

40:66A-31.4A

LEGISLATIVE HISTORY CHECKLIST

NJSA 40:66A-31.4a ("County Solid Waste Disposal Financing Law"--pro-
cedures for condemnation of property.)

Laws of 1977 Chapter 319

Bill No. S873

Sponsor(s) Beadleston

Date Introduced Pre-filed

Committee: Assembly County Government

Senate County & Municipal Government

Amended during passage Yes No

Date of passage: Assembly February 23, 1976

Senate September 20, 1977

Date of approval January 10, 1978

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

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SENATE, No. 873

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1976 SESSION

By Senator BEADLESTON

A SUPPLEMENT to the "County Solid Waste Disposal Financing Law," approved October 28, 1970 (P. L. 1970, c. 242, C. 40:66A-31.1 et seq.).

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

1 1. On or after the institution of an action by a county for con-
2 demnation of property and to fix the compensation to be paid
3 for such property, pursuant to the act to which this act is a supple-
4 ment, the county may file with the Clerk of the Superior Court a
5 declaration of taking, signed by the duly authorized county official,
6 declaring that all or any part of such property described in the
7 petition is being taken by and for the use of the county. The
8 declaration of taking shall set forth (1) a description of such tract
9 or parcel of property to be taken, to which there may be attached
10 a plan or map thereof; (2) a statement of the estate or interest
11 in the said property being taken; and (3) a statement of the sum
12 of money estimated by the county to be just compensation for the
13 property taken, which sum shall not be less than the last assessed
14 valuation for tax purposes of the estate or interest in the property
15 to be taken.

16 Upon the filing of the aforesaid declaration of taking and the
17 deposit in court to the use of the persons entitled thereto, of the
18 sum of money estimated by the county to be just compensation
19 for the property taken as stated above, title to the property
20 described as being taken by said declaration shall vest in the
21 county (free from the right, title, interest or lien of all persons),
22 and said property shall be deemed to be condemned and taken for
23 the use of the county and the right to just compensation for the
24 same shall vest in the persons entitled thereto.

25 Upon the filing of the declaration of taking and the making of
26 the deposit as aforesaid, the court shall designate a day not exceed-

27 ing 90 days after such filing, except for good cause shown, on
28 which persons in possession shall be required to surrender posses-
29 sion to the county.

30 Upon the expiration of the period designated by the court as
31 herein provided, the county, without other process or pro-
32 ceedings shall be entitled to the exclusive possession and use of
33 each tract or parcel of property described in the declaration and
34 may forthwith enter into and take possession of said property, it
35 being the intent of this provision that the action to fix the compen-
36 sation to be paid or any other proceeding relating to the taking of
37 such property or entering therein shall not delay the taking of
38 possession and the use thereof by the county for purposes autho-
39 rized by the act to which this act is a supplement. The county
40 shall not abandon any condemnation proceeding pursuant to this
41 act subsequent to the date upon which it has taken possession of
42 the property as herein provided.

43 The county shall cause notice of the filing of said declaration
44 of taking and the making of said deposit to be served upon each
45 party to the action to fix the compensation to be paid, who resides
46 in this State, either personally or by leaving a copy thereof at
47 his dwelling house or usual place of abode, and upon each such
48 party who resides out of the State by mailing notice thereof to him
49 at his usual place of abode if known. In the event that the usual
50 place of abode of any such party or the name of such party is
51 unknown, such notice shall be published at least once in a newspaper
52 published or circulating in the county in which the property is
53 located. Such service, mailing or publishing, shall be made within
54 30 days after the filing of the declaration.

55 Any party in interest after notice to other parties in interest,
56 including the county, may make application to a judge of the
57 Superior Court who may order that the money deposited with
58 the Clerk of the Superior Court, or any part thereof, be paid forth-
59 with to the person or persons entitled thereto for or on account of
60 the just compensation to be awarded in said proceeding; provided,
61 that each such person shall have filed with Clerk of the Superior
62 Court a consent in writing and such security as may be required
63 by the court that, in the event the award in the condemnation pro-
64 ceeding shall be less than the amount deposited, the court, after
65 notice and hearing as herein provided, may determine the liability,
66 if any, for the return of such difference or any part thereof and
67 enter judgment therefor.

68 The ultimate amount of compensation shall be determined pur-
69 suant to the Eminent Domain Act of 1971, P. L. 1971, c. 361
70 (C. 20:3-1 et seq.). If the amount so fixed shall exceed the amount
71 so deposited in court by the county or otherwise paid to the persons
72 entitled thereto, the court shall enter judgment against the county
73 in the amount of such deficiency, together with interest at the legal
74 rate on such deficiency from the date of the vesting of title to the
75 date of the entry of the final judgment (subject, however, to abate-
76 ment for use, income, rents or profits derived from such property by
77 the owner thereof subsequent to the vesting of title in the county),
78 and the court shall order the county to deposit the amount of such
79 deficiency in court. The money deposited into court by a county
80 shall be secured in such manner as may be directed by the court and
81 shall be disbursed according to the order or judgment of the
82 court to the persons found to be entitled thereto by the final
83 award or judgment of the court. In case the amount deposited in
84 court by the county as the estimated compensation for the property
85 shall exceed the amount of the award or judgment, such excess
86 shall be returned to the county unless the amount of the deposit
87 or any part thereof shall have been distributed as aforesaid, in
88 which event, the court, on petition of the county and notice to all
89 persons interested in the award and affording them an opportunity
90 to be heard, shall enter judgment in favor of the county for such
91 difference against the party or parties liable for the return thereof.
92 The county shall cause notice of the date, fixed for such hearing,
93 to be served upon each party thereto residing in this State in
94 accordance with the requirements of the laws of this State relating
95 to service of process. In the event that the residence of any party
96 or the name of any party is unknown, such notice shall be published
97 at least once in a newspaper published or circulating in the county.
98 Such service, mailing or publication, shall be made at least 10 days
99 before the date fixed for such hearing.

1 2. This act shall take effect immediately.

SENATE COUNTY AND MUNICIPAL GOVERNMENT
COMMITTEE

STATEMENT TO
SENATE, No. 873

STATE OF NEW JERSEY

DATED: FEBRUARY 9, 1976

Senate Bill No. 873 grants eminent domain powers to any county operating under the County Solid Waste Disposal Financing Law, and prescribes the procedures for county "taking" pursuant to said law.

The procedures for "taking" roughly parallel those contained in the Eminent Domain Act of 1971, including:

- (1) Immediate entry and possession after the filing of a declaration of taking and the depositing of the necessary moneys for compensation;
- (2) The manner of providing necessary notices to all condemnees;
- (3) The right to appeal such taking; and
- (4) The manner of determining compensation.

The provisions of the bill are more generous than the Eminent Domain Act of 1971 with respect to (1) the establishment of a minimum statutory level of compensation which shall be not less than the last assessed valuation for tax purposes, and (2) the period of time after which the condemnee is required to surrender possession.

The Senate committee amendment clarifies the statutory reference contained in the bill.

FROM THE OFFICE OF THE GOVERNOR

FOR RELEASE IMMEDIATELY

FOR FURTHER INFORMATION

JANUARY 10, 1978

KATHY FORSYTH
ANNE BURNS

5873 - NEXT PAGE

Governor Brendan Byrne today signed into law the following bills:

A-539, sponsored by Assemblyman Carl Orechio (R-Essex), which requires physicians who order laboratory tests for their patients to provide third party payers with specific information regarding the laboratory.

The information must include the name and address of the laboratory and the amount to be paid to the lab for the tests.

Prior to this legislation physicians were required to give this information either to the patient or to third party payers.

A-1767, sponsored by Assemblymen Daniel F. Newman (D-Ocean) and John P. Doyle (D-Ocean), which will allow boards of education to pay school district election officers up to \$4.00 per hour.

The bill does not require any minimum compensation.

Prior to this legislation, the compensation rates allowed payment of up to \$2.00 per hour with a minimum of \$10.00 for any time spent working at a school election.

Since the rate paid is at the discretion of the local school board, any district is free to avoid the additional costs.

A-2357, sponsored by Assemblyman Richard Van Wager (D-Monmouth), which supplements the "Solid Waste Management Act."

The bill provides the statutory framework and mandate for the land disposal and processing of sludge.