

58:10B-3.1

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2005 **CHAPTER:** 355

NJSA: 58:10B-3.1 (Authorizes DEP to replace person responsible for remediation on condemned property with condemnor under certain circumstances)

BILL NO: S2851 (Substituted for A4588)

SPONSOR(S): Smith and others

DATE INTRODUCED: December 1, 2005

COMMITTEE: **ASSEMBLY:**

SENATE: Environment

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** January 9, 2006

SENATE: January 9, 2006

DATE OF APPROVAL: January 12, 2006

FOLLOWING ARE ATTACHED IF AVAILABLE:

[FINAL TEXT OF BILL](#) (2nd reprint enacted)

S2851

[SPONSOR'S STATEMENT:](#) (Begins on page 2 of original bill) [Yes](#)

COMMITTEE STATEMENT: **ASSEMBLY:** No

SENATE: [Yes](#)

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

LEGISLATIVE FISCAL ESTIMATE: No

A4588

[SPONSOR'S STATEMENT:](#) (Begins on page 2 of original bill) [Yes](#)

COMMITTEE STATEMENT: **ASSEMBLY:** [Yes](#)

SENATE: No

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

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 3/3/08

P.L. 2005, CHAPTER 355, *approved January 12, 2006*
Senate, No. 2851 (*Second Reprint*)

1 AN ACT concerning remediation of condemned property, and
2 supplementing P.L.1993, c.139 (C.58:10B-1 et seq.).
3

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

7 1. a. If a local government unit condemns contaminated property
8 pursuant to the "Eminent Domain Act of 1971," P.L.1971, c.361
9 (C.20:3-1 et seq.), and the property is undergoing a remediation, the
10 local government unit may petition the Department of Environmental
11 Protection, in writing, for authority to perform the remediation of the
12 condemned property. The department, upon a determination that the
13 local government unit ¹[is competent] has demonstrated sufficient
14 resources¹ to perform the remediation, may replace the person
15 performing the remediation of the condemned property with the local
16 government unit that has condemned the property ^{2,2} ¹provided that
17 ^{2,2} at the time the condemnation action is filed, ²more than four years
18 have elapsed since² the person performing the remediation ²[has not
19 begun implementation of the remedial action workplan within five
20 years of first entering] first entered² into an oversight document for
21 ²[that] the² site with the Department of Environmental Protection¹
22 ²and the person has not begun implementation of a remedial action
23 workplan for each area of concern on the property² . The department
24 shall not replace the person performing the remediation of the
25 condemned property unless the local government unit enters into ¹[a
26 memorandum of agreement] an appropriate oversight document¹ with
27 the department to perform the remediation.

28 b. Upon the replacement of the person performing a remediation
29 of contaminated property with a local government unit pursuant to
30 subsection a. of this section, the department may release the person
31 ¹performing the remediation¹ from the requirement to establish a
32 remediation funding source as otherwise required pursuant to section
33 25 of P.L.1993, c.139 (C.58:10B-3).
34

35 2. This act shall take effect immediately.

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 Senate SEN committee amendments adopted December 5, 2005.

² Senate floor amendments adopted December 8, 2005.

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3 Authorizes DEP to replace person responsible for remediation on
4 condemned property with condemnor under certain circumstances.

SENATE, No. 2851

STATE OF NEW JERSEY
211th LEGISLATURE

INTRODUCED DECEMBER 1, 2005

Sponsored by:

Senator BOB SMITH

District 17 (Middlesex and Somerset)

Senator JOSEPH V. DORIA, JR.

District 31 (Hudson)

SYNOPSIS

Authorizes DEP to replace person responsible for remediation on condemned property with condemnor under certain circumstances.

CURRENT VERSION OF TEXT

As introduced.



1 ANACT concerning remediation of condemned property, and supplementing
2 P.L.1993, c.139 (C.58:10B-1 et seq.).

3

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

6

7 1. a. If a local government unit condemns contaminated property pursuant
8 to the "Eminent Domain Act of 1971," P.L.1971, c.361 (C.20:3-1 et seq.),
9 and the property is undergoing a remediation, the local government unit may
10 petition the Department of Environmental Protection, in writing, for authority
11 to perform the remediation of the condemned property. The department,
12 upon a determination that the local government unit is competent to perform
13 the remediation, may replace the person performing the remediation of the
14 condemned property with the local government unit that has condemned the
15 property. The department shall not replace the person performing the
16 remediation of the condemned property unless the local government unit enters
17 into a memorandum of agreement with the department to perform the
18 remediation.

19 b. Upon the replacement of the person performing a remediation of
20 contaminated property with a local government unit pursuant to subsection a.
21 of this section, the department may release the person from the requirement
22 to establish a remediation funding source as otherwise required pursuant to
23 section 25 of P.L.1993, c.139 (C.58:10B-3).

24

25 2. This act shall take effect immediately.

26

27

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STATEMENT

29

30 This bill would authorize the Department of Environmental Protection to
31 replace the person responsible for performing a remediation at a property that
32 has been condemned by a local government unit pursuant to the "Eminent
33 Domain Act of 1971." At the request of the condemnor, the department,
34 upon a finding that the local government unit is competent to perform the
35 remediation, may replace the responsible party who is performing the
36 remediation and the local government unit may assume the responsibility for
37 performing the remediation. The local government unit would be required to
38 enter into a memorandum of agreement to perform the remediation. The
39 department would also be authorized to release the person who was
40 performing the remediation from the obligation to establish a remediation
41 funding source as otherwise required pursuant to section 25 of P.L.1993,
42 c.139 (C.58:10B-3).

SENATE ENVIRONMENT COMMITTEE

STATEMENT TO

SENATE, No. 2851

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 5, 2005

The Senate Environment Committee favorably reports Senate Bill No. 2851 with committee amendments.

This bill would authorize the Department of Environmental Protection to replace the person responsible for performing a remediation at a property that has been condemned by a local government unit pursuant to the "Eminent Domain Act of 1971." As amended, the bill would provide that at the request of the condemnor, the department, upon a finding that the local government unit has sufficient resources to perform the remediation, may replace the responsible party who is performing the remediation and the local government unit may assume the responsibility for performing the remediation, provided that at the time the condemnation action is filed, the person performing the remediation has not begun implementation of the remedial action workplan within five years of first entering into an oversight document for that site with the Department of Environmental Protection. As amended, the bill would provide that the local government unit would be required to enter into an appropriate oversight document with the department to perform the remediation. The department would also be authorized to release the person who was performing the remediation from the obligation to establish a remediation funding source as otherwise required pursuant to section 25 of P.L.1993, c.139 (C.58:10B-3).

The committee amendments would require the department to find that the local government unit has sufficient resources to perform the remediation rather than finding that it is competent, and would allow for the replacement only if, at the time of the condemnation, the person performing the remediation had not begun implementation of a remedial action workplan within five years of first entering into an oversight document with the department for that site. Further, the committee amendments would require the local government unit to enter into an appropriate oversight document, rather than a memorandum of agreement, to perform the remediation. Finally, the committee amendments would make a technical change.

STATEMENT TO

[First Reprint]

SENATE, No. 2851

with Senate Floor Amendments
(Proposed By Senator SMITH)

ADOPTED: DECEMBER 8, 2005

These floor amendments change the provisions concerning the replacement of the person performing the remediation to provide that the person may be replaced if, at the time the condemnation action is filed, more than four years have elapsed since the person performing the remediation first entered into an oversight document for the site with the Department of Environmental Protection and the person has not begun implementation of a remedial action workplan for each area of concern on the property.

ASSEMBLY, No. 4588

STATE OF NEW JERSEY 211th LEGISLATURE

INTRODUCED DECEMBER 5, 2005

Sponsored by:

Assemblyman JOHN S. WISNIEWSKI

District 19 (Middlesex)

Assemblyman JOHN F. MCKEON

District 27 (Essex)

SYNOPSIS

Authorizes DEP to replace person responsible for remediation on condemned property with condemnor under certain circumstances.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning remediation of condemned property, and
2 supplementing P.L.1993, c.139 (C.58:10B-1 et seq.).
3

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

7 1. a. If a local government unit condemns contaminated property
8 pursuant to the "Eminent Domain Act of 1971," P.L.1971, c.361
9 (C.20:3-1 et seq.), and the property is undergoing a remediation, the
10 local government unit may petition the Department of Environmental
11 Protection, in writing, for authority to perform the remediation of the
12 condemned property. The department, upon a determination that the
13 local government unit is competent to perform the remediation, may
14 replace the person performing the remediation of the condemned
15 property with the local government unit that has condemned the
16 property. The department shall not replace the person performing the
17 remediation of the condemned property unless the local government
18 unit enters into a memorandum of agreement with the department to
19 perform the remediation.

20 b. Upon the replacement of the person performing a remediation
21 of contaminated property with a local government unit pursuant to
22 subsection a. of this section, the department may release the person
23 from the requirement to establish a remediation funding source as
24 otherwise required pursuant to section 25 of P.L.1993, c.139
25 (C.58:10B-3).
26

27 2. This act shall take effect immediately.
28
29

30 STATEMENT
31

32 This bill would authorize the Department of Environmental
33 Protection to replace the person responsible for performing a
34 remediation at a property that has been condemned by a local
35 government unit pursuant to the "Eminent Domain Act of 1971." At
36 the request of the condemnor, the department, upon a finding that the
37 local government unit is competent to perform the remediation, may
38 replace the responsible party who is performing the remediation and
39 the local government unit may assume the responsibility for
40 performing the remediation. The local government unit would be
41 required to enter into a memorandum of agreement to perform the
42 remediation. The department would also be authorized to release the
43 person who was performing the remediation from the obligation to
44 establish a remediation funding source as otherwise required pursuant
45 to section 25 of P.L.1993, c.139 (C.58:10B-3).

ASSEMBLY ENVIRONMENT AND SOLID WASTE
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4588

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 8, 2005

The Assembly Environment and Solid Waste Committee reports without recommendation and with committee amendments Assembly Bill No. 4588.

This bill, as amended, would authorize the Department of Environmental Protection to replace the person responsible for performing a remediation at a property that has been condemned by a local government unit pursuant to the "Eminent Domain Act of 1971." As amended, the bill would provide that at the request of the condemnor, the department, upon a finding that the local government unit has sufficient resources to perform the remediation, may replace the responsible party who is performing the remediation and the local government unit may assume the responsibility for performing the remediation, provided that, at the time the condemnation action is filed, more than four years have elapsed since the person performing the remediation first entered into an oversight document for the site with the Department of Environmental Protection and the person has not begun implementation of a remedial action workplan for each area of concern on the property. The bill, as amended, would provide that the local government unit would be required to enter into an appropriate oversight document with the department to perform the remediation. The department would also be authorized to release the person who was performing the remediation from the obligation to establish a remediation funding source as otherwise required pursuant to section 25 of P.L.1993, c.139 (C.58:10B-3).

COMMITTEE AMENDMENTS

The committee amendments to the bill:

1) require the department to find that the local government unit has sufficient resources to perform the remediation, rather than finding that it is competent;

2) allow for the replacement only if, at the time of the condemnation, more than four years have elapsed since the person performing the remediation first entered into an oversight document

for the site with the Department of Environmental Protection and the person has not begun implementation of a remedial action workplan for each area of concern on the property;

3) require the local government unit to enter into an appropriate oversight document, rather than a memorandum of agreement, to perform the remediation; and

4) make technical corrections to the bill.