

LEGISLATIVE HISTORY CHECKLIST

NJSA: 13:1E-177 to 13:1E-198 "Regional Low-level Radioactive Waste Disposal Facility Siting Act"

LAWS OF: 1987

CHAPTER: 333

Bill No: A1275

Sponsor(s): Bennett

Date Introduced: Pre-filed

Committee: **Assembly:** Appropriations; Environmental Quality

Senate: Energy and Environment

Amended during passage: Yes

Date of Passage: **Assembly:** March 12, 1986

Senate: December 10, 1987

Date of Approval: December 22, 1987

Following statements are attached if available:

Sponsor statement: Yes

Committee statement: **Assembly** Yes 2-5-87 and 3-9-87

Senate Yes 6-11-87 and 11-9-87

Fiscal Note: No

Veto Message: No

Message on Signing: Yes

Following were printed:

Reports: No

Hearings: No

See newspaper clippings-- attached:

"Kean enacts siting plan for low-level radioactive waste disposal facility," 12-23-87 Star Ledger.

"Jersey, Connecticut still undecided on site,.." 11-1-87 Star Ledger.

"Kean gets legislation for enactment of A-Waste," 12-11-87 Bergen Record.

[THIRD OFFICIAL COPY REPRINT]

ASSEMBLY, No. 1275

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1986 SESSION

By Assemblyman BENNETT

AN ACT creating a mechanism for the siting of a regional low-level radioactive waste disposal facility, creating a low-level radioactive waste disposal facility siting board and a low-level radioactive waste advisory committee, supplementing Title 32 of the Revised Statutes, and making an appropriation.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. This act shall be known and may be cited as the "Regional
2 Low-Level Radioactive Waste Disposal Facility Siting Act."

1 2. The Legislature finds that Congress, pursuant to the "Low-
2 Level Radioactive Waste Policy Act," Pub. L. 96-573 (42 U.S.C.
3 § 2021b et seq.) *and the "Low-Level Radioactive Waste Policy
3A Act Amendments of 1985," Pub. L. 99-240 (42 U.S.C. 2021d
3B et seq.)*, has declared that, after January 1, 1986, each state
4 shall be responsible for providing capacity for the proper disposal
5 of low-level radioactive waste generated within its borders, except
6 for waste generated as a result of atomic energy defense activities
7 of the federal government or federal research and development
8 activities; that because the management and disposal of radioactive
9 waste would be handled most safely and efficiently on a regional
10 basis, New Jersey, pursuant to P. L. 1983, c. 329 (C. 32:31-1 et al.),
11 has entered as a party state into the Northeast Interstate Low-
12 Level Radioactive Waste Management Compact: and that among
13 the obligations of each party state to that compact is the duty to
14 establish a mechanism for the timely siting of a disposal facility

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 printed in italics *thus* is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

*—Assembly committee amendments adopted February 5, 1987.

**—Assembly committee amendments adopted March 9, 1987.

***—Senate committee amendment adopted November 9, 1987.

15 within its jurisdiction in the event that it is designated as host
16 state for the regional facility.

17 The Legislature further finds that the improper management
18 and disposal of low-level radioactive waste poses a threat to the
19 public health and safety and to the State's natural resources and
20 environment; that a disposal facility appropriately sited and
21 technologically suitable will insure that these wastes are effectively
22 isolated from human contact for the duration of their hazardous
23 lives; and that the location, design, construction, and operation of
24 such a facility is a public purpose in the best interests of all citizens
25 of this State.

26 The Legislature further finds and declares that the most effec-
27 tive, most efficient, and most equitable way to accomplish this
28 purpose is to establish an independent board of experts in the
29 relevant disciplines charged with siting the regional low-level
30 radioactive waste disposal facility in accordance with a procedure
31 which offers the maximum opportunities for the informed partici-
32 pation of the general public, and of the citizens of the local com-
33 munities prospectively impacted, and with supervising the design,
34 construction, and operation of the facility, all as hereinafter pro-
35 vided.

1 3. As used in this act:

2 a. "Board" means the ***[Regional]*** *New Jersey* Low-Level
3 Radioactive Waste Disposal Facility Siting Board created pursuant
4 to section 4 of this act;

5 b. "Commission" means the Northeast *Interstate* Low-Level
6 Radioactive Waste Commission created pursuant to Article IV of
7 P. L. 1983, c. 329 (C. 32:31-5);

8 c. "Committee" means the *New Jersey* Radioactive Waste
9 Advisory Committee created pursuant to section 6 of this act;

10 d. "Department" means the Department of Environmental Pro-
11 tection;

12 e. "Disposal" means the isolation of low-level radioactive waste
13 from the biosphere for the hazardous life of the waste;

14 f. "Environmental and health impact statement" means a state-
15 ment of likely environmental and public health impacts resulting
16 from the construction and operation of the regional low-level
17 radioactive waste disposal facility, and includes an inventory of
18 existing environmental conditions at the site, a project description,
19 an assessment of the impact of the project on the environment and
20 on public health, a listing of unavoidable environmental and public
21 health impacts, and steps to be taken to minimize environmental
22 and public health impacts during construction and operation;

23 g. "Host municipality" means the municipality in which a re-
24 gional low-level radioactive waste disposal facility is to be located;

25 h. "Facility" means the ****[regional low-level, radioactive waste**
26 disposal facility ***[at which]*** **including the** land, buildings,
27 equipment, and improvements used or developed for the treat-
28 ment, storage, or disposal of* the low-level radioactive wastes
28A generated within the party states to the Northeast Low-Level
28B Radioactive Waste Management Compact ***[are to be disposed]***;

29 i. "Low-level radioactive waste" means radioactive waste that
30 (1) is neither high-level waste nor spent fuel, nor by-product
31 material as defined in the "Atomic Energy Act of 1954," 68 Stat.
32 921 (42 U.S.C. § 2011 et seq.); and (2) is classified by the federal
33 government as low-level waste, consistent with existing law; but
34 does not include waste generated as a result of atomic energy
35 defense activities of the federal government, as defined in the
36 "Low-Level Radioactive Waste Policy Act," Pub. L. 96-573 (42
37 U.S.C. § 2021b et seq.) **and the "Low-Level Radioactive Waste*
38 *Policy Act Amendments of 1985," Pub. L. 99-240 (42 U.S.C. 2021d*
38A *et seq.)** or federal research and development activities;

39 j. "Owner or operator" means, in addition to the usual meanings
40 thereof, every owner of record of any interest in land whereon
41 the facility is located;

42 k. "Plan" means the Low-Level Radioactive Waste Disposal
43 Plan adopted by the board pursuant to section 10 of this act ****[.]****
43A ****;**

44 l. "Region" means the geographical area encompassed by the
45 combined jurisdictions of the party states to the Northeast Inter-
46 state Low-Level Radioactive Waste Management Compact; ****and****

47 m. "Site" means both the physical location **with a buffer zone**
48 and the technology employed to isolate low-level radioactive waste
49 at that location.

1 4. a. There is established in the Executive Branch of the State
2 Government a public body corporate and politic, with corporate
3 succession to be known as the ****[Regional]**** ****New Jersey****
4 Low-Level Radioactive Waste Disposal Facility Siting Board. For
5 the purpose of complying with the provisions of Article V, Section
6 IV, paragraph 1 of the New Jersey Constitution, the board is
7 allocated within the Department of Environmental Protection, but,
8 notwithstanding that allocation, the board shall be independent of
9 any supervision or control by the department or by the commis-
10 sioner or any officer or employee thereof. The board shall consti-
11 tute an instrumentality of the State exercising public and essential
12 governmental functions, and the exercise by the board of the

13 powers conferred by this or any other act shall be deemed and
14 held to be an essential governmental function of the State.

15 b. The board shall comprise 11 members, except as otherwise
16 provided in subsection c. of this section*,* as follows: the Com-
17 missioners of the Departments of Environmental Protection and
18 Health, or their designees, who shall serve ex officio; and nine
19 public members, ***of which*** three members ***shall be*** from
20 industries which generate low-level radioactive waste, one of
21 whom shall represent public utilities, one of whom shall represent
22 hospitals or other health care facilities, and one of whom shall
23 represent the radiopharmaceutical or nuclear medical research
24 industries; three members with training and expertise in disciplines
25 relevant to the management of radioactive waste, at least one of
26 whom shall be a physician specializing in nuclear medicine; and
27 three members who shall represent recognized environmental
28 organizations or other public interest groups. Each of the public
29 members shall be appointed by the Governor, with the advice and
30 consent of the Senate, for a term of three years, provided that of
31 the members of the board first appointed by the Governor, three
32 shall serve for terms of one year, three for terms of two years, and
33 three for terms of three years, so that one member from each of
34 the three categories of membership shall be appointed to serve for
35 a term of each duration. Each of these members shall hold office
36 for the term of the appointment and until a successor shall have
37 been appointed and qualified. A member shall be eligible for re-
38 appointment. Any vacancy in the membership occurring other than
39 by expiration of term shall be filled in the same manner as the
40 original appointment, but for the unexpired term only.

41 c. Whenever the board considers the recommendations of an
42 administrative law judge pursuant to subsection a. of section 11
43 hereof, two additional voting members shall be appointed to the
44 board. One of the additional members shall be appointed by the
45 governing body of the county wherein the proposed regional low-
46 level radioactive waste disposal facility is to be located, and the
47 other shall be appointed by the governing body of the proposed
48 host municipality. In the event that the ***proposed*** facility is to
49 be located in more than one county or municipality, each of the
50 affected county and municipal governing bodies shall appoint an
51 additional member of the board, except that all of the county
52 appointments shall share a single vote, and all of the municipal
53 appointments shall share a single vote.

54 d. Each member may be removed from office by the appointing
55 authority, for cause and after opportunity for a hearing, and may

56 be suspended by the appointing authority pending the completion
 57 of the hearing. Any member who shall miss three consecutive
 58 meetings of the board without being ***[executed]*** **excused** for
 59 good cause by the chairman shall be deemed to have vacated his
 59A office.

60 e. Each member of the board shall, before entering upon the
 61 duties, taken and subscribe an oath to perform the duties of office
 62 faithfully, impartially, and justly to the best of the person's ability.
 63 A record of these oaths shall be filed in the office of the Secretary
 64 of State.

65 f. The members of the board shall elect from among their
 66 number a chairman, who shall schedule, convene, and chair board
 67 meetings, and a vice-chairman, who shall act as chairman in his
 68 absence. The members of the board shall appoint an executive
 69 director, who shall be the chief administrative officer and secretary
 70 of the board. The executive officer shall serve at the pleasure of
 71 the board, and shall be a person qualified by training and experi-
 72 ence to perform the duties of his office.

73 g. The powers of the board shall be vested in the members
 74 thereof in office, and a majority of the total authorized membership
 75 of the board shall be required to exercise its powers at any meeting
 76 thereof.

77 h. Each member of the board shall execute a bond to be condi-
 78 tioned upon the faithful performance of duties in a form and
 79 amount prescribed by the State Treasurer. The bonds shall be
 80 filed in the office of the Secretary of State. At all times thereafter,
 81 the board members shall maintain the bonds in full force. The
 82 board shall pay the cost of the bonds.

83 i. The members of the board shall serve without compensation,
 84 but the board may, within the limits of funds appropriated or
 85 otherwise made available therefor, reimburse members for actual
 86 expenses necessarily incurred in the discharge of their official
 87 duties.

88 **j. The members of the board may request, and the Attorney
 89 General shall provide, legal services as these services are pro-
 90 vided to the department.**

91 ***[j.]*** **k.** A true copy of the minutes of every meeting of the
 92 board shall be prepared and forthwith delivered by and under the
 93 certification of the secretary thereof to the Governor. No action
 94 taken at the meeting by the board shall have effect until 10 days,
 95 Saturdays, Sundays, and public holidays excepted, after the copy
 96 of the minutes shall have been so delivered, unless during the
 97 10-day period, the Governor shall approve the minutes, in which

98 case the action shall become effective upon that approval. If, in
 99 the 10-day period, the Governor returns the copy of the minutes
 100 with a veto of any action taken by the board at that meeting, the
 101 action shall be of no effect.

1 5. The board shall have the following powers and duties:

2 a. To adopt bylaws for the regulation of its affairs and the
 3 conduct of its business;

4 b. To adopt and have a seal and to alter the same at its pleasure;

5 ***[c.]** *c.* To sue and to be sued;*

6 ***[d.]** *c.* To enter into contracts upon such terms and condi-
 7 tions as the board shall determine to be reasonable, and to pay or
 8 compromise any claim arising therefrom;

9 ***[e.]** *d.* To call to its assistance and avail itself of the ser-
 10 vices of such employees of any State, county or municipal depart-
 11 ment, board, commission or agency as may be required and made
 12 available for these purposes;

13 ***[f.]** *e.* To contract for and to accept any gifts or grants or
 14 loans of funds or financial or other aid in any form from the
 15 United States of America or any agency, instrumentality or political
 16 subdivision thereof, and to comply, subject to the provisions of the
 17 act, with terms and conditions thereof;

18 ***[g.]** *f.* To employ an executive director, consulting engi-
 19 neers, attorneys, real estate counselors, appraisers, and such other
 20 consultants and employees as may be required in the judgment of
 21 the board to carry out the purposes of this act, and to fix and pay
 22 their compensation from funds available to the board therefor, all
 23 without regard to the provisions of Title ****[11, Civil Service, of**
 24 **the Revised]**** ***11A of the New Jersey*** Statutes;

25 ***[h.]** *g.* To hold public meetings or hearings within this State
 26 on any matter related to the siting of a regional low-level radio-
 27 active waste facility;

28 ***[i.]** *h.* To administer the regional low-level radioactive
 29 waste disposal facility siting process established in this act, and to
 30 ***[advise]** *instruct* all participants in the process as to methods
 31 and actions designed to provide for an effective and efficient imple-
 32 mentation of the process;

33 ***[j.]** *i.* To take actions necessary or appropriate to maximize
 34 the source and volume reduction of low-level radioactive waste
 35 generated within the region;

36 ***[k.]** *j.* To seek and review proposals for the construction,
 37 maintenance, operation, closure, and post-closure observation and
 38 maintenance of the regional low-level radioactive waste disposal

39 facility on the established site, and make recommendations as
40 appropriate;

41 ***[l.]*** **k.** To do and perform any acts and things authorized by
42 this act under, through, or by means of its own officers, agents, and
43 employees, or by contract with any person **[.]** ***;*

44 **l. **[The board and its representatives, agents, or employees***
45 *shall have the right of entry to perform any and all actions neces-*
46 *sary and contingent to its site selection duties.*

47 *m. The board shall* **[.]** ***To** provide such information as*
48 *necessary to both the department and the commission* **[.]** ****
49 ***;* *and* ****

50 **[n. The board shall]** ***m. To** use such information as may*
51 *be developed by the commission or its contract agents.**

52 ***In addition, the board and its representatives, agents, or*
53 *employees shall have the right of entry to perform any and all*
54 *actions necessary and contingent to its site selection duties.***

1 6. a. There is established in the department a ***New Jersey***
2 Radioactive Waste Advisory Committee, which will consist of 13
3 members appointed by the Governor with the advice and consent
4 of the Senate. Each of these members shall be appointed for a
5 term of three years, provided that of the members of the committee
6 first appointed by the Governor four shall serve for terms of one
7 year, five shall serve for terms of two years, and four shall serve
8 for terms of three years. Of these members, three shall be ap-
9 pointed from persons recommended by recognized environmental
10 or public interest organizations; two from persons recommended
11 by recognized organizations of municipal elected and appointed
12 officials; two from persons recommended by recognized organiza-
13 tions of county elected and appointed officials; one from persons
14 recommended by recognized community organizations; **[and]**
15 three from persons recommended by recognized organizations of
16 industries which generate low-level radioactive waste*; *and two*
16A *from the general public*.*

17 In the event that no recommendations for a particular category
18 of membership are made to the Governor within 60 days of the
19 effective date of this act in the case of the initial appointments,
20 or within 60 days of the date of the expiration of the term of
21 office of any member or the occurrence of any vacancy in the case
22 of subsequent appointments, the Governor shall appoint as a
23 member or members for that category of membership a person
24 or persons whom he believes shall be representative thereof.

25 b. A majority of the membership of the committee shall consti-
26 tute a quorum for the transaction of committee business. Action

27 may be taken and motions and resolutions adopted by the com-
 28 mittee ****[meeting thereof]**** by the affirmative vote of a majority
 29 of the full membership of the committee.

30 c. The committee shall meet regularly as it may determine, and
 31 shall also meet at the call of the chairman of the committee or
 32 ****[the commissioner]**** ***any member of the commission***.

33 d. The committee shall appoint a chairman from among its mem-
 34 bers and such other officers as may be necessary. The committee
 35 may, within the limits of any funds appropriated or otherwise
 36 made available to it for this purpose, appoint such staff or hire
 37 such experts as it may require.

38 e. Members of the committee shall serve without compensation,
 39 but the committee may, within the limits of funds appropriated
 40 or otherwise made available for such purposes, reimburse its
 41 members for necessary expenses incurred in the discharge of their
 42 official duties.

1 7. The committee shall:

2 a. Advise the board concerning the regional ****[waste]****
 3 management plan ***developed by the Northeast Interstate Low-*
 4 *Level Radioactive Waste Commission pursuant to Article V of*
 4A *P. L. 1983, c. 329 (C. 32:31-6)*** and the designation of a site or
 4B sites for a regional low-level radioactive waste ****disposal****
 4C facility;

5 b. Advise the board concerning the preparation and adoption
 6 criteria for the siting of a low-level radioactive waste disposal
 7 facility and make recommendations for action on application for
 8 the construction of a low-level radioactive waste disposal facility;
 9 and,

10 c. Review all matters submitted to it by the board or the depart-
 11 ment and state its position on the matter within 30 days of the
 12 submission thereof.

1 8. The committee may:

2 a. Review any matter relating to the siting, construction, opera-
 3 tion or closure of a ****regional**** low-level radioactive waste
 4 disposal facility and to transmit such recommendations to the
 5 board as it may deem appropriate;

6 b. Hold public meetings or hearings within this State on any
 7 matter related to the siting, construction, operation or closure
 8 of a ****regional**** low-level radioactive waste disposal facility; and

9 c. Call to its assistance and avail itself of the services of such
 10 employees of any State, county or municipal department, board,
 11 commission or agency as may be required and made available for
 12 such purposes.

1 9. a. The board shall, within nine months of the effective date of
 2 this act and after consultation with the committee, and review of
 3 the regional management plan developed by the Northeast Inter-
 4 state Low-Level Radioactive Waste Commission pursuant to
 5 Article V of P. L. 1983, c. 329 (C. 32:31-6), develop and adopt
 6 criteria and guidelines for the siting of a ***regional*** low-level
 7 radioactive waste disposal facility. The criteria shall be designed
 8 to prevent any significant adverse public health ~~*[or]~~ *,* environ-
 9 mental **or economic** impact resulting from the location of a
 10 ***regional*** low-level radioactive waste disposal facility **and the*
 11 *transportation of low-level radioactive waste thereto**. These
 12 criteria shall specifically preclude the disposal of any low-level
 13 radioactive wastes in any facility which is not designed, con-
 14 structed, and engineered so as to insure the effective isolation of
 15 these wastes from the biosphere for their hazardous lives. ****The*
 16 *criteria shall also specifically prohibit the siting of a facility in the*
 17 *Pinelands National Reserve as designated pursuant to section 502*
 18 *of the "National Parks and Recreation Act of 1978" (16 U. S. C.*
 19 *§ 471i).**** In order to preserve the public health and safety and
 20 the integrity of the environment, and to insure the isolation of low-
 21 level radioactive waste from human contact, the board, in develop-
 22 ing siting criteria and guidelines, shall consider the potential effects
 22A of the various disposal technologies on the demography, soil char-
 22B acteristics, geology, hydrology, and natural resources of all the
 22C areas of the State, taking into account the volume, types, and haz-
 22D ardous life of the wastes prospectively to be disposed at the ***re-*
 22E *gional low-level radioactive waste disposal*** facility. **These cri-*
 22F *teria shall preclude, to the greatest extent practicable and feasible.*
 22G *but within the limits of federal law, the disposal of low-level radio-*
 22H *active waste by means of shallow land burial.**

23 b. The provisions of the "Administrative Procedure Act," P. L.
 24 1968, c. 410 (C. 52:14B-1 et seq.), or any other law to the contrary
 25 notwithstanding, the board shall develop and adopt criteria for
 26 the ~~*[citing]~~ **siting** of a regional low-level radioactive waste
 27 facility as follows:

28 (1) Within three months of the effective date of this act, the
 29 board shall prepare and make available to all interested persons
 30 preliminary criteria for the siting of a regional low-level radio-
 31 active waste facility;

32 (2) Within six months of the effective date of this act, the board
 33 shall conduct public meetings on preliminary criteria in the several
 34 geographic areas of this State. Notice of these meetings shall be
 35 published, at least 30 days in advance thereof, in at least two

36 newspapers circulating in the specific geographic area where the
 37 meeting will be held. Notice of these meetings shall also be trans-
 38 mitted, at least 30 days in advance thereof, to every municipal
 39 clerk and environmental commission within the specified geo-
 40 graphic area where the meeting will be held;

41 (3) Within seven months of the effective date of this act, the
 42 board shall consider and evaluate any comments made at the public
 43 meetings, make such revisions to the preliminary criteria as it
 44 deems necessary or appropriate, and schedule a public hearing on
 45 the revised criteria. Notice of this hearing shall be published, at
 46 least 30 days in advance thereof, in at least four newspapers of
 47 general circulation in this State;

48 (4) Within eight months of the effective date of this act, the
 49 board shall conduct the public hearing on the revised criteria; and

50 (5) Within nine months of the effective date of this act, the
 51 board shall consider and evaluate any comments made at the
 52 public hearing, make such changes to the revised criteria as it
 53 deems necessary or appropriate, and adopt final criteria for the
 54 siting of a regional low-level radioactive waste ***disposal***
 55 facility.

1 10. a. The board shall, within 15 months of the effective date
 2 of this act and after consultation with the committee and review
 3 of the regional management plan developed by the Northeast
 4 Interstate Low-Level Radioactive Waste Commission pursuant to
 5 Article V of P. L. 1983, c. 329 (C. 32:31-6), develop and adopt a
 6 Low-Level Radioactive Waste Disposal Plan. The plan shall be
 7 revised and updated every three years, or more frequently when,
 8 in the discretion of the board, changes in the amount or type of
 9 low-level radioactive waste generated in the region, or techno-
 10 logical advances in the means of managing, storing, transporting,
 11 or disposing of low-level radioactive waste, so require.

12 b. The plan shall include, but need not be limited to:

13 (1) A current inventory of all ***low-level radioactive waste***
 13A generators within the region;

14 (2) A current inventory of the sources, volumes, types, and
 15 hazardous life of the ***low-level radioactive*** wastes generated
 15A within the region;

16 (3) Projections of the volumes, types, and hazardous life of the
 17 ***[hazardous]*** ***low-level radioactive*** wastes which are ex-
 18 pected to be generated in the region during the next 20 years;

19 (4) A technical analysis of all the known methods of disposal
 20 of low-level radioactive waste, which shall evaluate their respective

21 capacities to effectively isolate low-level radioactive wastes from
22 the biosphere; and

23 (5) An analysis of transportation routes and transportation costs
24 from low-level radioactive waste generators in the region to the
25 various areas of the State.

25A **(6) An analysis of the waste stream generated by the party*
25B *states with respect to the commercial viability of a site located in*
25C *this state.**

26 c. The provisions of the "Administrative Procedure Act," P. L.
27 1968, c. 410 (C. 52:14B-1 et seq.), or any other law to the contrary
28 notwithstanding, the board shall prepare and adopt the plan as
29 follows:

30 (1) Within 11 months of the effective date of this act, the board
31 shall prepare and make available to all interested persons a pro-
32 posed plan;

33 (2) Within 14 months of the effective date of this act, the board
34 shall conduct public hearings in the several geographic areas of
35 the State on the proposed plan. Notice of these hearings shall
36 be published at least 30 days in advance thereof in at least two
37 newspapers circulating in the specific geographic area where the
38 hearing will be held; and

39 (3) Within 15 months of the effective date of this act, the board
40 shall consider any comments made at the public hearings, make
41 such revisions to the proposed plan as it deems necessary or
42 appropriate, and adopt the plan.

43 d. Within 90 days of the effective date of this act, the board
44 shall, in consultation with the department and the committee,
45 establish a public information program which addresses:

46 (1) The nature and dimension of the low-level radioactive waste
47 disposal problem;

48 (2) The need for the proper and expeditious siting of a regional
49 low-level radioactive waste disposal facility;

50 (3) The respective responsibilities of the board, department
51 and committee pursuant to this act; and

52 (4) The necessity and opportunities for public participation as
53 provided herein.

54 e. In preparing or revising the plan pursuant to this section,
55 the board may direct that the department provide or prepare any
56 data or other information which the board deems necessary for
57 the performance of its responsibilities pursuant to this act.

1 11. a. The board shall, in conformity with the siting criteria
2 adopted pursuant to section 9 of this act and the Low-Level Radio-
3 active Waste Disposal Plan adopted pursuant to section 10 of this

4 act, and after consultation with the committee, designate a site or
5 sites for the regional low-level radioactive waste disposal facility.

6 The provisions of the "Administrative Procedure Act," P. L.
7 1968, c. 410 (C. 52:14B-1 et seq.) or any other law to the contrary
8 notwithstanding, this site or sites shall be proposed and designated
9 in the following manner:

10 (1) Within 18 months of the effective date of this act, or of the
11 adoption of the siting criteria and the plan, whichever is sooner,
12 the board shall propose a site or sites for the regional low-level
13 radioactive waste disposal facility, transmit written notice thereof,
14 by certified mail, to the governing body, board of health, planning
15 board and environmental commission of the affected municipality,
16 and the governing body, planning board, and county health depart-
17 ment of the affected county, and provide the governing body of the
18 municipality with a grant, pursuant to the provisions of subsection
19 d. of this section, to conduct a site suitability study of the proposed
20 site;

21 (2) Within three months of the receipt of a grant from the board,
22 the governing body of the affected municipality shall complete
23 and transmit to the board a site suitability study on the proposed
24 site;

25 (3) Within 30 days of the receipt by the board municipal site
26 suitability study, an adjudicatory hearing concerning the proposed
27 site shall be conducted by an administrative law judge. The affected
28 municipality shall be a party of interest to the hearing, and shall
29 have the right to present testimony and cross-examine witnesses.
30 Intervention in this hearing by any other person shall be as pro-
31 vided by the "Administrative Procedure Act;"

32 (4) Within 30 days of the close of the hearing, the administrative
33 law judge shall transmit his recommendations for action on the
34 proposed site to the board. The judge shall not favorably recom-
35 mend the proposed site as suitable for the regional low-level radio-
36 active waste ***disposal*** facility unless he finds clear and con-
37 vincing evidence that locating the facility at the proposed site will
38 not constitute a threat to the public health, safety and welfare of
39 the affected municipality; and,

40 (5) Within 30 days of the receipt thereof, the board shall affirm,
41 conditionally affirm or reject the recommendations of the admin-
42 istrative law judge and adopt or withdraw the proposed site. The
43 action by the commission shall be based upon the potential for
44 significant impairment of the environment or the public health,
45 shall be considered to be final agency action thereon for the pur-

46 poses of the "Administrative Procedure Act," and shall be subject
47 only to judicial review as provided in the Rules of Court.

48 b. The board may propose alternate or additional sites for the
49 regional low-level radioactive waste disposal facility in the event
50 the initially proposed site is determined to be unsuitable.

51 c. The board may, upon its own motion or at the request of a
52 governing body of any affected municipality, repeal or withdraw
53 the proposed site if, in the discretion of the board, such action is
54 consistent with the purposes and provisions of this act.

55 d. The board shall make grants to a municipality for conducting
56 a site suitability study of a proposed site for the regional low-
57 level radioactive waste disposal facility, pursuant to this section,
58 from any State, federal commission, or other funds which may be
59 appropriated or otherwise made available to it for this purpose.

60 e. In the event that any site proposed by the board pursuant to
61 this section is located in more than one municipality, the notices
62 required herein shall be transmitted to each affected municipality
63 or agency thereof, the grant awarded for the municipal site suit-
64 ability study shall be made to all of the affected municipalities, the
65 site suitability study shall be conducted jointly by all of the affected
66 municipalities, and all of the affected municipalities shall be con-
67 sidered a single party for the purposes of the adjudicatory hear-
68 ing held pursuant to this section.

1 12. The owner or operator of the regional low-level radioactive
2 waste disposal facility shall be jointly and severally strictly liable,
3 without regard to fault, for:

4 a. All direct and indirect damages, no matter by whom sustained,
5 proximately resulting from the operations or closure of the facility,
6 including any personal injuries or medical expenses incurred as a
7 result thereof; and

8 b. The cleanup and removal of any discharge of radioactivity
9 **in violation of any state or federal law or policy*.*

1 13. **a. A person proposing to own or operate a **regional low-
2 level radioactive waste disposal** facility shall submit a disclosure
3 statement pursuant to, and shall be otherwise subject to, within the
4 limits of federal law, the provisions of, P. L. 1983, c. 392 (C.
4A 13:1E-126 et al.).*

5 *b. The owner or operator of the regional low-level radioactive
6 **waste disposal** facility who has received a license pursuant to
7 federal law shall enter into negotiations with the host municipality
8 concerning such issues as the two parties have identified as poten-
9 tial conflicts. These negotiations shall be mediated by a representa-
10 tive of the Office of Dispute Resolution in the Department of the*

11 *Public Advocate in a manner consistent with the practices and*
12 *procedures of the Office of Dispute Resolution.**

13 *c.* The owner or operator of the regional low-level radioactive
14 waste disposal facility who has received a license pursuant to
15 federal law may construct and operate that facility without regard
16 to any local zoning ordinance, and the use shall not be required to
17 be submitted to or approved by any county or municipal governing
18 body, zoning, or planning board or other agency, except as other-
19 wise expressly provided herein. The board, department, county, or
20 municipality shall conduct inspections during construction.

1 14. a. The department and the local board of health or county
2 health department, as the case may be, ~~*[may]*~~ **shall** conduct
3 regular inspections of the ***regional low-level radioactive waste*
4 *disposal*** facility in order to determine compliance with the
4A provisions of the engineering design for the facility and of
5 all relevant federal or State laws, and any rules and regulations
6 adopted pursuant thereto. These inspections shall be conducted
7 by the appropriate health or code enforcement official, as the case
8 may be, shall commence with the commencement of construction
9 of such facility, and shall continue for 30 years following the
10 closure thereof. Prior to the commencement of operation of the
11 facility, the department in conjunction with the Department of
12 Health, shall provide for the training of local or county health
13 personnel to conduct the inspections required pursuant to this
14 section.

15 b. In the event that any inspection of the facility discloses a
16 violation of any law or rule and regulation adopted pursuant
17 thereto, the department and the local board of health or the county
18 health department, as the case may be, may institute an action in
19 a court of competent jurisdiction for injunctive relief to restrain
20 the violation and for such other relief as the court shall deem
21 proper. The court may proceed in such action in a summary
22 manner. Neither the institution of such action nor any of the
23 proceedings therein shall relieve any party to the proceedings
24 from other fines or penalties prescribed by law for the violation.
25 One-half of any penalty imposed upon the owner or operator of
26 the facility as the result of a violation disclosed in any municipal
27 or county inspection thereof shall, the provisions of any law to
28 the contrary notwithstanding, be awarded to the local board of
29 health or county health department as the case may be, which
30 conducted the inspection. **If more than one agency is involved, this*
30A *sum will be apportioned equally among the agencies involved.**

31 c. The department, in consultation with the board shall conduct
32 or cause to be conducted a training program for municipal or
33 county officials performing inspections of the facility pursuant to
34 this section.

1 15. a. Any person who supplies any information which proxi-
2 mately results in the arrest and conviction of any other person
3 for the illegal treatment, storage or disposal of low-level radio-
4 active waste shall be awarded one-half of any penalty collected as
5 a result thereof.

6 b. The Attorney General shall adopt, pursuant to the "Admin-
7 istrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B-1 et seq.),
8 such rules and regulations as are necessary to implement this
9 section.

1 16. **a.** The board shall require the owner or operator of the
2 ***regional low-level radioactive waste disposal*** facility to provide
3 evidence of financial responsibility for the duration of the operation
4 of the facility and establish a mechanism to defray closing costs
5 and post-closure monitoring expenses for such period of time as
6 may be deemed necessary by the board, whether by escrow accounts,
6A performance bonds or otherwise.

7 **b. The department shall ensure post-closure observation and
8 maintenance for a period of five years.*

9 *c. After the post-closure period, and after a finding of satis-
10 factory disposal site closure, the license of the facility will transfer
11 to the State or to the federal government.**

1 17. a. The regional low-level radioactive waste disposal facility
2 shall, for the purposes of local property taxation, be assessed and
3 taxed in the same manner as other real property.

4 In the event that the facility is constructed or operated on a
5 site which is exempt from local property taxation by virtue of
6 the ownership thereof by any public agency, the owner or operator
7 of the facility shall, the provisions of any law, rule, regulation,
8 ordinance, resolution or contract to the contrary notwithstanding,
9 annually pay to the affected municipality a sum equal to the amount
10 which would annually be due if the land on which the facility is
11 located and any improvements thereto were assessed and taxed
12 as real property subject to local property taxation. These pay-
13 ments shall be made to the chief fiscal officer of the affected mu-
14 nicipality by December 31 of each year.

15 b. Subsequent to the effective date of this act, the owner or
16 operator of the facility shall, on or before January 25 of each
17 year, file with the chief fiscal officer of the municipality wherein the
18 facility is located a statement, verified by oath, showing the gross

19 receipts from all charges imposed during the preceding calendar
20 year upon any person for the disposal of low-level radioactive
21 waste at the facility, and shall at the same time pay to the chief
22 fiscal officer a sum equal to 5% of those receipts.

23 c. All moneys received by any municipality pursuant to this sec-
24 tion shall be appropriated and utilized for the following purposes:

25 (1) Extra police or fire costs, whether for salaries, equipment, or
26 administrative expenses, which were necessitated by the operations
27 of the facility;

28 (2) Any local inspection program costs incurred by the local
29 board of health or the county health department, as the case may
30 be, provided that the program is performed pursuant to the pro-
31 visions of this act and any rule or regulation promulgated pursuant
32 thereto;

33 (3) Road construction or repair costs necessitated by the trans-
34 portation of low-level radioactive waste through the municipality
35 to the facility; and

36 (4) Other expenses directly related to the impact of the facility
37 on the municipality.

38 Any appropriation made for an expenditure covered under this
39 subsection shall, for the purposes of P. L. 1976, c. 68 (C. 40A:4-45.1
40 et seq.), be considered as an expenditure mandated by State law.

41 d. The municipality in which the facility is located may petition
42 the board for approval to collect an amount in excess of the amount
43 prescribed in subsection b. of this section. The board, after afford-
44 ing the affected owner or operator with notice of this petition and
45 an opportunity to be heard thereon, may grant the petition, but
46 only if the board is satisfied that the grant is warranted by the
47 expenses imposed upon the municipality as a result of the opera-
48 tion of the facility.

49 e. The board may, upon the petition of the affected owner or
50 operator or upon its own motion, direct that the amount to be
51 paid pursuant to subsection b. of this section be reduced to a lower
52 percentage if, after affording the affected municipality notice of
53 the petition or board intent to decrease the amount and an oppor-
54 tunity to be heard thereon, the board finds that the lower amount
55 is sufficient to cover the expenses imposed upon the municipality
56 as a result of the operation of the facility.

57 **f. The municipality in which the facility is located shall not be*
58 *be required to be the host **municipality** site for a solid waste*
59 *facility approved under P. L. 1970, c. 39 (C. 13:1E-1 et seq.), or a*
60 *major hazardous waste facility sited pursuant to P. L. 1981, c. 279*
61 *(C. 13:1E-49 et seq.), and no municipality which is the host **mu-*

62 *municipality** site for a facility approved or sited pursuant to the*
 63 *aforecited acts shall be required to be the host **municipality***
 64 *site for a **regional** low-level radioactive waste **disposal***
 64A *facility sited pursuant to the provisions of this act.*

65 *g. The board may offer financial or other incentives to the host*
 66 ***[community]** **municipality** as may be made available to*
 67 *it by the operator or the State.**

68 **[f.]* *h.* Any board action taken pursuant to subsection d. or*

69 e. of this section shall be considered to be the final agency action

70 thereon for the purposes of the "Administrative Procedure Act,"

71 P. L. 1968, c. 410 (C. 52:14B-1 et seq.), and shall be subject only

72 to judicial review as provided in the Rules of Court.

1 18. a. In addition to the other powers conferred by this act, the

2 board may acquire, in the name of the State, by purchase or other-

3 wise, in accordance with the terms and conditions and in the

4 manner it deems proper, by the exercise of the power of eminent

5 domain as hereinafter provided, and to lease, sell, or otherwise

6 convey, any land and other property which it may determine is

7 reasonably necessary for the regional low-level radioactive waste

8 disposal facility or for the relocation or reconstruction of any

9 highway by the board and any and all rights, title, interest or

10 option in that land and other property, including public lands,

11 highways or parkways, owned by or in which the State or any

12 county, municipality, or other political subdivision of the State

13 has any right, title or interest, or parts thereof or rights therein

14 and any fee simple absolute or any lesser interest in private prop-

15 erty, and any fee simple absolute in, easements upon, or the benefit

16 of restrictions upon, abutting property for the purposes of this act.

17 b. Notwithstanding its land acquisition and conveyance powers

18 provided in subsection a. ***of this section***, the board shall not

19 implement those powers with respect to any land or interest therein

19A unless:

20 (1) The site on which the facility would be constructed has been

21 adopted by the board pursuant to the provisions of this act;

22 (2) The prospective owner or operator has sought to obtain the

23 land or any interest therein from the owner thereof in good faith

24 bargaining; and

25 (3) The prospective owner or operator has already obtained the

26 approval of the board for the license for the facility to be con-

27 structed on the land.

28 c. Upon the exercise of the power of eminent domain by the

29 board, the compensation to be paid thereunder shall be ascertained

30 and paid in the manner provided in the "Eminent Domain Act of

31 1971," P. L. 1971, c. 361 (C. 20:3-1 et seq.), and the board may
 32 file with the clerk of the Superior Court a declaration of taking in
 33 the manner provided in that act.

1 19. a. No member, officer, employee, or agent of the board shall
 2 take any official action on any matter in which he has a direct
 3 or indirect financial interest.

4 b. Any board action taken or approval granted in violation of
 5 this section is voidable.

6 c. Any person who knowingly violates any provision of this
 7 section shall forfeit his office or employment and is guilty of a
 8 crime of the fourth degree.

1 20. The State Auditor shall conduct an annual audit of the
 2 board's activities pursuant to the provisions of chapter 24 of
 3 Title 52 of the Revised Statutes.

1 21. On or before March 31 in each year the board shall make an
 2 annual report of its activities for the preceding calendar year to
 3 the Governor and to the Legislature. Each report shall set forth
 4 a complete operating and financial statement covering its opera-
 5 tions during the year.

1 2. The board and the department shall, pursuant to the pro-
 2 visions of the "Administrative Procedure Act," P. L. 1968, c. 410
 3 (C. 52:14B-1 et seq.), adopt such rules and regulations as may
 4 be necessary for the performance of their respective responsi-
 5 bilities pursuant to this act.

1 23. There is appropriated to the Department of Environmental
 2 Protection ***from the General Fund*** the sum of ***[\$300,000.00]***
 2A *\$500,000.00*, to be utilized as follows:

3 a. \$200,000.00 to the board for the preparation and adoption of
 4 the plan, for the proposal and adoption of a regional low-level
 5 radioactive disposal facility site, and to otherwise implement
 6 this act;

7 b. \$50,000.00 to the board for grants to municipalities for the
 8 review of proposed facility sites pursuant to section 11 of this act;

9 c. \$25,000.00 to the department to conduct training programs
 10 for local officials pursuant to section 14 of this act; ***[and]***

11 d. \$25,000.00 to the committee for the performance of its respon-
 12 sibilities pursuant to section 7 hereof***[.]*** *; and*

13 *e. \$200,000.00 to the department for staff necessary for the
 14 implementation and administration of this act.*

1 24. This act shall take effect immediately****[**, but shall remain in-
 2 operative until the ratification by Congress of the Northeast Inter-
 3 state Low-Level Radioactive Waste Management Compact**]****.

STATEMENT

New Jersey's good faith participation in the Northeast Interstate Low-Level Radioactive Waste Management Compact, entered into pursuant to P. L. 1983, c. 329 (C. 32:31-1 et al.), requires that New Jersey have in place a procedure for the siting of the regional facility should New Jersey be designated host State by the compact commission.

Accordingly, this bill would create a Regional Low-Level Radioactive Waste Disposal Siting Board and an advisory committee. It also establishes a procedure for the siting of the regional facility in as expeditious a manner as is consistent with public health and safety and the protection of the State's environment and natural resources, and a review process for the design, construction, and operation of that facility so as to assure maximum protection from any dangers inherent in the disposal of low-level radioactive waste. That process also assures the full participation of the municipalities most affected by siting decisions as well as the general public, and appropriates funds both for the board's implementation of the bill and for site suitability studies by municipalities potentially affected. It also provides funds to the host municipality to help defray costs involved in siting the facility.

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ASSEMBLY COMMITTEE ON ENVIRONMENTAL QUALITY

STATEMENT TO

ASSEMBLY, No. 1275

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 5, 1987

The Assembly Committee on Environmental Quality favorably reports Assembly Bill No. 1275 with amendments.

This bill would create the New Jersey Low-Level Radioactive Waste Disposal Siting Board and an advisory committee in order that the State will have met its responsibilities for establishing a procedure for the siting of a low-level radioactive waste facility, a requirement under P. L. 1983, c. 329 (C. 32:31-1 et seq.), should the State be designated a host state by the Northeast Interstate Low-Level Radioactive Waste Management Commission.

The bill establishes a procedure for the siting of a facility in as expeditious a manner as is consistent with public health and safety and the protection of the State's environment and natural resources. The bill also requires an assessment of the economic impact on the host municipality of the siting of a facility as well as an assessment of the waste stream with respect to its impact on the commercial viability of a facility. Additionally, the bill establishes a review process for the design, construction, and operation of that facility so as to assure maximum protection from any dangers inherent in the disposal of low-level radioactive waste. The process would assure the full participation of, and financial assistance to, the municipalities most affected by the siting decisions as well as opportunities for such participation by members of the general public.

The committee amended the bill to clarify certain ambiguities as well as to provide additional protection and opportunities to host communities. First, the bill would permit the Attorney General to provide legal services to the board much in the same manner as it would be provided to the executive departments. Second, the amendments specifically provide for economic analysis of impacts on host communities and an analysis of the commercial viability of siting the facility in the State. Third, while recognizing the preeminence of federal law with respect to public health and safety concerns

related to nuclear energy, the bill strongly discourages the utilization of shallow land burial as a disposal technology and would require the owner or operator of a facility to file a disclosure statement and be otherwise subject to the provisions of P. L. 1983, c. 392.

This law, commonly referred to as "A-901", establishes strict standards for the owners and operators of solid and hazardous waste facilities. It was the intent of the committee that the standards should be no less stringent for radioactive waste. However, while "A-901" authorizes the denial or revocation of a permit under certain conditions, the recognition of federal preeminence required the condition that this bill not contravene federal regulations. Thus the filing of a disclosure statement would give the State adequate information about the background of a potential owner or operator which could be of use to the federal government in application decisions.

Fourth, the amendments provide additional incentives and protections to host municipalities through opportunities to negotiate with the facility owner or operator concerning local land use issues or other potential issues of conflict. These negotiations would be mediated by the Office of Dispute Resolution in the Department of the Public Advocate. Additionally, a host municipality would not be required to be the site of a future solid waste or major hazardous facility, nor would a municipality which is the site of an operating solid waste or major hazardous waste facility be required to be the host municipality for a low-level radioactive waste facility sited under the provisions of this act.

Finally, the amendments increase the appropriation from \$300,000.00 to \$500,000.00 and allocate the additional \$200,000.00 to the Department of Environmental Protection to employ the personnel necessary for the long-term regulatory responsibilities the department will be accountable for.

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ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1275

[OFFICIAL COPY REPRINT]

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: MARCH 9, 1987

The Assembly Appropriations Committee favorably reports Assembly Bill No. 1275 OCR with amendments.

Assembly Bill No. 1275 OCR, as amended, creates a New Jersey Low-Level Radioactive Waste Disposal Siting Board and a New Jersey Radioactive Waste Advisory Committee, and establishes procedures for the siting of a low-level radioactive waste disposal facility should the State be designated for such a site by the Northeast Interstate Low-Level Radioactive Waste Management Commission. The bill also appropriates \$500,000.00 to the Department of Environmental Protection.

This bill requires the board to develop criteria and guidelines for the siting of a low-level radioactive waste disposal facility which are designed to prevent adverse public health, environmental or economic impacts resulting from the location of the facility, including impacts from the transportation of waste to the facility. The bill specifies a schedule for the preparation of preliminary criteria, holding of public hearings, and two sets of revisions to the criteria.

The bill requires the board to then develop and adopt a Low-Level Radioactive Waste Disposal Plan, which shall include: an inventory of current and anticipated wastes and waste generators in the region, technical analysis of waste disposal methods, and analysis of transportation routes and the "waste stream" to a facility. The bill further specifies a schedule for public hearings, revisions and a public information program on the plan.

The bill provides that, after a site or sites have been designated, the affected municipalities shall receive a grant to conduct a site suitability study and an adjudicatory hearing shall be held on the proposed site. Procedures are also specified for board response to the administrative law judge's recommendation.

The bill also specifies the responsibilities of a facility operator and requires regular inspections. Finally, the bill provides that the facility

shall pay local property taxes or make payments in lieu of taxes, and pay a tax of 5% of gross receipts from operations to the host municipality, to be used for specified purposes. This tax rate may be increased or decreased at the discretion of the board.

FISCAL IMPACT:

Assembly Bill No. 1275 OCR, as amended, appropriates \$500,000.00 from the General Fund to the Department of Environmental Protection, to be used as follows: \$200,000.00 to the board, \$50,000.00 for grants to municipalities, \$25,000.00 to the department for training local inspection officials, \$25,000.00 to the committee and \$200,000.00 to the department for additional staff.

COMMITTEE AMENDMENTS:

The committee made amendments to the bill which were technical and clarifying in nature.

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SENATE ENERGY AND ENVIRONMENT COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1275

[SECOND OFFICIAL COPY REPRINT]

STATE OF NEW JERSEY

DATED: JUNE 11, 1987

The Senate Energy and Environment Committee favorably reports Assembly Bill No. 1275.

Assembly Bill No. 1275 2nd OCR creates a New Jersey Low-Level Radioactive Waste Disposal Facility Siting Board and a New Jersey Radioactive Waste Advisory Committee, and establishes procedures for the siting of a low-level radioactive waste disposal facility should the State be designated for such a site by the Northeast Interstate Low-Level Radioactive Waste Commission.

This bill requires the board to develop criteria and guidelines for the siting of a low-level radioactive waste disposal facility that are designed to prevent adverse public health, environmental, or economic impacts resulting from the location of the facility, including impacts from the transportation of waste to the facility. The committee interprets the directive given for the development of these criteria as strongly discouraging the siting of a low-level radioactive waste disposal facility in the area regulated pursuant to the "Coastal Area Facility Review Act," P. L. 1973, c. 185 (C. 13:19-1 et seq.) or in the area regulated pursuant to the "Pinelands Protection Act," P. L. 1979, c. 111 (C. 13:18A-1 et seq.). The bill also specifies a schedule for the preparation of preliminary criteria, holding of public hearings, and two sets of revisions to the criteria.

The bill requires the board to then develop and adopt a Low-Level Radioactive Waste Disposal Plan, which shall include: an inventory of current and anticipated wastes and waste generators in the region, a technical analysis of waste disposal methods, and an analysis of transportation routes and the "waste stream" to a facility. The bill further specifies a schedule for public hearings, revisions and a public information program on the plan.

The bill provides that, after a site or sites have been designated, the affected municipalities shall receive a grant to conduct a site suitability study and an adjudicatory hearing shall be held on the proposed site. Procedures are also specified for board response to the administrative law judge's recommendation.

The bill also specifies the responsibilities of a facility operator and requires regular inspections. Finally, the bill provides that the facility shall pay local property taxes or make payments in lieu of taxes, and pay a tax of 5% of gross receipts from operations to the host municipality, to be used for specified purposes. This tax rate may be increased or decreased at the discretion of the board.

Assembly Bill No. 1275 2nd OCR also establishes a review process for the design, construction, and operation of that facility so as to assure maximum protection from any dangers inherent in the disposal of low-level radioactive waste. The process would assure the full participation of, and financial assistance to, the municipalities most affected by the siting decisions as well as opportunities for such participation by members of the general public. This bill also contains a provision which discourages the siting of a facility which would use shallow land burial as a disposal technology. The committee, however, does not interpret this provision as discouraging the utilization of an enclosed, engineered, and structurally reinforced facility that extends below the surface of the earth.

Assembly Bill No. 1275 2nd OCR also permits the Attorney General to provide legal services to the board in the same manner as it provides legal services to state departments. Also, this bill would require the owner or operator of a facility to file a disclosure statement and be otherwise subject to the provisions of P. L. 1983, c. 392 (C. 13:1E-126 et al.). P. L. 1983, c. 392 establishes strict standards for the owners and operators of solid and hazardous waste facilities.

This bill also provides additional incentives and protections to host municipalities through opportunities to negotiate with the facility owner or operator concerning local land use issues or other potential issues of conflict. These negotiations would be mediated by the Office of Dispute resolution in the Department of the Public Advocate. Additionally, a host municipality would not be required to be the site of a future solid waste or major hazardous waste facility, nor would a municipality which is the site of an operating solid waste or major hazardous waste facility be required to be the host municipality for a low-level radioactive waste facility sited under the provisions of this act.

This bill also appropriates \$500,000.00 to the Department of Environmental Protection, to be allocated as follows: \$200,000.00 to the board to prepare the plan and to propose and adopt a site; \$50,000.00 to the board for grants to municipalities to review a siting decision; \$25,000.00 to the department to conduct training programs for local officials; \$25,000.00 to the Advisory Committee and \$200,000.00 to the department to provide staff services to the board.

SENATE ENERGY AND ENVIRONMENT COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1275

with Senate committee amendments

STATE OF NEW JERSEY

DATED: NOVEMBER 9, 1987

The Senate Energy and Environment Committee favorably reports Assembly Bill No. 1275 with Senate committee amendments.

Assembly Bill No. 1275 2nd OCR creates a New Jersey Low-Level Radioactive Waste Disposal Facility Siting Board and a New Jersey Radioactive Waste Advisory Committee, and establishes procedures for the siting of a regional low-level radioactive waste disposal facility should the State be designated for such a site by the Northeast Interstate Low-Level Radioactive Waste Commission.

This bill requires the board to develop criteria and guidelines for the siting of a low-level radioactive waste disposal facility that are designed to prevent adverse public health, environmental, or economic impacts resulting from the location of the facility, including impacts from the transportation of waste to the facility. The Committee amended the bill to provide that the criteria adopted by the board would specifically prohibit the siting of a facility in the "Pinelands National Reserve" as designated pursuant to section 502 of the "National Parks and Recreation Act of 1978" (16 U. S. C. § 471i). The bill also specifies a schedule for the preparation of preliminary criteria, holding of public hearings, and two sets of revisions to the criteria.

The bill requires the board to then develop and adopt a Low-Level Radioactive Waste Disposal Plan, which shall include: an inventory of current and anticipated wastes and waste generators in the region, a technical analysis of waste disposal methods, and an analysis of transportation routes and the "waste stream" to a facility. The bill further specifies a schedule for public hearings, revisions and a public information program on the plan.

The bill provides that, after a site or sites have been designated, the affected municipalities shall receive a grant to conduct a site suitability study and an adjudicatory hearing shall be held on the proposed site. Procedures are also specified for board response to the administrative law judge's recommendation.

The bill also specifies the responsibilities of a facility operator and requires regular inspections. Finally, the bill provides that the facility shall pay local property taxes or make payments in lieu of taxes, and pay a tax of 5% gross receipts from operations to the host municipality, to be used for specified purposes. This tax rate may be increased or decreased at the discretion of the board.

Assembly Bill No. 1275 2nd OCR also establishes a review process for the design, construction, and operation of that facility so as to assure maximum protection from any dangers inherent in the disposal of low-level radioactive waste. The process would assure the full participation of, and financial assistance to, the municipalities most affected by the siting decisions as well as opportunities for such participation by members of the general public. This bill also contains a provision which discourages the siting of a facility which would use shallow land burial as a disposal technology. The Committee, however, does not interpret this provision as discouraging the utilization of an enclosed, engineered, and structurally reinforced facility that extends below the surface of the earth.

Assembly Bill No. 1275 2nd OCR also permits the Attorney General to provide legal services to the board in the same manner as it provides legal services to state departments. Also, this bill would require the owner or operator of a facility to file a disclosure statement and be otherwise subject to the provisions of P. L. 1983, c. 392 (C. 13:1E-126 et al.) P. L. 1983, c. 392 establishes strict standards for the owners and operators of solid and hazardous waste facilities.

This bill also provides additional incentives and protections to host municipalities through opportunities to negotiate with the facility owner or operator concerning local land use issues or other potential issues of conflict. These negotiations would be mediated by the Office of Dispute Resolution in the Department of the Public Advocate. Additionally, a host municipality would not be required to be the site of a future solid waste or major hazardous waste facility, nor would a municipality which is the site of an operating solid waste or major hazardous waste facility be required to be the host municipality for a low-level radioactive waste facility sited under the provisions of this act.

This bill also appropriates \$500,000.00 to the Department of Environmental Protection, to be allocated as follows: \$200,000.00 to the board to prepare the plan and to propose and adopt a site; \$50,000.00 to the board for grants to municipalities to review a siting decision; \$25,000.00 to the department to conduct training programs for local officials; \$25,000.00 to the Advisory Committee and \$200,000.00 to the department to provide staff services to the board.
