

SENATE, No. 1768

STATE OF NEW JERSEY

INTRODUCED JANUARY 14, 1997

By Senator LaROSSA

1 AN ACT concerning the prevention of flooding, and amending
2 P.L.1993, c.376 and supplementing Title 58 of the Revised
3 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. Section 1 of P.L.1993, c.376 (C.58:16A-67) is amended to
9 read as follows:

10 1. a. The provisions of any other law, or any rule or regulation
11 adopted pursuant thereto, to the contrary notwithstanding, a county
12 or municipality, or designated agency thereof, before undertaking any
13 project to clean, clear, or desnag a stream within its jurisdiction, shall
14 submit to the Department of Environmental Protection or to any State
15 agency requiring a stream cleaning permit or an application for the
16 proposed stream cleaning, clearing or desnagging project, a written
17 notice of intent to undertake a project to clean, clear, or desnag a
18 stream and a certification attested to by the county or municipal
19 engineer or the local soil conservation district, provided that the
20 certification is made by a licensed professional engineer. The engineer
21 shall certify that:

22 (1) the project is being undertaken solely for the purpose of stream
23 cleaning, clearing, or desnagging;

24 (2) the removal of any material will not extend below the natural
25 stream bed;

26 (3) the activities will not alter the natural streambanks;

27 (4) the activities will consist of the removal only of accumulated
28 sediments, debris, and garbage from a stream with a natural stream bed
29 or the removal of any accumulated material from a stream previously
30 channelized with concrete or similar artificial material;

31 (5) every effort will be made to perform work from only one
32 streambank and that vegetation and canopy on the more southerly or
33 westerly banks will be preserved for stream shading; and

34 (6) the activities are necessary and in the public interest.

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 The notice shall also include a description of the nature of the
2 project, a description, including a photograph, of the reach of the
3 stream in which the activity is to take place, and an identification of
4 the regulatory water quality classification of the stream in which the
5 activity is to take place. The reach of the stream may be provided by
6 the submission of a photostatic copy of the United States Geological
7 Survey topographic quadrangle.

8 b. For any project that includes sediment removal, in addition to
9 the conditions enumerated in subsection a. of this section, the
10 following conditions must be met:

11 (1) the applicant shall provide substantiated documentation that the
12 subject stream floods and results or can result in property damage
13 necessitating the proposed cleaning;

14 (2) the stream to be cleaned is classified as waters not designated
15 by the Department of Environmental Protection as pinelands waters or
16 category one waters;

17 (3) the stream is not in a municipality, as defined by the
18 department, that is known to have federally listed threatened or
19 endangered species associated with its wetlands. Regulated activities
20 in these municipalities require coordination with federal agencies; and

21 (4) the applicant shall submit color photographs of the areas of the
22 stream to be cleaned and of the access points.

23 [b.] c. Upon receipt of a notice and certification submitted
24 pursuant to this section, the department, or any other State agency
25 requiring a stream cleaning permit or an application for the proposed
26 stream cleaning, clearing or desnagging project, as the case may be,
27 shall , except as provided below, have [30] 15 days to notify the
28 county or municipality, or designated agency thereof, if particular
29 circumstances mandate that the stream cleaning not be done in this
30 particular case. For those projects involving the removal of sediment,
31 the department shall have 60 days prior to the commencement of
32 activities to notify the county or municipality, or designated agency
33 thereof, if particular circumstances mandate that the stream cleaning
34 not be done in that particular case. If the department, or any other
35 State agency requiring a stream cleaning permit or an application for
36 the proposed stream cleaning, clearing or desnagging project, as the
37 case may be, makes such a determination, it shall provide the county
38 or municipality, or designated agency thereof, with the technical
39 reasons therefor. The department may not prohibit the removal of any
40 debris no matter how long it has been in the stream.

41 d. Upon completion of the project to clean a stream involving the
42 removal of sediment within its jurisdiction, the county or municipality,
43 or designated agency thereof, shall submit to the department a written
44 notice that the project has been completed in accordance with the
45 criteria outlined in subsection b. of this section. The notice shall
46 contain a certification attested to by the county or municipal engineer

1 or the local soil conservation district, provided that the certification is
2 made by a licensed professional engineer. The engineer shall certify
3 that all the criteria in subsection b. of this section have been adhered
4 to.

5 e. As used in this section:

6 "Category one waters" means those waters so designated by the
7 Department of Environmental Protection, for purposes of
8 implementing the antidegradation policies of the "Water Pollution
9 Control Act", P.L.1977, c.74 (C.58:10A-1 et seq.).

10 "Debris" means any material that is not naturally occurring within
11 the streambed.

12 [c.] f. Any person or governmental entity violating the provisions
13 of this [act] section shall be subject to penalties imposed for violations
14 of the "Flood Hazard Area Control Act," P.L.1962, c.19
15 (C.58:16A-50 et seq.).

16 (cf: P.L.1993, c.376, s.1)

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18 2. (New section) a. Any municipality may establish a plan for the
19 size and location of flood control facilities, including detention basins,
20 in conjunction with any other municipality and the Department of
21 Environmental Protection in order to minimize flood damage, to
22 reduce stormwater runoff from new or existing development, and to
23 induce water recharge into the ground where practical.

24 b. Any municipality may establish a plan either alone or jointly with
25 any other municipality and with the Department of Environmental
26 Protection, to maintain the water level of any lake or reservoir within
27 its borders at a level necessary to protect against flooding.

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29 3. (New section) Upon application by a municipality, the
30 Department of Environmental Protection shall identify the natural
31 streambed of any stream in the municipality that floods and which
32 flooding results or can result in property damage and which will be
33 subject to routine maintenance to control flooding. Any maps or data
34 generated by the department shall be sent to the clerk of the
35 municipality.

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37 4. (New section) Any county or municipality, or designated
38 agency thereof, shall have the authority, after proper notice, to enter
39 any property during reasonable hours for the purpose of conducting
40 stream cleaning, clearing or desnagging activities.

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42 5. This act shall take effect immediately.

STATEMENT

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This bill would provide for expedited permit procedures to allow counties or municipalities to remove accumulated sediments in certain streams that are subject to flooding. The bill would authorize a municipality to enter property at reasonable hours and upon proper notice in order to conduct stream cleaning, clearing, or desnagging activities. The bill would also prohibit the department from refusing to allow for the removal or any garbage no matter how long it has been present in a stream.

The bill would also allow municipalities to establish a plan for the size and location of flood control facilities, including detention basins, in conjunction with any other municipality and the Department of Environmental Protection in order to minimize flood damage, to reduce stormwater runoff from new or existing development, and to induce water recharge into the ground, and to establish a plan either alone or jointly with any other municipality and with the Department of Environmental Protection, to maintain the water level of any lake or reservoir within its borders at a level necessary to protect against flooding. Finally, the bill would require the Department of Environmental Protection, upon application by a municipality, to identify the natural streambed of any stream in the municipality that floods and which flooding results or can result in property damage and which will be subject to routine maintenance to control flooding. Any maps or data generated by the department shall be sent to the clerk of the municipality.

Provides for expedited permit procedures for certain stream cleaning activities and for other planning functions to prevent flooding.