

13:1D-119

LEGISLATIVE HISTORY CHECKLIST
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(DEP permit---
review---backlogs)

NJSA: 13:1D-119

LAWS OF: 1991 CHAPTER: 424

BILL NO: A4519

SPONSOR(S) Cohen

DATE INTRODUCED: March 4, 1991

COMMITTEE: ASSEMBLY: Land Use
SENATE: Energy and Environment

AMENDED DURING PASSAGE: No Assembly committee substitute enacted

DATE OF PASSAGE: ASSEMBLY: June 20, 1991
SENATE: January 6, 1992.

DATE OF APPROVAL: January 17, 1992

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: ASSEMBLY: Yes

SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: No

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

KBG/pp

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 4519

STATE OF NEW JERSEY

ADOPTED JUNE 10, 1991

Sponsored by Assemblymen COHEN and SHINN

1 AN ACT concerning permit reviews by the Department of
2 Environmental Protection, and supplementing Title 13 of the
3 Revised Statutes.

4
5 BE IT ENACTED by the Senate and General Assembly of the
6 State of New Jersey:

7 1. a. The Department of Environmental Protection shall
8 report, in writing, to the Assembly Energy and Environment
9 Committee and Senate Environmental Quality Committee, or
10 their successors, whenever the number of applications for a given
11 class or category of permits, as established pursuant to section 1
12 of P.L. , c. (C.) (pending in the Legislature as
13 Assembly Bill No. 4518), that is pending before the department
14 exceeds by more than:

15 (1) 33% the maximum number of permit applications that can
16 be reviewed on a timely basis at current staff levels, as
17 determined by the department. Vacant staff positions shall be
18 excluded for purposes of determining current staff levels; or

19 (2) 10% the number of permit applications determined to be
20 complete for purposes of technical review and pending before the
21 department, which percentage of applications remain outstanding
22 for more than 45 days beyond the time-frame for completing the
23 review of that class or category of permits as contained in the
24 review schedule therefor established pursuant to section 2 of
25 P.L. , c. (C.) (pending in the Legislature as Assembly
26 Bill No. 4518).

27 b. Department reports shall be submitted to the legislative
28 committees within 15 day of a determination that either
29 condition specified in subsection a. of this section exists. The
30 report shall identify the nature of the condition requiring the
31 submission of a report, including the class or category of permits
32 involved; detail current work force levels, and work load and
33 productivity levels; provide a plan and schedule for, as applicable,
34 reviewing the applications in a timely manner, or completing the
35 outstanding reviews in an expeditious manner; and identify with
36 specificity any additional resources, including qualified private
37 consultants, that are required by the department to effectuate
38 the department's plan.

39 2. This act shall take effect immediately.

40

41 ENVIRONMENT

42

43 Requires DEP to report certain work overloads and backlogs to
44 the appropriate legislative committees.

ASSEMBLY, No. 4519

STATE OF NEW JERSEY

INTRODUCED MARCH 4, 1991

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By Assemblymen COHEN and SHINN

1 AN ACT concerning permit review, and supplementing Title 13 of
2 the Revised Statutes.

3

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

6 1. On January 1 of each year, the Department of
7 Environmental Protection shall calculate the maximum number
8 of permits reviewable by current staff on a timely basis. When
9 the number of permits pending exceeds the maximum number
10 for each permit type and class by 150% or more, the department
11 shall refer permits exceeding this amount to outside consultants
12 for review pursuant to the provisions of this act.

13 For the purposes of this act, "permit" means any permit,
14 license, certificate, or written approval, or any renewal thereof,
15 issued by the department or any division, bureau, agency, office,
16 or other administrative unit thereof, pursuant to R.S.12:5-1 et
17 seq.; P.L.1975, c.232 (C.13:1D-29 et seq.) the "Solid Waste
18 Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.); section 17
19 of P.L.1975, c.326 (C.13:1E-26); the "Comprehensive Regulated
20 Medical Waste Management Act," P.L.1989, c.34 (C.13:1E-48.1
21 et al.); P.L.1989, c.151 (C.13:1E-99.21a et al.); the "New Jersey
22 Statewide Mandatory Source Separation and Recycling Act,"
23 P.L.1987, c.102 (C.13:1E-99.11 et al.); the "Pesticide Control
24 Act of 1971," P.L.1971, c.176 (C.13:1F-1 et seq.); the
25 "Environmental Cleanup Responsibility Act," P.L.1983, c.330
26 (C.13:1K-6 et seq.); the "Toxic Catastrophe Prevention Act,"
27 P.L.1985, c.403 (C.13:1K-19 et seq.); "The Wetlands Act of
28 1970," P.L.1970, c.272 (C.13:9A-1 et seq.); the "Freshwater
29 Wetlands Protection Act," P.L.1987, c.156 (C.13:9B-1 et seq.);
30 the "Coastal Area Facility Review Act," P.L.1973, c.185
31 (C.13:19-1 et seq.); the "Air Pollution Control Act (1954),"
32 P.L.1954, c.212 (C.26:2C-1 et seq.); section 13 of P.L.1967,
33 c.106 (C.26:2C-9.2); the "Water Supply Management Act,"
34 P.L.1981, c.262 (C.58:1A-1 et seq.); section 10 of P.L.1947,
35 c.377 (C.58:4A-14); the "Water Pollution Control Act,"
36 P.L.1977, c.74 (C.58:10A-1 et seq.); P.L.1986, c.102
37 (C.58:10A-21 et seq.); the "Safe Drinking Water Act," P.L.1977,
38 c.224 (C.58:12A-1 et seq.); the "Flood Hazard Area Control
39 Act," P.L.1962, c.19 (C.58:16A-50 et seq.); or the federal
40 "Resource Conservation and Recovery Act of 1976," as amended
41 and supplemented, 42 U.S.C. §6901 et seq., or any other permit,

1 license, certificate, or written approval, or any renewal thereof,
2 issued by the department or any division, bureau, agency, office,
3 or other administrative unit thereof, pursuant to law that the
4 Commissioner of Environmental Protection determines to be
5 subject to the provisions of this act.

6 2. a. The department shall develop and maintain for one
7 year, a list of prequalified eligible consultants.

8 b. Outside consultants may be employed subject to the
9 provisions of section 3 of this act, to review one or more permit
10 applications. The review performed shall determine the
11 applicant's compliance with statutes, regulations, and policy
12 requirements of the relevant program and shall perform any
13 other function, responsibility, duty, otherwise performed by
14 department staff. The department may establish by contract
15 with consultants, time limits for review or permit applications
16 and any other terms and conditions necessary for the proper
17 review of permit applications in accordance with this act.

18 c. The department shall have the responsibility to take final
19 action on all permits and shall have the duty to enforce,
20 pursuant to law, rule, regulation, the terms of any permit in the
21 same manner as if the permit had been reviewed by the
22 department.

23 3. A consultant employed pursuant to this act shall be
24 considered a "public employee" or a "State employee" for
25 purposes of the "New Jersey Tort Claims Act," P.L.1972, c.45
26 (N.J.S.59:1-1 et seq.), or otherwise be accorded any of the
27 protections set forth therein.

28 4. a. The department, in consultation with the Attorney
29 General, shall establish, within 120 days of the effective date of
30 this act, a conflict of interest policy governing the conduct of
31 outside consultants employed by the department to carry out the
32 purposes of this act. The policy shall include the imposition of
33 sanctions for violations.

34 b. The department shall prepare the conflict of interest
35 policy in manual form and shall make the manual available to
36 the general public at a cost not to exceed the cost of
37 reproduction and distribution.

38 5. This act shall take effect immediately, except no outside
39 consultant shall be employed until the adoption of the conflict
40 of interest policy.

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42
43 STATEMENT

44
45 This bill would direct the Department of Environmental
46 Protection to utilize outside consultants when the permit
47 application backlog is extreme to review permit applications.
48 The bill would direct the department to calculate the maximum
49 number of permits with current staff levels. An excess of

1 pending permits of 150% would trigger the use of outside
2 consultants. The department, in consultation with the Attorney
3 General, shall establish a conflict of interest policy governing
4 the conduct of outside consultants employed by the department
5 pursuant to this act.

6

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8 ENVIRONMENT

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11 Requires DEP to employ outside consultants to address permit
12 backlog.

ASSEMBLY ENERGY AND ENVIRONMENT COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 4519

STATE OF NEW JERSEY

DATED: JUNE 10, 1991

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Assembly Bill No. 4519 is reported favorably by the Assembly Energy and Environment Committee as an Assembly Committee Substitute.

This bill directs the Department of Environmental Protection (DEP) to report to the appropriate legislative committees when there is a substantial increase in the number of permit applications filed with the department, or when a significant backlog develops because of the department's inability to comply with the review schedules adopted by the department for completing technical reviews of permit applications.

DEP reports shall be transmitted to the committees within 15 days of the occurrence of such conditions, and the report shall include, among other things, the nature and cause of the overload or backlog condition, and a plan and time schedule for dealing with the overload or backlog.

It is the Assembly Energy and Environment Committee's wish and intent that DEP give the most serious consideration to the hiring of professional consultants, whenever practicable, to aid the department in dealing with permit application overloads and backlogs.

SENATE LAND USE MANAGEMENT
AND REGIONAL AFFAIRS COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR

ASSEMBLY, No. 4519

STATE OF NEW JERSEY

DATED: DECEMBER 12, 1991

The Senate Land Use Management and Regional Affairs Committee favorably reports Assembly Bill No. 4519 ACS.

Assembly Bill No. 4519 ACS directs the Department of Environmental Protection (DEP) to report to the appropriate legislative standing reference committees when there is a substantial increase in the number of permit applications filed with the department, or when a significant backlog develops because of the department's inability to comply with the review schedules adopted by the department for completing technical reviews of permit applications.

DEP reports shall be transmitted to the committees within 15 days of the occurrence of such conditions, and the report shall include, among other things, the nature and cause of the overload or backlog condition, and a plan and time schedule for dealing with the overload or backlog.

Assembly Bill No. 4519 ACS is identical to Senate Bill No. 3634.