

58:24-11

LEGISLATIVE HISTORY CHECKLIST
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(Clams--trust fund)

NJSA: 58:24-11

LAWS OF: 1995 **CHAPTER:** 335

BILL NO: S2245

SPONSOR(S): Palaia

DATE INTRODUCED: , October 19, 1995

COMMITTEE: **ASSEMBLY** ---

SENATE: Budget

AMENDED DURING PASSAGE: Yes Amendments during passage
First reprint enacted denoted by superscript numbers

DATE OF PASSAGE: **ASSEMBLY:** December 21, 1995

SENATE: December 21, 1995

DATE OF APPROVAL: January 5, 1996

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: **ASSEMBLY:** No

SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: No

MESSAGE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

KBP:pp

[FIRST REPRINT]

SENATE, No. 2245

STATE OF NEW JERSEY

INTRODUCED OCTOBER 19, 1995

By Senator PALAIA

1 AN ACT establishing a trust fund for certain programs
2 monitoring hard and soft clams and supplementing Title 58 of
3 the Revised Statutes.

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

7 1. The Legislature finds and declares that the ¹[on-going]
8 ongoing¹ depurated clam and clam relay programs in
9 ¹[northern]¹ Monmouth County are the only year-round depurated
10 clam and clam relay programs in the State; that due to the
11 volume and constancy of the depurated and relayed clam industry
12 in ¹[northern]¹ Monmouth County, in addition to annual
13 appropriations from the General Fund to the Department of
14 Environmental Protection and the Department of Health,
15 supplemental funding is needed to maintain these programs at the
16 level necessary for the health of the clamming industry and the
17 public consuming the clams; and that companies engaged in
18 clamming in ¹[northern]¹ Monmouth County are willing to and
19 interested in making a contribution to this funding if their
20 contribution is dedicated specifically to depurated hard and soft
21 clam and hard clam relay programs in ¹[northern]¹ Monmouth
22 County.

23 The Legislature therefore determines it is in the public interest
24 to establish a ¹[trust]¹ fund to be known as the ¹["Northern
25 Monmouth] Monmouth¹ County Clam¹ Depuration and Relay
26 Program Fund," and to provide the supplemental funding required
27 from the fund by the establishment of a per-bushel surcharge by
28 the Department of Environmental Protection.

29 2. For the purposes of this act:

30 "Approved areas" ¹[means water] mean waters¹ meeting the
31 sanitary standards for approved shellfish harvesting as
32 recommended by the Interstate Shellfish Sanitation Conference.
33 Waters not classified as prohibited, special restricted, seasonal
34 special restricted, or seasonal pursuant to rules and regulations
35 adopted by the Department of Environmental Protection shall be
36 considered approved for the harvest of shellfish¹.];¹

37 "Bait-harvested clams" ¹[means] mean¹ any hard or soft clams
38 taken from areas other than approved areas for use only as bait
39 and not for human consumption¹.];¹

40 "Depurated" means purified by depuration, ¹or a¹ controlled
41 purification or depuration process to the extent necessary to be
42 acceptable for human consumption in accordance with State law
43 and rules and regulations adopted pursuant thereto¹.];¹

44 "Hard clam" means any member of the species *Mercenaria*
45 *mercenaria*¹.];¹

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:

¹ Senate SNT committee amendments adopted December 7, 1995.

1 "Interstate Shellfish Sanitation Conference" means the formal
2 conference that establishes guidelines and procedures of the
3 National Shellfish Sanitation Program for the sanitary control of
4 the harvesting, processing and distribution of shellfish, and whose
5 membership consists of federal, State and local regulatory
6 agencies responsible for shellfish sanitation, the shellfish industry
7 and the academic community¹.¹

8 "Relayed" means purified by replanting in approved areas after
9 having been taken from areas other than approved areas at
10 market size for the purposes of purification prior to
11 marketing¹.¹

12 "Research" means the taking of shellfish from approved areas
13 or areas other than approved areas, for purposes of scientific
14 investigation requiring naturally contaminated shellfish¹.¹ and¹

15 "Soft clam" means any member of the species *Mya arenaria*.

16 3. a. There is established in the Department of Environmental
17 Protection a nonlapsing, revolving ¹[trust]¹ fund to be known as
18 the ¹["Northern Monmouth] Monmouth¹ County Clam¹
19 Depuration and Relay Program ¹[Fund.] Fund," hereinafter
20 referred to as "the fund."¹ The ¹["Northern Monmouth County
21 Depuration and Relay Program Fund"] fund¹ shall be credited
22 with all surcharges collected pursuant to this section and ¹any¹
23 interest ¹earned¹ on moneys in the ¹["Northern Monmouth
24 County Depuration and Relay Program Fund"] fund¹ shall be
25 credited to the ¹["Northern Monmouth County Depuration and
26 Relay Program Fund" and all] fund. All¹ moneys in the
27 ¹["Northern Monmouth County Depuration and Relay Program
28 Fund" are] fund shall be¹ appropriated for the purposes ¹[of]
29 specified in¹ this section, and no moneys shall be expended for
30 those purposes without the specific appropriation thereof by the
31 Legislature. The Commissioner of Environmental Protection
32 shall be the administrator of the ¹["Northern Monmouth County
33 Depuration and Relay Program Fund,"] fund,¹ and all
34 disbursements from the ¹["Northern Monmouth County
35 Depuration and Relay Program Fund"] fund¹ shall be made by the
36 commissioner. The ¹["Northern Monmouth County Depuration
37 and Relay Program Fund"] fund¹ is established in addition to, and
38 separate from, the "Shellfisheries Law Enforcement Fund"
39 established pursuant to section 3 of P.L.1988, c.35 (C.50:2-3.1),
40 and the moneys disbursed from the ¹["Northern Monmouth
41 County Depuration and Relay Program Fund"] fund¹ shall not
42 replace, but shall be provided in addition to, any revenues
43 appropriated from the General Fund and other sources for the
44 purpose of maintaining and implementing depurated hard or soft
45 clam or relayed hard clam programs in ¹[northern]¹ Monmouth
46 County, or other shellfish programs of which these programs are
47 a part.

48 b. ¹[The Department of Environmental Protection] There¹
49 shall ¹[assess] be assessed¹ a surcharge of \$2.00 on each bushel of
50 depurated or relayed hard clams or depurated soft clams that are
51 harvested as part of the depurated hard or soft clam or hard clam
52 relay programs in ¹[northern]¹ Monmouth County. The
53 Department of Environmental Protection shall establish
54 procedures for ¹the¹ manner and method of the assessment and

1 collection of the surcharges. All surcharges collected by the
2 department pursuant to this section shall be deposited in the
3 ¹["Northern Monmouth County Depuration and Relay Program
4 Fund."] fund¹. Bait-harvested clams and hard or soft clams
5 taken for research purposes shall not be subject to the surcharge
6 established pursuant to this subsection.

7 c. All moneys in the ¹["Northern Monmouth County
8 Depuration and Relay Program Fund"] fund¹ shall be disbursed
9 only for the purpose of funding depurated hard and soft clam or
10 hard clam relay programs in ¹[northern]¹ Monmouth County, as
11 provided in subsection d. of this section.

12 d. The Commissioner of Environmental Protection shall
13 disburse annually the moneys in the ¹["Northern Monmouth
14 County Depuration and Relay Program Fund"] fund¹ for
15 expenditures made by the Department of Environmental
16 Protection and the Department of Health in the implementation
17 of depurated hard or soft clam or hard clam relay programs in
18 ¹[northern]¹ Monmouth County, but in no case in an amount that
19 is greater than the following percentages of the ¹["Northern
20 Monmouth County Depuration and Relay Program Fund"] fund¹
21 available in any one year: ¹[the Bureau of Marine Water
22 Classification in]¹ the Department of Environmental Protection,
23 ¹[33.4%; the Bureau of Marine Enforcement in the Department of
24 Environmental Protection, 33.3%] 66.7%, of which amount half
25 shall be used by the Division of Fish, Game and Wildlife
26 exclusively for the purpose of enforcing the laws, rules and
27 regulations that relate to the harvesting, transportation and
28 marketing of clams that are part of the clam depuration or relay
29 programs in Monmouth County, and half shall be used exclusively
30 for water quality monitoring and classification programs in
31 Monmouth County¹; and the Shellfish Program in the Department
32 of Health, 33.3%.

33 e. On July 15, 1997, and every other year thereafter, the
34 Commissioner of Environmental Protection shall submit in
35 writing to each person participating in clam depuration and relay
36 programs in ¹[northern]¹ Monmouth County and the organizations
37 that represent them, an accounting of the ¹["Northern Monmouth
38 County Depuration and Relay Program Fund,"] fund¹, a
39 determination of the adequacy of the moneys on deposit in the
40 ¹["Northern Monmouth County Depuration and Relay Program
41 Fund"] fund¹ to support the purposes of this act, and the
42 recommendations of the commissioner as to whether any increase
43 or decrease of the surcharge or the termination or expansion of
44 the programs is warranted. Prior to July 15, 1997, the persons
45 participating in clam depuration and relay programs in
46 ¹[northern]¹ Monmouth County and the organizations that
47 represent them shall determine the method by which they shall
48 review the recommendations of the commissioner and submit a
49 response to the commissioner. On ¹[the]¹ August ¹[15] 15th¹
50 following the receipt of the ¹[audit,] accounting of the program,
51 and the¹ determination and recommendations from the
52 commissioner, the persons participating in clam depuration and
53 relay programs in ¹[northern]¹ Monmouth County and the
54 organizations that represent them, in accordance with the

1 agreed-upon method of review and response, shall submit their
2 recommendations concerning the determination and
3 recommendations of the commissioner in writing to the
4 commissioner. After reviewing the response, the commissioner
5 shall submit recommendations based on the response to the
6 Governor and the Legislature.

7 4. Nothing in this act shall be construed to affect or supersede
8 the authority of the Interstate Shellfish Sanitation Conference to
9 establish the guidelines or procedures of the National Shellfish
10 Sanitation Program, or to affect in any way clamming in any
11 other part of the State, including, but not limited to, seasonal
12 depurated hard or soft clam or hard clam relay programs in any
13 other part of the ¹[the]¹ State.

14 5. This act shall take effect on the 90th day following ¹the
15 date of¹ enactment.

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20 Establishes fund for depurated hard and soft clam and hard clam
21 relay programs in Monmouth County; establishes \$2.00 per-bushel
22 surcharge on clams harvested through these programs to be
23 deposited in fund.

STATEMENT

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This bill establishes a nonlapsing, revolving trust fund to be known as the "Northern Monmouth County Depuration and Relay Program Fund," and establishes a \$2.00, per-bushel surcharge on depurated or relayed hard clams and depurated soft clams harvested as part of depurated hard and soft clam or hard clam relay programs in northern Monmouth County. The bill further provides that the moneys in the fund be used solely for the purpose of funding depurated hard and soft clam or hard clam relay programs in northern Monmouth County.

Establishes trust fund for depurated hard and soft clam and hard clam relay programs in northern Monmouth County; establishes \$2.00 per-bushel surcharge on clams harvested through these programs to be deposited in fund.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[FIRST REPRINT]

SENATE, No. 2245

STATE OF NEW JERSEY

DATED: DECEMBER 11, 1995

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 2245 [1R].

Senate Bill No. 2245 [1R] establishes a nonlapsing, revolving fund to be known as the "Monmouth County Clam Depuration and Relay Program Fund," and establishes a \$2.00 per-bushel surcharge on depurated or relayed hard clams and depurated soft clams harvested as part of depurated hard and soft clam or hard clam relay programs in Monmouth County. The bill further provides that the moneys in the fund be used solely for the purpose of funding depurated hard and soft clam or hard clam relay programs in Monmouth County.

Under the bill, 66.7% of the moneys in the fund would be disbursed to the Department of Environmental Protection, of which half would be used by the Division of Fish, Game and Wildlife exclusively for the purpose of enforcing the laws, rules and regulations that relate to the harvesting, transportation and marketing of clams that are part of the clam depuration or relay programs in northern Monmouth County, and half would be used exclusively for water quality monitoring and classification programs in Monmouth County. The remaining 33.3% would be allocated to the Shellfish Program in the Department of Health to be used in connection with the purposes of the bill.

FISCAL IMPACT

Based on information provided by the Department of Environmental Protection's Bureau of Shellfisheries to the Office of Legislative Services on hard clam data for Monmouth County, the surcharge in this bill on hard clams would generate approximately \$162,000 to \$202,000 in revenues annually from the \$2.00 per bushel surcharge. These amounts are based on the combined number of both depurated and relayed hard clams harvested in 1994 throughout Monmouth County (20,245,867 clams).

An estimate of the surcharge on soft clams cannot be made because soft clams have been harvested only since 1995 after a long hiatus on harvesting, and thus no such historical data exists.

The Council on Affordable Housing adopted rules permitting two units on credit for housing in such community residences under certain circumstances.

Under existing law, P.L. 1977, c. 448, these community residences, which are licensed and regulated by the Department of Human Services, are excluded from the category of "health care facilities" and are intended to assist developmentally disabled persons to "live independently in the community."

S-2245/A-3023 establishes a non-lapsing, revolving trust fund and a \$2 per-bushel surcharge on deperated or relayed hard clams and deperated soft clams harvested in Monmouth County programs .

"This legislation will bolster an important component of New Jersey's vital seafood industry while at the same time assuring a good supply of healthy clams for shellfish consumption," said Gov. Whitman.

Under these programs, clams are taken from areas not approved for shellfish harvest due to adverse environmental conditions and relocated in areas approved for harvest. After sufficient time has passed to assure that deperation or purification is complete and public health protected, DEP authorizes the harvest and sale of these shellfish.

The bill provides that one-third of the funds be provided to DEP for enforcement and regulatory activities related to the deputation and relay programs, one third to DEP for water quality monitoring and one-third to the Department of Health for costs related to its clam inspection program.

The bill was sponsored by Senator Joseph Pataia, Assemblymen Steve Corodemus and Tom Smith (R-Monmouth).