

ASSEMBLY, No. 27

STATE OF NEW JERSEY

INTRODUCED MARCH 13, 1997

By Assemblymen CORODEMUS and DeCROCE

1 ANACT concerning dredging and dredged material disposal, providing
2 for the expenditure of monies made available pursuant to P.L.1996,
3 c.70, supplementing Title 12 and Title 34 of the Revised Statutes,
4 and making an appropriation.

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

8
9 1. The Legislature finds and declares that the existence of deep
10 water ports in both the northern and southern sections of the State
11 have been of critical importance to the economy and growth of the
12 region since the colonial era; that the combination of the natural silting
13 of New Jersey's harbor areas and the building of larger oceangoing
14 vessels that require greater water depth has resulted in a reduction of
15 the volume of maritime commerce in the region, resulting in a loss of
16 jobs and the potential elimination of the Port of New York and New
17 Jersey's present status as the primary port on the Eastern seaboard;
18 that many of these port waters contain harmful contaminants that upset
19 the ecological balance and threaten the environment, and that must be
20 disposed of in the most cost-efficient manner possible, using the most
21 up-to-date technology including the possible creation of a usable end
22 product; and that the voters, in November 1996, overwhelmingly
23 approved a bond issue for the dredging of New Jersey's navigation
24 channels.

25 The Legislature therefore determines that it is in the public interest
26 that the port dredging and dredged material disposal projects proceed
27 as expeditiously and efficiently as possible, and that the monies
28 approved by the voters for this purpose be used effectively; that it is
29 necessary for the State to establish an administrative procedure to set
30 priorities for dredging projects in accordance with their economic
31 benefit to the State, and their relative potential to bring about
32 economic growth through enhanced maritime commerce, to retain
33 existing jobs and create new ones, and to support the continuing
34 viability of the State's recreation and tourism industries; and that it is
35 essential that the priorities for the dredging and dredged material
36 disposal projects be established with the participation of the affected
37 sectors of the State's economy, including representatives of the

1 maritime industry, business and commercial interests, labor, and
2 recreation and tourism industries, so that a consensus is reached on the
3 most effective use of the available funds.
4

5 2. As used in this act:

6 "Containment facility" means an upland or in-water confined
7 disposal facility which shall consist of an artificially constructed island,
8 a diked extension of an existing island, or a diked extension attached
9 to land, and which is used solely for the disposal of dredged materials;

10 "Decontamination" means a process by which contaminants are
11 removed or reduced from dredged materials, or by which dredged
12 materials are otherwise made acceptable for use;

13 "Dredge" or "dredging" means the removal of sand, silt, mud, and
14 other materials from the bottom of a waterway in order to deepen
15 navigation channels and ship berths;

16 "Dredged material" means material removed by dredging that is, in
17 the determination of the federal Environmental Protection Agency,
18 either unsuitable for ocean disposal or suitable for ocean disposal only
19 with capping;

20 "Port region" means the geographic area created by Article II of the
21 Compact of April 30, 1921, creating the bi-state agency, now known
22 as the Port Authority of New York and New Jersey, and which is
23 commonly referred to as the Port of New York District;

24 "Project" means any work relating to the construction of a
25 containment facility or facilities and subaqueous pits for the disposal
26 of dredged material from the port region; the decontamination of
27 dredged material; the dredging of the Kill Van Kull, the Arthur Kill
28 and other navigation channels located in the port region; the dredging
29 of navigation channels not located in the port region; or the purchase
30 of real or personal property, equipment, and any building,
31 construction, and miscellaneous site improvements associated with an
32 economic development site; and

33 "Task force" means the Dredging Project Facilitation Task Force
34 established pursuant to section 3 of this act.
35

36 3. a. There is established in the Executive Branch of the State
37 Government a Dredging Project Facilitation Task Force. For the
38 purpose of complying with the provisions of Article V, Section IV,
39 paragraph 1 of the New Jersey Constitution, the task force is
40 allocated within the Department of Commerce and Economic
41 Development, but, notwithstanding that allocation, the task force shall
42 be independent of any supervision or control by the department or by
43 the commissioner or any officer or employee thereof. The task force
44 shall constitute an instrumentality of the State exercising public and
45 essential governmental functions, and the exercise by the task force of
46 the powers conferred by this or any other act shall be deemed and held

1 to be an essential governmental function of the State.

2 b. (1) The task force shall consist of 12 members, and shall include
3 the following three ex-officio members: the Commissioner of the
4 Department of Environmental Protection, or his designee; the
5 Commissioner of the Department of Commerce and Economic
6 Development, or his designee; and the State Treasurer, or his
7 designee. The task force shall also include three public members
8 appointed by the Governor; three public members appointed by the
9 President of the Senate, one of whom the President of the Senate shall
10 designate as chair of the task force; and three public members
11 appointed by the Speaker of the General Assembly.

12 (2) The public members shall serve for terms of two years, except
13 that of the public members first appointed by each appointing
14 authority, one shall serve a term of three years, one shall serve a term
15 of two years, and one shall serve a term of one year. Not more than
16 two public members appointed by the same appointing authority shall
17 be members of the same political party.

18 (3) The appointment of the members shall be made within 45 days
19 of the effective date of this act. The appointee of the President of the
20 Senate designated as chair of the task force shall serve a term of two
21 years and shall convene an organizational meeting of the task force as
22 soon as is practicable following the appointment of at least six public
23 members to the task force.

24 (4) Each member of the task force shall serve for the term of the
25 appointment and until a successor shall have been appointed and
26 qualified. Task force members shall serve without compensation. Any
27 vacancy shall be filled in the same manner as the original appointment
28 for the unexpired term only. A public member may be reappointed to
29 the task force upon term expiration.

30 (5) Any member of the task force may be removed by the
31 appointing authority, for cause, after a public hearing.

32 (6) A majority of the full membership of the task force shall
33 constitute a quorum for the transaction of task force business. Action
34 may be taken and motions and resolutions adopted by the task force
35 at any meeting thereof by the affirmative vote of a majority of the full
36 membership of the task force.

37 (7) The public members shall, to the maximum extent practicable,
38 represent one or more of the following areas of expertise and
39 specialization: the maritime industry, the business community, the
40 trucking industry, organized labor, marine terminal operations, the
41 tourism and recreation industry, environmental technology, and
42 commercial fishing.

43
44 4. a. It shall be the duty of the Office of Maritime Resources in the
45 Department of Commerce and Economic Development to establish,
46 from time to time, a project priority list for dredging, dredged material

1 disposal projects and decontamination projects based primarily on the
2 maintenance of the viability of the Port of New Jersey and New York
3 as a deep water port accessible to international commerce, on the
4 maintenance of the viability of navigation channels not located in the
5 port region to promote commerce, recreation and tourism, and on the
6 prospects for the creation and retention of jobs in New Jersey. In
7 developing a project priority list, the office shall consult with the task
8 force and the Department of Environmental Protection, and shall
9 review and consider the plan developed pursuant to subsection a. of
10 section 5 of P.L. , c. (C.)(now before the Legislature as this
11 bill). The office, in consultation with the task force and the
12 Department of Environmental Protection, shall identify in the project
13 priority lists developed pursuant to this subsection, not less than a
14 total of \$5 million for decontamination projects. Upon the
15 development of a project priority list, the office shall submit the list to
16 the task force for its approval. The task force is authorized to
17 approve, disapprove, or approve in part, a project priority list.

18 b. Upon approval of a project priority list for projects authorized
19 to receive funding pursuant to sections 5 and 7 of P.L.1996, c.70, or
20 upon the failure of the task force to approve or disapprove a project
21 priority list within 60 days of receipt of the list from the office, the
22 task force shall submit the list to the President of the Senate and the
23 Speaker of the General Assembly, who shall cause the project priority
24 list to be introduced in each House in the form of legislative
25 appropriations bills.

26 c. The Legislature shall consider, and may amend or supplement,
27 the appropriations bills containing the project priority list. Any bill
28 introduced pursuant to subsection b. of this section and approved by
29 the Legislature shall appropriate monies from the "1996 Dredging and
30 Containment Facility Fund," established pursuant to section 18 of
31 P.L.1996, c.70, only for the projects authorized pursuant to sections
32 5 and 7 of P.L.1996, c.70 , and shall identify the specific projects,
33 including the individual amounts therefor, for which monies are
34 appropriated.

35 d. No monies appropriated pursuant to subsection c. of this section
36 shall be expended for any project unless the expenditure is authorized
37 pursuant to the project priority list contained in the legislation
38 approved in accordance with the provisions of subsection c. of this
39 section.

40 e. Nothing in this section shall preclude the Legislature from
41 developing a project priority list and making appropriations therefor.
42

43 5. a. The Office of Maritime Resources in the Department of
44 Commerce and Economic Development shall, in consultation with the
45 Department of Environmental Protection and the task force established
46 pursuant to section 3 of P.L. , c. (C.)(now before the

1 Legislature as this bill), develop, implement and maintain a
2 comprehensive dredging and dredged material management and
3 disposal plan, including dredged material decontamination, for the
4 navigable waters of the State.

5 b. The Department of Environmental Protection and the
6 Department of Commerce and Economic Development shall be
7 authorized, in accordance with the rules, regulations and procedures
8 of the General Services Administration, to enter into agreements with
9 public or private entities to establish ownership, lease provisions and
10 other related real and personal property interests. The departments
11 may also, in accordance with the rules, regulations and procedures of
12 the General Services Administration, enter into agreements with
13 regard to:

14 (1) the development, operation and management of dredging
15 projects including, but not necessarily limited to, any cost sharing,
16 right of way or easement provisions involved;

17 (2) the development, operation, management, closure and
18 monitoring of dredged material disposal, treatment and processing
19 facilities; and

20 (3) the development, evaluation, certification and implementation
21 of demonstration dredged material decontamination and treatment
22 technologies that are cost-effective, environmentally sound and that
23 create a usable end product.

24 c. The departments shall be authorized to acquire by purchase,
25 lease, grant or otherwise, any land, real or personal property which, in
26 the determination of the departments, is reasonably necessary to
27 effectuate the purposes of this act.

28 d. The departments shall be authorized to solicit proposals and to
29 enter into all contracts and agreements necessary to plan, design,
30 construct, equip, operate, finance, improve or maintain demonstration
31 projects for dredging, dredged material disposal and dredged material
32 decontamination projects.

33 e. The departments shall be authorized to charge and collect fees
34 or charges for dredging and for the use of a dredged material disposal
35 facility at such rates necessary to compensate for the costs to dredge,
36 and to plan, design, construct, equip, operate, improve, maintain, close
37 or replace the dredged material disposal facility and to ensure
38 continued availability of dredging and dredged material disposal.

39

40 6. a. There is established in the Executive Branch of the State
41 Government an Economic Development Site Task Force. For the
42 purpose of complying with the provisions of Article V, Section IV,
43 paragraph 1 of the New Jersey Constitution, the task force is allocated
44 within the Department of Commerce and Economic Development, but,
45 notwithstanding that allocation, the task force shall be independent of
46 any supervision or control by the department or by the commissioner

1 or any officer or employee thereof. The task force shall constitute an
2 instrumentality of the State exercising public and essential
3 governmental functions, and the exercise by the task force of the
4 powers conferred by this or any other act shall be deemed and held to
5 be an essential governmental function of the State.

6 b. The task force shall consist of 12 members, and shall include:
7 two representatives of the Department of Commerce and Economic
8 Development, one of whom shall be the Commissioner, or his
9 designee, who shall serve ex-officio, and one of whom shall be
10 appointed by the Commissioner of Commerce and Economic
11 Development; the Chairperson of the New Jersey Economic
12 Development Authority, or his designee, who shall serve ex-officio;
13 three public members appointed by the Governor; three public
14 members appointed by the President of the Senate; and three public
15 members appointed by the Speaker of the General Assembly, one of
16 whom the Speaker of the General Assembly shall designate as chair of
17 the task force. The appointment of the members shall be made within
18 45 days of the effective date of this act. An official making
19 appointments to the task force shall not appoint more than one public
20 member from the same county of residence. The appointee of the
21 Speaker of the General Assembly designated as chair of the task force
22 shall serve a term of two years and shall convene an organizational
23 meeting of the task force as soon as is practicable following the
24 appointment of at least six public members to the task force. The
25 public members shall reside in the Delaware River and Bay Region.

26 c. The public members shall serve terms of two years, except that
27 of the public members first appointed by each appointing authority,
28 one shall serve a term of three years, one shall serve a term of two
29 years, and one shall serve a term of one year. Not more than two
30 public members appointed by the same appointing authority shall be
31 members of the same political party.

32 d. Each member of the task force shall serve for the term of the
33 appointment and until a successor shall have been appointed and
34 qualified. Task force members shall serve without compensation. Any
35 vacancy shall be filled in the same manner as the original appointment
36 for the unexpired term only. A public member may be reappointed to
37 the task force upon term expiration.

38 e. Any member of the task force may be removed by the appointing
39 authority, for cause, after a public hearing.

40 f. A majority of the full membership of the task force shall
41 constitute a quorum for the transaction of task force business. Action
42 may be taken and motions and resolutions adopted by the task force
43 at any meeting thereof by the affirmative vote of a majority of the full
44 membership of the task force.

45
46 7. a. The Department of Commerce and Economic Development

1 shall establish a process under which applicants may apply for monies
2 made available from the "1996 Economic Development Site Fund,"
3 established pursuant to section 20 of P.L. 1996, c.70.

4 b. It shall be the duty of the Department of Commerce and
5 Economic Development to review and evaluate applications received
6 pursuant to the process established in subsection a. of this section to
7 determine whether the project is eligible pursuant to the provisions of
8 section 8 of P.L. , c. (C.)(now before the Legislature as this
9 bill). Of those projects deemed eligible, the Department of Commerce
10 and Economic Development shall include a description of each project
11 and its purpose, impact, cost, and construction schedule and a
12 recommendation for the approval or disapproval by the task force.

13 c. Upon the development of the project priority list, the
14 Department of Commerce and Economic Development shall submit the
15 list to the task force for its approval. The task force is authorized to
16 approve, disapprove or approve with modifications, a project priority
17 list. Upon approval of a project priority list containing projects
18 eligible pursuant to section 8 of P.L. , c. (C.)(now before the
19 Legislature as this bill), and authorized to receive funding pursuant to
20 section 8 of P.L. 1996, c. 70, the task force shall submit a project
21 priority list to the President of the Senate and the Speaker of the
22 General Assembly, who shall cause the project priority list to be
23 introduced in each House in the form of legislative appropriations bills.

24 d. The Legislature shall consider, and may amend or supplement,
25 the appropriations bills containing the project priority list. The monies
26 authorized to be appropriated pursuant to this subsection shall be
27 appropriated from the "1996 Economic Development Site Fund,"
28 established pursuant to section 20 of P.L.1996, c.70, to the
29 Department of Commerce and Economic Development for the projects
30 designated in the legislation. The Department of Commerce and
31 Economic Development shall administer the projects designated in the
32 legislation.

33 e. No monies appropriated pursuant to subsection d. of this section
34 shall be expended for any economic development site related project
35 unless the expenditure is authorized pursuant to the legislation
36 approved in accordance with the provisions of subsection d. of this
37 section.

38 f. Nothing in this section shall preclude the Legislature from
39 developing a project priority list and making appropriations therefor.
40

41 8. a. To be eligible to receive monies from the "1996 Economic
42 Development Site Fund," established pursuant to section 20 of
43 P.L.1996, c.70, an economic development site project must meet at
44 least two of the following criteria:

45 (1) The project will support or enhance the existing economic base
46 of the region in which it is located, which may include, but need not

1 be limited to, the agricultural, tourism and commercial sectors, or
2 improvements to the region's infrastructure;

3 (2) The project will result in the rehabilitation or expansion of
4 existing facilities in the region in which it is located;

5 (3) The project will result in the creation or retention of jobs in the
6 region in which it is located; and

7 (4) The project will foster the development of business or
8 commercial ventures which will promote long-term economic growth
9 in the region in which it is located.

10 b. No monies from the "1996 Economic Development Site Fund,"
11 established pursuant to section 20 of P.L.1996, c.70, shall be expended
12 for an economic development site outside of the Delaware River and
13 Bay Region.

14 c. For the purposes of sections 6, 7 and 8 of P.L. , c.
15 (C.)(now before the Legislature as this bill): "Delaware River and
16 Bay Region" means all the State territory located within the "port
17 district," as defined pursuant to section 1(6) of P.L.1951, c.288
18 (C.32:3-13.23); and "economic development site" means land,
19 equipment, buildings, appurtenant infrastructure and miscellaneous site
20 improvements designed to promote economic activity and new jobs in
21 the Delaware River and Bay Region.

22
23 9. The Legislature shall, from time to time, appropriate monies
24 from the "1996 Economic Development Site Fund," established
25 pursuant to section 20 of P.L.1996, c.70, to the Department of
26 Commerce and Economic Development for the projects designated in
27 the legislation. Any appropriation from this fund shall specify the
28 projects involved, all of which shall meet the requirements of section
29 8 of P.L. , c. (C.)(now before the Legislature as this bill).

30
31 10. The Department of Commerce and Economic Development and
32 the Department of Environmental Protection shall establish, in
33 consultation with the Dredging Project Facilitation Task Force, the
34 criteria for the content of final requests for proposals for any studies,
35 assessments, demonstration projects and dredging, and all phases in
36 the development and construction of a dredged material disposal
37 facility. The State may include in a request for proposals developed
38 pursuant to this act, on a case-by-case basis, a provision for the
39 indemnification of the State by the contract holder. The Department
40 of Commerce and Economic Development or the Department of
41 Environmental Protection, as appropriate, in consultation with the task
42 force, shall solicit requests for proposals and negotiate contracts.

43
44 11. a. The Department of Environmental Protection shall adopt,
45 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
46 (C.52:14B-1 et seq.), any rules or regulations necessary to effectuate

1 the purposes of this act.

2 b. The Department of Commerce and Economic Development shall
3 adopt, pursuant to the "Administrative Procedure Act," P.L.1968,
4 c.410 (C.52:14B-1 et seq.), any rules or regulations necessary to
5 effectuate the purposes of this act.

6
7 12. The Legislature may, in the annual appropriations act or in any
8 other act, limit the amount of funds appropriated from the "1996
9 Dredging and Containment Facility Fund," established pursuant to
10 section 18 of P.L.1996, c.70, that may be expended for any direct or
11 indirect program administrative costs of the State, its departments,
12 agencies, or authorities.

13
14 13. There is appropriated to the Department of Environmental
15 Protection from the "1996 Dredging and Containment Facility Fund,"
16 established pursuant to section 18 of the "Port of New Jersey
17 Revitalization, Dredging, Environmental Cleanup, Lake Restoration,
18 and Delaware Bay Area Economic Development Bond Act of 1996,"
19 P.L.1996, c.70, the sum of \$32,000,000 for the following dredging
20 and dredged material disposal projects, including infrastructure
21 investments:

<u>23</u>	<u>Project Name</u>	<u>Channel/Reach</u>
24	New York and New Jersey Channels	Kill Van Kull
25	New York and New Jersey Channels	Arthur Kill
26	Upper New York Harbor	Port Jersey Channel
27	Upper New York Harbor	Claremont Channel
28	New York and New Jersey Channels	Wards Point Bend
29	Port Newark/Elizabeth	Reaches A,B,C and D
30	Hudson River & Adjacent Channels	New Jersey Anchorages
31	New York and New Jersey Channels	Shooter's Island Reach
32	Raritan River	Raritan River Channel
33	New York and New Jersey Channels	Raritan Bay Reach
34	Hudson River Channel	40 foot channel (New Jersey side)
35	Newark Bay, Hackensack and	Newark Bay Channels
36	Passaic Rivers	

37

38 14. This act shall take effect immediately.

STATEMENT

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2
3 This bill would establish guidelines and procedures for the
4 appropriation of certain bond funds authorized pursuant to the "Port
5 of New Jersey Revitalization, Dredging, Environmental Cleanup, Lake
6 Restoration, and Delaware Bay Area Economic Development Bond
7 Act of 1996," P.L.1996, c.70. The bill provides specific guidelines for
8 the appropriation of monies from the "1996 Dredging and
9 Containment Facility Fund" and the "1996 Economic Development
10 Site Fund," both of which were created in the 1996 bond act and
11 approved by the voters in November, 1996.

12 The bill would appropriate \$32 million from the "1996 Dredging
13 and Containment Facility Fund," established pursuant to the bond act,
14 for various dredging and dredged material disposal projects, including
15 infrastructure investments.

16 With regard to the procedural guidelines for the appropriation and
17 expenditure of bond monies authorized for the dredging of navigation
18 channels in the New Jersey port region (e.g., Kill van Kull, Arthur
19 Kill), the dredging of navigation channels located outside of the port
20 region, and for projects related to the disposal of port region dredged
21 materials and dredged material decontamination, the bill authorizes the
22 Office of Maritime Resources in the Department of Commerce and
23 Economic Development to develop a priority list of dredging and
24 dredged material disposal projects. The bill requires the office to
25 include in the project priority lists, over time, not less than \$5 million
26 for decontamination projects.

27 Prior to submission to the Legislature for consideration, the list
28 would first have to be approved by a 12-member Dredging Project
29 Facilitation Task Force established by the bill. The task force would
30 be composed of the Commissioners of Environmental Protection and
31 Commerce and Economic Development, the State Treasurer, and nine
32 public members, three of which would be appointed by the Governor,
33 three by the Senate President and three by the Speaker of the General
34 Assembly. One of the Senate President's appointments would be the
35 chair of the task force. The public members would be required to
36 represent various sectors related to the port economy. Upon the
37 approval of the priority list by the task force, the Legislature would
38 then consider the list in the form of an appropriations bill listing
39 specific projects, in accordance with the provisions of the bond act.
40 The bill requires the task force to approve or disapprove a project
41 priority list within 60 days of receipt of the list from the Office of
42 Maritime Resources. Failure to act within this time period would
43 mean automatic transmission of the list to the Legislature for
44 consideration.

45 The bill assigns primary responsibility for the development and
46 implementation of a comprehensive dredging and dredged material

1 management and disposal plan, including dredged material
2 decontamination, to the Office of Maritime Resources, in consultation
3 with the Department of Environmental Protection (DEP) and the task
4 force. The bill authorizes the office to manage the development and
5 implementation of dredging (both port region and non-port region)
6 and dredged material disposal projects and demonstration
7 decontamination and treatment technologies, as well as to charge fees
8 for dredging and for the use of a dredged material disposal facility to
9 offset associated costs.

10 The bill also establishes a 12-member Economic Development Site
11 Task Force that would serve to prioritize economic development site
12 projects authorized by the bond act. The bill establishes a procedure
13 for the expenditure of economic development site bond monies,
14 whereby the Department of Commerce and Economic Development
15 would establish and administer an application process and develop a
16 project priority list for submission to the task force. The task force
17 would then approve, disapprove or approve with modifications the
18 project list submitted by the department, which would be required to
19 include all projects eligible pursuant to the criteria established in
20 section 8 of the bill. The task force would then submit, upon its
21 approval, a project priority list to the Legislature for legislative review
22 and consideration. The bond act authorizes \$20 million for economic
23 development site projects.

24 Finally, the bill authorizes the Legislature to limit the amount of
25 bond funds that may be expended for administrative costs.

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30 Establishes process for expenditure of dredging and economic
31 development bond monies; appropriates \$32 million from bond fund
32 for various dredging and dredged material disposal projects.