

13:1E-109.1

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2001 **CHAPTER:** 398
NJSA: 13:1E-109 1 (Debt Defeasance Aid: Bergen Utilities Authority)
BILL NO: S2753 (Substituted A3953)
SPONSOR(S): McNamara and Cardinale
DATE INTRODUCED: November 26, 2001
COMMITTEE: **ASSEMBLY:** Appropriations
 SENATE: Budget
AMENDED DURING PASSAGE: Yes
DATE OF PASSAGE: **ASSEMBLY:** January 7, 2002
 SENATE: December 17, 2001
DATE OF APPROVAL: January 8, 2002

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (Senate Committee substitute enacted)
S2753

SPONSORS STATEMENT: (Begins on page 4 of original bill)	Yes
COMMITTEE STATEMENT:	ASSEMBLY: Yes
	SENATE: Yes
FLOOR AMENDMENT STATEMENTS:	No
LEGISLATIVE FISCAL ESTIMATE:	Yes

A3953

SPONSORS STATEMENT: (Begins on page 4 of original bill)	Yes
	(Bill and Sponsors Statement identical to S2753)
COMMITTEE STATEMENT:	ASSEMBLY: Yes
	(Identical to Assembly Statement to S2753)
	SENATE: No
FLOOR AMENDMENT STATEMENTS:	No
LEGISLATIVE FISCAL ESTIMATE:	Yes
FINAL VERSION (Assembly Committee Substitute):	Yes
VETO MESSAGE:	No
GOVERNOR'S PRESS RELEASE ON SIGNING:	No

FOLLOWING WERE PRINTED:

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REPORTS:	No
HEARINGS:	No
NEWSPAPER ARTICLES:	No

SENATE, No. 2753

STATE OF NEW JERSEY
209th LEGISLATURE

INTRODUCED NOVEMBER 26, 2001

Sponsored by:

Senator HENRY P. MCNAMARA

District 40 (Bergen and Passaic)

Senator GERALD CARDINALE

District 39 (Bergen)

SYNOPSIS

Authorizes use of certain escrow account funds for solid waste debt retirement.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 11/30/2001)

S2753 MCNAMARA, CARDINALE

2

1 AN ACT concerning the remediation of certain sanitary landfill
2 facilities, and amending P.L.1997, c.278.

3

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

6

7 1. (New section) Notwithstanding the provisions of any law to the
8 contrary, or any rule or regulation adopted pursuant thereto, or any
9 order issued by the Board of Public Utilities to the contrary, and
10 subject to the approval of the Director of the Division of Budget and
11 Accounting, the New Jersey Meadowlands Commission may withdraw
12 from the escrow account established for the closure and post-closure
13 monitoring of the Kingsland Park Sanitary Landfill an amount equal
14 not to exceed \$23,500,000 for payment to the State Treasurer for
15 deposit into any solid waste debt defeasance fund created with respect
16 to any county included within the Hackensack Meadowlands District.

17

18 2. (New section) Notwithstanding the provisions of section 35 of
19 P.L.1975, c.326 (c.13:17-10.1), sections 10 and 11 of P.L.1981, c.306
20 (C.13:1E-109 and C.13:1E-110), section 8 of P.L.1985, c.368
21 (C.13:1E-176), or any rules or regulations adopted pursuant thereto,
22 or any order issued by the Board of Public Utilities to the contrary,
23 and subject to the approval of the Director of the Division of Budget
24 and Accounting, the New Jersey Meadowlands Commission may
25 withdraw from the escrow accounts established for the closure and
26 post-closure monitoring of the sanitary landfill facilities operated by
27 the commission an amount not to exceed \$18,500,000 for payment to
28 the State Treasurer for deposit in any solid waste debt defeasance fund
29 created with respect to any county included within the Hackensack
30 Meadowlands District.

31

32 3. Section 38 of P.L.1997, c.278 (C.58:10B-30) is amended to
33 read as follows:

34 38. a. There is created in the Department of Treasury a special
35 fund to be known as the Brownfield Site Reimbursement Fund.
36 Moneys in the fund shall be dedicated to the purpose of reimbursing
37 a developer who enters into a redevelopment agreement pursuant to
38 section 35 of P.L.1997, c.278 (C.58:10B-27) and is certified for
39 reimbursement pursuant to section 36 of P.L.1997, c.278
40 (C.58:10B-28). A special account within the fund shall be created for
41 each developer upon approval of a certification pursuant to section 36
42 of P.L.1997, c.278 (C.58:10B-28). The Legislature shall annually
43 appropriate the entire balance of the fund for the purposes of

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 reimbursement of remediation costs as provided in section 39 of
2 P.L.1997, c.278 (C.58:10B-31).

3 b. The fund shall be credited with an amount from the General
4 Fund, determined sufficient by the Commissioner of Commerce and
5 Economic Development, to provide the negotiated reimbursement to
6 the developer. Moneys credited to the fund shall be an amount that
7 equals the percent of the remediation costs expected to be reimbursed
8 pursuant to the redevelopment agreement. In estimating the amount
9 of new State taxes that is anticipated to be derived from a
10 redevelopment project pursuant to section 35 of P.L.1997, c.278
11 (C.58:10B-27), the Commissioner of Commerce and Economic
12 Development and the State Treasurer shall consider taxes from the
13 following: the Corporation Business Tax Act (1945), P.L.1945, c.162
14 (C.54:10A-1 et seq.), "The Savings Institution Tax Act," P.L.1973,
15 c.31 (C.54:10D-1 et seq.), the tax imposed on marine insurance
16 companies pursuant to R.S.54:16-1 et seq., the tax imposed on fire
17 insurance companies pursuant to R.S.54:17-4 et al., the tax imposed
18 on insurers generally, pursuant to P.L.1945, c.132 (C.54:18A-1 et
19 seq.), the public utility franchise tax, public utilities gross receipts tax
20 and public utility excise tax imposed pursuant to P.L.1940, c.4, and
21 P.L.1940, c.5 (C.54:30A-16 et seq. and C.54:30A-49 et seq.), that is
22 a taxpayer in respect of net profits from business, a distributive share
23 of partnership income, or a prorata share of S corporation income
24 under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et
25 seq., or who is required to collect the tax pursuant to the "Sales and
26 Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.), including, without
27 limitation, sales and use taxes collected with respect to materials
28 purchased or used in the construction of any project or any
29 redevelopment project on a contaminated site.

30 (cf: P.L.1997, c.278, s.38)

31

32 4. Section 39 of P.L.1997, c.278 (C.58:10B-31) is amended to
33 read as follows:

34 39. a. The State Treasurer shall reimburse the developer the
35 amount of the remediation costs agreed upon in the redevelopment
36 agreement, and as provided in sections 35 and 36 of P.L.1997, c.278
37 (C.58:10B-27 and C.58:10B-28) upon issuance of the certification by
38 the director pursuant to section 36 of P.L.1997, c.278 (C.58:10B-28).
39 The developer shall be entitled to periodic payments from the fund in
40 an amount, in the frequency, and over the time period as provided in
41 the redevelopment agreement. Notwithstanding any other provision
42 of sections 34 through 39 of P.L.1997, c.278 (C.58:10B-26 through
43 C.58:10B-31), the State Treasurer may not reimburse the developer
44 any amount of the remediation costs from the fund until the State
45 Treasurer is satisfied that the anticipated tax revenues from the
46 redevelopment project have been realized by the State in an amount

1 sufficient to pay for the cost of the reimbursements.

2 b. A developer shall submit to the director updated remediation
3 costs actually incurred by the developer for the remediation of the
4 contaminated property located at the site of the redevelopment project
5 as provided in the redevelopment agreement. The reimbursement
6 authorized pursuant to this section shall continue until such time as the
7 aggregate dollar amount of the agreed upon reimbursement. To remain
8 entitled to the reimbursement authorized pursuant to this section, the
9 developer shall perform and complete all remediation activities as may
10 be required pursuant to the memorandum of agreement entered into
11 with the Commissioner of Environmental Protection pursuant to
12 section 37 of P.L.1997, c.278 (C.58:10B-29). The Department of
13 Environmental Protection may review the remediation costs incurred
14 by the developer to determine if they are reasonable.

15 Reimbursable remediation costs as they relate to redevelopment
16 landfill closure and redevelopment projects shall include incremental
17 costs that are incurred in preparing the contaminated property for
18 remediation and as a result of the remediation of the landfill property
19 located at the site of the redevelopment project. Incremental costs
20 shall include, but are not limited to, costs of placing all materials,
21 surcharging soil or dynamic compaction of soil, additional soils or fill
22 materials for capping, drainage or vegetative layers, and costs of
23 additional engineering, geotechnical and other analyses and additional
24 site improvements required for construction or development on the
25 landfill site.

26 (cf: P.L.1997, c.278, s.39)

27

28 5. This act shall take effect immediately.

29

30

31

STATEMENT

32

33 This bill would authorize the use of certain escrow account funds
34 for solid waste debt retirement.

35 The New Jersey Meadowlands Commission has undertaken a
36 program of closure and remediation of many of the landfills located
37 within the Meadowlands District in order to turn these properties into
38 beneficial economic development.

39 Under this program, the Hackensack Meadowlands District would
40 no longer be used for the disposal of solid waste and, through such
41 programs of closure and redevelopment, moneys are to be made
42 available from several sources to provide for the full and timely
43 payment of outstanding solid waste indebtedness previously incurred
44 by the Bergen County Utilities Authority, Bergen County's solid waste
45 management plan implementing agency.

46 Under existing law, moneys on deposit in closure escrow accounts

1 established for sanitary landfill facilities located within the State must
2 be used for closure and post-closure activities for the landfills for
3 which the moneys were collected. Any excess moneys that are
4 available in these closure escrow accounts after completion of the
5 closure and post-closure activities are to be deposited in the State's
6 Sanitary Landfill Facility Contingency Fund, which was established
7 pursuant to section 6 of P.L.1981, c.306 (C.13:1E-105), and used for
8 closure and post-closure on other landfills located throughout the
9 State, as provided in section 11 of P.L.1981, c.306 (C.13:1E-110).

10 This legislation would permit moneys which are on deposit in
11 escrow accounts established for the closure and post-closure of certain
12 landfills located in the Hackensack Meadowlands District to be used
13 for retirement of outstanding solid waste debt since these moneys are
14 no longer needed for the original purpose for which they were
15 collected. These moneys must be permitted to be withdrawn from the
16 New Jersey Meadowlands Commission's landfill escrow accounts and
17 deposited into a solid waste facility debt defeasance fund rather than
18 into the State's Sanitary Landfill Facility Contingency Fund.

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 2753

STATE OF NEW JERSEY
209th LEGISLATURE

ADOPTED DECEMBER 13, 2001

Sponsored by:

Senator HENRY P. MCNAMARA
District 40 (Bergen and Passaic)
Senator GERALD CARDINALE
District 39 (Bergen)

Co-Sponsored by:

Assemblymen Kelly, Rooney and Assemblywoman Vandervalk

SYNOPSIS

Provides debt defeasance aid to Bergen County Utilities Authority from certain landfill closure escrow accounts, appropriates up to \$23.5 million.

CURRENT VERSION OF TEXT

Substitute as adopted by the Senate Budget and Appropriations Committee.



(Sponsorship Updated As Of: 1/8/2002)

1 **AN ACT** concerning the remediation of certain sanitary landfill
2 facilities, amending P.L.1997, c.278, supplementing Title 13 and
3 Title 58 of the Revised Statutes, and making an appropriation.

4

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

7

8 1. (New section) Notwithstanding the provisions of section 35 of
9 P.L.1975, c.326 (C.13:17-10.1), sections 10 and 11 of P.L.1981,
10 c.306 (C.13:1E-109 and C.13:1E-110), section 8 of P.L.1985, c.368
11 (C.13:1E-176), or any rules or regulations adopted pursuant thereto,
12 or any order issued by the Board of Public Utilities or the Department
13 of Environmental Protection to the contrary, and subject to the
14 approval of the Director of the Division of Budget and Accounting,
15 the New Jersey Meadowlands Commission may withdraw from the
16 escrow accounts established for the closure and post-closure
17 monitoring of the sanitary landfill facilities operated by the commission
18 an amount not to exceed \$42,000,000 for payment to the State
19 Treasurer for deposit in any solid waste debt defeasance fund created
20 with respect to any county included within the Hackensack
21 Meadowlands District.

22

23 2. (New section) The provisions of any other law to the contrary
24 notwithstanding, there is appropriated from the Sanitary Landfill
25 Facility Contingency Fund established pursuant to section 6 of
26 P.L.1981, c.306 (C.13:1E-105) an amount equal to the moneys paid
27 into the fund pursuant to subsection b. of section 11 of P.L.1981,
28 c.306 (C.13:1E-110), from the moneys remaining in the escrow
29 accounts established for the closure of the Kingsland Park Sanitary
30 Landfill pursuant to section 10 of P.L.1981, c.306 (C.13:1E-109) or
31 pursuant to an order issued by the Board of Public Utilities or the
32 Department of Environmental Protection, subsequent to the proper
33 and complete closure of the Kingsland Park Sanitary Landfill pursuant
34 to law, but not subsequent to post-closure obligations, to the New
35 Jersey Meadowlands Commission for deposit into the escrow accounts
36 established for the closure and post-closure monitoring of the sanitary
37 landfill facilities operated by the commission.

38

39 3. There is appropriated from the General Fund such amounts
40 necessary to fully fund the closure and post-closure obligations of the
41 New Jersey Meadowlands Commission with respect to sanitary landfill
42 facilities operated by the commission, not to exceed \$23,500,000,
43 subject to the approval of the Director of the Division of Budget and

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 Accounting and upon such terms and conditions as the State Treasurer
2 and the commission may agree.

3

4 4. Section 39 of P.L.1997, c.278 (C.58:10B-31) is amended to
5 read as follows:

6 39. a. The State Treasurer shall reimburse the developer the
7 amount of the remediation costs agreed upon in the redevelopment
8 agreement , and as provided in sections 35 and 36 of P.L.1997, c.278
9 (C.58:10B-27 and C.58:10B-28) upon issuance of the certification by
10 the director pursuant to section 36 of P.L.1997, c.278 (C.58:10B-28).
11 The developer shall be entitled to periodic payments from the fund in
12 an amount, in the frequency, and over the time period as provided in
13 the redevelopment agreement. Notwithstanding any other provision
14 of sections 34 through 39 of P.L.1997, c.278 (C.58:10B-26 through
15 C.58:10B-31), the State Treasurer may not reimburse the developer
16 any amount of the remediation costs from the fund until the State
17 Treasurer is satisfied that the anticipated tax revenues from the
18 redevelopment project have been realized by the State in an amount
19 sufficient to pay for the cost of the reimbursements.

20 b. A developer shall submit to the director updated remediation
21 costs actually incurred by the developer for the remediation of the
22 contaminated property located at the site of the redevelopment project
23 as provided in the redevelopment agreement. The reimbursement
24 authorized pursuant to this section shall continue until such time as the
25 aggregate dollar amount of the agreed upon reimbursement. To
26 remain entitled to the reimbursement authorized pursuant to this
27 section, the developer shall perform and complete all remediation
28 activities as may be required pursuant to the memorandum of
29 agreement entered into with the Commissioner of Environmental
30 Protection pursuant to section 37 of P.L.1997, c.278 (C.58:10B-29).
31 The Department of Environmental Protection may review the
32 remediation costs incurred by the developer to determine if they are
33 reasonable.

34 Reimbursable remediation costs shall include costs that are
35 incurred in preparing the area of land whereon the contaminated site
36 is located for remediation and may include costs of dynamic
37 compaction of soil necessary for the remediation.

38 (cf: P.L.1997, c.278, s.39)

39

40 5. (New section) a. The provisions of any other law, or any rule
41 or regulation adopted pursuant thereto to the contrary
42 notwithstanding, the State may enter into a redevelopment agreement
43 pursuant to section 35 of P.L.1997, c.278 (C.58:10B-27) for the
44 redevelopment project at the site of the following landfills: (1) the
45 Avon Sanitary Landfill; (2) the Kingsland Park Sanitary Landfill; (3)
46 the Lyndhurst Sanitary Landfill; and (4) the Rutherford Sanitary

1 Landfill, in which the State may agree to reimburse the developer for
2 the closure and remediation costs associated with the proper closure
3 and remediation of the area of land whereon the Avon Sanitary
4 Landfill, the Kingsland Park Sanitary Landfill, the Lyndhurst Sanitary
5 Landfill, and the Rutherford Sanitary Landfill are located.

6 b. As used in this section, "closure and remediation costs" means
7 all reasonable costs associated with the closure and remediation of the
8 Avon Sanitary Landfill, the Kingsland Park Sanitary Landfill, the
9 Lyndhurst Sanitary Landfill, and the Rutherford Sanitary Landfill,
10 except that "closure and remediation costs" shall not include any costs
11 incurred in financing the remediation and closure of a particular
12 landfill; and "closure" means all activities associated with the design,
13 purchase, construction or maintenance of all measures required by the
14 Department of Environmental Protection, pursuant to law, in order to
15 prevent, minimize or monitor pollution or health hazards resulting
16 from the Avon Sanitary Landfill, the Kingsland Park Sanitary Landfill,
17 the Lyndhurst Sanitary Landfill, and the Rutherford Sanitary Landfill
18 subsequent to the termination of operations at these landfills, or at any
19 portion thereof, including, but not necessarily limited to, the placement
20 of final earthen or vegetative cover, the installation of methane gas
21 vents or monitors and leachate monitoring wells or collection systems,
22 and long-term operations and maintenance, at the site of these
23 landfills.

24

25 6. This act shall take effect immediately.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 2753**

STATE OF NEW JERSEY

DATED: DECEMBER 13, 2001

The Senate Budget and Appropriations Committee reports favorably a committee substitute for Senate Bill No. 2753.

The committee substitute would provide debt defeasance assistance to the Bergen County Utilities Authority from the escrow accounts established for the closure and post-closure monitoring of the sanitary landfill facilities in the Hackensack Meadowlands District. In addition, the committee substitute would facilitate the proper remediation, closure and redevelopment of four sanitary landfill facilities in the Hackensack Meadowlands District into a hotel, golf course and residential complex.

This committee substitute would authorize the New Jersey Meadowlands Commission to withdraw from the escrow accounts established for the closure and post-closure monitoring of the sanitary landfill facilities operated by the commission an amount not to exceed \$42 million for payment to the State Treasurer for deposit in any solid waste debt defeasance fund created with respect to any county included within the Hackensack Meadowlands District. In addition, the committee substitute would appropriate from the Sanitary Landfill Facility Contingency Fund an amount equal to the moneys paid into the fund from the moneys remaining in the escrow accounts established for the closure of the Kingsland Park Sanitary Landfill pursuant to section 10 of P.L.1981, c.306 (C.13:1E-109), or pursuant to orders issued by the Board of Public Utilities or the Department of Environmental Protection, subsequent to the proper and complete closure of the Kingsland Park Sanitary Landfill pursuant to law, but not subsequent to post-closure obligations, to the New Jersey Meadowlands Commission for deposit into the escrow accounts established for the closure and post-closure monitoring of the sanitary landfill facilities operated by the commission. The amount remaining in the Kingsland Park Sanitary Landfill escrow accounts is estimated to equal approximately \$23.5 million. Further, the committee substitute would appropriate from the General Fund those amounts as may be necessary to fully fund the closure and post-closure obligations of the New Jersey Meadowlands Commission with respect to sanitary landfill facilities operated by the commission, not to exceed \$23.5

million, subject to the approval of the Director of the Division of Budget and Accounting and upon such terms and conditions as the State Treasurer and the commission may agree. This General Fund appropriation would be made only if the moneys from the Kingsland Park escrow accounts are not paid into the Sanitary Landfill Contingency Fund and are not properly appropriated to the New Jersey Meadowlands Commission as provided in section 2 of the committee substitute.

The committee substitute would also amend and supplement the law concerning the redevelopment of brownfields to authorize the State to enter into a redevelopment agreement pursuant to section 35 of P.L.1997, c.278 (C.58:10B-27) for the redevelopment project at the site of the Avon Sanitary Landfill, the Kingsland Park Sanitary Landfill, the Lyndhurst Sanitary Landfill, and the Rutherford Sanitary Landfill. Because current law concerning the redevelopment of brownfields does not specifically authorize the reimbursement of closure costs, the committee substitute authorizes the State to agree to reimburse the developer for the closure as well as the remediation costs associated with the proper closure and remediation of those landfills. The committee substitute would also clarify that reimbursable remediation costs include costs that are incurred in preparing the area of land whereon the contaminated site is located for remediation and may include costs of dynamic compaction of soil necessary for the remediation.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 2753**

STATE OF NEW JERSEY

DATED: JANUARY 3, 2002

The Assembly Appropriations Committee reports favorably Senate Bill No. 2753 (SCS).

Senate Bill No. 2753 SCS provides debt defeasance assistance to the Bergen County Utilities Authority from the escrow accounts established for the closure and post-closure monitoring of the sanitary landfill facilities in the Hackensack Meadowlands District. In addition, the bill will facilitate the proper remediation, closure and redevelopment of four sanitary landfill facilities in the Hackensack Meadowlands District into a hotel, golf course and residential complex.

The bill also amends and supplements the law concerning the redevelopment of brownfields to authorize the State to enter into a redevelopment agreement pursuant to section 35 of P.L.1997, c.278 (C.58:10B-27) for the redevelopment project at the site of the Avon Sanitary Landfill, the Kingsland Park Sanitary Landfill, the Lyndhurst Sanitary Landfill, and the Rutherford Sanitary Landfill. Because current law concerning the redevelopment of brownfields does not specifically authorize the reimbursement of closure costs, the bill authorizes the State to agree to reimburse the developer for the closure as well as the remediation costs associated with the proper closure and remediation of those landfills. The bill also clarifies that reimbursable remediation costs include costs that are incurred in preparing the area of land whereon the contaminated site is located for remediation and may include costs of dynamic compaction of soil necessary for the remediation.

As reported by the committee, this bill is identical to the Assembly Committee Substitute for Assembly Bill No. 3953, also reported by the committee.

FISCAL IMPACT:

This bill authorizes the New Jersey Meadowlands Commission to withdraw from the escrow accounts established for the closure and post-closure monitoring of the sanitary landfill facilities operated by the commission an amount not to exceed \$42 million for payment to the State Treasurer for deposit in any solid waste debt defeasance fund

created with respect to any county included within the Hackensack Meadowlands District. In addition, the bill appropriates from the Sanitary Landfill Facility Contingency Fund an amount equal to the moneys paid into the fund from the moneys remaining in the escrow accounts established for the closure of the Kingsland Park Sanitary Landfill pursuant to section 10 of P.L.1981, c.306 (C.13:1E-109), or pursuant to orders issued by the Board of Public Utilities or the Department of Environmental Protection, subsequent to the proper and complete closure of the Kingsland Park Sanitary Landfill pursuant to law, but not subsequent to post-closure obligations, to the New Jersey Meadowlands Commission for deposit into the escrow accounts established for the closure and post-closure monitoring of the sanitary landfill facilities operated by the commission. The amount remaining in the Kingsland Park Sanitary Landfill escrow accounts is estimated to equal approximately \$23.5 million. Further, the bill appropriates from the General Fund those amounts as may be necessary to fully fund the closure and post-closure obligations of the New Jersey Meadowlands Commission with respect to sanitary landfill facilities operated by the commission, not to exceed \$23.5 million, subject to the approval of the Director of the Division of Budget and Accounting and upon such terms and conditions as the State Treasurer and the commission may agree. This General Fund appropriation will be made only if the moneys from the Kingsland Park escrow accounts are not paid into the Sanitary Landfill Contingency Fund and are not properly appropriated to the New Jersey Meadowlands Commission as provided in section 2 of the committee bill.

LEGISLATIVE FISCAL ESTIMATE
SENATE, No. 2753
STATE OF NEW JERSEY
209th LEGISLATURE

DATED: JANUARY 10, 2002

SUMMARY

Synopsis: Authorizes use of certain escrow account funds for solid waste debt retirement.

Type of Impact: Revenue loss in the Sanitary Landfill Facility Contingency Fund; Reduction of future sales tax revenues in the General Fund

Agencies Affected: Bergen County Utilities Authority and Bergen County.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost		Indeterminate	
Local Revenue		Up to \$42,000,000	

- ! The bill authorizes up to \$42 million from certain sanitary landfill closure escrow accounts related to former facilities located within the Hackensack Meadowlands District to be transferred to solid waste debt defeasance accounts in the State Treasury.
- ! The transferred escrow monies, which would otherwise revert to the Sanitary Landfill Facility Contingency Fund, are intended to help support the retirement of \$96 million in outstanding solid waste facility bond debt incurred by the Bergen County Utilities Authority.
- ! The bill amends P.L.1997, c.278 to include sales tax collected from materials used for redevelopment projects on contaminated sites as part of the overall tax revenue support for the Brownfield Site Reimbursement Fund. It also amends this statute to include remediation costs from landfill property projects as a reimbursable expense from the Fund.
- ! The Office of Legislative Services (OLS) estimates that State funds will not be affected by the escrow account transfer, but future sales tax revenues from redeveloped brownfields properties will be reduced by the amendments to P.L.1997, c.278.

BILL DESCRIPTION

Senate Bill No. 2753 of 2001 authorizes the use of certain escrow account funds for solid

waste debt retirement. Under existing law, owners of sanitary landfill facilities deposited Stateman dated assessments from landfill revenues in special escrow accounts for the purpose of financing the eventual closure of these facilities. State law provides that any excess monies remaining in these accounts following the closure of these facilities are to be deposited in the State Sanitary Landfill Facility Contingency Fund and used for closure and post-closure costs on other landfill facilities.

This bill would permit up to \$42 million now on deposit in escrow accounts established for the closure and post-closure of certain landfills located in the Hackensack Meadowlands District to be used toward the retirement of the outstanding solid waste indebtedness previously incurred by the Bergen County Utilities Authority, Bergen County's solid waste management plan implementing agency. In light of a program undertaken by the New Jersey Meadowlands Commission to close, remediate, and economically develop many of the former landfill properties located within the Meadowlands District, the sponsors believe these funds are no longer needed for the original purpose for which they were collected.

The bill also amends P.L.1997, c.278, which created the Brownfield Site Reimbursement Fund, to include sales tax collected from materials used for redevelopment projects on contaminated properties as part of the overall tax revenue support for the Fund. It also amends this act to include remediation costs resulting from the preparation and remediation of landfill properties as a reimbursable expense from the Fund. Both of these provisions are intended to aid and facilitate the development of former landfill properties within the Meadowlands District.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The \$42 million that the bill authorizes to be transferred from closure escrow accounts to "..... any solid waste debt defeasance fund created with respect to any county included within the Hackensack Meadowlands District" represents unused monies that would otherwise be eventually transferred to the Sanitary Landfill Facility Contingency Fund. The Office of Legislative Services (OLS) estimates that the Contingency Fund would therefore be unable to utilize these monies for the purposes under which it was established, namely, to satisfy citizen claims of property contamination from landfills. Since the Contingency Fund is supported by special taxes, the General Fund would not be affected by this provision.

As cited in the **Bill Description**, the bill's intention is to utilize the escrow funds to help retire, with other funding sources, the outstanding solid waste facility bond debt incurred by the Bergen County Utilities Authority (BCUA), which totals approximately \$96 million. The retirement of this debt could, in turn, save the State from committing any further subsidy assistance from the State Partnership Agreement Program for future BCUA solid waste debt service costs. The BCUA received \$25 million in State funding for this purpose in FY 1999 from the Partnership Program.

The bill's amendments to the Brownfield Site Remediation Fund primarily concerns expanding the category of future sales tax revenues that would be credited to reimburse

developers of brownfields properties, and expanding the definition of reimbursable costs to include the closure of landfill properties. The OLS estimates that these amendments will not affect current sales tax revenues, but will enable a greater percentage of future sales tax revenues generated from former brownfields properties to be designated for reimbursement under P.L.1997, c.278.

Section: *Environment, Agriculture, Energy and Natural Resources*

Analyst: *Richard M. Handelman*
Senior Fiscal Analyst

Approved: *Alan R. Kooney*
Legislative Budget and Finance Officer

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.

ASSEMBLY, No. 3953

STATE OF NEW JERSEY 209th LEGISLATURE

INTRODUCED NOVEMBER 29, 2001

Sponsored by:

Assemblyman JOHN V. KELLY

District 36 (Bergen, Essex and Passaic)

Assemblyman JOHN E. ROONEY

District 39 (Bergen)

SYNOPSIS

Authorizes use of certain escrow account funds for solid waste debt retirement.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 12/7/2001)

1 AN ACT concerning the remediation of certain sanitary landfill
2 facilities, amending P.L.1997, c.278, and supplementing Title 13 of
3 the revised statutes.

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

7
8 1. (New section) Notwithstanding the provisions of any law to the
9 contrary, or any rule or regulation adopted pursuant thereto, or any
10 order issued by the Board of Public Utilities to the contrary, and
11 subject to the approval of the Director of the Division of Budget and
12 Accounting, the New Jersey Meadowlands Commission may withdraw
13 from the escrow account established for the closure and post-closure
14 monitoring of the Kingsland Park Sanitary Landfill an amount equal
15 not to exceed \$23,500,000 for payment to the State Treasurer for
16 deposit into any solid waste debt defeasance fund created with respect
17 to any county included within the Hackensack Meadowlands District.

18
19 2. (New section) Notwithstanding the provisions of section 35 of
20 P.L.1975, c.326 (c.13:17-10.1), sections 10 and 11 of P.L.1981, c.306
21 (C.13:1E-109 and C.13:1E-110), section 8 of P.L.1985, c.368
22 (C.13:1E-176), or any rules or regulations adopted pursuant thereto,
23 or any order issued by the Board of Public Utilities to the contrary,
24 and subject to the approval of the Director of the Division of Budget
25 and Accounting, the New Jersey Meadowlands Commission may
26 withdraw from the escrow accounts established for the closure and
27 post-closure monitoring of the sanitary landfill facilities operated by
28 the commission an amount not to exceed \$18,500,000 for payment to
29 the State Treasurer for deposit in any solid waste debt defeasance fund
30 created with respect to any county included within the Hackensack
31 Meadowlands District.

32
33 3. Section 38 of P.L.1997, c.278 (C.58:10B-30) is amended to
34 read as follows:

35 38. a. There is created in the Department of Treasury a special
36 fund to be known as the Brownfield Site Reimbursement Fund.
37 Moneys in the fund shall be dedicated to the purpose of reimbursing
38 a developer who enters into a redevelopment agreement pursuant to
39 section 35 of P.L.1997, c.278 (C.58:10B-27) and is certified for
40 reimbursement pursuant to section 36 of P.L.1997, c.278
41 (C.58:10B-28). A special account within the fund shall be created for
42 each developer upon approval of a certification pursuant to section 36
43 of P.L.1997, c.278 (C.58:10B-28). The Legislature shall annually
44 appropriate the entire balance of the fund for the purposes of

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 reimbursement of remediation costs as provided in section 39 of
2 P.L.1997, c.278 (C.58:10B-31).

3 b. The fund shall be credited with an amount from the General
4 Fund, determined sufficient by the Commissioner of Commerce and
5 Economic Development, to provide the negotiated reimbursement to
6 the developer. Moneys credited to the fund shall be an amount that
7 equals the percent of the remediation costs expected to be reimbursed
8 pursuant to the redevelopment agreement. In estimating the amount
9 of new State taxes that is anticipated to be derived from a
10 redevelopment project pursuant to section 35 of P.L.1997, c.278
11 (C.58:10B-27), the Commissioner of Commerce and Economic
12 Development and the State Treasurer shall consider taxes from the
13 following: the Corporation Business Tax Act (1945), P.L.1945, c.162
14 (C.54:10A-1 et seq.), "The Savings Institution Tax Act," P.L.1973,
15 c.31 (C.54:10D-1 et seq.), the tax imposed on marine insurance
16 companies pursuant to R.S.54:16-1 et seq., the tax imposed on fire
17 insurance companies pursuant to R.S.54:17-4 et al., the tax imposed
18 on insurers generally, pursuant to P.L.1945, c.132 (C.54:18A-1 et
19 seq.), the public utility franchise tax, public utilities gross receipts tax
20 and public utility excise tax imposed pursuant to P.L.1940, c.4, and
21 P.L.1940, c.5 (C.54:30A-16 et seq. and C.54:30A-49 et seq.), that is
22 a taxpayer in respect of net profits from business, a distributive share
23 of partnership income, or a prorata share of S corporation income
24 under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et
25 seq., or who is required to collect the tax pursuant to the "Sales and
26 Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.), including, without
27 limitation, sales and use taxes collected with respect to materials
28 purchased or used in the construction of any project or any
29 redevelopment project on a contaminated site.

30 (cf: P.L.1997, c.278, s.38)

31

32 4. Section 39 of P.L.1997, c.278 (C.58:10B-31) is amended to
33 read as follows:

34 39. a. The State Treasurer shall reimburse the developer the
35 amount of the remediation costs agreed upon in the redevelopment
36 agreement, and as provided in sections 35 and 36 of P.L.1997, c.278
37 (C.58:10B-27 and C.58:10B-28) upon issuance of the certification by
38 the director pursuant to section 36 of P.L.1997, c.278 (C.58:10B-28).
39 The developer shall be entitled to periodic payments from the fund in
40 an amount, in the frequency, and over the time period as provided in
41 the redevelopment agreement. Notwithstanding any other provision
42 of sections 34 through 39 of P.L.1997, c.278 (C.58:10B-26 through
43 C.58:10B-31), the State Treasurer may not reimburse the developer
44 any amount of the remediation costs from the fund until the State
45 Treasurer is satisfied that the anticipated tax revenues from the
46 redevelopment project have been realized by the State in an amount

1 sufficient to pay for the cost of the reimbursements.

2 b. A developer shall submit to the director updated remediation
3 costs actually incurred by the developer for the remediation of the
4 contaminated property located at the site of the redevelopment project
5 as provided in the redevelopment agreement. The reimbursement
6 authorized pursuant to this section shall continue until such time as the
7 aggregate dollar amount of the agreed upon reimbursement. To remain
8 entitled to the reimbursement authorized pursuant to this section, the
9 developer shall perform and complete all remediation activities as may
10 be required pursuant to the memorandum of agreement entered into
11 with the Commissioner of Environmental Protection pursuant to
12 section 37 of P.L.1997, c.278 (C.58:10B-29). The Department of
13 Environmental Protection may review the remediation costs incurred
14 by the developer to determine if they are reasonable.

15 Reimbursable remediation costs as they relate to redevelopment
16 landfill closure and redevelopment projects shall include incremental
17 costs that are incurred in preparing the contaminated property for
18 remediation and as a result of the remediation of the landfill property
19 located at the site of the redevelopment project. Incremental costs
20 shall include, but are not limited to, costs of placing all materials,
21 surcharging soil or dynamic compaction of soil, additional soils or fill
22 materials for capping, drainage or vegetative layers, and costs of
23 additional engineering, geotechnical and other analyses and additional
24 site improvements required for construction or development on the
25 landfill site.

26 (cf: P.L.1997, c.278, s.39)

27

28 5. This act shall take effect immediately.

29

30

31

STATEMENT

32

33 This bill would authorize the use of certain escrow account funds
34 for solid waste debt retirement.

35 The New Jersey Meadowlands Commission has undertaken a
36 program of closure and remediation of many of the landfills located
37 within the Meadowlands District in order to turn these properties into
38 beneficial economic development.

39 Under this program, the Hackensack Meadowlands District would
40 no longer be used for the disposal of solid waste and, through such
41 programs of closure and redevelopment, moneys are to be made
42 available from several sources to provide for the full and timely
43 payment of outstanding solid waste indebtedness previously incurred
44 by the Bergen County Utilities Authority, Bergen County's solid waste
45 implementing agency.

1 Under current statutes, moneys on deposit in closure escrow
2 accounts established for sanitary landfill facilities located within the
3 State must be used for closure and post-closure activities for the
4 landfills for which the moneys were collected. Any excess moneys that
5 are available in these closure escrow accounts after completion of the
6 closure and post-closure activities are to be deposited in the State's
7 Sanitary Landfill Facility Contingency Fund, which was established
8 pursuant to section 6 of P.L.1981, c.306 (C.13:1E-105), and used for
9 closure and post-closure on other landfills located throughout the
10 State, as provided in section 11 of P.L.1981, c.306 (C.13:1E-110).

11 This legislation would permit moneys which are on deposit in
12 escrow accounts established for the closure and post-closure of certain
13 landfills located in the Hackensack Meadowlands District to be used
14 for retirement of outstanding solid waste debt since these moneys are
15 no longer needed for the original purpose for which they were
16 collected. These moneys must be permitted to be withdrawn from the
17 New Jersey Meadowlands Commission's escrow accounts and
18 deposited into a solid waste facility debt defeasance fund rather than
19 into the State's Sanitary Landfill Facility Contingency Fund.

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 3953

STATE OF NEW JERSEY
209th LEGISLATURE

ADOPTED JANUARY 3, 2002

Sponsored by:

Assemblyman JOHN V. KELLY

District 36 (Bergen, Essex and Passaic)

Assemblyman JOHN E. ROONEY

District 39 (Bergen)

Co-Sponsored by:

Assemblywoman Vandervalk

SYNOPSIS

Provides debt defeasance aid to Bergen County Utilities Authority from certain landfill closure escrow accounts, appropriates up to \$23.5 million.

CURRENT VERSION OF TEXT

Substitute as adopted by the Assembly Appropriations Committee.



(Sponsorship Updated As Of: 1/8/2002)

1 **AN ACT** concerning the remediation of certain sanitary landfill
2 facilities, amending P.L.1997, c.278, supplementing Title 13 and
3 Title 58 of the Revised Statutes, and making an appropriation.

4

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

7

8 1. (New section) Notwithstanding the provisions of section 35 of
9 P.L.1975, c.326 (C.13:17-10.1), sections 10 and 11 of P.L.1981,
10 c.306 (C.13:1E-109 and C.13:1E-110), section 8 of P.L.1985, c.368
11 (C.13:1E-176), or any rules or regulations adopted pursuant thereto,
12 or any order issued by the Board of Public Utilities or the Department
13 of Environmental Protection to the contrary, and subject to the
14 approval of the Director of the Division of Budget and Accounting,
15 the New Jersey Meadowlands Commission may withdraw from the
16 escrow accounts established for the closure and post-closure
17 monitoring of the sanitary landfill facilities operated by the commission
18 an amount not to exceed \$42,000,000 for payment to the State
19 Treasurer for deposit in any solid waste debt defeasance fund created
20 with respect to any county included within the Hackensack
21 Meadowlands District.

22

23 2. (New section) The provisions of any other law to the contrary
24 notwithstanding, there is appropriated from the Sanitary Landfill
25 Facility Contingency Fund established pursuant to section 6 of
26 P.L.1981, c.306 (C.13:1E-105) an amount equal to the moneys paid
27 into the fund pursuant to subsection b. of section 11 of P.L.1981,
28 c.306 (C.13:1E-110), from the moneys remaining in the escrow
29 accounts established for the closure of the Kingsland Park Sanitary
30 Landfill pursuant to section 10 of P.L.1981, c.306 (C.13:1E-109) or
31 pursuant to an order issued by the Board of Public Utilities or the
32 Department of Environmental Protection, subsequent to the proper
33 and complete closure of the Kingsland Park Sanitary Landfill pursuant
34 to law, but not subsequent to post-closure obligations, to the New
35 Jersey Meadowlands Commission for deposit into the escrow accounts
36 established for the closure and post-closure monitoring of the sanitary
37 landfill facilities operated by the commission.

38

39 3. There is appropriated from the General Fund such amounts
40 necessary to fully fund the closure and post-closure obligations of the
41 New Jersey Meadowlands Commission with respect to sanitary landfill
42 facilities operated by the commission, not to exceed \$23,500,000,
43 subject to the approval of the Director of the Division of Budget and

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 Accounting and upon such terms and conditions as the State Treasurer
2 and the commission may agree.

3

4 4. Section 39 of P.L.1997, c.278 (C.58:10B-31) is amended to
5 read as follows:

6 39. a. The State Treasurer shall reimburse the developer the
7 amount of the remediation costs agreed upon in the redevelopment
8 agreement, and as provided in sections 35 and 36 of P.L.1997, c.278
9 (C.58:10B-27 and C.58:10B-28) upon issuance of the certification by
10 the director pursuant to section 36 of P.L.1997, c.278 (C.58:10B-28).
11 The developer shall be entitled to periodic payments from the fund in
12 an amount, in the frequency, and over the time period as provided in
13 the redevelopment agreement. Notwithstanding any other provision
14 of sections 34 through 39 of P.L.1997, c.278 (C.58:10B-26 through
15 C.58:10B-31), the State Treasurer may not reimburse the developer
16 any amount of the remediation costs from the fund until the State
17 Treasurer is satisfied that the anticipated tax revenues from the
18 redevelopment project have been realized by the State in an amount
19 sufficient to pay for the cost of the reimbursements.

20 b. A developer shall submit to the director updated remediation
21 costs actually incurred by the developer for the remediation of the
22 contaminated property located at the site of the redevelopment project
23 as provided in the redevelopment agreement. The reimbursement
24 authorized pursuant to this section shall continue until such time as the
25 aggregate dollar amount of the agreed upon reimbursement. To
26 remain entitled to the reimbursement authorized pursuant to this
27 section, the developer shall perform and complete all remediation
28 activities as may be required pursuant to the memorandum of
29 agreement entered into with the Commissioner of Environmental
30 Protection pursuant to section 37 of P.L.1997, c.278 (C.58:10B-29).
31 The Department of Environmental Protection may review the
32 remediation costs incurred by the developer to determine if they are
33 reasonable.

34 Reimbursable remediation costs shall include costs that are
35 incurred in preparing the area of land whereon the contaminated site
36 is located for remediation and may include costs of dynamic
37 compaction of soil necessary for the remediation.

38 (cf: P.L.1997, c.278, s.39)

39

40 5. (New section) a. The provisions of any other law, or any rule
41 or regulation adopted pursuant thereto to the contrary
42 notwithstanding, the State may enter into a redevelopment agreement
43 pursuant to section 35 of P.L.1997, c.278 (C.58:10B-27) for the
44 redevelopment project at the site of the following landfills: (1) the
45 Avon Sanitary Landfill; (2) the Kingsland Park Sanitary Landfill; (3)
46 the Lyndhurst Sanitary Landfill; and (4) the Rutherford Sanitary

1 Landfill, in which the State may agree to reimburse the developer for
2 the closure and remediation costs associated with the proper closure
3 and remediation of the area of land whereon the Avon Sanitary
4 Landfill, the Kingsland Park Sanitary Landfill, the Lyndhurst Sanitary
5 Landfill, and the Rutherford Sanitary Landfill are located.

6 b. As used in this section, "closure and remediation costs" means
7 all reasonable costs associated with the closure and remediation of the
8 Avon Sanitary Landfill, the Kingsland Park Sanitary Landfill, the
9 Lyndhurst Sanitary Landfill, and the Rutherford Sanitary Landfill,
10 except that "closure and remediation costs" shall not include any costs
11 incurred in financing the remediation and closure of a particular
12 landfill; and "closure" means all activities associated with the design,
13 purchase, construction or maintenance of all measures required by the
14 Department of Environmental Protection, pursuant to law, in order to
15 prevent, minimize or monitor pollution or health hazards resulting
16 from the Avon Sanitary Landfill, the Kingsland Park Sanitary Landfill,
17 the Lyndhurst Sanitary Landfill, and the Rutherford Sanitary Landfill
18 subsequent to the termination of operations at these landfills, or at any
19 portion thereof, including, but not necessarily limited to, the placement
20 of final earthen or vegetative cover, the installation of methane gas
21 vents or monitors and leachate monitoring wells or collection systems,
22 and long-term operations and maintenance, at the site of these
23 landfills.

24

25 6. This act shall take effect immediately.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 3953

STATE OF NEW JERSEY

DATED: JANUARY 3, 2002

The Assembly Appropriations Committee reports favorably an Assembly Committee Substitute for Assembly Bill No. 3953.

The Assembly Committee Substitute for Assembly Bill No. 3953 provides debt defeasance assistance to the Bergen County Utilities Authority from the escrow accounts established for the closure and post-closure monitoring of the sanitary landfill facilities in the Hackensack Meadowlands District. In addition, the substitute will facilitate the proper remediation, closure and redevelopment of four sanitary landfill facilities in the Hackensack Meadowlands District into a hotel, golf course and residential complex.

The substitute also amends and supplements the law concerning the redevelopment of brownfields to authorize the State to enter into a redevelopment agreement pursuant to section 35 of P.L.1997, c.278 (C.58:10B-27) for the redevelopment project at the site of the Avon Sanitary Landfill, the Kingsland Park Sanitary Landfill, the Lyndhurst Sanitary Landfill, and the Rutherford Sanitary Landfill. Because current law concerning the redevelopment of brownfields does not specifically authorize the reimbursement of closure costs, the substitute authorizes the State to agree to reimburse the developer for the closure as well as the remediation costs associated with the proper closure and remediation of those landfills. The substitute also clarifies that reimbursable remediation costs include costs that are incurred in preparing the area of land whereon the contaminated site is located for remediation and may include costs of dynamic compaction of soil necessary for the remediation.

The Assembly Committee Substitute reported by the committee is identical to Senate Bill No. 2753 SCS, also reported by the committee.

FISCAL IMPACT:

This substitute authorizes the New Jersey Meadowlands Commission to withdraw from the escrow accounts established for the closure and post-closure monitoring of the sanitary landfill facilities operated by the commission an amount not to exceed \$42 million for payment to the State Treasurer for deposit in any solid waste debt defeasance fund created with respect to any county included within the

Hackensack Meadowlands District. In addition, the substitute appropriates from the Sanitary Landfill Facility Contingency Fund an amount equal to the moneys paid into the fund from the moneys remaining in the escrow accounts established for the closure of the Kingsland Park Sanitary Landfill pursuant to section 10 of P.L.1981, c.306 (C.13:1E-109), or pursuant to orders issued by the Board of Public Utilities or the Department of Environmental Protection, subsequent to the proper and complete closure of the Kingsland Park Sanitary Landfill pursuant to law, but not subsequent to post-closure obligations, to the New Jersey Meadowlands Commission for deposit into the escrow accounts established for the closure and post-closure monitoring of the sanitary landfill facilities operated by the commission. The amount remaining in the Kingsland Park Sanitary Landfill escrow accounts is estimated to equal approximately \$23.5 million. Further, the substitute appropriates from the General Fund those amounts as may be necessary to fully fund the closure and post-closure obligations of the New Jersey Meadowlands Commission with respect to sanitary landfill facilities operated by the commission, not to exceed \$23.5 million, subject to the approval of the Director of the Division of Budget and Accounting and upon such terms and conditions as the State Treasurer and the commission may agree. This General Fund appropriation will be made only if the moneys from the Kingsland Park escrow accounts are not paid into the Sanitary Landfill Contingency Fund and are not properly appropriated to the New Jersey Meadowlands Commission as provided in section 2 of the committee substitute.

LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY, No. 3953
STATE OF NEW JERSEY
209th LEGISLATURE

DATED: JANUARY 10, 2002

SUMMARY

Synopsis: Authorizes use of certain escrow account funds for solid waste debt retirement.

Type of Impact: Revenue loss in the Sanitary Landfill Facility Contingency Fund; Reduction of future sales tax revenues in the General Fund

Agencies Affected: Bergen County Utilities Authority and Bergen County.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost		Indeterminate	
Local Revenue		Up to \$42,000,000	

- ! The bill authorizes up to \$42 million from certain sanitary landfill closure escrow accounts related to former facilities located within the Hackensack Meadowlands District to be transferred to solid waste debt defeasance accounts in the State Treasury.
- ! The transferred escrow monies, which would otherwise revert to the Sanitary Landfill Facility Contingency Fund, are intended to help support the retirement of \$96 million in outstanding solid waste facility bond debt incurred by the Bergen County Utilities Authority.
- ! The bill amends P.L.1997, c.278 to include sales tax collected from materials used for redevelopment projects on contaminated sites as part of the overall tax revenue support for the Brownfield Site Reimbursement Fund. It also amends this statute to include remediation costs from landfill property projects as a reimbursable expense from the Fund.
- ! The Office of Legislative Services (OLS) estimates that State funds will not be affected by the escrow account transfer, but future sales tax revenues from redeveloped brownfields properties will be reduced by the amendments to P.L.1997, c.278.

BILL DESCRIPTION

Assembly Bill No. 3953 of 2001 authorizes the use of certain escrow account funds for solid

waste debt retirement. Under existing law, owners of sanitary landfill facilities deposited State-mandated assessments from landfill revenues in special escrow accounts for the purpose of financing the eventual closure of these facilities. State law provides that any excess monies remaining in these accounts following the closure of these facilities are to be deposited in the State Sanitary Landfill Facility Contingency Fund and used for closure and post-closure costs on other landfill facilities.

This bill would permit up to \$42 million now on deposit in escrow accounts established for the closure and post-closure of certain landfills located in the Hackensack Meadowlands District to be used toward the retirement of the outstanding solid waste indebtedness previously incurred by the Bergen County Utilities Authority, Bergen County's solid waste management plan implementing agency. In light of a program undertaken by the New Jersey Meadowlands Commission to close, remediate, and economically develop many of the former landfill properties located within the Meadowlands District, the sponsors believe these funds are no longer needed for the original purpose for which they were collected.

The bill also amends P.L.1997, c.278, which created the Brownfield Site Reimbursement Fund, to include sales tax collected from materials used for redevelopment projects on contaminated properties as part of the overall tax revenue support for the Fund. It also amends this act to include remediation costs resulting from the preparation and remediation of landfill properties as a reimbursable expense from the Fund. Both of these provisions are intended to aid and facilitate the development of former landfill properties within the Meadowlands District.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The \$42 million that the bill authorizes to be transferred from closure escrow accounts to "..... any solid waste debt defeasance fund created with respect to any county included within the Hackensack Meadowlands District" represents unused monies that would otherwise be eventually transferred to the Sanitary Landfill Facility Contingency Fund. The Office of Legislative Services (OLS) estimates that the Contingency Fund would therefore be unable to utilize these monies for the purposes under which it was established, namely, to satisfy citizen claims of property contamination from landfills. Since the Contingency Fund is supported by special taxes, the General Fund would not be affected by this provision.

As cited in the **Bill Description**, the bill's intention is to utilize the escrow funds to help retire, with other funding sources, the outstanding solid waste facility bond debt incurred by the Bergen County Utilities Authority (BCUA), which totals approximately \$96 million. The retirement of this debt could, in turn, save the State from committing any further subsidy assistance from the State Partnership Agreement Program for future BCUA solid waste debt service costs. The BCUA received \$25 million in State funding for this purpose in FY 1999 from the Partnership Program.

The bill's amendments to the Brownfield Site Remediation Fund primarily concerns

expanding the category of future sales tax revenues that would be credited to reimburse developers of brownfields properties, and expanding the definition of reimbursable costs to include the closure of landfill properties. The OLS estimates that these amendments will not affect current sales tax revenues, but will enable a greater percentage of future sales tax revenues generated from former brownfields properties to be designated for reimbursement under P.L.1997, c.278.

Section: *Environment, Agriculture, Energy and Natural Resources*

Analyst: *Richard M. Handelman*
Senior Fiscal Analyst

Approved: *Alan R. Kooney*
Legislative Budget and Finance Officer

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.

§§1,2 -
C.13:1E-109.1
& 13:1E-109.2
§3 - Approp.
§5 - C.58:10B-27.1

P.L. 2001, CHAPTER 398, *approved January 8, 2002*
Senate Committee Substitute for
Senate, No. 2753

1 **AN ACT** concerning the remediation of certain sanitary landfill
2 facilities, amending P.L.1997, c.278, supplementing Title 13 and
3 Title 58 of the Revised Statutes, and making an appropriation.

4

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

7

8 1. (New section) Notwithstanding the provisions of section 35 of
9 P.L.1975, c.326 (C.13:17-10.1), sections 10 and 11 of P.L.1981,
10 c.306 (C.13:1E-109 and C.13:1E-110), section 8 of P.L.1985, c.368
11 (C.13:1E-176), or any rules or regulations adopted pursuant thereto,
12 or any order issued by the Board of Public Utilities or the Department
13 of Environmental Protection to the contrary, and subject to the
14 approval of the Director of the Division of Budget and Accounting,
15 the New Jersey Meadowlands Commission may withdraw from the
16 escrow accounts established for the closure and post-closure
17 monitoring of the sanitary landfill facilities operated by the commission
18 an amount not to exceed \$42,000,000 for payment to the State
19 Treasurer for deposit in any solid waste debt defeasance fund created
20 with respect to any county included within the Hackensack
21 Meadowlands District.

22

23 2. (New section) The provisions of any other law to the contrary
24 notwithstanding, there is appropriated from the Sanitary Landfill
25 Facility Contingency Fund established pursuant to section 6 of
26 P.L.1981, c.306 (C.13:1E-105) an amount equal to the moneys paid
27 into the fund pursuant to subsection b. of section 11 of P.L.1981,
28 c.306 (C.13:1E-110), from the moneys remaining in the escrow
29 accounts established for the closure of the Kingsland Park Sanitary
30 Landfill pursuant to section 10 of P.L.1981, c.306 (C.13:1E-109) or
31 pursuant to an order issued by the Board of Public Utilities or the
32 Department of Environmental Protection, subsequent to the proper
33 and complete closure of the Kingsland Park Sanitary Landfill pursuant
34 to law, but not subsequent to post-closure obligations, to the New
35 Jersey Meadowlands Commission for deposit into the escrow accounts
36 established for the closure and post-closure monitoring of the sanitary
37 landfill facilities operated by the commission.

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 3. There is appropriated from the General Fund such amounts
2 necessary to fully fund the closure and post-closure obligations of the
3 New Jersey Meadowlands Commission with respect to sanitary landfill
4 facilities operated by the commission, not to exceed \$23,500,000,
5 subject to the approval of the Director of the Division of Budget and
6 Accounting and upon such terms and conditions as the State Treasurer
7 and the commission may agree.

8
9 4. Section 39 of P.L.1997, c.278 (C.58:10B-31) is amended to
10 read as follows:

11 39. a. The State Treasurer shall reimburse the developer the
12 amount of the remediation costs agreed upon in the redevelopment
13 agreement , and as provided in sections 35 and 36 of P.L.1997, c.278
14 (C.58:10B-27 and C.58:10B-28) upon issuance of the certification by
15 the director pursuant to section 36 of P.L.1997, c.278 (C.58:10B-28).
16 The developer shall be entitled to periodic payments from the fund in
17 an amount, in the frequency, and over the time period as provided in
18 the redevelopment agreement. Notwithstanding any other provision
19 of sections 34 through 39 of P.L.1997, c.278 (C.58:10B-26 through
20 C.58:10B-31), the State Treasurer may not reimburse the developer
21 any amount of the remediation costs from the fund until the State
22 Treasurer is satisfied that the anticipated tax revenues from the
23 redevelopment project have been realized by the State in an amount
24 sufficient to pay for the cost of the reimbursements.

25 b. A developer shall submit to the director updated remediation
26 costs actually incurred by the developer for the remediation of the
27 contaminated property located at the site of the redevelopment project
28 as provided in the redevelopment agreement. The reimbursement
29 authorized pursuant to this section shall continue until such time as the
30 aggregate dollar amount of the agreed upon reimbursement. To
31 remain entitled to the reimbursement authorized pursuant to this
32 section, the developer shall perform and complete all remediation
33 activities as may be required pursuant to the memorandum of
34 agreement entered into with the Commissioner of Environmental
35 Protection pursuant to section 37 of P.L.1997, c.278 (C.58:10B-29).
36 The Department of Environmental Protection may review the
37 remediation costs incurred by the developer to determine if they are
38 reasonable.

39 Reimbursable remediation costs shall include costs that are
40 incurred in preparing the area of land whereon the contaminated site
41 is located for remediation and may include costs of dynamic
42 compaction of soil necessary for the remediation.

43 (cf: P.L.1997, c.278, s.39)

44
45 5. (New section) a. The provisions of any other law, or any rule
46 or regulation adopted pursuant thereto to the contrary

1 notwithstanding, the State may enter into a redevelopment agreement
2 pursuant to section 35 of P.L.1997, c.278 (C.58:10B-27) for the
3 redevelopment project at the site of the following landfills: (1) the
4 Avon Sanitary Landfill; (2) the Kingsland Park Sanitary Landfill; (3)
5 the Lyndhurst Sanitary Landfill; and (4) the Rutherford Sanitary
6 Landfill, in which the State may agree to reimburse the developer for
7 the closure and remediation costs associated with the proper closure
8 and remediation of the area of land whereon the Avon Sanitary
9 Landfill, the Kingsland Park Sanitary Landfill, the Lyndhurst Sanitary
10 Landfill, and the Rutherford Sanitary Landfill are located.

11 b. As used in this section, "closure and remediation costs" means
12 all reasonable costs associated with the closure and remediation of the
13 Avon Sanitary Landfill, the Kingsland Park Sanitary Landfill, the
14 Lyndhurst Sanitary Landfill, and the Rutherford Sanitary Landfill,
15 except that "closure and remediation costs" shall not include any costs
16 incurred in financing the remediation and closure of a particular
17 landfill; and "closure" means all activities associated with the design,
18 purchase, construction or maintenance of all measures required by the
19 Department of Environmental Protection, pursuant to law, in order to
20 prevent, minimize or monitor pollution or health hazards resulting
21 from the Avon Sanitary Landfill, the Kingsland Park Sanitary Landfill,
22 the Lyndhurst Sanitary Landfill, and the Rutherford Sanitary Landfill
23 subsequent to the termination of operations at these landfills, or at any
24 portion thereof, including, but not necessarily limited to, the placement
25 of final earthen or vegetative cover, the installation of methane gas
26 vents or monitors and leachate monitoring wells or collection systems,
27 and long-term operations and maintenance, at the site of these
28 landfills.

29

30 6. This act shall take effect immediately.

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35 Provides debt defeasance aid to Bergen County Utilities Authority
36 from certain landfill closure escrow accounts, appropriates up to \$23.5
37 million.

CHAPTER 398

AN ACT concerning the remediation of certain sanitary landfill facilities, amending P.L.1997, c.278, supplementing Title 13 and Title 58 of the Revised Statutes, and making an appropriation.

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

C.13:1E-109.1 Meadowlands Commission payment to certain solid waste debt defeasance fund.

1. Notwithstanding the provisions of section 35 of P.L.1975, c.326 (C.13:17-10.1), sections 10 and 11 of P.L.1981, c.306 (C.13:1E-109 and C.13:1E-110), section 8 of P.L.1985, c.368 (C.13:1E-176), or any rules or regulations adopted pursuant thereto, or any order issued by the Board of Public Utilities or the Department of Environmental Protection to the contrary, and subject to the approval of the Director of the Division of Budget and Accounting, the New Jersey Meadowlands Commission may withdraw from the escrow accounts established for the closure and post-closure monitoring of the sanitary landfill facilities operated by the commission an amount not to exceed \$42,000,000 for payment to the State Treasurer for deposit in any solid waste debt defeasance fund created with respect to any county included within the Hackensack Meadowlands District.

C.13:1E-109.2 Payments into escrow accounts of Meadowlands Commission, certain, authorized.

2. The provisions of any other law to the contrary notwithstanding, there is appropriated from the Sanitary Landfill Facility Contingency Fund established pursuant to section 6 of P.L.1981, c.306 (C.13:1E-105) an amount equal to the moneys paid into the fund pursuant to subsection b. of section 11 of P.L.1981, c.306 (C.13:1E-110), from the moneys remaining in the escrow accounts established for the closure of the Kingsland Park Sanitary Landfill pursuant to section 10 of P.L.1981, c.306 (C.13:1E-109) or pursuant to an order issued by the Board of Public Utilities or the Department of Environmental Protection, subsequent to the proper and complete closure of the Kingsland Park Sanitary Landfill pursuant to law, but not subsequent to post-closure obligations, to the New Jersey Meadowlands Commission for deposit into the escrow accounts established for the closure and post-closure monitoring of the sanitary landfill facilities operated by the commission.

3. There is appropriated from the General Fund such amounts necessary to fully fund the closure and post-closure obligations of the New Jersey Meadowlands Commission with respect to sanitary landfill facilities operated by the commission, not to exceed \$23,500,000, subject to the approval of the Director of the Division of Budget and Accounting and upon such terms and conditions as the State Treasurer and the commission may agree.

4. Section 39 of P.L.1997, c.278 (C.58:10B-31) is amended to read as follows:

C.58:10B-31 Reimbursement of remediation costs.

39. a. The State Treasurer shall reimburse the developer the amount of the remediation costs agreed upon in the redevelopment agreement, and as provided in sections 35 and 36 of P.L.1997, c.278 (C.58:10B-27 and C.58:10B-28) upon issuance of the certification by the director pursuant to section 36 of P.L.1997, c.278 (C.58:10B-28). The developer shall be entitled to periodic payments from the fund in an amount, in the frequency, and over the time period as provided in the redevelopment agreement. Notwithstanding any other provision of sections 34 through 39 of P.L.1997, c.278 (C.58:10B-26 through C.58:10B-31), the State Treasurer may not reimburse the developer any amount of the remediation costs from the fund until the State Treasurer is satisfied that the anticipated tax revenues from the redevelopment project have been realized by the State in an amount sufficient to pay for the cost of the reimbursements.

b. A developer shall submit to the director updated remediation costs actually incurred by the developer for the remediation of the contaminated property located at the site of the redevelopment project as provided in the redevelopment agreement. The reimbursement authorized pursuant to this section shall continue until such time as the aggregate dollar amount of the agreed upon reimbursement. To remain entitled to the reimbursement authorized pursuant

to this section, the developer shall perform and complete all remediation activities as may be required pursuant to the memorandum of agreement entered into with the Commissioner of Environmental Protection pursuant to section 37 of P.L.1997, c.278 (C.58:10B-29). The Department of Environmental Protection may review the remediation costs incurred by the developer to determine if they are reasonable.

Reimbursable remediation costs shall include costs that are incurred in preparing the area of land whereon the contaminated site is located for remediation and may include costs of dynamic compaction of soil necessary for the remediation.

C.58:10B-27.1 State may enter into certain redevelopment agreements at certain landfill sites.

5. a. The provisions of any other law, or any rule or regulation adopted pursuant thereto to the contrary notwithstanding, the State may enter into a redevelopment agreement pursuant to section 35 of P.L.1997, c.278 (C.58:10B-27) for the redevelopment project at the site of the following landfills: (1) the Avon Sanitary Landfill; (2) the Kingsland Park Sanitary Landfill; (3) the Lyndhurst Sanitary Landfill; and (4) the Rutherford Sanitary Landfill, in which the State may agree to reimburse the developer for the closure and remediation costs associated with the proper closure and remediation of the area of land whereon the Avon Sanitary Landfill, the Kingsland Park Sanitary Landfill, the Lyndhurst Sanitary Landfill, and the Rutherford Sanitary Landfill are located.

b. As used in this section, "closure and remediation costs" means all reasonable costs associated with the closure and remediation of the Avon Sanitary Landfill, the Kingsland Park Sanitary Landfill, the Lyndhurst Sanitary Landfill, and the Rutherford Sanitary Landfill, except that "closure and remediation costs" shall not include any costs incurred in financing the remediation and closure of a particular landfill; and "closure" means all activities associated with the design, purchase, construction or maintenance of all measures required by the Department of Environmental Protection, pursuant to law, in order to prevent, minimize or monitor pollution or health hazards resulting from the Avon Sanitary Landfill, the Kingsland Park Sanitary Landfill, the Lyndhurst Sanitary Landfill, and the Rutherford Sanitary Landfill subsequent to the termination of operations at these landfills, or at any portion thereof, including, but not necessarily limited to, the placement of final earthen or vegetative cover, the installation of methane gas vents or monitors and leachate monitoring wells or collection systems, and long-term operations and maintenance, at the site of these landfills.

6. This act shall take effect immediately.

Approved January 8, 2002.