

13:1D-9

LEGISLATIVE HISTORY CHECKLIST

NJSA 13:1D-9

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Laws of 1975 Chapter 33

Bill No. A949

Sponsor(s) Baer & others

Date Introduced Jan. 24, 1974

Committee: Assembly Agriculture & Environment

Senate Energy, Agriculture & Environment

Amended during passage Yes  amendments during passage denoted by asterisks

Date of passage: Assembly March 25, 1974

Senate May 13, 1974

Date of approval March 10, 1975

Following statements are attached if available:

Sponsor statement Yes

Committee Statement: Assembly  No

Senate  No

Fiscal Note  No

Veto message  No

Message on signing Yes

Following were printed:

Reports  No

Hearings  No

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CHAPTER 33 LAWS OF N. J. 1975  
APPROVED 3-10-75

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**ASSEMBLY, No. 949**

**STATE OF NEW JERSEY**

INTRODUCED JANUARY 24, 1974

By Assemblymen BAER, HOLLENBECK, VISOTCKY,  
GLADSTONE, CONTILLO and MARTIN

Referred to Committee on Agriculture and Environment

AN ACT enabling the Department of Environmental Protection to  
require the posting of performance bonds, 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-9), is amended to  
2 read 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

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

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-  
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, land fill 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 of research and development for 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 Public  
97 Utilities Commission, and the Division of Local **Finance** *Govern-*  
98 *ment Services* in the Department of Community Affairs with  
99 statistical data on costs and methods of solid waste collection,  
99A disposal and utilization;

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

103 o. Acquire by purchase, grant, contract or condemnation, title  
104 to real property, for the purpose of demonstrating new methods

105 and techniques for the collection or disposal of solid waste;

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

109 q. Contract with any other public agency or corporation in-  
110 corporated under the laws of this or any other state for the  
111 performance of any function under this act;

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

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

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

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

1 2. This act shall take effect 60 days after its enactment.

- 105 and techniques for the collection or disposal of solid waste;
- 106 p. Purchase, operate and maintain, pursuant to the provisions  
107 of this act, any facility, site, laboratory, equipment or machinery  
108 necessary to the performance of its duties pursuant to this act;
- 109 q. Contract with any other public agency or corporation in-  
110 corporated under the laws of this or any other state for the  
111 performance of any function under this act;
- 112 r. With the approval of the Governor, cooperate with, apply for,  
113 receive and expend funds from, the Federal Government, the State  
114 Government, or any county or municipal government or from any  
115 public or private sources for any of the objects of this act;
- 116 s. Make annual and such other reports as it may deem proper to  
117 the Governor and the Legislature evaluating the demonstrations  
118 conducted during each calendar year;
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120 before the commissioner or any member of the department pursuant  
121 to the provisions of this act. All such minutes shall be retained  
122 in a permanent record, and shall be available for public inspection  
123 at all times during the office hours of the department;
- 124 u. *Require any person subject to a lawful order of the depart-*  
125 *ment which provides for a period of time during which such person*  
126 *subject to the order is permitted to correct a violation to post a*  
127 *performance bond or other security with the department in a form*  
128 *and amount sufficient to assure the correction of such violation*  
129 *within the prescribed term. In the event of a failure to meet the*  
130 *schedule prescribed by the department, the sum named in the bond*  
131 *or other security shall be forfeited and shall be paid to the*  
132 *department.*
- 1 2. This act shall take effect 60 days after its enactment.

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#### STATEMENT

This bill would empower the Department of Environmental Protection to require the posting of performance bonds in amounts sufficient to cover the costs of correcting environmental violations.

FROM THE OFFICE OF THE GOVERNOR

MARCH 10, 1975

FOR FURTHER INFORMATION

FOR IMMEDIATE RELEASE

DICK CAMPBELL

Governor Brendan Byrne signed into law Monday a bill which enables the State Department of Environmental Protection to require the posting of performance bonds by persons subject to departmental orders.

The bill, A-949, sponsored by Assemblyman Byron M. Baer, D-Bergen, was signed at a public ceremony in the Governor's office.

The measure gives the department the power to require the posting of performance bonds to insure compliance with its orders to correct violations of environmental protection standards. If the abatement schedule established by the department is violated the amount of the bond may be forfeited.

The bill provides that the amount of the bond need not be for the full cost to correct a violation, but may be an amount that will insure "good faith compliance" with an order.

The measure prohibits the department from requiring such bonds from public agencies.

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