

ASSEMBLY, No. 752

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblymen **SULIGA** and **DORIA**

1 AN ACT concerning dredged material disposal and requiring a study
2 of disposal alternatives.

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

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7 1. The Legislature finds and declares that the flow of foreign and
8 domestic cargoes to and from the ports of New York and New Jersey
9 is vital and essential to the preservation of the economic well-being of
10 the northern New Jersey-New York metropolitan area; that to maintain
11 this vital flow of trade and commerce, it is necessary to dredge
12 periodically the various navigational channels and ship berths to allow
13 safe passage of vessels; and that analysis of the material to be dredged
14 from these channels and berths has revealed trace levels of
15 contaminants, the ocean disposal of which is believed by some to
16 present a potential for environmental degradation.

17 The Legislature further finds and declares that the current practice
18 of disposing of dredged material in the ocean at the site designated for
19 such disposal and commonly referred to as the Mud Dump Site,
20 located approximately six nautical miles east of Sea Bright, New
21 Jersey, will have to be discontinued because of lack of capacity; that
22 near-term alternatives are necessary to serve these disposal needs,
23 including the possible use of existing borrow pits located in the
24 Ambrose Channel and of geotextile bags, which have been used
25 effectively by the United States Army Corps of Engineers in Mobile,
26 Alabama, and in Marina del Rey, California; that the appointment by
27 the Governor of a Dredged Materials Management Team (DMMT) in
28 the summer of 1994 resulted in a final report issued in January 1995,
29 which recommended the construction of underwater pits that would
30 not be useable for at least two years at a potential cost of \$120
31 million; and that, despite the efforts of the DMMT, the port region has
32 been left without a recommendation for a viable solution to the harbor
33 dredging crisis.

34 The Legislature therefore determines that maintaining the viability
35 of the shipping, fishing, and trade industries, and the thousands of jobs

1 associated with these industries throughout the port region, requires
2 swift and immediate action; that other alternatives must be evaluated
3 and, if viable, implemented within the next 12 months; and that the
4 Office of the Business Ombudsman, in consultation with the
5 Department of Environmental Protection, is best suited to coordinate
6 and report back to the Legislature with recommendations, based on a
7 thorough review of the scientific literature and comparative cost
8 benefit and risk assessment analyses, of the alternatives for dredged
9 material disposal that can be implemented immediately.

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11 2. The Office of the Business Ombudsman, established pursuant to
12 Executive Order No. 15 of 1994, within the Department of State, in
13 consultation with the Department of Environmental Protection, shall
14 conduct a study to compare the feasibility of disposing of category III
15 material by depositing geotextile bags filled with category III material
16 in existing borrow pits located in New York harbor and at the Mud
17 Dump Site site with the construction of new borrow pits in Newark
18 Bay pursuant to the recommendations of the Governor's Dredged
19 Materials Management Team in its report of January 1995. As used
20 in this act, "category III material" means dredged material which fails
21 to meet federal standards established for toxicity or bioaccumulation
22 for one or more species or for the community, and which is deemed
23 unsuitable for unrestricted or unconfined open-water disposal. The
24 study shall include:

25 a. A review of the existing scientific literature on each alternative;

26 b. A cost benefit analysis of each alternative, the focus of which
27 shall be the potential impact of each alternative on the port area
28 economy, which shall consider, but need not be limited to, the gain or
29 loss of jobs related to the trade, shipping and fishing industries and any
30 costs related to the design, construction or implementation of each
31 alternative; and

32 c. A risk assessment analysis of each alternative, the focus of which
33 shall be the potential impact on the environment and public health of
34 each alternative, which shall consider, but need not be limited to, the
35 projected mortality and morbidity rates of aquatic and human life that
36 would result from implementation of each alternative.

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38 3. a. In approving or disapproving permit applications for
39 dredging, the Department of Environmental Protection and the Port
40 Authority of New York and New Jersey shall review, consider and
41 base any final decision on the recommendations made pursuant to
42 section 4 of this act.

43 b. To the extent possible, the United States Army Corps of
44 Engineers, and any other federal agency involved in the review of
45 dredging permit applications, shall, in approving or disapproving
46 permit applications for dredging, review, consider and base any final

1 decision on the recommendations continued in the report submitted
2 pursuant to section 4 of this act.

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4 4. The Office of the Business Ombudsman shall submit a report on
5 the study conducted pursuant to section 2 of this act, which shall
6 include findings and recommendations for action. Within 90 days of
7 the effective date of this act, the report shall be submitted to the
8 Governor, the Legislature, the Department of Environmental
9 Protection, the Port Authority of New York and New Jersey, the
10 United States Army Corps of Engineers and the federal Environmental
11 Protection Agency.

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13 5. There is appropriated from the General Fund to the Department
14 of State the sum of \$90,000 to effectuate the purposes of this act.

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16 6. This act shall take effect immediately.

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STATEMENT

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21 This bill would require the Office of the Business Ombudsman in
22 the Department of State, in consultation with the Department of
23 Environmental Protection, to conduct a study comparing the feasibility
24 of disposing of category III material using geotextile bags with the
25 construction of new borrow pits in Newark Bay pursuant to the
26 recommendations of the Governor's Dredged Materials Management
27 Team in its report of February 1995. To determine the comparative
28 feasibility of these alternatives, the Ombudsman would be required to
29 consider the use and disposal of geotextile bags in existing borrow pits
30 located in New York Harbor and at the Mud Dump Site, and to
31 incorporate in the study: (1) a review of the existing scientific
32 literature on each alternative; (2) a cost benefit analysis of each
33 alternative, including any impact on jobs related to the trade, shipping
34 and fishing industries and the costs of implementation; and (3) a risk
35 assessment analysis of each alternative, including the potential
36 environmental and health impacts.

37 The bill requires that the Office of the Business Ombudsman submit
38 a report within 90 days of the bill's effective date, with findings and
39 recommendations, to the Governor, Legislature, DEP, Port Authority
40 of NY/NJ, the federal Army Corps and the EPA. The bill appropriates
41 \$90,000 to the Department of State to conduct the study and issue the
42 final report.

43 The bill requires the DEP and the Port Authority to base any
44 dredging permit decisions on the recommendations of the report
45 submitted by the Office. The bill also provides that, to the extent
46 possible, the federal agencies involved in dredging permit review base

1 their decisions on the report's recommendations.

2 The recent decision by the Port Authority to proceed with the
3 development and construction of borrow pits for the disposal of
4 dredged material in Newark Bay, and the Army Corps of Engineers'
5 designation of the east bank of the lower New York Bay as a potential
6 disposal site underscore the need for a unified approach to solving this
7 serious problem.

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12 Requires Office of Business Ombudsman, with DEP, to evaluate
13 near-term dredge disposal options.