

LEGISLATIVE FISCAL ESTIMATE TO

[First Reprint]
ASSEMBLY, No. 1033

STATE OF NEW JERSEY

DATED: DECEMBER 30, 1996

Assembly Bill No. 1033 (1R) of 1996 amends the "Spill Compensation and Control Act" by eliminating the Department of Environmental Protection's (DEP) discretionary authority to authorize the recovery of treble damages by contribution plaintiffs (i.e. responsible parties, or persons who are financially responsible for and implementing measures to clean up or remove hazardous discharges from a particular site) from contribution defendants, or those persons who are also responsible for the hazardous discharge but who have failed to comply with DEP directives to financially contribute to the cleanup effort. The bill thus allows the contribution plaintiffs to seek treble damages, without the department's authorization, from contribution defendants under certain terms and conditions set forth in the bill.

The Office of Legislative Services estimates that the bill will give contribution plaintiffs the capability needed in seeking treble damages from contribution defendants. Up until now, neither the department nor contribution plaintiffs have successfully sought or been awarded treble damages pertaining to the remediation of a hazardous site cleanup project. Despite the Spill Act's authorization to seek the recovery of such monies, the department has yet to recover any such damages on its own, nor has it approved a contribution plaintiff's request to initiate such proceedings.

The enactment of this bill could therefore result in more recoveries of responsible party monies, two-thirds of which would be retained by the contribution plaintiff. Since the remaining one-third of such recoveries are directed by current law (and the bill) to be deposited in the Spill Fund, more Spill Fund monies could be available and used toward other hazardous discharge remediation projects.

Consequently, this could allow the amount of expenditures for hazardous discharge site cleanups made from other State funding sources, such as bond acts and the recently enacted set-aside from the Corporation Business Tax, to be expended more effectively and for more projects. Finally, the negotiation of a site cleanup agreement with a responsible party may be facilitated by the knowledge that treble damages could be sought in the future without having to first obtain the DEP's approval.

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.