

58:10B-3.2

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2012 **CHAPTER:** 19

NJSA: 58:10B-3.2 (Requires deposit of property tax refunds for certain industrial sites under federal or State orders for remediation with Commissioner of Environmental Protection to help ensure compliance)

BILL NO: S1460 (Substituted for A2294)

SPONSOR(S) Sweeney and others

DATE INTRODUCED: February 6, 2012

COMMITTEE: **ASSEMBLY:** ---

SENATE: Environment and Energy
 Budget and Appropriations

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** June 25, 2012

SENATE: May 31, 2012

DATE OF APPROVAL: July 9, 2012

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (Second reprint enacted)

S1460

SPONSOR'S STATEMENT: (Begins on page 3 of introduced bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** No

SENATE: Yes Environment
 Budget

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: Yes

LEGISLATIVE FISCAL ESTIMATE: Yes

A2294

SPONSOR'S STATEMENT: (Begins on page 3 of introduced bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes Environment
 Appropriations

SENATE: No

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: Yes

(continued)

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

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REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: No

LAW/KR

P.L.2012, CHAPTER 19, *approved July 9, 2012*

Senate, No. 1460 (*Second Reprint*)

1 AN ACT concerning environmental remediation compliance and
2 amending P.L.1975, c.361 and P.L.1983, c.137, and
3 supplementing P.L.1993, c.139 (C.58:10B-1 et al.).
4

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

7
8 1. Section 2 of P.L.1975, c.361 (C.54:3-27.2) is amended to
9 read as follows:

10 2. **[In]** Except as required in paragraph (2) of subsection a. of
11 section 2 of P.L.1983, c.137 (C.54:4-134), in the event that a
12 taxpayer is successful in an appeal from an assessment on real
13 property, the respective taxing district shall refund any excess taxes
14 paid, together with interest thereon from the date of payment at a
15 rate of 5% per annum, less any amount of taxes, interest, or both,
16 which may be applied against delinquencies pursuant to section 2 of
17 P.L.1983, c.137 (C.54:4-134), within 60 days of the date of final
18 judgment.

19 (cf: P.L.1983, c.137, s.1)
20

21 2. Section 2 of P.L.1983, c.137 (C.54:4-134) is amended to
22 read as follows:

23 2. a. (1) Whenever the owner of real property shall be entitled,
24 pursuant to a determination of a county board of taxation or a
25 judgment of the tax court, to a refund of all or any portion of the
26 property taxes paid against the property in any given year, and any
27 property taxes, water or sewer payments, or parking or payroll taxes
28 imposed or to be collected by the municipality against that property
29 or the owner or owners of that property are delinquent at the time of
30 the determination or judgment, the governing body of the
31 municipality constituting the taxing district in which the property is
32 located may apply the refund, or such portion thereof as may be
33 necessary, including any accrued interest, against the delinquency.

34 (2) In addition to the application of a refund against a
35 delinquency as set forth in paragraph (1) of this subsection, a refund
36 from an appeal on the assessment of a property that was a
37 constituent part of an industrial site or complex that is currently
38 vacant or underutilized, and that is subject to 'any' federal or State

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SEN committee amendments adopted February 9, 2012.

²Senate floor amendments adopted March 15, 2012.

1 court '【orders】 order' , or administrative '【actions】 action' or
2 '【orders】 order' , for environmental remediation, shall be deposited
3 by the taxing district with the Commissioner of Environmental
4 Protection, to be used to ensure required site remediation. Once the
5 industrial site has been remediated, any remaining refund amounts
6 shall be returned by the commissioner to the taxpayer within 30
7 days '【of】 after' completion of the site remediation. Any monies
8 not returned within 30 days shall be paid ' , ' with interest, from the
9 date of completion of the site remediation, at a rate of 5% per
10 annum. ²The provisions of this paragraph shall not apply to any
11 property for which a remediation trust fund has been established
12 pursuant to the provisions of section 25 of P.L.1993, c.139
13 (C.58:10B-3).²

14 b. If the total amount of the refund is equal to or exceeds the
15 total amount of the delinquency, the lien against the property for
16 unpaid taxes shall be extinguished, and the balance, if any,
17 remaining after the application of the refund against the
18 delinquency shall be forwarded to the owner not later than 60 days
19 after the date of the determination of the county board of taxation or
20 the tax court judgment, as the case may be. If the total amount of
21 the delinquency exceeds the total amount of the refund, the balance
22 of the delinquency remaining shall remain a lien against the
23 property.
24 (cf: P.L.1987, c.100, s.1)

25
26 3. (New section) ²【Whenever】 a. Except as provided in
27 subsection b. of this section, whenever² an industrial property that
28 is subject to 'any' federal or State court '【orders】 order' , or
29 administrative '【actions】 action' or '【orders】 order' , for
30 environmental remediation becomes vacant or underutilized, the
31 municipality in which the property is located may assess an annual
32 charge to ensure the prompt remediation of the property. The
33 charge shall not exceed the difference between the amount of
34 property taxes paid on the property in the last year of full industrial
35 operation and the amount of property taxes paid on the property for
36 the current year. Unpaid charges shall constitute a lien on the
37 property and shall be collected in the same manner as property
38 taxes. The municipality shall deposit any funds collected pursuant
39 to this section with the Commissioner of Environmental Protection,
40 who shall credit the amounts deposited against the property owner's
41 'environmental' remediation '【funding source】' liability pursuant
42 to '【section 25 of P.L.1993, c.139 (C.58:10B-3)] law' .

43 ²b. The provisions of this section shall not apply to any property
44 for which a remediation trust fund has been established pursuant to
45 the provisions of section 25 of P.L.1993, c.139 (C.58:10B-3).²

SENATE, No. 1460

STATE OF NEW JERSEY
215th LEGISLATURE

INTRODUCED FEBRUARY 6, 2012

Sponsored by:

Senator STEPHEN M. SWEENEY

District 3 (Cumberland, Gloucester and Salem)

SYNOPSIS

Requires deposit of property tax refunds for certain industrial sites under federal or State orders for remediation with Commissioner of Environmental Protection to help ensure compliance.

CURRENT VERSION OF TEXT

As introduced.



S1460 SWEENEY

2

1 AN ACT concerning environmental remediation compliance and
2 amending P.L.1975, c.361 and P.L.1983, c.137, and
3 supplementing P.L.1993, c.139 (C.58:10B-1 et al.).
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 2 of P.L.1975, c.361 (C.54:3-27.2) is amended to
9 read as follows:

10 2. **[In]** Except as required in paragraph (2) of subsection a. of
11 section 2 of P.L.1983, c.137 (C.54:4-134), in the event that a
12 taxpayer is successful in an appeal from an assessment on real
13 property, the respective taxing district shall refund any excess taxes
14 paid, together with interest thereon from the date of payment at a
15 rate of 5% per annum, less any amount of taxes, interest, or both,
16 which may be applied against delinquencies pursuant to section 2 of
17 P.L.1983, c.137 (C.54:4-134), within 60 days of the date of final
18 judgment.

19 (cf: P.L.1983, c.137, s.1)
20

21 2. Section 2 of P.L.1983, c.137 (C.54:4-134) is amended to
22 read as follows:

23 2. a. (1) Whenever the owner of real property shall be entitled,
24 pursuant to a determination of a county board of taxation or a
25 judgment of the tax court, to a refund of all or any portion of the
26 property taxes paid against the property in any given year, and any
27 property taxes, water or sewer payments, or parking or payroll taxes
28 imposed or to be collected by the municipality against that property
29 or the owner or owners of that property are delinquent at the time of
30 the determination or judgment, the governing body of the
31 municipality constituting the taxing district in which the property is
32 located may apply the refund, or such portion thereof as may be
33 necessary, including any accrued interest, against the delinquency.

34 (2) In addition to the application of a refund against a
35 delinquency as set forth in paragraph (1) of this subsection, a refund
36 from an appeal on the assessment of a property that was a
37 constituent part of an industrial site or complex that is currently
38 vacant or underutilized, and that is subject to federal or State court
39 orders, or administrative actions or orders, for environmental
40 remediation, shall be deposited by the taxing district with the
41 Commissioner of Environmental Protection, to be used to ensure
42 required site remediation. Once the industrial site has been
43 remediated, any remaining refund amounts shall be returned by the
44 commissioner to the taxpayer within 30 days of completion of the
45 site remediation. Any monies not returned within 30 days shall be

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not enacted and is intended to be omitted in the law.

Matter underlined **thus** is new matter.

S1460 SWEENEY

1 paid with interest, from the date of completion of the site
2 remediation, at a rate of 5% per annum.

3 b. If the total amount of the refund is equal to or exceeds the
4 total amount of the delinquency, the lien against the property for
5 unpaid taxes shall be extinguished, and the balance, if any,
6 remaining after the application of the refund against the
7 delinquency shall be forwarded to the owner not later than 60 days
8 after the date of the determination of the county board of taxation or
9 the tax court judgment, as the case may be. If the total amount of
10 the delinquency exceeds the total amount of the refund, the balance
11 of the delinquency remaining shall remain a lien against the
12 property.

13 (cf: P.L.1987, c.100, s.1)

14

15 3. (New section) Whenever an industrial property that is
16 subject to federal or State court orders, or administrative actions or
17 orders, for environmental remediation becomes vacant or
18 underutilized, the municipality in which the property is located may
19 assess an annual charge to ensure the prompt remediation of the
20 property. The charge shall not exceed the difference between the
21 amount of property taxes paid on the property in the last year of full
22 industrial operation and the amount of property taxes paid on the
23 property for the current year. Unpaid charges shall constitute a lien
24 on the property and shall be collected in the same manner as
25 property taxes. The municipality shall deposit any funds collected
26 pursuant to this section with the Commissioner of Environmental
27 Protection, who shall credit the amounts deposited against the
28 property owner's remediation funding source liability pursuant to
29 section 25 of P.L.1993, c.139 (C.58:10B-3).

30

31 4. This act shall take effect immediately and section 2 shall be
32 applicable with respect to property tax refunds not paid to the
33 taxpayer prior to the date of enactment.

34

35

36

STATEMENT

37

38 This bill requires a taxing district (municipality) to pay any
39 property tax refund ordered by a county tax board or by the State
40 Tax Court resulting from an appeal on the assessment of an
41 industrial property that has become vacant or underutilized and that
42 is subject to federal or State court orders or administrative actions
43 or orders for environmental remediation, to the Commissioner of
44 Environmental Protection to be used to ensure compliance with the
45 remediation orders. Within 30 days following the completion of the
46 site remediation, the commissioner would be required to return any
47 remaining balance of the refund amount to the property taxpayer.
48 Interest would begin to accrue at the rate of 5% per annum if the

S1460 SWEENEY

4

1 balance is not so returned. The bill would also allow a municipality
2 to assess an annual charge on a contaminated industrial property
3 that is ceasing, or has ceased operations in order to help ensure the
4 prompt remediation of that site. Once collected, the money would
5 be deposited with the Commissioner of Environmental Protection
6 and credited against the property owner's remediation funding
7 source liability pursuant to the "Brownfield and Contaminated Site
8 Remediation Act."

9 The intent of this bill is to help ensure that environmental
10 remediation takes place without undue delay, since this is usually
11 not a top priority for the owners of an industrial site that has been
12 vacated or that is reducing operations. This bill would affect
13 industrial sites that recently have been, or are in the process of
14 being decommissioned, such as Sunoco's Eagle Point Refinery in
15 Westville Borough, Gloucester County.

SENATE ENVIRONMENT AND ENERGY COMMITTEE

STATEMENT TO

SENATE, No. 1460

with committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 9, 2012

The Senate Environment and Energy Committee favorably reports Senate Bill No. 1460 with committee amendments.

This bill requires a taxing district (municipality) to pay any property tax refund ordered by a county tax board or by the State Tax Court resulting from an appeal on the assessment of an industrial property that has become vacant or underutilized and that is subject to any federal or State court order or administrative action or order for environmental remediation, to the Commissioner of Environmental Protection to be used to ensure that required site remediation is performed. Within 30 days following completion of the site remediation, the commissioner would be required to return any remaining balance of the refund amount to the property taxpayer. Interest would begin to accrue at the rate of 5% per annum if the balance is not so returned. The bill would also allow a municipality to assess an annual charge on a contaminated industrial property that is ceasing, or has ceased, operations in order to help ensure the prompt remediation of that site. Once collected, the money would be deposited with the Commissioner of Environmental Protection and credited against the property owner's remediation liability pursuant to law.

The committee amendments would (1) clarify that the moneys deposited with the Commissioner of Environmental Protection pursuant to section 3 of the bill would be credited against the owner's remediation liability pursuant to law rather than against the owner's remediation funding source liability pursuant to section 25 of P.L.1993, c.139 (C.58:10B-3), and (2) make technical corrections to the bill.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 1460

STATE OF NEW JERSEY

DATED: FEBRUARY 27, 2012

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 1460 (1R).

This bill requires a taxing district (municipality) to pay any property tax refund ordered by a county tax board or by the State Tax Court, resulting from an appeal on the assessment of an industrial property that has become vacant or underutilized, and that is subject to any federal or State court order, or administrative action or order, for environmental remediation, to the Commissioner of Environmental Protection to be used to ensure that required site remediation is performed. Within 30 days following completion of the site remediation, the commissioner is required to return any remaining balance of the refund amount to the property taxpayer. Interest will begin to accrue at the rate of 5% per annum if the balance is not so returned. The bill will also allow a municipality to assess an annual charge on contaminated industrial property that is ceasing, or has ceased, operations in order to help ensure the prompt remediation of that site. Once collected, the money will be deposited with the Commissioner of Environmental Protection and credited against the property owner's remediation liability pursuant to law.

FISCAL IMPACT:

The Office of Legislative Services notes that this bill may result in an indeterminate potential increase in State funds available for environmental remediation and an indeterminate decrease in municipal expenditures. The State may experience an increase in revenues generated by property tax refunds redirected to the Commissioner of Environmental Protection and annual charges permitted to be assessed by municipalities on contaminated industrial properties that are ceasing, or have ceased, operations. These revenues would not be available for general State purposes. The balance of the refund amount must be returned to the property taxpayer within 30 days following the completion of the site remediation if it is not needed for that purpose.

Municipalities may experience a decrease in costs associated with the payment of interest accrued on assessment appeal refunds. Current

law requires municipalities to refund any excess taxes, plus 5% interest, to the taxpayer within 60 days of final judgment. Thus, municipalities may experience a decrease in costs associated with the payment of interest accrued on assessment appeal refunds if refunds are fully expended on site remediation.

In addition, the use of property tax refunds awarded to the owners of certain industrial sites for environmental remediation may accelerate the return of the property back to productive use. This may increase the municipal property tax base and reduce the property tax burden borne by other local real property taxpayers.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 1460

STATE OF NEW JERSEY 215th LEGISLATURE

DATED: MARCH 1, 2012

SUMMARY

- Synopsis:** Requires deposit of property tax refunds for certain industrial sites under federal or State orders for remediation with Commissioner of Environmental Protection to help ensure compliance.
- Type of Impact:** Indeterminate potential increase in State revenues.
Indeterminate potential decrease in municipal costs.
- Agencies Affected:** Department of Environmental Protection and municipalities.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Revenues	Indeterminate Potential Increase – See comments below		
Local Cost	Indeterminate Potential Decrease – See comments below		

- The Office of Legislative Services has determined that the enactment of Senate Bill No. 1460 (1R) may result in an indeterminate potential increase in State funds available for environmental remediation and an indeterminate decrease in municipal expenditures.
- The State may experience an increase in revenues generated by property tax refunds redirected to the Commissioner of Environmental Protection and annual charges permitted to be assessed by municipalities on contaminated industrial properties that are ceasing, or have ceased, operations.
- Municipalities may experience a decrease in costs associated with the payment of interest accrued on assessment appeal refunds.
- This legislation will not affect the ability of a municipality to apply assessment appeal refunds awarded to the owners of certain industrial sites against any taxes or charges assessed against the property for which property owners may be delinquent.

BILL DESCRIPTION

Senate Bill No. 1460 (1R) of 2012 requires a taxing district (municipality) to pay any property tax refund ordered by a county tax board or by the State Tax Court resulting from an appeal on the assessment of an industrial property that has become vacant or underutilized and that is subject to any federal or State court order or administrative action or order for environmental remediation, to the Commissioner of Environmental Protection to be used to ensure that required site remediation is performed. Within 30 days following completion of the site remediation, the commissioner would be required to return any remaining balance of the refund amount to the property taxpayer. Interest would begin to accrue at a rate of 5 percent per annum of the balance not returned. The bill would allow a municipality to assess an annual charge on a contaminated industrial property that is ceasing, or has ceased operations in order to help insure the prompt remediation of that site. Once collected, the money would be deposited with the Commissioner of Environmental Protection and credited against the property owner's remediation liability pursuant to law. The provisions of this legislation would not apply to any site for which a remediation trust fund has already been established pursuant to section 25 of P.L.1993, c.139 (C.58:10B-3).

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services has determined that the enactment of Senate Bill No. 1460 (1R) may result in an indeterminate potential increase in State funds available for environmental remediation and an indeterminate decrease in municipal expenditures. The State may experience an increase in revenues generated by property tax refunds redirected to the Commissioner of Environmental Protection and annual charges permitted to be assessed by municipalities on contaminated industrial properties that are ceasing, or have ceased operations. These revenues would not be available for general State purposes. The balance of the refund amount must be returned to the property taxpayer within 30 days following the completion of the site remediation if it is not needed for that purpose.

Municipalities may experience a decrease in costs associated with the payment of interest accrued on assessment appeal refunds. Current law requires municipalities to refund any excess taxes, plus 5 percent interest, to the taxpayer within 60 days of final judgment. A municipal cost decrease could be realized with the payment of interest accrued on assessment appeal refunds if refunds are targeted to reduce the property owner's remediation liability. The State would be responsible for the payment of any interest owed to the property taxpayer if the remaining balance on a refund is not promptly returned to the taxpayer.

In addition, the use of property tax refunds awarded to the owners of certain industrial sites for environmental remediation may accelerate the return of the property back to productive use. This may increase the municipal property tax base and reduce the property tax burden borne by other local real property taxpayers.

S1460 [1R]

3

Section: Local Government

*Analyst: Scott A. Brodsky
Senior Fiscal Analyst*

*Approved: David J. Rosen
Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

STATEMENT TO
[First Reprint]
SENATE, No. 1460

with Senate Floor Amendments
(Proposed by Senator SWEENEY)

ADOPTED: MARCH 15, 2012

These floor amendments specify that sections 2 and 3 of the bill would not apply to any property for which a remediation trust fund has been established pursuant to section 25 of P.L.1993, c.139 (C.58:10B-3). These floor amendments make this bill identical to Assembly Bill No. 2294 (2R).

LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

SENATE, No. 1460

STATE OF NEW JERSEY 215th LEGISLATURE

DATED: JUNE 4, 2012

SUMMARY

- Synopsis:** Requires deposit of property tax refunds for certain industrial sites under federal or State orders for remediation with Commissioner of Environmental Protection to help ensure compliance.
- Type of Impact:** Indeterminate potential increase in State revenues.
Indeterminate potential decrease in State costs.
- Agencies Affected:** Department of Environmental Protection and municipalities.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Revenue	Indeterminate Potential Increase – See comments below		
Local Cost	Indeterminate Potential Decrease – See comments below		

- The Office of Legislative Services has determined that the enactment of Senate Bill No. 1460 (2R) may result in an indeterminate potential increase in State funds available for environmental remediation and an indeterminate potential decrease.
- The State may experience an increase in revenues generated by property tax refunds redirected to the Commissioner of Environmental Protection and annual charges permitted to be assessed by municipalities on contaminated industrial properties that are ceasing, or have ceased, operations.
- Municipalities may experience a decrease in costs associated with the payment of interest accrued on assessment appeal refunds.
- This legislation will not affect the ability of a municipality to apply assessment appeal refunds awarded to the owners of certain industrial sites against any taxes or charges assessed against the property for which the property owners may be delinquent.

BILL DESCRIPTION

Senate Bill No. 1460 (2R) of 2012 requires a taxing district (municipality) to pay any property tax refund ordered by a county tax board or by the State Tax Court resulting from an appeal on the assessment of an industrial property that has become vacant or underutilized and that is subject to any federal or State court order or administrative action or order for environmental remediation, to the Commissioner of Environmental Protection to be used to ensure that required site remediation is performed. Within 30 days following completion of the site remediation, the commissioner would be required to return any remaining balance of the refund amount to the property taxpayer. Interest would begin to accrue at a rate of 5 percent per annum if the balance is not so returned. The bill would allow a municipality to assess an annual charge on a contaminated industrial property that is ceasing, or has ceased, operations in order to help ensure prompt remediation of that site. Once collected, the money would be deposited with the Commissioner of Environmental Protection and credited against the property owner's remediation liability pursuant to law. The provisions of this legislation would not apply to any site for which a remediation trust fund has already been established pursuant to section 25 of P.L.1993, c.139 (C.58:10B-3).

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services has determined that the enactment of Senate Bill No. 1460 (2R) may result in an indeterminate potential increase in State funds available for environmental remediation and an indeterminate decrease in municipal expenditures. The State may experience an increase in revenues generated by property tax refunds redirected to the Commissioner of Environmental Protection and annual charges permitted to be assessed by municipalities on contaminated industrial properties that are ceasing, or have ceased, operations. These revenues would not be available for general State purposes. The balance of the refund amount must be returned to the property taxpayer within 30 days following the completion of the site remediation if it is not needed for that purpose.

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Section: Local Government

*Analyst: Scott A. Brodsky
Senior Fiscal Analyst*

*Approved: David J. Rosen
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

ASSEMBLY, No. 2294

STATE OF NEW JERSEY 215th LEGISLATURE

INTRODUCED FEBRUARY 2, 2012

Sponsored by:

Assemblyman LOUIS D. GREENWALD

District 6 (Burlington and Camden)

Assemblyman JOHN J. BURZICHELLI

District 3 (Cumberland, Gloucester and Salem)

Assemblywoman CELESTE M. RILEY

District 3 (Cumberland, Gloucester and Salem)

SYNOPSIS

Requires deposit of property tax refunds for certain industrial sites under federal or State orders for remediation with Commissioner of Environmental Protection to help ensure compliance.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 2/17/2012)

1 AN ACT concerning environmental remediation compliance and
2 amending P.L.1975, c.361 and P.L.1983, c.137, and
3 supplementing P.L.1993, c.139 (C.58:10B-1 et al.).
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5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
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26 property taxes paid against the property in any given year, and any
27 property taxes, water or sewer payments, or parking or payroll taxes
28 imposed or to be collected by the municipality against that property
29 or the owner or owners of that property are delinquent at the time of
30 the determination or judgment, the governing body of the
31 municipality constituting the taxing district in which the property is
32 located may apply the refund, or such portion thereof as may be
33 necessary, including any accrued interest, against the delinquency.

34 (2) In addition to the application of a refund against a
35 delinquency as set forth in paragraph (1) of this subsection, a refund
36 from an appeal on the assessment of a property that was a
37 constituent part of an industrial site or complex that is currently
38 vacant or underutilized, and that is subject to federal or State court
39 orders, or administrative actions or orders, for environmental
40 remediation, shall be deposited by the taxing district with the
41 Commissioner of Environmental Protection, to be used to ensure
42 required site remediation. Once the industrial site has been
43 remediated, any remaining refund amounts shall be returned by the
44 commissioner to the taxpayer within 30 days of completion of the
45 site remediation. Any monies not returned within 30 days shall be

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 paid with interest, from the date of completion of the site
2 remediation, at a rate of 5% per annum.

3 b. If the total amount of the refund is equal to or exceeds the
4 total amount of the delinquency, the lien against the property for
5 unpaid taxes shall be extinguished, and the balance, if any,
6 remaining after the application of the refund against the
7 delinquency shall be forwarded to the owner not later than 60 days
8 after the date of the determination of the county board of taxation or
9 the tax court judgment, as the case may be. If the total amount of
10 the delinquency exceeds the total amount of the refund, the balance
11 of the delinquency remaining shall remain a lien against the
12 property.

13 (cf: P.L.1987, c.100, s.1)

14

15 3. (New section) Whenever an industrial property that is
16 subject to federal or State court orders, or administrative actions or
17 orders, for environmental remediation becomes vacant or
18 underutilized, the municipality in which the property is located may
19 assess an annual charge to ensure the prompt remediation of the
20 property. The charge shall not exceed the difference between the
21 amount of property taxes paid on the property in the last year of full
22 industrial operation and the amount of property taxes paid on the
23 property for the current year. Unpaid charges shall constitute a lien
24 on the property and shall be collected in the same manner as
25 property taxes. The municipality shall deposit any funds collected
26 pursuant to this section with the Commissioner of Environmental
27 Protection, who shall credit the amounts deposited against the
28 property owner's remediation funding source liability pursuant to
29 section 25 of P.L.1993, c.139 (C.58:10B-3).

30

31 4. This act shall take effect immediately and section 2 shall be
32 applicable with respect to property tax refunds not paid to the
33 taxpayer prior to the date of enactment.

34

35

36

STATEMENT

37

38 This bill requires a taxing district (municipality) to pay any
39 property tax refund ordered by a county tax board or by the State
40 Tax Court resulting from an appeal on the assessment of an
41 industrial property that has become vacant or underutilized and that
42 is subject to federal or State court orders or administrative actions
43 or orders for environmental remediation, to the Commissioner of
44 Environmental Protection to be used to ensure compliance with the
45 remediation orders. Within 30 days following the completion of the
46 site remediation, the commissioner would be required to return any
47 remaining balance of the refund amount to the property taxpayer.
48 Interest would begin to accrue at the rate of 5% per annum if the

1 balance is not so returned. The bill would also allow a municipality
2 to assess an annual charge on a contaminated industrial property
3 that is ceasing, or has ceased operations in order to help ensure the
4 prompt remediation of that site. Once collected, the money would
5 be deposited with the Commissioner of Environmental Protection
6 and credited against the property owner's remediation funding
7 source liability pursuant to the "Brownfield and Contaminated Site
8 Remediation Act."

9 The intent of this bill is to help ensure that environmental
10 remediation takes place without undue delay, since this is usually
11 not a top priority for the owners of an industrial site that has been
12 vacated or that is reducing operations. This bill would affect
13 industrial sites that recently have been, or are in the process of
14 being decommissioned, such as Sunoco's Eagle Point Refinery in
15 Westville Borough, Gloucester County.

ASSEMBLY ENVIRONMENT AND SOLID WASTE
COMMITTEE

STATEMENT TO
ASSEMBLY, No. 2294

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 8, 2012

The Assembly Environment and Solid Waste Committee reports favorably and with committee amendments Assembly Bill No. 2294.

This bill, as amended by the committee, requires a taxing district (municipality) to pay any property tax refund ordered by a county tax board or by the State Tax Court resulting from an appeal on the assessment of an industrial property that has become vacant or at which the processing equipment is not mechanically available, and that is subject to any federal or State court order or administrative action or order for environmental remediation, to the Commissioner of Environmental Protection to be used to ensure that required site remediation is performed. Within 30 days following completion of the site remediation, the commissioner would be required to return any remaining balance of the refund amount to the property taxpayer. Interest would begin to accrue at the rate of 5% per annum if the balance is not so returned.

The bill would also allow a municipality to assess an annual charge on a contaminated industrial property that is ceasing, or has ceased, operations, or at which the processing equipment is not mechanically available, in order to help ensure the prompt remediation of that site. Once collected, the money would be deposited with the Commissioner of Environmental Protection and credited against the property owner's remediation liability pursuant to law.

The bill, as amended, would not apply to any property for which a remediation trust fund has been established pursuant to section 25 of P.L.1993, c.139 (C.58:10B-3).

COMMITTEE AMENDMENTS:

The committee amendments to the bill:

(1) provide that the bill would apply to sites that are vacant or at which the processing equipment is not mechanically available, rather than at sites that are vacant or underutilized;

(2) clarify that the moneys deposited with the Commissioner of Environmental Protection pursuant to section 3 of the bill would be

credited against the owner's remediation liability pursuant to law rather than against the owner's remediation funding source liability pursuant to section 25 of P.L.1993, c.139 (C.58:10B-3);

(3) specify that sections 2 and 3 of the bill would not apply to any property for which a remediation trust fund has been established pursuant to section 25 of P.L.1993, c.139 (C.58:10B-3); and

(4) make technical corrections.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 2294

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 12, 2012

The Assembly Appropriations Committee reports favorably Assembly Bill No. 2294 (1R), with committee amendments.

This bill, as amended, requires a taxing district (municipality) to pay any property tax refund ordered by a county tax board or by the State Tax Court resulting from an appeal on the assessment of an industrial property that has become vacant or underutilized, and that is subject to any federal or State court order or administrative action or order for environmental remediation, to the Commissioner of Environmental Protection to be used to ensure that required site remediation is performed. The bill requires the commissioner, within 30 days following completion of the site remediation, to return any remaining balance of the refund amount to the property taxpayer. The bill provides that interest will begin to accrue at the rate of 5% per annum if the balance is not so returned.

The bill also allows a municipality to assess an annual charge on contaminated industrial property that is ceasing, or has ceased, operations in order to help ensure the prompt remediation of that site.

The bill directs that, once collected, the money will be deposited with the commissioner and credited against the property owner's remediation liability pursuant to law.

The bill will not apply to any property for which a remediation trust fund has been established pursuant to section 25 of P.L.1993, c.139 (C.58:10B-3).

FISCAL IMPACT:

The Office of Legislative Services notes that this bill may result in an indeterminate potential increase in State funds available for environmental remediation and an indeterminate decrease in municipal expenditures. The State may experience an increase in revenues generated by property tax refunds redirected to the Commissioner of Environmental Protection and annual charges permitted to be assessed by municipalities on contaminated industrial properties that are ceasing, or have ceased, operations. These revenues would not be

available for general State purposes. The balance of the refund amount must be returned to the property taxpayer within 30 days

COMMITTEE AMENDMENTS:

The amendments provide that the bill will apply to sites that are vacant or underutilized, rather than to sites that are vacant or at which the processing equipment is not mechanically available.

LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

ASSEMBLY, No. 2294

**STATE OF NEW JERSEY
215th LEGISLATURE**

DATED: APRIL 13, 2012

SUMMARY

- Synopsis:** Requires deposit of property tax refunds for certain industrial sites under federal or State orders for remediation with Commissioner of Environmental Protection to help ensure compliance.
- Type of Impact:** Indeterminate potential increase in State revenues.
Indeterminate potential decrease in municipal costs.
- Agencies Affected:** Department of Environmental Protection and municipalities.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Revenue	Indeterminate Potential Increase – See comments below		
Local Cost	Indeterminate Potential Decrease – See comments below		

- The Office of Legislative Services has determined that the enactment of Assembly Bill No. 2294 (2R) may result in an indeterminate potential increase in State funds available for environmental remediation and an indeterminate decrease in municipal expenditures.
- The State may experience an increase in revenues generated by property tax refunds redirected to the Commissioner of Environmental Protection and annual charges permitted to be assessed by municipalities on contaminated industrial properties that are ceasing, or have ceased, operations.
- Municipalities may experience a decrease in costs associated with the payment of interest accrued an assessment appeal refunds.
- This legislation will not affect the ability of a municipality to apply assessment appeal refunds awarded to the owners of certain industrial sites against any taxes or charges assessed against the property for which the property owners may be delinquent.

BILL DESCRIPTION

Assembly Bill No. 2294 (2R) of 2012 requires a taxing district (municipality) to pay any property tax refund ordered by a county tax board or by the State Tax Court resulting from an appeal on the assessment of an industrial property that has become vacant or underutilized and that is subject to any federal or State court order or administrative action or order for environmental remediation, to the Commissioner of Environmental Protection to be used to ensure that required site remediation is performed. Within 30 days following completion of the site remediation, the commissioner would be required to return any remaining balance of the refund amount to the property taxpayer. Interest would begin to accrue at a rate of 5 percent per annum if the balance is not so returned. The bill would allow a municipality to assess an annual charge on a contaminated industrial property that is ceasing, or has ceased, operations in order to help ensure the prompt remediation of that site. Once collected, the money would be deposited with the Commissioner of Environmental Protection and credited against the property owner's remediation liability pursuant to law. The provisions of this legislation would not apply to any site for which a remediation trust fund has already been established pursuant to section 25 of P.L.1993, c.139 (C.58:10B-3).

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services has determined that the enactment of Assembly Bill No. 2294 (2R) may result in an indeterminate potential increase in State funds available for environmental remediation and an indeterminate decrease in municipal expenditures. The State may experience an increase in revenues generated by property tax refunds redirected to the Commissioner of Environmental Protection and annual charges permitted to be assessed by municipalities on contaminated industrial properties that are ceasing, or have ceased, operations. These revenues would not be available for general State purposes. The balance of the refund amount must be returned to the property taxpayer within 30 days following the completion of the site remediation if it is not needed for that purpose.

Municipalities may experience a decrease in costs associated with the payment of interest accrued on assessment appeal refunds. Current law requires municipalities to refund any excess taxes, plus 5 percent interest, to the taxpayer within 60 days of final judgment. Thus, municipalities may experience a decrease in costs associated with the payment of interest accrued on assessment appeal refunds. The State would be responsible for the payment of any interest owed to the property taxpayer if the remaining balance on a refund is not promptly returned to the taxpayer.

In addition, the use of property tax refunds awarded to the owners of certain industrial sites for environmental remediation may accelerate the return of the property back to productive use. This may increase the municipal property tax base and reduce the property tax burden borne by other local real property taxpayers.

Section: Local Government

*Analyst: Scott A. Brodsky
Senior Fiscal Analyst*

*Approved: David J. Rosen
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).