LEGISLATIVE FISCAL ESTIMATE
[Second Reprint]
SENATE CONCURRENT RESOLUTION No. 39
STATE OF NEW JERSEY
217th LEGISLATURE

DATED: DECEMBER 22, 2016

SUMMARY

Synopsis: Amends Constitution to dedicate all State moneys received from settlements and awards in cases of environmental contamination for certain environmental purposes.

Type of Impact: Constitutional Dedication of State Revenue

Agencies Affected: Department of Environmental Protection

Office of Legislative Services Estimate

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<td>Constitutional Dedication of State Revenue</td>
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- The Office of Legislative Services has insufficient information upon which to base an estimate of the amount of future revenue which would become constitutionally dedicated if this concurrent resolution is approved. Revenue from settlements and awards collected by the State in connection with legal claims based on environmental contamination relating to natural resource damages fluctuates annually according to a variety of factors.

- The constitutional amendment dedicates all moneys from settlements and awards for natural resource damages collected by the State to a special account to be used to repair, restore, or replace damaged or lost natural resources of the State, or permanently protect the natural resources of the State, or pay the legal or other costs incurred by the State to pursue settlements and judicial and administrative awards relating to natural resource damages. These revenues are not at present dedicated by law to any specific uses.

BILL DESCRIPTION

Senate Concurrent Resolution No. 39 (2R) of 2016 would constitutionally dedicate all moneys from settlements and awards collected by the State in connection with legal claims based on environmental contamination relating to natural resource damages. The amount dedicated may be used to repair, restore, or replace damaged or lost natural resources of the State, or permanently protect the natural resources of the State, or pay the legal or other costs incurred by...
the State to pursue settlements and judicial and administrative awards relating to natural resource damages.

The constitutional amendment would prioritize, in the following order, the use of the dedicated moneys by the State to repair, restore, or replace damaged or lost natural resources of the State, or to permanently protect the natural resources of the State, in connection with the claim for which the money was recovered: (1) in the immediate area in which the damage to the natural resources occurred; or (2) in the same water region in which the damage to the natural resources occurred. If no reasonable project is available to satisfy the first or second priority for the use of the moneys, or if there are moneys available after satisfying the first or second priority, moneys may be used by the State to repair, restore, or replace damaged or lost natural resources of the State, or permanently protect the natural resources of the State, without geographic constraints. In addition, no more than 10 percent of the moneys dedicated and appropriated annually pursuant to this constitutional amendment may be expended for administrative costs of the State, or its departments, agencies, or authorities for the authorized purposes.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

Revenue from settlements and awards collected by the State in connection with legal claims based on environmental contamination relating to natural resource damages fluctuates annually according to a variety of factors. The Office of Legislative Services has insufficient information upon which to base an estimate of the amount of future revenue which would become constitutionally dedicated if this concurrent resolution is approved.

Current statutory and regulatory authority and common law allow for legal claims based on environmental contamination relating to natural resource damages in the State. However, statutory and regulatory authority does not dedicate the moneys from such settlements and judicial and administrative awards for any specific purpose. This constitutional amendment would prevent any moneys received by the State from settlements and awards in legal claims based on environmental contamination relating to natural resource damages from being used for any purposes other than to repair, restore, or replace damaged or lost natural resources of the State, or permanently protect the natural resources of the State, or pay the legal or other costs incurred by the State to pursue settlements and judicial and administrative awards relating to natural resource damages. In addition, the constitutional amendment allows up to 10 percent of the moneys that are dedicated and appropriated to be used for administrative costs of the State for authorized purposes.

In recent years annual appropriations act language has provided for specific budgetary allocations of these revenues. For example, the Fiscal Year 2017 Appropriations Act, P.L.2016, c.10, provides that the first $50 million in natural resource, cost recoveries, and other associated damages recovered by the State, be deposited into the Hazardous Discharge Site Cleanup Fund to be used for the direct and indirect costs of remediation, restoration, and clean up; costs for consulting, expert, and legal services incurred in pursuing claims for damages; and grants to local governments and nonprofit organizations to further implement restoration activities of the
Office of Natural Resource Restoration. The language further provides that recoveries in excess of the amounts appropriated, consistent with the terms and conditions of applicable settlement agreements or court rulings, are to be deposited into the General Fund as general State revenue.

The Department of Environmental Protection informed the Assembly Budget Committee and Senate Budget and Appropriations Committee during the committees’ review of the Governor’s proposed Fiscal Year 2017 budget that it was anticipating between $226 million and $236 million in natural resource damage payments in Fiscal Year 2017. This estimate is not necessarily indicative of amounts the State could receive annually in future fiscal years.

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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.).