

58:1A-7

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2001 **CHAPTER:** 319
NJSA: 58:1A-7 (Temporary water diversion permits)
BILL NO: A3676 (Substituted for S1817)

SPONSOR(S): Collins

DATE INTRODUCED: June 14, 2001

COMMITTEE: **ASSEMBLY:** Appropriations

SENATE: ----

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** November 29, 2001

SENATE: October 3, 2001

DATE OF APPROVAL: January 3, 2002

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (2nd reprint enacted)

(Amendments during passage denoted by superscript numbers)

A3676

SPONSORS STATEMENT: (Begins on page 3 of original bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes

SENATE: No

FLOOR AMENDMENT STATEMENTS: Yes 10-3-2001

6-21-2001

LEGISLATIVE FISCAL ESTIMATE: No

S1817

SPONSORS STATEMENT: (Begins on page 3 of original bill) Yes

Bill and Sponsors Statement identical to A3676

COMMITTEE STATEMENT: **ASSEMBLY:** No

SENATE: No

FLOOR AMENDMENT STATEMENTS: No

LEGISLATIVE FISCAL ESTIMATE: No

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

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HEARINGS: No

NEWSPAPER ARTICLES: No

ASSEMBLY, No. 3676

STATE OF NEW JERSEY 209th LEGISLATURE

INTRODUCED JUNE 14, 2001

Sponsored by:

Assemblyman JACK COLLINS

District 3 (Salem, Cumberland and Gloucester)

SYNOPSIS

Authorizes issuance of temporary water diversion permits.

CURRENT VERSION OF TEXT

As introduced.



A3676 COLLINS

2

1 AN ACT concerning water supply management, and amending
2 P.L.1981, c.262.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. Section 7 of P.L.1981, c.262 (C.58:1A-7) is amended to read as
8 follows:

9 7. a. **[No]** A person **[may]** shall not divert more than 100,000
10 gallons per day of any waters of the State or construct any building or
11 structure which may require a diversion of water unless **[he]** the
12 person obtains a diversion permit or water usage certification, as
13 appropriate, pursuant to section 6 of P.L.1981, c.262 (C.58:1A-6).

14 b. Every diversion permit issued or water usage certification
15 approved pursuant to section 6 of P.L.1981, c.262 (C.58:1A-6) shall
16 be renewed by the department upon the expiration thereof, with any
17 conditions deemed appropriate by the department, for the same
18 quantity of water, except that the department may, after notice and
19 public hearing, limit that quantity to the amount currently diverted,
20 subject to contract, or reasonably required for a demonstrated future
21 need. In designated areas of critical water supply concern, the
22 department may, after notice and public hearing, modify the conditions
23 of an existing diversion permit or water usage certification in order to
24 (1) limit or reduce the quantity of water which lawfully may be
25 diverted to the safe or dependable yield of the resource; (2) transfer
26 the point of diversion; or (3) require a permittee to utilize alternate
27 sources of water, upon a determination that the existing diversion or
28 continued use of the same source in excess of the safe and dependable
29 yield, as the case may be, adversely impacts or threatens to adversely
30 impact the water resources of the State.

31 c. For any surface water or ground water source or area of the
32 State that the department determines to be approaching conditions that
33 may require the commissioner to designate that region as an area of
34 critical water supply concern, or for any surface water or ground water
35 source or area projected to be in deficit in the New Jersey Statewide
36 Water Supply Plan, the department may, after notice and opportunity
37 for public hearing, issue a temporary diversion permit which may be
38 modified or terminated to any person seeking a new or modified
39 permit to divert any waters of the State or to construct any building or
40 structure or commence any activity which may require a diversion
41 permit or water usage certification, as appropriate, pursuant to section
42 6 of P.L.1981, c.262 (C.58:1A-6).

43 The duration of any temporary permit issued by the department

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 pursuant to this subsection shall be for no longer than five years. The
2 department may alter the conditions or amount of water allowed to be
3 diverted, terminate the permit or renew the temporary permit for a
4 subsequent term.

5 Whenever the department terminates or modifies the conditions of
6 a temporary permit, the department shall provide adequate advance
7 notice to the permittee of the department's intentions and the rationale
8 therefor. The department's rationale may include, but need not be
9 limited to, an explanation of the status of watershed and water supply
10 planning and infrastructure conditions and improvement initiatives for
11 surface water or ground water sources or areas and alternatives which,
12 in the department's opinion, may be viable for the permittee to replace
13 the previously allowable diversion amount. These alternatives may
14 include, but need not be limited to, reuse of treated wastewater
15 effluent or other alternatives approved by the department.

16 Any procedures or requirements necessary to implement the
17 provisions of this subsection shall be contained in rules and regulations
18 adopted by the department pursuant to the "Administrative Procedure
19 Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

20 (cf: P.L.1993, c.202, s.2)

21

22 2. This act shall take effect immediately.

23

24

25

STATEMENT

26

27 This bill would authorize the Department of Environmental
28 Protection to issue temporary water diversion permits under certain
29 circumstances.

30 This bill would amend the "Water Supply Management Act,"
31 P.L.1981, c.262 (C.58:1A-1 et seq.) to allow the Department of
32 Environmental Protection to issue temporary water diversion permits
33 for certain projects. These temporary permits would be for no longer
34 than five years and would address situations in which short-term
35 allocations could be allowed while the Department pursues longer-
36 term water supply planning and infrastructure initiatives.

37 At present, the Department has no statutory authority to issue
38 temporary permits. The bill would limit issuance of temporary permits
39 only to those surface or ground water sources or areas wherein the
40 Department has determined that the region is approaching critical area
41 conditions or is projected to be deficit in the New Jersey Statewide
42 Water Supply Plan.

43 Prior to issuing a temporary permit, the Department would be
44 required to provide notice and an opportunity for public hearing and
45 justification as to why a temporary permit is appropriate. The
46 Department may terminate or alter conditions of these temporary

A3676 COLLINS

4

1 permits only after providing adequate notice and a rationale for taking
2 this action which may include, but not be limited to, an explanation of
3 the status of watershed and water supply planning and infrastructure
4 conditions and improvement initiatives for the surface or groundwater
5 sources or areas and alternatives which, in the Department's opinion,
6 may be viable for the permittee to replace the previously allowable
7 amount of water diverted.

STATEMENT TO
ASSEMBLY, No. 3676

with Assembly Floor Amendments
(Proposed By Assemblyman COLLINS)

ADOPTED: JUNE 21, 2001

These amendments provide that for the duration of the temporary permit issued by the Department of Environmental Protection under this bill, the temporary permit-holder must actively seek an alternative for its long-term water supply needs which, in the Department's opinion, may be viable for the permittee to replace the previously allowable amount of water diverted.

The amendments also clarify that this bill would not alter the authority of the Department to administer and enforce the provisions of the "Water Supply Management Act," P.L.1981, c.262 (C.58:1A-1 et seq.) or P.L.1993, c.202 (C.58:1A-7.3 et al.) or any rules, regulations and orders adopted, issued or effective thereunder pertaining to designated areas of critical water supply concern.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3676

STATE OF NEW JERSEY

DATED: JUNE 21, 2001

The Assembly Appropriations Committee reports favorably Assembly Bill No. 3676.

Assembly Bill No. 3676 authorizes the Department of Environmental Protection to issue temporary water diversion permits under certain circumstances.

This bill amends the "Water Supply Management Act," P.L.1981, c.262 (C.58:1A-1 et seq.), to allow the Department of Environmental Protection (DEP) to issue temporary water diversion permits for certain projects. These temporary permits would be for no longer than five years and would address situations in which short-term allocations could be allowed while the DEP pursues longer-term water supply planning and infrastructure initiatives.

At present, the DEP has no statutory authority to issue temporary permits. The bill limits issuance of temporary permits to only those surface or ground water sources or areas wherein the DEP has determined that the region is approaching critical area conditions or is projected to be deficit in the New Jersey Statewide Water Supply Plan.

The bill requires that before DEP issues a temporary permit, DEP must provide notice and an opportunity for public hearing and justification as to why a temporary permit is appropriate. The DEP may terminate or alter conditions of these temporary permits only after providing adequate notice and a rationale for taking this action which may include, but not be limited to, an explanation of the status of watershed and water supply planning and infrastructure conditions and improvement initiatives for the surface or groundwater sources or areas and alternatives which, in the DEP opinion, may be viable for the permittee to replace the previously allowable amount of water diverted.

FISCAL IMPACT:

This bill was not certified as requiring a fiscal note.

[First Reprint]

ASSEMBLY, No. 3676

STATE OF NEW JERSEY
209th LEGISLATURE

INTRODUCED JUNE 14, 2001

Sponsored by:

Assemblyman JACK COLLINS

District 3 (Salem, Cumberland and Gloucester)

SYNOPSIS

Authorizes issuance of temporary water diversion permits.

CURRENT VERSION OF TEXT

As amended by the General Assembly on June 21, 2001.



1 AN ACT concerning water supply management, and amending
2 P.L.1981, c.262.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. Section 7 of P.L.1981, c.262 (C.58:1A-7) is amended to read as
8 follows:

9 7. a. ~~[No]~~ A person ~~[may]~~ shall not divert more than 100,000
10 gallons per day of any waters of the State or construct any building or
11 structure which may require a diversion of water unless ~~[he]~~ the
12 person obtains a diversion permit or water usage certification, as
13 appropriate, pursuant to section 6 of P.L.1981, c.262 (C.58:1A-6).

14 b. Every diversion permit issued or water usage certification
15 approved pursuant to section 6 of P.L.1981, c.262 (C.58:1A-6) shall
16 be renewed by the department upon the expiration thereof, with any
17 conditions deemed appropriate by the department, for the same
18 quantity of water, except that the department may, after notice and
19 public hearing, limit that quantity to the amount currently diverted,
20 subject to contract, or reasonably required for a demonstrated future
21 need. In designated areas of critical water supply concern, the
22 department may, after notice and public hearing, modify the conditions
23 of an existing diversion permit or water usage certification in order to
24 (1) limit or reduce the quantity of water which lawfully may be
25 diverted to the safe or dependable yield of the resource; (2) transfer
26 the point of diversion; or (3) require a permittee to utilize alternate
27 sources of water, upon a determination that the existing diversion or
28 continued use of the same source in excess of the safe and dependable
29 yield, as the case may be, adversely impacts or threatens to adversely
30 impact the water resources of the State.

31 c. For any surface water or ground water source or area of the
32 State that the department determines to be approaching conditions that
33 may require the commissioner to designate that region as an area of
34 critical water supply concern, or for any surface water or ground water
35 source or area projected to be in deficit in the New Jersey Statewide
36 Water Supply Plan, the department may, after notice and opportunity
37 for public hearing, issue a temporary diversion permit which may be
38 modified or terminated to any person seeking a new or modified
39 permit to divert any waters of the State or to construct any building or
40 structure or commence any activity which may require a diversion
41 permit or water usage certification, as appropriate, pursuant to section

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly floor amendments adopted June 21, 2001.

1 6 of P.L.1981, c.262 (C.58:1A-6).

2 The duration of any temporary permit issued by the department
3 pursuant to this subsection shall be for no longer than five years. The
4 department may alter the conditions or amount of water allowed to be
5 diverted, terminate the permit or renew the temporary permit for a
6 subsequent term.

7 ¹For the duration of the temporary permit issued by the department
8 pursuant to this subsection, the permittee shall actively seek an
9 alternative for the permittee's long-term water supply needs which, in
10 the department's opinion, may be viable for the permittee to replace
11 the previously allowable diversion amount.¹

12 Whenever the department terminates or modifies the conditions of
13 a temporary permit, the department shall provide adequate advance
14 notice to the permittee of the department's intentions and the rationale
15 therefor. The department's rationale may include, but need not be
16 limited to, an explanation of the status of watershed and water supply
17 planning and infrastructure conditions and improvement initiatives for
18 surface water or ground water sources or areas and alternatives which,
19 in the department's opinion, may be viable for the permittee to replace
20 the previously allowable diversion amount. These alternatives may
21 include, but need not be limited to, reuse of treated wastewater
22 effluent or other alternatives approved by the department.

23 ¹Nothing herein shall alter the authority of the department to
24 administer and enforce the provisions of P.L.1981, c.262 (C.58:1A-1
25 et seq.) or P.L.1993, c.202 (C.58:1A-7.3 et al.) or any rules,
26 regulations and orders adopted, issued or effective thereunder
27 pertaining to designated areas of critical water supply concern.¹

28 Any procedures or requirements necessary to implement the
29 provisions of this subsection shall be contained in rules and regulations
30 adopted by the department pursuant to the "Administrative Procedure
31 Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

32 (cf: P.L.1993, c.202, s.2)

33

34 2. This act shall take effect immediately.

STATEMENT TO
[First Reprint]
ASSEMBLY, No. 3676

with Senate Floor Amendments
(Proposed By Senator MATHEUSSEN)

ADOPTED: OCTOBER 3, 2001

These Senate (Floor) amendments would limit the issuance by the Department of Environmental Protection of a temporary water diversion permit to an applicant only when the proposed diversion, construction or other activity is intended to serve the long-term water supply needs of the permittee and water users of Salem or Gloucester Counties.

[Second Reprint]

ASSEMBLY, No. 3676

STATE OF NEW JERSEY
209th LEGISLATURE

INTRODUCED JUNE 14, 2001

Sponsored by:

Assemblyman JACK COLLINS

District 3 (Salem, Cumberland and Gloucester)

SYNOPSIS

Authorizes issuance of temporary water diversion permits.

CURRENT VERSION OF TEXT

As amended by the Senate on October 3, 2001.



1 AN ACT concerning water supply management, and amending
2 P.L.1981, c.262.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. Section 7 of P.L.1981, c.262 (C.58:1A-7) is amended to read as
8 follows:

9 7. a. ~~[No]~~ A person ~~[may]~~ shall not divert more than 100,000
10 gallons per day of any waters of the State or construct any building or
11 structure which may require a diversion of water unless ~~[he]~~ the
12 person obtains a diversion permit or water usage certification, as
13 appropriate, pursuant to section 6 of P.L.1981, c.262 (C.58:1A-6).

14 b. Every diversion permit issued or water usage certification
15 approved pursuant to section 6 of P.L.1981, c.262 (C.58:1A-6) shall
16 be renewed by the department upon the expiration thereof, with any
17 conditions deemed appropriate by the department, for the same
18 quantity of water, except that the department may, after notice and
19 public hearing, limit that quantity to the amount currently diverted,
20 subject to contract, or reasonably required for a demonstrated future
21 need. In designated areas of critical water supply concern, the
22 department may, after notice and public hearing, modify the conditions
23 of an existing diversion permit or water usage certification in order to
24 (1) limit or reduce the quantity of water which lawfully may be
25 diverted to the safe or dependable yield of the resource; (2) transfer
26 the point of diversion; or (3) require a permittee to utilize alternate
27 sources of water, upon a determination that the existing diversion or
28 continued use of the same source in excess of the safe and dependable
29 yield, as the case may be, adversely impacts or threatens to adversely
30 impact the water resources of the State.

31 c. For any surface water or ground water source or area of the
32 State that the department determines to be approaching conditions that
33 may require the commissioner to designate that region as an area of
34 critical water supply concern,² [or for any surface water or ground
35 water source or area projected to be in deficit in the New Jersey
36 Statewide Water Supply Plan,] and that meets the criteria established
37 pursuant to subsection d. of this section,² the department may, after
38 notice and opportunity for public hearing, issue a temporary diversion
39 permit which may be modified or terminated to any person seeking a
40 new or modified permit to divert any waters of the State or to
41 construct any building or structure or commence any activity which

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly floor amendments adopted June 21, 2001.

² Senate floor amendments adopted October 3, 2001.

1 may require a diversion permit or water usage certification, as
2 appropriate, pursuant to section 6 of P.L.1981, c.262 (C.58:1A-6).

3 The duration of any temporary permit issued by the department
4 pursuant to this subsection shall be for no longer than five years. The
5 department may alter the conditions or amount of water allowed to be
6 diverted, terminate the permit or renew the temporary permit for a
7 subsequent term.

8 ¹For the duration of the temporary permit issued by the department
9 pursuant to this subsection, the permittee shall actively seek an
10 alternative for the permittee's long-term water supply needs which, in
11 the department's opinion, may be viable for the permittee to replace
12 the previously allowable diversion amount.¹

13 Whenever the department terminates or modifies the conditions of
14 a temporary permit, the department shall provide adequate advance
15 notice to the permittee of the department's intentions and the rationale
16 therefor. The department's rationale may include, but need not be
17 limited to, an explanation of the status of watershed and water supply
18 planning and infrastructure conditions and improvement initiatives for
19 surface water or ground water sources or areas and alternatives which,
20 in the department's opinion, may be viable for the permittee to replace
21 the previously allowable diversion amount. These alternatives may
22 include, but need not be limited to, reuse of treated wastewater
23 effluent or other alternatives approved by the department.

24 ¹Nothing herein shall alter the authority of the department to
25 administer and enforce the provisions of P.L.1981, c.262 (C.58:1A-1
26 et seq.) or P.L.1993, c.202 (C.58:1A-7.3 et al.) or any rules,
27 regulations and orders adopted, issued or effective thereunder
28 pertaining to designated areas of critical water supply concern.¹

29 Any procedures or requirements necessary to implement the
30 provisions of this subsection shall be contained in rules and regulations
31 adopted by the department pursuant to the "Administrative Procedure
32 Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

33 ²d. The department may issue a temporary permit pursuant to
34 subsection c. of this section only when the proposed diversion,
35 construction or activity is intended to serve the long-term water supply
36 needs of the permittee and water users of Salem or Gloucester
37 counties.²

38 (cf: P.L.1993, c.202, s.2)

39

40 2. This act shall take effect immediately.

SENATE, No. 1817

STATE OF NEW JERSEY
209th LEGISLATURE

INTRODUCED JUNE 25, 2001

Sponsored by:

Senator JOHN J. MATHEUSSEN

District 4 (Camden and Gloucester)

SYNOPSIS

Authorizes issuance of temporary water diversion permits.

CURRENT VERSION OF TEXT

As introduced.



S1817 MATHEUSSEN

2

1 AN ACT concerning water supply management, and amending
2 P.L.1981, c.262.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

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7 1. Section 7 of P.L.1981, c.262 (C.58:1A-7) is amended to read as
8 follows:

9 7. a. **[No]** A person **[may]** shall not divert more than 100,000
10 gallons per day of any waters of the State or construct any building or
11 structure which may require a diversion of water unless **[he]** the
12 person obtains a diversion permit or water usage certification, as
13 appropriate, pursuant to section 6 of P.L.1981, c.262 (C.58:1A-6).

14 b. Every diversion permit issued or water usage certification
15 approved pursuant to section 6 of P.L.1981, c.262 (C.58:1A-6) shall
16 be renewed by the department upon the expiration thereof, with any
17 conditions deemed appropriate by the department, for the same
18 quantity of water, except that the department may, after notice and
19 public hearing, limit that quantity to the amount currently diverted,
20 subject to contract, or reasonably required for a demonstrated future
21 need. In designated areas of critical water supply concern, the
22 department may, after notice and public hearing, modify the conditions
23 of an existing diversion permit or water usage certification in order to
24 (1) limit or reduce the quantity of water which lawfully may be
25 diverted to the safe or dependable yield of the resource; (2) transfer
26 the point of diversion; or (3) require a permittee to utilize alternate
27 sources of water, upon a determination that the existing diversion or
28 continued use of the same source in excess of the safe and dependable
29 yield, as the case may be, adversely impacts or threatens to adversely
30 impact the water resources of the State.

31 c. For any surface water or ground water source or area of the
32 State that the department determines to be approaching conditions that
33 may require the commissioner to designate that region as an area of
34 critical water supply concern, or for any surface water or ground water
35 source or area projected to be in deficit in the New Jersey Statewide
36 Water Supply Plan, the department may, after notice and opportunity
37 for public hearing, issue a temporary diversion permit which may be
38 modified or terminated to any person seeking a new or modified
39 permit to divert any waters of the State or to construct any building or
40 structure or commence any activity which may require a diversion
41 permit or water usage certification, as appropriate, pursuant to section
42 6 of P.L.1981, c.262 (C.58:1A-6).

43 The duration of any temporary permit issued by the department

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Matter underlined thus is new matter.

1 pursuant to this subsection shall be for no longer than five years. The
2 department may alter the conditions or amount of water allowed to be
3 diverted, terminate the permit or renew the temporary permit for a
4 subsequent term.

5 For the duration of the temporary permit issued by the department
6 pursuant to this subsection, the permittee shall actively seek an
7 alternative for the permittee's long-term water supply needs which, in
8 the department's opinion, may be viable for the permittee to replace
9 the previously allowable diversion amount.

10 Whenever the department terminates or modifies the conditions of
11 a temporary permit, the department shall provide adequate advance
12 notice to the permittee of the department's intentions and the rationale
13 therefor. The department's rationale may include, but need not be
14 limited to, an explanation of the status of watershed and water supply
15 planning and infrastructure conditions and improvement initiatives for
16 surface water or ground water sources or areas and alternatives which,
17 in the department's opinion, may be viable for the permittee to replace
18 the previously allowable diversion amount. These alternatives may
19 include, but need not be limited to, reuse of treated wastewater
20 effluent or other alternatives approved by the department.

21 Nothing herein shall alter the authority of the department to
22 administer and enforce the provisions of P.L.1981, c.262 (C.58:1A-1
23 et seq.) or P.L.1993, c.202 (C.58:1A-7.3 et al.) or any rules,
24 regulations and orders adopted, issued or effective thereunder
25 pertaining to designated areas of critical water supply concern.

26 Any procedures or requirements necessary to implement the
27 provisions of this subsection shall be contained in rules and regulations
28 adopted by the department pursuant to the "Administrative Procedure
29 Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

30 (cf: P.L.1993, c.202, s.2)

31
32 2. This act shall take effect immediately.

33
34
35 STATEMENT

36
37 This bill would authorize the Department of Environmental
38 Protection to issue temporary water diversion permits under certain
39 circumstances.

40 This bill would amend the "Water Supply Management Act,"
41 P.L.1981, c.262 (C.58:1A-1 et seq.) to allow the Department of
42 Environmental Protection to issue temporary water diversion permits
43 for certain projects. These temporary permits would be for no longer
44 than five years and would address situations in which short-term
45 allocations could be allowed while the Department pursues longer-
46 term water supply planning and infrastructure initiatives.

S1817 MATHEUSSEN

1 At present, the Department has no statutory authority to issue
2 temporary permits. The bill would limit issuance of temporary permits
3 only to those surface or ground water sources or areas wherein the
4 Department has determined that the region is approaching critical area
5 conditions or is projected to be deficit in the New Jersey Statewide
6 Water Supply Plan.

7 Prior to issuing a temporary permit, the Department would be
8 required to provide notice and an opportunity for public hearing and
9 justification as to why a temporary permit is appropriate. The
10 Department may terminate or alter conditions of these temporary
11 permits only after providing adequate notice and a rationale for taking
12 this action which may include, but not be limited to, an explanation of
13 the status of watershed and water supply planning and infrastructure
14 conditions and improvement initiatives for the surface or groundwater
15 sources or areas and alternatives which, in the Department's opinion,
16 may be viable for the permittee to replace the previously allowable
17 amount of water diverted.

P.L. 2001, CHAPTER 319, *approved January 3, 2002*
Assembly, No. 3676 (*Second Reprint*)

1 AN ACT concerning water supply management, and amending
2 P.L.1981, c.262.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. Section 7 of P.L.1981, c.262 (C.58:1A-7) is amended to read as
8 follows:

9 7. a. [No] A person [may] shall not divert more than 100,000
10 gallons per day of any waters of the State or construct any building or
11 structure which may require a diversion of water unless [he] the
12 person obtains a diversion permit or water usage certification, as
13 appropriate, pursuant to section 6 of P.L.1981, c.262 (C.58:1A-6).

14 b. Every diversion permit issued or water usage certification
15 approved pursuant to section 6 of P.L.1981, c.262 (C.58:1A-6) shall
16 be renewed by the department upon the expiration thereof, with any
17 conditions deemed appropriate by the department, for the same
18 quantity of water, except that the department may, after notice and
19 public hearing, limit that quantity to the amount currently diverted,
20 subject to contract, or reasonably required for a demonstrated future
21 need. In designated areas of critical water supply concern, the
22 department may, after notice and public hearing, modify the conditions
23 of an existing diversion permit or water usage certification in order to
24 (1) limit or reduce the quantity of water which lawfully may be
25 diverted to the safe or dependable yield of the resource; (2) transfer
26 the point of diversion; or (3) require a permittee to utilize alternate
27 sources of water, upon a determination that the existing diversion or
28 continued use of the same source in excess of the safe and dependable
29 yield, as the case may be, adversely impacts or threatens to adversely
30 impact the water resources of the State.

31 c. For any surface water or ground water source or area of the
32 State that the department determines to be approaching conditions that
33 may require the commissioner to designate that region as an area of
34 critical water supply concern,² [or for any surface water or ground
35 water source or area projected to be in deficit in the New Jersey
36 Statewide Water Supply Plan.] and that meets the criteria established
37 pursuant to subsection d. of this section,² the department may, after
38 notice and opportunity for public hearing, issue a temporary diversion
39 permit which may be modified or terminated to any person seeking a

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly floor amendments adopted June 21, 2001.

² Senate floor amendments adopted October 3, 2001.

1 new or modified permit to divert any waters of the State or to
2 construct any building or structure or commence any activity which
3 may require a diversion permit or water usage certification, as
4 appropriate, pursuant to section 6 of P.L.1981, c.262 (C.58:1A-6).

5 The duration of any temporary permit issued by the department
6 pursuant to this subsection shall be for no longer than five years. The
7 department may alter the conditions or amount of water allowed to be
8 diverted, terminate the permit or renew the temporary permit for a
9 subsequent term.

10 ¹For the duration of the temporary permit issued by the department
11 pursuant to this subsection, the permittee shall actively seek an
12 alternative for the permittee's long-term water supply needs which, in
13 the department's opinion, may be viable for the permittee to replace
14 the previously allowable diversion amount.¹

15 Whenever the department terminates or modifies the conditions of
16 a temporary permit, the department shall provide adequate advance
17 notice to the permittee of the department's intentions and the rationale
18 therefor. The department's rationale may include, but need not be
19 limited to, an explanation of the status of watershed and water supply
20 planning and infrastructure conditions and improvement initiatives for
21 surface water or ground water sources or areas and alternatives which,
22 in the department's opinion, may be viable for the permittee to replace
23 the previously allowable diversion amount. These alternatives may
24 include, but need not be limited to, reuse of treated wastewater
25 effluent or other alternatives approved by the department.

26 ¹Nothing herein shall alter the authority of the department to
27 administer and enforce the provisions of P.L.1981, c.262 (C.58:1A-1
28 et seq.) or P.L.1993, c.202 (C.58:1A-7.3 et al.) or any rules,
29 regulations and orders adopted, issued or effective thereunder
30 pertaining to designated areas of critical water supply concern.¹

31 Any procedures or requirements necessary to implement the
32 provisions of this subsection shall be contained in rules and regulations
33 adopted by the department pursuant to the "Administrative Procedure
34 Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

35 ²d. The department may issue a temporary permit pursuant to
36 subsection c. of this section only when the proposed diversion,
37 construction or activity is intended to serve the long-term water supply
38 needs of the permittee and water users of Salem or Gloucester
39 counties.²

40 (cf: P.L.1993, c.202, s.2)

41
42 2. This act shall take effect immediately.

43
44
45
46 Authorizes issuance of temporary water diversion permits.

CHAPTER 319

AN ACT concerning water supply management, and amending P.L.1981, c.262.

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

1. Section 7 of P.L.1981, c.262 (C.58:1A-7) is amended to read as follows:

C.58:1A-7 Diversion of water, permit, renewal; criteria for critical water supply concerns.

7. a. A person shall not divert more than 100,000 gallons per day of any waters of the State or construct any building or structure which may require a diversion of water unless the person obtains a diversion permit or water usage certification, as appropriate, pursuant to section 6 of P.L.1981, c.262 (C.58:1A-6).

b. Every diversion permit issued or water usage certification approved pursuant to section 6 of P.L.1981, c.262 (C.58:1A-6) shall be renewed by the department upon the expiration thereof, with any conditions deemed appropriate by the department, for the same quantity of water, except that the department may, after notice and public hearing, limit that quantity to the amount currently diverted, subject to contract, or reasonably required for a demonstrated future need. In designated areas of critical water supply concern, the department may, after notice and public hearing, modify the conditions of an existing diversion permit or water usage certification in order to (1) limit or reduce the quantity of water which lawfully may be diverted to the safe or dependable yield of the resource; (2) transfer the point of diversion; or (3) require a permittee to utilize alternate sources of water, upon a determination that the existing diversion or continued use of the same source in excess of the safe and dependable yield, as the case may be, adversely impacts or threatens to adversely impact the water resources of the State.

c. For any surface water or ground water source or area of the State that the department determines to be approaching conditions that may require the commissioner to designate that region as an area of critical water supply concern, and that meets the criteria established pursuant to subsection d. of this section, the department may, after notice and opportunity for public hearing, issue a temporary diversion permit which may be modified or terminated to any person seeking a new or modified permit to divert any waters of the State or to construct any building or structure or commence any activity which may require a diversion permit or water usage certification, as appropriate, pursuant to section 6 of P.L.1981, c.262 (C.58:1A-6).

The duration of any temporary permit issued by the department pursuant to this subsection shall be for no longer than five years. The department may alter the conditions or amount of water allowed to be diverted, terminate the permit or renew the temporary permit for a subsequent term.

For the duration of the temporary permit issued by the department pursuant to this subsection, the permittee shall actively seek an alternative for the permittee's long-term water supply needs which, in the department's opinion, may be viable for the permittee to replace the previously allowable diversion amount.

Whenever the department terminates or modifies the conditions of a temporary permit, the department shall provide adequate advance notice to the permittee of the department's intentions and the rationale therefor. The department's rationale may include, but need not be limited to, an explanation of the status of watershed and water supply planning and infrastructure conditions and improvement initiatives for surface water or ground water sources or areas and alternatives which, in the department's opinion, may be viable for the permittee to replace the previously allowable diversion amount. These alternatives may include, but need not be limited to, reuse of treated wastewater effluent or other alternatives approved by the department.

Nothing herein shall alter the authority of the department to administer and enforce the provisions of P.L.1981, c.262 (C.58:1A-1 et seq.) or P.L.1993, c.202 (C.58:1A-7.3 et al.) or any rules, regulations and orders adopted, issued or effective thereunder pertaining to designated areas of critical water supply concern.

Any procedures or requirements necessary to implement the provisions of this subsection shall be contained in rules and regulations adopted by the department pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

d. The department may issue a temporary permit pursuant to subsection c. of this section only when the proposed diversion, construction or activity is intended to serve the long-term water supply needs of the permittee and water users of Salem or Gloucester counties.

2. This act shall take effect immediately.

Approved January 3, 2002.