

CHAPTER 48 LAWS OF N. J. 19 62

APPROVED 5-21-62

SENATE, No. 297

STATE OF NEW JERSEY

INTRODUCED MAY 14, 1962

By Senator SANDMAN

(Without Reference)

AN ACT concerning certain municipalities and supplementing "An act concerning civilian defense and disaster control during an emergency," and authorizing payment of claims from the Special Erosion Fund established by chapter 18, P. L. 1962, approved March 29, 1962.

1 WHEREAS, The shores and beaches of this State have been recently devas-
2 tated by storms, floods and action of the sea to the extent that large
3 sections of the sand barriers which protect the mainland have been
4 washed away and eroded, thereby leaving the remainder of the sand bar-
5 riers and the shore municipalities in imminent danger of further serious
6 erosion and destruction with consequent peril to life and property; and

7 WHEREAS, The existence of this situation has clearly demonstrated the neces-
8 sity for shore municipalities, under these and similar circumstances, to
9 have clear authority for the undertaking of immediate emergency pro-
10 cedures; and

11 WHEREAS, The Legislature finds that such procedures may necessitate au-
12 thority for the exercise of a right of immediate entry upon property for
13 the purpose of demolishing and removing buildings and structures
14 thereon, and for effecting improvements and repairs so as to prevent a
15 recurrence of such condition; now, therefore,

1 BE IT ENACTED *by the Senate and General Assembly of the State of New*
2 *Jersey:*

1 1. When the governing body of any municipality bordering on the
2 Atlantic ocean or Delaware bay shall find that there exists a threat or danger
3 to life and property by reason of the damage to or the destruction of sand
4 barriers and other natural or man-made barriers which protect the munici-
5 palities, and that it is necessary to the health, safety and welfare of the mu-
6 nicipality to repair, restore, replace or construct such protective barriers, such
7 governing body may, by resolution, as an exercise of the police power of the
8 State designate the properties required for the purpose of providing such
9 protective barriers and authorize the appropriate municipal or governmental
10 officials or agencies or the representatives thereof to enter immediately upon
11 such property to take control and possession thereof, and to do such acts as
12 may be required, including removing, destroying or otherwise disposing of
13 any property located thereon without first paying any compensation therefor.

14 Such resolution shall provide that no entry shall be made upon such
15 property for a period of at least 10 days following the passage of such resolu-
16 tion, unless the governing body shall find that the public safety and interest
17 requires that entry be made within a shorter period of time. In such case,
18 entry may be made after the expiration of such time period as shall be fixed
19 by the resolution.

1 2. The governing body of any municipality subject to the provisions of
2 this act may by resolution or, where required in order to receive aid from
3 the State or the Federal Government to assist in providing protective bar-
4 riers, by ordinance, authorize and direct the chief executive official of the
5 municipality acting for and on behalf and in the name of the municipality to
6 enter into such agreements with the State or the Federal Government or
7 any agency thereof to do such acts or things as shall be necessary or con-
8 venient to secure such aid and assistance.

9 Such agreement may provide:

10 (a) That the municipality will hold and save harmless the State and
11 Federal Government or any agency thereof free from damages which may
12 arise out of the construction, repair, restoration or replacement and the

13 maintenance of such protective barriers undertaken by the State or the
14 Federal Government or agency thereof in connection with any such
15 agreement;

16 (b) That the municipality will provide, free of cost to the State and
17 Federal Government, all lands, easements, rights of way or other areas within
18 the municipality required in connection with the work undertaken by the
19-20 State, the Federal Government or agencies thereof in respect of such
21 agreement;

22 (c) That the municipality will undertake to maintain and preserve the
23 protective barriers constructed, repaired, restored, or replaced by the State
24 or Federal Government or agencies thereof;

25 (d) That the municipality will do such other acts as may be necessary to
26 carry out the terms of the agreement.

1 3. Nothing in this act shall be construed to deny to any person who has
2 an interest in any property which has been possessed by the municipality the
3 right to obtain therefor just compensation to the extent that such property
4 shall have been taken by the municipality. No compensation shall be granted
5 to any individual to the extent that the action of the municipality does not
6 amount to a taking of property but to a reasonable regulation of property
7 pursuant to a proper exercise of the police power.

1 4. (a) The governing body of the municipality to the extent that the
2 municipality may incur a financial obligation by virtue of the provisions of
3 this act shall satisfy such obligations:

4 (1) By appropriating the amount necessary by an emergency ap-
5 propriation adopted pursuant to the provisions of the "Local Budget
6 Law," N. J. S. 40A:4-1 et seq.; or

7 (2) By the adoption of a bond ordinance pursuant to the provisions
8 of the Local Bond Law which ordinance shall be deemed to authorize
9 obligations within the purposes set forth in section 40A:2-7 of the New
10 Jersey Statutes.

11 (b) The county in which such municipality shall be located may, with the
12 approval of the Director of the Division of Local Government, pursuant to

13 resolution duly adopted, by its governing body, after notice published in a
14 manner provided for by a resolution authorizing bonds of such county pur-
15 suant to the aforesaid Local Bond Law and with or without consideration
16 and upon such terms and conditions as may be agreed to by and between
17 any such county and municipality unconditionally guaranty to the punctual
18 payment of the principal of and interest on any bonds of the municipality
19 so issued for the purposes set forth in this act. Any guaranty of bonds of
20 the municipality made pursuant to this section shall be evidenced by endorse-
21 ment thereof on such bonds executed in the name of the county and on its
22 behalf by such official thereof as may be designated in the resolution author-
23 izing such guaranty and such county shall thereupon and thereafter be obli-
24 gated to pay the principal of and interest on said bonds in the same manner
25 and to the same extent as in the case of bonds issued by it. Any such guar-
26 anty of bonds of a municipality may be made, and any resolution authoriz-
27 ing such guarantee may be adopted notwithstanding statutory or other debt
28 limitations, including particularly any limitation or requirement under or
29 pursuant to the said Local Bond Law but the principal amount of bonds so
30 guaranteed shall, after their issuance, be included in the gross debt of such
31 county for the purposes of determining the indebtedness of such county
32 under or pursuant to said Local Bond Law.

33 In order to meet the obligation for payment of principal of or interest
34 on any such bonds by virtue of such guaranty, a county is hereby authorized
35 to borrow the funds necessary to meet such obligation and to issue such
36 promissory note or notes therefor payable within 2 years from the date of
37 such borrowing to the extent that funds of such county are not otherwise
38 available for such purpose.

39 The municipality shall repay to the county as soon as practicable all
40 sums paid by the county by virtue of the aforesaid bond guaranty.

1 5. The Commissioner of Conservation and Economic Development is
2 hereby authorized to accept claims submitted to him by any municipality
3 which has taken action pursuant to the provisions of this act for payment
4 from the Special Beach Erosion Fund established by chapter 18, P. L. 1962,

5 approved March 29, 1962, and to process such claims in accordance with
6 the provisions of said chapter 18, P. L. 1962, but in no event shall the total
7 amount of money paid out of such fund for such claims exceed the amount
8 of \$400,000.00. The commissioner may require as a condition of the approval
9 of such claim that the municipality enter into an agreement with the com-
10 missioner on behalf of the State of New Jersey by which it will permit the
11 beaches of the municipality to be used by the general public upon such
12 reasonable terms and conditions as shall be established by the municipality
13 and approved by the commissioner.

1 6. This act shall take effect immediately.