

ANALYSIS OF THE NEW JERSEY  
FISCAL YEAR 1998 - 1999 BUDGET



DEPARTMENT OF ENVIRONMENTAL  
PROTECTION

PREPARED BY

OFFICE OF LEGISLATIVE SERVICES

NEW JERSEY LEGISLATURE

APRIL 1998

# NEW JERSEY STATE LEGISLATURE

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This report was prepared by the Environment, Agriculture, Energy and Natural Resources Section of the Office of Legislative Services under the direction of the Legislative Budget and Finance Officer. The primary author was Richard M. Handelman with contributions by Algis P. Matioska and Leonard J. Colner.

Questions or comments may be directed to the OLS Environment, Agriculture, Energy and Natural Resources Section (Tel. 292-7676) or the Legislative Budget and Finance Office (Tel. 292-8030).

# DEPARTMENT OF ENVIRONMENTAL PROTECTION

Budget Pages..... D-99 to D-122; E-10 to E-11; F-8 to  
F-10; G-5 to G-8; H-9 to H-10

## Fiscal Summary (\$000)

	Expended FY 1997	Adjusted Appropriation FY 1998	Recommended FY 1999	Percent Change 1998-99
State Budgeted	\$318,124	\$375,661	\$383,365	2.1%
Federal Funds	36,774	173,115	210,711	21.7%
<u>Other</u>	<u>24,507</u>	<u>44,218</u>	<u>35,915</u>	<u>(18.8)%</u>
Grand Total	\$379,405	\$592,994	\$629,991	6.2%

## Personnel Summary - Positions By Funding Source

	Actual FY 1997	Revised FY 1998	Funded FY 1999	Percent Change 1998-99
State	2,854	2,809	2,945	4.8%
Federal	162	146	152	4.1%
<u>Other</u>	<u>70</u>	<u>71</u>	<u>72</u>	<u>1.4%</u>
Total Positions	3,086	3,026	3,169	4.7%

FY 1997 and revised FY 1998 personnel data reflect actual payroll counts. FY 1999 data reflect the number of positions funded.

## Introduction

The Department of Environmental Protection (DEP) protects and manages the State's natural resources, preserves open space, monitors the State's beaches and ocean waters, regulates the generation of air and water pollution and hazardous waste generation, coordinates the remediation of pollution problems, and manages various aspects of solid waste disposal. The department operates many types of remedial, research and regulatory programs, many of which are directly or indirectly supported by revenues generated from general user fees, permit or license fees, penalty and fine charges, special taxes, bond acts and federal funds.

## Key Points

- ! Of the \$383.4 million in recommended State funding, the department's Direct State Services (DSS) or operating budget is recommended at \$175.0 million, a decrease of \$9.9 million, or 5 percent, from its current adjusted budget of \$184.9 million. The net decrease is largely attributable to the presence of \$7.6 million in FY 1998 supplemental appropriations for water resources and site cleanup administration funded by Corporation Business Tax monies dedicated from FY 1997 tax collections. Other notable DSS reductions are listed below.
  
- ! The following items initially funded in the FY 1998 DSS budget, totaling \$953,000, are not continued in FY 1999: New Jersey Trails Expansion (\$350,000); Delaware and Raritan Canal Commission, Canal Corridor Base Maps (\$65,000); Atlantic States Marine Fisheries Commission, Past Dues (\$83,000); Aquatic Life-Toxics Study (\$200,000); and Open Space-Wetlands Assessment (\$255,000).
  
- ! The current DSS appropriation of \$360,000 for the Operation Clean Shores program is not renewed in FY 1999. The program will, however, continue to receive its annual allocation of \$600,000 from dedicated receipts from the sale of shore protection license plates.
  
- ! No funding is recommended for three DSS line items currently funded from administrative bond monies: Emergency Flood Control- Administrative Costs (\$248,000), Harbor Cleanup-Administrative Costs (\$145,000), and Public Waste Water Facilities Bond (\$658,000). Since all three bond funds have limited balances, the remaining funds are to be used toward project completions rather than for administration.
  
- ! The constitutional amendment dedicating 4 percent of annual Corporation Business Tax (CBT) revenues for environmental purposes is reflected in FY 1999 by the following four appropriations totaling \$62.8 million: \$5.0 million for Water Resources Monitoring and Planning; \$5.7 million for Cleanup Projects, Administrative Costs; \$31.2 million for Hazardous Substance Remediation; and \$20.9 million for Private Underground Tank Remediation. These accounts received \$62.4 million in FY 1998, plus \$29.6 million in supplemental appropriations that allocated CBT dedication amounts collected in FY 1997.
  
- ! In the Site Remediation budget, the Recommendation indicates no adjusted FY 1998 or FY 1999 funding for the Hazardous Waste Bond-Administrative Costs line item although \$5.4 million was appropriated in the original FY 1998 Budget. This adjustment is made to reflect a funding source shift, which will occur during FY 1998, from the Hazardous Discharge Bond Fund of 1986 to dedicated CBT monies appropriated for the Cleanup Projects-Administrative Costs line item. The original bond appropriation will be available for project construction costs.
  
- ! In the Site Remediation budget, the funding source of the Industrial Site Recovery Act line item, which received \$399,000 in FY 1998, is changed in FY 1999 from State funding to dedicated cost recovery receipts collected in the Hazardous Discharge Site Cleanup Fund.
  
- ! The Grants-In-Aid appropriation of \$2.0 million to complete sections of the Hudson River Waterfront Walkway project that are located within Liberty State Park is not renewed.

## Key Points

- ! The department's State Aid budget contains a major new funding initiative, the \$50.0 million Open Space-Local Match grant program. This program will provide matching funds for open space and farmland preservation to counties and municipalities that can generate matching funds through local open space trust funds or by any other means. Proposed budget language authorizes an unspecified portion of this appropriation to be transferred to the Department of Agriculture to support its Farmland Preservation program.
- ! In the Natural Resource Management budget, Capital Construction appropriations totaling \$2.0 million are recommended for various maintenance, rehabilitation and improvement projects in State Parks, Forests and other State-owned areas. The current appropriation level is \$4.1 million.
- ! Two Capital Construction appropriations currently included in the New Jersey portion of the Palisades Interstate Park Commission budget are recommended in FY 1999: \$875,000 for improvements to sanitary facilities (the FY 1998 appropriation is \$2.0 million), and another \$100,000 to remove old or defective underground storage tanks.
- ! The current Capital Construction appropriation of \$2.6 million for planning assistance for various flood control projects supported by federal HR 6 funding is reduced to \$1.1 million in FY 1999.
- ! The department anticipates receiving \$46.0 million in federal funds under the federal Safe Drinking Water Act to capitalize a new revolving loan program to finance infrastructure repairs and upgrades to water supply systems. This program would be run jointly by the department and the N.J. Environmental Infrastructure Trust.
- ! The department's Debt Service requirement is recommended at \$78.7 million, a decrease of \$4.0 million, or 5 percent, from the current year's requirement.
- ! General Fund Provisions language recommends that \$2.5 million be appropriated from the Sanitary Landfill Facility Contingency Fund for transfer to the General Fund as State revenue. A total of \$33.3 million has been appropriated from this Fund since FY 1995 for the same purpose.
- ! According to the "Budget In Brief," billing for the N.J. Pollutant Discharge Elimination System (NJPDES) will be accelerated so that fees assessed in FY 1999 will be collected before the end of FY 1999 rather than in FY 2000, thereby yielding a one-time benefit or increase of approximately \$4 million in collected revenues for FY 1999. This increase is reflected in the figure "\$14.484 (million)" as it appears on Budget Page C-9, under **Schedule I, State Revenues**, in the "New Jersey Pollutant Discharge Elimination System" line for FY 1999. Without the accelerated collection, this figure would read "\$10.484 (million)."
- ! According to the Office of Management and Budget, proposed fee adjustments in FY 1999 for various programs and activities will generate \$1.113 million in additional State revenues that will be credited to the General Fund.

## Program Description and Overview

The functions and programs of the Department of Environmental Protection are grouped and displayed in the Budget Recommendation within six Statewide Program designations: Natural Resource Management, Science and Technical Programs, Site Remediation, Environmental Regulation, Environmental Planning and Administration, and Enforcement Policy. The department's budget also includes funding for independent agencies such as the Palisades Interstate Park Commission, the Hazardous Waste Facilities Siting Commission, the Low-Level Radioactive Waste Disposal Facility Siting Board, the Pinelands Commission, the Mosquito Control Commission, and the Board of Pilot Commissioners. These agencies have "in, but not of" status, meaning their budgets are statutorily located within the department's budget but are not under its jurisdiction.

### Budget/Organizational Structure

In the Budget Recommendation, each Statewide Program consists of program classifications. These designations generally correspond to an agency's functional or organizational structure and reflect the operating levels at which specific appropriations are recommended. The following is a brief description of each Statewide Program (with two-digit budget code) and its program classifications as they appear in the Budget Recommendation:

Natural Resource Management (42) is comprised of seven program classifications: Forest Resource Management, Parks Management, Hunters' and Anglers' License Fund, Shellfish and Marine Fisheries Management, Wildlife Management, Natural Resources Engineering, and the Palisades Interstate Park Commission. Organizationally, this portion of the budget funds the Division of Fish, Game and Wildlife, the Division of Parks and Forestry, the Green Acres program, the Engineering and Construction unit (shore protection, dredging, dam safety, flood control), and the New Jersey portion of the Palisades Interstate Park Commission.

Science and Technical Programs (43) is comprised of eight program classifications: Radiation Protection, Air Pollution Control, Water Supply and Watershed Management, Water Monitoring and Planning, Science and Research, Water Quality Management, Environmental Remediation and Monitoring, and Environmental Policy and Planning. Organizationally, this part of the budget primarily encompasses the Division of Science and Research, the Division of Environmental Safety, Health and Analytical Programs, the Office of Air Quality Management, the Office of Program Coordination, the Geological Survey, and the Office of Environmental Planning.

Site Remediation (44) is comprised of three program classifications: Publicly-Funded Site Remediation, Responsible Party Site Remediation, and Environmental Remediation and Monitoring. Functionally, this segment of the budget uses mostly bond funds, responsible party cost recoveries, and other dedicated monies to manage the cleanup of sites contaminated by hazardous substances. These activities are carried out by the Division of Responsible Party Site Remediation, the Division of Publicly-Funded Site Remediation, and the Environmental Claims Administration unit.

Environmental Regulation (45) is comprised of seven program classifications: Air Pollution Control, Water Supply and Watershed Management, Water Pollution Control, Public Wastewater Facilities, Land Use Regulation, Solid Waste Resource Management, and Hazardous Waste Management. Organizationally, this part of the budget generally supports the Division of Solid and Hazardous Waste, the Division of Water Quality, the Office of Pollution Prevention and Permit Assistance, the Hazardous Waste Facilities Siting Commission, and the units concerned with regulating water supply, land use (waterfront development, CAFRA, wetlands, etc.), and air quality control.

## Program Description and Overview

Environmental Planning and Administration (46) is comprised of two program classifications: Regulatory and Governmental Affairs, and Management and Administrative Services. Organizationally, this portion of the budget funds the Commissioner's Office and all the department's support units that perform administrative, legal, legislative and public information functions.

Enforcement Policy (47) is comprised of six program classifications: Air Pollution Control, Pesticide Control, Water Pollution Control, Land Use Regulation, Solid Waste Resource Management, and Hazardous Waste Management. Organizationally, this part of the budget provides funding to the Office of Enforcement Coordination and the units responsible for the enforcement of laws pertaining to pesticide control, coastal and land use, solid and hazardous waste, air and environmental quality, and water pollution control.

### Organizational Changes

The department recently underwent an internal reorganization that includes the following major changes: the Chief of Staff and Chief of Operations positions have been abolished and replaced with two Deputy Commissioner positions, one of which is directly responsible for programs concerned with environmental regulation, site remediation, and compliance and enforcement. The other Deputy Commissioner is directly responsible for programs related to natural resources, land use management, and planning and science. Previously, none of these program areas reported directly to the two former positions.

Other significant organizational changes include the creation of the position of Assistant Commissioner for Land Use Management, the abolishment of the position of Assistant Commissioner of Legislative and Program Coordination, the establishment of an Office of Dredging and Sediment Technology, and the creation of the position of Director of Business Affairs.

In her Budget Message, the Governor announced that the N.J. Historic Trust, an independent agency that is budgetarily "in, but not of" the department, will be transferred to the Department of State. An Executive Reorganization Plan is expected to be introduced before the end of FY 1998 to facilitate this action. According to the "Budget In Brief," this agency and other governmental units associated with cultural and historical activities are all being transferred to the Department of State in order to improve the coordination and delivery of program services.

Last, the Right-To-Know, Toxic Catastrophe Prevention, Oil Spill Prevention, and Pesticide Control programs have been transferred from units in the Environmental Policy and Planning area to units in the Compliance and Enforcement area. Budgetarily, these programs have been shifted from Statewide Program 43 (Science and Technical Programs) to Statewide Program 47 (Enforcement Policy) and are so reflected the Budget Recommendation.

### **FY 1999 Budget Overview**

The department's recommended General Fund appropriation of \$383.4 million is \$7.7 million, or 2 percent, more than its FY 1998 adjusted appropriation of \$375.7 million. This net increase is largely attributable to the addition of \$50.0 million in State Aid funding for the new Open Space-Local Match program and the absence of nearly \$30 million in supplemental appropriations that were added to the department's FY 1998 budget to allocate Corporation Business Tax (CBT) revenues collected and credited to the department in FY 1997.

## Program Description and Overview

Notwithstanding these two factors, the State-funded portion of the recommended budget contains no other programmatic additions, eliminations, expansions or reductions. Most of the proposed budgetary changes are related to the elimination of one-time appropriations or shifts in funding sources that do not significantly affect total funding levels.

### Direct State Services

The recommended Direct State Services (DSS) or operating budget is \$175.0 million, a decrease of \$9.9 million or 5 percent from the current adjusted budget of \$184.9 million. The net decrease is mostly due to the one-time inclusion of \$7.6 million in FY 1998 supplemental appropriations derived from dedicated CBT revenues collected during FY 1997 for water resources programs and site cleanup administration. The net decrease also reflects the combined absence of approximately \$1.7 million for various Special Purpose accounts that are not recommended for funding in FY 1999 (as detailed in the "Significant Changes/New Programs" section of this report). Most of the department's regular operating accounts, however, do not reflect significant budgetary changes, nor are any employee layoffs anticipated.

No funding is recommended for the following DSS line items currently supported by administrative bond monies: Emergency Flood Control-Administrative Costs (\$248,000); Harbor Cleanup- Administrative Costs (\$145,000); and Public Waste Water Facilities Bond (\$658,000). In light of the fact that all three bond funds have limited available balances, it was determined that all remaining funds would be used for project construction costs rather than for administrative costs, which will be paid from State-funded or other bond accounts.

In the Site Remediation budget, two funding source changes are proposed. First, the Hazardous Waste Bond-Administrative Costs line item, which received an appropriation of \$5.4 million in the original FY 1998 Budget and is supported by bond monies from the Hazardous Discharge Bond Fund of 1986, has been adjusted to zero funding in the adjusted FY 1998 and FY 1999 budgets to reflect a funding source shift to the dedicated CBT monies appropriated to the Cleanup Projects-Administrative Costs line item. Consequently, these 1986 bond funds will be available for project construction costs starting in FY 1998. Second, funding for the Industrial Site Recovery Act line item, which currently receives \$399,000, will be changed in FY 1999 from State funds to dedicated cost recovery receipts from the Hazardous Discharge Site Cleanup Fund.

Other notable changes in the recommended DSS budget focus on items cited in the "Budget In Brief" that may not be readily apparent or displayed. These changes include an additional \$200,000 in the Parks Management salary account to expand its maintenance and security staff; 11 new positions anticipated for the Watershed Monitoring and Planning staff that will be supported by CBT funds; and savings of \$300,000 from vehicle leasing, \$900,000 from technology procurement, and \$200,000 from payments to the Office of Telecommunications and Information Systems (OTIS).

### Grants-In-Aid

The recommended Grants-In-Aid budget consists of one item: the Black Fly Treatment-Delaware River program, which is continued at \$350,000 and supports the State of Pennsylvania in carrying out this eradication activity. The Hudson River Waterfront Walkway grant of \$2.0 million was included in the current budget to complete sections of this 17-mile project that are located in Liberty State Park. It is not being renewed in FY 1999.

## Program Description and Overview

### State Aid

The current State Aid total is \$8.1 million. The recommended State Aid total of \$58.1 million includes the department's major new funding initiative, the \$50.0 million Open Space-Local Match program, which is intended to promote open space and farmland preservation by providing matching grants to localities for this purpose. More details on this program are provided throughout this report.

Other funding changes to State Aid accounts include an increase of \$220,000 for the Payments In Lieu of Taxes program and the absence of a one-time supplemental appropriation of \$250,000 to the Pinelands Commission to facilitate economic development. All other State Aid account levels, including the Mosquito Control program, the Pinelands Commission's administrative account, and funding to counties and municipalities under the County Environmental Health Act, remain stable in FY 1999.

### Capital Funds

The Capital Construction recommendation of \$71.2 million, while \$26.4 million lower than the FY 1998 funding level of \$97.6 million, mostly reflects the one-time inclusion in FY 1998 of \$51.8 million in supplemental appropriations for two CBT-funded accounts: Hazardous Substance Remediation and Private Underground Tank Remediation. These appropriations represent dedicated allocations from CBT collections in FY 1997 that were included in legislation enacted during FY 1998. The recommended amounts for these two programs, \$31.2 million and \$20.9 million respectively, are only slightly higher than the accounts' regular appropriations in FY 1998.

The department's other Capital account that receives annual dedicated funding is Shore Protection Fund Projects. This line item is supported by Realty Transfer tax revenues pursuant to P.L. 1992, c.148 and is funded at \$15.0 million in FY 1999, the same as its current funding level.

The recommended Capital budget also includes funding to repair and upgrade the infrastructure and facilities in various State-managed natural resource areas, but at lower levels than current-year funding. This is manifested by the recommendations of \$2.0 million for projects in the State Park and Forest systems (down from \$2.4 million); \$1.1 million for flood control planning (down from \$2.6 million); \$975,000 for the Palisades Interstate Park Commission (down from \$2.1 million); and no funding for projects managed by the Division of Fish, Game and Wildlife (currently budgeted at \$1.7 million).

### Debt Service

The department's recommended Debt Service obligation for FY 1999 is \$78.7 million, a decrease of about \$4 million, or 5 percent, from the current funding level. This change is largely due to the gradual retirement of bonds from older bond acts and the corresponding decrease in principal and interest payments on these bonds.

### Off-Budget

The department's off-budget accounts, also called "below the line" accounts, are displayed under the "**All Other Funds**" funding source designation in the Budget Recommendation (and in this report under "**Other Funds**"). These accounts contain revenues from special use taxes, bonds, special license plates, wildlife donations, the sale of merchandise, or other sources, as displayed and

## Program Description and Overview

itemized on Budget Pages C-17 and C-18 under "**Schedule II, Other Revenues.**" These monies are appropriated directly to the department for program support, but are not calculated or counted as on-budget appropriations due to the uncertainty of the amounts ultimately generated or needed for program support.

In FY 1999, the department's off-budget funding levels are estimated at \$35.9 million, a decrease of \$8.3 million, or 19 percent, from the FY 1998 estimated level. [These totals include one revolving fund account estimate that is not reflected in the amounts displayed under "**All Other Funds**" in the recommended budget.] The major change affecting the FY 1999 amount is the presence of a one-time credit in FY 1998 of \$6.0 million from the sale of State-owned land in Lawrence Township, Mercer county that was originally purchased with federal assistance to serve as a buffer zone for fire prevention purposes. These proceeds are being retained by the department to purchase other land for fire prevention purposes.

### Federal Funds

The department anticipates it will receive \$210.7 million in federal funding in FY 1999, an increase of \$37.6 million, or 22 percent, over the current appropriated level. As displayed on Budget Pages C-23 and C-24, the department receives federal funding for over 60 separate programs and activities. The projected net increase for FY 1999 is largely attributable to \$46.0 million in new funding expected from the EPA under the "Safe Drinking Water Act" to establish a Drinking Water State Revolving Fund.

This Fund would provide financing in much the same way as the Clean Water State Revolving Fund provides financing for wastewater facility projects, i.e. two types of low-interest loans would be available through the department and the N.J. Environmental Infrastructure Trust (formerly the Wastewater Treatment Trust) to owners of public water supply facilities to fully finance repair, upgrade or expansion projects. The department has requested that the 20 percent State matching share required under this program be provided from bonds issued under the "Water Supply Bond Act of 1981." It is expected that at least 16 new positions will be added to the department's staff to administer this program, the salary costs being paid from the \$46.0 million appropriation.

### Positions

According to data made public by the Administration concerning the Budget Recommendation, no State or federally-funded departmental employees are scheduled to be laid off due to salary account or program reductions in FY 1999.

As displayed in the Recommendation and in the "Fiscal and Personnel Summary" section of this report, the FY 1997 and FY 1998 position data figures reflect the actual number of employees on the department's payroll at a given point in time while the FY 1999 figures reflect the total number of positions to be funded without regard to vacancy status. The Recommendation lists 2,945 State-funded positions in FY 1999, an increase of 136 positions over the FY 1998 payroll count of 2,809 positions.

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# Fiscal and Personnel Summary

## AGENCY FUNDING BY SOURCE OF FUNDS (\$000)

	Expended FY 1997	Adj. Approp. FY 1998	Recom. FY 1999	Percent Change	
				1997-99	1998-99
<b>General Fund</b>					
Direct State Services	\$189,607	\$184,886	\$175,012	-7.7%	-5.3%
Grants - In - Aid	624	2,350	350	-43.9%	-85.1%
State Aid	7,794	8,092	58,062	645.0%	617.5%
Capital Construction	19,619	97,630	71,244	263.1%	-27.0%
Debt Service	100,480	82,703	78,697	-21.7%	-4.8%
<b>Sub-Total</b>	<b>\$318,124</b>	<b>\$375,661</b>	<b>\$383,365</b>	<b>20.5%</b>	<b>2.1%</b>
<b>Property Tax Relief Fund</b>					
Direct State Services	\$0	\$0	\$0	0.0%	0.0%
Grants-In-Aid	0	0	0	0.0%	0.0%
State Aid	0	0	0	0.0%	0.0%
<b>Sub-Total</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>0.0%</b>	<b>0.0%</b>
<b>Casino Revenue Fund</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>0.0%</b>	<b>0.0%</b>
<b>Casino Control Fund</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>0.0%</b>	<b>0.0%</b>
<b>State Total</b>	<b>\$318,124</b>	<b>\$375,661</b>	<b>\$383,365</b>	<b>20.5%</b>	<b>2.1%</b>
<b>Federal Funds</b>	<b>\$36,774</b>	<b>\$173,115</b>	<b>\$210,711</b>	<b>473.0%</b>	<b>21.7%</b>
<b>Other Funds</b>	<b>\$24,507</b>	<b>\$44,218</b>	<b>\$35,915</b>	<b>46.6%</b>	<b>-18.8%</b>
<b>Grand Total</b>	<b>\$379,405</b>	<b>\$592,994</b>	<b>\$629,991</b>	<b>66.0%</b>	<b>6.2%</b>

## PERSONNEL SUMMARY - POSITIONS BY FUNDING SOURCE

	Actual FY 1997	Revised FY 1998	Funded FY 1999	Percent Change	
				1997-99	1998-99
State	2,854	2,809	2,945	3.2%	4.8%
Federal	162	146	152	-6.2%	4.1%
All Other	70	71	72	2.9%	1.4%
<b>Total Positions</b>	<b>3,086</b>	<b>3,026</b>	<b>3,169</b>	<b>2.7%</b>	<b>4.7%</b>

FY 1997 and revised FY 1998 personnel data reflect actual payroll counts. FY 1999 data reflect the number of positions funded.

## AFFIRMATIVE ACTION DATA

Total Minority Percent	13.1%	13.3%	13.5%	----	----
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**Significant Changes/New Programs (\$000)**

<u>Budget Item</u>	<u>Adj. Approp.</u> <u>FY 1998</u>	<u>Recom.</u> <u>FY 1999</u>	<u>Dollar</u> <u>Change</u>	<u>Percent</u> <u>Change</u>	<u>Budget</u> <u>Page</u>
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NATURAL RESOURCE MANAGEMENT**DIRECT STATE SERVICES****Special Purpose:**

<b>New Jersey Trails Expansion</b>	<b>\$350</b>	<b>\$0</b>	<b>(\$350)</b>	<b>(100.0)%</b>	<b>D-104</b>
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This appropriation was included in the current budget to improve and expand recreational trails in the State Parks and Forests by utilizing \$100,000 to match Federal grants and to support small trail projects. The remaining \$250,000 was to be used to complete the 20-mile Sussex Branch Trail in Sussex and Morris counties.

<b>Delaware and Raritan Canal Commission, Canal Corridor Base Maps</b>	<b>\$65</b>	<b>\$0</b>	<b>(\$65)</b>	<b>(100.0)%</b>	<b>D-104</b>
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This appropriation was included in the FY 1998 Budget by the Legislature to support the Commission's objective of developing canal corridor base maps.

<b>Atlantic States Marine Fisheries Commission, Past Dues</b>	<b>\$83</b>	<b>\$0</b>	<b>(\$83)</b>	<b>(100.0)%</b>	<b>D-104</b>
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This appropriation was included in the FY 1998 Budget by the Legislature to pay the past dues owed by the department to this agency from FY 1994 through FY 1997.

**GRANTS-IN-AID**

<b>Hudson River Waterfront Walkway</b>	<b>\$2,000</b>	<b>\$0</b>	<b>(\$2,000)</b>	<b>(100.0)%</b>	<b>E-10</b>
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This appropriation was included in the FY 1998 Budget to help complete the unfinished sections of the project that are located within Liberty State Park. When the entire project is completed, it will cover 17 miles from the George Washington Bridge to the Bayonne Bridge. Of this amount, \$150,000 is intended for the Borough of Edgewater, Bergen county, for project-related activities within its borders.

## Significant Changes/New Programs (\$000)

<u>Budget Item</u>	<u>Adj. Approp.</u> <u>FY 1998</u>	<u>Recom.</u> <u>FY 1999</u>	<u>Dollar</u> <u>Change</u>	<u>Percent</u> <u>Change</u>	<u>Budget</u> <u>Page</u>
STATE AID					
Open Space-Local Match	\$0	\$50,000	\$50,000	—	F-8

This appropriation is the department's major new funding initiative in FY 1999. According to the Administration, the program is designed to encourage localities to buy land to preserve open space by providing one-to-one matching grants to those counties or municipalities that have established open space trust funds through local property taxes, or that can provide for the local match in some other way. At present, 13 counties and 53 municipalities already have this type of dedicated funding in place. Pursuant to proposed budget language, an unspecified portion of this appropriation could be transferred to the Department of Agriculture (DOA) to support its Farmland Preservation program.

According to the "Budget In Brief," this appropriation would help realize the Governor's stated goal of preserving 300,000 acres of land for open space purposes over the next four years. It is also being recommended in light of dwindling Green Acres bond fund balances and a growing waiting list of applicants for such funding. Rather than propose another Green Acres bond issue (the last one was in 1995), this appropriation may be intended to serve as an interim funding source until a stable funding source is established. The Governor's Council on N.J. Outdoors was convened last Spring to explore this issue and has recently released its findings, which recommended various funding source options. A more detailed analysis of this issue is contained in a Background Paper at the end of this report.

## CAPITAL CONSTRUCTION

## Bureau of Parks

Craven Point Pier Renovations	\$500	\$0	(\$500)	(100.0)%	G-6
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## Division of Fish and Game

Dam Repair, Maintenance and Renovation	\$1,570	\$0	(\$1,570)	(100.0)%	G-6
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## Law Enforcement

Radio System	\$100	\$0	(\$100)	(100.0)%	G-6
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These items were initially included in the FY 1998 Budget and are not recommended for continuation.

## Significant Changes/New Programs (\$000)

<u>Budget Item</u>	<u>Adj. Approp.</u> <u>FY 1998</u>	<u>Recom.</u> <u>FY 1999</u>	<u>Dollar</u> <u>Change</u>	<u>Percent</u> <u>Change</u>	<u>Budget</u> <u>Page</u>
Bureau of Parks Overnight Facilities- Development, Rehabilitation, Improvement and Repair	\$0	\$150	\$150	—	G-6

This appropriation is recommended to support costs for studies, development, improvements and repairs at Allaire State Park, Bass River State Forest, Wharton State Forest, Atsion Cabin, Washington's Crossing, and Phillips farm. This amount reflects partial funding of the department's \$600,000 request for these projects in FY 1999.

Palisades Interstate Park Commission Sanitary Facilities- Various Locations	\$2,020	\$875	(\$1,145)	(56.7)%	G-6
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The current amount was recommended for rehabilitation and improvement projects within the New Jersey portion of the park at the following locations: State Line, Ross Dock, Alpine Area, Fort Lee Historic Park, Englewood Picnic Area, and Undercliff Picnic Area. The recommended funding level was requested by the Palisades Interstate Park Commission for these projects in FY 1999.

## FEDERAL FUNDS

Shellfish and Marine Fisheries Management	\$5,690	\$2,630	(\$3,060)	(53.8)%	D-104
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The recommended amount reflects a projected reduction in funding for the Clean Vessel Act Program, from \$3.5 million in FY 1998 to \$1.0 million in FY 1999. This 75/25 (federal/state) matching grant program helps reduce pollution from vessel sewage discharges by supporting the construction, renovation, operation, and maintenance of pumpout and dump stations.

## ALL OTHER FUNDS

Forest Resource Management	\$6,280	\$363	(\$5,917)	(94.2)%	D-105
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Of the current amount, \$6.05 million represents proceeds from the sale of State-owned land in the Bakers Basin section of Lawrence Township, Mercer County, that was sold to a private firm to build communications towers. This land was originally purchased with federal assistance for the purpose of providing fire prevention areas or buffer zones to adjacent developed areas. The federal government has allowed the State Forest Fire Service to use the sale proceeds to purchase land for the same purpose in other areas of the State.

## Significant Changes/New Programs (\$000)

<u>Budget Item</u>	<u>Adj. Approp.</u> <u>FY 1998</u>	<u>Recom.</u> <u>FY 1999</u>	<u>Dollar</u> <u>Change</u>	<u>Percent</u> <u>Change</u>	<u>Budget</u> <u>Page</u>
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SCIENCE AND TECHNICAL PROGRAMS

## DIRECT STATE SERVICES

## Special Purpose:

Aquatic Life-Toxics  
Study

\$200	\$0	(\$200)	(100.0)%	D-108
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This sum was appropriated to the Division of Science and Research in FY 1998 to conduct a fish monitoring and assessment study to collect data on the quality of the State's aquatic environment and its potential impacts on public health. The last such study was conducted 10 years ago. One of the study's main goals was to provide updated data on contamination levels in the edible tissue of marine, estuarine, and freshwater fish and shellfish.

Open Space-Wetlands  
Assessment

\$255	\$0	(\$255)	(100.0)%	D-108
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This appropriation to the Division of Science and Research was included in the current budget to finance an inventory and assessment of the State's natural resources (i.e. wetlands, open space, and forests) in order to gauge current environmental conditions, evaluate the effect of past and current environmental policy, and to monitor the State's progress towards conservation goals. Existing land use information was last compiled in 1986.

Water Resources  
Monitoring and  
Planning-  
Constitutional  
Dedication

\$9,900	\$5,000	(\$4,900)	(49.5%)	D-108
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This appropriation represents a mandated portion of the 4 percent of annual revenues generated from the Corporation Business Tax (CBT) that are dedicated for specific environmental programs pursuant to a constitutional amendment approved by the State's voters in November, 1996. The program category above receives a minimum of one-sixth of the annual dedication or \$5.0 million, whichever is less, for watershed planning and nonpoint source pollution prevention projects.

The difference between the FY 1998 and FY 1999 amounts is the inclusion in the current amount of \$4.9 million in supplemental funding authorized under P.L. 1997, c.261. This sum reflects the prorated allocation of CBT collections dedicated for this category during the last seven months of FY 1997. Since the aforementioned act was not approved until after FY 1998 began, the supplemental appropriation appears as part of this account's FY 1998 balance.

**Significant Changes/New Programs (\$000)**

<u>Budget Item</u>	<u>Adj. Approp.</u> <u>FY 1998</u>	<u>Recom.</u> <u>FY 1999</u>	<u>Dollar</u> <u>Change</u>	<u>Percent</u> <u>Change</u>	<u>Budget</u> <u>Page</u>
<b>FEDERAL FUNDS</b>					
Water Monitoring and Planning	\$4,200	\$5,650	\$1,450	34.5%	D-109

Of the current and recommended amounts, federal grants for the Clean Lakes program are projected to increase from \$1.50 million in FY 1998 to \$3.25 million in FY 1999. These grants support State and local efforts to evaluate lake water quality, to implement strategies to prevent further water quality degradation, and to remediate existing lake water quality problems.

SITE REMEDIATION

**DIRECT STATE SERVICES**

**Special Purpose:**

Industrial Site Recovery Act	\$399	\$0	(\$399)	(100.0)%	D-111
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This State-funded appropriation supports the department's administration of the activities authorized under this act, which include the mitigation and remediation of hazardous substances on industrial sites that have redevelopment potential. Beginning in FY 1999, these costs will be paid from responsible party cost recovery receipts that are dedicated to the Hazardous Discharge Site Cleanup Fund. These monies support the department's administration of privately-supported (or "responsible party") site remediation projects. Hence, the future costs of the cited act, which will be included in the line item "Hazardous Discharge Site Cleanup Fund-Responsible Party" (Budget Page D-111), will no longer be supported by a State-funded appropriation.

**Cleanup Projects**

Administrative Costs-Constitutional Dedication	\$8,300	\$5,700	(\$2,600)	(31.3)%	D-111
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This appropriation represents a mandated portion of the 4 percent of annual revenues generated from the Corporation Business Tax (CBT) that are dedicated for specific environmental programs pursuant to a constitutional amendment approved by the State's voters in November, 1996. The program category above receives a maximum of 9 percent of the annual dedication for another category, Hazardous Substance Remediation (see next budget item), for administrative costs associated with hazardous waste site cleanup projects financed by CBT monies.

The difference between the FY 1998 and FY 1999 amounts is the inclusion in the current amount of \$2.7 million in supplemental funding authorized under P.L. 1997, c.234. This sum reflects the prorated allocation of CBT collections dedicated for this category during the last seven months of FY 1997. Since the aforementioned act was not approved until after FY 1998 began, the supplemental appropriation appears as part of this account's FY 1998 balance.

## Significant Changes/New Programs (\$000)

<u>Budget Item</u>	<u>Adj. Approp.</u> <u>FY 1998</u>	<u>Recom.</u> <u>FY 1999</u>	<u>Dollar</u> <u>Change</u>	<u>Percent</u> <u>Change</u>	<u>Budget</u> <u>Page</u>
<b>CAPITAL CONSTRUCTION</b>					
Hazardous Substance Remediation- Constitutional Dedication	\$43,200	\$31,200	(\$12,000)	(27.8)%	G-7

This appropriation represents a mandated portion of the 4 percent of annual revenues generated from the Corporation Business Tax (CBT) that are dedicated for specific environmental programs pursuant to a constitutional amendment approved by the State's voters in November, 1996. The program category above receives a minimum of one-half of the annual dedication for the cleanup of hazardous waste sites.

The difference between the FY 1998 and FY 1999 amounts is the inclusion in the current amount of \$12.1 million in supplemental funding authorized under P.L. 1997, c.234. This sum reflects the prorated allocation of CBT collections dedicated for this category during the last seven months of FY 1997. Since the aforementioned act was not approved until after FY 1998 began, the supplemental appropriation appears as part of this account's FY 1998 balance.

Private Underground Tank Remediation- Constitutional Dedication	\$30,650	\$20,900	(\$9,750)	(31.8)%	G-7
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This appropriation represents a mandated portion of the 4 percent of annual revenues generated from the Corporation Business Tax (CBT) that are dedicated for specific environmental programs pursuant to a constitutional amendment approved by the State's voters in November, 1996. The program category above receives a minimum of one-third of the annual dedication for the upgrade, repair, and cleanup of privately-owned underground storage tanks. These funds will be provided through a grant and loan program established under P.L. 1997, c.235.

The difference between the FY 1998 and FY 1999 amounts is the inclusion in the current amount of \$9.95 million in supplemental funding authorized under P.L. 1997, c.235. This sum reflects the prorated allocation of CBT collections dedicated for this category during the last seven months of FY 1997, plus an additional \$50,000 for the N.J Economic Development Authority for administrative expenses. Since the aforementioned act was not approved until after FY 1998 began, the supplemental appropriation appears as part of this account's FY 1998 balance.

## Significant Changes/New Programs (\$000)

<u>Budget Item</u>	<u>Adj. Approp.</u> <u>FY 1998</u>	<u>Recom.</u> <u>FY 1999</u>	<u>Dollar</u> <u>Change</u>	<u>Percent</u> <u>Change</u>	<u>Budget</u> <u>Page</u>
<u>ENVIRONMENTAL REGULATION</u>					
<b>DIRECT STATE SERVICES</b>					
<b>Special Purpose:</b>					
Public Wastewater Facilities Bond	\$658	\$0	(\$658)	(100.0)%	D-115
1992 Wastewater Treatment Fund	\$1,400	\$2,700	\$1,300	92.9%	D-115

These two line items reflect bond fund appropriations that support the department's administration of the wastewater treatment construction loan programs, which are jointly funded by federal and State monies under the auspices of the Wastewater Treatment Financing Program. The first line item refers to monies previously appropriated from the "Water Conservation Bond Act of 1969" that paid for administrative costs of the 1985 Wastewater Treatment Fund, a component of the aforementioned Financing Program. No funding is recommended in FY 1999 for this account because there are no funds available from this source, per footnote (b) on Budget Page D-116.

This "expired" appropriation, however, is being replaced and supplemented by the appropriation for the second line item listed above, which also supports the department's expenses in administering the Financing Program. This account derives its funding from a \$45 million bond allocation authorized by the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992." Together with \$1.455 million in off-budget funding for fringe benefits and indirect costs, this funding source will contribute a total of \$4.155 million toward the department's administration of the Financing Program. This represents an increase of \$844,000 or 27 percent over the combined funding level (both on- and off-budget) of these two line items in FY 1998. The increase is proposed in anticipation of greater program activity in FY 1999. The federal contribution toward administrative costs is projected at \$2.4 million, about the same as the current funding level.

**CAPITAL CONSTRUCTION**

Water Supply and Watershed Management- Flood Control HR 6 Projects	\$2,590	\$1,144	(\$1,446)	(55.8)%	G-7
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These funds are used to match federal funding for flood control projects authorized under the federal "Water Resources Development Act of 1986." The department and the Commission on Capital Budgeting and Planning recommended that \$5.64 million be appropriated in FY 1999 in order to match \$23.5 million in federal funds and \$1.6 million in local funds for the following projects: Ramapo River in Oakland, Newton Creek, Green Brook, Molly Ann's Brook, and the Passaic River Storage Area. It is not yet known how the federal share will be affected by the recommended State share level.

**Significant Changes/New Programs (\$000)**

<u>Budget Item</u>	<u>Adj. Approp.</u> <u>FY 1998</u>	<u>Recom.</u> <u>FY 1999</u>	<u>Dollar</u> <u>Change</u>	<u>Percent</u> <u>Change</u>	<u>Budget</u> <u>Page</u>
<b>FEDERAL FUNDS</b>					
<b>Water Supply and Watershed Management</b>	<b>\$2,200</b>	<b>\$48,200</b>	<b>\$46,000</b>	<b>2090.9%</b>	<b>D-115</b>

Of the recommended amount, \$46.0 million reflects an appropriation under the federal "Safe Drinking Water Act" to support a national program that sets revised standards for drinking water quality. The recommended amount consists of previous appropriations to New Jersey from FY 1997 and FY 1998 that were not "drawn down" or utilized due to delays in program implementation. These funds will be used by the department and the N.J. Environmental Infrastructure Trust (formerly the Wastewater Treatment Trust) to establish a low-interest loan program, called the Drinking Water State Revolving Fund, to assist owners of public water supply systems in upgrading, repairing or expanding their facilities. The Office of Management and Budget (OMB) estimates that up to \$13.6 million of the federal allocation could be available for program administration.

The State must provide 20 percent matching funds to qualify for this appropriation. The department has requested that the State share be provided from the "Water Supply Bond Act of 1981."

ENVIRONMENTAL PLANNING AND ADMINISTRATION**STATE AID**

<b>Pinelands Economic Development</b>	<b>\$250</b>	<b>\$0</b>	<b>(\$250)</b>	<b>(100.0)%</b>	<b>F-10</b>
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This sum, as authorized by P.L. 1997, c.233, was appropriated to the Pinelands Commission to develop a pilot program to assist rural Pinelands municipalities in identifying economic development opportunities that complement regional requirements for resource protection. The act directs the Commission to establish partnerships with participating municipalities and provide them with technical and other assistance in developing a local economic development entity.

ENVIRONMENTAL REGULATION**DIRECT STATE SERVICES**

<b>Special Purpose: Operation Clean Shores</b>	<b>\$360</b>	<b>\$0</b>	<b>(\$360)</b>	<b>(100.0)%</b>	<b>D-121</b>
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This appropriation and an identical appropriation in FY 1997 were made to expand the areas in which this program operates. The Operation Clean Shores program uses State prison inmates to clean up and dispose of debris along the State's shorelines. It is primarily funded from an annual \$600,000 allocation from the Coastal Protection Trust Fund, which derives its funding from the sale of shore protection license plates. This allocation is authorized in a separate, off-budget account pursuant to annual budget language contained in the department's budget (see Budget Page D-122).

**Significant Changes/New Programs (\$000)**

<u>Budget Item</u>	<u>Adj. Approp.</u> <u>FY 1998</u>	<u>Recom.</u> <u>FY 1999</u>	<u>Dollar</u> <u>Change</u>	<u>Percent</u> <u>Change</u>	<u>Budget</u> <u>Page</u>
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Of the \$720,000 appropriated to this account in FY 1997 and FY 1998, only about \$18,000 (as of March, 1998) has been spent. An appropriation of \$400,000 that was made to the program's State Aid account in FY 1996, and directed by current budget language to be transferred to the above account, has also remained intact. According to the Office of Management and Budget, this amount is scheduled to be lapsed to the General Fund at the end of FY 1998.

## Language Provisions

## NATURAL RESOURCE MANAGEMENT

1998 Appropriations Handbook

p. B-73

The amount hereinabove for the Historic Trust Administrative Costs account is appropriated from the "Historic Preservation Fund" established pursuant to the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992," P.L. 1992, c.88, and the "Green Acres, Historic Preservation and Blue Acres Bond Act of 1995," P.L. 1995, c.204, together with an amount not to exceed \$209,000 subject to the approval of the Director of the Division of Budget and Accounting, for costs attributable to planning, administrative, organization, and operating expenses related to historic preservation projects.

1999 Budget Recommendations

p. D-262

Same language, except that it has been moved to the Department of State's recommended budget on the page cited above.

Explanation

The relocation of this language provision is in anticipation of the pending transfer of the N.J. Historic Trust to the Department of State. The Trust, an independent agency created to administer State historic preservation bond monies, is being transferred along with several other State units associated with cultural or historical programs so that all such activities can be consolidated under one department. An Executive Reorganization Plan is expected to be executed during late FY 1998 to authorize these moves.

1998 Appropriations Handbook

No comparable language.

1999 Budget Recommendations

p. D-105

Pursuant to P.L. 1993, c. 303, there is appropriated such sums as may be necessary to offset revenue losses associated with the issuance of free hunting and fishing licenses to active members of the New Jersey State National Guard. The amount to be appropriated shall be certified by the Division of Fish, Game and Wildlife and is subject to the approval of the Director of the Division of Budget and Accounting.

Language Provisions

Explanation

This provision ensures that the Division of Fish, Game and Wildlife will be reimbursed by the General Fund for free hunting and fishing licenses issued pursuant to the cited act. All receipts from these licenses are normally dedicated to the Division for program support. In FY 1998, the projected reimbursement amount is \$94,000.



1998 Appropriations Handbook

1999 Budget Recommendations

p. B-74

The amount hereinabove for the Emergency Flood Control Administrative Costs account is appropriated from funds previously appropriated from the Emergency Flood Control Fund created pursuant to P.L. 1978, c. 78, together with an amount not to exceed \$158,000 subject to the approval of the Director of the Division of Budget and Accounting, for administrative costs related to this bond fund.

No comparable language.

Explanation

Of the \$25 million originally appropriated from the cited bond fund, only about \$500,000 remains available for project funding. No line item funding or language is recommended for this account in FY 1999 because it has been determined that these remaining funds be used for project rather than for administrative costs. Any such future costs for active projects will be paid by State funds.



1998 Appropriations Handbook

1999 Budget Recommendations

p. B-74

The amounts hereinabove for the Harbor Cleanup Administrative Costs and the Dam Repair Administrative Costs accounts are appropriated from funds previously appropriated from the Natural Resources Fund created pursuant to P.L. 1980, c. 70, together with an amount not to exceed \$181,000 subject to the approval of the Director of the Division of Budget and Accounting, for administrative costs related to these bond funds.

p. D-106

The amount hereinabove for the Dam Repair Administrative Costs account is appropriated from the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992," P.L. 1992, c. 88, together with an amount not to exceed \$99,000 subject to the approval of the Director of the Division of Budget and Account, for administrative costs related to this fund.

## Language Provisions

### Explanation

The proposed language amendments reflect the nearly depleted balance of the Harbor Cleanup component of the "Natural Resources Bond Act of 1980." Of the \$12 million originally appropriated from the cited bond fund for harbor cleanup, approximately \$600,000 remains for project funding. In order to use the remaining funds solely for project costs, this account will receive no funding in FY 1999, therefore obviating the need to continue this language.

The other account cited in the current language, Dam Repair Administrative Costs, will continue to receive funding in FY 1999 despite the fact that the \$15 million in Natural Resources bonds originally allocated for dam repair are mostly spent. As indicated in the proposed language, this account will remain active because its funding source will be changed from the Natural Resources bond fund to the 1992 Green Acres bond fund, which has \$20 million allocated for dam repair projects. This account will therefore provide administrative support for dam repair projects financed from both bond funds.

Last, the amount cited in the proposed language, which is used to pay fringe benefits and indirect costs, is significantly lower than the current corresponding amount because it reflects the exclusion of the Harbor Cleanup account in FY 1999.

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## SCIENCE AND TECHNICAL PROGRAMS

### 1998 Appropriations Handbook

No comparable language.

### 1999 Budget Recommendations

p. D-109

Such sums as may be necessary are appropriated from the dedicated Low Level Radioactive Waste Fund to the Department of Environmental Protection for administrative costs, which shall be solely responsible for providing administrative support to the Low Level Radioactive Waste Disposal Facility Siting Board, subject to the approval of the Director of the Division of Budget and Accounting.

### Explanation

In February, 1998, the New Jersey Low-Level Radioactive Waste Disposal Facility Siting Board voted to suspend its mission of developing a site in New Jersey for the construction of a low-level radioactive waste disposal facility. This independent agency was created in 1989 in response to a federal mandate that each state must be responsible for disposing of its low-level radioactive waste, which generally consists of contaminated materials from hospitals, labs, universities, and protective clothing from nuclear power plants.

The Board's operating expenses are paid from an off-budget account that is funded from periodic assessments on the generators of such waste materials. Its main activity over the years has been to

## Language Provisions

find a municipality willing to have this type of waste facility sited within its borders. In light of the fact that no such municipality has yet been found, and given that the volume of this waste has been declining, the Board has determined that the State can do without such a facility for the time being, provided that this waste can continue being sent to a special disposal facility in South Carolina.

Since the Board plans to scale down its staff and operations rather than disband, the proposed language allows departmental staff to provide whatever administrative support the Board requires and be reimbursed for these services from the remaining assessment revenues. It should be noted that this already occurs in that the department currently provides 2.5 employees to the Board for which it is reimbursed about \$500,000 annually from assessment revenues.

As of March, 1998, a balance of approximately \$4 million in uncommitted assessment revenues remains in the Board's funding account. The Board's FY 1998 operating budget is \$1.1 million, plus about \$5.7 million for technical site studies, municipal assistance, and other related costs; its FY 1999 operating budget is projected at \$900,000. These amounts will probably change as a result of the Board's decision to suspend most of its operations.



### 1998 Appropriations Handbook

p. B-78

The amount hereinabove for the Environmental Remediation and Monitoring program classification shall be provided from revenue received from the Corporation Business Tax, pursuant to the "Corporate Business Tax Act," P.L. 1945, c. 162 (C. 54:10A-1 et seq.), as dedicated by Article VIII, Section II, paragraph 6 of the State Constitution.

### 1999 Budget Recommendations

p. D-109

Same language, except the following sentence is added: "The unexpended balance as of June 30, 1998 in the Water Monitoring and Planning-Constitutional Dedication account is appropriated, subject to the approval of the Director of the Division of Budget and Accounting."

### Explanation

The current language is amended to authorize the reappropriation of any unspent monies remaining in this account at the end of FY 1998. This will allow such funds to be carried forward into the same account in FY 1999 rather than be lapsed into the General Fund.



## Language Provisions

### SITE REMEDIATION

#### 1998 Appropriations Handbook

p. 80

The amount hereinabove for the Hazardous Waste Bond Administrative Costs account is appropriated from the Hazardous Discharge Fund of 1986, created pursuant to section 14 of the "Hazardous Discharge Fund Bond Act of 1986," P.L. 1986, c. 113, together with an amount not to exceed \$4,388,000 for administrative costs associated with the cleanup of hazardous waste sites, subject to the approval of the Director of the Division of Budget and Accounting.

#### 1999 Budget Recommendations

p. D-112

There is appropriated from the Hazardous Discharge Fund of 1986, created pursuant to section 14 of the "Hazardous Discharge Fund Bond Act of 1986," P.L. 1986, c. 113, an amount not to exceed \$566,000 for administrative costs associated with the cleanup of hazardous waste sites, subject to the approval of the Director of the Division of Budget and Accounting.

#### Explanation

The current language refers to the account that paid the department's administrative costs for managing publicly-funded site remediation projects financed by bond monies from the "Hazardous Discharge Bond Act of 1986." This line item initially received an appropriation of \$5.38 million in the original 1997 Appropriations Act, plus an additional \$4.39 million in off-budget funding to pay for fringe benefits and indirect costs. As the current language states, both amounts were derived from the 1986 bond act. In the recommended budget, on-budget funding for this line item has been adjusted to zero in both FY 1998 and FY 1999 because these costs are now being paid from Corporation Business Tax (CBT) revenues dedicated to support the administrative costs of site remediation projects supported by both CBT funds and 1986 bond funds.

As indicated in the proposed language, the account's off-budget appropriation has been reduced to \$566,000 in FY 1999, the same amount as the account's adjusted FY 1998 appropriation. By shifting this line item's appropriation and funding source to the CBT-funded line item "Cleanup Projects, Administrative Costs-Constitutional Dedication" (Budget Page D-111), the bond monies formerly appropriated to these on- and off-budget accounts (\$9.2 million in FY 1998) are supposed to be used toward project cleanup costs rather than for administration. However, since all but \$566,000 of the off-budget appropriation for fringe benefits and indirect costs (see above) will no longer be used for this purpose, these costs will be covered by State funds from the Interdepartmental Accounts because CBT monies are precluded from paying these types of expenses.

## Language Provisions

### 1998 Appropriations Handbook

p. B-80

The amount hereinabove for the Environmental Remediation and Monitoring program classification shall be provided from revenue received from the Corporation Business Tax, pursuant to the "Corporate Business Tax Act," P.L. 1945, c. 162, (C. 54:10A-1 et seq.), as dedicated by Article VIII, Section II, paragraph 6 of the State Constitution.

### 1999 Budget Recommendations

p. D-112

Same language, except the following sentence is added: "The unexpended balance as of June 30, 1998 in the Cleanup Projects Administrative Costs-Constitutional Dedication account is appropriated, subject to the approval of the Director of the Division of Budget and Accounting."

### Explanation

The current language is amended to authorize the reappropriation of any unspent monies remaining in this account at the end of FY 1998. This will allow such funds to be carried forward into the same account in FY 1999 rather than be lapsed into the General Fund.

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## ENVIRONMENT REGULATION

### 1998 Appropriations Handbook

No comparable language.

### 1999 Budget Recommendations

p. D-116

In addition to the federal funds amount hereinabove for the Water Supply and Watershed Management program class, such additional sums that may be received from the federal government for the Drinking Water State Revolving Fund program are hereby appropriated.

In addition to the federal funds amount hereinabove for the Public Wastewater Facilities program class, such additional sums that may be received from the federal government for the Clean Water State Revolving Fund program are hereby appropriated.

### Explanation

The first language provision refers to \$46 million in federal monies anticipated by the department in FY 1999 under the federal "Safe Drinking Water Act." The second provision refers to \$64 million in federal funds anticipated by the department under the federal "Clean Water Act." Both amounts

## Language Provisions

will be used to capitalize revolving loan programs, the first providing assistance for public water supply projects, the second for wastewater treatment facility projects. Both programs are administered in part through the N.J. Environmental Infrastructure Trust, formerly the Wastewater Treatment Trust. The proposed language provisions would allow any additional federal monies made available after the enactment of the FY 1999 Appropriations Act to go directly to these program accounts without the need for supplemental appropriation legislation to first be enacted.

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### 1998 Appropriations Handbook

#### p. B-84

The amount hereinabove for the Public Waste Water Facilities Bond account is appropriated from funds previously appropriated from the Water Conservation Fund, together with an amount not to exceed \$347,000 subject to the approval of the Director of the Division of Budget and Accounting, for costs attributable to planning, engineering, developing and constructing regional wastewater treatment facilities.

### 1999 Budget Recommendations

No comparable language.

### Explanation

This language refers to the department's administration of the Wastewater Treatment Program. It is not continued in FY 1999 because no funding is recommended for the cited account due to the projected depletion of the cited funding source. Money now supplied by this account will be replaced by another account supported by bond monies from the 1992 Wastewater Treatment Fund.

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### 1998 Appropriations Handbook

#### p. B-84

There is appropriated from the 1992 Wastewater Treatment Fund, created pursuant to the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992," P.L. 1992, c. 88, such sums as may be necessary for costs attributable to the administration of wastewater treatment system projects, subject to the approval of the Director of the Division of Budget and Accounting.

### 1999 Budget Recommendations

#### p. D-116

The amount hereinabove for the 1992 Wastewater Treatment Fund account is appropriated from the 1992 Wastewater Treatment Fund, created pursuant to the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992," P.L. 1992, c. 88, together with an amount not to exceed \$1,455,000, for costs attributable to the administration of wastewater treatment system projects, subject to the approval of the Director of the Division of Budget and Accounting.

## Language Provisions

### Explanation

As indicated in the preceding Explanation, this account will fund the State portion of the department's administration of the Wastewater Treatment Program in FY 1999. The federal portion is estimated at \$2.4 million. The current language refers solely to the off-budget status of the entire account (as it appeared at the beginning of FY 1998), while the proposed language refers to both the on-budget and off-budget accounts of this line item.

While the current language does not authorize a specific amount to be appropriated, the adjusted FY 1998 Budget indicates that \$1.4 million has been appropriated to the line item's on-budget account and \$866,000 appropriated to its off-budget account, for a total of \$2.270 million in FY 1998. In FY 1999, the on-budget account is recommended at \$2.7 million while the off-budget account is projected at \$1.455 million (as indicated in the proposed language), for a total of \$4.155 million. As previously mentioned, the FY 1999 increase reflects the addition of funding formerly provided by the Public Wastewater Facilities Bond account.

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## ENVIRONMENTAL PLANNING AND ADMINISTRATION

### 1998 Appropriations Handbook

### 1999 Budget Recommendations

#### p. B-86

<p>The unexpended balance as of June 30, 1997 in the Environmental Enhancements and Ecosystem Improvement account is appropriated, of which an amount not to exceed \$1,500,000 is transferred to the Department of Commerce and Economic Development for the Office of Sustainability, subject to the approval of the Director of the Division of Budget and Accounting.</p>	<p>No comparable language.</p>
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### Explanation

This language refers to the \$5 million appropriation included in the department's FY 1997 budget by the Legislature for special environmental enhancement projects. It authorizes the reappropriation of the account's unexpended FY 1997 funds (totaling \$3.088 million), \$1.5 million of which is allowed to be transferred to the Department of Commerce and Economic Development to support a newly created Office of Sustainability. The language is not continued in FY 1999 because all funds from this account should be expended before the end of FY 1998.

## Language Provisions

## ENFORCEMENT POLICY

1998 Appropriations Handbook1999 Budget Recommendations

p. B-88

p. D-122

The amount hereinabove for the Operations Clean Shores account, and the unexpended balance as of June 30, 1997 is appropriated for that purpose and for the purposes itemized in P.L., c. (C. )(now pending before the Legislature as Senate Bill No. 2214 of 1997).

Same language, except everything after ". . . . appropriated" is deleted.

Explanation

The reference to the pending bill (from the last legislative session) is deleted in the proposed language because it is no longer applicable. The bill, which was not enacted, would have added language to the current budget authorizing funds in this account to be used not only for Operation Clean Shores (OCS), but for State and local costs attributable to the Cooperative Coastal Monitoring Program, the Sewerage Infrastructure Improvement Act, the monitoring of stormwater systems, and integrated Geographic Information System watershed baseline mapping.

For background purposes, this account had a balance of approximately \$720,000 at the beginning of FY 1998. As of March, 1998, its balance was approximately \$700,000. This account was also directed by current budget language to have transferred to it the reappropriated FY 1997 balance (\$400,000) contained in the program's State Aid account, this has not yet occurred (see State Aid section ahead). The OCS receives its regular operating funds, up to \$600,000 annually, from receipts dedicated from the sale of shore protection license plates, which are credited to a separate, off-budget account.

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 DEPARTMENT - WIDE LANGUAGE
1998 Appropriations Handbook1999 Budget Recommendations

No comparable language.

p. D-122

Notwithstanding the provisions of P.L. 1997, c. 235, (C. 58:10A-37.22) receipts derived from the repayment of any outstanding loans made from the State Underground Storage Tank Improvement Fund are hereby anticipated.

Explanation

The cited statute, the "Underground Storage Tank Finance Act," created the Petroleum Underground Storage Tank Remediation, Upgrade and Closure Fund to provide grants and loans to owners of private underground storage tanks for tank upgrades, replacements or cleanups. The federal deadline for addressing these actions is December 22, 1998. This program is administered by the

## Language Provisions

N.J. Economic Development Authority, with assistance from the department, and financed primarily by CBT monies dedicated for private underground storage tank remediation (see Budget Page G-7).

The State Underground Storage Tank Improvement Fund refers to a \$5 million State-funded loan program created in 1992, which has since been superseded by the new CBT-funded program. The proposed language ensures that any loan repayments from the former loan program will be deposited into the General Fund, the original funding source for this program, and counted as anticipated revenues in the State Budget. Otherwise, such repayments would be credited to the new program pursuant to section 3(a)(2) of the cited act.



### 1998 Appropriations Handbook

No comparable language.

### 1999 Budget Recommendations

p. D-122

Notwithstanding any other provision in this act, of the Federal Fund amounts hereinabove appropriated for the programs included in the Performance Partnership Grant Agreement with the Environmental Protection Agency, the Department of Environmental Protection is hereby authorized to reallocate the appropriations, in accordance with the Grant Agreement and subject to the approval of the Director of the Division of Budget and Accounting.

### Explanation

The grant agreement cited in the proposed language refers to the manner in which federal monies appropriated to the department will be managed and spent under the parameters of the National Environmental Performance Partnership System (NEPPS). This system is based on achieving environmental results through the use of environmental indicators, which are measures of current environmental conditions and trends over time.

The new language gives the department the flexibility to reallocate federal appropriations under this agreement between federally-funded programs without the need for prior Legislative approval.



## Language Provisions

### 1998 Appropriations Handbook

#### p. B-89

Notwithstanding the provisions of any other law to the contrary, such sums as are necessary, but not to exceed \$20,000,000, are appropriated to subsidize county and county authority debt service payments for environmental investments incurred as of June 30, 1997, pursuant to the "Solid Waste management Act," P.L. 1970, c. 39 (C. 13:1E-1 et seq.) and the "Solid Waste Utility Control Act," P.L. 1970, c. 40 (C. 48:13A-1 et seq.) in accordance with the criteria and program guidelines established by the Commissioner of the Department of Environmental Protection, the Commissioner of the Department of Community Affairs and the State Treasurer, subject to the approval of the Director of the division of Budget and Accounting. Expenditure of such funds are conditioned upon the State Treasurer having conducted or contracted for an operational audit of such county or county authority, and such county or county authority having implemented the audit recommendations of the satisfaction of the State Treasurer. Prior to the distribution of any amounts to a county or county authority the State Treasurer shall notify the Joint Budget Oversight Committee of the amount and recipient of each distribution and the progress of each county and county authority in implementing the audit recommendations.

### 1999 Budget Recommendations

#### p. G-22

Same language, but moved to the Capital Construction section of the Interdepartmental Accounts budget on the page cited above.

### Explanation

The current language is continued in FY 1999 in the Interdepartmental Accounts' portion of the Department of the Treasury's recommended budget because the audits referenced in this provision are conducted under the State Treasurer's supervision.

This language was included by the Legislature in FY 1998 to provide interim funding assistance to counties who need help in meeting debt service payments due to the recent federal court decisions affecting State control over the flow of solid waste to county incinerators. This funding, plus identical assistance recommended in FY 1999, is designed to provide such assistance until a permanent solution to this "stranded debt" problem is developed.

Language Provisions

STATE AID

1998 Appropriations Handbook

1999 Budget Recommendations

p. F-8

No comparable language

Of the amount hereinabove for the Open Space-Local Match program, appropriations related to the acquisition of farmland may be transferred to the Department of Agriculture, subject to the approval of the Director of the Division of Budget and Accounting.

Explanation

This language authorizes the transfer of an unspecified portion of the proposed \$50 million Open Space-Local match appropriation to the Department of Agriculture to help support its Farmland Preservation program. Like the Green Acres program, all bond monies dedicated for Farmland Preservation are scheduled to be spent sometime in 1998. At the time of this writing, the exact amount of this transfer has not yet been determined.



1998 Appropriations Handbook

1999 Budget Recommendations

p. D-8

The unexpended balance as of June 30, 1997 in the Operation Clean Shores account is appropriated to the associated Direct State Services account.

No comparable language.

Explanation

This State Aid account currently contains \$400,000 that was included by the Legislature in the FY 1996 Budget to expand program operations. The Legislature also included the language provision above in the present budget to transfer this amount to the program's DSS account so that all available State appropriations would be in one account. As noted earlier in this section, the cited DSS account received appropriations of \$360,000 in both FY 1997 and FY 1998, but the program's regular operating budget is supported by shore protection license plate receipts dedicated to an off-budget account by budget language (see Budget Page D-122).

As of this writing, the \$400,000 in the State Aid account is in "budget reserve," or frozen, and is scheduled to lapse at the end of FY 1998.



## Language Provisions

### CAPITAL CONSTRUCTION

#### 1998 Appropriations Handbook

##### p. E-5

Of the amount herein above appropriated for Hazardous Substance Discharge Remediation - Constitutional Dedication, such sums as are necessary, as determined by the Director of the Division of Budget and Accounting, shall be made available for site remediation costs associated with State-owned underground storage tanks at the following locations: Department of Environmental Protection - Cape May Point State Park, Division C - Forest Fire, Island Beach State Park, Lebanon State Forest, Park Headquarters - Region 3, Ringwood State Park, Spring Meadow Golf Course, Wharton State Forest, Worthington State Forest; Department of Transportation - Branchville Maintenance Yard, Flemington Maintenance Yard, Main Office Complex, Summit Maintenance Yard; Department of Military and Veterans' Affairs - Cape May Armory and OMS, Teaneck Armory and OMS, Toms River Armory, Woodstown Armory; Department of Corrections - Albert Wagner Youth Facility, Mountainview Youth Facility, Northern State Prison, East Jersey State Prison; Department of Human Services - Marlboro Psychiatric Hospital North Jersey Developmental Center, North Princeton Developmental Center, Trenton Psychiatric Hospital, Woodbine Developmental Center, Greystone Park Psychiatric Hospital, New Lisbon Developmental Center; Department of Law and Public Safety - Berlin State Police Station, Keyport State Police State, Princeton State Police Station, Totowa State Police Station; and, Department of the Treasury - Eggerts Complex.

#### 1999 Budget Recommendations

##### p. G-7

Of the amount herein above appropriated for Hazardous Substance Discharge Remediation - Constitutional Dedication, such sums as are necessary, as determined by the Director of the Division of Budget and Accounting, shall be made available for site remediation costs associated with State-owned underground storage tanks.

#### Explanation

Both language provisions authorize unspecified sums from dedicated CBT appropriations to the cited line item (\$43.2 million in FY 1998; \$31.2 million recommended in FY 1999) to be utilized for site remediation costs associated with State-owned underground storage tanks. The difference between the two provisions is that the current language is site-specific while the recommended language is not. Although the sums that "..... shall be made available for ....." these costs are not

## Language Provisions

yet been announced, the "Budget In Brief" indicates that \$10 million will be used for this purpose in FY 1999.

Like private tank owners, State-owned tanks must be upgraded, replaced or closed by December 22, 1998 pursuant to a federal mandate set by the EPA 10 years ago. In performing these actions, any contamination from leaking tanks must first be cleaned up or remediated. It should therefore be pointed out that the sums appropriated by this language apply only to site remediation, not to costs associated with tank upgrade, replacement or closure. These costs are being supported by State appropriations contained in the Interdepartmental Accounts' budget (see Budget Page G-22).

Last, it should also be noted that funds from the CBT allocation for hazardous substance remediation, rather than from the CBT allocation for private underground storage tanks, are being utilized for State-owned tanks because the latter funding is constitutionally prohibited from being used for State-owned tank projects.



## Discussion Points

1. The most prominent State-funded initiative proposed in the department's FY 1999 budget is the Open Space-Local Match Program, a \$50 million appropriation that will provide 50/50 matching grants for open space preservation to localities that either have existing funding mechanisms in place to dedicate tax money for this purpose, or that can otherwise provide such matching funds. Proposed budget language authorizes the department to transfer a portion of this appropriation to the Department of Agriculture to augment its Farmland Preservation program. With Green Acres and Farmland Preservation bond funds nearly exhausted, this program essentially provides interim funding until new open space financing is established.

**!** *Questions:* Please describe the program's estimated administrative costs, grant criteria and size, project criteria, and relationship to the Green Acres program. What priority status will pending Green Acres applicants who are also eligible for the new grants be given in relation to new applicants? How much funding will be allotted for farmland preservation and will existing program criteria continue to be utilized? How much uncommitted money remains available from the various Green Acres and Green Trust Funds? Please estimate the future availability of Green Trust loan repayments.

2. The most prominent federally-funded initiative proposed in the department's FY 1999 budget is the \$46 million Drinking Water State Revolving Fund. This program, as established under the federal "Safe Drinking Water Act," will make available low-interest loans to owners of water supply facilities for upgrade and repair projects so they can be in compliance with new federal drinking water standards. The State must provide 20 percent matching funds to qualify for this funding. Federal program funding was anticipated both in FY 1997 and FY 1998, but was not utilized. According to the "Budget In Brief," the projected \$46 million appropriation reflects the combined allocation from those two fiscal years.

**!** *Questions:* In response to an OLS Discussion Point on this subject from last year's Budget Analysis, the department stated that the program would be established by December, 1997. What is the program's revised starting date, and why has implementation been delayed? Please clarify the source and amount of State matching funds needed in FY 1999 and thereafter. What is the percentage of federal program funds allowed for administration and what amount will be utilized for this purpose in FY 1999? What are the estimated Statewide project needs? How will program funds be allocated between the department and the N.J. Environmental Infrastructure Trust and what types of financing options will be utilized?

3. Thus far, appropriations of constitutionally dedicated revenues from the Corporation Business Tax (CBT) to the department total \$43.2 million for hazardous substance remediation, \$30.6 million for private underground storage tank remediation, and \$8.3 million for administrative costs of hazardous substance remediation projects. In FY 1999, a combined total of \$57.8 million for these three categories is recommended. Current and proposed budget language allow an unspecified portion of the appropriation for the "Hazardous Substance Remediation-Constitutional Dedication" line item to be used to support State-owned underground storage tank project costs.

**!** *Questions:* Please provide an updated status report or spending plan for the current and projected expenditure of these monies. Please explain how these funds, when commingled with other State, non-State or federal funds being used for the same project, are allotted in terms of spending priority and administrative charges. List the CBT allocations for the State-owned underground storage tank projects presently cited for remediation.

## Discussion Points

4. The enactment last August of P.L. 1997, c. 235, the "Underground Storage Tank Finance Act," created the Petroleum Underground Storage Tank Remediation, Upgrade, and Closure Fund to provide grants and loans to owners of private underground storage tanks to finance tank upgrades, replacements or cleanups. The federal deadline for addressing these problems is December 22, 1998. The act appropriated \$9.9 million to the Fund from CBT revenues dedicated for this purpose from FY 1997 collections. This assistance program is jointly administered by the N.J. Economic Development Authority (EDA) and the department. The CBT appropriations for private underground storage tanks are \$20.7 million in FY 1998 and \$20.9 million recommended in FY 1999.

**!** *Questions:* Please provide a status report of this program that includes the number of applicants, average and total dollar amount requested and approved, and project type. Please describe and estimate the program's administrative costs and identify the sources of cost reimbursement. Is sufficient funding available to meet demand?

5. Budget language was included by the Legislature in the department's current budget that authorized up to a \$20 million appropriation to subsidize county debt service payments for solid waste environmental investments (primarily incinerator construction). This language is recommended again in FY 1999, but appears in the Treasury Department's Interdepartmental Accounts budget on Budget Page G-22. The language is intended to assist counties, which have been affected by recent federal court rulings that abrogate the State's authority over county waste stream control, to meet "stranded debt" payments until a more permanent solution is developed. The expenditure of these funds is subject to the requirement that affected counties or county authorities must implement the recommendations of an operational audit to the satisfaction of the State Treasurer.

**!** *Questions:* How many operational audits are currently underway and how many have been completed? How much of the \$20 million appropriation is expected to be awarded before the end of FY 1998? What authority does the department still maintain over the collection and disposal of solid waste? How have the court decisions affected county and local recycling programs?

6. The N.J. Low-Level Radioactive Waste Disposal Facility Siting Board voted in February, 1998 to suspend its primary mission of siting a disposal facility for low-level radioactive waste generated in New Jersey. The administrative costs of the Board and its staff are supported from periodic assessments on the generators of low-level radioactive waste. As of March, 1998, a balance of approximately \$4 million in uncommitted assessment revenues remains in the Board's off-budget accounts. New budget language is recommended that authorizes the department to be reimbursed from these funds for any administrative costs it may incur on behalf of the Board. The Board's current budget designates approximately \$500,000 to reimburse the department for such staff assistance.

**!** *Questions:* What are the department's plans regarding the disposition of the assessment balances? What will the department and the Board's future duties entail and what are the department's projected (future) administrative costs? How much longer will the South Carolina disposal facility that currently accepts N.J.'s low-level radioactive waste continue to provide this service?

## Discussion Points

7. Appropriations thus far from CBT monies dedicated for water resources monitoring and planning total \$9.9 million; \$5.0 million is recommended in FY 1999. In response to an OLS Discussion Point in the FY 1998 budget analysis concerning this item, the department provided a spending and activity plan that detailed the utilization of these funds. Not included, however, was any allocation of funds pursuant to the language provision in the Department of Agriculture's (DOA) budget allowing an unspecified portion of these funds to be used by the DOA for non-point source pollution programs.

**!** **Questions:** Please provide an update on the activities supported (or to be supported) by the current and recommended CBT appropriations for this program. If finalized, please specify the amount and usage of CBT monies that will be transferred to the DOA in FY 1998 pursuant to the aforementioned budget language.

8. In FY 1998, appropriations of \$200,000 for an Aquatic Life-Toxics Study and \$255,000 for an Open Space-Wetlands Assessment were included in the Division of Science and Research's budget. These studies were intended to provide updated data on the State's aquatic environment and natural resources, which had last been studied over 10 years ago. No funding is recommended for these studies in FY 1999.

**!** **Questions:** Please describe the progress of these studies along with any preliminary findings concerning significant changes or other factors that should be brought to the attention of the Legislature. When will these studies be completed and reported, and will they require any additional funding in FY 1999 or thereafter? Could any of the preliminary findings have an effect on departmental policy or participation in the National Environmental Performance Partnership System (NEPPS)? If so, how?

9. In January, 1998, P.L. 1997, c. 278, the "Brownfields and Contaminated Site Remediation Act," was enacted. This law is intended to create more incentives to promote and facilitate the cleanup and reuse of the State's older industrial sites by: appropriating \$5 million in bond funds to the DEP to conduct studies concerning aquifer contamination and the mapping of old landfills or dump sites (i.e. historic fill); creating a Brownfields Redevelopment Task Force in the Office of State Planning to coordinate brownfields redevelopment policy; offering tax benefits and liability waivers for potential brownfields developers; and amending the "Industrial Site Recovery Act" (ISRA) to make a \$55 million grant program run by the EDA more accessible to private developers.

**!** **Questions:** Please provide a status report of the two studies cited above as well as the Act's potential effect on brownfields development. How will the Act affect the department's policies and responsibilities under ISRA? How much remains available for private developers in the matching grant program cited above, which is supported by the Hazardous Discharge Site Remediation Fund?

10. The State Fish and Game Council, with the concurrence of the Division of Fish, Game and Wildlife, has recently called for increases in the fees charged for most fishing, trapping and hunting licenses and permits. These fees were last increased in 1994. Since legislation needed to authorize these changes has not yet been enacted, the \$2.8 million in additional revenues that the Division estimates would be generated from fee increases are not included or reflected in the recommended budget. All such fee revenues are statutorily dedicated to support the Division's operations. The Division, which receives no State funding for its operating budget, has publicly stated that these additional revenues are needed to maintain its current levels of service.

## Discussion Points

- ! **Questions:** Please discuss what measures are being planned or taken, such as seeking other funding source or cutting services, to compensate for the absence of additional revenues from fee increases?

11. The Operation Clean Shores program, a cooperative effort of the department and the Department of Corrections, was created in 1989 to use State prison inmates to remove debris primarily from the State's northern coastline and beaches. The program is supported by up to \$600,000 in funding dedicated annually from revenues generated by the sale of shore protection license plates. State appropriations totaling \$1.12 million have also been added to the program since FY 1996 to expand its operations. Of this amount, approximately \$18,000 has been expended thus far. No State funding is recommended for the program in FY 1999.

- ! **Questions:** Please explain why these appropriations have not been utilized? What plans, if any, does the department have for the future disposition of these funds. In light of the beach damage caused by this winter's storms, could these funds be used for beach restoration or repair projects?

12. Newspapers around the State reported late last year of an internal DEP study, completed in May, 1997, which found that recent staff cuts in the land use regulation programs were causing large backlogs in unprocessed applications for wetlands development permits. This backlog had, in turn, resulted in the development of environmentally sensitive areas because staff did not have the time to make thorough reviews of permit applications or to visit affected sites. The study reportedly attributed three major factors to this situation: a decrease in staff from 56 to 43 positions; a reduction in the work week from 40 to 35 hours; and the generation of more permits because of changes to the CAFRA law. The department responded to these reports by stating that steps had been taken, such as holding more preapplication meetings and upgrading computer systems, to make the permit process more efficient.

- ! **Questions::** Can the department comment on this internal study and on the accuracy of the newspaper coverage of the study's findings and the department's response? If any or all of the reported findings are accurate, what steps have been taken since that time to address them? Do significant permit backlogs still exist?

## Background Paper: Open Space Preservation Goals and Funding Options

This paper focuses on the most prominent issue and funding initiative in the DEP's FY 1999 Budget: Open space preservation. As recommended, the \$50 million Open Space-Local Match program would make available 50/50 matching grants to counties and municipalities to acquire and develop lands for open space and farmland preservation. In her Budget Message, the Governor said that this proposal would help realize her goal of preserving 300,000 more acres of land for open space purposes over the next four years. It appears, however, that this State Aid program is being recommended not only for this purpose, but to also provide interim funding to offset the dwindling balances of the traditional funding sources for open space, i.e. general obligation bonds issued under what are commonly referred to as "Green Acres" bond acts.

The Governor has stated that she prefers the establishment of a stable funding source for future open space preservation activities rather than floating another bond issue. To that end, she appointed a Governor's Council on New Jersey Outdoors in 1996 to explore this issue. Its findings and recommendations were released in February, 1998 and will be highlighted in this paper.

### History and Current Status of Green Acres Funding

Since 1961, the Green Acres bond acts have been the State's primary financing mechanism for open space acquisition, farmland and historic preservation, and other related purposes. Nine such bond acts totaling \$1.68 billion have been approved by comfortable margins by the State's voters to fund these efforts (see Attachment I). These bonds fall into six general funding categories: local acquisition and development (called the Green Trust); State acquisition and development; nonprofit organization acquisition; farmland preservation; historic preservation; and, introduced with the most recent bond act, blue acres acquisition for coastal and riverside properties. Federal assistance from the Department of the Interior's Land and Water Conservation Fund used to be provided for land acquisition projects, but no such funding has been awarded since FY 1993.

Money from these bond acts has thus far resulted in the preservation of nearly 400,000 acres of land for public open space purposes and 37,200 acres for farmland preservation (plus 9,100 more acres projected in 1998). At the time of this writing, only about \$5 million for Green Trust projects remains available from unused Green Acres bonds. In addition, about \$10 million annually is estimated by the department to become available from loan repayments and interest earnings flowing back to the various Green Trust Funds. Likewise, all bond money for farmland preservation is expected to be exhausted sometime in 1998.

For all of these programs, there are extensive applicant waiting lists. It is estimated that funding requests currently total \$250 million for Green Trust assistance and \$300 million for farmland preservation assistance. Given the competition and scarcity of such funding, some 13 counties and 53 municipalities opted to collect special taxes for open space and farmland preservation as well as for park development and maintenance. In 1996, over \$27.5 million from such taxes were generated Statewide.

These particular localities, plus others that are willing to raise sufficient sums for open space preservation projects, are the targeted recipients of the proposed Open Space-Local Match program. As stated above, however, this program is probably intended to provide only interim funding until a stable source of open space funding is established. The efforts of the Governor's Council on New Jersey Outdoors in exploring this issue are described next.

## Background Paper: Open Space Preservation Goals and Funding Options

### Governor's Council on New Jersey Outdoors: Findings

The Council was appointed in the Spring of 1996 "... to review the open space and recreational needs of the State and to identify stable sources of funding to 'keep New Jersey Green'." Former Assemblywoman Maureen Ogden, who had served as chairwoman of the Assembly Environment and Energy Committee during her tenure in the Legislature, was appointed chairwoman of the Council. Its findings were issued in a report released on February 26, 1998 and are based on the underlying goal of preserving one million more acres of open space "... to conserve biological diversity, preserve farmland, protect watersheds, create greenway corridors and provide opportunity for outdoor recreation." This acreage goal is broken down as follows:

! Farmland	500,000 acres
! Watershed Protection	100,000 acres
! Greenway Corridors	200,000 acres
! Open Space	200,000 acres

The Council believes that approximately \$140 million would have to be committed annually for the next ten years to achieve this goal. In addition, another \$60 million annually over the next ten years would have to be committed to provide adequate stewardship of both existing and new public lands and resources. This \$200 million commitment would be allocated annually as follows:

<u>Open Space Acquisition</u>	<u>Open Space Stewardship</u>
\$ 50 million - Farmland	\$ 15 million - State land
50 million - Local/Nonprofit Acq.	8 million - Urban Areas
<u>40 million</u> - State Acquisition	15 million - Historic Sites
\$140 million	8 million - In Lieu of Tax Payments
	<u>14 million</u> - State Park Operations
	\$ 60 million

The Council recommends that the funding needed to achieve these goals should be generated annually from a stable funding source or sources that would be dedicated to a New Jersey Green Acres, Farmland and Historic Legacy Trust. It recommends 13 different potential funding sources (see Attachment II), and also suggests that if these sources are used in varying amounts and combinations, or with the issuance of bonds, the State's annual cash need could be reduced .

Finally, the Council also suggested other funding mechanisms that would require legislative action to facilitate. These mechanisms include:

- ! Creation of a development or conversion tax to discourage the development of open space lands.
- ! Establishment of preferential tax assessments for private landowners who enter into long-term preservation agreements, and the waiver of "roll-back" taxes when land is purchased and permanently deed-restricted for open space purposes.
- ! More aggressive use of the existing Transfer of Development Rights bond allocation (\$20 million) for the purchase and transfer of farmland development rights.

## Background Paper: Open Space Preservation Goals and Funding Options

- ! More recruitment, training and supervision of volunteers in State Parks and Forests. Currently, such volunteers annually contribute nearly \$3 million worth of operational and support services to the State.
- ! Expansion of public/private partnerships among government agencies, nonprofit conservation groups, cooperative landowners, and corporations.

### Summary and Conclusions

At the time of this writing, the issue of open space preservation goals and funding is being widely discussed both inside and outside of government. Whatever funding mechanism or sources are ultimately adopted, the Legislature may wish to pay particular attention to one major finding of the Council's report: the present and future capital and operational needs of State-owned lands. The Council found that the Division of Parks and Forestry, while projecting a ten-year capital funding requirement of \$160 million, also estimated that the current annual shortfall for routine capital maintenance is approximately \$20 million. The current capital budget for parks and forests is \$2.4 million; the recommended funding level for FY 1999 is \$2.0 million.

The steady increase of visitors to State Parks and Forests (up 3.4 million since 1990) has put a greater strain on the department's manpower and operational needs in terms of its stewardship responsibilities. Other factors, such as reductions or minimal increases in the parks management staff and maintenance budgets over the past 10 years, the addition of more State-owned lands acquired through Green Acres funding, and the growing list of deferred maintenance projects helped prompt the Council to recommend that \$15 million for capital improvements and \$14 million for operational needs be committed annually not only for new lands acquired but for existing State-owned lands.

According to a 1996 survey conducted by the National Association of State Park Directors, New Jersey spends \$89.10 per acre to maintain its State Park system as compared to the national average of \$362.48 per acre. According to the Division of Parks and Forestry, since 1990, about 33,000 additional acres were placed under the State's jurisdiction and care while the division's staff level has been reduced by 38 full-time employees. These statistics help point out that the goal of preserving more acres for open space preservation should not preclude or supersede the need for adequate care of existing public lands.

## Background Paper: Open Space Preservation Goals and Funding Options

### ATTACHMENT I

#### SUMMARY OF PREVIOUS BOND ISSUES FOR GREEN ACRES, FARMLAND ACQUISITION AND HISTORIC PRESERVATION

<u>YEAR</u>	<u>PROGRAM/PURPOSE</u>	<u>AMOUNT</u>
1961	<b>Green Acres Land Acquisition Act</b> \$ 40,000,000 for State acquisition \$ 20,000,000 for Local acquisition	\$ 60,000,000 - GA
1971	<b>Green Acres Land Acquisition Act</b> \$ 40,000,000 for State acquisition \$ 40,000,000 for Local acquisition	\$ 80,000,000 - GA
1974	<b>Green Acres Land Acquisition and Recreation Opportunities Act</b> \$100,000,000 for State acquisition & development \$100,000,000 for Local acquisition & development	\$200,000,000 - GA
1978	<b>Green Acres Bond Act</b> \$100,000,000 for State acquisition & development \$100,000,000 for Local acquisition & development (Half of which to be spent in urban areas)	\$200,000,000 - GA
1981	<b>Farmland Preservation Bond Act</b>	\$ 50,000,000 - FP
1983	<b>Green Acres Bond Act</b> \$ 52,000,000 for State acquisition & development \$ 83,000,000 for Local acquisition & development	\$135,000,000 - GA
1987	<b>Green Acres, Cultural Centers and Historic Preservation Bond Act</b> \$ 35,000,000 for Green Trust only \$ 25,000,000 for Historic Preservation	\$ 35,000,000 - GA \$ 25,000,000 - HP
1989	<b>Open Space Preservation Bond Act</b> \$ 80,000,000 for State acquisition & development \$120,000,000 for Green Trust acquisition and development \$ 20,000,000 for 50% grants for eligible urban area acquisition and development \$ 10,000,000 for matching grants to nonprofits- acquisition only \$ 50,000,000 for Farmland Preservation	\$230,000,000 - GA \$ 50,000,000 - FP

## Background Paper: Open Space Preservation Goals and Funding Options

1992 **Green Acres, Clean Water, Farmland and  
Historic Preservation Bond Act** \$200,000,000 - GA  
 \$ 80,000,000 for State acquisition & development \$ 50,000,000 - FP  
 \$100,000,000 for Green Trust acquisition and \$ 25,000,000 - HP  
 development, of which \$15,000,000 for  
 50% grants for eligible urban area  
 acquisition & development projects  
 \$ 20,000,000 for matching grants to nonprofits-  
 acquisition only  
 \$ 50,000,000 for Farmland Preservation  
 \$ 25,000,000 for Historic Preservation

1995 **Green Acres, Farmland and Historic Preservation  
and Blue Acres Bond Act** \$250,000,000 - GA  
 \$105,000,000 for State acquisition & development \$ 30,000,000 - BA  
 \$ 10,000,000 for Liberty State Park \$ 10,000,000 - HP  
 \$120,000,000 for Green Trust acquisition \$ 50,000,000 - FP  
 and development of which \$18,000,000 for  
 50% grants for eligible urban area acquisition  
 and development projects  
 \$ 15,000,000 for matching grants to nonprofits-  
 acquisition only  
 \$ 30,000,000 for Blue Acres  
 \$ 50,000,000 for Farmland Preservation  
 \$ 10,000,000 for Historic Preservation

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**TOTAL:**

Green Acres (GA) Bond Funds	\$1,390,000,000
Blue Acres (BA) Bond Funds	\$ 30,000,000
Farmland Preservation (FP) Bond Funds	\$ 200,000,000
Historic Preservation (HP) Bond Funds	<u>\$ 60,000,000</u>
<b>TOTAL</b>	<b>\$1,680,000,000</b>

## Background Paper: Open Space Preservation Goals and Funding Options

### ATTACHMENT II

#### GOVERNOR'S COUNCIL ON NEW JERSEY OUTDOORS SUMMARY OF FUNDING SOURCES REVIEWED ANNUAL REVENUE PROJECTIONS

<u>REVENUE SOURCE</u>	<u>GENERATES</u>	<u>AVERAGE IMPACT</u>
<b>Motor Fuels Tax</b> 1 cent per gallon	\$ 42 million	\$ 6 per year per average driver
<b>Mortgage Fee</b> \$1.00 per \$1000	\$ 25 million	\$ 170 on average mortgage
<b>Public Community Water System Tax</b> 10 cents per 1000 gallons	\$ 31 million	\$ 8 per year per avg household
<b>Car Rental Fee</b> \$ 1.00 per day	unknown	unknown
<b>Unclaimed State Lottery Funds</b> \$ 11.0 million to \$14.0 million unclaimed annually		n/app
<b>Energy and Public Utility Taxes</b> \$ 5.00/year/household	\$ 10 million	\$ 5 per year per household
<b>Carbon Tax</b> \$ 1 per ton	\$ 36 million	\$ 4 per year per household
<b>Corporate Business Tax</b> 1% dedication of existing revenues	\$ 11.7 million	n/app
<b>Realty Transfer Tax</b> Undedicated portion, 1997	\$ 43 million	n/app
<b>Hotel/Motel</b> 2% surcharge	\$ 40 million	n/app
<b>Sales and Use Tax</b> 5% dedication of existing tax	\$ 200 million	n/app
<b>Airport Passenger Fee*</b> \$ 1.00 per passenger *Not currently feasible under Federal Law	\$ 31 million	\$ 1 per trip
<b>User Fees in Parks</b> \$ 1 increase on all fees	\$ 230,000	20% increase on average fee

Source: Final Report, Governor's Council on New Jersey Outdoors

## Background Paper: Fiscal Implications of Court Decisions on Solid Waste Flow Control

This paper provides an overview of the issues arising from recent court rulings invalidating New Jersey's system of solid waste flow control and related policies. It also discusses policy options that have been offered to address this issue. These recent court rulings, beginning with the U.S. Supreme Court's 1994 decision in Carbone v. Town of Clarkstown, have invalidated New Jersey's waste flow rules, which ensured the economic viability of the costly solid waste facilities constructed and operated by counties and public authorities at the direction of the State. Since these facilities were financed based on an assumption of guaranteed revenue generated through State and county waste flow control, what had been for over a decade a fixed component of the State's solid waste management strategy recently has become a highly controversial public policy issue with potentially staggering financial implications.

### Background

By 1997, New Jersey's statewide solid waste management system had produced the highest solid waste disposal rates in the United States. The State's average solid waste disposal costs had risen almost eight-fold over the previous fifteen years, from \$12 per ton in 1983 to \$87 per ton in November, 1997. (The national average is presently \$36 per ton.) The relatively low disposal costs of 20 years ago were possible because of New Jersey's former reliance on inexpensive (and often environmentally unsound) in-state landfill disposal capacity. In the late 1970's, there were some 400 operating landfills in New Jersey. By 1985, the Department of Environmental Protection (DEP) had closed most of these facilities and redirected the flow of about 90 percent of the State's municipal solid waste stream to 10 major in-state landfills.

As the DEP imposed stricter environmental controls on these remaining landfills, and as expensive solid waste incinerators and transfer stations were constructed to replace landfills in many counties, solid waste disposal costs began to steadily increase. Disposal charges, known as tipping fees, rose not only from costs passed on by landfill operators from implementing these environmental controls, but also from new taxes imposed by the State to subsidize county recycling operations and other landfill closure and post-closure monitoring expenses. These factors also affected the initial tipping fees at New Jersey's transfer stations and solid waste incinerators when they first began operations, in that they were relatively high compared to landfill disposal rates offered at that time.

The "Solid Waste Management Act" (P.L.1970, c.39, as amended by P.L.1975, c.326) authorizes the DEP to adopt rules and regulations concerning solid waste management, including rules and regulations controlling the flow of solid waste within the State. The waste flow rules, as initially adopted by the DEP in 1982, require municipal solid waste to be transported to designated solid waste facilities in each county for landfill disposal, incineration, or to transfer stations for eventual shipment to out-of-state landfills. Under these rules, as well as a DEP policy that required every county to achieve disposal self-sufficiency by the year 2000 through a combination of waste stream reduction, recycling, and the development of in-county solid waste facilities, the county-based management of solid waste in New Jersey was gradually effectuated.

### State Funding Initiatives

Between 1980 and 1993, the Legislature addressed the capital financing requirements of constructing solid waste disposal facilities through the enactment of several State bond issues. The "Natural Resources Bond Act of 1980," P.L.1980, c.70, allocated \$50 million for grants or loans to counties for designing, acquiring, and constructing resource recovery facilities (primarily solid waste

## Background Paper: Fiscal Implications of Court Decisions on Solid Waste Flow Control

incinerators). However, virtually none of these funds had been committed prior to 1985 because the act explicitly limited these funds to publicly-owned facilities; at that time, most proposed incinerator projects, including four of the five facilities that were eventually constructed, involved some form of private ownership and public financing.

In 1985, several interrelated pieces of legislation were enacted that provided extensive new funding opportunities for solid waste facility construction. First, the "Resource Recovery and Solid Waste Disposal Facility Bond Act of 1985," P.L.1985, c.330, authorized the issuance of \$85 million in State general obligation bonds to provide low or zero interest loans for local government units to help finance the construction of resource recovery facilities. Eligible projects included solid waste incinerators, composting facilities, materials recovery and recycling facilities, and environmentally sound sanitary landfills. Next, P.L.1985, c.331 amended the "Natural Resources Bond Act of 1980" by allowing payments of principal and interest on loans made for resource recovery facilities from the Natural Resources Fund, plus interest derived from that portion of the Fund allocated for resource recovery facilities (\$50 million), to be deposited in the Resource Recovery and Solid Waste Disposal Facility Fund (as established by P.L.1985, c.330).

Other enactments in this legislative package included P.L.1985, c.335, which transferred the \$50 million allocated in the "Natural Resources Bond Act" for resource recovery facilities to the Resource Recovery and Solid Waste Disposal Facility Fund. Also, P.L.1985, c.332 appropriated \$33 million from the General Fund to the Resource Recovery and Solid Waste Disposal Facility Fund to provide additional financing for incinerator construction.

By the end of 1985, the Legislature had authorized at least \$168 million in State assistance to underwrite the capital construction costs of resource recovery projects. As of December 1997, the Legislature has appropriated \$173.5 million in bond moneys and other public funds for the construction of all types of solid waste facilities. Of this amount, \$43.3 million is unexpended due to incinerator project cancellations. Approximately \$90.5 million of the total was appropriated to assist counties and public authorities in financing the construction of privately-owned incinerators. The remaining \$31.8 million provided State assistance for publicly-owned facilities, including the construction of an incinerator in Union County.

### The Carbone and Atlantic Coast Decisions

On May 16, 1994, the U.S. Supreme Court heard its first waste flow control case, Carbone v. Town of Clarkstown. It decided that a state or local government cannot exercise regulatory control over the destination of solid waste for processing or disposal without violating the Commerce Clause of the U.S. Constitution. It found that the requirement of local haulers and municipalities to use designated solid waste facilities deprived out-of-state landfill operators of the opportunity to provide those disposal services at a lower cost. Thus, the Carbone decision essentially invalidated New Jersey's solid waste flow rules.

Following the Carbone decision, several legal challenges to the DEP's waste flow rules that had already been pending in the federal courts were decided. Of these cases, the most significant was Atlantic Coast Demolition and Recycling, Inc., et al. v. Board of Chosen Freeholders of Atlantic County. This case was actually an appeal of a 1993 federal district court decision in which the constitutional validity of New Jersey's solid waste management system, including waste flow rules, was upheld. On appeal, the federal Third Circuit Court of Appeals ruled in February, 1995 that the State's waste flow system interferes with and discriminates against interstate commerce. In

## Background Paper: Fiscal Implications of Court Decisions on Solid Waste Flow Control

overturning the Atlantic Coast decision, the Court of Appeals decided that the State cannot force haulers to dispose of their solid waste in specified locations or facilities.

The Third Circuit Court of Appeals did not order the State to immediately repeal the waste flow rules or otherwise dismantle New Jersey's solid waste management system. Rather, the Atlantic Coast case was remanded to the same federal district court that had originally upheld the system, albeit before the Carbone decision, so that the presiding judge could decide whether the system could be preserved on the basis of it serving a legitimate public purpose despite its interference with interstate commerce. The judge ultimately found that this system could not be continued.

On July 15, 1996, the U.S. District Court ruled that the State could not require haulers to transport municipal solid waste to designated disposal facilities in New Jersey due to the unconstitutional nature of New Jersey's solid waste management system. This ruling gave the State two years from the date when all appeals are exhausted to make the transition to some form of a free market system.

On May 1, 1997, the U.S. Court of Appeals affirmed the district court's 1996 ruling in Atlantic Coast that New Jersey's waste flow laws, rules and regulations are unconstitutional insofar as they discriminate against out-of-state solid waste facilities. The appeals court also reversed the two year stay granted by the district court. New Jersey filed a petition for certiorari to the U.S. Supreme Court on September 4, 1997. On November 10, 1997, the U.S. Supreme Court denied the State's petition for certiorari in Atlantic Coast, thereby requiring the DEP and the counties to implement a constitutionally acceptable system for solid waste management.

A related court decision invalidated New Jersey's self-sufficiency policy. For over a decade the DEP has required every county to be self-sufficient with respect to the availability of long-term (10 years or more) solid waste disposal capacity within its borders. In accordance with this doctrine, the DEP routinely rejected or required the modification of every district solid waste management plan amendment providing for the long-term use of an out-of-state incinerator or landfill for the disposal of county solid waste solely on the grounds that the specified facility was located out-of-state. Accordingly, the DEP effectively prohibited out-of-state incinerator contracts, limited every out-of-state landfill disposal contract to 5 years and required the county to meet certain milestones on the road to self-sufficiency. In practice, self-sufficiency meant that any county that chose not to construct a solid waste incinerator or landfill was required by DEP to develop and utilize an in-county transfer station to facilitate the exportation of its solid waste to out-of-county or out-of-state disposal sites. The purpose of this transfer station strategy implemented by the DEP during the 1980's was to promote the complementary self-sufficiency goals of enforcing waste flow control discipline (in anticipation of the future use of a solid waste incinerator or landfill) and compelling every county to develop at least one in-county solid waste facility.

On September 27, 1996, the U.S. District Court in Waste Management of Pennsylvania, Inc v. Shinn held that New Jersey's policy of prohibiting counties from entering into long-term contracts with out-of-state disposal facilities to assure long-term in-county disposal capacity violates the contract and commerce clauses of the U.S. Constitution. The court determined that New Jersey failed to show that its stated goal of self-sufficiency could not be achieved by less restrictive means.

The Carbone and Atlantic Coast decisions could have a profound financial effect on New Jersey's counties and public authorities, because all operating solid waste incinerators, landfills and transfer stations no longer have the guaranteed waste flows that ensure the economic viability of

## Background Paper: Fiscal Implications of Court Decisions on Solid Waste Flow Control

these facilities. As a result, the counties and public authorities that financed these facilities through bonded indebtedness must find other means to pay off their collective outstanding debt, which currently amounts to \$1.6 billion, including long-term bonds, project notes and State zero interest loans. This debt is mostly underwritten by 20-year to 40-year revenue bonds, as listed in the attached Table.

Under the "put or pay" contracts with the private firms involved in the development and financing of these facilities, counties and public authorities would ordinarily have to raise tipping fees to offset waste flow revenue losses in order to meet scheduled debt service payments. A "put or pay" contract requires the contracting government unit to deliver ("put") an agreed-upon tonnage of solid waste to the facility or reimburse ("pay") the facility owner-operator for any revenues lost from tonnage shortfalls. However, in the post-waste flow control era, any increase in tipping fees could only further discourage the use of these facilities, thereby exacerbating the problem.

### Responses to the Court Decisions

In the post-Carbone era, every county or public authority that operates a publicly-financed (and, in many instances, privately-owned) solid waste facility faces a limited range of alternatives to waste flow control. Since municipalities or local haulers are no longer compelled to transport solid waste to designated facilities, every affected county or public authority must be resourceful in finding ways to meet debt service payments on existing solid waste facilities and to develop competitive pricing strategies to promote the continued use of these facilities. Solid waste delivery shortages have been reported in many counties because some municipalities and local haulers are either utilizing more competitively-priced disposal facilities in neighboring counties or traveling to less-costly, out-of-state landfills.

The FY 1998 State Budget includes language that appropriates \$20 million to subsidize county and public authority debt service payments for "stranded" investments. Such investments refer to debts secured by revenues derived from solid waste disposal charges that are no longer applicable due to the cessation of State waste flow requirements. The Governor's FY 1999 Budget Recommendation provides an additional \$20 million for this purpose. The expenditure of these monies is conditioned upon the State Treasurer having conducted or contracted for an operational audit of each participating county or public authority and such county or public authority having implemented the audit recommendations to the satisfaction of the State Treasurer. In addition to agreeing to an operational audit to be administered by the State Treasurer in order to be awarded a subsidy, participating counties and public authorities must enter into a "Partnership Agreement" with the DEP that "outlines the major actions and timelines toward modifying existing solid waste systems and associated cost structure." To date, 13 counties have requested to participate in the State Partnership Agreement Program.

The DEP released a guidance document on August 5, 1997 to assist the counties in revising their district solid waste plans in light of the Atlantic Coast decision. The DEP is advocating that every county adopt district plan amendments as soon as possible to define their chosen disposal strategy, which basically includes either continuing to act as a disposal services provider to its constituent municipalities and local haulers, or to renegotiate out-of-state landfill contracts under nondiscriminatory procurement procedures. To date, nine counties have submitted revised plans to the DEP for approval.

The DEP and the Department of Community Affairs (DCA) adopted emergency rules and

## Background Paper: Fiscal Implications of Court Decisions on Solid Waste Flow Control

regulations and concurrently proposed new rules on September 2, 1997 regarding ratemaking, procurement, recordkeeping and planning, and repeal of the waste flow rules. Most of these regulatory changes took effect November 10, 1997, the date the U.S. Supreme Court denied the State's petition for certiorari of the Atlantic Coast case.

The U.S. Supreme Court's denial of certiorari precipitated a series of tipping fee reductions statewide. In an effort to maintain tonnage volumes and deter widespread abandoning of their noncompetitive facilities by constituent municipalities or local haulers, many counties and public authorities have lowered their disposal prices drastically. These reductions were usually effectuated by simply eliminating the debt component from the tipping fee and diverting sums from reserve accounts or making other short-term fiscal arrangements to subsidize debt service payments. To complicate matters, some counties and public authorities are facing competition from other county solid waste facilities as well as from relatively inexpensive out-of-state landfills. In many cases, counties and public authorities will not be able to sustain these lower prices, which in some instances constitute less than half of the so-called "peak rate" in place on November 10, 1997.

Since that date, at least eight counties or public authorities have appeared before the DCA's Local Finance Board pursuant to the "Local Authorities Fiscal Control Law," P.L.1983, c.313, to receive State sanction to impose "EIC's" or "user charges" on municipalities and commercial solid waste generators, usually based on historic generation data, to help meet county debt service payments. These initiatives, by which the affected counties and public authorities have sought to salvage their solid waste management systems to the maximum extent possible in the face of recent court rulings, have prompted a flurry of litigation. There are currently 19 solid waste-related matters pending in federal and State courts ranging from the legal authority to impose EIC's, to the continuing authority of counties or public authorities to compel their constituent municipalities to utilize county solid waste facilities, to contract and interdistrict agreement issues, to the DEP's regulatory authority.

A variety of legislative proposals have been offered to address this imminent fiscal dilemma. The options currently being discussed include: (1) enabling counties and public authorities to recover stranded solid waste facility debt by imposing EIC's or user charges on taxpayers or ratepayers; (2) imposing a Statewide assessment on the solid waste industry to offset the aggregate bonded indebtedness; (3) authorizing the issuance of State general obligation bonds plus the reallocation of bond monies previously dedicated to construct resource recovery facilities to pay stranded investment costs; or (4) any combination thereof.

## Background Paper: Fiscal Implications of Court Decisions on Solid Waste Flow Control

### COUNTY FINANCING OF SOLID WASTE FACILITIES 1985 - 1997

<u>County or Agency Responsible for Debt</u>	<u>Outstanding Bonded Indebtedness*</u>
Atlantic County Utilities Authority	\$ 91,175,000
Bergen County Utilities Authority	\$109,923,000
Burlington County	\$113,302,000
Camden County Pollution Control Financing Authority	\$189,087,330
Cape May County Municipal Utilities Authority	\$ 39,185,000
Cumberland County Improvement Authority	\$ 16,270,000
Essex County Utilities Authority	\$111,725,000
Gloucester County Improvement Authority	\$ 78,540,000
Hudson County Improvement Authority	\$139,780,000
Hunterdon County Utilities Authority	None
Mercer County Improvement Authority	\$145,787,119
Middlesex County Utilities Authority	\$ 40,575,000
Monmouth County	\$ 24,490,000
Morris County Municipal Utilities Authority	\$ 4,887,000
Ocean County	2,160,000
Passaic County Utilities Authority	\$103,784,000
Salem County Utilities Authority	\$ 9,731,470
Somerset County Utilities Authority	5,676,969
Sussex County Municipal Utilities Authority	\$ 44,974,791
Union County Utilities Authority	\$293,670,000
Warren County Pollution Control Financing Authority	<u>\$ 77,418,750</u>
<b>TOTAL:</b>	<b>\$1,642,142,429</b>

\*Includes total debt service for principal and interest payments.

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Sources: Office of Legislative Services, Environment Section  
Department of Community Affairs, Division of Local Government Services

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Individuals wishing information and committee schedules on the FY 1999 budget are encouraged to contact:

Legislative Budget and Finance Office  
State House Annex  
Room 140 PO Box 068  
Trenton, NJ 08625

(609) 292-8030

Fax (609) 777-2442