

26:3A2-22

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2005 **CHAPTER:** 3

NJSA: 26:3A2-22 (Provides for State and county coordination of emergency response programs)

BILL NO: A1447 (Substituted for S948)

SPONSOR(S): Scalera and others

DATE INTRODUCED: Pre-filed

COMMITTEE: **ASSEMBLY:** Environment and Solid Waste; Homeland Security
SENATE: Law and Public Safety and Veterans' Affairs

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** March 15, 2004

SENATE: December 13, 2004

DATE OF APPROVAL: January 19, 2005

FOLLOWING ARE ATTACHED IF AVAILABLE:

[FINAL TEXT OF BILL](#) Assembly Committee Substitute (2R) enacted

A1447

[SPONSOR'S STATEMENT:](#) (Begins on page 4 of original bill) [Yes](#)

COMMITTEE STATEMENT: **ASSEMBLY:** Yes [1-26-2004 \(Env. & SW\)](#)
[2-19-2004 \(Home. Sec.\)](#)

SENATE: [Yes](#)

[FLOOR AMENDMENT STATEMENT:](#) [Yes](#)

[LEGISLATIVE FISCAL ESTIMATE:](#) [Yes](#)

S948

[SPONSOR'S STATEMENT:](#) (Begins on page 4 of original bill) [Yes](#)

COMMITTEE STATEMENT: **ASSEMBLY:** No

SENATE: [Yes](#)

FLOOR AMENDMENT STATEMENT: No

[LEGISLATIVE FISCAL ESTIMATE:](#) [Yes](#)

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

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REPORTS:

No

HEARINGS:

No

NEWSPAPER ARTICLES:

No

IS 2/21/07

P.L. 2005, CHAPTER 3, *approved January 19, 2005*
Assembly Committee Substitute (*Second Reprint*) for
Assembly, No. 1447

1 **AN ACT** concerning hazardous materials emergency response, and
2 amending and supplementing P.L.1977, c.443 (C.26:3A2-21 et
3 seq.).

4

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

7

8 1. Section 2 of P.L.1977, c.443 (C.26:3A2-22) is amended to read
9 as follows:

10 2. The Legislature finds that environmental health programs for
11 the control of air pollution, solid waste, hazardous waste, noise,
12 pesticides, radiation, and water pollution and to protect workers and
13 the public from hazardous substances and toxic catastrophes are
14 inherently regional in nature and that the existing county health
15 departments have experience administering environmental health
16 programs on a regional basis and that they are among the most
17 efficient health units in the State.

18 The Legislature [, therefore,] declares that it is the policy of this
19 State to provide for the administration of environmental health
20 services by county departments of health throughout the State in a
21 manner which is consistent with certain overall performance standards
22 to be promulgated by the Department of Environmental Protection.
23 The environmental health services shall include the monitoring and
24 enforcement of environmental health standards, the operation of a
25 technical resource center and the enactment and enforcement of
26 environmental health ordinances to control air pollution, solid waste,
27 hazardous waste, noise, pesticides, radiation, and water pollution, to
28 protect workers and the public from hazardous substances and toxic
29 catastrophes, and to protect against other threats to environmental
30 health.

31 The Legislature further declares that the burdens placed upon the
32 existing system of emergency and hazardous materials response
33 programs require the implementation of measures to improve the
34 coordination between the Department of Environmental Protection,
35 the Department of Health and Senior Services, the State Office of
36 Emergency Management in the Division of State Police in the
37 Department of Law and Public Safety, and county health departments

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly AHS committee amendments adopted February 19, 2004.

² Assembly floor amendments adopted March 11, 2004.

1 in order to provide comprehensive Statewide planning and supervision
2 of all ¹emergency management¹ emergency response activities ¹by
3 these departments^{1 2}, and to provide for the Statewide standardization
4 of the necessary and appropriate levels of planning, training,
5 exercising, and equipment availability and usage for each county² for
6 the protection of the public health and the environment, and to
7 properly prepare to respond to a terrorist incident involving chemical,
8 biological, radiological, nuclear, or explosive weapons.
9 (cf: P.L.1991, c.99, s.1)

10

11 2. (New section) a. The Department of Environmental
12 Protection, with the concurrence of the Department of Health and
13 Senior Services and the State Office of Emergency Management in the
14 Division of State Police in the Department of Law and Public Safety,
15 shall develop a comprehensive plan for ²[county coordination of
16 response to threats posed by hazardous materials, and] the
17 standardization and coordination of county hazardous material
18 response programs to effectively address all incidents involving
19 hazardous materials, including, but not limited to,² chemical,
20 biological, radiological, nuclear, or explosive incidents.

21 The plan shall include procedures for ²[a coordinated county,]²
22 State, ²county,² and local response to ²[any incident involving]
23 incidents involving² hazardous materials, ²[or] ,including, but not
24 limited to,² chemical, biological, radiological, nuclear, or explosive
25 ²[materials] incidents², and planning ²[and] ,² training ²,exercising,
26 and equipment² requirements designed to assure that local responders
27 have the capacity, competency and capability to protect the public
28 from exposure to those materials, and shall include the adoption of
29 environmental health performance standards and standards of
30 administrative procedures for county ²[chemical, biological,
31 radiological, nuclear, or explosive] hazardous materials² response.

32 b. The certified local health agency in each county shall develop,
33 in consultation with their county office of emergency management, a
34 comprehensive, coordinated county-wide emergency response program
35 for incidents involving hazardous materials, ²[and] including, but not
36 limited to,² chemical, biological, radiological, nuclear, or explosive
37 ²[materials] incidents² for the county that is consistent with the plan
38 developed by the department pursuant to subsection a. of this section.

39 c. In any county in which there is no certified local health agency,
40 the board of chosen freeholders shall designate a local health agency
41 from the county to develop, in consultation with the county office of
42 emergency management ²and the Department of Health and Senior
43 Services² , a comprehensive, coordinated county-wide emergency
44 response program for incidents involving hazardous materials, ²[and]
45 including, but not limited to,² chemical, biological, radiological,

1 nuclear, or explosive ²[materials] incidents² for the county that is
2 consistent with the plan developed by the department pursuant to
3 subsection a. of this section.

4
5 3. (New section) The Commissioner of Environmental Protection,
6 in accordance with the rules and regulations adopted pursuant to
7 section 4 of P.L. , c. (C.) (before the Legislature as ²section 4
8 of² this bill), to the extent that State or federal funding is available for
9 the purpose, shall make grants available to certified local health
10 agencies, or local health agencies designated by the board of chosen
11 freeholders, as appropriate, for the costs, including the costs of
12 training, equipment and personnel, associated with developing and
13 maintaining an emergency response program for incidents involving
14 hazardous materials, ²[or] including, but not limited to,² chemical,
15 biological, radiological, nuclear, or explosive ²[materials] incidents²
16 , that is consistent with the plan developed by the department pursuant
17 to subsection a. of section 2 of P.L. , c. (C.) (before the
18 Legislature as ²section 2 of² this bill).

19
20 4. (New section) a. The Department of Environmental
21 Protection, with the concurrence of the Department of Health and
22 ²[Human] Senior² Services and the State Office of Emergency
23 Management in the Division of State Police in the Department of Law
24 and Public Safety, and in consultation with representatives of certified
25 local health agencies, shall adopt, pursuant to the "Administrative
26 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and
27 regulations that:

28 (1) establish criteria and procedures for the award of grants to
29 certified local health agencies, or local health agencies, as appropriate,
30 pursuant to section 3 of P.L. , c. (C.) (before the Legislature as
31 ²section 3 of² this bill); ²[and]²

32 (2) establish environmental health performance standards and
33 standards of administrative procedures for county ²hazardous
34 materials response for incidents involving hazardous materials,
35 including, but not limited to,² chemical, biological, radiological,
36 nuclear, or explosive ²[response] incidents; and

37 (3) establish criteria and procedures for the development of inter-
38 local agreements to facilitate the creation of a Statewide mutual aid
39 network for responding to incidents involving hazardous materials,
40 including, but not limited to, chemical, biological, radiological,
41 nuclear, or explosive incidents².

42 b. Prior to the adoption of rules and regulations pursuant to
43 subsection a. of this section, and notwithstanding the provisions of the
44 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.)
45 to the contrary, the Commissioner of Environmental Protection may,
46 immediately upon filing the proper notice with the Office of

1 Administrative Law, adopt such temporary rules and regulations as the
2 commissioner determines are necessary to implement the provisions of
3 P.L. , c. (C.) (before the Legislature as this bill). The temporary
4 rules and regulations shall be in effect for a period not to exceed 270
5 days after the date of the filing, except that in no case shall the
6 temporary rules and regulations be in effect one year after the effective
7 date of P.L. , c. (C.) (before the Legislature as this bill). The
8 temporary rules and regulations shall thereafter be amended, adopted
9 or readopted by the commissioner as the commissioner determines is
10 necessary in accordance with the requirements of the "Administrative
11 Procedure Act."

12

13 5. This act shall take effect immediately.

14

15

16

17

18 Provides for State and county coordination of emergency response
19 programs.

ASSEMBLY, No. 1447

STATE OF NEW JERSEY 211th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2004 SESSION

Sponsored by:

Assemblyman FREDERICK SCALERA

District 36 (Bergen, Essex and Passaic)

Assemblyman GORDON M. JOHNSON

District 37 (Bergen)

SYNOPSIS

Requires adoption of model plan for county coordination of hazardous materials response.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning hazardous materials response, and amending and
2 supplementing P.L.1977, c.443.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. Section 2 of P.L.1977, c.443 (C.26:3A2-22) is amended to read
8 as follows:

9 2. The Legislature finds that environmental health programs for the
10 control of air pollution, solid waste, hazardous waste, noise,
11 pesticides, radiation, and water pollution and to protect workers and
12 the public from hazardous substances and toxic catastrophes are
13 inherently regional in nature and that the existing county health
14 departments have experience administering environmental health
15 programs on a regional basis and that they are among the most
16 efficient health units in the State.

17 The Legislature[, therefore,] declares that it is the policy of this
18 State to provide for the administration of environmental health
19 services by county departments of health throughout the State in a
20 manner which is consistent with certain overall performance standards
21 to be promulgated by the Department of Environmental Protection.
22 The environmental health services shall include the monitoring and
23 enforcement of environmental health standards, the operation of a
24 technical resource center and the enactment and enforcement of
25 environmental health ordinances to control air pollution, solid waste,
26 hazardous waste, noise, pesticides, radiation, and water pollution, to
27 protect workers and the public from hazardous substances and toxic
28 catastrophes, and to protect against other threats to environmental
29 health.

30 The Legislature further declares that the burdens placed upon the
31 existing system of hazardous materials response programs requires the
32 implementation of measures to improve the coordination between
33 responsible State agencies and county health departments in order to
34 provide comprehensive statewide planning and supervision of all
35 hazardous materials response activities in order to protect the public
36 health and the environment, and to properly prepare to respond to a
37 terrorist incident involving a weapon of mass destruction.

38 (cf: P.L.1991, c.99, s.1)

39
40 2. (New section) a. The Department of Environmental Protection,
41 in consultation with the Department of Health and Senior Services and
42 the State Office of Emergency Management in the Division of State
43 Police in the Department of Law and Public Safety, shall develop a

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

Matter underlined thus is new matter.

1 model plan for county coordination of hazardous materials response.
2 The model plan shall include procedures for a coordinated county,
3 State, and local response to any incident involving hazardous materials
4 in order to protect the public from exposure to hazardous materials,
5 and shall include the adoption of environmental and health standards.

6 b. The certified local health agency in each county shall develop a
7 comprehensive, coordinated county-wide hazardous materials response
8 program for the county that is consistent with the model plan
9 developed by the department pursuant to subsection a. of this section.
10 In counties in which there is no certified local health agency, the board
11 of chosen freeholders shall designate a local health agency from the
12 county to develop a comprehensive, coordinated county-wide
13 hazardous materials response program for the county that is consistent
14 with the model plan adopted by the department.
15

16 3. (New section) The Commissioner of Environmental Protection,
17 in accordance with the rules and regulations adopted pursuant to
18 section 4 of P.L. , c. (C.) (now before the Legislature as this bill),
19 may make grants available to certified local health agencies for the
20 costs associated with developing and maintaining a hazardous
21 materials response program that is consistent with the model plan
22 developed by the department pursuant to subsection a. of section 2 of
23 P.L. , c. (C.) (now in the Legislature as this bill).
24

25 4. (New section) a. The Department of Environmental Protection
26 shall adopt, pursuant to the "Administrative Procedure Act,"
27 P.L.1968, c.410 (C.52:14B-1 et seq.) rules and regulations that:

28 (1) establish criteria and procedures for the award of grants to
29 certified local health agencies pursuant to section 3 of P.L. , c. (now
30 before the Legislature as this bill); and

31 (2) establish environmental and health standards for exposure to
32 hazardous materials.

33 b. Prior to the adoption of rules and regulations pursuant to
34 subsection a. of this section, and notwithstanding the provisions of the
35 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.)
36 to the contrary, the Commissioner of Environmental Protection may,
37 immediately upon filing the proper notice with the Office of
38 Administrative Law, adopt such temporary regulations as the
39 commissioner determines is necessary to implement the provisions of
40 P.L. , c. (C.) (now pending before the Legislature as this bill).
41 The temporary regulations shall be in effect for a period not to exceed
42 270 days after the date of the filing, except that in no case shall the
43 temporary regulations be in effect one year after the effective date of
44 P.L. , c. (C.)(now pending before the Legislature as this bill).
45 The temporary regulations may thereafter be amended, adopted or
46 readopted by the commissioner as the commissioner determines is

1 necessary in accordance with the requirements of the "Administrative
2 Procedure Act".

3

4 5. This act shall take effect immediately.

5

6

7

STATEMENT

8

9 This bill would require the Department of Environmental
10 Protection, in consultation with the Department of Health and Senior
11 Services and the State Office of Emergency Management in the
12 Division of State Police in the Department of Law and Public Safety,
13 to develop a model plan for county coordination of hazardous
14 materials response. The model plan shall include procedures for a
15 coordinated county, State, and local response to protect the public
16 from exposure to hazardous materials and the adoption of
17 environmental and health standards. The bill would also require the
18 certified local health agency in each county to develop a
19 comprehensive, coordinated county-wide hazardous materials response
20 program for the county that is consistent with the model plan
21 developed by the department. In counties in which there is no certified
22 local health agency, the board of chosen freeholders shall designate a
23 local health agency from the county to develop the plan. The
24 Commissioner of Environmental Protection may make grants available
25 to certified local health agencies for the costs associated with
26 developing and maintaining a hazardous materials response program
27 that is consistent with the model plan developed by the department.
28 Finally, the bill would authorize the adoption of temporary regulations
29 to implement the provisions of the act.

ASSEMBLY ENVIRONMENT AND SOLID WASTE
COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 1447

STATE OF NEW JERSEY

DATED: JANUARY 26, 2004

The Assembly Environment and Solid Waste Committee reports favorably an Assembly Committee Substitute for Assembly Bill No. 1447.

This committee substitute requires the Department of Environmental Protection (DEP), with the concurrence of the Department of Health and Senior Services and the State Office of Emergency Management in the Division of State Police in the Department of Law and Public Safety, to develop a comprehensive plan for county coordination of response to threats posed by hazardous materials, and chemical, biological, radiological, nuclear, or explosive incidents.

The substitute requires the plan to include procedures for a coordinated county, State, and local response to any incident involving hazardous materials, or chemical, biological, radiological, nuclear, or explosive materials, and planning and training requirements designed to assure that local responders have the capacity, competency and capability to protect the public from exposure to those materials. The plan would include the adoption of environmental health performance standards and standards of administrative procedures for county chemical, biological, radiological, nuclear, or explosive response.

The substitute requires the certified local health agency in each county to develop, in consultation with their county office of emergency management, a comprehensive, coordinated county-wide emergency response program for incidents involving hazardous materials, and chemical, biological, radiological, nuclear, or explosive materials for the county consistent with the plan developed by the DEP. For any county in which there is no certified local health agency, the substitute requires the board of chosen freeholders to designate a local health agency from the county to develop, in consultation with their county office of emergency management, the comprehensive, coordinated county-wide emergency response program for the county consistent with the plan developed by the DEP.

The substitute provides that the DEP Commissioner, to the extent

that State or federal funding is available for the purpose, will make grants available to certified local health agencies, or local health agencies designated by the board of chosen freeholders, as appropriate, for the costs, including the costs of training, equipment and personnel, associated with developing and maintaining an emergency response program for incidents involving hazardous materials, or chemical, biological, radiological, nuclear, or explosive materials, that is consistent with the plan developed by the DEP.

Lastly, the substitute requires the DEP, with the concurrence of the Department of Health and Senior Services and the State Office of Emergency Management in the Division of State Police in the Department of Law and Public Safety, and in consultation with representatives of certified local health agencies, to adopt, rules and regulations that: (1) establish criteria and procedures for the award of grants to certified local health agencies, or local health agencies, as appropriate; and (2) establish environmental health performance standards and standards of administrative procedures for county chemical, biological, radiological, nuclear, or explosive response.

ASSEMBLY HOMELAND SECURITY AND STATE
PREPAREDNESS COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 1447

with committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 19, 2004

The Assembly Homeland Security and State Preparedness Committee reports favorably and with committee amendments an Assembly Committee Substitute for Assembly Bill No. 1447.

This substitute, originally adopted by the Assembly Environment and Solid Waste Committee on January 26, 2004, was second referenced to this committee for further consideration. The substitute is reported favorably by the Assembly Homeland Security and State Preparedness Committee with an additional change to clarify the scope of the legislation.

The substitute requires the Department of Environmental Protection (DEP), with the concurrence of the Department of Health and Senior Services and the State Office of Emergency Management in the Division of State Police in the Department of Law and Public Safety, to develop a comprehensive plan for county coordination of response to threats posed by hazardous materials, and chemical, biological, radiological, nuclear, or explosive incidents.

The substitute requires the plan to include procedures for a coordinated county, State, and local response to any incident involving hazardous materials, or chemical, biological, radiological, nuclear, or explosive materials, and planning and training requirements designed to assure that local responders have the capacity, competency and capability to protect the public from exposure to those materials. The plan would include the adoption of environmental health performance standards and standards of administrative procedures for county chemical, biological, radiological, nuclear, or explosive response.

The substitute requires the certified local health agency in each county to develop, in consultation with their county office of emergency management, a comprehensive, coordinated county-wide emergency response program for incidents involving hazardous materials, and chemical, biological, radiological, nuclear, or explosive materials for the county consistent with the plan developed by the

DEP. For any county in which there is no certified local health agency, the substitute requires the board of chosen freeholders to designate a local health agency from the county to develop, in consultation with their county office of emergency management, the comprehensive, coordinated county-wide emergency response program for the county consistent with the plan developed by the DEP.

The substitute provides that the DEP Commissioner, to the extent that State or federal funding is available for the purpose, will make grants available to certified local health agencies, or local health agencies designated by the board of chosen freeholders, as appropriate, for the costs, including the costs of training, equipment and personnel, associated with developing and maintaining an emergency response program for incidents involving hazardous materials, or chemical, biological, radiological, nuclear, or explosive materials, that is consistent with the plan developed by the DEP.

Lastly, the substitute requires the DEP, with the concurrence of the Department of Health and Senior Services and the State Office of Emergency Management in the Division of State Police in the Department of Law and Public Safety, and in consultation with representatives of certified local health agencies, to adopt, rules and regulations that: (1) establish criteria and procedures for the award of grants to certified local health agencies, or local health agencies, as appropriate; and (2) establish environmental health performance standards and standards of administrative procedures for county chemical, biological, radiological, nuclear, or explosive response.

COMMITTEE AMENDMENTS:

The amendments to the substitute clarify the scope of the legislation. The findings and declarations of the Legislature set forth in the substitute are amended to clarify that the substitute applies to the improved coordination of *emergency management* emergency response activities by the DEP, the Department of Health and Senior Services, the Department of Law and Public Safety through its Office of Emergency Management, and the county health departments.

SENATE LAW AND PUBLIC SAFETY AND VETERANS'
AFFAIRS COMMITTEE

STATEMENT TO

[Second Reprint]

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 1447

STATE OF NEW JERSEY

DATED: NOVEMBER 8, 2004

The Senate Law and Public Safety and Veterans' Affairs Committee reports favorably the Assembly Committee Substitute (2R) for Assembly Bill No. 1447.

This committee substitute requires the Department of Environmental Protection (DEP), with the concurrence of the Department of Health and Senior Services and the State Office of Emergency Management in the Division of State Police in the Department of Law and Public Safety, to develop a comprehensive plan for the standardization and coordination of county hazardous materials response programs to effectively address all incidents involving hazardous materials, including but not limited to chemical, biological, radiological, nuclear, or explosive incidents.

The substitute requires the plan to include procedures for the standardization and coordination of county hazardous materials programs, including but not limited to State, county and local response to incidents involving hazardous materials, including but not limited to chemical, biological, radiological, nuclear, or explosive incidents, and planning, training exercising and equipment requirements designed to assure that local responders have the capacity, competency and capability to protect the public from exposure to those materials. The plan would include the adoption of environmental health performance standards and standards of administrative procedures for county hazardous materials response.

The substitute requires the certified local health agency in each county to develop, in consultation with their county office of emergency management, a comprehensive, coordinated county-wide emergency response program for incidents involving hazardous materials, including but not limited to chemical, biological, radiological, nuclear, or explosive incidents for the county consistent with the plan developed by the DEP. For any county in which there is no certified local health agency, the substitute requires the board of chosen freeholders to designate a local health agency from the county

to develop, in consultation with their county office of emergency management and the Department of Health and Senior Services, the comprehensive, coordinated county-wide emergency response program for the county consistent with the plan developed by the DEP.

The substitute provides that the DEP Commissioner, to the extent that State or federal funding is available for the purpose, will make grants available to certified local health agencies, or local health agencies designated by the board of chosen freeholders, as appropriate, for the costs, including the costs of training, equipment and personnel, associated with developing and maintaining an emergency response program for incidents involving hazardous materials, including but not limited to, chemical, biological, radiological, nuclear, or explosive incidents, that is consistent with the plan developed by the DEP.

Lastly, the substitute requires the DEP, with the concurrence of the Department of Health and Senior Services and the State Office of Emergency Management in the Division of State Police in the Department of Law and Public Safety, and in consultation with representatives of certified local health agencies, to adopt, rules and regulations that: (1) establish criteria and procedures for the award of grants to certified local health agencies, or local health agencies, as appropriate; and (2) establish environmental health performance standards and standards of administrative procedures for county hazardous materials response for incidents involving hazardous materials, including but not limited to chemical, biological, radiological, nuclear, or explosive incidents.

This committee substitute is identical to the Senate Committee Substitute for Senate Bill No. 948, which also was reported by the committee on this same date.

STATEMENT TO

[First Reprint]

ASSEMBLY COMMITTEE SUBSTITUTE FOR **ASSEMBLY, No. 1447**

with Assembly Floor Amendments
(Proposed By Assemblyman SCALERA)

ADOPTED: MARCH 11, 2004

These amendments would make several changes to the proposed development and coordination of State, county, and local hazardous materials response programs. Specifically, the amendments would: 1) broaden the scope of the bill to address the concepts of standardized planning, training, exercising, and equipment availability and usage throughout the State; 2) clarify the Statewide coordination of county-based hazardous materials response planning; and 3) increase the role of the Department of Health and Senior Services in the development and implementation of hazardous materials response programs, including the creation of a Statewide network of mutual aid for responding to incidents involving hazardous materials.

LEGISLATIVE FISCAL ESTIMATE
 [Second Reprint]
ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 1447
STATE OF NEW JERSEY
211th LEGISLATURE

DATED: NOVEMBER 5, 2004

SUMMARY

Synopsis: Provides for State and county coordination of emergency response programs.
Type of Impact: None
Agencies Affected: Department of Environmental Protection, Department of Health and Senior Services, State Office of Emergency Management, and county health agencies.

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	None-See Comments Below		

- ! The bill directs the Department of Environmental Protection (DEP) to develop a comprehensive plan to standardize and coordinate county hazardous materials (Hazmat) response programs to address all hazardous materials incidents including, but not limited to, chemical, biological, radiological, nuclear, or explosive incidents.
- ! The bill requires each county's certified health agency to develop a comprehensive, coordinated county-wide emergency response program for incidents involving hazardous materials that is consistent with the plan developed by the DEP.
- ! The bill directs the DEP to adopt regulations to award grants to counties, establish environmental performance standards for county Hazmat response, and develop inter-local agreements to create a Statewide mutual aid network for responding to Hazmat incidents.
- ! The Office of Legislative Services, with information informally provided by the DEP, estimate that the bill will have no major fiscal impact on the State or the counties.

BILL DESCRIPTION

Assembly Committee Substitute for Assembly Bill No. 1447 (2R) of 2004 amends and supplements the "County Environmental Health Act" by requiring the Department of Environmental Protection (DEP), with the concurrence of the Department of Health and Senior Services (DHSS) and the State Office of Emergency Management (OEM), to develop a comprehensive plan to standardize and coordinate county hazardous materials response programs to address all hazardous materials incidents including, but not limited to, chemical, biological, radiological, nuclear, or explosive incidents.

The substitute further requires each county's certified local health agency to develop a comprehensive, coordinated county-wide emergency response program for incidents involving hazardous materials that is consistent with the plan developed by the DEP. The substitute authorizes the DEP Commissioner, to the extent that State or federal funding is available for this purpose, to make grants available to certified local health agencies for the costs of training, equipment and personnel associated with developing and maintaining an emergency response program for incidents involving hazardous materials, provided it is consistent with the plan developed by the DEP.

Last, the substitute requires the DEP, with the concurrence of the DHSS and the State OEM, and in consultation with representatives of certified local health agencies, to adopt, rules and regulations that: (1) establish criteria and procedures for the award of grants to certified local health agencies; (2) establish environmental health performance standards and administrative procedures for county hazardous materials response to chemical, biological, radiological, nuclear, or explosive incidents; and (3) establish criteria and procedures to develop inter-local agreements to create a Statewide mutual aid network for responding to incidents involving hazardous materials.

FISCAL ANALYSIS

EXECUTIVE BRANCH

Although a Fiscal Note worksheet was not submitted by the Executive Branch, the DEP informally provided the Office of Legislative Services with an analysis of the bill's potential fiscal impacts. With respect to new plan development and rules promulgation, the DEP states that existing personnel would be able to perform these duties at no additional cost. Any State or federal grant-related expenses would likely be covered by the administrative set-asides of such grant programs.

Concerning potential county costs under the bill, the DEP notes that since 2003, \$10 million in federal and state grants have been awarded to counties to fund equipment, training, drills and exercises for Hazmat first responders. As a result, most counties now meet or exceed the minimum Hazmat standards set by the State Police. Regarding current and future support of Hazmat activities described in the bill, State Aid funding to counties is provided under the "County Environmental Health Act", which was increased by \$1 million (to \$3.45 million) in FY 2005. Federal grants and the New Jersey Spill Fund (in cases where responsible party costs cannot be recovered) also provide sources of funding for Hazmat costs. In most instances, however, responsible parties quickly reimburse the Hazmat responders for their costs.

The DEP addresses the potential for additional Hazmat personnel expenses under the bill by pointing out that counties have structured their Hazmat response programs to provide emergency response coverage in a variety of ways, using both full-time and volunteer Hazmat responders. Some personnel may be based in fire departments while others are based in county emergency management offices or health

departments. Many such responders are assigned to unrelated, full-time job responsibilities but respond as needed to Hazmat incidents.

In sum, the DEP believes that, considering the present and future funding sources available to the counties and their current state of Hazmat response readiness, the bill should not have any major fiscal impacts on the State or the counties.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services concurs with the DEP's statements but notes that additional State Aid may be needed in the future if counties are unable to meet rising or extraordinary Hazmat response costs.

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

Analyst: *Richard M. Handelman*
Senior Fiscal Analyst

Approved: *David J. Rosen*
Legislative Budget and Finance Officer

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

SENATE, No. 948

STATE OF NEW JERSEY
211th LEGISLATURE

INTRODUCED FEBRUARY 9, 2004

Sponsored by:

Senator PAUL SARLO

District 36 (Bergen, Essex and Passaic)

Senator BARBARA BUONO

District 18 (Middlesex)

SYNOPSIS

Provides for State and county coordination of emergency response programs.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/7/2004)

1 AN ACT concerning hazardous materials emergency response, and
2 amending and supplementing P.L.1977, c.443 (C.26:3A2-21 et
3 seq.).

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

7
8 1. Section 2 of P.L.1977, c.443 (C.26:3A2-22) is amended to read
9 as follows:

10 2. The Legislature finds that environmental health programs for the
11 control of air pollution, solid waste, hazardous waste, noise,
12 pesticides, radiation, and water pollution and to protect workers and
13 the public from hazardous substances and toxic catastrophes are
14 inherently regional in nature and that the existing county health
15 departments have experience administering environmental health
16 programs on a regional basis and that they are among the most
17 efficient health units in the State.

18 The Legislature [, therefore,] declares that it is the policy of this
19 State to provide for the administration of environmental health
20 services by county departments of health throughout the State in a
21 manner which is consistent with certain overall performance standards
22 to be promulgated by the Department of Environmental Protection.
23 The environmental health services shall include the monitoring and
24 enforcement of environmental health standards, the operation of a
25 technical resource center and the enactment and enforcement of
26 environmental health ordinances to control air pollution, solid waste,
27 hazardous waste, noise, pesticides, radiation, and water pollution, to
28 protect workers and the public from hazardous substances and toxic
29 catastrophes, and to protect against other threats to environmental
30 health.

31 The Legislature further declares that the burdens placed upon the
32 existing system of emergency and hazardous materials response
33 programs require the implementation of measures to improve the
34 coordination between the Department of Environmental Protection,
35 the Department of Health and Senior Services, the State Office of
36 Emergency Management in the Division of State Police in the
37 Department of Law and Public Safety, and county health departments
38 in order to provide comprehensive Statewide planning and supervision
39 of all emergency response activities for the protection of the public
40 health and the environment, and to properly prepare to respond to a
41 terrorist incident involving chemical, biological, radiological, nuclear,
42 or explosive weapons.

43 (cf: P.L.1991, c.99, s.1)

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

Matter underlined thus is new matter.

1 2. (New section) a. The Department of Environmental Protection,
2 with the concurrence of the Department of Health and Senior Services
3 and the State Office of Emergency Management in the Division of
4 State Police in the Department of Law and Public Safety, shall develop
5 a comprehensive plan for county coordination of response to threats
6 posed by hazardous materials, and chemical, biological, radiological,
7 nuclear, or explosive incidents.

8 The plan shall include procedures for a coordinated county, State,
9 and local response to any incident involving hazardous materials, or
10 chemical, biological, radiological, nuclear, or explosive materials, and
11 planning and training requirements designed to assure that local
12 responders have the capacity, competency and capability to protect the
13 public from exposure to those materials, and shall include the adoption
14 of environmental health performance standards and standards of
15 administrative procedures for county chemical, biological, radiological,
16 nuclear, or explosive response.

17 b. The certified local health agency in each county shall develop,
18 in consultation with their county office of emergency management, a
19 comprehensive, coordinated county-wide emergency response program
20 for incidents involving hazardous materials, and chemical, biological,
21 radiological, nuclear, or explosive materials for the county that is
22 consistent with the plan developed by the department pursuant to
23 subsection a. of this section.

24 c. In any county in which there is no certified local health agency,
25 the board of chosen freeholders shall designate a local health agency
26 from the county to develop, in consultation with the county office of
27 emergency management, a comprehensive, coordinated county-wide
28 emergency response program for incidents involving hazardous
29 materials, and chemical, biological, radiological, nuclear, or explosive
30 materials for the county that is consistent with the plan developed by
31 the department pursuant to subsection a. of this section.

32
33 3. (New section) The Commissioner of Environmental Protection,
34 in accordance with the rules and regulations adopted pursuant to
35 section 4 of P.L. , c. (C.) (before the Legislature as this bill), to
36 the extent that State or federal funding is available for the purpose,
37 shall make grants available to certified local health agencies, or local
38 health agencies designated by the board of chosen freeholders, as
39 appropriate, for the costs, including the costs of training, equipment
40 and personnel, associated with developing and maintaining an
41 emergency response program for incidents involving hazardous
42 materials, or chemical, biological, radiological, nuclear, or explosive
43 materials, that is consistent with the plan developed by the department
44 pursuant to subsection a. of section 2 of P.L. , c. (C.) (before the
45 Legislature as this bill).

1 4. (New section) a. The Department of Environmental Protection,
2 with the concurrence of the Department of Health and Human Services
3 and the State Office of Emergency Management in the Division of
4 State Police in the Department of Law and Public Safety, and in
5 consultation with representatives of certified local health agencies,
6 shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968,
7 c.410 (C.52:14B-1 et seq.), rules and regulations that:

8 (1) establish criteria and procedures for the award of grants to
9 certified local health agencies, or local health agencies, as appropriate,
10 pursuant to section 3 of P.L. , c. (C.) (before the Legislature as
11 this bill); and

12 (2) establish environmental health performance standards and
13 standards of administrative procedures for county chemical, biological,
14 radiological, nuclear, or explosive response.

15 b. Prior to the adoption of rules and regulations pursuant to
16 subsection a. of this section, and notwithstanding the provisions of the
17 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.)
18 to the contrary, the Commissioner of Environmental Protection may,
19 immediately upon filing the proper notice with the Office of
20 Administrative Law, adopt such temporary rules and regulations as the
21 commissioner determines are necessary to implement the provisions of
22 P.L. , c. (C.) (before the Legislature as this bill). The temporary
23 rules and regulations shall be in effect for a period not to exceed 270
24 days after the date of the filing, except that in no case shall the
25 temporary rules and regulations be in effect one year after the effective
26 date of P.L. , c. (C.) (before the Legislature as this bill). The
27 temporary rules and regulations shall thereafter be amended, adopted
28 or readopted by the commissioner as the commissioner determines is
29 necessary in accordance with the requirements of the "Administrative
30 Procedure Act."

31
32 5. This act shall take effect immediately.
33
34

35 STATEMENT
36

37 This bill requires the Department of Environmental Protection
38 (DEP), with the concurrence of the Department of Health and Senior
39 Services and the State Office of Emergency Management in the
40 Division of State Police in the Department of Law and Public Safety,
41 to develop a comprehensive plan for county coordination of response
42 to threats posed by hazardous materials, and chemical, biological,
43 radiological, nuclear, or explosive incidents.

44 The bill requires the plan to include procedures for a coordinated
45 county, State, and local response to any incident involving hazardous
46 materials, or chemical, biological, radiological, nuclear, or explosive

1 materials, and planning and training requirements designed to assure
2 that local responders have the capacity, competency and capability to
3 protect the public from exposure to those materials. The plan would
4 include the adoption of environmental health performance standards
5 and standards of administrative procedures for county chemical,
6 biological, radiological, nuclear, or explosive response.

7 The bill requires the certified local health agency in each county to
8 develop, in consultation with their county office of emergency
9 management, a comprehensive, coordinated county-wide emergency
10 response program for incidents involving hazardous materials, and
11 chemical, biological, radiological, nuclear, or explosive materials for
12 the county consistent with the plan developed by the DEP. For any
13 county in which there is no certified local health agency, the bill
14 requires the board of chosen freeholders to designate a local health
15 agency from the county to develop, in consultation with their county
16 office of emergency management, the comprehensive, coordinated
17 county-wide emergency response program for the county consistent
18 with the plan developed by the DEP.

19 The bill provides that the DEP Commissioner, to the extent that
20 State or federal funding is available for the purpose, will make grants
21 available to certified local health agencies, or local health agencies
22 designated by the board of chosen freeholders, as appropriate, for the
23 costs, including the costs of training, equipment and personnel,
24 associated with developing and maintaining an emergency response
25 program for incidents involving hazardous materials, or chemical,
26 biological, radiological, nuclear, or explosive materials, that is
27 consistent with the plan developed by the DEP.

28 Lastly, the bill requires the DEP, with the concurrence of the
29 Department of Health and Senior Services and the State Office of
30 Emergency Management in the Division of State Police in the
31 Department of Law and Public Safety, and in consultation with
32 representatives of certified local health agencies, to adopt, rules and
33 regulations that: (1) establish criteria and procedures for the award of
34 grants to certified local health agencies, or local health agencies, as
35 appropriate; and (2) establish environmental health performance
36 standards and standards of administrative procedures for county
37 chemical, biological, radiological, nuclear, or explosive response.

SENATE LAW AND PUBLIC SAFETY AND VETERANS'
AFFAIRS COMMITTEE

STATEMENT TO

SENATE, No. 948

with committee amendments

STATE OF NEW JERSEY

DATED: NOVEMBER 8, 2004

The Senate Law and Public Safety and Veterans' Affairs Committee reports favorably and with committee amendments Senate Bill No. 948.

As amended and reported by the committee, this bill requires the Department of Environmental Protection (DEP), with the concurrence of the Department of Health and Senior Services and the State Office of Emergency Management in the Division of State Police in the Department of Law and Public Safety, to develop a comprehensive plan for the standardization and coordination of county hazardous materials response programs to effectively address all incidents involving hazardous materials, including but not limited to chemical, biological, radiological, nuclear, or explosive incidents.

The bill requires the plan to include 1) procedures for the standardization and coordination of county hazardous materials programs, including but not limited to State, county and local response to incidents involving hazardous materials, including but not limited to chemical, biological, radiological, nuclear, or explosive incidents, and 2) planning, training exercising and equipment requirements designed to assure that local responders have the capacity, competency and capability to protect the public from exposure to those materials. The plan would include the adoption of environmental health performance standards and standards of administrative procedures for county hazardous materials response.

The bill also requires the certified local health agency in each county to develop, in consultation with their county office of emergency management, a comprehensive, coordinated county-wide emergency response program for incidents involving hazardous materials, including but not limited to chemical, biological, radiological, nuclear, or explosive incidents for the county consistent with the plan developed by the DEP. For any county in which there is no certified local health agency, the bill requires the board of chosen freeholders to designate a local health agency from the county to develop, in consultation with their county office of emergency

management and the Department of Health and Senior Services, the comprehensive, coordinated county-wide emergency response program for the county consistent with the plan developed by the DEP.

The bill provides that the DEP Commissioner, to the extent that State or federal funding is available for the purpose, will make grants available to certified local health agencies, or local health agencies designated by the board of chosen freeholders, as appropriate, for the costs, including the costs of training, equipment and personnel, associated with developing and maintaining an emergency response program for incidents involving hazardous materials, including but not limited to, chemical, biological, radiological, nuclear, or explosive incidents, that is consistent with the plan developed by the DEP.

Lastly, the bill requires the DEP, with the concurrence of the Department of Health and Senior Services and the State Office of Emergency Management in the Division of State Police in the Department of Law and Public Safety, and in consultation with representatives of certified local health agencies, to adopt, rules and regulations that: (1) establish criteria and procedures for the award of grants to certified local health agencies, or local health agencies, as appropriate; and (2) establish environmental health performance standards and standards of administrative procedures for county hazardous materials response for incidents involving hazardous materials, including but not limited to chemical, biological, radiological, nuclear, or explosive incidents.

The committee amended the bill to clarify its scope. The findings and declarations of the Legislature set forth in the bill are amended to clarify that the bill applies to the improved coordination of *emergency management* emergency response activities by the DEP, the Department of Health and Senior Services, the Department of Law and Public Safety through its Office of Emergency Management, and the county health departments. The amendments also broaden the scope of the bill to address the concepts of standardized planning, training, exercising, and equipment availability and usage throughout the State. The amendments also clarify the Statewide coordination of county-based hazardous materials response planning. In addition, the amendments increase the role of the Department of Health and Senior Services in the development and implementation of hazardous materials response programs, including the creation of a Statewide network of mutual aid for responding to incidents involving hazardous materials.

As amended and reported by the committee, this bill is identical to the Assembly Committee Substitute (2R) for Assembly Bill No. 1447, which was reported by the committee on this same date.

LEGISLATIVE FISCAL ESTIMATE
SENATE, No. 948
STATE OF NEW JERSEY
211th LEGISLATURE

DATED: NOVEMBER 17, 2004

SUMMARY

Synopsis: Provides for State and county coordination of emergency response programs.

Type of Impact: None

Agencies Affected: Department of Environmental Protection, Department of Health and Senior Services, State Office of Emergency Management, and county health agencies.

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	None-See Comments Below		

- ! The bill directs the Department of Environmental Protection (DEP) to develop a comprehensive plan for county coordination of response programs to threats posed by hazardous materials, and chemical, biological, radiological, nuclear, or explosive incidents.
- ! The bill requires each county's certified health agency to develop a comprehensive, coordinated county-wide emergency response program for incidents involving hazardous materials that is consistent with the plan developed by the DEP.
- ! The bill directs the DEP to adopt regulations that establish criteria and procedures to award grants to county health agencies and establish environmental health performance standards and procedures for county chemical, biological, radiological, nuclear, or explosive response.
- ! The Office of Legislative Services, with information informally provided by the DEP, estimate that the bill will have no major fiscal impact on the State or the counties.

BILL DESCRIPTION

Senate Bill No. 948 of 2004 amends and supplements the "County Environmental Health Act" by requiring the DEP, with the concurrence of the Department of Health and Senior Services (DHSS) and the State Office of Emergency Management (OEM), to develop a

comprehensive plan for county coordination of response programs to threats posed by hazardous materials, and chemical, biological, radiological, nuclear, or explosive incidents. The plan is to include procedures for State, county and local response to any incident involving hazardous materials and must address planning and training requirements.

The substitute further requires each county's certified local health agency to develop a comprehensive, coordinated county-wide emergency response program for incidents involving hazardous materials that is consistent with the plan developed by the DEP. The substitute authorizes the DEP Commissioner, to the extent that State or federal funding is available for this purpose, to make grants available to certified local health agencies for the costs of training, equipment and personnel associated with developing and maintaining an emergency response program for incidents involving hazardous materials, provided it is consistent with the plan developed by the DEP.

Last, the substitute requires the DEP, with the concurrence of the DHSS and the State OEM, and in consultation with representatives of certified local health agencies, to adopt, rules and regulations that: (1) establish criteria and procedures for the award of grants to certified local health agencies; and (2) establish environmental health performance standards and administrative procedures for county chemical, biological, radiological, nuclear, or explosive response.

FISCAL ANALYSIS

EXECUTIVE BRANCH

Although a Fiscal Note worksheet was not submitted by the Executive Branch, the DEP informally provided the Office of Legislative Services with an analysis of the bill's potential fiscal impacts. With respect to new plan development and rules promulgation, the DEP states that existing personnel would be able to perform these duties at no additional cost. Any new State or federal grant-related expenses would likely be covered by the administrative set-asides of such grant programs.

Concerning potential county costs under the bill, the DEP notes that since 2003, \$10 million in federal and state grants have been awarded to counties to fund equipment, training, drills and exercises for Hazmat first responders. As a result, most counties now meet or exceed the minimum Hazmat standards set by the State Police. Regarding current and future support of Hazmat activities described in the bill, State Aid funding to counties is provided under the "County Environmental Health Act", which was increased by \$1 million (to \$3.45 million) in FY 2005. Federal grants and the New Jersey Spill Fund (in cases when responsible party costs cannot be recovered) also provide sources of funding for Hazmat costs. In most instances, however, responsible parties quickly reimburse the Hazmat responders for their costs.

The DEP addresses the potential for additional Hazmat personnel expenses under the bill by pointing out that counties have structured their Hazmat response programs to provide emergency response coverage in a variety of ways, using both full-time and volunteer Hazmat responders. Some personnel may be based in fire departments while others are based in county emergency management offices or health departments. Many such responders are assigned to unrelated, full-time job responsibilities but respond as needed to Hazmat incidents.

In sum, the DEP believes that, considering the present and future funding sources available to the counties and their current state of Hazmat response readiness, the bill should not have any major fiscal impacts on the State or the counties.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services concurs with the DEP's statements but notes that additional State Aid may be needed in the future if counties are unable to meet rising or extraordinary Hazmat response costs.

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

Analyst: *Richard M. Handelman*
Senior Fiscal Analyst

Approved: *David J. Rosen*
Legislative Budget and Finance Officer

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