

13:13-3

LEGISLATIVE HISTORY CHECKLIST
Compiled by the NJ State Law Library

NJSA: 13:13-3 et al (Delaware & Raritan Canal--jurisdiction)

LAWS OF: 1991 **CHAPTER:** 344

Bill No: A61

Sponsor(s): Schluter and Kamin

Date Introduced: Pre-filed

Committee: Assembly: Transportation

Senate: Natural Resources

Amended during passage: Yes Amendments during passage denoted by asterisks

Date of Passage: Assembly: May 17, 1990

Senate: December 9, 1991

Date of Approval: January 9, 1992

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/dgw

[SECOND REPRINT]

ASSEMBLY, No. 61

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1990 SESSION

By Assemblymen SCHLUTER and KAMIN

1 **AN ACT** concerning the Delaware and Raritan Canal, assigning
2 temporary jurisdiction over certain structures thereof to the
3 Department of Transportation, creating a commission to
4 review the safety of certain structures, amending R.S.13:13-3
5 and P.L.1944, c.172, supplementing chapter 13 of Title 13 of
6 the Revised Statutes, and making an appropriation.

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

10 1. (New section) The Legislature finds and declares that:

11 a. Governor Peter Vroom and members of the Legislature
12 officially opened the Delaware and Raritan Canal on June 24,
13 1834, providing an avenue for transportation between
14 Philadelphia and New York, and providing markets for New
15 Jersey farm goods, as well as industrial products from the cities
16 of Trenton and New Brunswick;

17 b. The canal operated as an avenue for commercial goods from
18 1834 until the winter of 1932-33 when it was closed to
19 navigation, and began its present function of providing a valuable
20 water supply, historic, recreation, and ecological resource that
21 continues to be used by the citizens of this State;

22 c. The value of the canal was recognized by the Legislature,
23 when the 60 mile area of land along the canal was established as
24 a state park, as well as the federal government, which placed the
25 canal on the National Registry of Historic Places;

26 d. However, the benefits associated with the canal have been
27 threatened by deficient safety at bridges that traverse the canal,
28 as well as the substandard construction or total lack of needed
29 barriers and guardrails along the approaches to the canal, and the
30 various roads that parallel its length;

31 e. It is therefore altogether fitting and proper for the
32 Legislature to create a study commission to investigate the
33 relevant public safety issues regarding the Delaware and Raritan
34 Canal, and during the period of investigation to provide for
35 interim jurisdiction by the Department of Transportation so that
36 persons using, or traveling near this precious resource are
37 protected.

38 2. R.S.13:13-3 is amended to read as follows:

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 ATR committee amendments adopted April 26, 1990.

² Assembly floor amendments adopted May 14, 1990.

1 13:13-3. The canal and feeder shall continue to be a public
2 highway, and, until the legislature shall have further directed the
3 use or disposition of the canal and feeder, the [department of
4 conservation and development] Department of Environmental
5 Protection ²or its designee, the New Jersey Water Supply
6 Authority,² shall, until further directions of the legislature,
7 [maintain, repair and keep in safe condition existing highway
8 bridges over the canal and feeder, except such bridges as are now
9 fully maintained as state highway or county bridges,] repair and
10 preserve the banks of the canal and feeder, and at all times keep
11 a flow of water through the canal at a level heretofore
12 maintained when the canal was in operation ²or as necessary to
13 conduct dredging operations or effect repairs², except that,
14 during the period of December fifteenth of each year and March
15 first of the ensuing year, the department [of conservation and
16 development] may close the canal or maintain such flow of water
17 as it deems desirable or necessary to comply with any contract
18 for the sale of water.

19 To insure the flow aforesaid and in order to preserve sanitary
20 conditions in the canal and about the banks thereof and the
21 towpath adjacent thereto, the feeder, the canal and the banks
22 thereof and the towpath shall be kept free of weeds and other
23 growth, save and except such growth as, in the judgment of the
24 department [of conservation and development], is conducive to
25 the appearance of the canal and feeder and the banks and
26 towpath thereof.

27 ²[Until February first, one thousand nine hundred and
28 thirty-five, the department [of conservation and development]
29 shall keep the feeder aforesaid free of weeds and other growth,
30 so that the flow of water may not be impeded, and shall keep the
31 banks of the feeder in good repair and the wickets of the locks in
32 the canal in such condition that they may be opened for the flow
33 of water. Save and except as in this paragraph provided, the
34 department [of conservation and development] shall not be
35 required to do any other repairs to maintain the aforesaid water
36 level until February first, one thousand nine hundred and
37 thirty-five.]²

38 (cf: R.S.13:13-3)

39 3. Section 8 of P.L.1944, c.172 (C.13:13-12.8) is amended to
40 read as follows:

41 8. [The State Highway Commission] The provisions of any law,
42 rule, or regulation to the contrary notwithstanding, and until
43 further direction from the Legislature, the Department of
44 Transportation in co-operation with the Department of
45 [Conservation and Development] Environmental Protection is
46 empowered and directed to enter upon and take possession of, all
47 of the existing vehicle bridges carrying State, county, or
48 municipal roads and any guardrails or barriers along the

1 approaches to any such vehicle bridges over the [said] canal [and
2 to maintain, repair and keep the same in safe condition. The cost
3 of the same shall be borne and paid out of funds appropriated as
4 highway funds].

5 (cf: P.L.1944, c.172, s.8)

6 4. (New section) The provisions of any law, rule, or regulation
7 to the contrary notwithstanding, and until further direction from
8 the Legislature, the Department of Transportation shall have
9 control and responsibility for the maintenance, repair,
10 rehabilitation and replacement of any existing vehicle bridges
11 over the Delaware and Raritan Canal carrying State, county, or
12 municipal roads and any guardrails or barriers along the
13 approaches to these vehicle bridges. The commissioner, in
14 accordance with generally accepted engineering principles,
15 standards or techniques, may, in order to protect the public
16 safety, order the closing of public access, including roads,
17 highways, sidewalk, tracks, paths or passageways, leading to, in,
18 under or near any bridge described pursuant to this amendatory
19 and supplementary act, the provisions of any law, rule, or
20 regulation to the contrary notwithstanding.

21 5. (New section) The Department of Transportation shall
22 consult with the Department of Environmental Protection and the
23 Delaware and Raritan Canal Commission, not less than 30 days
24 before the Department of Transportation undertakes, or causes to
25 be undertaken, any maintenance, repair, rehabilitation and
26 replacement performed upon any existing vehicle bridges carrying
27 State, county, or municipal roads and any guardrails or barriers
28 along the approaches to these vehicle bridges over the Delaware
29 and Raritan Canal. The provisions of section 5 of P.L.1974, c.118
30 (C.13:13A-5), ²Section 4 of P.L. 1970, c. 286 (C. 13:1B-15.131),²
31 or any other law, rule, or regulation to the contrary
32 notwithstanding, the Department of Transportation shall be
33 responsible for the design of any bridges or structures
34 appurtenant thereto along or traversing the canal.

35 6. (New section) Each person, agency of the State or
36 instrumentality thereof owning or controlling a right-of-way
37 shall provide permission for the use of and sufficient access to
38 that right-of-way, and any other incidental services required by
39 the Department of Transportation to undertake its
40 responsibilities under this amendatory and supplementary act.

41 7. (New section) The Commissioner of Transportation shall,
42 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
43 (C.52:14B-1 et seq.) adopt the rules and regulations necessary to
44 carry out its responsibilities under the provisions of this
45 amendatory and supplementary act.

46 8. (New section) There is created a commission to be known
47 as the Delaware and Raritan Canal Transportation Safety Study
48 Commission with a membership of 13 members appointed as

1 follows:

2 a. Two members of the Senate, to be appointed by the
3 President thereof, who shall be of different political parties, and
4 two members of the General Assembly, to be appointed by the
5 Speaker thereof, who shall be of different political parties. The
6 members appointed from the Legislature shall serve only as long
7 as they are members of the House to which they were elected;

8 b. One representative from the Department of Transportation
9 appointed by the commissioner thereof, one representative of the
10 Department of Environmental Protection appointed by the
11 commissioner thereof, one representative of the Delaware and
12 Raritan Canal Commission appointed from the membership of
13 that commission, and one representative of the New Jersey Water
14 Supply Authority appointed by the executive director thereof; and

15 c. Five public members, to be appointed by the Governor, four
16 of whom shall be chosen from among persons residing in the
17 counties of Hunterdon, Somerset, Mercer, and Middlesex, and two
18 of whom chosen from persons residing in municipalities adjacent
19 to the Delaware and Raritan Canal State Park. In making the
20 appointments to the commission, the Governor shall consider the
21 recommendations of concerned environmental groups;
22 transportation groups; historical associations; and members of
23 relevant professions.

24 All appointments shall be made within 60 days of the effective
25 date of this act. Vacancies in the membership of the commission
26 shall be filled in the same manner as the original appointments
27 were made. Members of the commission shall serve without
28 compensation for performing their duties as members, but the
29 commission may, within the limits of funds appropriated or
30 otherwise made available therefor, reimburse members for the
31 actual expenses necessarily incurred in the performance of their
32 duties.

33 9. (New section) The commission shall organize within 30 days
34 after the appointment of its members. The members appointed
35 under subsections a. and c., only, of section 8 of this amendatory
36 and supplementary act shall designate one of the members
37 appointed under subsection a. or c., only, of section 8 as chairman
38 of the commission. The commission shall convene as soon as
39 practicable after the appointment of its members, to select a
40 chairman in the manner described in this section and to hold an
41 organizational meeting. The commission also shall select a
42 secretary who need not be a member of the commission.

43 10. (New section) It shall be the duty of the commission to
44 study all transportation, recreational, and other safety hazards
45 associated with the Delaware and Raritan Canal, and to inquire
46 into the ways in which these hazards might be ²[mitigated]
47 reduced². In conducting the study, the commission shall address
48 such issues as, but shall not necessarily be limited to, the

1 intergovernmental and jurisdictional questions concerning bridges
2 that traverse the canal, the condition of barriers, guardrails, and
3 fences along the canal, ²maintaining the historic and aesthetic
4 integrity of the canal,² and the costs associated with the
5 construction and maintenance of these structures.

6 11. (New section) The commission shall be entitled to call to
7 its assistance and avail itself of the services and assistance of
8 officials and employees of the State and its political subdivisions
9 and their departments, boards, bureaus, authorities, commissions,
10 and agencies as it may require and as may be available to it for
11 its purposes, and to employ stenographic, and clerical assistants
12 and incur such traveling and other miscellaneous expenses as
13 necessary, in order to perform its duties, and may expend any
14 funds appropriated or otherwise made available to it for the
15 purposes of its study. In addition, the Departments of
16 Transportation and Environmental Protection, the Delaware and
17 Raritan Canal Commission, and the New Jersey Water Supply
18 Authority shall provide whatever staff assistance the commission
19 may request.

20 12. (New section) The commission may meet and hold hearings
21 at any time and at any place or places as it shall designate. The
22 commission shall report its findings, conclusions and
23 recommendations to the Governor and the Legislature as soon as
24 practicable but not later than 15 months after the organizational
25 meeting provided for pursuant to section 9 of this amendatory
26 and supplementary act, along with any proposed legislation which
27 it may desire to recommend for adoption by the Legislature.

28 13. There is appropriated ¹[\$75,000] \$5,000¹ to the
29 Department of Transportation from the General Fund to be used
30 exclusively for the duties and responsibilities of the Delaware and
31 Raritan Canal Transportation Safety Study Commission as
32 described in this amendatory and supplementary act.

33 14. This act shall take effect immediately, and sections 8
34 through 12 shall expire 16 months following the date of the
35 organizational meeting provided for pursuant to section 9 of this
36 act.

37
38
39 NATURAL RESOURCES

40
41 Assigns temporary jurisdiction for repair and maintenance of
42 Delaware and Raritan Canal bridges and barriers to DOT; creates
43 Delaware and Raritan Canal Transportation Safety Study
44 Commission; appropriates \$5,000.

1 11. (New section) The commission shall be entitled to call to
2 its assistance and avail itself of the services and assistance of
3 officials and employees of the State and its political subdivisions
4 and their departments, boards, bureaus, authorities, commissions,
5 and agencies as it may require and as may be available to it for
6 its purposes, and to employ stenographic, and clerical assistants
7 and incur such traveling and other miscellaneous expenses as
8 necessary, in order to perform its duties, and may expend any
9 funds appropriated or otherwise made available to it for the
10 purposes of its study. In addition, the Departments of
11 Transportation and Environmental Protection, the Delaware and
12 Raritan Canal Commission, and the New Jersey Water Supply
13 Authority shall provide whatever staff assistance the commission
14 may request.

15 12. (New section) The commission may meet and hold hearings
16 at any time and at any place or places as it shall designate. The
17 commission shall report its findings, conclusions and
18 recommendations to the Governor and the Legislature as soon as
19 practicable but not later than 15 months after the organizational
20 meeting provided for pursuant to section 9 of this amendatory
21 and supplementary act, along with any proposed legislation which
22 it may desire to recommend for adoption by the Legislature.

23 13. There is appropriated \$75,000 to the Department of
24 Transportation from the General Fund to be used exclusively for
25 the duties and responsibilities of the Delaware and Raritan Canal
26 Transportation Safety Study Commission as described in this
27 amendatory and supplementary act.

28 14. This act shall take effect immediately, and sections 8
29 through 12 shall expire 16 months following the date of the
30 organizational meeting provided for pursuant to section 9 of this
31 act.

32

33

34

STATEMENT

35

36 The Delaware and Raritan Canal is a valuable natural and
37 historic resource that redounds to the benefit of many citizens of
38 this State. However, the bridges, guardrails, barriers, and other
39 appurtenant structures designed to protect the recreational
40 public and area motorists are often of deficient construction, or
41 have been improperly maintained. The problem of overlapping
42 and unknown jurisdictions for these safety structures compounds
43 this problem.

44 Because of the ongoing problem of overlapping and unknown
45 jurisdictions, this bill directs the Department of Transportation
46 to take interim responsibility for the repair and maintenance of
47 all vehicle bridges and appurtenant guardrails along the Delaware
48 and Raritan Canal. Although the Department of Transportation

1 shall consult with the Department of Environmental Protection
2 and the Delaware and Raritan Canal Commission prior to the
3 commencement of any construction, the department will be the
4 ultimate arbiter of safety structure or bridge design, and shall be
5 guided primarily by the need to ensure safe travel for the public.

6 In order to address the permanent assignation of control over
7 the various bridges and other safety structures, the bill creates
8 the Delaware and Raritan Canal Transportation Safety Study
9 Commission, which will examine all hazards relating to the canal
10 and report its findings and conclusions to the Governor and the
11 Legislature within 15 months. The commission is composed of 13
12 members drawn from the Legislature, the Departments of
13 Transportation and Environmental Protection, the New Jersey
14 Water Supply Authority, and concerned citizens from those
15 counties and municipalities wherein the Delaware and Raritan
16 Canal State Park is located.

17 The sum of \$75,000 is appropriated from the General Fund to
18 the Department of Transportation to effectuate the purposes of
19 the commission.

20

21

22

NATURAL RESOURCES

23

24 Assigns temporary jurisdiction for repair and maintenance of
25 Delaware and Raritan Canal bridges and barriers to DOT; creates
26 Delaware and Raritan Canal Transportation Safety Study
27 Commission; appropriates \$75,000.

ASSEMBLY TRANSPORTATION COMMITTEE

STATEMENT TO

ASSEMBLY, No. 61

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: APRIL 26, 1990

The Assembly Transportation Committee favorably reports Assembly Bill No. 61 of 1990, with committee amendments.

As amended, this bill would direct the Department of Transportation (DOT) to take interim responsibility for the repair and maintenance of all vehicle bridges and appurtenant guardrails along the Delaware and Raritan Canal. The DOT would consult with the Department of Environmental Protection (DEP) and the Delaware and Raritan Canal Commission prior to the commencement of any construction, but the DOT would be the ultimate arbiter of safety structure or bridge design, and would be guided primarily by the need to ensure safe travel for the public.

In order to address the permanent assignation of control over the various bridges and other safety structures, the bill would create the Delaware and Raritan Canal Transportation Safety Study Commission, which would examine all hazards relating to the canal and would report its findings and conclusions to the Governor and the Legislature within 15 months. The commission would be composed of 13 members drawn from the Legislature, the DOT, the DEP, the New Jersey Water Supply Authority, and concerned citizens from those counties and municipalities in which the Delaware and Raritan Canal State Park is located.

The sum of \$5,000 is appropriated from the General Fund to the DOT to effectuate the purposes of the commission. The committee amended the bill to reduce the amount from the original request of \$75,000.

Technical review was performed on this prefiled bill, as required under Joint Rule 18A of the Senate and General Assembly.

SENATE NATURAL RESOURCES AND
AGRICULTURE COMMITTEE

STATEMENT TO

[SECOND REPRINT]

ASSEMBLY, No. 61

STATE OF NEW JERSEY

DATED: DECEMBER 13, 1990

The Senate Natural Resources and Agriculture Committee favorably reports Assembly Bill No. 61 (2R).

This bill would direct the Department of Transportation to take interim responsibility for the repair and maintenance of all vehicle bridges and appurtenant guardrails along the Delaware and Raritan Canal. Although the Department of Transportation is required to consult with the Department of Environmental Protection and the Delaware and Raritan Canal Commission 30 days prior to the commencement of any construction, the Department of Transportation will be the ultimate arbiter of safety structure or bridge design. It is not the intent of the committee to exempt the actions of the Department of Transportation from review by the Delaware and Raritan Canal Commission and the Department of Environmental Protection in accordance with the act establishing the New Jersey Register of Historic Places, P.L.1970, c.268 (C.13:1B-15.128 et seq.).

The bill would authorize dredging operations and repairs, and would authorize the designee of the Department of Environmental Protection, which is the New Jersey Water Supply Authority, to repair and preserve the banks of the canal and feeder.

In order to address the permanent assigning of control over the various bridges and other safety structures, the bill as reported creates the Delaware and Raritan Canal Transportation Safety Study Commission, which will examine all hazards relating to the canal and the ways to reduce those hazards. The bill would require the study commission to address the issue of maintaining the historic and aesthetic integrity of the canal. The study commission shall report its findings and conclusions to the Governor and the Legislature within 15 months. The study commission would be composed of 13 members drawn from the Legislature, the Departments of Transportation and Environmental Protection, the Delaware and Raritan Canal Commission, the New Jersey Water Supply Authority, and concerned citizens from those counties and municipalities wherein the Delaware and Raritan Canal State Park is located.

The sum of \$5,000 is appropriated from the General Fund to the Department of Transportation to effectuate the purposes of the study commission.

The bill is identical to Senate Bill No. 2680 (1R) which was released by the committee with a favorable recommendation on December 6, 1990.