

26:3A-22

LEGISLATIVE HISTORY CHECKLIST
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NJSA: 26:3A-22

(County
Environmental
Health agencies--
enforcement)

LAWS OF: 1991

CHAPTER: 99

Bill No: A877

Sponsor(s): Villapiano

Date Introduced: Pre-filed

Committee: Assembly: Energy & Environment

Senate: Environmental Quality

Amended during passage: Yes Amendments during passage
denoted by asterisks.

Date of Passage: Assembly: April 23, 1990

Senate: February 14, 1991

Date of Approval: April 15, 1991

Following statements are attached if available:

Sponsor statement: Yes

Committee Statement: Assembly: Yes

Senate: Yes

Fiscal Note: No

Veto Message: No

Message on signing: No

Following were printed:

Reports: No

Hearings: No

KBG/SLJ

[SECOND REPRINT]
ASSEMBLY, No. 877

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1990 SESSION

By Assemblymen VILLAPIANO, DUCH, Baer, Bryant,
Scerni, Gill, Mecca, Cohen, Assemblywoman Ford
and Assemblyman Jacobson

1 AN ACT concerning environmental health, and amending and
2 supplementing P.L.1977, c.443.

3

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

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

8 2. The Legislature finds that environmental health programs
9 for the control of air pollution, solid waste, hazardous waste,
10 noise, pesticides, radiation, and water pollution and to protect
11 workers and the public from hazardous substances and toxic
12 catastrophes are inherently regional in nature and that the [14]
13 existing county health departments have experience
14 administering environmental health programs on a regional basis
15 and that they are among the most efficient health units in the
16 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
20 a manner which is consistent with certain overall performance
21 standards to be promulgated by the Department of Environmental
22 Protection. The environmental health services shall include the
23 monitoring and enforcement of environmental health standards,
24 the operation of a technical resource center and the enactment
25 and enforcement of environmental health ordinances ¹[on a
26 countywide basis]¹ to control air pollution, solid waste, hazardous
27 waste, noise, pesticides, radiation, and water pollution ¹ [and] ¹
28 to protect workers and the public from hazardous substances and
29 toxic catastrophes ¹, and to protect against other threats to
30 environmental health¹.

31 (cf: P.L.1977, c.443, s.2)

32 2. Section 3 of P.L.1977, c.443 (C.26:3A2-23) is amended to
33 read as follows:

34 3. As used in this act unless otherwise specifically indicated:

35 a. "Air pollution" means the presence in the outdoor
36 atmosphere of one or more air contaminants [of any composition

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 Assembly AEE committee amendments adopted March 15, 1990.

² Senate SEQ committee amendments adopted October 4, 1990.

1 whatsoever,] in such quantities and duration as are, or tend to be,
2 injurious to the human health or welfare, animal or plant life, or
3 property, or would unreasonably interfere with the enjoyment of
4 life or property [within any portion of this State;] anywhere in the
5 State as may be affected thereby, but excludes all aspects of
6 employer-employee relationships with respect to health and
7 safety hazards within the confines of a place of employment.

8 b. "County board" means a county board of health established
9 pursuant to P.L.1975, c.329 (C.26:3A2-1 et seq.) [as amended and
10 supplemented] and having all the powers of a county board of
11 health provided pursuant to law[;].

12 c. "County department" means a county department of health
13 established pursuant to P.L.1975, c.329 (C.26:3A2-1 et seq.) [as
14 amended and supplemented] with the purpose of providing
15 environmental health programs throughout the county and other
16 local health programs in any municipality which contracts
17 therefor with the county board[;].

18 d. "Environmental health" means those health and
19 environmental programs relating to the control of air pollution,
20 solid waste, hazardous waste, noise, pesticides, radiation, and
21 water pollution and to protect workers and the public from
22 hazardous substances and toxic catastrophes, or to such other
23 health and environmental programs as may be designated by the
24 commissioner.

25 e. "Monitor" means check, test, observe, survey or inspect to
26 determine compliance with environmental health standards[;].

27 f. "Noise" means any sounds of such level and duration as to
28 be or tend to be injurious to human health or welfare, or which
29 would unreasonably interfere with the enjoyment of life or
30 property throughout the State or in any portions thereof, but
31 excludes all aspects of the employer-employee relationship
32 concerning health and safety hazards within the confines of a
33 place of employment.

34 g. "Solid waste" means garbage, refuse, and other discarded
35 materials resulting from industrial, commercial and agricultural
36 operations, and from domestic and community activities, and
37 shall include all other waste materials including liquids [except
38 for liquids which are treated in public sewage treatment plants
39 and], except for solid animal and vegetable wastes collected by
40 swine producers licensed by the State Department of Agriculture
41 to collect, prepare and feed such wastes to swine on their own
42 farms.

43 h. "Water pollution" means the presence in or upon the surface
44 or ground waters of this State of one or more contaminants,
45 including any form of solid or liquid waste of any composition
46 whatsoever, in such quantities and duration as are, or tend to be,
47 injurious to the human health or welfare, animal or plant life, or
48 property, or would unreasonably interfere with the enjoyment of
49 life or property within any portion of the State.

1 i. "Certified local health agency" means a local health agency
 2 satisfying the performance and administrative standards
 3 authorized in section 15 of P.L.1977, c.443 (C.26:3A2-33).

4 j. "Commissioner" means the Commissioner of Environmental
 5 Protection.

6 k. "Department" means the Department of Environmental
 7 Protection.

8 l. "Local health agency" means a county department, or
 9 regional or municipal health agency responsible, pursuant to law,
 10 for the conduct, within its area of jurisdiction, of a public health
 11 program administered by a full-time health officer.

12 m. "Pesticides" means "pesticides" as defined in section 3 of
 13 P.L.1971, c.176 (C.13:1F-3).

14 n. "Radiation" means "unnecessary radiation" as defined in
 15 section 2 of P.L.1958, c.116 (C.26:2D-2); radon gas and radon
 16 progeny; "low-level radioactive waste" as defined in section 3 of
 17 P.L.1987, c.333 (C.13:1E-179), or as defined by the Commissioner
 18 of Environmental Protection pursuant to regulation.

19 o. "State statutes concerning environmental health" or
 20 "environmental health laws" means the "Solid Waste Management
 21 Act," P.L.1970, c.39 (C.13:1E-1 et seq.), the "Pesticide Control
 22 Act of 1971," P.L.1971, c.176 (C.13:1F-1 et seq.), the "Noise
 23 Control Act of 1971," P.L.1971, c.418 (C.13:1G-1 et seq.), the
 24 "Radiation Protection Act," P.L.1958, c.116 (C.26:2D-1 et seq.),
 25 the "Environmental Cleanup Responsibility Act," P.L.1983, c.330
 26 (C.13:1K-6 et seq.), the "Toxic Catastrophe Prevention Act,"
 27 P.L.1985, c.403 (C.13:1K-19 et seq.), the "Air Pollution Control
 28 Act (1954)," P.L.1954, c.212 (C.26:2C-1 et seq.), the "Worker and
 29 Community Right to Know Act," P.L.1983, c.315 (C.34:5A-1 et
 30 seq.), the "Water Pollution Control Act," P.L.1977, c.74
 31 (C.58:10A-1 et seq.), P.L.1986, c.102 (C.58:10A-21 et seq.), and
 32 any other State environmental health law that the commissioner
 33 deems appropriate.

34 (cf: P.L.1977, c.443, s.3)

35 3. Section 7 of P.L.1977, c.443 (C.26:3A2-25) is amended to
 36 read as follows:

37 7. [The county department or] A certified local health agency
 38 shall investigate citizen complaints [and]; provide public
 39 information and citizen education services in all matters
 40 concerning environmental health[. The county department or
 41 certified local health agency shall]; monitor the various State
 42 statutes [, rules and regulations] concerning environmental
 43 health, ¹or¹ any rule or regulation adopted pursuant thereto, or
 44 any ordinance adopted pursuant to section 9 of P.L.1977, c.443
 45 (C.26:3A2-27); [shall] report any violation of [said] those statutes,
 46 rules and regulations to the [Department of Environmental
 47 Protection] department; [shall] gather evidence of [said]
 48 violations as required; and [shall] provide witnesses for any
 49 resultant court action as needed. [The county department or] A

1 certified local health agency may maintain an action in a court of
2 competent jurisdiction ¹[against any other person]¹ to enforce, or
3 to restrain the violation of, any environmental health law
4 [statute], rule or regulation , or ordinance [, which is designed to
5 prevent or minimize pollution, impairment or destruction of the
6 environment as provided in the "Environmental Rights Act"
7 (P.L.1974, c.169; C.2A:35A-1 et seq.)] ¹adopted hereunder, which
8 violation occurs, or threatens to occur, within the geographical
9 jurisdiction of a certified local health agency¹.

10 [The county department or] A certified local health agency
11 may initiate legal proceedings for a violation of any
12 environmental health law, rule, regulation, ¹or¹ ordinance ¹[or
13 standard, pursuant to section 10 of P.L.1977, c.443
14 (C.26:3A2-28)]¹ , including the making and issuing of complaints
15 and summonses by serving the summons upon the violator and
16 filing the complaint promptly with a court having jurisdiction.
17 The county counsel or the prosecutor of the municipality in which
18 [any such] a violation has occurred shall be authorized to act as
19 counsel to the [county department or] certified local health
20 agency for [the] prosecution of [any such] the violation, and any
21 penalties collected from the prosecution shall [accrue] be [to the
22 general revenue fund] deposited in the "Environmental Quality
23 and Enforcement Fund" established pursuant to section 8 of
24 P.L.19 , c. (C.) (pending in the Legislature as this bill) for
25 use by the certified local health agency of the county or
26 municipality prosecuting such violations.

27 Unless specifically precluded by State statute, penalties for a
28 violation prosecuted under this section shall be collected pursuant
29 to the "penalty enforcement law," N.J.S.2A:58-1 et seq.
30 (cf: P.L.1983, c.38, s.2)

31 4. Section 9 of P.L.1977, c.443 (C.26:3A2-27) is amended to
32 read as follows:

33 9. [The county board] A board of health of a county or
34 municipality, or a regional health commission, with, or that is, a
35 certified local health agency, or the governing body of any such
36 county or municipality without a board of health or that is not a
37 member of a regional health commission, may ¹, in accordance
38 with this section,¹ formulate, adopt, amend, repeal and enforce
39 environmental health ordinances to control air pollution, solid
40 waste, hazardous waste, noise, pesticides, radiation, ¹[and] or¹
41 water pollution ¹[and] ¹, to protect workers and the public from
42 hazardous substances and toxic catastrophes [for] ¹, or to protect
43 against any other threat to environmental health for which
44 authority has been delegated pursuant to ²[subsection] section²
45 10 of P.L.1977, c.443 (C.26:3A2-28),¹ within the territorial area
46 of the ¹[county, or other local entity] certified local health
47 agency¹. [Such ordinances] Ordinances adopted pursuant to this
48 section shall be consistent with all applicable ²federal and state²
49 statutes, rules and regulations and with any areawide water

1 quality [management plan and any] , air quality, solid waste, or
2 other applicable management plan adopted pursuant to law and
3 approved by the Commissioner of Environmental Protection.
4 Each [such] ordinance [shall be mailed to said commissioner
5 within 1 working day of its passage and shall take effect within
6 30 days of its passage, unless said commissioner disapproves said
7 ordinance during that period] shall be mailed to the commissioner
8 within 5 working days of adoption, and shall take effect within 90
9 days of adoption, unless the commissioner disapproves the
10 ordinance during that period. ²Model ordinances developed
11 pursuant to subsection c. of section 10 of P.L.1977, c.443
12 (C.26:3A2-28) and adopted in full and without alteration by the
13 appropriate governmental entity shall not be mailed to the
14 commissioner and shall take effect immediately.² [Said] An
15 [ordinances] ordinance adopted and approved by the board of
16 health or governing body of a county hereunder shall supersede
17 any environmental health [ordinances] ordinance inconsistent
18 therewith on the same subject adopted by the individual
19 municipalities or a regional health commission within the county,
20 and shall be implemented in accordance with approved
21 interagency agreements between the certified local health
22 agency and the department.

23 ²[Subject to the explicit approval of the commissioner, and
24 except as otherwise specifically provided by law, an
25 environmental health ordinance may be adopted that is more
26 stringent than the statute, rule, regulation, or management plan
27 upon which it is based.]

28 A board of health of a county or municipality, or a regional
29 health commission with, or that is, a certified local health
30 agency, or the governing body of any such county or municipality
31 without a board of health or that is not a member of a regional
32 health commission may adopt an environmental health ordinance
33 that is more stringent than the federal or state statute, rule,
34 regulation, or management plan upon which it is based provided
35 that the federal or state statute, rule, regulation, or management
36 plan allows for the adoption of more stringent ordinances.²

37 Notwithstanding any law, rule, or regulation to the contrary, an
38 environmental health ordinance may provide for penalties for its
39 violation consistent with the penalties established therefor in the
40 applicable environmental health law, or any penalty schedule
41 adopted by the department in accordance therewith.

42 (cf: P.L.1977, c.443, s.9)

43 5. Section 10 of P.L.1977, c.443 (C.26:3A2-28) is amended to
44 read as follows:

45 10. a. The [Commissioner of Environmental Protection]
46 commissioner shall promulgate, after consultation with the
47 Commissioner of Health, environmental health performance
48 standards and standards of administrative procedure for [county
49 departments of health] certified local health agencies pursuant to

1 the "Administrative Procedure Act" (P.L.1968, c.410; C.52:14B-1
2 et seq.). [Such] The standards shall include provisions for the
3 delivery to the [Department of Environmental Protection]
4 department of periodic reports on the results of the monitoring
5 and enforcement activities of the [county departments] certified
6 local health agencies.

7 b. The [Commissioner of Environmental Protection]
8 commissioner may, in the same manner, delegate the
9 administration of one or more aspects of the environmental
10 health laws of this State or of the rules and regulations adopted
11 thereto, which are administered by the [Department of
12 Environmental Protection] department, to a [county department],
13 certified local health agency, after he has adopted specific
14 standards and guidelines for the administration of such programs
15 by [the county departments] certified local health agencies, for
16 so long as he determines that [the county department] a certified
17 local health agency, has the capability and determination to
18 adhere to those specific standards and guidelines. In determining
19 whether to delegate authority to administer all or a portion of
20 any program, or whether a certified local health agency has the
21 capability or determination to assume or retain delegation of
22 program administration, the commissioner shall consider:

23 (1) The consistency of the delegation with applicable federal or
24 State law;

25 (2) The probable effects of the delegation on the effectiveness
26 and efficiency of program administration, and the need for
27 uniform program administration;

28 (3) The availability of technical expertise, adequate staff levels
29 and other resources needed to adequately perform program
30 administration.

31 Under a delegation of program administration for the "Toxic
32 Catastrophe Prevention Act," P.L.1985, c.403 (C.13:1K-19 et
33 seq.) and the "Worker and Community Right to Know Act,"
34 P.L.1983, c.315 (C.34:5A-1 et seq.), delegation may not include
35 authority to require documentation that is in addition to that
36 required to be retained by an employer under those laws.

37 c. The [Commissioner of Environmental Protection]
38 commissioner ¹[is authorized and directed to] shall¹ develop one
39 or more comprehensive model ordinances dealing with the control
40 of air pollution, solid waste, hazardous waste, noise, pesticides,
41 radiation, and water pollution ¹[and to protect], the protection
42 of¹ workers and the public from hazardous substances and toxic
43 catastrophes ¹, or other threats to environmental health for
44 which authority has been delegated,¹ for ¹[the use of [the county]
45 a board of health of a county or municipality, or a regional health
46 commission, with, or that is, a certified local health agency, or
47 the governing body of any such county or municipality without a
48 board of health or that is not a member of a regional commission]
49 use by the appropriate local governmental entity¹, and to provide

1 technical assistance to the [county departments] certified local
2 health agencies.

3 (cf: P.L.1977, c.443, s.10)

4 6. Section 11 of P.L.1977, c.443 (C.26:3A2-29) is amended to
5 read as follows:

6 11. a. The [Commissioner of Environmental Protection]
7 commissioner is authorized to make grants to [the county
8 departments and such municipal or regional agencies certified by
9 the commissioner pursuant to sections 6 and 15] certified local
10 health agencies for the provision of environmental health
11 services. [Said] The commissioner shall prescribe procedures for
12 applying for the grant, and terms and conditions for receiving the
13 grant. The State's contribution shall not exceed 50% of the cost
14 of any undertaking for which a grant is made.

15 b. There is established in the department a non-lapsing
16 environmental health fund that shall consist of all revenues
17 appropriated or otherwise made available for the purpose of
18 making grants on a non-matching basis to certified local health
19 agencies, including such monies from fees, fines and penalties
20 collected by the department in implementing environmental
21 health laws as the department may deposit in the fund. ¹[Monies
22 in the fund] Non-matching grants¹ shall be used by certified local
23 health agencies in the administration or implementation of
24 environmental health laws, or rules or regulations adopted
25 pursuant thereto, for which delegation of program administration
26 has been received, or for implementation of local ordinances
27 adopted in accordance therewith. ¹[Grant] Non-matching grant¹
28 monies may be used only for new or for expanding programs, or
29 for development of technical and administrative procedures and
30 protocols, training and personnel development, special projects
31 and equipment, or other similar purposes approved by the
32 commissioner. Non-matching grants made pursuant to this
33 subsection shall be in addition to grants made pursuant to
34 subsection a. of this section.

35 c. Monies in the fund may be used by the commissioner to
36 provide training, equipment or other services to certified local
37 health agencies for the purpose of assisting them in carrying out
38 their responsibilities under P.L.1977, c.443 (C.26:3A2-21 et seq.).
39 (cf: P.L.1977, c.443, s.11)

40 7. (New section) Notwithstanding any law to the contrary, a
41 certified local health agency, if authorized by ordinance, may
42 charge a reasonable fee for any service provided in connection
43 with an environmental health ordinance, but such fee shall not
44 exceed the estimated cost of providing that service. All fees
45 collected pursuant to this section shall be deposited in the
46 "Environmental Quality and Enforcement Fund," created
47 pursuant to section 8 of P.L. , c. (C.) (pending in the
48 Legislature as this bill). Authorization to charge service fees
49 shall be provided, as appropriate, by ordinance of any county or

1 municipal board of health, or regional health commission, with a
2 county department or that is a certified local health agency, or,
3 in the case of any such county or municipality without a board of
4 health or that is not a member of a regional health commission,
5 of the governing body of that county or municipality.

6 8. (New section) Each county and municipality with a
7 certified local health agency, shall establish an "Environmental
8 Quality and Enforcement Fund." Any fees, fines or penalties
9 collected pursuant to P.L.1977, c.443 (C.26:3A2-21 et seq.) shall
10 be deposited into the respective county or municipal fund, and
11 shall be dedicated to the use of the county department or
12 certified local health agency in carrying out its responsibilities
13 under that act.

14 9. (New section) Within 90 days of the effective date of this
15 act, the Department of Environmental Protection shall review,
16 and revise if necessary, regulations adopted pursuant to P.L.1977,
17 c.443 (C.26:3A2-21 et seq.), to reflect the provisions of P.L. ,
18 c. (C.) (now pending in the legislature as this bill).

19 10. This act shall take effect immediately.

20

21

22 ENVIRONMENT

23

24 Concerns the enforcement by certified local health agencies of
25 environmental health laws.

STATEMENT

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3 Senate Bill No. 3510 would amend the "County Environmental
4 Health Act" (P.L.1977, c.443; C.26:3A-21 et seq.) to:

5 (1) expand the environmental law enforcement authority of
6 certified local health agencies for environmental laws (i.e.,
7 county health departments, and municipal or regional health
8 agencies) to include hazardous wastes, pesticides, radiation, and
9 the protection of workers and the public from hazardous
10 substances and toxic catastrophes;

11 (2) authorize the retention by a county or municipality of
12 penalties collected from local prosecutions of environmental
13 health violations under the "County Environmental Health Act,"
14 with the penalty monies to be dedicated for use by the certified
15 local health agency of the county or municipality prosecuting the
16 violation;

17 (3) establish a special environmental health fund to be used by
18 the Department of Environmental Protection (DEP) to make
19 grants on a non-matching basis to certified local health agencies;

20 (4) authorize the imposition of fees for environmental health
21 services provided by certified local health agencies ; and

22 (5) require counties or municipalities with eligible certified
23 local health agencies to establish special environmental funds for
24 the deposit of fines, penalties and fees collected by those entities.

ENVIRONMENT

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29 Concerns the enforcement by certified local health agencies of
30 environmental health laws.

ASSEMBLY ENERGY AND ENVIRONMENT COMMITTEE

STATEMENT TO

ASSEMBLY, No. 877

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 15, 1990

Assembly Bill No. 877 is reported favorably with committee amendments by the Assembly Energy and Environment Committee

The bill amends the "County Environmental Health Act" (P.L.1977, c.443, C.26:3A-21 et seq.) to:

- (1) expand the environmental law enforcement authority of certified local health agencies; and
- (2) to provide additional financial resources to certified local health agencies in carrying out their obligations under the "County Environmental Health Act."

This bill expands the authority of certified local health agencies (i.e., county health departments, and municipal and regional health agencies certified by the Department of Environmental Protection (DEP) pursuant to the "County Environmental Health Act") to enforce State environmental laws, and local ordinances adopted pursuant thereto. Currently, certified agencies have responsibility for enforcing air pollution, solid waste, noise and water pollution laws. Under the provisions of this bill, certified agencies would also have authority to enforce, subject to DEP approval, State laws on hazardous waste, pesticides, and radiation, and to protect workers and the public from hazardous substances and toxic catastrophes pursuant to the "Worker and Community Right to Know Act," the "Environmental Cleanup Responsibility Act," and the "Toxic Catastrophe Prevention Act." The Commissioner of Environmental Protection may also delegate to certified agencies authority to enforce any other State environmental health law that the commissioner deems appropriate.

Additionally, the bill:

- (1) authorizes counties or municipalities to retain penalties collected from local prosecutions of environmental health violations under the "County Environmental Health Act," to be used as hereinafter provided;
- (2) establishes a special environmental health fund to be used by DEP to make grants on a nonmatching basis to certified agencies;
- (3) authorizes the imposition of fees for environmental health services provided by certified agencies; and
- (4) requires counties or municipalities with certified agencies to establish special environmental funds, and to deposit penalties collected into the fund for use by the certified agency of the county or municipality prosecuting the violation.

Section 4 of the bill:

(1) authorizes the adoption and enforcement by eligible local governmental units of environmental health ordinances in accordance with the "County Environmental Health Act";

(2) requires that all such local ordinances conform to applicable laws, rules, regulations, and area management plans, and that no ordinance shall take effect until submitted for review by the commissioner. The commissioner may disapprove an ordinance.

Section 4 further provides that:

(1) a county environmental health ordinance shall supersede any municipal or regional environmental health ordinance inconsistent therewith;

(2) an environmental health ordinance may be more stringent than a statute, rule, regulation or management plan only if expressly approved by the commissioner; and

(3) an environmental health ordinance may provide for penalty amounts consistent with those of applicable law, or a penalty schedule adopted by DEP pursuant thereto.

Section 5:

(1) directs the commissioner to adopt comprehensive model ordinances for use by local governmental entities;

(2) directs the commissioner, in consultation with the Commissioner of Health, to adopt environmental health performance and administrative procedure standards for certified agencies; and

(3) authorizes the commissioner to delegate administration of designated environmental health laws, or rules or regulations adopted pursuant thereto, upon a determination that a certified agency has the capability and determination to assume and retain delegation, and requires certified agencies to report periodically to the department on their monitoring and enforcement activities.

Section 6 creates a nonlapsing environmental health fund in DEP. Appropriations specifically made therefor, and monies from penalties, fines and fees collected under designated environmental laws may be deposited in the fund for use to make nonmatching grants to certified agencies in administering and implementing delegated programs. The department shall determine the amount of penalties, fines and fees to be deposited in the fund. Grants made pursuant to subsection b. of section 6 shall be used only for new programs, expanding existing programs, for supportive services, or for special programs, equipment, or for training. These grants shall be in addition to the matching grants made pursuant to existing law.

Section 7 authorizes certified agencies, if authorized by ordinance, to charge reasonable fees for services rendered. Monies therefrom shall be deposited into a county's or municipality's environmental fund, along with any fees, fines and penalties for violations of environmental laws or ordinances, for use by the certified agency for that county or municipality.

The Assembly committee amendments are exclusively for clarification purposes.

The bill was pre-filed for introduction in the 1990 session. As reported, the bill includes the changes required by technical review.

SENATE ENVIRONMENTAL QUALITY COMMITTEE

STATEMENT TO

[FIRST REPRINT]

ASSEMBLY, No. 877

with Senate committee amendments

STATE OF NEW JERSEY

DATED: OCTOBER 4, 1990

The Senate Environmental Quality committee favorably reports Assembly Bill No. 877 (1R) with Senate committee amendments.

This bill would amend the "County Environmental Health Act," P.L.1977, c.443 (C.26:3A-21 et seq.), to expand the environmental law enforcement authority of certified local health agencies; and to provide additional financial resources to certified local health agencies in carrying out their obligations under the act.

This bill would expand the authority of certified local health agencies, i.e., county health departments and municipal or regional health agencies certified by the Department of Environmental Protection (DEP) pursuant to the "County Environmental Health Act," to enforce State environmental laws and local ordinances adopted pursuant thereto. Currently, these agencies have responsibility for enforcing air pollution, solid waste, noise, and water pollution laws.

Pursuant to this bill, certified agencies would also have authority to enforce, subject to DEP approval, State laws on hazardous waste, pesticides, and radiation, and to protect workers and the public from hazardous substances and toxic catastrophes pursuant to the "Worker and Community Right to Know Act," the "Environmental Cleanup Responsibility Act," and the "Toxic Catastrophe Prevention Act."

This bill would also allow the Commissioner of Environmental Protection to delegate additional authority to these agencies to enforce any other State environmental health law that the commissioner deems appropriate. The Commissioner would also be directed to adopt comprehensive model ordinances for use by local governmental entities, and, in consultation with the Commissioner of Health, to adopt environmental health performance and administrative procedure standards for certified agencies.

Additionally, the bill would:

(1) authorize counties or municipalities to retain penalties collected from local prosecutions of environmental health violations under the "County Environmental Health Act," to be used as hereinafter provided, and require counties or municipalities with certified agencies to establish special funds into which to deposit these penalties. These monies would be used by the certified agency prosecuting the violation. The department would determine the amount of State penalties, fines, and fees to be deposited in the fund;

(2) establish a special environmental health fund to be used by DEP to make grants on a nonmatching basis to certified agencies, which would be used only for new programs, expanding existing programs, for supportive services, or for special programs, equipment, or training, and would be in addition to the matching grants made pursuant to existing law; and

(3) authorize the imposition of reasonable fees for environmental health services provided by certified agencies and deposit these fees into the special funds.

Ordinances adopted pursuant to the bill would supersede any municipal or regional environmental health ordinance inconsistent therewith. The committee amended the bill to allow local governmental entities to adopt model ordinances developed by the commissioner without department oversight, provided that the models are adopted in full and without alteration. The committee deleted a provision in the bill that would have required the commissioner's approval of more stringent ordinances, and added a provision clarifying the authorization for more stringent ordinances.

Pursuant to these amendments therefore, the adoption of ordinances different from, or more stringent than, model ordinances would be reviewed by the commissioner within 90 days of receipt. Also pursuant to this bill, certified agencies would be required to report periodically to the department on their monitoring and enforcement activities.

The committee also made technical amendments to the bill. As amended and released from committee, A877(1R) is identical to S2790, also amended and released by the committee.



OFFICE OF THE GOVERNOR

NEWS RELEASE

CN-001
Contact:

Emma Byrne
Nancy Kearney
609/292-8956

TRENTON, N.J. 08625
Release:

Monday
April 15, 1991

FIGHT FOR CLEAN WATER BOOSTED BY EXPANDING COUNTY HEALTH DEPARTMENT CAPABILITIES

County health departments will assume greater authority and enforcement responsibility for pollution protection under legislation signed today by Governor Jim Florio.

"Today we're going to deputize a whole new set of people to catch criminals who threaten our drinking water," said Governor Florio. "This County Environmental Health Act increases the authority of local health agencies to pursue polluters. Our drinking water is too important, too precious for us to be anything but super-aggressive in protecting it."

"Today we're adding enforcement of hazardous waste, pesticides and radiation laws to the list of what local agencies can enforce. Of those three items, pesticides and hazardous waste are chief source of the pollution that threatens our drinking water," he said.

The bill, A-877, sponsored by Senator Richard Van Wagner and Assemblymen John Villapiano and Tom Duch, increases the enforcement authority of local health agencies. Currently, local health agencies, certified by the Department of Environmental Protection, have responsibility to enforce air, solid waste, noise and water pollution laws. This bill adds the responsibility of enforcing hazardous waste, pesticide and radiation laws, as well as the authority to protect workers and the public under the "Right to Know Act", the "Toxic Catastrophe Prevention Act" and the Environmental Clean Up Responsibility Act (ECRA).

"Assembly Bill A-877 is a critical tool in streamlining the abilities of the DEP. It not only enhances the department's enforcement efforts, but it gives local government greater powers to deal with environmental matters in their own jurisdiction," said DEP Commissioner Scott Weiner.

"This bill also allows for improved local environmental ordinance adoption, and just as important, permits a new ceiling on the amount of penalties counties, local health departments and boards can impose when their ordinances are violated," said Commissioner Weiner. "A-877 furthers the Governor's environmental initiatives, placing emphasis on recycling, rather than incineration, and pollution prevention efforts."

There are presently 17 counties certified to participate under the County Environmental Health Act. These include Atlantic, Bergen, Burlington, Camden, Cape May, Cumberland, Gloucester, Hudson, Hunterdon, Middlesex, Monmouth, Ocean, Passaic, Salem, Sussex, Union and Warren counties. Somerset County is pending certification. Three counties -- Essex, Morris and Mercer -- have not been certified to participate.

"This is one more message saying to polluters -- we're going to catch you and you're going to pay," Governor Florio said. "And just as we allow local police forces to keep some of the money they confiscate from drug criminals, the local health agencies will be able to keep some of the fines from polluters. That way we'll have better enforcement efforts in the future."

"I think after a year of beefing up our criminal laws against polluters, we can say that the gates are beginning to close. The more people out there looking for those who would pollute our small piece of the planet, the more likely no polluters will escape."

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