

13: 1D-3

LEGISLATIVE HISTORY CHECKLIST

(Environmental Dept. permitted to utilize forfeited bonds to cover violations)

NJSA 13:1D-3

LAWS 1981

CHAPTER 446

Bill No. A3545

Sponsor(s) Stewart

Date Introduced June 22, 1981

Committee: Assembly Agriculture and Environment

Senate Revenue, Finance and Appropriations

Amended during passage  Yes  No

Date of Passage: Assembly Nov. 16, 1981

Senate Jan. 7, 1982

Date of approval Jan. 9, 1982

Following statements are attached if available:

Sponsor statement Yes  No

Committee Statement: Assembly  Yes  No

Senate Yes  No

Fiscal Note  Yes  No

Veto Message  Yes  No

Message on signing  Yes  No

Following were printed:

Reports  Yes  No

Hearings  Yes  No

6/22/81

PP

802

ASSEMBLY, No. 3545

STATE OF NEW JERSEY

INTRODUCED JUNE 22, 1981.

By Assemblyman STEWART

Referred to Committee on Agriculture and Environment

AN ACT concerning performance bonds or other securities for environmental violations and amending P. L. 1970, c. 33.

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

1 1. Section 12 of P. L. 1970, c. 33 (C. 13:1D-3) is amended to read  
2 as follows:

3 12. The department shall formulate comprehensive policies for  
4 the conservation of the natural resources of the State, the promo-  
5 tion of environmental protection and the prevention of pollution  
6 of the environment of the State. The department shall in addition  
7 to the powers and duties vested in it by this act or by any other  
8 law have the power to:

9 a. Conduct and supervise research programs for the purpose of  
10 determining the causes, effects and hazards to the environment and  
11 its ecology;

12 b. Conduct and supervise Statewide programs of education in-  
13 cluding the preparation and distribution of information relating  
14 to conservation, environmental protection and ecology;

15 c. Require the registration of persons engaged in operations  
16 which may result in pollution of the environment and the filing of  
17 reports by them containing such information as the department  
18 may prescribe to be filed relative to pollution of the environment,  
19 all in accordance with applicable codes, rules or regulations  
20 established by the department;

21 d. Enter and inspect any building or place for the purpose of  
22 investigating an actual or suspected source of pollution of the  
23 environment and ascertaining compliance or noncompliance with  
24 any code, rules and regulations of the department. Any informa-  
25 tion relating to secret processes concerning methods of manufacture  
26 or production obtained in the course of such inspection, investiga-

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

27 tion or determination, shall be kept confidential and shall not be  
28 admissible in evidence in any court or in any other proceeding  
29 except before the department as herein defined. If samples are  
30 taken for analysis, a duplicate of the analytical report shall be  
31 furnished promptly to the person suspected of causing pollution of  
32 the environment;

33 e. Receive or initiate complaints of pollution of the environment,  
34 including thermal pollution, hold hearings in connection therewith  
35 and institute legal proceedings for the prevention of pollution of  
36 the environment and abatement of nuisances in connection there-  
37 with and shall have the authority to seek and obtain injunctive  
38 relief and the recovery of fines and penalties in summary proceed-  
39 ings in the Superior Court;

40 f. Prepare, administer and supervise Statewide, regional and  
41 local programs of conservation and environmental protection,  
42 giving due regard for the ecology of the varied areas of the State  
43 and the relationship thereof to the environment, and in connection  
44 therewith prepare and make available to appropriate agencies in  
45 the State technical information concerning conservation and  
46 environmental protection, cooperate with the Commissioner of  
47 Health in the preparation and distribution of environmental protec-  
48 tion and health bulletins for the purpose of educating the public,  
49 and cooperate with the Commissioner of Health in the preparation  
50 of a program of environmental protection;

51 g. Encourage, direct and aid in coordinating State, regional and  
52 local plans and programs concerning conservation and environ-  
53 mental protection in accordance with a unified Statewide plan which  
54 shall be formulated, approved and supervised by the department.  
55 In reviewing such plans and programs and in determining condi-  
56 tions under which such plans may be approved, the department  
57 shall give due consideration to the development of a comprehensive  
58 ecological and environmental plan in order to be assured insofar  
59 as is practicable that all proposed plans and programs shall con-  
60 form to reasonably contemplated conservation and environmental  
61 protection plans for the State and the varied areas thereof;

62 h. Administer or supervise programs of conservation and en-  
63 vironmental protection, prescribe the minimum qualifications of  
64 all persons engaged in official environmental protection work, and  
65 encourage and aid in coordinating local environmental protection  
66 services;

67 i. Establish and maintain adequate bacteriological, radiological  
68 and chemical laboratories with such expert assistance and such

69 facilities as are necessary for routine examinations and analyses,  
70 and for original investigations and research in matters affecting  
71 the environment and ecology;

72 j. Administer or supervise a program of industrial planning for  
73 environmental protection; encourage industrial plants in the State  
74 to undertake environmental and ecological engineering programs,  
75 and cooperate with the State Departments of Health and Labor  
76 [and Industry] in formulating rules and regulations concerning  
77 industrial sanitary conditions;

78 k. Supervise sanitary engineering facilities and projects within  
79 the State, authority for which is now or may hereafter be vested by  
80 law in the department, and shall, in the exercise of such supervi-  
81 sion, make and enforce rules and regulations concerning plans and  
82 specifications, or either, for the construction, improvement, altera-  
83 tion or operation of all public water supplies, all public bathing  
84 places, landfill operations and of sewerage systems and disposal  
85 plants for treatment of sewage, wastes and other deleterious  
86 matter, liquid, solid or gaseous, require all such plans or specifica-  
87 tions, or either, to be first approved by it before any work there-  
88 under shall be commenced, inspect all such projects during the  
89 progress thereof and enforce compliance with such approved plans  
90 and specifications;

91 l. Undertake programs or research and development or the  
92 purpose of determining the most efficient, sanitary and economical  
93 ways of collecting, disposing or utilizing of solid waste;

94 m. Construct and operate, on an experimental basis, incinerators  
95 or other facilities for the disposal of solid waste, provide the  
96 various municipalities and counties of this State, the Board of  
97 Public Utilities [Commission], and the Division of Local Govern-  
98 ment Services in the Department of Community Affairs with  
99 statistical data on costs and methods of solid waste collection,  
100 disposal and utilization;

101 n. Enforce the State air pollution, water pollution, conservation,  
102 environmental protection, waste and refuse disposal laws, rules  
103 and regulations;

104 o. Acquire by purchase, grant, contract or condemnation, title  
105 to real property, for the purpose of demonstrating new methods  
106 and techniques fo the collection or disposal of solid waste;

107 p. Purchase, operate and maintain, pursuant to the provisions  
108 of this act, any facility, site, laboratory, equipment or machinery  
109 necessary to the performance of its duties pursuant to this act;

110 q. Contract with any other public agency or corporation in-

111 incorporated under the laws of this or any other state for the  
112 performance of any function under this act.

113 r. With the approval of the Governor, cooperate with, apply for,  
114 receive and expend funds from, the Federal Government, the State  
115 Government, or any county or municipal government or from any  
116 public or private sources for any of the objects of this act;

117 s. Make annual and such other reports as it may deem proper to  
118 the Governor and the Legislature evaluating the demonstrations  
119 conducted during each calendar year;

120 t. Keep complete and accurate minutes of all hearings held  
121 before the commissioner or any member of the department pursuant  
122 to the provisions of this act. All such minutes shall be retained  
123 in a permanent record, and shall be available for public inspection  
124 at all times during the office hours of the department;

125 u. Require any person subject to a lawful order of the depart-  
126 ment which provides for a period of time during which such person  
127 subject to the order is permitted to correct a violation to post a  
128 performance bond or other security with the department in such  
129 form and amount as shall be determined by the department. Such  
130 bond need not be for the full amount of the estimated cost to correct  
131 the violation but may be in such amount as will tend to insure good  
132 faith compliance with said order. The department shall not require  
133 such a bond or security from any public body, agency or authority.  
134 In the event of a failure to meet the schedule prescribed by the de-  
135 partment, the sum named in the bond or other security shall be  
136 forfeited unless the department shall find that the failure is excus-  
137 able in whole or in part for a good cause shown in which case the  
138 department shall determine what amount of said bond or security,  
139 if any, is a reasonable forfeiture under the circumstances. Any  
140 amount so forfeited shall be [paid to the general State fund]  
141 *utilized by the department for the correction of the violation or*  
142 *violations, or for any other action required to insure compliance*  
143 *with the order.*

1 2. This act shall take effect immediately.

---

#### STATEMENT

This bill authorizes the Department of Environmental Protection to utilize forfeited bonds or other securities posted by violators pursuant to any departmental order to correct the violations for which the sureties were posted, or for any other actions required to insure compliance with the order. Existing law requires forfeited bonds and securities to be paid into the General Fund.

A3545 (1981)

LAW LIBRARY COPY  
DO NOT REMOVE

SENATE REVENUE, FINANCE AND APPROPRIATIONS  
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3545

STATE OF NEW JERSEY

DATED: DECEMBER 10, 1981

Assembly Bill No. 3545 amends current law regarding the disposition of forfeited bonds or other securities held by the Department of Environmental Protection to ensure compliance with an order for corrective action issued by the department. Under current law, the forfeited amount is paid to the General Fund. This bill would permit the department to use the forfeited funds to correct the violation for which the bonds or other securities were posted.