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P.L. 2017, CHAPTER 353, *approved January 16, 2018*

Assembly, No. 1954 (*Second Reprint*)

1 AN ACT concerning financial assistance and grants from the
2 Hazardous Discharge Site Remediation Fund, ¹and¹ amending and
3 supplementing P.L.1993, c.139 ¹and repealing section 8 of
4 P.L.2005, c.223¹ .

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

8
9 1. Section 27 of P.L.1993, c.139 (C.58:10B-5) is amended to
10 read as follows:

11 27. a. (1) Except as provided in section 4 of P.L.2007, c.135
12 (C.52:27D-130.7), financial assistance from the remediation fund
13 may only be rendered to persons who cannot establish a remediation
14 funding source for the full amount of a remediation. Financial
15 assistance pursuant to this act may be rendered only for that amount
16 of the cost of a remediation for which the person cannot establish a
17 remediation funding source. The limitations on receiving financial
18 assistance established in this paragraph (1) shall not limit the ability
19 of municipalities, counties, redevelopment entities authorized to
20 exercise redevelopment powers pursuant to section 4 of P.L.1992,
21 c.79 (C.40A:12A-4), **persons who are not required to establish a**
22 **remediation funding source for the part of the remediation involving**
23 **an innovative technology, an unrestricted use remedial action or a**
24 **limited restricted use remedial action,** ²persons who are not
25 required to establish a remediation funding source for that part of
26 the remediation involving an unrestricted use remedial action,²
27 persons performing a remediation in an environmental opportunity
28 zone, or persons who voluntarily perform a remediation, from
29 receiving financial assistance from the fund.

30 (2) Financial assistance rendered to persons who voluntarily
31 perform a remediation or perform a remediation in an
32 environmental opportunity zone may only be made for that amount
33 of the cost of the remediation that the person cannot otherwise fund
34 by any of the authorized methods to establish a remediation funding
35 source.

36 (3) **Financial assistance rendered to persons who do not have to**
37 **provide a remediation funding source for the part of the remediation**

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AEN committee amendments adopted June 6, 2016.

²Senate SEN committee amendments adopted December 11, 2017.

1 that involves an innovative technology, an unrestricted use remedial
2 action, or a limited restricted use remedial action may only be made
3 for that amount of the cost of the remediation that the person cannot
4 otherwise fund by any of the authorized methods to establish a
5 remediation funding source. ²[(Deleted by amendment, P.L. _____,
6 c. _____) (pending before the Legislature as this bill)] Financial
7 assistance rendered to persons who do not have to provide a
8 remediation funding source for the part of the remediation that
9 involves an unrestricted use remedial action may only be made for
10 that amount of the cost of the remediation that the person cannot
11 otherwise fund by any of the authorized methods to establish a
12 remediation funding source.²

13 b. Financial assistance may be rendered from the remediation
14 fund to (1) owners or operators of industrial establishments who are
15 required to perform remediation activities pursuant to P.L.1983,
16 c.330 (C.13:1K-6 et al.), upon closing operations or prior to the
17 transfer of ownership or operations of an industrial establishment,
18 (2) persons who are liable for the cleanup and removal costs of a
19 hazardous substance pursuant to P.L.1976, c.141 (C.58:10-23.11 et
20 seq.), and (3) persons who voluntarily perform a remediation of a
21 discharge of a hazardous substance or hazardous waste.

22 c. Financial assistance and grants may be made from the
23 remediation fund to a municipality, county, or redevelopment entity
24 authorized to exercise redevelopment powers pursuant to section 4
25 of P.L.1992, c.79 (C.40A:12A-4), for real property: (1) on which it
26 holds a tax sale certificate; (2) that it has acquired through
27 foreclosure or other similar means; or (3) that it has acquired, or in
28 the case of a county governed by a board of chosen freeholders, has
29 passed a resolution or, in the case of a municipality or a county
30 operating under the "Optional County Charter Law," P.L.1972,
31 c.154 (C.40:41A-1 et seq.), has passed an ordinance or other
32 appropriate document to acquire, by voluntary conveyance for the
33 purpose of redevelopment, for renewable energy generation or for
34 recreation and conservation purposes. Financial assistance and
35 grants may only be awarded for real property on which there has
36 been a discharge or on which there is a suspected discharge of a
37 hazardous substance or hazardous waste.

38 d. ²[Grants may be made from the remediation fund to persons
39 who own real property on which there has been a discharge of a
40 hazardous substance or a hazardous waste and that person qualifies
41 for an innocent party grant pursuant to section 28 of P.L.1993,
42 c.139 (C.58:10B-6).] (Deleted by amendment, P.L. _____, c. _____)
43 (pending before the Legislature as this bill)²

44 e. [Grants may be made from the remediation fund to
45 qualifying persons who propose to perform a remedial action that
46 uses an innovative technology or that would result in an unrestricted
47 use remedial action or a limited restricted use remedial action.]

1 ²~~[(Deleted by amendment, P.L. _____, c. _____) (pending before the~~
2 ~~Legislature as this bill)] Grants may be made from the remediation~~
3 ~~fund to qualifying persons who propose to perform a remedial~~
4 ~~action that would result in an unrestricted use remedial action.²~~
5 f. Grants may be made from the remediation fund to
6 municipalities, counties, and redevelopment entities authorized to
7 exercise redevelopment powers pursuant to section 4 of P.L.1992,
8 c.79 (C.40A:12A-4), for the preliminary assessment, site
9 investigation, remedial investigation, and remedial action ~~on~~
10 ~~contaminated~~ ~~for~~ real property ~~where there is a discharge or~~
11 ~~suspected discharge of a hazardous substance or hazardous waste~~
12 ~~within a brownfield development area. ²Grants may only be made~~
13 ~~for a remedial action pursuant to this subsection when there is a~~
14 ~~confirmed discharge of a hazardous substance or hazardous waste.²~~
15 ~~Grants made pursuant to this subsection for a remedial action may~~
16 ~~not exceed ¹~~[75%] 75 percent¹ of the total costs of the remedial~~~~
17 ~~action ²~~[and may not exceed \$750,000 at any one site]². An~~~~
18 ownership interest in the contaminated property shall not be
19 required in order for a municipality, county, or redevelopment
20 entity authorized to exercise redevelopment powers pursuant to
21 section 4 of P.L.1992, c.79 (C.40A:12A-4) to receive a grant for a
22 ~~[remediation of] preliminary assessment, site investigation, and~~
23 ~~remedial investigation for real property where there is a discharge~~
24 ~~or suspected discharge of a hazardous substance or hazardous waste~~
25 ~~in a brownfield [redevelopment] development area.~~
26 Notwithstanding the limitation on the total amount of financial
27 assistance and grants that may be awarded in any one year pursuant
28 to subsection b. of section 28 of P.L.1993, c.139 (C.58:10B-6), the
29 authority may award an additional amount of financial assistance
30 and grants in any one year, of up to ~~[\$2,000,000] \$1,000,000,~~
31 to any one municipality, county, or redevelopment entity for the
32 remediation of property in a brownfield development area. ~~[Any~~
33 ~~property on which a municipality, county, or redevelopment entity~~
34 ~~makes expenditures for a remedial action and the property is not~~
35 ~~owned by that entity shall be subject to the provisions of section 8~~
36 ~~of P.L.2005, c.223 (C.58:10B-25.2).]~~
37 (cf: P.L.2009, c.302, s.1)

38
39 2. Section 28 of P.L.1993, c.139 (C.58:10B-6) is amended to
40 read as follows:

41 28. a. Except for moneys deposited in the remediation fund for
42 specific purposes, and as provided in section 4 of P.L.2007, c.135
43 (C.52:27D-130.7), financial assistance and grants from the
44 remediation fund shall be rendered for the following purposes. A
45 written report shall be sent to the Senate Environment and Energy
46 Committee, and the Assembly Environment and Solid Waste
47 Committee, or their successors at the end of each calendar quarter

1 detailing the allocation and expenditures related to the financial
2 assistance and grants from the fund.

3 (1) Moneys shall be allocated for financial assistance to persons,
4 for remediation of real property located in a qualifying municipality
5 as defined in section 1 of P.L.1978, c.14 (C.52:27D-178);

6 (2) Moneys shall be allocated to: (a) municipalities, counties, or
7 redevelopment entities authorized to exercise redevelopment
8 powers pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4), for:

9 (i) projects in brownfield development areas pursuant to
10 subsection f. of section 27 of P.L.1993, c.139 (C.58:10B-5),

11 (ii) matching grants up to a cumulative total amount from the
12 fund of ~~[\$5,000,000]~~ ²~~[\$500,000]~~ \$2,500,000² per year of up to
13 ~~[75%]~~ ¹~~[50%]~~ ²50 percent¹ 75 percent² of the costs of the
14 remedial action for projects involving the redevelopment of
15 contaminated property for recreation and conservation purposes,
16 provided that the use of the property for recreation and conservation
17 purposes is included in the comprehensive plan for the development
18 or redevelopment of contaminated property, up to ¹~~[75%]~~ 75
19 percent¹ of the costs of the remedial action for projects involving
20 the redevelopment of contaminated property for renewable energy
21 generation, or up to ¹~~[50%]~~ 50 percent¹ of the costs of the remedial
22 action for projects involving the redevelopment of contaminated
23 property for affordable housing pursuant to P.L.1985, c.222
24 (C.52:27D-301 et al.),

25 (iii) grants for preliminary assessment, site investigation or
26 remedial investigation of a contaminated site,

27 (iv) financial assistance ²or grants² for the implementation of a
28 remedial action, or

29 (v) financial assistance for remediation activities at sites that
30 have been contaminated by a discharge of a hazardous substance or
31 hazardous waste, or at which there is an imminent and significant
32 threat of a discharge of a hazardous substance or hazardous waste,
33 and the discharge or threatened discharge poses or would pose an
34 imminent and significant threat to a drinking water source, to
35 human health, or to a sensitive or significant ecological area; or

36 (b) persons for financial assistance for remediation activities at
37 sites that have been contaminated by a discharge of a hazardous
38 substance or hazardous waste, or at which there is an imminent and
39 significant threat of a discharge of a hazardous substance or
40 hazardous waste, and the discharge or threatened discharge poses or
41 would pose an imminent and significant threat to a drinking water
42 source, to human health, or to a sensitive or significant ecological
43 area.

44 Except as provided in subsection f. of section 27 of P.L.1993,
45 c.139 (C.58:10B-5), financial assistance and grants to
46 municipalities, counties, or redevelopment entities authorized to
47 exercise redevelopment powers pursuant to section 4 of P.L.1992,

1 c.79 (C.40A:12A-4) may be made for real property: (1) on which
2 they hold a tax sale certificate; (2) that they have acquired through
3 foreclosure or other similar means; or (3) that they have acquired,
4 or, in the case of a county governed by a board of chosen
5 freeholders, have passed a resolution or, in the case of a
6 municipality or a county operating under the "Optional County
7 Charter Law," P.L.1972, c.154 (C.40:41A-1 et seq.), have passed an
8 ordinance or other appropriate document to acquire, by voluntary
9 conveyance for the purpose of redevelopment, or for recreation and
10 conservation purposes. Financial assistance and grants may only be
11 awarded for real property on which there has been or on which there
12 is suspected of being a discharge of a hazardous substance or a
13 hazardous waste. Grants and financial assistance provided pursuant
14 to this paragraph shall be used for performing preliminary
15 assessments, site investigations, remedial investigations, and
16 remedial actions on real property in order to determine the existence
17 or extent of any hazardous substance or hazardous waste
18 contamination, and to remediate the site in compliance with the
19 applicable health risk and environmental standards on those
20 properties. No financial assistance or grants for a remedial action
21 shall be awarded until the municipality, county, or redevelopment
22 entity authorized to exercise redevelopment powers pursuant to
23 section 4 of P.L.1992, c.79 (C.40A:12A-4), actually owns the real
24 property **],** provided that a matching grant for 75% of the costs of a
25 remedial action for a project involving the redevelopment of
26 contaminated property for recreation and conservation purposes, or
27 a matching grant for 50% of the costs of a remedial action for a
28 project involving the redevelopment of contaminated property for
29 affordable housing pursuant to P.L.1985, c.222 (C.52:27D-301 et
30 al.) may be made to a municipality, county, or redevelopment entity
31 authorized to exercise redevelopment powers pursuant to section 4
32 of P.L.1992, c.79 (C.40A:12A-4) even if it does not own the real
33 property and a grant may be made to a municipality, county, or
34 redevelopment entity authorized to exercise redevelopment powers
35 pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4) for a
36 remediation in a brownfield development area pursuant to
37 subsection f. of section 27 of P.L.1993, c.139 (C.58:10B-5) even if
38 the entity does not own the real property **]** ¹, provided that a
39 matching grant for 75 percent of the costs of a remedial action for a
40 project involving the redevelopment of contaminated property for
41 recreation and conservation purposes, or a matching grant for 50
42 percent of the costs of a remedial action for a project involving the
43 redevelopment of contaminated property for affordable housing
44 pursuant to P.L.1985, c.222 (C.52:27D-301 et al.) may be made to a
45 municipality, county, or redevelopment entity authorized to exercise
46 redevelopment powers pursuant to section 4 of P.L.1992, c.79
47 (C.40A:12A-4) even if it does not own the real property and a grant
48 may be made to a municipality, county, or redevelopment entity

1 authorized to exercise redevelopment powers pursuant to section 4
2 of P.L.1992, c.79 (C.40A:12A-4) for a remediation in a brownfield
3 development area pursuant to subsection f. of section 27 of
4 P.L.1993, c.139 (C.58:10B-5) even if the entity does not own the
5 real property¹ . No grant shall be awarded for a remedial action for
6 a project involving the redevelopment of contaminated property for
7 recreation or conservation purposes unless the use of the property is
8 preserved for recreation and conservation purposes by conveyance
9 of a development easement, conservation restriction or easement, or
10 other restriction or easement permanently restricting development,
11 which shall be recorded and indexed with the deed in the registry of
12 deeds for the county. **【A municipality that has performed, or on**
13 **which there has been performed, a preliminary assessment, site**
14 **investigation or remedial investigation on property may obtain a**
15 **loan for the purpose of continuing the remediation on those**
16 **properties as necessary to comply with the applicable remediation**
17 **regulations adopted by the department.】** No grant shall be awarded
18 pursuant to this paragraph to a municipality, a county, or a
19 redevelopment entity authorized to exercise redevelopment powers
20 pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4) unless that
21 entity has adopted by ordinance or resolution a comprehensive plan
22 specifically for the development or redevelopment of contaminated
23 or potentially contaminated real property in that municipality or the
24 entity can demonstrate its commitment to the authority **【that a**
25 **realistic opportunity exists】** that the subject real property will be
26 developed or redeveloped within a three-year period from the
27 completion of the remediation . Until adoption of the criteria
28 required pursuant to paragraph (8) of subsection a. of section 30 of
29 P.L.1993, c.139 (C.58:10B-8), the authority shall use the criteria
30 provided in this paragraph in determining the award of grants from
31 the remediation fund ;

32 (3) Moneys shall be allocated for financial assistance to persons
33 who voluntarily perform a remediation of a hazardous substance or
34 hazardous waste discharge;

35 (4) ²**【Moneys shall be allocated for grants to persons who own**
36 **real property on which there has been a discharge of a hazardous**
37 **substance or a hazardous waste and that person qualifies for an**
38 **innocent party grant. A person qualifies for an innocent party grant**
39 **if that person acquired the property prior to December 31, 1983 and**
40 **continues to own the property until such time as the authority**
41 **approves the grant, the hazardous substance or hazardous waste that**
42 **was discharged at the property was not used by the person at that**
43 **site, and that person certifies that he did not discharge any**
44 **hazardous substance or hazardous waste at an area where a**
45 **discharge is discovered. A grant authorized pursuant to this**
46 **paragraph may be for up to** ¹**【50%】** 50 percent¹ of the remediation
47 costs at the area of concern for which the person qualifies for an

1 innocent party grant, except that no grant awarded pursuant to this
2 paragraph to any person may exceed ~~【\$1,000,000】~~ \$100,000 in any
3 calendar year for a total amount of \$500,000; ~~】 (Deleted by~~
4 amendment, P.L. , c. (pending before the Legislature as this
5 bill)²

6 (5) Moneys shall be allocated for ~~【(a)】~~ ²(a)² financial assistance
7 to persons who own and plan to remediate an environmental
8 opportunity zone for which an exemption from real property taxes
9 has been granted pursuant to section 5 of P.L.1995, c.413 (C.54:4-
10 3.154) ~~【, or (b) matching grants for up to 25% of the project costs~~
11 to qualifying persons, municipalities, counties, and redevelopment
12 entities authorized to exercise redevelopment powers pursuant to
13 section 4 of P.L.1992, c.79 (C.40A:12A-4), who propose to perform
14 a remedial action that uses an innovative technology, or for the
15 implementation of a limited restricted use remedial action or an
16 unrestricted use remedial action except that no grant awarded
17 pursuant to this paragraph may exceed \$250,000】 ², or (b) matching
18 grants for up to 25 percent of the project costs to qualifying
19 persons, municipalities, counties, and redevelopment entities
20 authorized to exercise redevelopment powers pursuant to section 4
21 of P.L.1992, c.79 (C.40A:12A-4), who propose to perform a
22 remedial action for the implementation of an unrestricted use
23 remedial action except that no grant awarded pursuant to this
24 paragraph may exceed \$250,000² ; and

25 (6) ~~【Twenty】~~ ²At least 25 percent of the moneys in the
26 remediation fund shall be allocated for financial assistance or grants
27 for ~~【any of the purposes】~~ the purpose enumerated in ~~【paragraphs~~
28 (1) through (5) of this subsection】 subsubparagraph (i) of
29 subparagraph (a) of paragraph (2) of this subsection of which at
30 least five percent shall be allocated for preliminary assessments,
31 site investigations, or remedial investigations, and at】 ²At least 30
32 percent of the moneys in the remediation fund shall be allocated for
33 ²【financial assistance or】² grants to ²【persons】 a municipality,
34 county, or redevelopment entity authorized to exercise
35 redevelopment powers pursuant to section 4 of P.L.1992, c.79
36 (C.40A:12A-4)² for the preliminary assessment, site investigation,
37 ²【or】² remedial investigation ², or remedial action² of a site, not
38 located in a brownfield development area, that has been
39 contaminated by a discharge or a suspected discharge of a
40 hazardous substance or hazardous waste as authorized in this
41 subsection. The remainder of the moneys in the remediation fund
42 shall be allocated for any of the purposes authorized in this section .

43 【For the purposes of paragraph (5) of this subsection, "qualifying
44 persons" means any person who has a net worth of not more than
45 \$2,000,000 and "project costs" means that portion of the total costs
46 of a remediation that is specifically for the use of an innovative

1 technology or to implement an unrestricted use remedial action or a
 2 limited restricted use remedial action, as applicable.】 ²For the
 3 purposes of paragraph (5) of this subsection, "qualifying persons"
 4 means any person who has a net worth of not more than \$2,000,000
 5 and "project costs" means that portion of the total costs of a
 6 remediation that is specifically to implement an unrestricted use
 7 remedial action.²

8 b. Loans issued from the remediation fund shall be for a term
 9 not to exceed ten years, except that upon the transfer of ownership
 10 of any real property for which the loan was made, the unpaid
 11 balance of the loan shall become immediately payable in full. The
 12 unpaid balance of a loan for the remediation of real property that is
 13 transferred by devise or succession shall not become immediately
 14 payable in full, and loan repayments shall be made by the person
 15 who acquires the property. Loans to municipalities, counties, and
 16 redevelopment entities authorized to exercise redevelopment
 17 powers pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4),
 18 shall bear an interest rate equal to 2 points below the Federal
 19 Discount Rate at the time of approval or at the time of loan closing,
 20 whichever is lower, except that the rate shall be no lower than 3
 21 percent. All other loans shall bear an interest rate equal to the
 22 Federal Discount Rate at the time of approval or at the time of the
 23 loan closing, whichever is lower, except that the rate on such loans
 24 shall be no lower than five percent. Financial assistance and grants
 25 may be issued for up to ¹【100%】 100 percent¹ of the estimated
 26 applicable remediation cost, except that the cumulative maximum
 27 amount of financial assistance which may be issued to a person, in
 28 any calendar year, for one or more properties, shall be
 29 【\$1,000,000】 \$500,000 . Financial assistance and grants to any one
 30 municipality, county, or redevelopment entity authorized to exercise
 31 redevelopment powers pursuant to section 4 of P.L.1992, c.79
 32 (C.40A:12A-4) may not exceed 【\$3,000,000】 \$2,000,000 in any
 33 calendar year except as provided in subsection f. of section 27 of
 34 P.L.1993, c.139 (C.58:10B-5). Grants to a municipality, county, or
 35 redevelopment entity authorized to exercise redevelopment powers
 36 pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4) may be for
 37 up to ¹【100%】 100 percent¹ of the total costs of the preliminary
 38 assessment, site investigation, or remedial investigation 【regardless
 39 of when the application was received by the department】 subject to
 40 the provisions of section 5 of P.L. , c. (C.) (pending before
 41 the Legislature as this bill) . Grants to a municipality, a county, or
 42 a redevelopment entity authorized to exercise redevelopment
 43 powers pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4) may
 44 not exceed ¹【75%】 75 percent¹ of the total costs of the remedial
 45 action ²【and may not exceed \$750,000】² at any one site 【for any
 46 application received by the department on or after September 15,
 47 2005】. Repayments of principal and interest on the loans issued

1 from the remediation fund shall be paid to the authority and shall be
2 deposited into the remediation fund.

3 c. ~~【No person, other than a qualified person planning to use an
4 innovative technology for the cost of that technology, a qualified
5 person planning to use a limited restricted use remedial action or an
6 unrestricted use remedial action for the cost of the remedial action,
7 a person performing a remediation in an environmental opportunity
8 zone, or a person voluntarily performing a remediation, shall be
9 eligible for financial assistance from the remediation fund to the
10 extent that person is capable of establishing a remediation funding
11 source for the remediation as required pursuant to section 25 of
12 P.L.1993, c.139 (C.58:10B-3).】²【(Deleted by amendment, P.L. ,
13 c.) (pending before the Legislature as this bill)】 No person, other
14 than a qualified person planning to use an unrestricted use remedial
15 action for the cost of the remedial action, a person performing a
16 remediation in an environmental opportunity zone, or a person
17 voluntarily performing a remediation, shall be eligible for financial
18 assistance from the remediation fund to the extent that person is
19 capable of establishing a remediation funding source for the
20 remediation as required pursuant to section 25 of P.L.1993, c.139
21 (C.58:10B-3).²~~

22 d. The authority may use a sum that represents up to ¹【2%】 2
23 percent¹ of the moneys issued as financial assistance or grants from
24 the remediation fund each year for administrative expenses incurred
25 in connection with the operation of the fund and the issuance of
26 financial assistance and grants.

27 e. Prior to March 1 of each year, the authority shall submit to
28 the Senate Environment ¹and Energy¹ Committee and the Assembly
29 Environment and Solid Waste Committee, or their successors, a
30 report detailing the amount of money that was available for
31 financial assistance and grants from the remediation fund for the
32 previous calendar year, the amount of money estimated to be
33 available for financial assistance and grants for the current calendar
34 year, the amount of financial assistance and grants issued for the
35 previous calendar year and the category for which each financial
36 assistance and grant was rendered, ¹the amount of remediation costs
37 expended for each site for the previous calendar year for which
38 financial assistance or a grant has been approved and the balance
39 remaining on each financial assistance or grant.¹ and any
40 suggestions for legislative action the authority deems advisable to
41 further the legislative intent to facilitate remediation and promote
42 the redevelopment and use of existing industrial sites.

43 (cf: P.L.2009, c.303, s.1)

44

45 3. Section 29 of P.L.1993, c.139 (C.58:10B-7) is amended to
46 read as follows:

1 29. a. A qualified applicant for financial assistance or a grant
2 from the remediation fund shall be awarded financial assistance or a
3 grant by the authority upon the availability of sufficient moneys in
4 the remediation fund for the purpose of the financial assistance or
5 grant. ~~【The】~~²【Of the moneys allocated pursuant to the provisions
6 of paragraph (6) of subsection a. of section 28 of P.L.1993, c.139
7 (C.58:10B-6), the】 ~~The~~² authority shall award financial assistance
8 and grants in the following order of priority:

9 (1) Sites on which there has been a discharge and the discharge
10 poses an imminent and significant threat to a drinking water source,
11 to human health, or to a sensitive or significant ecological area shall
12 be given first priority; ~~【and】~~

13 (2) ~~【~~Sites in areas designated as Planning Area 1
14 (Metropolitan), Planning Area 2 (Suburban), designated centers, or
15 areas receiving plan endorsement as designated pursuant to the
16 "State Planning Act," sections 1 through 12 of P.L.1985, c.398
17 (C.52:18A-196 et seq.), sites that the Brownfields Redevelopment
18 Task Force, established pursuant to section 5 of P.L.1997, c.278
19 (C.58:10B-23), determines are of immediate economic development
20 potential, and sites in brownfield development areas, shall be given
21 second priority.~~】~~ (Deleted by amendment, P.L. , c.) (pending
22 before the Legislature as this bill)

23 (3) Sites that are owned by a municipality in a brownfield
24 development area²【where the developer is a public entity】² shall
25 be given second priority; and

26 (4) Sites in areas designated as Planning Area 1 (Metropolitan)
27 and Planning Area 2 (Suburban) pursuant to the "State Planning
28 Act," P.L.1985, c.398 (C.52:18A-196 et seq.), shall be given third
29 priority.

30 The priority ranking of applicants within any priority category
31 enumerated in this section for awarding financial assistance and
32 grants from the remediation fund shall be based upon the date of
33 receipt by the authority of an application from the applicant and on
34 readiness to proceed with remediation as determined by the
35 department and the authority. If an application is determined to be
36 incomplete by the authority, an applicant shall have 30 days from
37 receipt of written notice of incompleteness to file any additional
38 information as may be required by the authority for a completed
39 application. If an applicant fails to file the additional information
40 within those 30 days, the filing date for that application for
41 financial assistance or a grant for a site that is not within a priority
42 category enumerated in this section, shall be the date that the
43 additional information is received by the authority. An application
44 shall be deemed complete when all the information required by the
45 authority has been received in the required form.

46 b. Within 90 days, for a private entity, or 180 days for a
47 municipality, county, or a redevelopment entity authorized to

1 exercise redevelopment powers pursuant to section 4 of P.L.1992,
2 c.79 (C.40A:12A-4), of notice of approval of a financial assistance
3 or grant application, an applicant shall submit to the authority an
4 executed contract for the remediation activities for which the
5 financial assistance or grant application was made. The contract
6 shall be consistent with the terms and conditions for which the
7 financial assistance or grant was rendered. Failure to submit an
8 executed contract within the time provided, without good cause,
9 shall constitute grounds for the alteration of an applicant's priority
10 ranking for the awarding of financial assistance or a grant.

11 (cf: P.L.2005, c.223, s.5)

12

13 4. Section 30 of P.L.1993, c.139 (C.58:10B-8) is amended to
14 read as follows:

15 30. a. The authority shall, by rule or regulation:

16 (1) require a financial assistance or grant recipient to provide to
17 the authority, as necessary or upon request, evidence that financial
18 assistance or grant moneys are being spent for the purposes for
19 which the financial assistance or grant was made, and that the
20 applicant is adhering to all of the terms and conditions of the
21 financial assistance or grant agreement;

22 (2) require the financial assistance or grant recipient to provide
23 access at reasonable times to the subject property to determine
24 compliance with the terms and conditions of the financial assistance
25 or grant;

26 (3) establish a priority system for rendering financial assistance
27 or grants for remediations identified by the department as involving
28 an imminent and significant threat to a public water source, human
29 health, or to a sensitive or significant ecological area pursuant to
30 subsection a. of section 28 of P.L.1993, c.139 (C.58:10B-6);

31 (4) (Deleted by amendment, P.L.2009, c.60);

32 (5) provide that an applicant for financial assistance or a grant
33 pay a reasonable fee for the application which shall be used by the
34 authority for the administration of the loan and grant program;

35 (6) provide that where financial assistance to a person other than
36 a municipality, a county, or a redevelopment entity authorized to
37 exercise redevelopment powers pursuant to section 4 of P.L.1992,
38 c.79 (C.40A:12A-4), is for a portion of the remediation cost, that
39 the proceeds thereof not be disbursed to the applicant until the costs
40 of the remediation for which a remediation funding source has been
41 established has been expended;

42 (7) provide that the amount of a grant for the costs of a remedial
43 action shall not include the cost to remediate a site to meet
44 residential soil remediation standards if the local zoning ordinances
45 adopted pursuant to the "Municipal Land Use Law," P.L.1975,
46 c.291 (C.40:55D-1 et seq.) do not allow for residential use;

47 (8) adopt criteria, which must be met by a municipality, county,
48 or redevelopment entity authorized to exercise redevelopment

1 powers pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4) that
2 applies for a grant pursuant to paragraph (2) of subsection a. of
3 section 28 of P.L.1993, c.139 (C.58:10B-6), that the subject real
4 property will be developed or redeveloped within a three-year
5 period from the completion of the remediation; and

6 (9) adopt such other requirements as the authority shall deem
7 necessary or appropriate in carrying out the purposes for which the
8 Hazardous Discharge Site Remediation Fund was created.

9 b. An applicant for financial assistance or a grant shall be
10 required to:

11 (1) provide proof, as determined sufficient by the authority, that
12 the applicant, where applicable, cannot establish a remediation
13 funding source for all or part of the remediation costs, as required
14 by section 25 of P.L.1993, c.139 (C.58:10B-3). The provisions of
15 this paragraph do not apply to grants to innocent persons, grants for
16 the use of innovative technologies, or grants for the implementation
17 of unrestricted use remedial actions or limited restricted use
18 remedial actions or to financial assistance or grants to
19 municipalities, counties, or redevelopment entities authorized to
20 exercise redevelopment powers pursuant to section 4 of P.L.1992,
21 c.79 (C.40A:12A-4); and

22 (2) demonstrate the ability to repay the amount of the financial
23 assistance and interest, and, if necessary, to provide adequate
24 collateral to secure the financial assistance amount.

25 c. Information submitted as part of a loan or grant application
26 or agreement shall be deemed a public record subject to the
27 provisions of P.L.1963, c.73 (C.47:1A-1 et seq.).

28 d. In establishing requirements for financial assistance or grant
29 applications and financial assistance or grant agreements, the
30 authority:

31 (1) shall minimize the complexity and costs to applicants or
32 recipients of complying with such requirements;

33 (2) may not require financial assistance or grant conditions that
34 interfere with the everyday normal operations of the recipient's
35 business activities, except to the extent necessary to ensure the
36 recipient's ability to repay the financial assistance and to preserve
37 the value of the loan collateral; and

38 (3) shall expeditiously process all financial assistance or grant
39 applications in accordance with a schedule established by the
40 authority for the review and the taking of final action on the
41 application, which schedule shall reflect the degree of complexity
42 of a financial assistance or grant application.

43 (cf: P.L.2009, c.60, s.45)

44

45 5. (New section) a. ²¶In addition to any other caps and other
46 limitations on financial assistance and grants from the remediation
47 fund as provided in sections 27, 28, and 29 of P.L.1993, c.139

1 (C.58:10B-5, C.58:10B-6, and C.58:10B-7), the authority may only
2 provide financial assistance and grants to any applicant as follows:

3 (1) for a preliminary assessment and site investigation, the
4 authority may award -

5 (a) for a site with soil contamination only, up to ¹~~100%~~ 100
6 percent¹ of the costs up to a total amount of \$30,000,

7 (b) for any other site, up to a total amount of \$75,000;

8 (2) for a remedial investigation, the authority may award -

9 (a) for a site with soil contamination only, up to ¹~~100%~~ 100
10 percent¹ of the costs up to a total amount of \$100,000,

11 (b) for any other site, up to a total amount of \$250,000.

12 **b.**² An award of financial assistance or a grant awarded
13 pursuant to P.L.1993, c.139 (C.58:10B-1 et seq.) for a:

14 (1) preliminary assessment or site investigation of a
15 contaminated site shall be expended within two years after the date
16 of the award;

17 (2) remedial investigation of a contaminated site shall be
18 expended within ²~~three~~ five² years after the date of the award.

19 ²~~c.~~ b.² Failure to expend an award of financial assistance or
20 a grant from the remediation fund within the time limits established
21 in subsection ²~~b.~~ a.² of this section shall result in cancellation of
22 the award.

23 ²~~d.~~ c.² No award of financial assistance or a grant shall be
24 approved until the applicant demonstrates to the satisfaction of the
25 authority that it has expended or will expend the full amount of any
26 previous financial assistance or grant awarded under P.L.1993,
27 c.139 (C.58:10B-1 et seq.) to that applicant for the same property.¹

28
29 ¹~~6.~~ Section 8 of P.L.2005, c.223 (C.58:10B-25.2) is repealed.¹

30
31 ¹~~7.~~ 6.¹ This act shall take effect immediately and shall apply
32 to any application for financial assistance or a grant from the
33 Hazardous Discharge Site Remediation Fund pending before the
34 Department of Environmental Protection on the effective date of
35 this act, or submitted on or after the effective date of the act, but
36 shall not apply to any application determined to be technically
37 eligible and recommended for funding by the Department of
38 Environmental Protection and pending before the New Jersey
39 Economic Development Authority on the effective date of this act.

40
41
42
43
44 _____
45 Makes changes to funding provisions for financial assistance and
grants from Hazardous Discharge Site Remediation Fund.

ASSEMBLY, No. 1954

STATE OF NEW JERSEY 217th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2016 SESSION

Sponsored by:

Assemblyman CRAIG J. COUGHLIN

District 19 (Middlesex)

Assemblyman DANIEL R. BENSON

District 14 (Mercer and Middlesex)

Assemblywoman L. GRACE SPENCER

District 29 (Essex)

SYNOPSIS

Makes changes to funding provisions for financial assistance and grants from Hazardous Discharge Site Remediation Fund.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



A1954 COUGHLIN, BENSON

2

1 AN ACT concerning financial assistance and grants from the
2 Hazardous Discharge Site Remediation Fund, amending and
3 supplementing P.L.1993, c.139 and repealing section 8 of
4 P.L.2005, c.223.

5

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

8

9 1. Section 27 of P.L.1993, c.139 (C.58:10B-5) is amended to
10 read as follows:

11 27. a. (1) Except as provided in section 4 of P.L.2007, c.135
12 (C.52:27D-130.7), financial assistance from the remediation fund
13 may only be rendered to persons who cannot establish a remediation
14 funding source for the full amount of a remediation. Financial
15 assistance pursuant to this act may be rendered only for that amount
16 of the cost of a remediation for which the person cannot establish a
17 remediation funding source. The limitations on receiving financial
18 assistance established in this paragraph (1) shall not limit the ability
19 of municipalities, counties, redevelopment entities authorized to
20 exercise redevelopment powers pursuant to section 4 of P.L.1992,
21 c.79 (C.40A:12A-4), **[persons who are not required to establish a**
22 **remediation funding source for the part of the remediation involving**
23 **an innovative technology, an unrestricted use remedial action or a**
24 **limited restricted use remedial action,]** persons performing a
25 remediation in an environmental opportunity zone, or persons who
26 voluntarily perform a remediation, from receiving financial
27 assistance from the fund.

28 (2) Financial assistance rendered to persons who voluntarily
29 perform a remediation or perform a remediation in an
30 environmental opportunity zone may only be made for that amount
31 of the cost of the remediation that the person cannot otherwise fund
32 by any of the authorized methods to establish a remediation funding
33 source.

34 (3) **[Financial assistance rendered to persons who do not have to**
35 **provide a remediation funding source for the part of the remediation**
36 **that involves an innovative technology, an unrestricted use remedial**
37 **action, or a limited restricted use remedial action may only be made**
38 **for that amount of the cost of the remediation that the person cannot**
39 **otherwise fund by any of the authorized methods to establish a**
40 **remediation funding source.]** (Deleted by amendment, P.L. _____,
41 c. ____) (pending before the Legislature as this bill)

42 b. Financial assistance may be rendered from the remediation
43 fund to (1) owners or operators of industrial establishments who are
44 required to perform remediation activities pursuant to P.L.1983,
45 c.330 (C.13:1K-6 et al.), upon closing operations or prior to 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.

Matter underlined thus is new matter.

1 transfer of ownership or operations of an industrial establishment,
2 (2) persons who are liable for the cleanup and removal costs of a
3 hazardous substance pursuant to P.L.1976, c.141 (C.58:10-23.11 et
4 seq.), and (3) persons who voluntarily perform a remediation of a
5 discharge of a hazardous substance or hazardous waste.

6 c. Financial assistance and grants may be made from the
7 remediation fund to a municipality, county, or redevelopment entity
8 authorized to exercise redevelopment powers pursuant to section 4
9 of P.L.1992, c.79 (C.40A:12A-4), for real property: (1) on which it
10 holds a tax sale certificate; (2) that it has acquired through
11 foreclosure or other similar means; or (3) that it has acquired, or in
12 the case of a county governed by a board of chosen freeholders, has
13 passed a resolution or, in the case of a municipality or a county
14 operating under the "Optional County Charter Law," P.L.1972,
15 c.154 (C.40:41A-1 et seq.), has passed an ordinance or other
16 appropriate document to acquire, by voluntary conveyance for the
17 purpose of redevelopment, for renewable energy generation or for
18 recreation and conservation purposes. Financial assistance and
19 grants may only be awarded for real property on which there has
20 been a discharge or on which there is a suspected discharge of a
21 hazardous substance or hazardous waste.

22 d. Grants may be made from the remediation fund to persons
23 who own real property on which there has been a discharge of a
24 hazardous substance or a hazardous waste and that person qualifies
25 for an innocent party grant pursuant to section 28 of P.L.1993,
26 c.139 (C.58:10B-6).

27 e. **【Grants may be made from the remediation fund to**
28 **qualifying persons who propose to perform a remedial action that**
29 **uses an innovative technology or that would result in an unrestricted**
30 **use remedial action or a limited restricted use remedial action.】**
31 (Deleted by amendment, P.L. _____, c. _____) (pending before the
32 Legislature as this bill)

33 f. Grants may be made from the remediation fund to
34 municipalities, counties, and redevelopment entities authorized to
35 exercise redevelopment powers pursuant to section 4 of P.L.1992,
36 c.79 (C.40A:12A-4), for the preliminary assessment, site
37 investigation, remedial investigation, and remedial action **【on**
38 **contaminated】** for real property where there is a discharge or
39 suspected discharge of a hazardous substance or hazardous waste
40 within a brownfield development area. Grants made pursuant to
41 this subsection for a remedial action may not exceed 75% of the
42 total costs of the remedial action and may not exceed \$750,000 at
43 any one site. An ownership interest in the contaminated property
44 shall not be required in order for a municipality, county, or
45 redevelopment entity authorized to exercise redevelopment powers
46 pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4) to receive a
47 grant for a **【remediation of】** preliminary assessment, site

1 investigation, and remedial investigation for real property where
2 there is a discharge or suspected discharge of a hazardous substance
3 or hazardous waste in a brownfield [redevelopment] development
4 area. Notwithstanding the limitation on the total amount of financial
5 assistance and grants that may be awarded in any one year pursuant
6 to subsection b. of section 28 of P.L.1993, c.139 (C.58:10B-6), the
7 authority may award an additional amount of financial assistance
8 and grants in any one year, of up to **[\$2,000,000]** \$1,000,000, to
9 any one municipality, county, or redevelopment entity for the
10 remediation of property in a brownfield development area. **[Any**
11 **property on which a municipality, county, or redevelopment entity**
12 **makes expenditures for a remedial action and the property is not**
13 **owned by that entity shall be subject to the provisions of section 8**
14 **of P.L.2005, c.223 (C.58:10B-25.2).]**

15 (cf: P.L.2009, c.302, s.1)

16

17 2. Section 28 of P.L.1993, c.139 (C.58:10B-6) is amended to read
18 as follows:

19 28. a. Except for moneys deposited in the remediation fund for
20 specific purposes, and as provided in section 4 of P.L.2007, c.135
21 (C.52:27D-130.7), financial assistance and grants from the remediation
22 fund shall be rendered for the following purposes. A written report
23 shall be sent to the Senate Environment and Energy Committee, and
24 the Assembly Environment and Solid Waste Committee, or their
25 successors at the end of each calendar quarter detailing the allocation
26 and expenditures related to the financial assistance and grants from the
27 fund.

28 (1) Moneys shall be allocated for financial assistance to persons,
29 for remediation of real property located in a qualifying municipality as
30 defined in section 1 of P.L.1978, c.14 (C.52:27D-178);

31 (2) Moneys shall be allocated to: (a) municipalities, counties, or
32 redevelopment entities authorized to exercise redevelopment powers
33 pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4), for:

34 (i) projects in brownfield development areas pursuant to
35 subsection f. of section 27 of P.L.1993, c.139 (C.58:10B-5),

36 (ii) matching grants up to a cumulative total amount from the fund
37 of **[\$5,000,000]** \$500,000 per year of up to **[75%]** 50% of the costs
38 of the remedial action for projects involving the redevelopment of
39 contaminated property for recreation and conservation purposes,
40 provided that the use of the property for recreation and conservation
41 purposes is included in the comprehensive plan for the development or
42 redevelopment of contaminated property, up to 75% of the costs of the
43 remedial action for projects involving the redevelopment of
44 contaminated property for renewable energy generation, or up to 50%
45 of the costs of the remedial action for projects involving the
46 redevelopment of contaminated property for affordable housing
47 pursuant to P.L.1985, c.222 (C.52:27D-301 et al.),

- 1 (iii) grants for preliminary assessment, site investigation or
2 remedial investigation of a contaminated site,
3 (iv) financial assistance for the implementation of a remedial
4 action, or
5 (v) financial assistance for remediation activities at sites that have
6 been contaminated by a discharge of a hazardous substance or
7 hazardous waste, or at which there is an imminent and significant
8 threat of a discharge of a hazardous substance or hazardous waste, and
9 the discharge or threatened discharge poses or would pose an
10 imminent and significant threat to a drinking water source, to human
11 health, or to a sensitive or significant ecological area; or
12 (b) persons for financial assistance for remediation activities at
13 sites that have been contaminated by a discharge of a hazardous
14 substance or hazardous waste, or at which there is an imminent and
15 significant threat of a discharge of a hazardous substance or hazardous
16 waste, and the discharge or threatened discharge poses or would pose
17 an imminent and significant threat to a drinking water source, to
18 human health, or to a sensitive or significant ecological area.

19 Except as provided in subsection f. of section 27 of P.L.1993,
20 c.139 (C.58:10B-5), financial assistance and grants to municipalities,
21 counties, or redevelopment entities authorized to exercise
22 redevelopment powers pursuant to section 4 of P.L.1992, c.79
23 (C.40A:12A-4) may be made for real property: (1) on which they hold
24 a tax sale certificate; (2) that they have acquired through foreclosure or
25 other similar means; or (3) that they have acquired, or, in the case of a
26 county governed by a board of chosen freeholders, have passed a
27 resolution or, in the case of a municipality or a county operating under
28 the "Optional County Charter Law," P.L.1972, c.154 (C.40:41A-1 et
29 seq.), have passed an ordinance or other appropriate document to
30 acquire, by voluntary conveyance for the purpose of redevelopment, or
31 for recreation and conservation purposes. Financial assistance and
32 grants may only be awarded for real property on which there has been
33 or on which there is suspected of being a discharge of a hazardous
34 substance or a hazardous waste. Grants and financial assistance
35 provided pursuant to this paragraph shall be used for performing
36 preliminary assessments, site investigations, remedial investigations,
37 and remedial actions on real property in order to determine the
38 existence or extent of any hazardous substance or hazardous waste
39 contamination, and to remediate the site in compliance with the
40 applicable health risk and environmental standards on those properties.
41 No financial assistance or grants for a remedial action shall be
42 awarded until the municipality, county, or redevelopment entity
43 authorized to exercise redevelopment powers pursuant to section 4 of
44 P.L.1992, c.79 (C.40A:12A-4), actually owns the real property **■**,
45 provided that a matching grant for 75% of the costs of a remedial
46 action for a project involving the redevelopment of contaminated
47 property for recreation and conservation purposes, or a matching grant
48 for 50% of the costs of a remedial action for a project involving the

1 redevelopment of contaminated property for affordable housing
2 pursuant to P.L.1985, c.222 (C.52:27D-301 et al.) may be made to a
3 municipality, county, or redevelopment entity authorized to exercise
4 redevelopment powers pursuant to section 4 of P.L.1992, c.79
5 (C.40A:12A-4) even if it does not own the real property and a grant
6 may be made to a municipality, county, or redevelopment entity
7 authorized to exercise redevelopment powers pursuant to section 4 of
8 P.L.1992, c.79 (C.40A:12A-4) for a remediation in a brownfield
9 development area pursuant to subsection f. of section 27 of P.L.1993,
10 c.139 (C.58:10B-5) even if the entity does not own the real property.】
11 No grant shall be awarded for a remedial action for a project involving
12 the redevelopment of contaminated property for recreation or
13 conservation purposes unless the use of the property is preserved for
14 recreation and conservation purposes by conveyance of a development
15 easement, conservation restriction or easement, or other restriction or
16 easement permanently restricting development, which shall be
17 recorded and indexed with the deed in the registry of deeds for the
18 county. 【A municipality that has performed, or on which there has
19 been performed, a preliminary assessment, site investigation or
20 remedial investigation on property may obtain a loan for the purpose
21 of continuing the remediation on those properties as necessary to
22 comply with the applicable remediation regulations adopted by the
23 department.】 No grant shall be awarded pursuant to this paragraph to
24 a municipality, a county, or a redevelopment entity authorized to
25 exercise redevelopment powers pursuant to section 4 of P.L.1992, c.79
26 (C.40A:12A-4) unless that entity has adopted by ordinance or
27 resolution a comprehensive plan specifically for the development or
28 redevelopment of contaminated or potentially contaminated real
29 property in that municipality or the entity can demonstrate its
30 commitment to the authority 【that a realistic opportunity exists】 that
31 the subject real property will be developed or redeveloped within a
32 three-year period from the completion of the remediation. Until
33 adoption of the criteria required pursuant to paragraph (8) of
34 subsection a. of section 30 of P.L.1993, c.139 (C.58:10B-8), the
35 authority shall use the criteria provided in this paragraph in
36 determining the award of grants from the remediation fund ;

37 (3) Moneys shall be allocated for financial assistance to persons
38 who voluntarily perform a remediation of a hazardous substance or
39 hazardous waste discharge;

40 (4) Moneys shall be allocated for grants to persons who own real
41 property on which there has been a discharge of a hazardous substance
42 or a hazardous waste and that person qualifies for an innocent party
43 grant. A person qualifies for an innocent party grant if that person
44 acquired the property prior to December 31, 1983 and continues to
45 own the property until such time as the authority approves the grant,
46 the hazardous substance or hazardous waste that was discharged at the
47 property was not used by the person at that site, and that person
48 certifies that he did not discharge any hazardous substance or

1 hazardous waste at an area where a discharge is discovered. A grant
2 authorized pursuant to this paragraph may be for up to 50% of the
3 remediation costs at the area of concern for which the person qualifies
4 for an innocent party grant, except that no grant awarded pursuant to
5 this paragraph to any person may exceed **[\$1,000,000]** \$100,000 in
6 any calendar year for a total amount of \$500,000 ;

7 (5) Moneys shall be allocated for **[(a)]** financial assistance to
8 persons who own and plan to remediate an environmental opportunity
9 zone for which an exemption from real property taxes has been
10 granted pursuant to section 5 of P.L.1995, c.413 (C.54:4-3.154) **],** or
11 (b) matching grants for up to 25% of the project costs to qualifying
12 persons, municipalities, counties, and redevelopment entities
13 authorized to exercise redevelopment powers pursuant to section 4 of
14 P.L.1992, c.79 (C.40A:12A-4), who propose to perform a remedial
15 action that uses an innovative technology, or for the implementation of
16 a limited restricted use remedial action or an unrestricted use remedial
17 action except that no grant awarded pursuant to this paragraph may
18 exceed \$250,000 **]** ; and

19 (6) **[Twenty]** At least 25 percent of the moneys in the remediation
20 fund shall be allocated for financial assistance or grants for **[any of the**
21 **purposes]** the purpose enumerated in **[paragraphs (1) through (5) of**
22 **this subsection]** subsubparagraph (i) of subparagraph (a) of paragraph
23 (2) of this subsection of which at least five percent shall be allocated
24 for preliminary assessments, site investigations, or remedial
25 investigations, and at least 30 percent of the moneys in the remediation
26 fund shall be allocated for financial assistance or grants to persons for
27 the preliminary assessment, site investigation, or remedial
28 investigation of a site, not located in a brownfield development area,
29 that has been contaminated by a discharge or a suspected discharge of
30 a hazardous substance or hazardous waste as authorized in this
31 subsection. The remainder of the moneys in the remediation fund shall
32 be allocated for any of the purposes authorized in this section.

33 **[For the purposes of paragraph (5) of this subsection, "qualifying**
34 **persons" means any person who has a net worth of not more than**
35 **\$2,000,000 and "project costs" means that portion of the total costs of**
36 **a remediation that is specifically for the use of an innovative**
37 **technology or to implement an unrestricted use remedial action or a**
38 **limited restricted use remedial action, as applicable.]**

39 b. Loans issued from the remediation fund shall be for a term not
40 to exceed ten years, except that upon the transfer of ownership of any
41 real property for which the loan was made, the unpaid balance of the
42 loan shall become immediately payable in full. The unpaid balance of
43 a loan for the remediation of real property that is transferred by devise
44 or succession shall not become immediately payable in full, and loan
45 repayments shall be made by the person who acquires the property.
46 Loans to municipalities, counties, and redevelopment entities
47 authorized to exercise redevelopment powers pursuant to section 4 of

1 P.L.1992, c.79 (C.40A:12A-4), shall bear an interest rate equal to 2
2 points below the Federal Discount Rate at the time of approval or at
3 the time of loan closing, whichever is lower, except that the rate shall
4 be no lower than 3 percent. All other loans shall bear an interest rate
5 equal to the Federal Discount Rate at the time of approval or at the
6 time of the loan closing, whichever is lower, except that the rate on
7 such loans shall be no lower than five percent. Financial assistance
8 and grants may be issued for up to 100% of the estimated applicable
9 remediation cost, except that the cumulative maximum amount of
10 financial assistance which may be issued to a person, in any calendar
11 year, for one or more properties, shall be **[\$1,000,000]** \$500,000.
12 Financial assistance and grants to any one municipality, county, or
13 redevelopment entity authorized to exercise redevelopment powers
14 pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4) may not exceed
15 **[\$3,000,000]** \$2,000,000 in any calendar year except as provided in
16 subsection f. of section 27 of P.L.1993, c.139 (C.58:10B-5). Grants to
17 a municipality, county, or redevelopment entity authorized to exercise
18 redevelopment powers pursuant to section 4 of P.L.1992, c.79
19 (C.40A:12A-4) may be for up to 100% of the total costs of the
20 preliminary assessment, site investigation, or remedial investigation
21 **[regardless of when the application was received by the department]**
22 subject to the provisions of section 5 of P.L. _____, c. _____ (C. _____) (pending
23 before the Legislature as this bill). Grants to a municipality, a county,
24 or a redevelopment entity authorized to exercise redevelopment
25 powers pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4) may
26 not exceed 75% of the total costs of the remedial action and may not
27 exceed \$750,000 at any one site **[for any application received by the**
28 **department on or after September 15, 2005]**. Repayments of principal
29 and interest on the loans issued from the remediation fund shall be
30 paid to the authority and shall be deposited into the remediation fund.

31 c. **[No person, other than a qualified person planning to use an**
32 **innovative technology for the cost of that technology, a qualified**
33 **person planning to use a limited restricted use remedial action or an**
34 **unrestricted use remedial action for the cost of the remedial action, a**
35 **person performing a remediation in an environmental opportunity**
36 **zone, or a person voluntarily performing a remediation, shall be**
37 **eligible for financial assistance from the remediation fund to the extent**
38 **that person is capable of establishing a remediation funding source for**
39 **the remediation as required pursuant to section 25 of P.L.1993, c.139**
40 **(C.58:10B-3).]** (Deleted by amendment, P.L. _____, c. _____) (pending
41 before the Legislature as this bill)

42 d. The authority may use a sum that represents up to 2% of the
43 moneys issued as financial assistance or grants from the remediation
44 fund each year for administrative expenses incurred in connection with
45 the operation of the fund and the issuance of financial assistance and
46 grants.

1 e. Prior to March 1 of each year, the authority shall submit to the
2 Senate Environment Committee and the Assembly Environment and
3 Solid Waste Committee, or their successors, a report detailing the
4 amount of money that was available for financial assistance and grants
5 from the remediation fund for the previous calendar year, the amount
6 of money estimated to be available for financial assistance and grants
7 for the current calendar year, the amount of financial assistance and
8 grants issued for the previous calendar year and the category for which
9 each financial assistance and grant was rendered, and any suggestions
10 for legislative action the authority deems advisable to further the
11 legislative intent to facilitate remediation and promote the
12 redevelopment and use of existing industrial sites.
13 (cf: P.L.2009, c.303, s.1)
14

15 3. Section 29 of P.L.1993, c.139 (C.58:10B-7) is amended to read
16 as follows:

17 29. a. A qualified applicant for financial assistance or a grant
18 from the remediation fund shall be awarded financial assistance or a
19 grant by the authority upon the availability of sufficient moneys in the
20 remediation fund for the purpose of the financial assistance or grant.
21 **【The】** Of the moneys allocated pursuant to the provisions of
22 paragraph (6) of subsection a. of section 28 of P.L.1993, c.139
23 (C.58:10B-6), the authority shall award financial assistance and grants
24 in the following order of priority:

25 (1) Sites on which there has been a discharge and the discharge
26 poses an imminent and significant threat to a drinking water source, to
27 human health, or to a sensitive or significant ecological area shall be
28 given first priority; **【and】**

29 (2) **【Sites in areas designated as Planning Area 1 (Metropolitan),**
30 **Planning Area 2 (Suburban), designated centers, or areas receiving**
31 **plan endorsement as designated pursuant to the "State Planning Act,"**
32 **sections 1 through 12 of P.L.1985, c.398 (C.52:18A-196 et seq.), sites**
33 **that the Brownfields Redevelopment Task Force, established pursuant**
34 **to section 5 of P.L.1997, c.278 (C.58:10B-23), determines are of**
35 **immediate economic development potential, and sites in brownfield**
36 **development areas, shall be given second priority.】** (Deleted by
37 amendment, P.L. , c.) (pending before the Legislature as this bill)

38 (3) Sites that are owned by a municipality in a brownfield
39 development area where the developer is a public entity shall be given
40 second priority; and

41 (4) Sites in areas designated as Planning Area 1 (Metropolitan) and
42 Planning Area 2 (Suburban) pursuant to the "State Planning Act,"
43 P.L.1985, c.398 (C.52:18A-196 et seq.), shall be given third priority.

44 The priority ranking of applicants within any priority category
45 enumerated in this section for awarding financial assistance and grants
46 from the remediation fund shall be based upon the date of receipt by
47 the authority of an application from the applicant and on readiness to
48 proceed with remediation as determined by the department and the

1 authority. If an application is determined to be incomplete by the
2 authority, an applicant shall have 30 days from receipt of written
3 notice of incompleteness to file any additional information as may be
4 required by the authority for a completed application. If an applicant
5 fails to file the additional information within those 30 days, the filing
6 date for that application for financial assistance or a grant for a site
7 that is not within a priority category enumerated in this section, shall
8 be the date that the additional information is received by the authority.
9 An application shall be deemed complete when all the information
10 required by the authority has been received in the required form.

11 b. Within 90 days, for a private entity, or 180 days for a
12 municipality, county, or a redevelopment entity authorized to exercise
13 redevelopment powers pursuant to section 4 of P.L.1992, c.79
14 (C.40A:12A-4), of notice of approval of a financial assistance or grant
15 application, an applicant shall submit to the authority an executed
16 contract for the remediation activities for which the financial
17 assistance or grant application was made. The contract shall be
18 consistent with the terms and conditions for which the financial
19 assistance or grant was rendered. Failure to submit an executed
20 contract within the time provided, without good cause, shall constitute
21 grounds for the alteration of an applicant's priority ranking for the
22 awarding of financial assistance or a grant.

23 (cf: P.L.2005, c.223, s.5)

24

25 4. Section 30 of P.L.1993, c.139 (C.58:10B-8) is amended to
26 read as follows:

27 30. a. The authority shall, by rule or regulation:

28 (1) require a financial assistance or grant recipient to provide to
29 the authority, as necessary or upon request, evidence that financial
30 assistance or grant moneys are being spent for the purposes for
31 which the financial assistance or grant was made, and that the
32 applicant is adhering to all of the terms and conditions of the
33 financial assistance or grant agreement;

34 (2) require the financial assistance or grant recipient to provide
35 access at reasonable times to the subject property to determine
36 compliance with the terms and conditions of the financial assistance
37 or grant;

38 (3) establish a priority system for rendering financial assistance
39 or grants for remediations identified by the department as involving
40 an imminent and significant threat to a public water source, human
41 health, or to a sensitive or significant ecological area pursuant to
42 subsection a. of section 28 of P.L.1993, c.139 (C.58:10B-6);

43 (4) (Deleted by amendment, P.L.2009, c.60);

44 (5) provide that an applicant for financial assistance or a grant
45 pay a reasonable fee for the application which shall be used by the
46 authority for the administration of the loan and grant program;

47 (6) provide that where financial assistance to a person other than
48 a municipality, a county, or a redevelopment entity authorized to

1 exercise redevelopment powers pursuant to section 4 of P.L.1992,
2 c.79 (C.40A:12A-4), is for a portion of the remediation cost, that
3 the proceeds thereof not be disbursed to the applicant until the costs
4 of the remediation for which a remediation funding source has been
5 established has been expended;

6 (7) provide that the amount of a grant for the costs of a remedial
7 action shall not include the cost to remediate a site to meet
8 residential soil remediation standards if the local zoning ordinances
9 adopted pursuant to the "Municipal Land Use Law," P.L.1975,
10 c.291 (C.40:55D-1 et seq.) do not allow for residential use;

11 (8) adopt criteria, which must be met by a municipality, county,
12 or redevelopment entity authorized to exercise redevelopment
13 powers pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4) that
14 applies for a grant pursuant to paragraph (2) of subsection a. of
15 section 28 of P.L.1993, c.139 (C.58:10B-6), that the subject real
16 property will be developed or redeveloped within a three-year
17 period from the completion of the remediation; and

18 (9) adopt such other requirements as the authority shall deem
19 necessary or appropriate in carrying out the purposes for which the
20 Hazardous Discharge Site Remediation Fund was created.

21 b. An applicant for financial assistance or a grant shall be
22 required to:

23 (1) provide proof, as determined sufficient by the authority, that
24 the applicant, where applicable, cannot establish a remediation
25 funding source for all or part of the remediation costs, as required
26 by section 25 of P.L.1993, c.139 (C.58:10B-3). The provisions of
27 this paragraph do not apply to grants to innocent persons, grants for
28 the use of innovative technologies, or grants for the implementation
29 of unrestricted use remedial actions or limited restricted use
30 remedial actions or to financial assistance or grants to
31 municipalities, counties, or redevelopment entities authorized to
32 exercise redevelopment powers pursuant to section 4 of P.L.1992,
33 c.79 (C.40A:12A-4); and

34 (2) demonstrate the ability to repay the amount of the financial
35 assistance and interest, and, if necessary, to provide adequate
36 collateral to secure the financial assistance amount.

37 c. Information submitted as part of a loan or grant application
38 or agreement shall be deemed a public record subject to the
39 provisions of P.L.1963, c.73 (C.47:1A-1 et seq.).

40 d. In establishing requirements for financial assistance or grant
41 applications and financial assistance or grant agreements, the
42 authority:

43 (1) shall minimize the complexity and costs to applicants or
44 recipients of complying with such requirements;

45 (2) may not require financial assistance or grant conditions that
46 interfere with the everyday normal operations of the recipient's
47 business activities, except to the extent necessary to ensure the

1 recipient's ability to repay the financial assistance and to preserve
2 the value of the loan collateral; and

3 (3) shall expeditiously process all financial assistance or grant
4 applications in accordance with a schedule established by the
5 authority for the review and the taking of final action on the
6 application, which schedule shall reflect the degree of complexity
7 of a financial assistance or grant application.

8 (cf: P.L.2009, c.60, s.45)

9

10 5. (New section) a. In addition to any other caps and other
11 limitations on financial assistance and grants from the remediation
12 fund as provided in sections 27, 28, and 29 of P.L.1993, c.139
13 (C.58:10B-5, C.58:10B-6, and C.58:10B-7), the authority may only
14 provide financial assistance and grants to any applicant as follows:

15 (1) for a preliminary assessment and site investigation, the
16 authority may award -

17 (a) for a site with soil contamination only, up to 100% of
18 the costs up to a total amount of \$30,000,

19 (b) for any other site, up to a total amount of \$75,000;

20 (2) for a remedial investigation, the authority may award -

21 (a) for a site with soil contamination only, up to 100% of
22 the costs up to a total amount of \$100,000,

23 (b) for any other site, up to a total amount of \$250,000.

24 b. An award of financial assistance or a grant awarded pursuant
25 to P.L.1993, c.139 (C.58:10B-1 et seq.) for a:

26 (1) preliminary assessment or site investigation of a
27 contaminated site shall be expended within two years after the date
28 of the award;

29 (2) remedial investigation of a contaminated site shall be
30 expended within three years after the date of the award.

31 c. Failure to expend an award of financial assistance or a grant
32 from the remediation fund within the time limits established in
33 subsection b. of this section shall result in cancellation of the award.

34

35 6. Section 8 of P.L.2005, c.223 (C.58:10B-25.2) is repealed.

36

37 7. This act shall take effect immediately and shall apply to any
38 application for financial assistance or a grant from the Hazardous
39 Discharge Site Remediation Fund pending before the Department
40 of Environmental Protection on the effective date of this act, or
41 submitted on or after the effective date of the act, but shall not
42 apply to any application determined to be technically eligible and
43 recommended for funding by the Department of Environmental
44 Protection and pending before the New Jersey Economic
45 Development Authority on the effective date of this act.

STATEMENT

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This bill would make changes to the laws governing financial assistance and grants for the remediation of contaminated sites from the Hazardous Discharge Site Remediation Fund.

The bill would eliminate the availability of grants and loans to persons who would otherwise not be eligible for assistance but who remediate a site using innovative technology, who remediate to an unrestricted use or limited restricted use standard, who voluntarily perform a remediation, or who perform a remediation in an environmental opportunity zone.

The bill establishes limitations on grants to municipalities, counties, and redevelopment entities for projects in brownfield development areas. In those areas and to those government entities, the bill authorizes grants of up to 75 percent of the total costs of the remedial action and no more than \$750,000 at any one site for remedial action. Further, the bill reduces the additional amount over the annual cap on financial assistance and grants otherwise in effect, which may be awarded in any one year to those government entities for projects in brownfield development areas, from \$2,000,000 to \$1,000,000.

The bill also reduces the cumulative total amount of matching grants that may be awarded to municipalities, counties, and redevelopment entities for projects involving the redevelopment of property for recreation and conservation purposes from \$5,000,000 to \$500,000, and reduces the maximum grant for an individual project in that category from 75 percent to 50 percent of the costs of remedial action.

The bill removes language in current law that allows grants to municipalities, counties, and redevelopment entities for projects involving the redevelopment of property for recreation and conservation purposes, or for affordable housing, even if the public entity does not own the property.

The bill reduces the cumulative annual cap on the maximum amount of financial assistance and grants that may be issued to a person from \$1,000,000 to \$500,000, and to municipalities, counties, and redevelopment entities from \$3,000,000 to \$2,000,000 except for projects in brownfield development areas as noted above. The bill imposes a cap of \$750,000 on grants to a municipality, county, or redevelopment entity at any one site.

The bill changes the priority for the award of financial assistance or grants from the remediation fund to provide first priority to sites on which there has been a discharge and the discharge poses an imminent and significant threat to a drinking water source, to human health, or to a sensitive or significant ecological area; second priority to sites that are owned by a municipality in a brownfield development area where the developer is a public entity; and third priority to sites in areas designated as Planning Area 1

1 (Metropolitan) and Planning Area 2 (Suburban) pursuant to the
2 "State Planning Act." This priority would only apply to monies
3 allocated pursuant to paragraph (6) of subsection a. of section 28 of
4 P.L.1993, c.139 (C.58:10B-6).

5 The bill requires the New Jersey Economic Development
6 Authority (EDA) to adopt criteria, which must be met by a
7 municipality, county, or redevelopment entity that applies for a
8 grant, that the subject real property will be developed within a
9 three-year period from completion of the remediation.

10 In addition to any other caps or limitations in the law, the bill
11 establishes additional limitations on financial assistance and grants.
12 For a preliminary assessment and site investigation, the EDA may
13 award for a site with soil contamination only, up to 100% of the
14 costs up to a total amount of \$30,000, and for any other site, the
15 EDA may award up to a total amount of \$75,000. For a remedial
16 investigation, the EDA may award for a site with soil contamination
17 only, up to 100% of the costs up to a total amount of \$100,000, and
18 for any other site, up to a total amount of \$250,000. The bill also
19 provides that an award of financial assistance or a grant for a
20 preliminary assessment or site investigation of a contaminated site
21 must be expended within two years after the date of the award, and
22 an award of financial assistance or a grant for a remedial
23 investigation of a contaminated site must be expended within three
24 years after the date of the award. If the financial assistance or grant
25 is not expended within the time limits provided, the award would be
26 cancelled.

27 Finally, the bill repeals section 8 of P.L.2005, c.223 (C.58:10B-
28 25.2), which provides for a lien on property for which grant monies
29 are expended by a municipality, county or redevelopment entity that
30 does not have an ownership interest in the property. The section is
31 no longer necessary as the authority to so expend grant monies
32 would no longer be authorized under the bill.

ASSEMBLY ENVIRONMENT AND SOLID WASTE
COMMITTEE

STATEMENT TO
ASSEMBLY, No. 1954

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 6, 2016

The Assembly Environment and Solid Waste Committee reports favorably and with committee amendments Assembly Bill No. 1954.

This bill, as amended by the committee, would make changes to the laws governing financial assistance and grants for the remediation of contaminated sites from the Hazardous Discharge Site Remediation Fund.

The bill would eliminate the availability of grants and loans to persons who would otherwise not be eligible for assistance but who remediate a site using innovative technology, who remediate to an unrestricted use or limited restricted use standard, who voluntarily perform a remediation, or who perform a remediation in an environmental opportunity zone.

The bill establishes limitations on grants to municipalities, counties, and redevelopment entities for projects in brownfield development areas. In those areas and to those government entities, the bill authorizes grants of up to 75 percent of the total costs of the remedial action and no more than \$750,000 at any one site for remedial action. Further, the bill reduces the additional amount over the annual cap on financial assistance and grants otherwise in effect, which may be awarded in any one year to those government entities for projects in brownfield development areas, from \$2,000,000 to \$1,000,000.

The bill also reduces the cumulative total amount of matching grants that may be awarded to municipalities, counties, and redevelopment entities for projects involving the redevelopment of property for recreation and conservation purposes from \$5,000,000 to \$500,000, and reduces the maximum grant for an individual project in that category from 75 percent to 50 percent of the costs of remedial action.

The bill reduces the maximum amount of money a person may receive through an innocent party grant from \$1,000,000 to \$500,000 and imposes an annual maximum award of \$100,000.

The bill requires that at least 25 percent of the monies in the remediation fund be used for financial assistance and grants to municipalities, counties, and redevelopment entities for projects in brownfield development areas, of which at least five percent must be allocated for preliminary assessments, site investigations, or remedial investigations. At least 30 percent of the monies in the remediation fund would be allocated for financial assistance or grants to persons for the preliminary assessment, site investigation, or remedial investigation of a site, not located in a brownfield development area, that has been contaminated by a discharge or a suspected discharge of a hazardous substance or hazardous waste.

The bill reduces the cumulative annual cap on the maximum amount of financial assistance and grants that may be issued to a person from \$1,000,000 to \$500,000, and to municipalities, counties, and redevelopment entities from \$3,000,000 to \$2,000,000 except for projects in brownfield development areas as noted above. The bill imposes a cap of \$750,000 on grants to a municipality, county, or redevelopment entity at any one site.

The bill changes the priority for the award of financial assistance or grants from the remediation fund to provide first priority to sites on which there has been a discharge and the discharge poses an imminent and significant threat to a drinking water source, to human health, or to a sensitive or significant ecological area; second priority to sites that are owned by a municipality in a brownfield development area where the developer is a public entity; and third priority to sites in areas designated as Planning Area 1 (Metropolitan) and Planning Area 2 (Suburban) pursuant to the "State Planning Act." This priority would only apply to monies allocated pursuant to paragraph (6) of subsection a. of section 28 of P.L.1993, c.139 (C.58:10B-6).

The bill requires the New Jersey Economic Development Authority (EDA) to adopt criteria, which must be met by a municipality, county, or redevelopment entity that applies for a grant, that the subject real property will be developed within a three-year period from completion of the remediation.

In addition to any other caps or limitations in the law, the bill establishes additional limitations on financial assistance and grants. For a preliminary assessment and site investigation, the EDA may award for a site with soil contamination only, up to 100% of the costs up to a total amount of \$30,000, and for any other site, the EDA may award up to a total amount of \$75,000. For a remedial investigation, the EDA may award for a site with soil contamination only, up to 100% of the costs up to a total amount of \$100,000, and for any other site, up to a total amount of \$250,000. The bill also provides that an award of financial assistance or a grant for a preliminary assessment or site investigation of a contaminated site must be expended within two years after the date of the award, and an award of financial assistance or a grant for a remedial investigation of a contaminated site must be

expended within three years after the date of the award. If the financial assistance or grant is not expended within the time limits provided, the award would be cancelled. In addition, no award would be approved until the applicant demonstrates to the satisfaction of the EDA that it has expended or will expend the full amount of any previous financial assistance or grant awarded to the applicant for the same property.

This bill was pre-filed for introduction in the 2016-2017 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

COMMITTEE AMENDMENTS

The committee amendments to the bill:

(1) restore language in current law permitting grants to municipalities, counties, and redevelopment entities for projects involving the redevelopment of property for recreation and conservation purposes, or for affordable housing, even if the public entity does not own the property;

(2) require the EDA to include in its annual report to the Senate Environment and Energy Committee and Assembly Environment and Solid Waste Committee information on the amount of remediation costs expended for each site for the previous calendar year for which financial assistance or a grant has been approved and the balance remaining on each financial assistance or grant;

(3) provide that no award of financial assistance or a grant would be approved by the authority until the applicant demonstrates to the satisfaction of the authority that it has expended or will expend the full amount of any previous financial assistance or grant awarded to that applicant for the same property; and

(4) delete section 6 of the bill which would have repealed section 8 of P.L.2005, c.223 (C.58:10B-25.2), which requires a lien on property for which grant monies are expended by a municipality, county, or redevelopment entity that does not have an ownership interest in that property, as this provision of law is necessary due to the restoration of language in current law described in (1) above.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 1954

STATE OF NEW JERSEY

DATED: OCTOBER 27, 2016

The Assembly Appropriations Committee reports favorably Assembly Bill No. 1954 (1R).

This bill changes the laws governing financial assistance and grants for the remediation of contaminated sites from the Hazardous Discharge Site Remediation Fund. The bill eliminates the availability of grants and loans to persons who would otherwise not be eligible for assistance but who remediate a site using innovative technology, who remediate to an unrestricted use or limited restricted use standard, who voluntarily perform a remediation, or who perform a remediation in an environmental opportunity zone.

The bill establishes limitations on grants to municipalities, counties, and redevelopment entities for projects in brownfield development areas. In those areas and to those government entities, the bill authorizes grants of up to 75 percent of the total costs of the remedial action and no more than \$750,000 at any one site for remedial action. Further, the bill reduces the additional amount over the annual cap on financial assistance and grants otherwise in effect, which may be awarded in any one year to those government entities for projects in brownfield development areas, from \$2,000,000 to \$1,000,000.

The bill also reduces the cumulative total amount of matching grants that may be awarded to municipalities, counties, and redevelopment entities for projects involving the redevelopment of property for recreation and conservation purposes from \$5,000,000 to \$500,000 per year and reduces the maximum grant for an individual project in that category from 75 percent to 50 percent of the costs of remedial action.

The bill reduces the maximum amount of money a person may receive through an innocent party grant from \$1,000,000 to \$500,000 and imposes an annual maximum award of \$100,000.

The bill requires that at least 25 percent of the monies in the remediation fund be used for financial assistance and grants to municipalities, counties, and redevelopment entities for projects in brownfield development areas, of which at least five percent must be allocated for preliminary assessments, site investigations, or remedial investigations. At least 30 percent of the monies in the remediation

fund are be allocated for financial assistance or grants to persons for the preliminary assessment, site investigation, or remedial investigation of a site, not located in a brownfield development area, that has been contaminated by a discharge or a suspected discharge of a hazardous substance or hazardous waste.

The bill reduces the cumulative annual cap on the maximum amount of financial assistance and grants that may be issued to a person from \$1,000,000 to \$500,000, and to municipalities, counties, and redevelopment entities from \$3,000,000 to \$2,000,000 except for projects in brownfield development areas as noted above. The bill imposes a cap of \$750,000 on grants to a municipality, county, or redevelopment entity at any one site.

The bill changes the priority for the award of financial assistance or grants from the remediation fund to provide first priority to sites on which there has been a discharge and the discharge poses an imminent and significant threat to a drinking water source, to human health, or to a sensitive or significant ecological area; second priority to sites that are owned by a municipality in a brownfield development area where the developer is a public entity; and third priority to sites in areas designated as Planning Area 1 (Metropolitan) and Planning Area 2 (Suburban) pursuant to the "State Planning Act." This priority would only apply to monies allocated pursuant to paragraph (6) of subsection a. of section 28 of P.L.1993, c.139 (C.58:10B-6).

The bill requires the New Jersey Economic Development Authority (EDA) to adopt criteria, which must be met by a municipality, county, or redevelopment entity that applies for a grant, that the subject real property be developed within a three-year period from completion of the remediation.

In addition to any other caps or limitations in the law, the bill establishes additional limitations on financial assistance and grants. For a preliminary assessment and site investigation, the EDA may award for a site with soil contamination only, up to 100% of the costs up to a total amount of \$30,000, and for any other site, the EDA may award up to a total amount of \$75,000. For a remedial investigation, the EDA may award for a site with soil contamination only, up to 100% of the costs up to a total amount of \$100,000, and for any other site, up to a total amount of \$250,000. The bill also provides that an award of financial assistance or a grant for a preliminary assessment or site investigation of a contaminated site must be expended within two years after the date of the award, and an award of financial assistance or a grant for a remedial investigation of a contaminated site must be expended within three years after the date of the award. If the financial assistance or grant is not expended within the time limits provided, the award would be cancelled. In addition, no award would be approved until the applicant demonstrates to the satisfaction of the EDA that it has expended or will expend the full amount of any

previous financial assistance or grant awarded to the applicant for the same property.

FISCAL IMPACT:

The Office of Legislative Services estimates that this bill will have no fiscal impact on State funds because it does not affect the total amount of annual funds that are constitutionally dedicated for this program.

The bill reduces existing caps and establishes new caps for grants available to municipalities and counties; however, the fiscal impact on particular municipalities and counties is unknown. The establishment and reduction of caps may allow additional municipalities and counties to utilize monies in the fund; however, the bill may restrict other municipalities and counties from receiving additional grants.

SENATE ENVIRONMENT AND ENERGY COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 1954

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 11, 2017

The Senate Environment and Energy Committee favorably reports Assembly Bill No. 1954 (1R) with committee amendments.

As amended, this bill changes the laws governing financial assistance and grants for the remediation of contaminated sites from the Hazardous Discharge Site Remediation Fund. The bill eliminates the availability of grants and loans to persons who would otherwise not be eligible for assistance, but who remediate a site using innovative technology or who remediate to a limited restricted use standard. The bill would also eliminate the availability of innocent party grants.

The bill establishes limitations on grants to municipalities, counties, and redevelopment entities for projects in brownfield development areas. In those areas and to those government entities, the bill authorizes grants of up to 75 percent of the total costs of the remedial action. Further, the bill reduces the additional amount over the annual cap on financial assistance and grants otherwise in effect, which may be awarded in any one year to those government entities for projects in brownfield development areas, from \$2,000,000 to \$1,000,000.

The bill also reduces the cumulative total amount of matching grants that may be awarded to municipalities, counties, and redevelopment entities for projects involving the redevelopment of property for recreation and conservation purposes from \$5,000,000 to \$2,500,000 per year.

The bill requires that at least 30 percent of the monies in the remediation fund be used for grants to municipalities, counties, and redevelopment entities for projects that are not in brownfield development areas that have been contaminated by a discharge or a suspected discharge of a hazardous substance or hazardous waste.

The bill reduces the cumulative annual cap on the maximum amount of financial assistance and grants that may be issued to a person from \$1,000,000 to \$500,000, and to municipalities, counties, and redevelopment entities from \$3,000,000 to \$2,000,000 except for projects in brownfield development areas as noted above. The bill

changes the priority for the award of financial assistance or grants from the remediation fund. First priority is given to sites that have been contaminated by a discharge or a suspected discharge of a hazardous substance or hazardous waste and where the discharge poses an imminent and significant threat to a drinking water source, to human health, or to a sensitive or significant ecological area; second priority is given to sites that are owned by a municipality in a brownfield development area; and third priority is given to sites in areas designated as Planning Area 1 (Metropolitan) and Planning Area 2 (Suburban) pursuant to the "State Planning Act." The bill requires the New Jersey Economic Development Authority (EDA) to adopt criteria, which must be met by a municipality, county, or redevelopment entity that applies for a grant, that the subject real property be developed within a three-year period from completion of the remediation.

In addition to the caps or limitations in the law, the bill provides that an award of financial assistance or a grant for a preliminary assessment or site investigation of a contaminated site must be expended within two years after the date of the award, and an award of financial assistance or a grant for a remedial investigation of a contaminated site must be expended within five years after the date of the award. If the financial assistance or grant is not expended within the time limits provided, the award would be cancelled. In addition, no award would be approved until the applicant demonstrates to the satisfaction of the EDA that it has expended or will expend the full amount of any previous financial assistance or grant awarded to the applicant for the same property.

The committee amendments would:

(1) retain the availability of grants to qualifying persons who remediate to an unrestricted use standard for that part of a remediation that the person cannot otherwise fund by authorized methods;

(2) eliminate a cap on the dollar amount that may be awarded for a grant at any one site to municipalities, counties, and redevelopment entities for projects in brownfield development areas for a remedial action and specify that grants for remedial action for those projects be made when there is a confirmed discharge;

(3) change the cumulative total amount of matching grants that may be awarded to municipalities, counties, and redevelopment entities for projects involving the redevelopment of property for recreation and conservation purposes from \$500,000 to \$2,500,000 and eliminate the reduction that the maximum grant for an individual project in that category may receive, and continues to allow grants for up to 75 percent of the costs of remedial action;

(4) retain language in the current law that allows grants to municipalities, counties, and redevelopment entities for projects involving the redevelopment of property for recreation and conservation purposes, for affordable housing, or for a remediation in

a brownfield development area even if the public entity does not own the property;

(5) restore language that authorizes matching grants of up to \$250,000 for up to 25 percent of the project costs to qualifying persons, municipalities, counties, and redevelopment entities who propose to perform a remedial action for an unrestricted use remedial action;

(6) eliminate a cap of \$750,000 on grants to a municipality, county, or redevelopment entity at any one site;

(7) eliminate the requirement to allocate at least 25 percent of moneys in the fund for financial assistance or grants for projects in brownfield development areas and instead, provide for the allocation of at least 30 percent of the moneys in the fund for grants to municipalities, counties, or redevelopment entities for the preliminary assessment, site investigation, remedial investigation, or remedial action of a contaminated site not located in a brownfield development area;

(8) retain language in current law that does not allow financial assistance to persons who are able to establish a funding source except to a qualified person planning to use an unrestricted use remedial action, a person performing a remediation in an environmental opportunity zone, or a person voluntarily performing a remediation;

(9) delete the availability in the current law for innocent party grants;

(10) delete the requirement that the developer be a public entity for a site owned by a municipality in a brownfield development area to receive second priority for funding under the law;

(11) delete the provisions that imposed, in addition to all other limitations, new caps and limitations on financial assistance and grants; and

(12) extend the time from three years to five years in which an award from the fund of financial assistance or a grant is required to be expended for a remedial investigation before it is cancelled.

As amended, this bill is identical to Senate Bill No. 1237, as amended and reported by the committee.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[Second Reprint]

ASSEMBLY, No. 1954

STATE OF NEW JERSEY

DATED: DECEMBER 18, 2017

The Senate Budget and Appropriations Committee reports favorably Assembly Bill No. 1954 (2R).

This bill changes the laws governing financial assistance and grants for the remediation of contaminated sites from the Hazardous Discharge Site Remediation Fund. The bill eliminates the availability of grants and loans to persons who would otherwise not be eligible for assistance but who remediate a site using innovative technology, who remediate to an unrestricted use or limited restricted use standard, who voluntarily perform a remediation, or who perform a remediation in an environmental opportunity zone.

The bill establishes limitations on grants to municipalities, counties, and redevelopment entities for projects in brownfield development areas. In those areas and to those government entities, the bill authorizes grants of up to 75 percent of the total costs of the remedial action and no more than \$750,000 at any one site for remedial action. Further, the bill reduces the additional amount over the annual cap on financial assistance and grants otherwise in effect, which may be awarded in any one year to those government entities for projects in brownfield development areas, from \$2,000,000 to \$1,000,000.

The bill also reduces the cumulative total amount of matching grants that may be awarded to municipalities, counties, and redevelopment entities for projects involving the redevelopment of property for recreation and conservation purposes from \$5,000,000 to \$500,000 per year and reduces the maximum grant for an individual project in that category from 75 percent to 50 percent of the costs of remedial action.

The bill reduces the maximum amount of money a person may receive through an innocent party grant from \$1,000,000 to \$500,000 and imposes an annual maximum award of \$100,000.

The bill requires that at least 25 percent of the monies in the remediation fund be used for financial assistance and grants to municipalities, counties, and redevelopment entities for projects in brownfield development areas, of which at least five percent must be allocated for preliminary assessments, site investigations, or remedial investigations. At least 30 percent of the monies in the remediation

fund are be allocated for financial assistance or grants to persons for the preliminary assessment, site investigation, or remedial investigation of a site, not located in a brownfield development area, that has been contaminated by a discharge or a suspected discharge of a hazardous substance or hazardous waste.

The bill reduces the cumulative annual cap on the maximum amount of financial assistance and grants that may be issued to a person from \$1,000,000 to \$500,000, and to municipalities, counties, and redevelopment entities from \$3,000,000 to \$2,000,000 except for projects in brownfield development areas as noted above. The bill imposes a cap of \$750,000 on grants to a municipality, county, or redevelopment entity at any one site.

The bill changes the priority for the award of financial assistance or grants from the remediation fund to provide first priority to sites on which there has been a discharge and the discharge poses an imminent and significant threat to a drinking water source, to human health, or to a sensitive or significant ecological area; second priority to sites that are owned by a municipality in a brownfield development area where the developer is a public entity; and third priority to sites in areas designated as Planning Area 1 (Metropolitan) and Planning Area 2 (Suburban) pursuant to the "State Planning Act." This priority would only apply to monies allocated pursuant to paragraph (6) of subsection a. of section 28 of P.L.1993, c.139 (C.58:10B-6).

The bill requires the New Jersey Economic Development Authority (EDA) to adopt criteria, which must be met by a municipality, county, or redevelopment entity that applies for a grant, that the subject real property be developed within a three-year period from completion of the remediation.

In addition to any other caps or limitations in the law, the bill establishes additional limitations on financial assistance and grants. For a preliminary assessment and site investigation, the EDA may award for a site with soil contamination only, up to 100% of the costs up to a total amount of \$30,000, and for any other site, the EDA may award up to a total amount of \$75,000. For a remedial investigation, the EDA may award for a site with soil contamination only, up to 100% of the costs up to a total amount of \$100,000, and for any other site, up to a total amount of \$250,000. The bill also provides that an award of financial assistance or a grant for a preliminary assessment or site investigation of a contaminated site must be expended within two years after the date of the award, and an award of financial assistance or a grant for a remedial investigation of a contaminated site must be expended within three years after the date of the award. If the financial assistance or grant is not expended within the time limits provided, the award would be cancelled. In addition, no award would be approved until the applicant demonstrates to the satisfaction of the EDA that it has expended or will expend the full amount of any

previous financial assistance or grant awarded to the applicant for the same property.

As reported, this bill is identical to Senate Bill No. 1237 (1R), as also reported by the committee.

FISCAL IMPACT:

The Office of Legislative Services (OLS) determines that this bill would reallocate available Hazardous Discharge Site Remediation Fund (HDSRF) resources among qualified applicants for HDSRF grants and loans for the remediation of eligible contaminated sites. Given that demand for assistance exceeds available resources, the OLS anticipates that the bill would not alter the total amount of financial assistance provided annually.

The reallocation of available HDSRF resources may affect the revenues of municipalities and counties. The OLS, however, cannot determine to what extent the bill would alter: a) the total amount of HDSRF financial assistance that will be awarded to counties and municipalities; and b) amounts of financial assistance that will be awarded to a particular municipality or county.

The HDSRF is capitalized by constitutionally dedicated moneys from the State Corporation Business Tax. These moneys are appropriated to the New Jersey Economic Development Authority (EDA) for site cleanups on a formulaic basis in the Annual Appropriations Act. Approximately \$10 million in FY 2017 Corporation Business Tax collections was appropriated for this purpose and \$11 million is appropriated therefor in FY 2018.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY, No. 1954

STATE OF NEW JERSEY 217th LEGISLATURE

DATED: NOVEMBER 1, 2016

SUMMARY

- Synopsis:** Makes changes to funding provisions for financial assistance and grants from Hazardous Discharge Site Remediation Fund.
- Type of Impact:** No fiscal impact on the Hazardous Discharge Site Remediation Fund or on the General Fund. Indeterminate fiscal impact on municipalities and counties.
- Agencies Affected:** Department of Environmental Protection, New Jersey Economic Development Authority, municipalities, and counties.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	None – See comments below.		
Local Cost	Indeterminate – See comments below.		

- The Office of Legislative Services (OLS) estimates that this bill will have no fiscal impact on State funds because it does not affect the total amount of annual funds that are constitutionally dedicated for this program.
- The Hazardous Discharge Site Remediation Fund is capitalized by constitutionally dedicated monies from the State Corporation Business Tax. These monies are appropriated to the New Jersey Economic Development Authority (EDA) for site cleanups on a formula basis each year in the Annual Appropriations Act. In FY 2017, \$10 million was appropriated for this purpose.
- The bill reduces existing caps and establishes new caps for grants available to municipalities and counties; however, the fiscal impact on particular municipalities and counties is unknown. The establishment and reduction of caps may allow additional municipalities and counties to utilize monies in the fund; however, the bill may restrict other municipalities and counties from receiving additional grants.

BILL DESCRIPTION

Assembly Bill No. 1954 (1R) of 2016 would make changes to funding provisions for financial assistance and grants from the Hazardous Discharge Site Remediation Fund (“the fund”). The bill proposes the following changes to the law:

- (1) eliminates grants and loans to persons who would otherwise not be eligible for assistance but who remediate a site using innovative technology, who remediate to an unrestricted use or limited restricted use standard, who voluntarily perform a remediation, or who perform a remediation in an environmental opportunity zone;
- (2) establishes limitations on grants to municipalities, counties, and redevelopment entities for projects in brownfield development areas which are to be no more than 75 percent of the total costs of the remedial action and no more than \$750,000 at any one site for remedial action, and reduces the additional amount over the annual cap on financial assistance and grants from \$2 million to \$1 million;
- (3) reduces the cumulative total amount of matching grants that may be awarded to municipalities, counties, and redevelopment entities for projects involving the redevelopment of property for recreation and conservation purposes from \$5 million to \$500,000, and reduces the maximum grant for an individual project in that category from 75 percent to 50 percent of the costs of remedial action;
- (4) reduces the maximum amount of money a person may receive through an innocent party grant from \$1 million to \$500,000 and imposes an annual maximum award of \$100,000;
- (5) reduces the cumulative annual cap on the maximum amount of financial assistance and grants that may be issued to a person from \$1 million to \$500,000, and to municipalities, counties, and redevelopment entities from \$3 million to \$2 million except for projects in brownfield development areas;
- (6) imposes a cap of \$750,000 on grants for a remedial action in a brownfield development area to a municipality, county, or redevelopment entity at any one site; and
- (7) establishes additional limitations on financial assistance and grants (in addition to any other caps or limitations in the law):
 - a. for a preliminary assessment and site investigation, the Economic Development Authority (EDA) may award for a site with soil contamination only, up to 100% of the costs up to a total amount of \$30,000, and for any other site, the EDA may award up to a total amount of \$75,000; and
 - b. for a remedial investigation, the EDA may award for a site with soil contamination only, up to 100% of the costs up to a total amount of \$100,000, and for any other site, up to a total amount of \$250,000.

The bill reduces existing caps and establishes new caps for grants to be made available to municipalities and counties; however, the fiscal impact on particular municipalities and counties is unknown. The establishment or adjustment of caps may allow additional municipalities and counties to utilize monies in the fund; however, the bill may restrict other municipalities and counties from receiving additional grants.

The bill changes the priority for the award of financial assistance or grants from the remediation fund to provide first priority to sites on which there has been a discharge and the discharge poses an imminent and significant threat to a drinking water source, to human health, or to a sensitive or significant ecological area; second priority to sites that are owned by a municipality in a brownfield development area where the developer is a public entity; and third priority to sites in areas designated as Planning Area 1 (Metropolitan) and Planning Area 2 (Suburban) pursuant to the "State Planning Act."

In addition, the bill requires at least 25 percent of the monies in the remediation fund be used for financial assistance and grants to municipalities, counties, and redevelopment entities for projects in brownfield development areas, of which at least five percent must be allocated for preliminary assessments, site investigations, or remedial investigations. At least 30 percent of the monies in the remediation fund would be allocated for financial assistance or grants to persons for the preliminary assessment, site investigation, or remedial investigation of a site, not located in a brownfield development area, that has been contaminated by a discharge or a suspected discharge of a hazardous substance or hazardous waste.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that this bill will have no fiscal impact on State funds because it does not affect the total amount of annual funds that are constitutionally dedicated for this program. The EDA's brownfield remediation program provides loans and grants to local governments to help finance the remediation of properties within a brownfield development area. This program is supported by the Hazardous Discharge Site Remediation Fund, which is funded by constitutionally dedicated monies from the State Corporation Business Tax. These monies are appropriated on a formula basis each year in the Annual Appropriations Act. In FY 2017, \$10 million was appropriated for this purpose.

The bill reduces existing caps and establishes new caps for grants to be made available to municipalities and counties; however, the fiscal impact on particular municipalities and counties is unknown. The establishment or adjustment of caps may allow additional municipalities and counties to utilize monies in the fund; however, the bill may restrict other municipalities and counties from receiving additional grants.

Section: Environment, Agriculture, Energy and Natural Resources

*Analyst: Neha Mehta Patel
Assistant Fiscal Analyst*

*Approved: Frank W. Haines III
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 (C.52:13B-6 et seq.).

LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

ASSEMBLY, No. 1954

STATE OF NEW JERSEY 217th LEGISLATURE

DATED: DECEMBER 20, 2017

SUMMARY

- Synopsis:** Makes changes to funding provisions for financial assistance and grants from Hazardous Discharge Site Remediation Fund.
- Types of Impact:** Reallocation of Hazardous Discharge Site Remediation Fund resources. Indeterminate fiscal impact on municipalities and counties.
- Agencies Affected:** Department of Environmental Protection, New Jersey Economic Development Authority, municipalities, and counties.

Office of Legislative Services Estimate

Fiscal Impact	
Reallocation of Hazardous Discharge Site Remediation Fund Resources	Indeterminate
Local Government Revenue Impact	Indeterminate

- The Office of Legislative Services (OLS) determines that this bill would reallocate available Hazardous Discharge Site Remediation Fund (HDSRF) resources among qualified applicants for HDSRF grants and loans for the remediation of eligible contaminated sites. Given that demand for assistance exceeds available resources, the OLS anticipates that the bill would not alter the total amount of financial assistance provided annually.
- The reallocation of available HDSRF resources may affect the revenues of municipalities and counties. The OLS, however, cannot determine to what extent the bill would alter: a) the total amount of HDSRF financial assistance that will be awarded to counties and municipalities; and b) amounts of financial assistance that will be awarded to a particular municipality or county.
- The HDSRF is capitalized by constitutionally dedicated moneys from the State Corporation Business Tax. These moneys are appropriated to the New Jersey Economic Development Authority (EDA) for site cleanups on a formulaic basis in the Annual Appropriations Act. Approximately \$10 million in FY 2017 Corporation Business Tax collections was appropriated for this purpose and \$11 million is appropriated therefor in FY 2018.

BILL DESCRIPTION

This bill revises the criteria for the awarding of HDSRF grants and loans for the remediation of eligible contaminated sites. The bill reduces maximum award amounts for individual remediation projects; restricts eligibility criteria; revises the priority for the awarding of loans and grants from the fund; limits individual grant awards available to municipalities, counties, and redevelopment entities for projects in brownfield development areas; and establishes a minimum percentage of available HDSRF resources that must be used for grants to municipalities, counties, and redevelopment entities for remediation projects that are not sited in brownfield development areas.

HDSRF grants and loans are available to public entities, private entities, and non-profit organizations at various stages of the remediation process. The Department of Environmental Protection and the EDA co-administer the program.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS determines that this bill would reallocate available HDSRF resources among qualified applicants for HDSRF grants and loans for the remediation of eligible contaminated sites. Given that demand for assistance exceeds available resources, the OLS anticipates that the bill would not alter the total amount of financial assistance provided annually.

The reallocation of available HDSRF resources may affect the revenues of municipalities and counties. The OLS, however, cannot determine to what extent the bill would alter: a) the total amount of HDSRF financial assistance that will be awarded to counties and municipalities; and b) amounts of financial assistance that will be awarded to a particular municipality or county. The establishment or reduction of caps for individual projects, for example, may allow additional municipalities and counties to receive HDSRF support; however, the bill may reduce the award amounts that other municipalities and counties would have received under current law.

The HDSRF is capitalized by constitutionally dedicated moneys from the State Corporation Business Tax. These moneys are appropriated to the EDA for site cleanups on a formulaic basis in the Annual Appropriations Act. Approximately \$10 million in FY 2017 Corporation Business Tax collections was appropriated for this purpose and \$11 million is appropriated therefor in FY 2018.

Section: Environment, Agriculture, Energy and Natural Resources

Analyst: Neha Mehta Patel
Associate Fiscal Analyst

Approved: Frank W. Haines III
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 (C.52:13B-6 et seq.).

SENATE, No. 1237

STATE OF NEW JERSEY
217th LEGISLATURE

INTRODUCED FEBRUARY 8, 2016

Sponsored by:
Senator JOSEPH F. VITALE
District 19 (Middlesex)

SYNOPSIS

Makes changes to funding provisions for financial assistance and grants from Hazardous Discharge Site Remediation Fund.

CURRENT VERSION OF TEXT

As introduced.



S1237 VITALE

2

1 AN ACT concerning financial assistance and grants from the
2 Hazardous Discharge Site Remediation Fund, amending and
3 supplementing P.L.1993, c.139 and repealing section 8 of
4 P.L.2005, c.223.

5

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

8

9 1. Section 27 of P.L.1993, c.139 (C.58:10B-5) is amended to
10 read as follows:

11 27. a. (1) Except as provided in section 4 of P.L.2007, c.135
12 (C.52:27D-130.7), financial assistance from the remediation fund
13 may only be rendered to persons who cannot establish a remediation
14 funding source for the full amount of a remediation. Financial
15 assistance pursuant to this act may be rendered only for that amount
16 of the cost of a remediation for which the person cannot establish a
17 remediation funding source. The limitations on receiving financial
18 assistance established in this paragraph (1) shall not limit the ability
19 of municipalities, counties, redevelopment entities authorized to
20 exercise redevelopment powers pursuant to section 4 of P.L.1992,
21 c.79 (C.40A:12A-4), **[persons who are not required to establish a**
22 **remediation funding source for the part of the remediation involving**
23 **an innovative technology, an unrestricted use remedial action or a**
24 **limited restricted use remedial action,]** persons performing a
25 remediation in an environmental opportunity zone, or persons who
26 voluntarily perform a remediation, from receiving financial
27 assistance from the fund.

28 (2) Financial assistance rendered to persons who voluntarily
29 perform a remediation or perform a remediation in an
30 environmental opportunity zone may only be made for that amount
31 of the cost of the remediation that the person cannot otherwise fund
32 by any of the authorized methods to establish a remediation funding
33 source.

34 (3) **[Financial assistance rendered to persons who do not have to**
35 **provide a remediation funding source for the part of the remediation**
36 **that involves an innovative technology, an unrestricted use remedial**
37 **action, or a limited restricted use remedial action may only be made**
38 **for that amount of the cost of the remediation that the person cannot**
39 **otherwise fund by any of the authorized methods to establish a**
40 **remediation funding source.]** (Deleted by amendment, P.L. , c.)
41 (pending before the Legislature as this bill)

42 b. Financial assistance may be rendered from the remediation
43 fund to (1) owners or operators of industrial establishments who are
44 required to perform remediation activities pursuant to P.L.1983,
45 c.330 (C.13:1K-6 et al.), upon closing operations or prior to 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.

Matter underlined thus is new matter.

1 transfer of ownership or operations of an industrial establishment,
2 (2) persons who are liable for the cleanup and removal costs of a
3 hazardous substance pursuant to P.L.1976, c.141 (C.58:10-23.11 et
4 seq.), and (3) persons who voluntarily perform a remediation of a
5 discharge of a hazardous substance or hazardous waste.

6 c. Financial assistance and grants may be made from the
7 remediation fund to a municipality, county, or redevelopment entity
8 authorized to exercise redevelopment powers pursuant to section 4
9 of P.L.1992, c.79 (C.40A:12A-4), for real property: (1) on which it
10 holds a tax sale certificate; (2) that it has acquired through
11 foreclosure or other similar means; or (3) that it has acquired, or in
12 the case of a county governed by a board of chosen freeholders, has
13 passed a resolution or, in the case of a municipality or a county
14 operating under the "Optional County Charter Law," P.L.1972,
15 c.154 (C.40:41A-1 et seq.), has passed an ordinance or other
16 appropriate document to acquire, by voluntary conveyance for the
17 purpose of redevelopment, for renewable energy generation or for
18 recreation and conservation purposes. Financial assistance and
19 grants may only be awarded for real property on which there has
20 been a discharge or on which there is a suspected discharge of a
21 hazardous substance or hazardous waste.

22 d. Grants may be made from the remediation fund to persons
23 who own real property on which there has been a discharge of a
24 hazardous substance or a hazardous waste and that person qualifies
25 for an innocent party grant pursuant to section 28 of P.L.1993,
26 c.139 (C.58:10B-6).

27 e. **【Grants may be made from the remediation fund to**
28 **qualifying persons who propose to perform a remedial action that**
29 **uses an innovative technology or that would result in an unrestricted**
30 **use remedial action or a limited restricted use remedial action.】**
31 (Deleted by amendment, P.L. , c.) (pending before the
32 Legislature as this bill)

33 f. Grants may be made from the remediation fund to
34 municipalities, counties, and redevelopment entities authorized to
35 exercise redevelopment powers pursuant to section 4 of P.L.1992,
36 c.79 (C.40A:12A-4), for the preliminary assessment, site
37 investigation, remedial investigation, and remedial action **【on**
38 **contaminated】** for real property where there is a discharge or
39 suspected discharge of a hazardous substance or hazardous waste
40 within a brownfield development area. Grants made pursuant to
41 this subsection for a remedial action may not exceed 75% of the
42 total costs of the remedial action and may not exceed \$750,000 at
43 any one site. An ownership interest in the contaminated property
44 shall not be required in order for a municipality, county, or
45 redevelopment entity authorized to exercise redevelopment powers
46 pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4) to receive a
47 grant for a **【remediation of】** preliminary assessment, site
48 investigation, and remedial investigation for real property where

S1237 VITALE

1 there is a discharge or suspected discharge of a hazardous substance
2 or hazardous waste in a brownfield [redevelopment] development
3 area. Notwithstanding the limitation on the total amount of financial
4 assistance and grants that may be awarded in any one year pursuant
5 to subsection b. of section 28 of P.L.1993, c.139 (C.58:10B-6), the
6 authority may award an additional amount of financial assistance
7 and grants in any one year, of up to **[\$2,000,000]** \$1,000,000, to
8 any one municipality, county, or redevelopment entity for the
9 remediation of property in a brownfield development area. **[Any**
10 **property on which a municipality, county, or redevelopment entity**
11 **makes expenditures for a remedial action and the property is not**
12 **owned by that entity shall be subject to the provisions of section 8**
13 **of P.L.2005, c.223 (C.58:10B-25.2).]**
14 (cf: P.L.2009, c.302, s.1)
15

16 2. Section 28 of P.L.1993, c.139 (C.58:10B-6) is amended to
17 read as follows:

18 28. a. Except for moneys deposited in the remediation fund for
19 specific purposes, and as provided in section 4 of P.L.2007, c.135
20 (C.52:27D-130.7), financial assistance and grants from the
21 remediation fund shall be rendered for the following purposes. A
22 written report shall be sent to the Senate Environment and Energy
23 Committee, and the Assembly Environment and Solid Waste
24 Committee, or their successors at the end of each calendar quarter
25 detailing the allocation and expenditures related to the financial
26 assistance and grants from the fund.

27 (1) Moneys shall be allocated for financial assistance to persons,
28 for remediation of real property located in a qualifying municipality
29 as defined in section 1 of P.L.1978, c.14 (C.52:27D-178);

30 (2) Moneys shall be allocated to: (a) municipalities, counties, or
31 redevelopment entities authorized to exercise redevelopment
32 powers pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4), for:

33 (i) projects in brownfield development areas pursuant to
34 subsection f. of section 27 of P.L.1993, c.139 (C.58:10B-5),

35 (ii) matching grants up to a cumulative total amount from the
36 fund of **[\$5,000,000]** \$500,000 per year of up to **[75%]** 50% of
37 the costs of the remedial action for projects involving the
38 redevelopment of contaminated property for recreation and
39 conservation purposes, provided that the use of the property for
40 recreation and conservation purposes is included in the
41 comprehensive plan for the development or redevelopment of
42 contaminated property, up to 75% of the costs of the remedial
43 action for projects involving the redevelopment of contaminated
44 property for renewable energy generation, or up to 50% of the costs
45 of the remedial action for projects involving the redevelopment of
46 contaminated property for affordable housing pursuant to P.L.1985,
47 c.222 (C.52:27D-301 et al.),

S1237 VITALE

1 (iii) grants for preliminary assessment, site investigation or
2 remedial investigation of a contaminated site,

3 (iv) financial assistance for the implementation of a remedial
4 action, or

5 (v) financial assistance for remediation activities at sites that
6 have been contaminated by a discharge of a hazardous substance or
7 hazardous waste, or at which there is an imminent and significant
8 threat of a discharge of a hazardous substance or hazardous waste,
9 and the discharge or threatened discharge poses or would pose an
10 imminent and significant threat to a drinking water source, to
11 human health, or to a sensitive or significant ecological area; or

12 (b) persons for financial assistance for remediation activities at
13 sites that have been contaminated by a discharge of a hazardous
14 substance or hazardous waste, or at which there is an imminent and
15 significant threat of a discharge of a hazardous substance or
16 hazardous waste, and the discharge or threatened discharge poses or
17 would pose an imminent and significant threat to a drinking water
18 source, to human health, or to a sensitive or significant ecological
19 area.

20 Except as provided in subsection f. of section 27 of P.L.1993,
21 c.139 (C.58:10B-5), financial assistance and grants to
22 municipalities, counties, or redevelopment entities authorized to
23 exercise redevelopment powers pursuant to section 4 of P.L.1992,
24 c.79 (C.40A:12A-4) may be made for real property: (1) on which
25 they hold a tax sale certificate; (2) that they have acquired through
26 foreclosure or other similar means; or (3) that they have acquired,
27 or, in the case of a county governed by a board of chosen
28 freeholders, have passed a resolution or, in the case of a
29 municipality or a county operating under the "Optional County
30 Charter Law," P.L.1972, c.154 (C.40:41A-1 et seq.), have passed an
31 ordinance or other appropriate document to acquire, by voluntary
32 conveyance for the purpose of redevelopment, or for recreation and
33 conservation purposes. Financial assistance and grants may only be
34 awarded for real property on which there has been or on which there
35 is suspected of being a discharge of a hazardous substance or a
36 hazardous waste. Grants and financial assistance provided pursuant
37 to this paragraph shall be used for performing preliminary
38 assessments, site investigations, remedial investigations, and
39 remedial actions on real property in order to determine the existence
40 or extent of any hazardous substance or hazardous waste
41 contamination, and to remediate the site in compliance with the
42 applicable health risk and environmental standards on those
43 properties. No financial assistance or grants for a remedial action
44 shall be awarded until the municipality, county, or redevelopment
45 entity authorized to exercise redevelopment powers pursuant to
46 section 4 of P.L.1992, c.79 (C.40A:12A-4), actually owns the real
47 property **■**, provided that a matching grant for 75% of the costs of a
48 remedial action for a project involving the redevelopment of

1 contaminated property for recreation and conservation purposes, or
2 a matching grant for 50% of the costs of a remedial action for a
3 project involving the redevelopment of contaminated property for
4 affordable housing pursuant to P.L.1985, c.222 (C.52:27D-301 et
5 al.) may be made to a municipality, county, or redevelopment entity
6 authorized to exercise redevelopment powers pursuant to section 4
7 of P.L.1992, c.79 (C.40A:12A-4) even if it does not own the real
8 property and a grant may be made to a municipality, county, or
9 redevelopment entity authorized to exercise redevelopment powers
10 pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4) for a
11 remediation in a brownfield development area pursuant to
12 subsection f. of section 27 of P.L.1993, c.139 (C.58:10B-5) even if
13 the entity does not own the real property. No grant shall be
14 awarded for a remedial action for a project involving the
15 redevelopment of contaminated property for recreation or
16 conservation purposes unless the use of the property is preserved
17 for recreation and conservation purposes by conveyance of a
18 development easement, conservation restriction or easement, or
19 other restriction or easement permanently restricting development,
20 which shall be recorded and indexed with the deed in the registry of
21 deeds for the county. [A municipality that has performed, or on
22 which there has been performed, a preliminary assessment, site
23 investigation or remedial investigation on property may obtain a
24 loan for the purpose of continuing the remediation on those
25 properties as necessary to comply with the applicable remediation
26 regulations adopted by the department.] No grant shall be awarded
27 pursuant to this paragraph to a municipality, a county, or a
28 redevelopment entity authorized to exercise redevelopment powers
29 pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4) unless that
30 entity has adopted by ordinance or resolution a comprehensive plan
31 specifically for the development or redevelopment of contaminated
32 or potentially contaminated real property in that municipality or the
33 entity can demonstrate its commitment to the authority [that a
34 realistic opportunity exists] that the subject real property will be
35 developed or redeveloped within a three-year period from the
36 completion of the remediation. Until adoption of the criteria
37 required pursuant to paragraph (8) of subsection a. of section 30 of
38 P.L.1993, c.139 (C.58:10B-8), the authority shall use the criteria
39 provided in this paragraph in determining the award of grants from
40 the remediation fund ;

41 (3) Moneys shall be allocated for financial assistance to persons
42 who voluntarily perform a remediation of a hazardous substance or
43 hazardous waste discharge;

44 (4) Moneys shall be allocated for grants to persons who own
45 real property on which there has been a discharge of a hazardous
46 substance or a hazardous waste and that person qualifies for an
47 innocent party grant. A person qualifies for an innocent party grant
48 if that person acquired the property prior to December 31, 1983 and

1 continues to own the property until such time as the authority
2 approves the grant, the hazardous substance or hazardous waste that
3 was discharged at the property was not used by the person at that
4 site, and that person certifies that he did not discharge any
5 hazardous substance or hazardous waste at an area where a
6 discharge is discovered. A grant authorized pursuant to this
7 paragraph may be for up to 50% of the remediation costs at the area
8 of concern for which the person qualifies for an innocent party
9 grant, except that no grant awarded pursuant to this paragraph to
10 any person may exceed **[\$1,000,000]** \$100,000 in any calendar
11 year for a total amount of \$500,000 ;

12 (5) Moneys shall be allocated for **[(a)]** financial assistance to
13 persons who own and plan to remediate an environmental
14 opportunity zone for which an exemption from real property taxes
15 has been granted pursuant to section 5 of P.L.1995, c.413 (C.54:4-
16 3.154) **],** or (b) matching grants for up to 25% of the project costs
17 to qualifying persons, municipalities, counties, and redevelopment
18 entities authorized to exercise redevelopment powers pursuant to
19 section 4 of P.L.1992, c.79 (C.40A:12A-4), who propose to perform
20 a remedial action that uses an innovative technology, or for the
21 implementation of a limited restricted use remedial action or an
22 unrestricted use remedial action except that no grant awarded
23 pursuant to this paragraph may exceed \$250,000 **]** ; and

24 (6) **[Twenty]** At least 25 percent of the moneys in the
25 remediation fund shall be allocated for financial assistance or grants
26 for **[any of the purposes]** the purpose enumerated in **[paragraphs**
27 **(1) through (5) of this subsection]** subsubparagraph (i) of
28 subparagraph (a) of paragraph (2) of this subsection of which at
29 least five percent shall be allocated for preliminary assessments,
30 site investigations, or remedial investigations, and at least 30
31 percent of the moneys in the remediation fund shall be allocated for
32 financial assistance or grants to persons for the preliminary
33 assessment, site investigation, or remedial investigation of a site
34 that has been contaminated by a discharge or a suspected discharge
35 of a hazardous substance or hazardous waste as authorized in this
36 subsection. The remainder of the moneys in the remediation fund
37 shall be allocated for any of the purposes authorized in this section .

38 **[For the purposes of paragraph (5) of this subsection, "qualifying**
39 **persons" means any person who has a net worth of not more than**
40 **\$2,000,000 and "project costs" means that portion of the total costs**
41 **of a remediation that is specifically for the use of an innovative**
42 **technology or to implement an unrestricted use remedial action or a**
43 **limited restricted use remedial action, as applicable.]**

44 b. Loans issued from the remediation fund shall be for a term
45 not to exceed ten years, except that upon the transfer of ownership
46 of any real property for which the loan was made, the unpaid
47 balance of the loan shall become immediately payable in full. The
48 unpaid balance of a loan for the remediation of real property that is

1 transferred by devise or succession shall not become immediately
2 payable in full, and loan repayments shall be made by the person
3 who acquires the property. Loans to municipalities, counties, and
4 redevelopment entities authorized to exercise redevelopment
5 powers pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4),
6 shall bear an interest rate equal to 2 points below the Federal
7 Discount Rate at the time of approval or at the time of loan closing,
8 whichever is lower, except that the rate shall be no lower than 3
9 percent. All other loans shall bear an interest rate equal to the
10 Federal Discount Rate at the time of approval or at the time of the
11 loan closing, whichever is lower, except that the rate on such loans
12 shall be no lower than five percent. Financial assistance and grants
13 may be issued for up to 100% of the estimated applicable
14 remediation cost, except that the cumulative maximum amount of
15 financial assistance which may be issued to a person, in any
16 calendar year, for one or more properties, shall be ~~【\$1,000,000】~~
17 \$500,000. Financial assistance and grants to any one municipality,
18 county, or redevelopment entity authorized to exercise
19 redevelopment powers pursuant to section 4 of P.L.1992, c.79
20 (C.40A:12A-4) may not exceed ~~【\$3,000,000】~~ \$2,000,000 in any
21 calendar year except as provided in subsection f. of section 27 of
22 P.L.1993, c.139 (C.58:10B-5). Grants to a municipality, county, or
23 redevelopment entity authorized to exercise redevelopment powers
24 pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4) may be for
25 up to 100% of the total costs of the preliminary assessment, site
26 investigation, or remedial investigation ~~【regardless of when the~~
27 ~~application was received by the department】~~. Grants to a
28 municipality, a county, or a redevelopment entity authorized to
29 exercise redevelopment powers pursuant to section 4 of P.L.1992,
30 c.79 (C.40A:12A-4) may not exceed 75% of the total costs of the
31 remedial action and may not exceed \$750,000 at any one site ~~【for~~
32 ~~any application received by the department on or after September~~
33 ~~15, 2005】~~. Repayments of principal and interest on the loans issued
34 from the remediation fund shall be paid to the authority and shall be
35 deposited into the remediation fund.

36 c. ~~【No person, other than a qualified person planning to use an~~
37 ~~innovative technology for the cost of that technology, a qualified~~
38 ~~person planning to use a limited restricted use remedial action or an~~
39 ~~unrestricted use remedial action for the cost of the remedial action,~~
40 ~~a person performing a remediation in an environmental opportunity~~
41 ~~zone, or a person voluntarily performing a remediation, shall be~~
42 ~~eligible for financial assistance from the remediation fund to the~~
43 ~~extent that person is capable of establishing a remediation funding~~
44 ~~source for the remediation as required pursuant to section 25 of~~
45 ~~P.L.1993, c.139 (C.58:10B-3).】~~ (Deleted by amendment, P.L. ,
46 c.) (pending before the Legislature as this bill)

47 d. The authority may use a sum that represents up to 2% of the
48 moneys issued as financial assistance or grants from the

1 remediation fund each year for administrative expenses incurred in
2 connection with the operation of the fund and the issuance of
3 financial assistance and grants.

4 e. Prior to March 1 of each year, the authority shall submit to
5 the Senate Environment Committee and the Assembly Environment
6 and Solid Waste Committee, or their successors, a report detailing
7 the amount of money that was available for financial assistance and
8 grants from the remediation fund for the previous calendar year, the
9 amount of money estimated to be available for financial assistance
10 and grants for the current calendar year, the amount of financial
11 assistance and grants issued for the previous calendar year and the
12 category for which each financial assistance and grant was
13 rendered, and any suggestions for legislative action the authority
14 deems advisable to further the legislative intent to facilitate
15 remediation and promote the redevelopment and use of existing
16 industrial sites.

17 (cf: P.L.2009, c.303, s.1)

18

19 3. Section 29 of P.L.1993, c.139 (C.58:10B-7) is amended to
20 read as follows:

21 29. a. A qualified applicant for financial assistance or a grant
22 from the remediation fund shall be awarded financial assistance or a
23 grant by the authority upon the availability of sufficient moneys in
24 the remediation fund for the purpose of the financial assistance or
25 grant. The authority shall award financial assistance and grants in
26 the following order of priority:

27 (1) Sites on which there has been a discharge and the discharge
28 poses an imminent and significant threat to a drinking water source,
29 to human health, or to a sensitive or significant ecological area shall
30 be given first priority; **[and]**

31 (2) **[**Sites in areas designated as Planning Area 1
32 (Metropolitan), Planning Area 2 (Suburban), designated centers, or
33 areas receiving plan endorsement as designated pursuant to the
34 "State Planning Act," sections 1 through 12 of P.L.1985, c.398
35 (C.52:18A-196 et seq.), sites that the Brownfields Redevelopment
36 Task Force, established pursuant to section 5 of P.L.1997, c.278
37 (C.58:10B-23), determines are of immediate economic development
38 potential, and sites in brownfield development areas, shall be given
39 second priority.**]** (Deleted by amendment, P.L. , c.) (pending
40 before the Legislature as this bill)

41 (3) Sites that are owned by a municipality in a brownfield
42 development area where the developer is a public entity shall be
43 given second priority; and

44 (4) Sites in areas designated as Planning Area 1 (Metropolitan)
45 and Planning Area 2 (Suburban) pursuant to the "State Planning
46 Act," P.L.1985, c.398 (C.52:18A-196 et seq.), shall be given third
47 priority.

1 The priority ranking of applicants within any priority category
2 enumerated in this section for awarding financial assistance and
3 grants from the remediation fund shall be based upon the date of
4 receipt by the authority of an application from the applicant and on
5 readiness to proceed with remediation as determined by the
6 department and the authority. If an application is determined to be
7 incomplete by the authority, an applicant shall have 30 days from
8 receipt of written notice of incompleteness to file any additional
9 information as may be required by the authority for a completed
10 application. If an applicant fails to file the additional information
11 within those 30 days, the filing date for that application for
12 financial assistance or a grant for a site that is not within a priority
13 category enumerated in this section, shall be the date that the
14 additional information is received by the authority. An application
15 shall be deemed complete when all the information required by the
16 authority has been received in the required form.

17 b. Within 90 days, for a private entity, or 180 days for a
18 municipality, county, or a redevelopment entity authorized to
19 exercise redevelopment powers pursuant to section 4 of P.L.1992,
20 c.79 (C.40A:12A-4), of notice of approval of a financial assistance
21 or grant application, an applicant shall submit to the authority an
22 executed contract for the remediation activities for which the
23 financial assistance or grant application was made. The contract
24 shall be consistent with the terms and conditions for which the
25 financial assistance or grant was rendered. Failure to submit an
26 executed contract within the time provided, without good cause,
27 shall constitute grounds for the alteration of an applicant's priority
28 ranking for the awarding of financial assistance or a grant.
29 (cf: P.L.2005, c.223, s.5)

30

31 4. Section 30 of P.L.1993, c.139 (C.58:10B-8) is amended to
32 read as follows:

33 30. a. The authority shall, by rule or regulation:

34 (1) require a financial assistance or grant recipient to provide to
35 the authority, as necessary or upon request, evidence that financial
36 assistance or grant moneys are being spent for the purposes for
37 which the financial assistance or grant was made, and that the
38 applicant is adhering to all of the terms and conditions of the
39 financial assistance or grant agreement;

40 (2) require the financial assistance or grant recipient to provide
41 access at reasonable times to the subject property to determine
42 compliance with the terms and conditions of the financial assistance
43 or grant;

44 (3) establish a priority system for rendering financial assistance
45 or grants for remediations identified by the department as involving
46 an imminent and significant threat to a public water source, human
47 health, or to a sensitive or significant ecological area pursuant to
48 subsection a. of section 28 of P.L.1993, c.139 (C.58:10B-6);

1 (4) (Deleted by amendment, P.L.2009, c.60);

2 (5) provide that an applicant for financial assistance or a grant
3 pay a reasonable fee for the application which shall be used by the
4 authority for the administration of the loan and grant program;

5 (6) provide that where financial assistance to a person other than
6 a municipality, a county, or a redevelopment entity authorized to
7 exercise redevelopment powers pursuant to section 4 of P.L.1992,
8 c.79 (C.40A:12A-4), is for a portion of the remediation cost, that
9 the proceeds thereof not be disbursed to the applicant until the costs
10 of the remediation for which a remediation funding source has been
11 established has been expended;

12 (7) provide that the amount of a grant for the costs of a remedial
13 action shall not include the cost to remediate a site to meet
14 residential soil remediation standards if the local zoning ordinances
15 adopted pursuant to the "Municipal Land Use Law," P.L.1975,
16 c.291 (C.40:55D-1 et seq.) do not allow for residential use;

17 (8) adopt criteria, which must be met by a municipality, county,
18 or redevelopment entity authorized to exercise redevelopment
19 powers pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4) that
20 applies for a grant pursuant to paragraph (2) of subsection a. of
21 section 28 of P.L.1993, c.139 (C.58:10B-6), that the subject real
22 property will be developed or redeveloped within a three-year
23 period from the completion of the remediation; and

24 (9) adopt such other requirements as the authority shall deem
25 necessary or appropriate in carrying out the purposes for which the
26 Hazardous Discharge Site Remediation Fund was created.

27 b. An applicant for financial assistance or a grant shall be
28 required to:

29 (1) provide proof, as determined sufficient by the authority, that
30 the applicant, where applicable, cannot establish a remediation
31 funding source for all or part of the remediation costs, as required
32 by section 25 of P.L.1993, c.139 (C.58:10B-3). The provisions of
33 this paragraph do not apply to grants to innocent persons, grants for
34 the use of innovative technologies, or grants for the implementation
35 of unrestricted use remedial actions or limited restricted use
36 remedial actions or to financial assistance or grants to
37 municipalities, counties, or redevelopment entities authorized to
38 exercise redevelopment powers pursuant to section 4 of P.L.1992,
39 c.79 (C.40A:12A-4); and

40 (2) demonstrate the ability to repay the amount of the financial
41 assistance and interest, and, if necessary, to provide adequate
42 collateral to secure the financial assistance amount.

43 c. Information submitted as part of a loan or grant application
44 or agreement shall be deemed a public record subject to the
45 provisions of P.L.1963, c.73 (C.47:1A-1 et seq.).

46 d. In establishing requirements for financial assistance or grant
47 applications and financial assistance or grant agreements, the
48 authority:

S1237 VITALE

12

1 (1) shall minimize the complexity and costs to applicants or
2 recipients of complying with such requirements;

3 (2) may not require financial assistance or grant conditions that
4 interfere with the everyday normal operations of the recipient's
5 business activities, except to the extent necessary to ensure the
6 recipient's ability to repay the financial assistance and to preserve
7 the value of the loan collateral; and

8 (3) shall expeditiously process all financial assistance or grant
9 applications in accordance with a schedule established by the
10 authority for the review and the taking of final action on the
11 application, which schedule shall reflect the degree of complexity
12 of a financial assistance or grant application.

13 (cf: P.L.2009, c.60, s.45)

14

15 5. (New section) a. In addition to any other caps and other
16 limitations on financial assistance and grants from the remediation
17 fund as provided in sections 27, 28, and 29 of P.L.1993, c.139
18 (C.58:10B-5, C.58:10B-6, and C.58:10B-7), the authority may only
19 provide financial assistance and grants to any applicant as follows:

20 (1) for a preliminary assessment and site investigation, the
21 authority may award -

22 (a) for a site with soil contamination only, up to 100% of
23 the costs up to a total amount of \$30,000,

24 (b) for any other site, up to a total amount of \$75,000;

25 (2) for a remedial investigation, the authority may award -

26 (a) for a site with soil contamination only, up to 100% of
27 the costs up to a total amount of \$100,000,

28 (b) for any other site, up to a total amount of \$250,000.

29 b. An award of financial assistance or a grant awarded pursuant
30 to P.L.1993, c.139 (C.58:10B-1 et seq.) for a:

31 (1) preliminary assessment or site investigation of a
32 contaminated site shall be expended within two years after the date
33 of the award;

34 (2) remedial investigation of a contaminated site shall be
35 expended within three years after the date of the award.

36 c. Failure to expend an award of financial assistance or a grant
37 from the remediation fund within the time limits established in
38 subsection b. of this section shall result in cancellation of the award.

39

40 6. Section 8 of P.L.2005, c.223 (C.58:10B-25.2) is repealed.

41

42 7. This act shall take effect immediately and shall apply to any
43 application for financial assistance or a grant from the Hazardous
44 Discharge Site Remediation Fund pending before the Department
45 of Environmental Protection on the effective date of this act, or
46 submitted on or after the effective date of the act, but shall not
47 apply to any application determined to be technically eligible and
48 recommended for funding by the Department of Environmental

S1237 VITALE

13

1 Protection and pending before the New Jersey Economic
2 Development Authority on the effective date of this act.

3

4

5

STATEMENT

6

7 This bill would make changes to the laws governing financial
8 assistance and grants for the remediation of contaminated sites from
9 the Hazardous Discharge Site Remediation Fund.

10 The bill would eliminate the availability of grants and loans to
11 persons who would otherwise not be eligible for assistance but who
12 remediate a site using innovative technology, who remediate to an
13 unrestricted use or limited restricted use standard, who voluntarily
14 perform a remediation, or who perform a remediation in an
15 environmental opportunity zone.

16 The bill also establishes limitations on grants to municipalities,
17 counties, and redevelopment entities for projects in brownfield
18 development areas. In those areas and to those government entities,
19 the bill authorizes grants of up to 75 percent of the total costs of the
20 remedial action and no more than \$750,000 at any one site for
21 remedial action. Further, the bill reduces the additional amount
22 over the annual cap on financial assistance and grants otherwise in
23 effect, which may be awarded in any one year to those government
24 entities for projects in brownfield development areas, from
25 \$2,000,000 to \$1,000,000.

26 The bill also reduces the cumulative total amount of matching
27 grants that may be awarded to municipalities, counties, and
28 redevelopment entities for projects involving the redevelopment of
29 property for recreation and conservation purposes from \$5,000,000
30 to \$500,000, and reduces the maximum grant for an individual
31 project in that category from 75 percent to 50 percent of the costs of
32 remedial action.

33 The bill also removes language in current law that allows grants
34 to municipalities, counties, and redevelopment entities for projects
35 involving the redevelopment of property for recreation and
36 conservation purposes, or for affordable housing, even if the public
37 entity does not own the property.

38 The bill reduces the cumulative annual cap on the maximum
39 amount of financial assistance and grants that may be issued to a
40 person from \$1,000,000 to \$500,000, and to municipalities,
41 counties, and redevelopment entities from \$3,000,000 to \$2,000,000
42 except for projects in brownfield development areas as noted above.
43 The bill imposes a cap of \$750,000 on grants to a municipality,
44 county, or redevelopment entity at any one site.

45 The bill changes the priority for the award of financial assistance
46 or grants from the remediation fund to provide first priority to sites
47 on which there has been a discharge and the discharge poses an
48 imminent and significant threat to a drinking water source, to

1 human health, or to a sensitive or significant ecological area;
2 second priority to sites that are owned by a municipality in a
3 brownfield development area where the developer is a public entity;
4 and third priority to sites in areas designated as Planning Area 1
5 (Metropolitan) and Planning Area 2 (Suburban) pursuant to the
6 "State Planning Act".

7 The bill requires the New Jersey Economic Development
8 Authority (EDA) to adopt criteria, which must be met by a
9 municipality, county, or redevelopment entity that applies for a
10 grant, that the subject real property will be developed within a
11 three-year period from completion of the remediation.

12 Finally, in addition to any other caps or limitations in the law,
13 the bill establishes additional limitations on financial assistance and
14 grants. For a preliminary assessment and site investigation, the
15 EDA may award for a site with soil contamination only, up to 100%
16 of the costs up to a total amount of \$30,000, and for any other site,
17 the EDA may award up to a total amount of \$75,000. For a
18 remedial investigation, the EDA may award for a site with soil
19 contamination only, up to 100% of the costs up to a total amount of
20 \$100,000, and for any other site, up to a total amount of \$250,000.
21 The bill also provides that an award of financial assistance or a
22 grant for a preliminary assessment or site investigation of a
23 contaminated site must be expended within two years after the date
24 of the award, and an award of financial assistance or a grant for a
25 remedial investigation of a contaminated site must be expended
26 within three years after the date of the award. If the financial
27 assistance or grant is not expended within the time limits provided,
28 the award would be cancelled.

29 Finally, the bill repeals section 8 of P.L.2005, c.223 (C.58:10B-
30 25.2), which provides for a lien on property for which grant monies
31 are expended by a municipality, county or redevelopment entity that
32 does not have an ownership interest in the property. The section is
33 no longer necessary as the authority to so expend grant monies
34 would no longer be authorized under the bill.

SENATE ENVIRONMENT AND ENERGY COMMITTEE

STATEMENT TO

SENATE, No. 1237

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 11, 2017

The Senate Environment and Energy Committee favorably reports Senate Bill No. 1237 with committee amendments.

As amended, this bill changes the laws governing financial assistance and grants for the remediation of contaminated sites from the Hazardous Discharge Site Remediation Fund. The bill eliminates the availability of grants and loans to persons who would otherwise not be eligible for assistance, but who remediate a site using innovative technology or who remediate to a limited restricted use standard. The bill, would also eliminate the availability of innocent party grants.

The bill establishes limitations on grants to municipalities, counties, and redevelopment entities for projects in brownfield development areas. In those areas and to those government entities, the bill authorizes grants of up to 75 percent of the total costs of the remedial action. Further, the bill reduces the additional amount over the annual cap on financial assistance and grants otherwise in effect, which may be awarded in any one year to those government entities for projects in brownfield development areas, from \$2,000,000 to \$1,000,000.

The bill also reduces the cumulative total amount of matching grants that may be awarded to municipalities, counties, and redevelopment entities for projects involving the redevelopment of property for recreation and conservation purposes from \$5,000,000 to \$2,500,000 per year.

The bill requires that at least 30 percent of the monies in the remediation fund be used for grants to municipalities, counties, and redevelopment entities for projects that are not in brownfield development areas that have been contaminated by a discharge or a suspected discharge of a hazardous substance or hazardous waste.

The bill reduces the cumulative annual cap on the maximum amount of financial assistance and grants that may be issued to a person from \$1,000,000 to \$500,000, and to municipalities, counties, and redevelopment entities from \$3,000,000 to \$2,000,000 except for projects in brownfield development areas as noted above. The bill changes the priority for the award of financial assistance or grants from the remediation fund. First priority is given to sites that have

been contaminated by a discharge or a suspected discharge of a hazardous substance or hazardous waste and where the discharge poses an imminent and significant threat to a drinking water source, to human health, or to a sensitive or significant ecological area; second priority is given to sites that are owned by a municipality in a brownfield development area; and third priority is given to sites in areas designated as Planning Area 1 (Metropolitan) and Planning Area 2 (Suburban) pursuant to the "State Planning Act." The bill requires the New Jersey Economic Development Authority (EDA) to adopt criteria, which must be met by a municipality, county, or redevelopment entity that applies for a grant, that the subject real property be developed within a three-year period from completion of the remediation.

In addition to the caps or limitations in the law, the bill provides that an award of financial assistance or a grant for a preliminary assessment or site investigation of a contaminated site must be expended within two years after the date of the award, and an award of financial assistance or a grant for a remedial investigation of a contaminated site must be expended within five years after the date of the award. If the financial assistance or grant is not expended within the time limits provided, the award would be cancelled. In addition, no award would be approved until the applicant demonstrates to the satisfaction of the EDA that it has expended or will expend the full amount of any previous financial assistance or grant awarded to the applicant for the same property.

The committee amendments would:

(1) retain the availability of grants to qualifying persons who remediate to an unrestricted use standard for that part of a remediation that the person cannot otherwise fund by authorized methods;

(2) eliminate a cap on the dollar amount that may be awarded for a grant at any one site to municipalities, counties, and redevelopment entities for projects in brownfield development areas for a remedial action and specify that grants for remedial action for those projects may only be made when there is a confirmed discharge;

(3) change the cumulative total amount of matching grants that may be awarded to municipalities, counties, and redevelopment entities for projects involving the redevelopment of property for recreation and conservation purposes from \$500,000 to \$2,500,000 and eliminates the reduction that the maximum grant for an individual project in that category may receive and continue to allow grants for up to 75 percent of the costs of remedial action;

(4) retain language in the current law that allows grants to municipalities, counties, and redevelopment entities for projects involving the redevelopment of property for recreation and conservation purposes, or for affordable housing, even if the public entity does not own the property;

(5) restore language that authorizes matching grants of up to \$250,000 for up to 25 percent of the project costs to qualifying persons, municipalities, counties, and redevelopment entities who propose to perform a remedial action for an unrestricted use remedial action;

(6) eliminate a cap of \$750,000 on grants to a municipality, county, or redevelopment entity at any one site;

(7) eliminate the requirement to allocate at least 25 percent of moneys in the fund for financial assistance or grants for projects in brownfield development areas and instead, provide for the allocation of at least 30 percent of the moneys in the fund for grants to municipalities, counties, or redevelopment entities for the preliminary assessment, site investigation, remedial investigation, or remedial action of a contaminated site not located in a brownfield development area;

(8) retain language in current law that does not allow financial assistance to persons who are able to establish a funding source except to a qualified person planning to use an unrestricted use remedial action, a person performing a remediation in an environmental opportunity zone, or a person voluntarily performing a remediation;

(9) delete the availability in the current law for innocent party grants;

(10) delete the requirement that the developer be a public entity for a site owned by a municipality in a brownfield development area to receive second priority for funding under the law;

(11) delete the provisions that imposed, in addition to all other limitations, new caps and limitations on financial assistance and grants;

(12) extend the time from three years to five years in which an award from the fund of financial assistance or a grant is required to be expended for a remedial investigation before it is cancelled;

(13) delete the provision to repeal section 8 of P.L.2005, c.223 (C.58:10B-25.2), which provides for a lien on property for which grant monies are expended by a municipality, county or redevelopment entity that does not have an ownership interest in the property; and

(14) add a provision that provides that no award would be approved until the applicant demonstrates to the satisfaction of the EDA that it has expended or will expend the full amount of any previous financial assistance or grant awarded to the applicant for the same property.

As amended, this bill is identical to Assembly Bill No. 1954 (1R) as amended and reported by the committee.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 1237

STATE OF NEW JERSEY

DATED: DECEMBER 18, 2017

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 1237 (1R).

This bill would make changes to the laws governing financial assistance and grants for the remediation of contaminated sites from the Hazardous Discharge Site Remediation Fund.

The bill would eliminate the availability of grants and loans to persons who would otherwise not be eligible for assistance but who remediate a site using innovative technology, who remediate to an unrestricted use or limited restricted use standard, who voluntarily perform a remediation, or who perform a remediation in an environmental opportunity zone.

The bill also establishes limitations on grants to municipalities, counties, and redevelopment entities for projects in brownfield development areas. In those areas and to those government entities, the bill authorizes grants of up to 75 percent of the total costs of the remedial action and no more than \$750,000 at any one site for remedial action. Further, the bill reduces the additional amount over the annual cap on financial assistance and grants otherwise in effect, which may be awarded in any one year to those government entities for projects in brownfield development areas, from \$2,000,000 to \$1,000,000.

The bill also reduces the cumulative total amount of matching grants that may be awarded to municipalities, counties, and redevelopment entities for projects involving the redevelopment of property for recreation and conservation purposes from \$5,000,000 to \$500,000, and reduces the maximum grant for an individual project in that category from 75 percent to 50 percent of the costs of remedial action.

The bill also removes language in current law that allows grants to municipalities, counties, and redevelopment entities for projects involving the redevelopment of property for recreation and conservation purposes, or for affordable housing, even if the public entity does not own the property.

The bill reduces the cumulative annual cap on the maximum amount of financial assistance and grants that may be issued to a person from \$1,000,000 to \$500,000, and to municipalities, counties,

and redevelopment entities from \$3,000,000 to \$2,000,000 except for projects in brownfield development areas as noted above. The bill imposes a cap of \$750,000 on grants to a municipality, county, or redevelopment entity at any one site.

The bill changes the priority for the award of financial assistance or grants from the remediation fund to provide first priority to sites on which there has been a discharge and the discharge poses an imminent and significant threat to a drinking water source, to human health, or to a sensitive or significant ecological area; second priority to sites that are owned by a municipality in a brownfield development area where the developer is a public entity; and third priority to sites in areas designated as Planning Area 1 (Metropolitan) and Planning Area 2 (Suburban) pursuant to the "State Planning Act".

The bill requires the New Jersey Economic Development Authority (EDA) to adopt criteria, which must be met by a municipality, county, or redevelopment entity that applies for a grant, that the subject real property will be developed within a three-year period from completion of the remediation.

Finally, in addition to any other caps or limitations in the law, the bill establishes additional limitations on financial assistance and grants. For a preliminary assessment and site investigation, the EDA may award for a site with soil contamination only, up to 100% of the costs up to a total amount of \$30,000, and for any other site, the EDA may award up to a total amount of \$75,000. For a remedial investigation, the EDA may award for a site with soil contamination only, up to 100% of the costs up to a total amount of \$100,000, and for any other site, up to a total amount of \$250,000. The bill also provides that an award of financial assistance or a grant for a preliminary assessment or site investigation of a contaminated site must be expended within two years after the date of the award, and an award of financial assistance or a grant for a remedial investigation of a contaminated site must be expended within three years after the date of the award. If the financial assistance or grant is not expended within the time limits provided, the award would be cancelled.

Finally, the bill repeals section 8 of P.L.2005, c.223 (C.58:10B-25.2), which provides for a lien on property for which grant monies are expended by a municipality, county or redevelopment entity that does not have an ownership interest in the property. The section is no longer necessary as the authority to so expend grant monies would no longer be authorized under the bill.

As reported, this bill is identical to Assembly Bill No. 1954 (1R), as also reported by the committee.

FISCAL IMPACT:

The Office of Legislative Services (OLS) determines that this bill would reallocate available Hazardous Discharge Site Remediation Fund (HDSRF) resources among qualified applicants for HDSRF

grants and loans for the remediation of eligible contaminated sites. Given that demand for assistance exceeds available resources, the OLS anticipates that the bill would not alter the total amount of financial assistance provided annually.

The reallocation of available HDSRF resources may affect the revenues of municipalities and counties. The OLS, however, cannot determine to what extent the bill would alter: a) the total amount of HDSRF financial assistance that will be awarded to counties and municipalities; and b) amounts of financial assistance that will be awarded to a particular municipality or county.

The HDSRF is capitalized by constitutionally dedicated moneys from the State Corporation Business Tax. These moneys are appropriated to the New Jersey Economic Development Authority (EDA) for site cleanups on a formulaic basis in the Annual Appropriations Act. Approximately \$10 million in FY 2017 Corporation Business Tax collections was appropriated for this purpose and \$11 million is appropriated therefor in FY 2018.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 1237

STATE OF NEW JERSEY 217th LEGISLATURE

DATED: DECEMBER 20, 2017

SUMMARY

- Synopsis:** Makes changes to funding provisions for financial assistance and grants from Hazardous Discharge Site Remediation Fund.
- Types of Impact:** Reallocation of Hazardous Discharge Site Remediation Fund resources. Indeterminate fiscal impact on municipalities and counties.
- Agencies Affected:** Department of Environmental Protection, New Jersey Economic Development Authority, municipalities, and counties.

Office of Legislative Services Estimate

Fiscal Impact	
Reallocation of Hazardous Discharge Site Remediation Fund Resources	Indeterminate
Local Government Revenue Impact	Indeterminate

- The Office of Legislative Services (OLS) determines that this bill would reallocate available Hazardous Discharge Site Remediation Fund (HDSRF) resources among qualified applicants for HDSRF grants and loans for the remediation of eligible contaminated sites. Given that demand for assistance exceeds available resources, the OLS anticipates that the bill would not alter the total amount of financial assistance provided annually.
- The reallocation of available HDSRF resources may affect the revenues of municipalities and counties. The OLS, however, cannot determine to what extent the bill would alter: a) the total amount of HDSRF financial assistance that will be awarded to counties and municipalities; and b) amounts of financial assistance that will be awarded to a particular municipality or county.
- The HDSRF is capitalized by constitutionally dedicated moneys from the State Corporation Business Tax. These moneys are appropriated to the New Jersey Economic Development Authority (EDA) for site cleanups on a formulaic basis in the Annual Appropriations Act. Approximately \$10 million in FY 2017 Corporation Business Tax collections was appropriated for this purpose and \$11 million is appropriated therefor in FY 2018.

BILL DESCRIPTION

This bill revises the criteria for the awarding of HDSRF grants and loans for the remediation of eligible contaminated sites. The bill reduces maximum award amounts for individual remediation projects; restricts eligibility criteria; revises the priority for the awarding of loans and grants from the fund; limits individual grant awards available to municipalities, counties, and redevelopment entities for projects in brownfield development areas; and establishes a minimum percentage of available HDSRF resources that must be used for grants to municipalities, counties, and redevelopment entities for remediation projects that are not sited in brownfield development areas.

HDSRF grants and loans are available to public entities, private entities, and non-profit organizations at various stages of the remediation process. The Department of Environmental Protection and the EDA co-administer the program.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS determines that this bill would reallocate available HDSRF resources among qualified applicants for HDSRF grants and loans for the remediation of eligible contaminated sites. Given that demand for assistance exceeds available resources, the OLS anticipates that the bill would not alter the total amount of financial assistance provided annually.

The reallocation of available HDSRF resources may affect the revenues of municipalities and counties. The OLS, however, cannot determine to what extent the bill would alter: a) the total amount of HDSRF financial assistance that will be awarded to counties and municipalities; and b) amounts of financial assistance that will be awarded to a particular municipality or county. The establishment or reduction of caps for individual projects, for example, may allow additional municipalities and counties to receive HDSRF support; however, the bill may reduce the award amounts that other municipalities and counties would have received under current law.

The HDSRF is capitalized by constitutionally dedicated moneys from the State Corporation Business Tax. These moneys are appropriated to the EDA for site cleanups on a formulaic basis in the Annual Appropriations Act. Approximately \$10 million in FY 2017 Corporation Business Tax collections was appropriated for this purpose and \$11 million is appropriated therefor in FY 2018.

Section: Environment, Agriculture, Energy and Natural Resources

*Analyst: Neha Mehta Patel
Associate Fiscal Analyst*

*Approved: Frank W. Haines III
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 (C.52:13B-6 et seq.).