

[First Reprint]

**SENATE, No. 1688**

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**STATE OF NEW JERSEY**  
**210th LEGISLATURE**

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INTRODUCED JUNE 24, 2002

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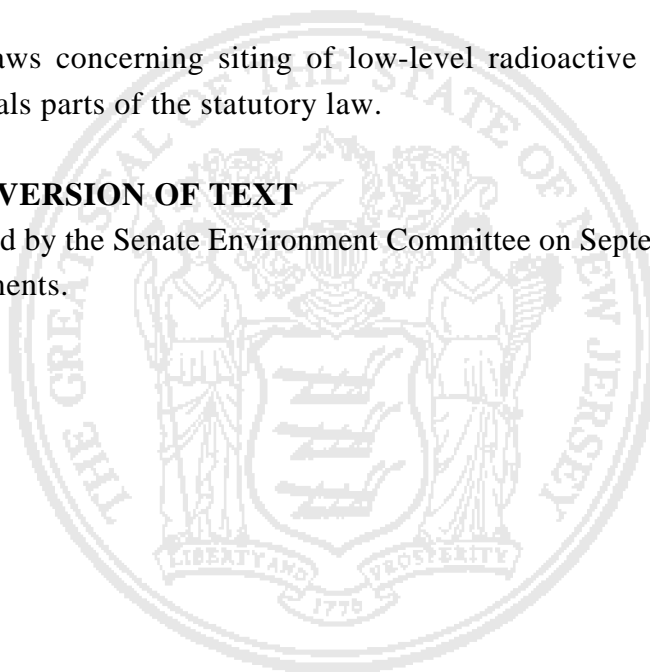
**Senators Palaia, Allen, Assemblymen Ahearn and Fisher**

**SYNOPSIS**

Revises laws concerning siting of low-level radioactive waste disposal facility; repeals parts of the statutory law.

**CURRENT VERSION OF TEXT**

As reported by the Senate Environment Committee on September 26, 2002, with amendments.



**(Sponsorship Updated As Of: 10/18/2002)**

1 AN ACT concerning low-level radioactive waste, amending P.L.1987,  
2 c.333 and P.L.1991, c.166, and repealing parts of the statutory law.

3  
4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6  
7 1. Section 3 of P.L.1987, c.333 (C.13:1E-179) is amended to read  
8 as follows:

9 3. As used in this act:

10 [a. "Board" means the New Jersey Low-Level Radioactive Waste  
11 Disposal Facility Siting Board created pursuant to section 4 of this act;

12 b.] "Class of low-level radioactive waste" means a designation of  
13 low-level radioactive waste by the United States Nuclear Regulatory  
14 Commission based on the concentration of specific radionuclides in the  
15 waste;

16 "Commission" means the Northeast Interstate Low-Level  
17 Radioactive Waste Commission created pursuant to Article IV of  
18 P.L.1983, c.329 (C.32:31-5);

19 [c. "Committee" means the New Jersey Radioactive Waste  
20 Advisory Committee created pursuant to section 6 of this act;

21 d.] "Department" means the Department of Environmental  
22 Protection;

23 [e.] "Disposal" means the isolation of low-level radioactive waste  
24 from the biosphere for the hazardous life of the waste;

25 [f. "Environmental and health impact statement" means a statement  
26 of likely environmental and public health impacts resulting from the  
27 construction and operation of the regional low-level radioactive waste  
28 disposal facility, and includes an inventory of existing environmental  
29 conditions at the site, a project description, an assessment of the  
30 impact of the project on the environment and on public health, a listing  
31 of unavoidable environmental and public health impacts, and steps to  
32 be taken to minimize environmental and public health impacts during  
33 construction and operation;

34 g. "Host municipality" means the municipality in which a regional  
35 low-level radioactive waste disposal facility is to be located;

36 h.] "Facility" means the land, buildings, equipment, and  
37 improvements used or developed for the treatment, storage, or  
38 disposal of the low-level radioactive wastes generated within the party  
39 states to the Northeast Interstate Low-Level Radioactive Waste  
40 Management Compact;

41 [i.] "Low-level radioactive waste" means radioactive waste that

**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

**Matter enclosed in superscript numerals has been adopted as follows:**

**<sup>1</sup> Senate SEN committee amendments adopted September 26, 2002.**

1 (1) is neither high-level waste nor spent fuel, nor by-product material  
2 as defined in paragraph (2) of subsection (e) of 42 U.S.C. s.2014; and  
3 (2) is classified by the federal government as low-level waste,  
4 consistent with existing law; but does not include waste generated as  
5 a result of atomic energy defense activities of the federal government,  
6 as defined in the "Low-Level Radioactive Waste Policy Act,"  
7 Pub.L.96-573 (42 U.S.C. s.2021b et seq.) and the "Low-Level  
8 Radioactive Waste Policy Amendments Act of 1985," Pub.L.99-240  
9 (42 U.S.C. s.2021b et seq.) or federal research and development  
10 activities;

11 [j. "Owner or operator" means, in addition to the usual meanings  
12 thereof, every owner of record of any interest in land whereon the  
13 facility is located;

14 k.] "Plan" means the Low-Level Radioactive Waste Disposal Plan  
15 adopted by the [board] department pursuant to section 10 of [this  
16 act] P.L.1987, c.333 (C.13:1E-186);

17 [l.] "Region" means the geographical area encompassed by the  
18 combined jurisdictions of the party states to the Northeast Interstate  
19 Low-Level Radioactive Waste Management Compact;

20 [m.] "Site" means both the physical location with a buffer zone  
21 and the technology employed to isolate low-level radioactive waste at  
22 that location; and

23 [n.] "Generator" means any person, association, public utility,  
24 hospital, clinic, research laboratory, corporation, society,  
25 radiopharmaceutical facility, academic facility, or nuclear medical  
26 research facility that produces low-level radioactive waste, or any  
27 other entity identified by the board that produces low-level radioactive  
28 waste, or that is licensed by the United States Nuclear Regulatory  
29 Commission to use, possess, handle or dispose of radioactive  
30 materials.

31 (cf: P.L.1991, c.166, s.1)

32

33 2. Section 5 of P.L.1991, c.166 (C.13:1E-181.3) is amended to  
34 read as follows:

35 5. a. The Low-level Radioactive Waste Disposal Facility Fund is  
36 established as a nonlapsing revolving fund in the Department of  
37 Environmental Protection. The fund shall be administered by the  
38 [New Jersey Low-Level Radioactive Waste Disposal Facility Siting  
39 Board] department, and shall be credited with all fees collected  
40 pursuant to section 3 of [this act] P.L.1991, c.166 (C.13:1E-181.1)  
41 1 prior to the effective date of P.L. , c. (now before the Legislature  
42 as this bill)<sup>1</sup>. [Moneys in the fund shall be used by the board, or the  
43 department, as the case may be, to implement the provisions of  
44 P.L.1987, c.333 (C.13:1E-177 et seq.), the "Low-Level Radioactive  
45 Waste Policy Act," Pub.L.96-573 (42 U.S.C. s.2021b et seq.) and the

1 "Low-Level Radioactive Waste Policy Amendments Act of 1985,"  
2 Pub.L.99-240 (42 U.S.C.s.2021b et seq.).] <sup>1</sup>Moneys in the fund shall  
3 be used by the department to perform the functions for which it is  
4 responsible under the provisions of P.L.1987, c.333 (C.13:1E-177 et  
5 seq.), the "Low-Level Radioactive Waste Policy Act," Pub.L.96-573  
6 (42 U.S.C. s.2021b et seq.) and the "Low-Level Radioactive Waste  
7 Policy Amendments Act of 1985," Pub.L.99-240 (42 U.S.C.s.2021b  
8 et seq.).<sup>1</sup> The expenditure of moneys in the fund shall be subject to  
9 the approval of the Director of the Division of Budget and Accounting  
10 in the Department of the Treasury. In the event that <sup>1</sup>[the board  
11 ceases operation or that]<sup>1</sup> additional expenditures are not otherwise  
12 required, any moneys remaining in the fund shall be returned to  
13 generators in the same proportion in which the fees were assessed and  
14 paid.

15 b. The [board] department shall cause an annual audit to be made  
16 of the fund and all expenditures of moneys from the fund. The audit  
17 shall include a determination of the extent to which the expenditures  
18 directly relate to costs incurred in the implementation of the relevant  
19 provisions of P.L.1987, c.333 (C.13:1E-177 et seq.), the "Low-Level  
20 Radioactive Waste Policy Act," Pub.L.96-573 (42 U.S.C.s.2021b et  
21 seq.), and the "Low-Level Radioactive Waste Policy Amendments Act  
22 of 1985," Pub.L.99-240 (42 U.S.C. s.2021b et seq.), including, but not  
23 limited to, salaries and administrative expenses. Each annual audit  
24 shall be subject to review by the State Auditor, and shall be  
25 transmitted to the presiding officer of each House of the Legislature  
26 and to the respective chairpersons of the Senate [Land Use  
27 Management and Regional Affairs Committee, the Senate  
28 Environmental Quality] Environment Committee [,] and the Assembly  
29 Environment and Solid Waste [Management, Planning and Recycling]  
30 Committee [, the Assembly Energy and Environment Committee, and  
31 the Assembly Conservation and Natural Resources Committee], or  
32 their successors.  
33 (cf: P.L.1991, c.166, s.5)

34  
35 3. Section 10 of P.L.1987, c.333 (C.13:1E-186) is amended to  
36 read as follows:

37 10. a. The [board shall, within 15 months of the effective date of  
38 this act and after consultation with the committee and] department  
39 shall review [of] the regional management plan developed by the  
40 Northeast Interstate Low-Level Radioactive Waste Commission  
41 pursuant to Article V of P.L.1983, c.329 (C.32:31-6), [develop and  
42 adopt a] and revise and update the Low-Level Radioactive Waste  
43 Disposal Plan[. The plan shall be revised and updated every three  
44 years, or more frequently] when, in the discretion of the [board]  
45 department, changes in the amount or [type] class of low-level

1 radioactive waste generated in the region, or technological advances  
2 in the means of managing, storing, transporting, or disposing of  
3 low-level radioactive waste, so require.

4 b. The plan shall include, but need not be limited to:

5 (1) A current inventory of all low-level radioactive waste  
6 generators within the region;

7 (2) A current inventory of the sources, volumes, [types] classes,  
8 and hazardous life of the low-level radioactive wastes generated within  
9 the region;

10 (3) Projections of the volumes, [types] classes, and hazardous life  
11 of the low-level radioactive wastes which are expected to be generated  
12 in the region during the next 20 years; and

13 (4) [A technical analysis of all the known methods of disposal of  
14 low-level radioactive waste, which shall evaluate their respective  
15 capacities to effectively isolate low-level radioactive wastes from the  
16 biosphere; and

17 (5)] An analysis of transportation routes and transportation costs  
18 from low-level radioactive waste generators in the region to [the  
19 various areas of the State] out of state processing and disposal sites. [;

20 (6) An analysis of the waste stream generated by the party states  
21 with respect to the commercial viability of a site located in this State.]

22 c. [The provisions of the "Administrative Procedure Act,"  
23 P.L.1968, c.410 (C.52:14B-1 et seq.), or any other law to the contrary  
24 notwithstanding, the board shall prepare and adopt the plan as follows:

25 (1) Within 11 months of the effective date of this act, the board  
26 shall prepare and make available to all interested persons a proposed  
27 plan;

28 (2) Within 14 months of the effective date of this act, the board  
29 shall conduct public hearings in the several geographic areas of the  
30 State on the proposed plan. Notice of these hearings shall be  
31 published at least 30 days in advance thereof in at least two  
32 newspapers circulating in the specific geographic area where the  
33 hearing will be held; and

34 (3) Within 15 months of the effective date of this act, the board  
35 shall consider any comments made at the public hearings, make such  
36 revisions to the proposed plan as it deems necessary or appropriate,  
37 and adopt the plan.] (Deleted by amendment, P.L. \_\_\_\_\_, c. \_\_\_\_\_).

38 d. [Within 90 days of the effective date of this act, the board] The  
39 department shall[, in consultation with the department and the  
40 committee,] establish and maintain a public information program  
41 which addresses:

42 (1) The nature and dimension of the low-level radioactive waste  
43 disposal problem;

44 (2) The need for the proper and expeditious siting of a regional  
45 low-level radioactive waste disposal facility or the need to develop

1 other disposal or management options that will be used to manage the  
2 State's low-level radioactive waste; and

3 (3) [The respective responsibilities of the board, department and  
4 committee pursuant to this act; and

5 (4)] The necessity and opportunities for public participation as  
6 provided herein.

7 e. [In preparing or revising the plan pursuant to this section, the  
8 board may direct that the department provide or prepare any data or  
9 other information which the board deems necessary for the  
10 performance of its responsibilities pursuant to this act.] (Deleted by  
11 amendment, P.L. , c. ).

12 (cf: P.L.1987, c.333, s.10)

13

14 4. Section 15 of P.L.1987, c.333 (C.13:1E-191) is amended to  
15 read as follows:

16 1. a. Any person who supplies any information which proximately  
17 results in the arrest and conviction of any other person for the illegal  
18 treatment, transport, storage or disposal of low-level radioactive waste  
19 shall be awarded one-half of any penalty collected as a result thereof.

20 b. The Attorney General shall adopt, pursuant to the  
21 "Administrative Procedure Act," P.L.1968, c. 410 (C.52:14B-1 et  
22 seq.), such rules and regulations as are necessary to implement this  
23 section.

24 (cf: P.L.1987, c.333, s.15)

25

26 5. Section 22 of P.L.1987, c.333 (C.13:1E-198) is amended to  
27 read as follows:

28 22. The [board and the] department shall, pursuant to the  
29 provisions of the "Administrative Procedure Act," P.L.1968, c.410  
30 (C.52:14B-1 et seq.), adopt such rules and regulations as may be  
31 necessary [for the performance of their respective responsibilities  
32 pursuant to] to implement <sup>1</sup>[this act] the provisions of P.L.1987,  
33 c.333 (C.13:1E-177 et seq.)<sup>1</sup>.

34 (cf: P.L.1987, c.333, s.22)

35

36 6. The following are repealed:

37 Section 2 of P.L.1987, c.333 (13:1E-178);

38 Sections 4 through 9 inclusive of P.L.1987, c.333 (C.13:1E-180  
39 through 13:1E-185);

40 Sections 11 through 14 inclusive of P.L.1987, c.333 (C.13:1E-187  
41 through 13:1E-190);

42 Sections 16 through 21 inclusive of P.L.1987, c.333 (C.13:1E-192  
43 through 13:1E-197); and

44 Sections 3 and 4 of P.L.1991, c.166 (C.13:1E-181.1 and 13:1E-  
45 181.2).

46

47 7. This act shall take effect immediately.