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LAW/RWH

P.L. 2009, CHAPTER 302, *approved January 17, 2010*

Assembly, No. 4341

**(CORRECTED COPY)**

1 **AN ACT** concerning site remediation grants for redevelopment of  
2 contaminated property for renewable energy generation projects,  
3 and amending P.L.1993, c.139.

4

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

7

8 1. Section 27 of P.L.1993, c.139 (C.58:10B-5) is amended to  
9 read as follows:

10 27. a. (1) Except as provided in section 4 of P.L.2007, c.135  
11 (C.52:27D-130.7), financial assistance from the remediation fund  
12 may only be rendered to persons who cannot establish a remediation  
13 funding source for the full amount of a remediation. Financial  
14 assistance pursuant to this act may be rendered only for that amount  
15 of the cost of a remediation for which the person cannot establish a  
16 remediation funding source. The limitations on receiving financial  
17 assistance established in this paragraph (1) shall not limit the ability  
18 of municipalities, counties, redevelopment entities authorized to  
19 exercise redevelopment powers pursuant to section 4 of P.L.1992,  
20 c.79 (C.40A:12A-4), persons who are not required to establish a  
21 remediation funding source for the part of the remediation involving  
22 an innovative technology, an unrestricted use remedial action or a  
23 limited restricted use remedial action, persons performing a  
24 remediation in an environmental opportunity zone, or persons who  
25 voluntarily perform a remediation, from receiving financial  
26 assistance from the fund.

27 (2) Financial assistance rendered to persons who voluntarily  
28 perform a remediation or perform a remediation in an  
29 environmental opportunity zone may only be made for that amount  
30 of the cost of the remediation that the person cannot otherwise fund  
31 by any of the authorized methods to establish a remediation funding  
32 source.

33 (3) Financial assistance rendered to persons who do not have to  
34 provide a remediation funding source for the part of the remediation  
35 that involves an innovative technology, an unrestricted use remedial  
36 action, or a limited restricted use remedial action may only be made  
37 for that amount of the cost of the remediation that the person cannot  
38 otherwise fund by any of the authorized methods to establish a  
39 remediation funding source.

40 b. Financial assistance may be rendered from the remediation  
41 fund to (1) owners or operators of industrial establishments who are

**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.**

1 required to perform remediation activities pursuant to P.L.1983,  
2 c.330 (C.13:1K-6 et al.), upon closing operations or prior to the  
3 transfer of ownership or operations of an industrial establishment,  
4 (2) persons who are liable for the cleanup and removal costs of a  
5 hazardous substance pursuant to P.L.1976, c.141 (C.58:10-23.11 et  
6 seq.), and (3) persons who voluntarily perform a remediation of a  
7 discharge of a hazardous substance or hazardous waste.

8 c. Financial assistance and grants may be made from the  
9 remediation fund to a municipality, county, or redevelopment entity  
10 authorized to exercise redevelopment powers pursuant to section 4  
11 of P.L.1992, c.79 (C.40A:12A-4), for real property: (1) on which it  
12 holds a tax sale certificate; (2) that it has acquired through  
13 foreclosure or other similar means; or (3) that it has acquired, or in  
14 the case of a county governed by a board of chosen freeholders, has  
15 passed a resolution or, in the case of a municipality or a county  
16 operating under the "Optional County Charter Law," P.L.1972,  
17 c.154 (C.40:41A-1 et seq.), has passed an ordinance or other  
18 appropriate document to acquire, by voluntary conveyance for the  
19 purpose of redevelopment, for renewable energy generation or for  
20 recreation and conservation purposes. Financial assistance and  
21 grants may only be awarded for real property on which there has  
22 been a discharge or on which there is a suspected discharge of a  
23 hazardous substance or hazardous waste.

24 d. Grants may be made from the remediation fund to persons  
25 who own real property on which there has been a discharge of a  
26 hazardous substance or a hazardous waste and that person qualifies  
27 for an innocent party grant pursuant to section 28 of P.L.1993,  
28 c.139 (C.58:10B-6).

29 e. Grants may be made from the remediation fund to qualifying  
30 persons who propose to perform a remedial action that uses an  
31 innovative technology or that would result in an unrestricted use  
32 remedial action or a limited restricted use remedial action.

33 f. Grants may be made from the remediation fund to  
34 municipalities, counties, and redevelopment entities authorized to  
35 exercise redevelopment powers pursuant to section 4 of P.L.1992,  
36 c.79 (C.40A:12A-4), for the preliminary assessment, site  
37 investigation, remedial investigation and remedial action on  
38 contaminated real property within a brownfield development area.  
39 An ownership interest in the contaminated property shall not be  
40 required in order for a municipality, county, or redevelopment  
41 entity authorized to exercise redevelopment powers pursuant to  
42 section 4 of P.L.1992, c.79 (C.40A:12A-4) to receive a grant for a  
43 remediation of property in a brownfield redevelopment area.  
44 Notwithstanding the limitation on the total amount of financial  
45 assistance and grants that may be awarded in any one year pursuant  
46 to subsection b. of section 28 of P.L.1993, c.139 (C.58:10B-6), the  
47 authority may award an additional amount of financial assistance  
48 and grants in any one year, of up to \$2,000,000, to any one

1 municipality, county, or redevelopment entity for the remediation of  
2 property in a brownfield development area. Any property on which  
3 a municipality, county, or redevelopment entity makes expenditures  
4 for a remedial action and the property is not owned by that entity  
5 shall be subject to the provisions of section 8 of P.L.2005, c.223  
6 (C.58:10B-25.2).  
7 (cf: P.L.2007, c.135, s.2)

8  
9 2. Section 28 of P.L.1993, c.139 (C.58:10B-6) is amended to  
10 read as follows:

11 28. a. Except for moneys deposited in the remediation fund for  
12 specific purposes, and as provided in section 4 of P.L. 2007, c.135  
13 (C.52:27D-130.7), financial assistance and grants from the  
14 remediation fund shall be rendered for the following purposes. A  
15 written report shall be sent to the Senate Environment Committee,  
16 and the Assembly Environment and Solid Waste Committee, or  
17 their successors at the end of each calendar quarter detailing the  
18 allocation and expenditures related to the financial assistance and  
19 grants from the fund.

20 (1) Moneys shall be allocated for financial assistance to persons,  
21 for remediation of real property located in a qualifying municipality  
22 as defined in section 1 of P.L.1978, c.14 (C.52:27D-178);

23 (2) Moneys shall be allocated to: (a) municipalities, counties, or  
24 redevelopment entities authorized to exercise redevelopment  
25 powers pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4), for:

26 (i) projects in brownfield development areas pursuant to  
27 subsection f. of section 27 of P.L.1993, c.139 (C.58:10B-5),

28 (ii) matching grants up to a cumulative total amount from the  
29 fund of \$5,000,000 per year of up to 75% of the costs of the  
30 remedial action for projects involving the redevelopment of  
31 contaminated property for recreation and conservation purposes,  
32 provided that the use of the property for recreation and conservation  
33 purposes is included in the comprehensive plan for the development  
34 or redevelopment of contaminated property, up to 75% of the costs  
35 of the remedial action for projects involving the redevelopment of  
36 contaminated property for renewable energy generation, or up to  
37 50% of the costs of the remedial action for projects involving the  
38 redevelopment of contaminated property for affordable housing  
39 pursuant to P.L.1985, c.222 (C.52:27D-301 et al.),

40 (iii) grants for preliminary assessment, site investigation or  
41 remedial investigation of a contaminated site,

42 (iv) financial assistance for the implementation of a remedial  
43 action, or

44 (v) financial assistance for remediation activities at sites that  
45 have been contaminated by a discharge of a hazardous substance or  
46 hazardous waste, or at which there is an imminent and significant  
47 threat of a discharge of a hazardous substance or hazardous waste,  
48 and the discharge or threatened discharge poses or would pose an

1 imminent and significant threat to a drinking water source, to  
2 human health, or to a sensitive or significant ecological area; or  
3 (b) persons for financial assistance for remediation activities at  
4 sites that have been contaminated by a discharge of a hazardous  
5 substance or hazardous waste, or at which there is an imminent and  
6 significant threat of a discharge of a hazardous substance or  
7 hazardous waste, and the discharge or threatened discharge poses or  
8 would pose an imminent and significant threat to a drinking water  
9 source, to human health, or to a sensitive or significant ecological  
10 area.

11 Except as provided in subsection f. of section 27 of P.L.1993,  
12 c.139 (C.58:10B-5), financial assistance and grants to  
13 municipalities, counties, or redevelopment entities authorized to  
14 exercise redevelopment powers pursuant to section 4 of P.L.1992,  
15 c.79 (C.40A:12A-4) may be made for real property: (1) on which  
16 they hold a tax sale certificate; (2) that they have acquired through  
17 foreclosure or other similar means; or (3) that they have acquired,  
18 or, in the case of a county governed by a board of chosen  
19 freeholders, have passed a resolution or, in the case of a  
20 municipality or a county operating under the "Optional County  
21 Charter Law," P.L.1972, c.154 (C.40:41A-1 et seq.), have passed an  
22 ordinance or other appropriate document to acquire, by voluntary  
23 conveyance for the purpose of redevelopment, or for recreation and  
24 conservation purposes. Financial assistance and grants may only be  
25 awarded for real property on which there has been or on which there  
26 is suspected of being a discharge of a hazardous substance or a  
27 hazardous waste. Grants and financial assistance provided pursuant  
28 to this paragraph shall be used for performing preliminary  
29 assessments, site investigations, remedial investigations, and  
30 remedial actions on real property in order to determine the existence  
31 or extent of any hazardous substance or hazardous waste  
32 contamination, and to remediate the site in compliance with the  
33 applicable health risk and environmental standards on those  
34 properties. No financial assistance or grants for a remedial action  
35 shall be awarded until the municipality, county, or redevelopment  
36 entity authorized to exercise redevelopment powers pursuant to  
37 section 4 of P.L.1992, c.79 (C.40A:12A-4), actually owns the real  
38 property, provided that a matching grant for 75% of the costs of a  
39 remedial action for a project involving the redevelopment of  
40 contaminated property for recreation and conservation purposes, or  
41 a matching grant for 50% of the costs of a remedial action for a  
42 project involving the redevelopment of contaminated property for  
43 affordable housing pursuant to P.L.1985, c.222 (C.52:27D-301 et  
44 al.) may be made to a municipality, county, or redevelopment entity  
45 authorized to exercise redevelopment powers pursuant to section 4  
46 of P.L.1992, c.79 even if it does not own the real property and a  
47 grant may be made to a municipality, county, or redevelopment  
48 entity authorized to exercise redevelopment powers pursuant to

1 section 4 of P.L.1992, c.79 (C.40A:12A-4) for a remediation in a  
2 brownfield development area pursuant to subsection f. of section 27  
3 of P.L.1993, c.139 (C.58:10B-5) even if the entity does not own the  
4 real property. No grant shall be awarded for a remedial action for a  
5 project involving the redevelopment of contaminated property for  
6 recreation or conservation purposes unless the use of the property is  
7 preserved for recreation and conservation purposes by conveyance  
8 of a development easement, conservation restriction or easement, or  
9 other restriction or easement permanently restricting development,  
10 which shall be recorded and indexed with the deed in the registry of  
11 deeds for the county. A municipality that has performed, or on  
12 which there has been performed, a preliminary assessment, site  
13 investigation or remedial investigation on property may obtain a  
14 loan for the purpose of continuing the remediation on those  
15 properties as necessary to comply with the applicable remediation  
16 regulations adopted by the department. No grant shall be awarded  
17 pursuant to this paragraph to a municipality, a county, or a  
18 redevelopment entity authorized to exercise redevelopment powers  
19 pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4) unless that  
20 entity has adopted by ordinance or resolution a comprehensive plan  
21 specifically for the development or redevelopment of contaminated  
22 or potentially contaminated real property in that municipality or the  
23 entity can demonstrate to the authority that a realistic opportunity  
24 exists that the subject real property will be developed or  
25 redeveloped within a three-year period from the completion of the  
26 remediation;

27 (3) Moneys shall be allocated for financial assistance to persons  
28 who voluntarily perform a remediation of a hazardous substance or  
29 hazardous waste discharge;

30 (4) Moneys shall be allocated for grants to persons who own  
31 real property on which there has been a discharge of a hazardous  
32 substance or a hazardous waste and that person qualifies for an  
33 innocent party grant. A person qualifies for an innocent party grant  
34 if that person acquired the property prior to December 31, 1983, the  
35 hazardous substance or hazardous waste that was discharged at the  
36 property was not used by the person at that site, and that person  
37 certifies that he did not discharge any hazardous substance or  
38 hazardous waste at an area where a discharge is discovered. A  
39 grant authorized pursuant to this paragraph may be for up to 50% of  
40 the remediation costs at the area of concern for which the person  
41 qualifies for an innocent party grant, except that no grant awarded  
42 pursuant to this paragraph to any person may exceed \$1,000,000;

43 (5) Moneys shall be allocated for (a) financial assistance to  
44 persons who own and plan to remediate an environmental  
45 opportunity zone for which an exemption from real property taxes  
46 has been granted pursuant to section 5 of P.L.1995, c.413 (C.54:4-  
47 3.154), or (b) matching grants for up to 25% of the project costs to  
48 qualifying persons, municipalities, counties, and redevelopment

1 entities authorized to exercise redevelopment powers pursuant to  
2 section 4 of P.L.1992, c.79 (C.40A:12A-4), who propose to perform  
3 a remedial action that uses an innovative technology, or for the  
4 implementation of a limited restricted use remedial action or an  
5 unrestricted use remedial action except that no grant awarded  
6 pursuant to this paragraph may exceed \$250,000; and

7 (6) Twenty percent of the moneys in the remediation fund shall  
8 be allocated for financial assistance or grants for any of the  
9 purposes enumerated in paragraphs (1) through (5) of this  
10 subsection.

11 For the purposes of paragraph (5) of this subsection, "qualifying  
12 persons" means any person who has a net worth of not more than  
13 \$2,000,000 and "project costs" means that portion of the total costs  
14 of a remediation that is specifically for the use of an innovative  
15 technology or to implement an unrestricted use remedial action or a  
16 limited restricted use remedial action, as applicable.

17 b. Loans issued from the remediation fund shall be for a term  
18 not to exceed ten years, except that upon the transfer of ownership  
19 of any real property for which the loan was made, the unpaid  
20 balance of the loan shall become immediately payable in full. The  
21 unpaid balance of a loan for the remediation of real property that is  
22 transferred by devise or succession shall not become immediately  
23 payable in full, and loan repayments shall be made by the person  
24 who acquires the property. Loans to municipalities, counties, and  
25 redevelopment entities authorized to exercise redevelopment  
26 powers pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4),  
27 shall bear an interest rate equal to 2 points below the Federal  
28 Discount Rate at the time of approval or at the time of loan closing,  
29 whichever is lower, except that the rate shall be no lower than 3  
30 percent. All other loans shall bear an interest rate equal to the  
31 Federal Discount Rate at the time of approval or at the time of the  
32 loan closing, whichever is lower, except that the rate on such loans  
33 shall be no lower than five percent. Financial assistance and grants  
34 may be issued for up to 100% of the estimated applicable  
35 remediation cost, except that the cumulative maximum amount of  
36 financial assistance which may be issued to a person, in any  
37 calendar year, for one or more properties, shall be \$1,000,000.  
38 Financial assistance and grants to any one municipality, county, or  
39 redevelopment entity authorized to exercise redevelopment powers  
40 pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4) may not  
41 exceed \$3,000,000 in any calendar year except as provided in  
42 subsection f. of section 27 of P.L.1993, c.139 (C.58:10B-5). Grants  
43 to a municipality, county, or redevelopment entity authorized to  
44 exercise redevelopment powers pursuant to section 4 of P.L.1992,  
45 c.79 may be for up to 100% of the total costs of the preliminary  
46 assessment, site investigation, or remedial investigation regardless  
47 of when the application was received by the department. Grants to a  
48 municipality, a county, or a redevelopment entity authorized to



1 exercise redevelopment powers pursuant to section 4 of P.L.1992,  
2 c.79 (C.40A:12A-4) may not exceed 75% of the total costs of the  
3 remedial action at any one site for any application received by the  
4 department on or after September 15, 2005. Repayments of  
5 principal and interest on the loans issued from the remediation fund  
6 shall be paid to the authority and shall be deposited into the  
7 remediation fund.

8 c. No person, other than a qualified person planning to use an  
9 innovative technology for the cost of that technology, a qualified  
10 person planning to use a limited restricted use remedial action or an  
11 unrestricted use remedial action for the cost of the remedial action,  
12 a person performing a remediation in an environmental opportunity  
13 zone, or a person voluntarily performing a remediation, shall be  
14 eligible for financial assistance from the remediation fund to the  
15 extent that person is capable of establishing a remediation funding  
16 source for the remediation as required pursuant to section 25 of  
17 P.L.1993, c.139 (C.58:10B-3).

18 d. The authority may use a sum that represents up to 2% of the  
19 moneys issued as financial assistance or grants from the  
20 remediation fund each year for administrative expenses incurred in  
21 connection with the operation of the fund and the issuance of  
22 financial assistance and grants.

23 e. Prior to March 1 of each year, the authority shall submit to  
24 the Senate Environment Committee and the Assembly Environment  
25 and Solid Waste Committee, or their successors, a report detailing  
26 the amount of money that was available for financial assistance and  
27 grants from the remediation fund for the previous calendar year, the  
28 amount of money estimated to be available for financial assistance  
29 and grants for the current calendar year, the amount of financial  
30 assistance and grants issued for the previous calendar year and the  
31 category for which each financial assistance and grant was  
32 rendered, and any suggestions for legislative action the authority  
33 deems advisable to further the legislative intent to facilitate  
34 remediation and promote the redevelopment and use of existing  
35 industrial sites.

36 (cf: P.L.2007, c.135, s.3)

37

38 3. This act shall take effect immediately.

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#### STATEMENT

42

43 This bill would authorize matching grants of up to \$5 million per  
44 year from the Hazardous Discharge Site Remediation Fund to  
45 municipalities, counties or certain redevelopment agencies for up to  
46 75% of the cost of the remedial action for projects that involve the  
47 redevelopment of contaminated property for renewable energy  
48 generation. Current law authorizes matching grants up to a

**A4341**

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1 cumulative total amount of \$5 million per year for projects  
2 involving the redevelopment of property for recreation or  
3 conservation purposes, or for affordable housing. This bill also  
4 would allow those grants to be used for projects that involve the  
5 redevelopment of contaminated property for renewable energy  
6 generation.

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11 \_\_\_\_\_  
12 Authorizes increased grant funding to local governments for site  
13 remediation for redevelopment of contaminated property for  
renewable energy projects.

# ASSEMBLY, No. 4341

## STATE OF NEW JERSEY 213th LEGISLATURE

INTRODUCED DECEMBER 14, 2009

**Sponsored by:**

Assemblyman JOHN F. MCKEON

District 27 (Essex)

Assemblyman ALBERT COUTINHO

District 29 (Essex and Union)

**Co-Sponsored by:**

Senators B.Smith and Van Drew

**SYNOPSIS**

Authorizes increased grant funding to local governments for site remediation for redevelopment of contaminated property for renewable energy projects.

**CURRENT VERSION OF TEXT**

As introduced.



(Sponsorship Updated As Of: 1/12/2010)

1 AN ACT concerning site remediation grants for redevelopment of  
2 contaminated property for renewable energy generation projects,  
3 and amending P.L.1993, c.139.

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

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8 1. Section 27 of P.L.1993, c.139 (C.58:10B-5) is amended to  
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12 may only be rendered to persons who cannot establish a remediation  
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14 assistance pursuant to this act may be rendered only for that amount  
15 of the cost of a remediation for which the person cannot establish a  
16 remediation funding source. The limitations on receiving financial  
17 assistance established in this paragraph (1) shall not limit the ability  
18 of municipalities, counties, redevelopment entities authorized to  
19 exercise redevelopment powers pursuant to section 4 of P.L.1992,  
20 c.79 (C.40A:12A-4), persons who are not required to establish a  
21 remediation funding source for the part of the remediation involving  
22 an innovative technology, an unrestricted use remedial action or a  
23 limited restricted use remedial action, persons performing a  
24 remediation in an environmental opportunity zone, or persons who  
25 voluntarily perform a remediation, from receiving financial  
26 assistance from the fund.

27 (2) Financial assistance rendered to persons who voluntarily  
28 perform a remediation or perform a remediation in an  
29 environmental opportunity zone may only be made for that amount  
30 of the cost of the remediation that the person cannot otherwise fund  
31 by any of the authorized methods to establish a remediation funding  
32 source.

33 (3) Financial assistance rendered to persons who do not have to  
34 provide a remediation funding source for the part of the remediation  
35 that involves an innovative technology, an unrestricted use remedial  
36 action, or a limited restricted use remedial action may only be made  
37 for that amount of the cost of the remediation that the person cannot  
38 otherwise fund by any of the authorized methods to establish a  
39 remediation funding source.

40 b. Financial assistance may be rendered from the remediation  
41 fund to (1) owners or operators of industrial establishments who are  
42 required to perform remediation activities pursuant to P.L.1983,  
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44 transfer of ownership or operations of an industrial establishment,  
45 (2) persons who are liable for the cleanup and removal costs of a

**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.**

1 hazardous substance pursuant to P.L.1976, c.141 (C.58:10-23.11 et  
2 seq.), and (3) persons who voluntarily perform a remediation of a  
3 discharge of a hazardous substance or hazardous waste.

4 c. Financial assistance and grants may be made from the  
5 remediation fund to a municipality, county, or redevelopment entity  
6 authorized to exercise redevelopment powers pursuant to section 4  
7 of P.L.1992, c.79 (C.40A:12A-4), for real property: (1) on which it  
8 holds a tax sale certificate; (2) that it has acquired through  
9 foreclosure or other similar means; or (3) that it has acquired, or in  
10 the case of a county governed by a board of chosen freeholders, has  
11 passed a resolution or, in the case of a municipality or a county  
12 operating under the "Optional County Charter Law," P.L.1972,  
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14 appropriate document to acquire, by voluntary conveyance for the  
15 purpose of redevelopment, for renewable energy generation or for  
16 recreation and conservation purposes. Financial assistance and  
17 grants may only be awarded for real property on which there has  
18 been a discharge or on which there is a suspected discharge of a  
19 hazardous substance or hazardous waste.

20 d. Grants may be made from the remediation fund to persons  
21 who own real property on which there has been a discharge of a  
22 hazardous substance or a hazardous waste and that person qualifies  
23 for an innocent party grant pursuant to section 28 of P.L.1993,  
24 c.139 (C.58:10B-6).

25 e. Grants may be made from the remediation fund to qualifying  
26 persons who propose to perform a remedial action that uses an  
27 innovative technology or that would result in an unrestricted use  
28 remedial action or a limited restricted use remedial action.

29 f. Grants may be made from the remediation fund to  
30 municipalities, counties, and redevelopment entities authorized to  
31 exercise redevelopment powers pursuant to section 4 of P.L.1992,  
32 c.79 (C.40A:12A-4), for the preliminary assessment, site  
33 investigation, remedial investigation and remedial action on  
34 contaminated real property within a brownfield development area.  
35 An ownership interest in the contaminated property shall not be  
36 required in order for a municipality, county, or redevelopment  
37 entity authorized to exercise redevelopment powers pursuant to  
38 section 4 of P.L.1992, c.79 (C.40A:12A-4) to receive a grant for a  
39 remediation of property in a brownfield redevelopment area.  
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41 assistance and grants that may be awarded in any one year pursuant  
42 to subsection b. of section 28 of P.L.1993, c.139 (C.58:10B-6), the  
43 authority may award an additional amount of financial assistance  
44 and grants in any one year, of up to \$2,000,000, to any one  
45 municipality, county, or redevelopment entity for the remediation of  
46 property in a brownfield development area. Any property on which  
47 a municipality, county, or redevelopment entity makes expenditures  
48 for a remedial action and the property is not owned by that entity

1 shall be subject to the provisions of section 8 of P.L.2005, c.223  
2 (C.58:10B-25.2).

3 (cf: P.L.2007, c.135, s.2)

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11 written report shall be sent to the Senate Environment Committee,  
12 and the Assembly Environment and Solid Waste Committee, or  
13 their successors at the end of each calendar quarter detailing the  
14 allocation and expenditures related to the financial assistance and  
15 grants from the fund.

16 (1) Moneys shall be allocated for financial assistance to persons,  
17 for remediation of real property located in a qualifying municipality  
18 as defined in section 1 of P.L.1978, c.14 (C.52:27D-178);

19 (2) Moneys shall be allocated to: (a) municipalities, counties, or  
20 redevelopment entities authorized to exercise redevelopment  
21 powers pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4), for:

22 (i) projects in brownfield development areas pursuant to  
23 subsection f. of section 27 of P.L.1993, c.139 (C.58:10B-5),

24 (ii) matching grants up to a cumulative total amount from the  
25 fund of \$5,000,000 per year of up to 75% of the costs of the  
26 remedial action for projects involving the redevelopment of  
27 contaminated property for recreation and conservation purposes,  
28 provided that the use of the property for recreation and conservation  
29 purposes is included in the comprehensive plan for the development  
30 or redevelopment of contaminated property, up to 75% of the costs  
31 of the remedial action for projects involving the redevelopment of  
32 contaminated property for renewable energy generation, or up to  
33 50% of the costs of the remedial action for projects involving the  
34 redevelopment of contaminated property for affordable housing  
35 pursuant to P.L.1985, c.222 (C.52:27D-301 et al.),

36 (iii) grants for preliminary assessment, site investigation or  
37 remedial investigation of a contaminated site,

38 (iv) financial assistance for the implementation of a remedial  
39 action, or

40 (v) financial assistance for remediation activities at sites that  
41 have been contaminated by a discharge of a hazardous substance or  
42 hazardous waste, or at which there is an imminent and significant  
43 threat of a discharge of a hazardous substance or hazardous waste,  
44 and the discharge or threatened discharge poses or would pose an  
45 imminent and significant threat to a drinking water source, to  
46 human health, or to a sensitive or significant ecological area; or

47 (b) persons for financial assistance for remediation activities at  
48 sites that have been contaminated by a discharge of a hazardous

1 substance or hazardous waste, or at which there is an imminent and  
2 significant threat of a discharge of a hazardous substance or  
3 hazardous waste, and the discharge or threatened discharge poses or  
4 would pose an imminent and significant threat to a drinking water  
5 source, to human health, or to a sensitive or significant ecological  
6 area.

7 Except as provided in subsection f. of section 27 of P.L.1993,  
8 c.139 (C.58:10B-5), financial assistance and grants to  
9 municipalities, counties, or redevelopment entities authorized to  
10 exercise redevelopment powers pursuant to section 4 of P.L.1992,  
11 c.79 (C.40A:12A-4) may be made for real property: (1) on which  
12 they hold a tax sale certificate; (2) that they have acquired through  
13 foreclosure or other similar means; or (3) that they have acquired,  
14 or, in the case of a county governed by a board of chosen  
15 freeholders, have passed a resolution or, in the case of a  
16 municipality or a county operating under the "Optional County  
17 Charter Law," P.L.1972, c.154 (C.40:41A-1 et seq.), have passed an  
18 ordinance or other appropriate document to acquire, by voluntary  
19 conveyance for the purpose of redevelopment, or for recreation and  
20 conservation purposes. Financial assistance and grants may only be  
21 awarded for real property on which there has been or on which there  
22 is suspected of being a discharge of a hazardous substance or a  
23 hazardous waste. Grants and financial assistance provided pursuant  
24 to this paragraph shall be used for performing preliminary  
25 assessments, site investigations, remedial investigations, and  
26 remedial actions on real property in order to determine the existence  
27 or extent of any hazardous substance or hazardous waste  
28 contamination, and to remediate the site in compliance with the  
29 applicable health risk and environmental standards on those  
30 properties. No financial assistance or grants for a remedial action  
31 shall be awarded until the municipality, county, or redevelopment  
32 entity authorized to exercise redevelopment powers pursuant to  
33 section 4 of P.L.1992, c.79 (C.40A:12A-4), actually owns the real  
34 property, provided that a matching grant for 75% of the costs of a  
35 remedial action for a project involving the redevelopment of  
36 contaminated property for recreation and conservation purposes, or  
37 a matching grant for 50% of the costs of a remedial action for a  
38 project involving the redevelopment of contaminated property for  
39 affordable housing pursuant to P.L.1985, c.222 (C.52:27D-301 et  
40 al.) may be made to a municipality, county, or redevelopment entity  
41 authorized to exercise redevelopment powers pursuant to section 4  
42 of P.L.1992, c.79 even if it does not own the real property and a  
43 grant may be made to a municipality, county, or redevelopment  
44 entity authorized to exercise redevelopment powers pursuant to  
45 section 4 of P.L.1992, c.79 (C.40A:12A-4) for a remediation in a  
46 brownfield development area pursuant to subsection f. of section 27  
47 of P.L.1993, c.139 (C.58:10B-5) even if the entity does not own the  
48 real property. No grant shall be awarded for a remedial action for a

1 project involving the redevelopment of contaminated property for  
2 recreation or conservation purposes unless the use of the property is  
3 preserved for recreation and conservation purposes by conveyance  
4 of a development easement, conservation restriction or easement, or  
5 other restriction or easement permanently restricting development,  
6 which shall be recorded and indexed with the deed in the registry of  
7 deeds for the county. A municipality that has performed, or on  
8 which there has been performed, a preliminary assessment, site  
9 investigation or remedial investigation on property may obtain a  
10 loan for the purpose of continuing the remediation on those  
11 properties as necessary to comply with the applicable remediation  
12 regulations adopted by the department. No grant shall be awarded  
13 pursuant to this paragraph to a municipality, a county, or a  
14 redevelopment entity authorized to exercise redevelopment powers  
15 pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4) unless that  
16 entity has adopted by ordinance or resolution a comprehensive plan  
17 specifically for the development or redevelopment of contaminated  
18 or potentially contaminated real property in that municipality or the  
19 entity can demonstrate to the authority that a realistic opportunity  
20 exists that the subject real property will be developed or  
21 redeveloped within a three-year period from the completion of the  
22 remediation;

23 (3) Moneys shall be allocated for financial assistance to persons  
24 who voluntarily perform a remediation of a hazardous substance or  
25 hazardous waste discharge;

26 (4) Moneys shall be allocated for grants to persons who own  
27 real property on which there has been a discharge of a hazardous  
28 substance or a hazardous waste and that person qualifies for an  
29 innocent party grant. A person qualifies for an innocent party grant  
30 if that person acquired the property prior to December 31, 1983, the  
31 hazardous substance or hazardous waste that was discharged at the  
32 property was not used by the person at that site, and that person  
33 certifies that he did not discharge any hazardous substance or  
34 hazardous waste at an area where a discharge is discovered. A  
35 grant authorized pursuant to this paragraph may be for up to 50% of  
36 the remediation costs at the area of concern for which the person  
37 qualifies for an innocent party grant, except that no grant awarded  
38 pursuant to this paragraph to any person may exceed \$1,000,000;

39 (5) Moneys shall be allocated for (a) financial assistance to  
40 persons who own and plan to remediate an environmental  
41 opportunity zone for which an exemption from real property taxes  
42 has been granted pursuant to section 5 of P.L.1995, c.413 (C.54:4-  
43 3.154), or (b) matching grants for up to 25% of the project costs to  
44 qualifying persons, municipalities, counties, and redevelopment  
45 entities authorized to exercise redevelopment powers pursuant to  
46 section 4 of P.L.1992, c.79 (C.40A:12A-4), who propose to perform  
47 a remedial action that uses an innovative technology, or for the  
48 implementation of a limited restricted use remedial action or an



1 unrestricted use remedial action except that no grant awarded  
2 pursuant to this paragraph may exceed \$250,000; and

3 (6) Twenty percent of the moneys in the remediation fund shall  
4 be allocated for financial assistance or grants for any of the  
5 purposes enumerated in paragraphs (1) through (5) of this  
6 subsection.

7 For the purposes of paragraph (5) of this subsection, "qualifying  
8 persons" means any person who has a net worth of not more than  
9 \$2,000,000 and "project costs" means that portion of the total costs  
10 of a remediation that is specifically for the use of an innovative  
11 technology or to implement an unrestricted use remedial action or a  
12 limited restricted use remedial action, as applicable.

13 b. Loans issued from the remediation fund shall be for a term  
14 not to exceed ten years, except that upon the transfer of ownership  
15 of any real property for which the loan was made, the unpaid  
16 balance of the loan shall become immediately payable in full. The  
17 unpaid balance of a loan for the remediation of real property that is  
18 transferred by devise or succession shall not become immediately  
19 payable in full, and loan repayments shall be made by the person  
20 who acquires the property. Loans to municipalities, counties, and  
21 redevelopment entities authorized to exercise redevelopment  
22 powers pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4),  
23 shall bear an interest rate equal to 2 points below the Federal  
24 Discount Rate at the time of approval or at the time of loan closing,  
25 whichever is lower, except that the rate shall be no lower than 3  
26 percent. All other loans shall bear an interest rate equal to the  
27 Federal Discount Rate at the time of approval or at the time of the  
28 loan closing, whichever is lower, except that the rate on such loans  
29 shall be no lower than five percent. Financial assistance and grants  
30 may be issued for up to 100% of the estimated applicable  
31 remediation cost, except that the cumulative maximum amount of  
32 financial assistance which may be issued to a person, in any  
33 calendar year, for one or more properties, shall be \$1,000,000.  
34 Financial assistance and grants to any one municipality, county, or  
35 redevelopment entity authorized to exercise redevelopment powers  
36 pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4) may not  
37 exceed \$3,000,000 in any calendar year except as provided in  
38 subsection f. of section 27 of P.L.1993, c.139 (C.58:10B-5). Grants  
39 to a municipality, county, or redevelopment entity authorized to  
40 exercise redevelopment powers pursuant to section 4 of P.L.1992,  
41 c.79 may be for up to 100% of the total costs of the preliminary  
42 assessment, site investigation, or remedial investigation regardless  
43 of when the application was received by the department. Grants to a  
44 municipality, a county, or a redevelopment entity authorized to  
45 exercise redevelopment powers pursuant to section 4 of P.L.1992,  
46 c.79 (C.40A:12A-4) may not exceed 75% of the total costs of the  
47 remedial action at any one site for any application received by the  
48 department on or after September 15, 2005. Repayments of

1 principal and interest on the loans issued from the remediation fund  
2 shall be paid to the authority and shall be deposited into the  
3 remediation fund.

4 c. No person, other than a qualified person planning to use an  
5 innovative technology for the cost of that technology, a qualified  
6 person planning to use a limited restricted use remedial action or an  
7 unrestricted use remedial action for the cost of the remedial action,  
8 a person performing a remediation in an environmental opportunity  
9 zone, or a person voluntarily performing a remediation, shall be  
10 eligible for financial assistance from the remediation fund to the  
11 extent that person is capable of establishing a remediation funding  
12 source for the remediation as required pursuant to section 25 of  
13 P.L.1993, c.139 (C.58:10B-3).

14 d. The authority may use a sum that represents up to 2% of the  
15 moneys issued as financial assistance or grants from the  
16 remediation fund each year for administrative expenses incurred in  
17 connection with the operation of the fund and the issuance of  
18 financial assistance and grants.

19 e. Prior to March 1 of each year, the authority shall submit to  
20 the Senate Environment Committee and the Assembly Environment  
21 and Solid Waste Committee, or their successors, a report detailing  
22 the amount of money that was available for financial assistance and  
23 grants from the remediation fund for the previous calendar year, the  
24 amount of money estimated to be available for financial assistance  
25 and grants for the current calendar year, the amount of financial  
26 assistance and grants issued for the previous calendar year and the  
27 category for which each financial assistance and grant was  
28 rendered, and any suggestions for legislative action the authority  
29 deems advisable to further the legislative intent to facilitate  
30 remediation and promote the redevelopment and use of existing  
31 industrial sites.

32 (cf: P.L.2007, c.135, s.3)

33

34 3. This act shall take effect immediately.

35

36

37

#### STATEMENT

38

39 This bill would authorize matching grants of up to \$5 million per  
40 year from the Hazardous Discharge Site Remediation Fund to  
41 municipalities, counties or certain redevelopment agencies for up to  
42 75% of the cost of the remedial action for projects that involve the  
43 redevelopment of contaminated property for renewable energy  
44 generation. Current law authorizes matching grants up to a  
45 cumulative total amount of \$5 million per year for projects  
46 involving the redevelopment of property for recreation or  
47 conservation purposes, or for affordable housing. This bill also  
48 would allow those grants to be used for projects that involve the

- 1 redevelopment of contaminated property for renewable energy
- 2 generation.

ASSEMBLY ENVIRONMENT AND SOLID WASTE  
COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 4341**

**STATE OF NEW JERSEY**

DATED: JANUARY 4, 2010

The Assembly Environment and Solid Waste Committee reports favorably Assembly Bill No.4341.

This bill would authorize matching grants of up to \$5 million per year from the Hazardous Discharge Site Remediation Fund to municipalities, counties or certain redevelopment agencies for up to 75% of the cost of the remedial action for projects that involve the redevelopment of contaminated property for renewable energy generation. Current law authorizes matching grants up to a cumulative total amount of \$5 million per year for projects involving the redevelopment of property for recreation or conservation purposes, or for affordable housing. This bill also would allow those grants to be used for projects that involve the redevelopment of contaminated property for renewable energy generation.

**SENATE, No. 3118**

**STATE OF NEW JERSEY**  
**213th LEGISLATURE**

INTRODUCED DECEMBER 3, 2009

**Sponsored by:**

**Senator BOB SMITH**

**District 17 (Middlesex and Somerset)**

**Senator JEFF VAN DREW**

**District 1 (Cape May, Atlantic and Cumberland)**

**SYNOPSIS**

Authorizes increased grant funding to local governments for site remediation for redevelopment of contaminated property for renewable energy projects.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 1/12/2010)**

1 AN ACT concerning site remediation grants for redevelopment of  
2 contaminated property for renewable energy generation projects,  
3 and amending P.L.1993, c.139.

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

7  
8 1. Section 27 of P.L.1993, c.139 (C.58:10B-5) is amended to  
9 read as follows:

10 27. a. (1) Except as provided in section 4 of P.L.2007, c.135  
11 (C.52:27D-130.7), financial assistance from the remediation fund  
12 may only be rendered to persons who cannot establish a remediation  
13 funding source for the full amount of a remediation. Financial  
14 assistance pursuant to this act may be rendered only for that amount  
15 of the cost of a remediation for which the person cannot establish a  
16 remediation funding source. The limitations on receiving financial  
17 assistance established in this paragraph (1) shall not limit the ability  
18 of municipalities, counties, redevelopment entities authorized to  
19 exercise redevelopment powers pursuant to section 4 of P.L.1992,  
20 c.79 (C.40A:12A-4), persons who are not required to establish a  
21 remediation funding source for the part of the remediation involving  
22 an innovative technology, an unrestricted use remedial action or a  
23 limited restricted use remedial action, persons performing a  
24 remediation in an environmental opportunity zone, or persons who  
25 voluntarily perform a remediation, from receiving financial  
26 assistance from the fund.

27 (2) Financial assistance rendered to persons who voluntarily  
28 perform a remediation or perform a remediation in an  
29 environmental opportunity zone may only be made for that amount  
30 of the cost of the remediation that the person cannot otherwise fund  
31 by any of the authorized methods to establish a remediation funding  
32 source.

33 (3) Financial assistance rendered to persons who do not have to  
34 provide a remediation funding source for the part of the remediation  
35 that involves an innovative technology, an unrestricted use remedial  
36 action, or a limited restricted use remedial action may only be made  
37 for that amount of the cost of the remediation that the person cannot  
38 otherwise fund by any of the authorized methods to establish a  
39 remediation funding source.

40 b. Financial assistance may be rendered from the remediation  
41 fund to (1) owners or operators of industrial establishments who are  
42 required to perform remediation activities pursuant to P.L.1983,  
43 c.330 (C.13:1K-6 et al.), upon closing operations or prior to the  
44 transfer of ownership or operations of an industrial establishment,  
45 (2) persons who are liable for the cleanup and removal costs of a

**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.**

1 hazardous substance pursuant to P.L.1976, c.141 (C.58:10-23.11 et  
2 seq.), and (3) persons who voluntarily perform a remediation of a  
3 discharge of a hazardous substance or hazardous waste.

4 c. Financial assistance and grants may be made from the  
5 remediation fund to a municipality, county, or redevelopment entity  
6 authorized to exercise redevelopment powers pursuant to section 4  
7 of P.L.1992, c.79 (C.40A:12A-4), for real property: (1) on which it  
8 holds a tax sale certificate; (2) that it has acquired through  
9 foreclosure or other similar means; or (3) that it has acquired, or in  
10 the case of a county governed by a board of chosen freeholders, has  
11 passed a resolution or, in the case of a municipality or a county  
12 operating under the "Optional County Charter Law," P.L.1972,  
13 c.154 (C.40:41A-1 et seq.), has passed an ordinance or other  
14 appropriate document to acquire, by voluntary conveyance for the  
15 purpose of redevelopment, for renewable energy generation or for  
16 recreation and conservation purposes. Financial assistance and  
17 grants may only be awarded for real property on which there has  
18 been a discharge or on which there is a suspected discharge of a  
19 hazardous substance or hazardous waste.

20 d. Grants may be made from the remediation fund to persons  
21 who own real property on which there has been a discharge of a  
22 hazardous substance or a hazardous waste and that person qualifies  
23 for an innocent party grant pursuant to section 28 of P.L.1993,  
24 c.139 (C.58:10B-6).

25 e. Grants may be made from the remediation fund to qualifying  
26 persons who propose to perform a remedial action that uses an  
27 innovative technology or that would result in an unrestricted use  
28 remedial action or a limited restricted use remedial action.

29 f. Grants may be made from the remediation fund to  
30 municipalities, counties, and redevelopment entities authorized to  
31 exercise redevelopment powers pursuant to section 4 of P.L.1992,  
32 c.79 (C.40A:12A-4), for the preliminary assessment, site  
33 investigation, remedial investigation and remedial action on  
34 contaminated real property within a brownfield development area.  
35 An ownership interest in the contaminated property shall not be  
36 required in order for a municipality, county, or redevelopment  
37 entity authorized to exercise redevelopment powers pursuant to  
38 section 4 of P.L.1992, c.79 (C.40A:12A-4) to receive a grant for a  
39 remediation of property in a brownfield redevelopment area.  
40 Notwithstanding the limitation on the total amount of financial  
41 assistance and grants that may be awarded in any one year pursuant  
42 to subsection b. of section 28 of P.L.1993, c.139 (C.58:10B-6), the  
43 authority may award an additional amount of financial assistance  
44 and grants in any one year, of up to \$2,000,000, to any one  
45 municipality, county, or redevelopment entity for the remediation of  
46 property in a brownfield development area. Any property on which  
47 a municipality, county, or redevelopment entity makes expenditures  
48 for a remedial action and the property is not owned by that entity

1 shall be subject to the provisions of section 8 of P.L.2005, c.223  
2 (C.58:10B-25.2).

3 (cf: P.L.2007, c.135, s.2)

4

5 2. Section 28 of P.L.1993, c.139 (C.58:10B-6) is amended to  
6 read as follows:

7 28. a. Except for moneys deposited in the remediation fund for  
8 specific purposes, and as provided in section 4 of P.L. 2007, c.135  
9 (C.52:27D-130.7), financial assistance and grants from the  
10 remediation fund shall be rendered for the following purposes. A  
11 written report shall be sent to the Senate Environment Committee,  
12 and the Assembly Environment and Solid Waste Committee, or  
13 their successors at the end of each calendar quarter detailing the  
14 allocation and expenditures related to the financial assistance and  
15 grants from the fund.

16 (1) Moneys shall be allocated for financial assistance to persons,  
17 for remediation of real property located in a qualifying municipality  
18 as defined in section 1 of P.L.1978, c.14 (C.52:27D-178);

19 (2) Moneys shall be allocated to: (a) municipalities, counties, or  
20 redevelopment entities authorized to exercise redevelopment  
21 powers pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4), for:

22 (i) projects in brownfield development areas pursuant to  
23 subsection f. of section 27 of P.L.1993, c.139 (C.58:10B-5),

24 (ii) matching grants up to a cumulative total amount from the  
25 fund of \$5,000,000 per year of up to 75% of the costs of the  
26 remedial action for projects involving the redevelopment of  
27 contaminated property for recreation and conservation purposes,  
28 provided that the use of the property for recreation and conservation  
29 purposes is included in the comprehensive plan for the development  
30 or redevelopment of contaminated property, up to 75% of the costs  
31 of the remedial action for projects involving the redevelopment of  
32 contaminated property for renewable energy generation, or up to  
33 50% of the costs of the remedial action for projects involving the  
34 redevelopment of contaminated property for affordable housing  
35 pursuant to P.L.1985, c.222 (C.52:27D-301 et al.),

36 (iii) grants for preliminary assessment, site investigation or  
37 remedial investigation of a contaminated site,

38 (iv) financial assistance for the implementation of a remedial  
39 action, or

40 (v) financial assistance for remediation activities at sites that  
41 have been contaminated by a discharge of a hazardous substance or  
42 hazardous waste, or at which there is an imminent and significant  
43 threat of a discharge of a hazardous substance or hazardous waste,  
44 and the discharge or threatened discharge poses or would pose an  
45 imminent and significant threat to a drinking water source, to  
46 human health, or to a sensitive or significant ecological area; or

47 (b) persons for financial assistance for remediation activities at  
48 sites that have been contaminated by a discharge of a hazardous



1 substance or hazardous waste, or at which there is an imminent and  
2 significant threat of a discharge of a hazardous substance or  
3 hazardous waste, and the discharge or threatened discharge poses or  
4 would pose an imminent and significant threat to a drinking water  
5 source, to human health, or to a sensitive or significant ecological  
6 area.

7 Except as provided in subsection f. of section 27 of P.L.1993,  
8 c.139 (C.58:10B-5), financial assistance and grants to  
9 municipalities, counties, or redevelopment entities authorized to  
10 exercise redevelopment powers pursuant to section 4 of P.L.1992,  
11 c.79 (C.40A:12A-4) may be made for real property: (1) on which  
12 they hold a tax sale certificate; (2) that they have acquired through  
13 foreclosure or other similar means; or (3) that they have acquired,  
14 or, in the case of a county governed by a board of chosen  
15 freeholders, have passed a resolution or, in the case of a  
16 municipality or a county operating under the "Optional County  
17 Charter Law," P.L.1972, c.154 (C.40:41A-1 et seq.), have passed an  
18 ordinance or other appropriate document to acquire, by voluntary  
19 conveyance for the purpose of redevelopment, or for recreation and  
20 conservation purposes. Financial assistance and grants may only be  
21 awarded for real property on which there has been or on which there  
22 is suspected of being a discharge of a hazardous substance or a  
23 hazardous waste. Grants and financial assistance provided pursuant  
24 to this paragraph shall be used for performing preliminary  
25 assessments, site investigations, remedial investigations, and  
26 remedial actions on real property in order to determine the existence  
27 or extent of any hazardous substance or hazardous waste  
28 contamination, and to remediate the site in compliance with the  
29 applicable health risk and environmental standards on those  
30 properties. No financial assistance or grants for a remedial action  
31 shall be awarded until the municipality, county, or redevelopment  
32 entity authorized to exercise redevelopment powers pursuant to  
33 section 4 of P.L.1992, c.79 (C.40A:12A-4), actually owns the real  
34 property, provided that a matching grant for 75% of the costs of a  
35 remedial action for a project involving the redevelopment of  
36 contaminated property for recreation and conservation purposes, or  
37 a matching grant for 50% of the costs of a remedial action for a  
38 project involving the redevelopment of contaminated property for  
39 affordable housing pursuant to P.L.1985, c.222 (C.52:27D-301 et  
40 al.) may be made to a municipality, county, or redevelopment entity  
41 authorized to exercise redevelopment powers pursuant to section 4  
42 of P.L.1992, c.79 even if it does not own the real property and a  
43 grant may be made to a municipality, county, or redevelopment  
44 entity authorized to exercise redevelopment powers pursuant to  
45 section 4 of P.L.1992, c.79 (C.40A:12A-4) for a remediation in a  
46 brownfield development area pursuant to subsection f. of section 27  
47 of P.L.1993, c.139 (C.58:10B-5) even if the entity does not own the  
48 real property. No grant shall be awarded for a remedial action for a

1 project involving the redevelopment of contaminated property for  
2 recreation or conservation purposes unless the use of the property is  
3 preserved for recreation and conservation purposes by conveyance  
4 of a development easement, conservation restriction or easement, or  
5 other restriction or easement permanently restricting development,  
6 which shall be recorded and indexed with the deed in the registry of  
7 deeds for the county. A municipality that has performed, or on  
8 which there has been performed, a preliminary assessment, site  
9 investigation or remedial investigation on property may obtain a  
10 loan for the purpose of continuing the remediation on those  
11 properties as necessary to comply with the applicable remediation  
12 regulations adopted by the department. No grant shall be awarded  
13 pursuant to this paragraph to a municipality, a county, or a  
14 redevelopment entity authorized to exercise redevelopment powers  
15 pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4) unless that  
16 entity has adopted by ordinance or resolution a comprehensive plan  
17 specifically for the development or redevelopment of contaminated  
18 or potentially contaminated real property in that municipality or the  
19 entity can demonstrate to the authority that a realistic opportunity  
20 exists that the subject real property will be developed or  
21 redeveloped within a three-year period from the completion of the  
22 remediation;

23 (3) Moneys shall be allocated for financial assistance to persons  
24 who voluntarily perform a remediation of a hazardous substance or  
25 hazardous waste discharge;

26 (4) Moneys shall be allocated for grants to persons who own  
27 real property on which there has been a discharge of a hazardous  
28 substance or a hazardous waste and that person qualifies for an  
29 innocent party grant. A person qualifies for an innocent party grant  
30 if that person acquired the property prior to December 31, 1983, the  
31 hazardous substance or hazardous waste that was discharged at the  
32 property was not used by the person at that site, and that person  
33 certifies that he did not discharge any hazardous substance or  
34 hazardous waste at an area where a discharge is discovered. A  
35 grant authorized pursuant to this paragraph may be for up to 50% of  
36 the remediation costs at the area of concern for which the person  
37 qualifies for an innocent party grant, except that no grant awarded  
38 pursuant to this paragraph to any person may exceed \$1,000,000;

39 (5) Moneys shall be allocated for (a) financial assistance to  
40 persons who own and plan to remediate an environmental  
41 opportunity zone for which an exemption from real property taxes  
42 has been granted pursuant to section 5 of P.L.1995, c.413 (C.54:4-  
43 3.154), or (b) matching grants for up to 25% of the project costs to  
44 qualifying persons, municipalities, counties, and redevelopment  
45 entities authorized to exercise redevelopment powers pursuant to  
46 section 4 of P.L.1992, c.79 (C.40A:12A-4), who propose to perform  
47 a remedial action that uses an innovative technology, or for the  
48 implementation of a limited restricted use remedial action or an

1 unrestricted use remedial action except that no grant awarded  
2 pursuant to this paragraph may exceed \$250,000; and

3 (6) Twenty percent of the moneys in the remediation fund shall  
4 be allocated for financial assistance or grants for any of the  
5 purposes enumerated in paragraphs (1) through (5) of this  
6 subsection.

7 For the purposes of paragraph (5) of this subsection, "qualifying  
8 persons" means any person who has a net worth of not more than  
9 \$2,000,000 and "project costs" means that portion of the total costs  
10 of a remediation that is specifically for the use of an innovative  
11 technology or to implement an unrestricted use remedial action or a  
12 limited restricted use remedial action, as applicable.

13 b. Loans issued from the remediation fund shall be for a term  
14 not to exceed ten years, except that upon the transfer of ownership  
15 of any real property for which the loan was made, the unpaid  
16 balance of the loan shall become immediately payable in full. The  
17 unpaid balance of a loan for the remediation of real property that is  
18 transferred by devise or succession shall not become immediately  
19 payable in full, and loan repayments shall be made by the person  
20 who acquires the property. Loans to municipalities, counties, and  
21 redevelopment entities authorized to exercise redevelopment  
22 powers pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4),  
23 shall bear an interest rate equal to 2 points below the Federal  
24 Discount Rate at the time of approval or at the time of loan closing,  
25 whichever is lower, except that the rate shall be no lower than 3  
26 percent. All other loans shall bear an interest rate equal to the  
27 Federal Discount Rate at the time of approval or at the time of the  
28 loan closing, whichever is lower, except that the rate on such loans  
29 shall be no lower than five percent. Financial assistance and grants  
30 may be issued for up to 100% of the estimated applicable  
31 remediation cost, except that the cumulative maximum amount of  
32 financial assistance which may be issued to a person, in any  
33 calendar year, for one or more properties, shall be \$1,000,000.  
34 Financial assistance and grants to any one municipality, county, or  
35 redevelopment entity authorized to exercise redevelopment powers  
36 pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4) may not  
37 exceed \$3,000,000 in any calendar year except as provided in  
38 subsection f. of section 27 of P.L.1993, c.139 (C.58:10B-5). Grants  
39 to a municipality, county, or redevelopment entity authorized to  
40 exercise redevelopment powers pursuant to section 4 of P.L.1992,  
41 c.79 may be for up to 100% of the total costs of the preliminary  
42 assessment, site investigation, or remedial investigation regardless  
43 of when the application was received by the department. Grants to a  
44 municipality, a county, or a redevelopment entity authorized to  
45 exercise redevelopment powers pursuant to section 4 of P.L.1992,  
46 c.79 (C.40A:12A-4) may not exceed 75% of the total costs of the  
47 remedial action at any one site for any application received by the  
48 department on or after September 15, 2005. Repayments of

1 principal and interest on the loans issued from the remediation fund  
2 shall be paid to the authority and shall be deposited into the  
3 remediation fund.

4 c. No person, other than a qualified person planning to use an  
5 innovative technology for the cost of that technology, a qualified  
6 person planning to use a limited restricted use remedial action or an  
7 unrestricted use remedial action for the cost of the remedial action,  
8 a person performing a remediation in an environmental opportunity  
9 zone, or a person voluntarily performing a remediation, shall be  
10 eligible for financial assistance from the remediation fund to the  
11 extent that person is capable of establishing a remediation funding  
12 source for the remediation as required pursuant to section 25 of  
13 P.L.1993, c.139 (C.58:10B-3).

14 d. The authority may use a sum that represents up to 2% of the  
15 moneys issued as financial assistance or grants from the  
16 remediation fund each year for administrative expenses incurred in  
17 connection with the operation of the fund and the issuance of  
18 financial assistance and grants.

19 e. Prior to March 1 of each year, the authority shall submit to  
20 the Senate Environment Committee and the Assembly Environment  
21 and Solid Waste Committee, or their successors, a report detailing  
22 the amount of money that was available for financial assistance and  
23 grants from the remediation fund for the previous calendar year, the  
24 amount of money estimated to be available for financial assistance  
25 and grants for the current calendar year, the amount of financial  
26 assistance and grants issued for the previous calendar year and the  
27 category for which each financial assistance and grant was  
28 rendered, and any suggestions for legislative action the authority  
29 deems advisable to further the legislative intent to facilitate  
30 remediation and promote the redevelopment and use of existing  
31 industrial sites.

32 (cf: P.L.2007, c.135, s.3)

33

34 3. This act shall take effect immediately.

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#### STATEMENT

38

39 This bill would authorize matching grants of up to \$5 million per  
40 year from the Hazardous Discharge Site Remediation Fund to  
41 municipalities, counties or certain redevelopment agencies for up to  
42 75% of the cost of the remedial action for projects that involve the  
43 redevelopment of contaminated property for renewable energy  
44 generation. Current law authorizes matching grants up to a  
45 cumulative total amount of \$5 million per year for projects  
46 involving the redevelopment of property for recreation or  
47 conservation purposes, or for affordable housing. This bill also  
48 would allow those grants to be used for projects that involve the

**S3118 B. SMITH, VAN DREW**

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- 1 redevelopment of contaminated property for renewable energy
- 2 generation.

SENATE ENVIRONMENT COMMITTEE

STATEMENT TO

**SENATE, No. 3118**

**STATE OF NEW JERSEY**

DATED: DECEMBER 14, 2009

The Senate Environment Committee favorably reports Senate Bill No. 3118.

This bill would authorize matching grants of up to \$5 million per year from the Hazardous Discharge Site Remediation Fund to municipalities, counties or certain redevelopment agencies for up to 75% of the cost of the remedial action for projects that involve the redevelopment of contaminated property for renewable energy generation. Current law authorizes matching grants up to a cumulative total amount of \$5 million per year for projects involving the redevelopment of property for recreation or conservation purposes, or for affordable housing. This bill would allow those grants to be used also for projects that involve the redevelopment of contaminated property for renewable energy generation.