

**LEGISLATIVE FISCAL ESTIMATE**  
**ASSEMBLY, No. 1921**  
**STATE OF NEW JERSEY**  
**217th LEGISLATURE**

DATED: JUNE 22, 2016

**SUMMARY**

**Synopsis:** Requires DEP to offer to purchase and demolish certain contaminated residential property.

**Type of Impact:** New Jersey Spill Compensation Fund expenditure increase. Potential expenditure increase to the General Fund.

**Agencies Affected:** Department of Environmental Protection.

**Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	<b><u>Year 1</u></b>	<b><u>Year 2</u></b>	<b><u>Year 3</u></b>
<b>New Jersey Spill Compensation Fund</b>		Expenditure increase	
<b>State Cost</b>		Potential expenditure increase	

- The Office of Legislative Services (OLS) determines that this bill would cause an expenditure increase to the New Jersey Spill Compensation Fund (Spill Fund) for the purchase of single family or two-family residential properties located on contaminated sites. The OLS is unable to estimate the number of residential properties to be purchased or the fair market value of such properties; therefore, the amount of the expenditure increase is unknown.
- The OLS estimates that this bill may result in an expenditure increase to the General Fund, if funding from other sources is unavailable or insufficient, for the costs of demolition and remediation of residential properties purchased pursuant to the bill. In addition, if this bill depletes the moneys available in the Spill Fund used to pay for administrative costs, there could be an expenditure increase to the General Fund to cover these costs.

**BILL DESCRIPTION**

Assembly Bill No. 1921 of 2016 would require the Department of Environmental Protection (DEP) to make an offer to purchase a single family or two-family residential property located on a contaminated site from the owner at fair market value without allowing for any diminution in value caused by the contamination, provided: (1) the indoor air in the residence exceeds residential indoor air screening levels for volatile organic compounds adopted by the DEP, and

the levels require remedial action to reduce the concentrations to prevent chronic exposure in order to protect the health of the residents; (2) soil contaminated with volatile organic compounds existing on the property is above the residential soil remediation standards; and (3) the owner had no notice that the property was contaminated at the time of purchase by the owner.

The bill would also require that the residential property purchased by the DEP be demolished and the property be remediated for use as open space. The bill would make moneys available from the New Jersey Spill Compensation Fund for the bill's purposes. The bill would allow a property owner whose property meets the criteria in the bill to request of the DEP to make an offer to purchase the property within one year after the date of enactment of the bill into law, or within one year after the date of discovery of the damage, whichever is later, and the DEP would be required to make that offer within 60 days. Any residential property purchased would be demolished by the State and the site would be remediated for use as open space.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

The Executive Branch has not submitted an official fiscal note on this bill. But upon request, the Department of Environmental Protection (DEP) has furnished the OLS with background information on the fiscal impacts of the bill. According to informal information provided by the DEP, this bill would have a significant fiscal impact on the department. The department estimates that there could be hundreds of property owners annually who would meet the criteria established in the bill and who would request the DEP to make an offer for the purchase of their contaminated property; however, the DEP cannot provide an exact number because it is unknown how many property owners will make such a request.

According to the DEP, the New Jersey Spill Compensation Fund would not be able to cover the costs to purchase all of the properties and, therefore, the moneys in the Spill Fund would be exhausted.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS determines that this bill will have an expenditure increase to the New Jersey Spill Compensation Fund for the purchase of single family or two-family residential properties located on contaminated sites. The OLS also determines that this bill could result in an expenditure increase to the General Fund.

The OLS determines that there will be an expenditure increase to the Spill Fund and a shift in the allocation of monies from this fund, currently allocated for other purposes, to cover the costs of purchasing contaminated residential properties. In addition, the OLS determines that there could be an expenditure increase to the General Fund to cover administrative costs. The Spill Fund is a dedicated, off-budget fund whose revenue is funded by taxes and penalties levied on owners and operators of major hazardous substance facilities. The estimated fund revenue for Fiscal Year 2017 is approximately \$25.4 million. In addition, the Spill Fund has a surplus balance of \$5.5 million. The Governor's Fiscal Year 2017 budget proposal allocates \$28.4 million in Spill Fund balances for several authorized purposes, including hazardous substance cleanup costs, removal costs, research, related administrative costs, and payments of approved claims. At the end of Fiscal Year 2017 there will be a surplus of approximately \$2.5 million. This bill would require the disbursement of moneys from the Spill Fund to purchase certain contaminated residential properties, which would increase Spill Fund expenditures. Depending on the number of properties to be purchased, this bill could reduce the amount of moneys

available for use for other authorized purposes. In addition, if this bill depletes the moneys available in the Spill Fund to pay for administrative costs, there could be an expenditure increase to the General Fund to cover these costs.

This bill would require the DEP to purchase a contaminated property from the property owner at fair market value without allowing for any diminution in value caused by the contamination. According to the United States Department of Housing and Urban Development, the average value of a single family residential property in New Jersey in the first quarter of 2016 is \$397,500. The OLS does not agree with the DEP estimate that hundreds of properties would be purchased annually. The OLS asserts that the number of properties purchased will vary on an annual basis and the fair market value will be subject to fluctuations in the real estate market. Since the OLS is unable to determine an exact number of residential properties to be purchased or the fair market value of such properties, the precise amount of the expenditure increase is unknown. However, the OLS agrees with the DEP's assessment that this bill would have an impact on the department. For example, if 40 properties were purchased in Fiscal Year 2017, at the current average value of a single family home in New Jersey, the total expenditure increase for the purchase of those properties would be \$15.9 million.

The OLS determines that several factors could reduce the number of property owners who would be eligible under this bill, and thereby limit Spill Fund expenditures. This bill would only allow the DEP to make an offer for the purchase of a property that meets the strict criteria outlined in the bill. Further, the bill restricts eligible property types to single family or two-family residential properties, thereby excluding all multi-family residential properties. The bill also restricts eligible residential properties to those where the indoor air exceeds screening levels for volatile organic compounds and remedial action is required to prevent chronic exposure. In addition, the soil contamination levels must exceed DEP-established contamination levels for volatile organic compounds. Further, the bill requires the owner to have had no knowledge that the property was contaminated at the time of purchase. Finally, this bill restricts the property owner from requesting the DEP to make an offer to purchase the property to one year after the date of enactment of the bill into law, or within one year after the date of discovery of the damage.

The OLS estimates that this bill could result in an expenditure increase to the General Fund for demolition and remediation. All residential properties purchased pursuant to this bill are required to be demolished by the State and remediated for use as open space. Funding for demolition and remediation costs may be available from various other State sources such as constitutionally dedicated funds and bond funds specifically established for the purposes of hazardous discharge cleanup and remediation. If such funding is unavailable or insufficient to cover the costs of demolition and remediation for which the State is responsible, there could be an expenditure increase to the General Fund. Since the OLS is unable to determine the number of residential properties to be purchased, the precise amount of the potential expenditure increase for demolition and remediation is unknown.

*Section: Environment, Agriculture, Energy and Natural Resources*  
*Analyst: Neha Mehta*  
*Assistant Fiscal Analyst*  
*Approved: Frank W. Haines III*  
*Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).