

SENATE, No. 1697

STATE OF NEW JERSEY

INTRODUCED NOVEMBER 18, 1996

By Senator SCHLUTER

1 AN ACT concerning the Delaware and Raritan Canal, amending
2 R.S.13:13-3, P.L.1991, c.344, and P.L.1944, c.172, and repealing
3 section 5 of P.L.1991, c.344 (C.13:13-3.2).

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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. R.S.13:13-3 is amended to read as follows:

9 13:13-3. The canal and feeder shall continue to be a public
10 highway, and [, until the legislature shall have further directed the use
11 or disposition of the canal and feeder,] the Department of
12 Environmental Protection or its designee, the New Jersey Water
13 Supply Authority, shall [, until further directions of the legislature,]
14 repair and preserve the banks of the canal and feeder [,] and at all
15 times keep a flow of water through the canal at a level heretofore
16 maintained when the canal was in operation or as necessary to conduct
17 dredging operations or effect repairs, except that, during the period of
18 December fifteenth of each year and March first of the ensuing year,
19 the department may close the canal or maintain such flow of water as
20 it deems desirable or necessary to comply with any contract for the
21 sale of water.

22 To insure [the] that flow [aforesaid] and [in order] to preserve
23 sanitary conditions in the canal and about the banks thereof and the
24 towpath adjacent thereto, the feeder, the canal and the banks thereof
25 and the towpath shall be kept free of weeds and other growth, [save
26 and] except when such growth [as] , in the judgment of the
27 department, is conducive to the appearance of the canal and feeder and
28 the banks and towpath thereof.

29 (cf: P.L.1991, c.344, s.2)

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31 2. Section 4 of P.L.1991, c.344 (C.13:13-3.1) is amended to read
32 as follows:

33 4. a. The [provisions of any law, rule, or regulation to the
34 contrary notwithstanding, and until further direction from the

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.

1 Legislature, the] Department of Transportation shall [have control
2 and responsibility] be responsible for :

3 (1) the maintenance, repair, rehabilitation and replacement of any
4 existing or new vehicle [bridges over] or pedestrian bridge along or
5 traversing the Delaware and Raritan Canal [carrying State, county, or
6 municipal roads] and any guardrails or barriers along the approaches
7 to these [vehicle] bridges ; and

8 (2) the design or redesign, and construction or reconstruction, of
9 any existing or new vehicle or pedestrian bridge or structure
10 appurtenant thereto along or traversing the canal .

11 All such maintenance, repair, rehabilitation, replacement, design,
12 redesign, construction, or reconstruction projects or other work
13 undertaken by the Department of Transportation pursuant to this
14 subsection shall be subject to the approval of the Department of
15 Environmental Protection and the Delaware and Raritan Canal
16 Commission as provided pursuant to P.L.1970, c.268 (C.13:1B-15.128
17 et seq.) and P.L.1974, c.118 (C.13:13A-1 et seq.), or pursuant to any
18 other applicable law.

19 b. [The commissioner] Notwithstanding the provisions of any law,
20 rule, or regulation to the contrary, the Commissioner of
21 Transportation , in accordance with generally accepted engineering
22 principles, standards or techniques, may, in order to protect the public
23 safety, order the closing of public access, including roads, highways,
24 sidewalk, tracks, paths or passageways, leading to, in, under or near
25 any vehicle or pedestrian bridge [described pursuant to this
26 amendatory and supplementary act, the provisions of any law, rule, or
27 regulation to the contrary notwithstanding] or structure appurtenant
28 thereto along or traversing the canal .

29 (cf: P.L.1991, c.344, s.4)

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31 3. Section 8 of P.L.1944, c.172 (C.13:13-12.8) is amended to
32 read as follows:

33 8. The [provisions of any law, rule, or regulation to the contrary
34 notwithstanding, and until further direction from the Legislature, the]
35 Department of Transportation , in co-operation with the Department
36 of Environmental Protection [is empowered and directed to enter upon
37 and] and the Delaware and Raritan Canal Commission, shall take
38 possession of [,] all of the existing and new vehicle or pedestrian
39 bridges [carrying State, county, or municipal roads] along or
40 traversing the canal and any guardrails or barriers along the
41 approaches to [any such vehicle] these bridges [over the canal] .

42 (cf: P.L.1991, c.344, s.3)

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44 4. Section 5 of P.L.1991, c.344 (C.13:13-3.2) is repealed.

1 5. This act shall take effect immediately.

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STATEMENT

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6 This bill would restore to both the Department of Environmental
7 Protection (DEP) and the Delaware and Raritan Canal Commission
8 approval authority with respect to work undertaken by the Department
9 of Transportation (DOT) to maintain, repair, rehabilitate, replace,
10 design, redesign, construct, or reconstruct bridges and associated
11 structures along or traversing the Delaware and Raritan Canal. This
12 provision would implement one of the recommendations of the
13 Delaware and Raritan Canal Transportation Safety Study Commission
14 as expressed in its recent report submitted to the Governor and the
15 Legislature in accordance with the provisions of sections 1 and 8
16 through 13 of P.L.1991, c.344. That 1991 law also essentially
17 provided for the temporary suspension of the authority of the DEP and
18 the Delaware and Raritan Canal Commission to approve work on
19 bridges along or traversing the canal while the study commission's
20 report was being prepared.

21 The bill would also clarify and expand the division of responsibility
22 and authority among the various governmental entities described above
23 to include not only existing vehicle bridges, but also new vehicle
24 bridges and both existing and new pedestrian bridges along or
25 traversing the canal.

26 Finally, the bill would repeal a section of the 1991 law that (1) only
27 required the DOT to consult with the DEP and the Delaware and
28 Raritan Canal Commission before undertaking maintenance, repair,
29 rehabilitation, or replacement work on existing canal bridges, and (2)
30 gave the DOT total responsibility over the design of canal bridges.
31 These provisions are being repealed in favor of restoration of the DEP
32 and Delaware and Raritan Canal Commission approval authority
33 described above.

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38 Subjects DOT bridge projects for Delaware and Raritan Canal to
39 approval of DEP and Delaware and Raritan Canal Commission.