

SENATE, No. 1111

STATE OF NEW JERSEY

INTRODUCED MAY 9, 1996

By Senator McGREEVEY

1 AN ACT establishing the New Jersey-New York Confined Disposal
2 Facility Siting Commission and supplementing Title 32 of the
3 Revised Statutes.

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

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8 1. This act shall be known, and may be cited, as the "New
9 Jersey-New York Confined Disposal Facility Siting Commission Act."

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

21 The Legislature further finds and determines that the current
22 practice of disposing of dredged material in the ocean at the site
23 designated for such disposal and commonly referred to as the Mud
24 Dump Site, located approximately six nautical miles east of Sea
25 Bright, New Jersey, will have to be discontinued because of lack of
26 capacity; that it is unlikely that any alternative ocean disposal site can
27 be designated within the time frame necessary to serve the disposal
28 needs of the port region; that the continuing discussion of the effects
29 of disposing of dredged material in the ocean has had and will continue
30 to have an adverse effect upon the area's travel and tourism, fishing,
31 and other water-dependent industries located in the coastal areas if an
32 immediate alternative is not offered to the present practice of
33 disposing of dredged materials in the ocean; and, that alternative
34 methods of disposing of dredged material are successfully used
35 elsewhere in the United States and worldwide, and the use of confined
36 disposal facilities has been demonstrated to be an effective method of
37 disposing of dredged materials in other states, including Maryland,

1 Virginia and Texas, and in the Great Lakes.

2 The Legislature therefore declares that the establishment of a New
3 Jersey-New York commission charged with the responsibility of
4 recommending one or more locations for the establishment of a
5 confined disposal facility capable of storing the amount of material
6 dredged from the port region over the next 25 years would serve the
7 public interest by ensuring that the periodic dredging that is required
8 can continue without delay and will thus contribute to the continued
9 economic vitality of the region.

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11 3. As used in this act:

12 "Commission" means the New Jersey-New York Confined Disposal
13 Facility Siting Commission created pursuant to section 4 of this act;

14 "Dredged materials" mean materials dredged from the port region;

15 "Facility" means an upland or in-water confined disposal facility
16 which shall consist of an artificially constructed island, a diked
17 extension of an existing island, or a diked extension of land located
18 landward of the mean high water line of tidal waters, and which is
19 designated solely for the disposal of dredged materials;

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 from which
24 dredged material may be removed and disposed of at the facility.

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26 4. a. There is created the New Jersey-New York Confined
27 Disposal Facility Siting Commission, which shall consist of 20
28 members, ten of whom shall be residents of the State of New Jersey
29 and ten of whom shall be residents of the State of New York. The
30 New Jersey residents shall be appointed by the Governor, with the
31 advice and consent of the Senate, as follows: two private citizens with
32 expertise in marine biology; two private citizens with expertise in
33 marine or environmental engineering; one elected official from from
34 each of two separate municipalities located in that portion of the port
35 region located within the State of New Jersey; one representative of
36 the shipping industry; one representative of organized labor
37 representing the interests of workers directly or indirectly engaged in
38 the movement of cargo by water; one representative of an organization
39 devoted to the improvement of the natural environment of the New
40 York/New Jersey region; and one representative of the Port Authority
41 of New York and New Jersey. The Governor shall make these
42 appointments within 60 days of the effective date of this act.

43 b. Vacancies in the appointed positions on the commission shall be
44 filled in the same manner as the original appointments were made.
45 Members of the commission shall serve without compensation, but
46 may, within the limits of funds appropriated or otherwise made

1 available to it, be reimbursed for actual expenses necessarily incurred
2 in the discharge of their official duties.

3 c. The commission shall hold an organizational meeting within 30
4 days after the appointment and qualification of at least a majority of
5 the authorized commission members from each State, and shall elect
6 from its members a chairperson and vice-chairperson, who shall act as
7 chairperson in the absence of the chairperson. Meetings of the
8 commission shall be at such times and places as the chairperson deems
9 appropriate.

10 d. The members of the commission shall appoint an executive
11 director, who shall be the chief administrative officer and secretary of
12 the commission. The executive director shall serve at the pleasure of
13 the commission, and shall be a person qualified by training and
14 experience to perform the duties required under this act.

15 e. The powers of the commission shall be vested in the members
16 thereof in office, and a majority of the total authorized membership of
17 the commission shall be required to exercise its powers at any meeting
18 thereof.

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20 5. The commission shall have the following powers:

21 a. To adopt bylaws for the regulation of its affairs and the conduct
22 of its business;

23 b. To adopt and have a seal and to alter the same at its pleasure;

24 c. To sue and be sued;

25 d. To enter into contracts upon such terms and conditions as the
26 commission shall determine to be reasonable, and to pay or
27 compromise any claim arising therefrom;

28 e. To call to its assistance and avail itself of the services of such
29 employees as may be required and made available for such purposes,
30 which may include, but need not be limited to, employees of the
31 United States Army Corps of Engineers, United States Environmental
32 Protection Agency, New Jersey Department of Environmental
33 Protection or New York Department of Environmental Conservation,
34 and employees of any other federal, state, county or municipal
35 department, board, commission or agency;

36 f. To enter into contracts for and to accept any gifts or grants or
37 loans of funds or financial or other aid in any form from the
38 government of the United States or any agency, instrumentality or
39 political subdivision thereof, or from any other source and to comply,
40 subject to the provisions of this act, with terms and conditions thereof;

41 g. To employ an executive director, consulting engineers,
42 architects, attorneys, marine biologists, and such other consultants and
43 employees as may be required in the judgment of the commission to
44 carry out the purposes of this act, and to fix and pay their
45 compensation from funds available to the commission therefor, all
46 without regard to the provisions of Title 11A of the

- 1 New Jersey Statutes;
- 2 h. To hold public meetings or hearings within New Jersey or New
3 York on any matter related to the need for, or the siting of, a confined
4 disposal facility; and
- 5 i. To do and perform any acts and things authorized by this act
6 under, through or by means of its own officers, agents and employees,
7 or by contract with any person.
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- 9 6. It shall be the duty of the commission to:
- 10 a. Confer with governmental agencies and representatives of
11 business and industry to determine the projected annual need for
12 dredging in the port region;
- 13 b. Estimate the total volume of material likely to be dredged within
14 the port region in the forthcoming 25 years;
- 15 c. Assess and determine the facility capacity that will be required
16 if all materials that are dredged in the port region are disposed of at
17 such a facility or facilities;
- 18 d. Inventory the existing facilities, if any, within the port region,
19 and analyze the capacity of such existing facilities in their present
20 configuration;
- 21 e. Analyze and assess the potential to expand existing facilities;
- 22 f. Recommend one or more locations for the establishment of one
23 or more facilities of sufficient capacity to accommodate the disposal
24 of materials dredged from the port region for a period of not less than
25 25 years; and
- 26 g. If appropriate, recommend the location and manner of expansion
27 of any existing facilities within the port region.
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- 29 7. The commission, within one year of its first meeting, shall
30 propose one or more sites for consideration as the location of a
31 facility, or if more than one facility is deemed required to meet the
32 projected need for the disposal of dredged material, then the
33 commission shall propose one or more sites for each of the facilities
34 that it recommends be established within the port region. The
35 commission shall transmit written notice of its recommendations, by
36 certified mail, to the Governors and Legislatures of New Jersey and
37 New York.
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- 39 8. The commission may, upon its own motion or at the request of
40 the Governor of the State of New Jersey or the Governor of the State
41 of New York, rescind or withdraw any recommendation for the siting
42 of a facility if, in the judgment of the commission, such rescission is
43 consistent with the purposes and provisions of this act.
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- 45 9. This act shall take effect upon the enactment into law of
46 substantially similar legislation by the State of New York.

STATEMENT

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This bill would establish a "New Jersey-New York Confined Disposal Facility Siting Commission," to be charged with the responsibility of siting a facility, or facilities, of sufficient capacity to accommodate the disposal of materials dredged from the New Jersey/New York port region for at least 25 years. The commission would consist of 20 members, ten each from New Jersey and New York. The New Jersey members would be appointed by the Governor, with the advice and consent of the Senate, and would represent various expertises and interest groups. Commission members would appoint an executive director who would act as the chief administrative officer and secretary of the commission.

In addition to empowering the commission to perform essential functions, the bill would require the commission to: project the annual need for dredging in the port region; estimate the volume of material likely to be dredged from the port region over the next 25 years; determine the required capacity of a facility, or facilities, if all dredged materials are disposed of at such facility or facilities; inventory the existing facilities within the port region and their capacities and potential for expansion; recommend a site or sites for one or more facilities with capacity to accommodate the disposal of materials dredged from the port region over the next 25 years; and recommend, if appropriate, the expansion of any existing facilities within the port region.

The bill requires the commission, within one year of its first meeting, to propose a site, or sites, for consideration as the location of a facility or facilities. The bill would take effect upon the enactment into law of substantially similar legislation by the State of New York.

The "New Jersey-New York Confined Disposal Facility Siting Commission Act."