective charters for the establishment of WTE facilities: Provided, That LGUs shall be allowed to determine the standards and quality of technology and services of a WTE facility provider.

SECTION 6. Role of National Solid Waste Management Commission. — Pursuant to the provisions of Republic Act No. 9003, the NSWMC shall ensure the establishment of a comprehensive solid waste management plan in all LGUs. This plan shall incorporate waste to energy strategy, waste segregation, recycling and composting, and disposal. The NSWMC shall approve or deny the plan, or supplemental disposal plan of all LGUs, which may carry out treatment projects, within ten (10) working days from its submission. The Department of Science and Technology (DOST) shall likewise process the application of said projects

for the necessary environmental technology verification within the same period. However, for new technology, the DOST shall have twenty (20) working days from the receipt of the application of said projects to process the verification. In all cases, the approving body shall put in writing the reasons for either approving or denying the plan.

In addition to its powers and functions under Republic Act No. 9003, the National Solid Waste Management Commission shall:

- (a) Include a WTE strategy in the National Solid Waste Management Framework;
- (b) Develop and implement a program to assist LGUs in the determination of the potential of WTE facilities in their respective localities;
- (c) Ensure LGUs incorporate a WTE strategy in their respective Local Government Solid Waste Management Plans;
- (d) Coordinate the operation of Provincial, City, and Municipal Solid Waste Management Boards especially for clustered LGUs employing a common WTE facility;
- (e) Regularly determine, review, and publish the following:
 - (i) Standards, criteria, and guidelines for:
 - 1. Siting, design, operation, and maintenance of WTE facilities,
 - 2. Characterization and composition of solid waste utilized as feedstock for WTE facilities to ensure emissions are consistent with Republic Act No. 8739, and
 - 3. Disposal of residual waste from WTE facilities, if any;
 - (ii) Standards, criteria, guidelines, and formula in computing for a fair, equitable, and reasonable tipping charge for WTE facilities taking into consideration the cost of construction, operation, and maintenance of the facility as well as the potential revenue from the sale of energy output such as electric power and biofuels, and
 - (iii) Reference tipping charges for various kinds of WTE facilities;
- (f) Adopt regulations to ensure compliance with standards, criteria and guidelines promulgated pursuant to this Section; and
- (g) Perform all other acts that are analogous to the foregoing, which are necessary and incidental to accomplish the policy objectives of this Act.

SECTION 7. *Role of the Department of Energy* -- In addition to its powers and functions under Republic Act No. 7638, otherwise known as the Department of Energy Act of 1992, as amended, the Department of Energy shall:

- (a) Accredite and classify WTE facilities based on the energy output, and determine the standards, criteria, and requirements applicable for each kind of WTE facility pursuant to Republic Act No. 9136, Republic Act No. 9367, and Republic Act No. 9513, whichever is applicable;
- (b) Include a WTE strategy in the Philippine Energy Plan, taking into consideration the National Solid Waste Management Framework;
- (c) Make available to the public, especially to potential WTE investors, local and national information on the following:
 - (i) Current and potential uses of WTE facilities in relation to solid waste management,
 - (ii) Inventory of existing WTE facilities,
 - (iii) General feedstock characterization,
 - (iv) Status and projection of feedstock generation,
 - (v) Specific locations of potential feedstock and WTE facilities, (vi) Reference tipping charges for different kinds of WTE facilities,
 - (vi) Current tipping charges, and
 - (vii) Other relevant information.
- (d) Promote WTE facilities as a kind of renewable energy power plant pursuant to Republic Act No. 9513, and as a type of biofuel plant pursuant to Republic Act No. 9367; and
- (e) Perform all other acts that are analogous to the foregoing, which are necessary and incidental to accomplish the policy objectives of this Act.

SECTION 8. *Role of the Provincial Solid Waste Management Board* --

In addition to its powers and functions under Republic Act No. 9003, the Provincial Solid Waste Management Board shall:

- (1) Integrate a WTE strategy in the Provincial Solid Waste Management Plan from the submitted Local Government Solid Waste Management Plans of all its component cities and municipalities;
- (2) Identify and include potential locations for WTE facilities in the Provincial Solid Waste Management Plan: *Provided*, That no WTE facility shall be built

outside of the locations identified by the Provincial Solid Waste Management Board;

- (3) Identify and recommend potential clustering of cities and municipalities for a common WTE facility, based on the LGU's location, composition of feedstock, projection of feedstock generation, common solid waste management problems, among others, after reviewing and integrating the submitted Local Government Solid Waste Management Plans of all its component cities and municipalities;
- (4) Provide the necessary logistical and operational support to cities and municipalities who have the potential to be clustered or have decided to be clustered for a common WTE facility;
- (5) Coordinate the efforts and oversee the implementation of the clustering of component cities and municipalities for a common WTE facility; and
- (6) Coordinate with other Provincial Solid Waste Management Boards in identifying possible inter-province clustering for a common WTE facility based on the LGU's location, composition of feedstock, projection of feedstock generation, common solid waste management problems, among others, after reviewing and integrating the Local Government Solid Waste Management Plans of all its component cities and municipalities

SECTION 9. *Role of the City or Municipal Solid Waste Management Board.* - In addition to its powers and functions under Republic Act No. 9003, the City or Municipal Solid Waste Management Board shall integrate a WTE strategy in the Local Government Solid Waste Management Plan.

SECTION 10. *Responsibility of Owner and Operator.* — Responsibility for compliance with the standards promulgated for the establishment and operation of waste treatment facilities shall rest with the owner and/or operator thereof. This includes but is not limited to the development of a detailed emergency response plan, provision of appropriate personal protective equipment and medical care, provision of appropriate pollution control and abatement facilities and development of a manual of operation and assurance and control. If by contract the operator is bound to be held primarily and solely responsible for compliance with the standards, the same shall not relieve the owner of the requirement to exercise due diligence to assure that the required compliance by operators are met. In the event that the ownership of the facility is transferred to another person, the previous owner shall notify the new owner of the standards and the conditions set for the operation of said facility, and the laws and regulations that the new

owner or operator has to comply with. The standards for operation of waste treatment facility may be made more stringent by five percent (5%): *Provided*, That the same shall be in effect ten (10) years following the commencement of the operation of the facility established after the effectivity of this Act.

SECTION 11. *Permits and Licenses.* — The procedure for the issuance of permits and licenses for all kinds of WTE facilities shall be governed by Republic Act No. 11234, otherwise known as the Energy Virtual One Stop Shop.

SECTION 12. *Incentives.* — (a) Fiscal Incentives. — The following tax incentives shall be granted to registered enterprises which shall invest in waste treatment facilities:

(1) Income Tax Holiday. — Within the first seven (7) years of its operations, the treatment facility shall be exempt from income taxes levied by the national government.

(2) Tax and Duty Exemption on Imported Capital Equipment and Vehicles. - Within the first ten (10) years of operations, registered enterprises which invested in the treatment facility shall enjoy tax and duty free importation of machinery, equipment, vehicles and spare parts used for setting up the treatment facility: *Provided*, That the importation of such machineries, equipment, garbage collection vehicles. and spare parts shall comply with the following conditions:

(i) They are not manufactured domestically in sufficient quantity, of comparable quality and reasonable prices;

(ii) They are reasonably needed and will be used exclusively by the registered enterprise in the manufacture of its products, unless prior approval of the Board is secured for the part-time utilization of said equipment in a non-registered activity to maximize usage thereof or the proportionate taxes and duties are paid on the specific equipment and machinery being permanently used for non-registered activities; and

(iii) The importation of such machinery. equipment, vehicle and spare parts has

been approved by the Board of Investments (BOI) of the Department of Trade and Industry (DTD).

Provided, further, That the sale, transfer or disposition of such machinery, equipment, vehicle and spare parts within five (5) years from the date of acquisition shall be prohibited, without prior approval of the 301, otherwise, the registered enterprise and the vendee, transferee, or assignee shall be solidarily liable to pay twice the amount of tax and duty exemption given it.

(3) Tax Credit on Domestic Equipment. - A tax credit equivalent to one hundred percent (100%) of the amount of the value-added tax and customs duties that would have been paid on the machinery, equipment, components, parts and materials had these items been imported shall be given to a contract holder who purchases machinery, equipment, components, parts and materials: *Provided, That* such are directly needed and shall be used exclusively by the waste treatment facility.

(4) Tax and Duty Exemption of Donations, Legacies and Gifts. — All legacies, gifts and donations to LGUs, enterprises or private entities, including nongovernment organizations (NGOs) for the support and maintenance of the program for setting up of treatment technologies shall be exempt from all internal revenue taxes and customs duties, and shall be deductible in full from the gross income of the donor for income tax purposes.

(b) Non-Fiscal Incentives. — LGUs, enterprises or private entities availing of tax incentives under this Act shall also be entitled to applicable non-fiscal incentives provided for under the Omnibus Investments Code.

The NSWMC shall provide incentives to businesses and industries that are engaged in the treatment of wastes which are registered with the NSWMC and have been issued the required Environmental Compliance Certificate (ECC) in accordance with the guidelines established by the NSWMC. Such incentives shall include simplified procedures for the importation of equipment, spare parts, new materials, and supplies, and for the export of processed products.

(c) Financial Assistance Program. — Government financial institutions such as

the Land Bank of the Philippines (LBP), Development Bank of the Philippines (DBP), Government Service Insurance System (6815), and such other government institutions providing financial services shall, in accordance with and to the extent allowed by the enabling provisions of their respective charters or applicable laws, accord high priority in the extension of financial services to individuals, enterprises, or private entities engaged in putting up treatment facilities: Provided, That these institutions shall allocate five percent (5%) of their loan portfolio to waste treatment projects.

(d) Extension of Grants to LGUs. — Provinces, cities and municipalities whose treatment facilities plans have been duly approved by the NSWMC or who have been commended by the NSWMC for adopting innovative waste treatment programs may be entitled to receive grants for the purpose of developing their technical capacities toward actively participating in the waste treatment program.

(e) Incentives to Host LGUs. — LGUs who host common treatment facilities shall be entitled to incentives as may be determined by the NSWMC.

(f) The incentives for LGUs under Republic Act No. 9003, biofuel plants under Republic Act No. 9637, and renewable energy power plants under Republic Act No. 9513 shall continue to apply when it comes to the construction, operation, and maintenance of WTE facilities constructed after the effectivity of this Act, whichever is applicable.

SECTION 13. *Fines and Penalties.* — Violations of the provisions of this Act, or the standards or rules and regulations promulgated for treatment facilities shall be fined or penalized under existing laws including but not limited to the provisions of Presidential Decree No. 1586; Republic Act No. 6969, otherwise known as the "Toxic Substances and Hazardous and Nuclear Wastes Control Act of 1990", Republic Act No. 8749, otherwise known as the "Philippine Clean Air Act of 1999", Republic Act No. 9003; and Republic Act No. 9275, otherwise known as the "Philippine Clean Water Act of 2004". For waste-to-energy facilities, the penal schemes established under the Philippine Grid Code and Philippine Distribution Code pursuant to Republic Act No. 9136, also known as the "Electric Power Industry Reform Act of 2001" shall likewise apply for this purpose.

SECTION 14. *Implementing Rules and Regulations.* - The DENR, in coordination with the NSWMC, Department of Energy, 301, Bureau of Internal Revenue, Bureau of Customs, academe or research institutions, and other concerned agencies, shall promulgate the implementing rules and regulations for this Act, within three (3) months after its enactment.

SECTION 15. *Annual Report.* — The NSWMC shall submit an annual report to the President of the Philippines and to Congress on the status of the disposal management and the use of treatment facilities in the country not later than March 30 of every year following the approval of this Act.

SECTION 16. *Separability Clause.* — If any part or section of this Act is declared unconstitutional, such declaration shall not affect the other parts or sections of this Act.

SECTION 17. *Repealing Clause.* — Section 20 of Republic Act No. 8749 is hereby repealed. Provisions of Republic Act No. 9003, and other laws, presidential decrees, executive orders, rules and regulations inconsistent with any provision of this Act shall be deemed repealed or modified accordingly.

SEC. 18. *Effectivity.* — This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper of general circulation.

Approved,