

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR **ASSEMBLY, No. 2724**

STATE OF NEW JERSEY

DATED: DECEMBER 11, 1997

The Assembly Appropriations Committee reports favorably an Assembly Committee Substitute for Assembly Bill No. 2724.

This Assembly Committee Substitute for Assembly Bill No. 2724, the "Brownfields and Contaminated Site Remediation Act," removes impediments in current law and creates incentives in order to promote and facilitate the cleanup and reuse of New Jersey's older industrial sites. The redevelopment of these industrial sites, often referred to as "brownfields" will help protect the public health and environment, conserve open space, improve the economy, create jobs, and revitalize our cities and neighborhoods.

This substitute was crafted with three predominant policy goals. First, the substitute is intended to result in more remediations being performed and brownfields being redeveloped. Second, the substitute will not lessen any environmental or health standard. The strict standards set in the 1993 legislation and enforced by the Department of Environmental Protection DEP will remain in place. Finally, the persons responsible for the discharge will not be given any relief from liability. Only those "innocent" parties who either unknowingly buy contaminated property or who clean up a contaminated property that they have purchased will be given any liability protections.

There are four general areas that need to be addressed in order to facilitate brownfield remediation and redevelopment. These areas include technical, legal, financial, and institutional policies. This committee substitute addresses each of these areas in a comprehensive manner in order to fully address the problems posed.

The substitute bill reported by this committee is identical to the SCS for Senate Bill No. 39/A2250ACS/S-1815/1539 (1R), as amended and reported by this committee.

FISCAL IMPACT:

The substitute offers financial incentives in the form of 25 percent matching grants or loan guarantees from the Hazardous Discharge Site Remediation Fund, as administered by the New Jersey Economic Development Authority (EDA), to support the implementation of unrestricted or limited restricted remedies. Such matching grants or

loans are also available to persons who propose to use an innovative technology for a remedial action, provided that person has assets of less than \$2.0 million. The Office of Legislative Services has estimated that the matching grant and loan programs will have no fiscal impact on the State budget because these costs will be covered by the monies already contained in the Hazardous Discharge Site Remediation Fund. Most of these funds are derived from previously appropriated bond funds, loan repayments, and other non-State funding sources.

The substitute directs the (DEP) to investigate and determine the extent of contamination in the State's aquifers and make the results public through its inclusion in the State Geographic Information System. An appropriation of \$3.0 million from the 1996 Environmental Cleanup Fund, which is funded from bond monies approved in November, 1996 (P.L.1996, c.70), is appropriated for this purpose. In addition, \$2.0 million from this funding source is provided to the DEP to support an investigation and mapping project concerning known areas of historic fill. The availability of data generated from both studies is intended to lower the costs of performing brownfields remediations by private parties.

The substitute limits public entity liability for contaminated property that is acquired by any means and extends this immunity from liability to third party suits. The OLS has estimated that municipalities, counties and public improvement authorities will benefit from this provision by enabling them to acquire more brownfields property without the threat of such liabilities or potential lawsuits

The substitute extends the 10-year property tax exemption under the Environmental Opportunity Zone Act (P.L.1995, c.413) to 15 years if an unrestricted or limited restricted remedial action is used for brownfields sites within those zones. The substitute expands the exemption to sites redeveloped for residential use.

The substitute provides that cleanup and removal costs assessed by the DEP under the Spill Compensation and Control Act are not to include administrative indirect costs unless the costs are being assessed in a cost recovery action.

The substitute provides that the Commissioner of the Department of Commerce and Economic Development (DCED) can enter into a redevelopment agreement with the brownfield site developer if new taxes are to be realized from the redevelopment to reimburse the developer for up to 75 percent of the costs of the remediation. The potential net tax revenue gain from such projects cannot be estimated because the DCED commissioner is given broad discretion in deciding the terms and conditions of such agreements.

The substitute creates a Brownfields Redevelopment Task Force to plan and coordinate brownfields issues and a Legislative Underground Storage Tank Remediation Task Force to study the policy implications of implementing a risk-based corrective action program for petroleum releases. The Brownfields Task Force would be funded by a \$250,000 appropriation that is included in the

recommended FY 1998 budget for the Office of State Planning. The \$5.0 million in combined appropriations for the two studies required are also supported by bonds and thus will not affect the State budget until debt service payments for these funds are initiated sometime in the future. It should be noted that in addition to alleviating some of the costs for persons performing brownfields remediations, the generation of data from these task forces may also help to lower the costs for State-funded site remediations.

The OLS has estimated that the exclusion of administrative indirect costs that are currently assessed under the Spill Compensation and Control Act will have the effect of lowering the fees assessed by the DEP to review a remediation, thereby lowering the cost of a remediation; however, the General Fund will receive less revenue from this source, requiring a greater proportion of State funds to support DEP staff operations in this area.