

[First Reprint]
SENATE, No. 34

STATE OF NEW JERSEY

INTRODUCED JANUARY 23, 1997

By Senators DiFRANCESCO, O'CONNOR, Scott and Kyrillos

1 AN ACT concerning dredging and dredged material disposal ¹[and] ¹
2 providing for the expenditure of monies dedicated pursuant to
3 P.L.1996, c.70 ¹and supplementing Title 12 and Title 34 of the
4 Revised Statutes¹.

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 ¹[have] has¹ resulted in a
15 reduction of the volume of maritime commerce in the region, resulting
16 in a loss of jobs and the potential elimination of the Port of New York
17 and New Jersey's present status as the primary port on the Eastern
18 seaboard; that many of these port waters contain harmful contaminants
19 that upset the ecological balance and threaten the environment, and
20 that must be disposed of in the most cost-efficient manner possible,
21 using the most up-to-date technology including the possible creation
22 of a usable end product; and that the voters, in November 1996,
23 overwhelmingly approved a bond issue for the dredging of New
24 Jersey's ¹[port] navigation¹ channels.

25 The Legislature therefore determines that it is in the public interest
26 that the port dredging and dredged material disposal ¹projects¹
27 proceed as expeditiously and efficiently as possible, and that the
28 monies approved by the voters for this purpose be used effectively;
29 that it is necessary for the State to establish an administrative
30 procedure to set priorities for ¹dredging¹ projects in accordance with
31 their economic benefit to the State, and their relative potential to bring

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SEG committee amendments adopted February 10, 1997.

1 about economic growth through enhanced maritime commerce, to
2 retain existing jobs and create new ones, and to support the continuing
3 viability of the State's recreation and tourism industries; and that it is
4 essential that the priorities for the dredging and dredged material
5 disposal projects be established with the participation of the affected
6 sectors of the State's economy, including representatives of the
7 maritime industry, business and commercial interests, labor, and
8 recreation and tourism industries, so that a consensus is reached on the
9 most effective use of the available funds.

10

11 2. As used in this act:

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

16 "Delaware River and Bay Region" means all the State territory
17 located within the "port district," as defined pursuant to section 1(6)
18 of P.L.1951, c.288 (C.32:3-13.23);

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

22 "Dredged material" means material removed by dredging that is, in
23 the determination of the federal Environmental Protection Agency,
24 either unsuitable for ocean disposal or suitable for ocean disposal only
25 with capping;

26 ¹["Economic development site" means land, equipment, buildings,
27 appurtenant infrastructure and miscellaneous site improvements
28 designed to promote economic activity and new jobs in the Delaware
29 River and Bay Region; and]¹

30 "Port region" means the geographic area created by Article II of the
31 Compact of April 30, 1921, creating the bi-state agency, now known
32 as the Port Authority of New York and New Jersey, and which is
33 commonly referred to as the Port of New York District ¹; and

34 "Task force" means the Dredging Project Facilitation Task Force
35 established pursuant to section 3 of this act¹.

36

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

1 the powers conferred by this or any other act shall be deemed and held
2 to be an essential governmental function of the State.

3 b. The task force shall consist of 11 ¹[voting]¹ members ¹[and one
4 non-voting member. The Business Ombudsman, or his designee, shall
5 serve ex-officio and as a non-voting member. The voting members] ,
6 and¹ shall include the Commissioner of the Department of
7 Environmental Protection, or his designee; the Commissioner of the
8 Department of Commerce and Economic Development, or his
9 designee; three public members appointed by the Governor; three
10 public members appointed by the President of the Senate, one of
11 whom the President of the Senate shall designate as chair of the
12 ¹[board] task force¹; and three public members appointed by the
13 Speaker of the General Assembly. The appointment of the members
14 shall be made within 45 days of the effective date of this act. The
15 appointee of the President of the Senate designated as chair of the
16 ¹[board] task force¹ shall convene an organizational meeting of the
17 ¹[board] task force¹ as soon as is practicable following the
18 appointment of at least six public members to the ¹[board] task force¹.
19 The public members shall, to the maximum extent practicable,
20 represent one or more of the following areas of expertise and
21 specialization: the maritime industry, the business community, the
22 trucking industry, organized labor, marine terminal operations, the
23 tourism and recreation industry, environmental technology, and
24 commercial fishing.

25
26 4. It shall be the duty of the Office of Maritime Resources in the
27 Department of Commerce and Economic Development to establish a
28 priority list for dredging and dredged material disposal facility projects
29 based primarily on the maintenance of the viability of the Port of New
30 Jersey and New York as a deep water port accessible to international
31 commerce and on the prospects for the creation and retention of jobs
32 in New Jersey. In developing the priority list, the office shall consult
33 with the ¹[Dredging Project Facilitation Task Force] task force¹ and
34 the Department of Environmental Protection, and shall review and
35 consider the plan for the expenditure of funds authorized pursuant to
36 section 5 of P.L.1996, c.70 and required to be submitted by the
37 Commissioner of Environmental Protection to the State Treasurer
38 pursuant to section 32 of P.L.1996, c.70, and any changes to that plan
39 made pursuant to section 33 of P.L.1996, c.70. Upon the
40 development of the priority list, the office shall submit the list to the
41 task force for its approval.

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 ¹[Dredging Project
46 Facilitation Task Force] task force¹ established pursuant to section 3

1 of P.L. , c. (C.)(now before the Legislature as this bill),
2 develop, implement and maintain a comprehensive dredging and
3 dredged material management and disposal plan for the navigable
4 waters of the State located in the port region.

5 b. The office shall be authorized, in consultation with the
6 Commissioner of Environmental Protection, to enter into agreements
7 with public or private entities to designate ownership, lease provisions
8 and other related property interests. The office may also enter into
9 agreements with regard to:

10 (1) dredging projects including, but not necessarily limited to, any
11 cost sharing, right of way or easement provisions involved;

12 (2) the development, operation and management of dredged
13 material disposal, treatment and processing facilities; and

14 (3) the development, evaluation, certification and implementation
15 of demonstration ¹dredged material¹ decontamination and treatment
16 technologies that are cost-effective, environmentally sound and that
17 create a usable end product.

18 c. The office shall be authorized to acquire by purchase, lease,
19 grant or otherwise, any land ¹[or] ¹real ¹or personal¹ property which,
20 in the determination of the office, is reasonably necessary to effectuate
21 the purposes of this act.

22 d. The office shall be authorized to solicit proposals from
23 developers to plan, design, construct, equip, operate, finance, improve
24 or maintain demonstration projects and dredged material disposal
25 facilities.

26 e. The office shall be authorized to charge and collect fees or
27 charges for the use of a dredged material disposal facility at such rates
28 necessary to compensate for the costs to plan, design, construct,
29 equip, operate, improve, maintain, close or replace the dredged
30 material disposal facility and to ensure continued availability of the
31 facility.

32
33 6. a. ¹[Upon] As soon as practicable after¹ the effective date of
34 this act, ¹and thereafter from time to time.¹ the ¹[Dredging Project
35 Facilitation Task Force] task force¹ shall ¹[, as soon as practicable, and
36 thereafter from time to time,]¹ submit to the Legislature a project
37 priority list for projects authorized to receive funding pursuant to
38 section 5 of P.L.1996, c.70. The project priority list shall include a
39 description of each project and its purpose, impact, cost, and
40 construction schedule. The President of the Senate and the Speaker
41 of the General Assembly shall cause the project priority list to be
42 introduced in each House in the form of legislative appropriations bills.

43 b. Within 60 days of the introduction thereof, the Legislature shall
44 consider the appropriations bills containing the project priority list,
45 including any amendatory or supplementary provisions thereto. ¹[The
46 legislation] Any bill introduced pursuant to subsection a. of this

1 section and¹ approved by the Legislature shall appropriate ¹[only
2 those]¹ monies from the "1996 Dredging and Containment Facility
3 Fund," established pursuant to section 18 of P.L.1996, c.70, ¹only for
4 the projects¹ authorized ¹[to be expended]¹ pursuant to section 5 of
5 P.L.1996, c.70 ¹[. The monies authorized to be appropriated pursuant
6 to this subsection] and¹ shall ¹[be appropriated for] identify¹ the
7 specific projects, including the individual amounts therefor, ¹[on the
8 list] for which monies are appropriated¹.

9 c. No monies appropriated pursuant to subsection b. of this section
10 shall be expended for any ¹[dredging related]¹ project unless the
11 expenditure is authorized pursuant to the ¹project¹ priority list
12 contained in the legislation approved in accordance with the provisions
13 of subsection b. of this section.

14

15 7. The Department of Environmental Protection shall ¹[, as it
16 deems necessary,]¹ submit to the Legislature ¹, at such times as it
17 deems appropriate,¹ a priority list of projects related to the dredging
18 of navigation channels not located in the port region and authorized to
19 receive funding pursuant to section 7 of P.L.1996, c.70. The order of
20 priority for these dredging projects shall include, but need not be
21 limited to, the maintenance of the viability of navigation channels not
22 located in the port region to promote recreation ¹[and] ¹, tourism ¹and
23 commercial fishing,¹ as well as the creation and retention of jobs
24 related to the navigability of these waterways. The Legislature shall,
25 from time to time, appropriate ¹to the Department of Environmental
26 Protection¹ monies ¹from the "1996 Dredging and Containment
27 Facility Fund," established pursuant to section 18 of P.L.1996, c.70¹
28 to finance the ¹[costs] cost of projects¹ authorized pursuant to the
29 provisions of section 7 of P.L.1996, c.70. ¹[Such monies shall be
30 appropriated to the Department of Environmental Protection from the
31 "1996 Dredging and Containment Facility Fund," established pursuant
32 to section 18 of P.L.1996, c.70.]¹

33

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

38 a. The project will support or enhance the existing economic base
39 of the region in which it is located, which may include, but need not
40 be limited to, the agricultural, tourism and commercial sectors, or
41 improvements to the region's infrastructure;

42 b. The project will result in the rehabilitation or expansion of
43 existing facilities in the region in which it is located;

44 c. The project will result in the creation or retention of jobs in the
45 region in which it is located; and

46 d. The project will foster the development of business or

1 commercial ventures which will promote long-term economic growth
2 in the region in which it is located.

3 ¹For the purposes of this section, "economic development site"
4 means land, equipment, buildings, appurtenant infrastructure and
5 miscellaneous site improvements designed to promote economic
6 activity and new jobs in the Delaware River and Bay Region.¹

7

8 9. The Legislature shall, from time to time, appropriate monies
9 from the "1996 Economic Development Site Fund," established
10 pursuant to section 20 of P.L.1996, c.70, to the Department of
11 Commerce and Economic Development for the projects designated in
12 the legislation. Any appropriation from this fund shall specify the
13 projects involved, all of which shall meet the requirements of section
14 8 of P.L. , c. (C.)(now before the Legislature as this bill).

15

16 10. The Department of Commerce and Economic Development and
17 the Department of Environmental Protection shall establish, in
18 consultation with the Dredging Project Facilitation Task Force, the
19 criteria for the content of final requests for proposals for any studies,
20 assessments, demonstration projects and dredging, and all phases in
21 the development and construction of a dredged material disposal
22 facility. ¹[Any] The State may include in a¹ request for proposals
23 developed pursuant to this act ¹[shall include, but need not be limited
24 to,] , on a case-by-case basis.¹ a provision for the indemnification of
25 the State by the contract holder. The Department of Commerce and
26 Economic Development or the Department of Environmental
27 Protection, as appropriate, in consultation with the task force, shall
28 solicit requests for proposals and negotiate contracts.

29

30 11. a. The Department of Environmental Protection shall adopt,
31 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
32 (C.52:14B-1 et seq.), any rules or regulations necessary to effectuate
33 the purposes of this act.

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

38

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

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46 13. This act shall take effect immediately.

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4 Establishes process for expenditure of dredging and economic
5 development bond monies.