

4:24-6.1 et al

LEGISLATIVE HISTORY CHECKLIST

WUSA 4:24-6.1 et al. (Soil conservation law--amends)

LAWS OF 1979 CHAPTER 459

Bill No. S1263

Sponsor(s) Hamilton and others

Date Introduced July 27, 1978

Committee: Assembly Agriculture & Environment

Senate Energy & Environment

Amended during passage Yes

*~~Amendments during passage denoted by asterisks~~

Date of Passage: Assembly Jan. 31, 1980

Senate Dec. 6, 1979

Date of approval Feb. 27, 1980

Following statements are attached if available:

Sponsor statement Yes ~~No~~

Committee Statement: Assembly ~~Yes~~ No

Senate Yes ~~No~~

Fiscal Note ~~Yes~~ No

Veto message ~~Yes~~ No

Message on signing ~~Yes~~ No

Following were printed.

Reports ~~Yes~~ No

Hearings ~~Yes~~ No

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CHAPTER 459 LAWS OF N. J. 1979
APPROVED 2-27-80

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SENATE, No. 1263

STATE OF NEW JERSEY

INTRODUCED JULY 27, 1978

By Senators HAMILTON, DWYER, WEISS, MARESSA, ZANE
and HIRKALA

Referred to Committee on Energy and Environment

AN ACT concerning soil conservation, amending ***[R. S. 4:24-18 and]*** R. S. 4:24-19, P. L. 1975, c. 251 and P. L. 1977, c. 264, supplementing chapter 24 of Title 4 of the Revised Statutes and repealing P. L. 1959, c. 129, s. 2.

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

1 1. Section 3 of P. L. 1975, c. 251 (C. 4:24-41) is amended to
2 read as follows:

3 3. For the purposes of this act, unless the context clearly
4 indicates a different meaning:

5 a. "Application for development" means a proposed subdivision
6 of land, site plan, conditional use zoning variance, planned unit
7 development or construction permit.

8 b. "Certification" means (1) a written endorsement of a plan
9 for soil erosion and sediment control by the local Soil Conservation
10 District which indicates that the plan meets the standards promul-
11 gated by the State Soil Conservation Committee pursuant to this
12 act **[or]**, (2) that the time allotted in section 7 of this act has ex-
13 pired without action by the district *or* (3) *a written endorsement*
14 *of a plan filed by the State Department of Transportation with*
15 *the district.*

16 c. "District" means a Soil Conservation District organized pur-
17 suant to chapter 24 of Title 4 of the Revised Statutes.

18 d. "Disturbance" means any activity involving the clearing, ex-
19 cavating, storing, grading, filling or transporting of soil or any
20 other activity which causes soil to be exposed to the danger of
21 erosion.

22 e. "Erosion" means the detachment and movement of soil or
23 rock fragments by water, wind, ice and gravity.

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

24 f. "Plan" means a scheme which indicates land treatment
25 measures, including a schedule of the timing for their installation,
26 to minimize soil erosion and sedimentation.

27 g. "Project" means ***[the]*** **any** disturbance of more than
28 5,000 square feet of the surface area of land (1) for the accomoda-
29 tion of construction for which the State Uniform Construction Code
30 would require a construction permit, except that the construction
31 of a single-family dwelling unit shall not be deemed a "project"
32 under this act unless such unit is part of a proposed subdivision,
33 site plan, conditional use, zoning variance, planned development or
34 construction permit application involving two or more such single-
35 family dwelling units, (2) for the demolition of one or more struc-
36 tures, (3) for the construction of a parking lot, ***[or]*** (4) for the
37 construction of a public facility*, (5) for the operation of any
37A mining or quarrying activity, or (6) for the clearing or grading of
37B any land for other than agricultural or horticultural purposes.*

38 h. "Sediment" means solid material, mineral or organic, that is
39 in suspension, is being transported, or has been moved from its
40 site of origin by air, water or gravity as a product of erosion.

41 i. "Soil" means all unconsolidated mineral and organic material
42 of any origin.

43 j. "Standards" means the standards promulgated by the com-
44 mittee pursuant to this act.

45 k. "Committee" means the State Soil Conservation Committee
46 in the Department of Agriculture established pursuant to R. S.
47 4:24-3.

48 l. "*Public facility*" means any building; pipeline; highway;
49 electricity, telephone or other transmission line; or any other
50 structure to be constructed by a public utility, municipality, county
51 or the State or any agency or instrumentality thereof.

1 2. Section 4 of P. L. 1975, c. 251 (C. 4:24-42) is amended to
2 read as follows:

3 4. The committee shall have the power, subject to the approval
4 of the Secretary of Agriculture and the Commissioner of Environ-
5 mental Protection, to formulate, promulgate, amend and repeal
6 standards for the control of soil erosion and sedimentation, pur-
7 suant to the Administrative Procedure Act, P. L. 1968, c. 410
8 (C. 52:14B-1 et seq.).

9 a. Such standards shall be based upon relevant physical and
10 developmental information concerning the watersheds and topo-
11 graphy of the State, including, but not limited to, data relating to
12 land use, soil, slope, hydrology, geology, size of land area being
13 disturbed, proximate water bodies and their characteristics.

14 b. Such standards shall include criteria, techniques and methods
 15 for the control of erosion and sedimentation resulting from land
 16 disturbing activities for various categories of soils, slopes, and
 17 land uses.

18 c. *Such standards shall include standards of administrative pro-*
 19 *cedure for the implementation of this act.*

1 3. Section 5 of P. L. 1975, c. 251 (C. 4:24-43) is amended to
 2 read as follows:

3 5. Approval of an application for development for any project
 4 by ***[a municipal officer or agency]*** **the State, any county, munic-*
 4A *ipality, or any instrumentality thereof** shall be conditioned upon
 5 certification by the local district of a plan for soil erosion and
 6 sediment control. **Any person proposing to engage in any project*
 7 *not requiring approval by the State, any county, municipality, or*
 8 *any instrumentality thereof shall, prior to commencing such proj-*
 9 *ect, receive certification by the local district of a plan for soil*
 10 *erosion and sediment control.* Any public utility, municipality,*
 11 *county or the State or any agency or instrumentality thereof, other*
 12 *than the State Department of Transportation, which proposes a*
 13 *project shall, prior to the construction of such project submit to*
 14 *and receive certification by the district of a plan for soil erosion*
 15 *and sediment control. The State Department of Transportation*
 16 *shall certify a plan for any project that it proposes to construct*
 17 *and shall file such certification with the district. Certification by the*
 18 *Department of Transportation shall be pursuant to soil erosion*
 19 *control standards ***[development]*** **developed* jointly by the*
 20 *Department of Transportation **the Department of Environmental**
 21 *Protection* and the committee and promulgated by the Department*
 22 *of Transportation.**

1 4. (New section) Any board of chosen freeholders may appro-
 2 priate such funds as it deems necessary to the soil conservation
 3 district serving that county for the purpose of providing district
 4 services to the people of that county.

1 ***[5. R. S. 4:24-18 is amended to read as follows:**

2 4:24-18. The governing body of the district shall consist of five
 3 supervisors, appointed by the State Soil Conservation Committee.
 4 *The committee shall consult with the respective board of chosen*
 5 *freeholders before making such appointments. The five supervisors*
 6 *shall be legal residents of the district.]**

1 ***[6.]*** **5.** (New section) The Attorney General, on his own
 2 initiative, or the respective county counsel, with the approval of
 3 the board of chosen freeholders, may provide any and all legal
 4 services to any district.

1 ***[7.]*** *6.* R. S. 4:24-19 is amended to read as follows:

2 4:24-19. The supervisors shall designate a chairman and may,
3 from time to time, change such designation. The term of office of
4 each supervisor shall be ***[for a 3-year term and]*** at the pleasure
5 of the State committee. The selection of successors shall be made in
6 the same manner in which the retiring supervisor shall have been
7 selected. A majority of the supervisors shall constitute a quorum
8 and the concurrence of a majority in any matter within their duties
9 shall be required for its determination. A supervisor shall be
10 entitled to expenses**[,]** and a per diem **[not to exceed \$5.00]**, *in*
11 *an amount to be established by the State committee within the limits*
12 *of available appropriations*, when engaged in the performance of
13 his duties.

1 ***[8.]*** *7.* Section 3 of P. L. 1977, c. 264 (C. 4:24-17.5) is
2 amended to read as follows:

3 3. The whole area of the State shall, at all times, be covered by
4 a soil conservation district. Each soil conservation district shall
5 cover the whole area of one or more counties. A tri-county soil
6 conservation district shall serve the counties of Hudson, Essex
7 and Passaic to be known as the Hudson, Essex and Passaic Soil
8 Conservation District. Bi-county soil conservation districts shall
9 serve the following pairs of counties: **[Middlesex-Monmouth,]**
10 **Middlesex-Monmouth,** Somerset-Union and Cape May-Atlantic
11 to be known as the **[Freehold,]** **Freehold,** Somerset-Union and
12 Cape **[May]** **-**Atlantic Soil Conservation Districts respectively.
13 Every other county in the State shall be served by its own soil
14 conservation district to be known as "the
15 County Soil Conservation District" with the name of each such
16 county inserted. The State Soil Conservation Committee shall work
17 with the supervisors of the multi-county soil conservation districts
18 to encourage the formation of a soil conservation district in each
19 county of the State, pursuant to the procedures contained in
20 P. L. 1966, c. 77 (C. 4:24-17.1 et seq.).

1 ***[9.]*** *8.* (New section) No district supervisor shall be per-
2 sonally liable for any liability incurred by or on behalf of the
3 district.

1 *9. The committee may, on its own motion or at the request of
2 any person aggrieved by any decision by a local district, review
3 and approve, modify or reject any such decision as it deems
4 appropriate.

1 10. Section 11 of P. L. 1975, c. 251 (C. 4:24-49) is amended to
2 read as follows:

3 11. No certificate of occupancy for a project shall be issued by a
4 municipality *or any other public agency* unless there has been
5 compliance with the provisions of a certified plan for permanent
6 measures to control soil erosion and sedimentation.*

1 ***[10.]*** *11.* Section 2 of P. L. 1959, c. 129 (C. 4:24-12.1) is
2 repealed.

1 ***[11.]*** *12.* This act shall take effect immediately.

7 selected. A majority of the supervisors shall constitute a quorum
 8 and the concurrence of a majority in any matter within their duties
 9 shall be required for its determination. A supervisor shall be
 10 entitled to expenses~~[,]~~ and a per diem ~~[not to exceed \$5.00]~~, *in*
 11 *an amount to be established by the State committee within the limits*
 12 *of available appropriations*, when engaged in the performance of
 13 his duties.

1 8. Section 3 of P. L. 1977, c. 264 (C. 4:24-17.5) is amended to
 2 read as follows:

3 3. The whole area of the State shall, at all times, be covered by
 4 a soil conservation district. Each soil conservation district shall
 5 cover the whole area of one or more counties. A tri-county soil
 6 conservation district shall serve the counties of Hudson, Essex
 7 and Passaic to be known as the Hudson, Essex and Passaic Soil
 8 Conservation District. Bi-county soil conservation districts shall
 9 serve the following pairs of counties: ~~[Middlesex-Monmouth,]~~
 10 Somerset-Union and Cape May-Atlantic to be known as the ~~[Free-~~
 11 ~~hold,]~~ Somerset-Union and Cape May Atlantic Soil Conservation
 12 Districts respectively. Every other county in the State shall be
 13 served by its own soil conservation district to be known as "the
 14 ~~County Soil Conservation District~~" with the
 15 name of each such county inserted. The State Soil Conservation
 16 Committee shall work with the supervisors of the multi-county soil
 17 conservation districts to encourage the formation of a soil con-
 18 servation district in each county of the State, pursuant to the pro-
 19 cedures contained in P. L. 1966, c. 77 (C. 4:24-17.1 et seq.).

1 9. (New section) No district supervisor shall be personally lia-
 2 ble for any liability incurred by or on behalf of the district.

1 10. Section 2 of P. L. 1959, c. 129 (C. 4:24-12.1) is repealed.

1 11. This act shall take effect immediately.

STATEMENT

This bill amends, supplements and repeals parts of the statutory law concerning soil conservation. It expands the regulatory powers of local soil conservation districts from the control of any structure requiring a building permit to soil disturbing activities concerning demolitions, parking lot construction and construction of public facilities. The Freehold Soil Conservation District is divided into a Middlesex county and a Monmouth County Soil Conservation District. The bill authorizes the various boards of chosen freeholders to appropriate funds and to provide legal services to the soil conservation district serving that county, both on a permissive

basis. The State committee is required to consult with the respective boards of chosen freeholders before making appointments to the governing bodies of the various districts. District supervisors are exempted from personal liability for any action incurred by or on behalf of the districts. Various other amendments are made to the soil conservation statutes.

SENATE ENERGY AND ENVIRONMENT COMMITTEE

STATEMENT TO

SENATE, No. 1263

with Senate committee amendments

STATE OF NEW JERSEY

DATED: NOVEMBER 29, 1979

As originally drafted, this bill would have revised the statutory law concerning soil conservation by (1) granting the local soil conservation districts regulatory control over the demolition of structures, the construction of parking lots or public facilities; (2) allowing the Department of Transportation to certify a soil erosion and sediment control plan for its own projects, provided that such certification conformed to standards developed by the State Soil Conservation Committee, the Department of Environmental Protection, and the Department of Transportation; (3) authorizing boards of chosen freeholders to appropriate funds to local soil conservation districts; (4) requiring the State Soil Conservation Committee to consult with the appropriate board of chosen freeholders concerning appointments to the local districts; (5) authorizing the Attorney General or any county counsel to provide any legal services to any local district; (6) establishing a 3-year term of office for local district supervisors; (7) replacing the statutory per diem of \$5.00 paid to such supervisors with an amount established by the State Committee; (8) dividing the Freehold Soil Conservation District into a Middlesex and a Monmouth district; (9) exempting local district supervisors from personal liability for actions taken on behalf of their district; and (10) repealing section 2 of P. L. 1959, c. 129 (C. 4:24-12.1), which also contained a statutory maximum per diem (\$12.00) for local district supervisors.

Amendments adopted by the committee (1) further expand the regulatory authority of the local districts by requiring soil erosion and sediment control plans for mining or quarrying activities and for the clearing or grading of any land for other than agricultural or horticultural purposes; (2) allow the State Soil Conservation Committee to review the decision of any local district; (3) delete the requirement for consultation with boards of chosen freeholders prior to the appointment of local district supervisors; (4) restore the discretion of the State Committee in establishing the terms of office of such supervisors; (5) reunite the Monmouth and Middlesex districts as the Freehold district; and (6) make other technical changes consistent with the provisions of this bill, as amended.

FEBRUARY 27, 1980

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S-3127, sponsored by Senator Carmen A. Orechio (D-Essex) which allows a municipality to reappoint any former policeman if his age minus his years of former service is not over 35. The purpose of the bill is to provide savings (A statement by the Governor on this bill is attached) on training costs and reappointment for policeman laid off for economy reasons.

S-1263, sponsored by Senator William J. Hamilton, Jr. (D-Middlesex), which substantially amends the statutory law applying to soil conservation districts. The soil conservation districts have statutory control over soil erosion and sediment control.

This bill will require soil erosion plans for the demolition of structures, construction of parking lots, construction of public facilities, operation of mining and quarrying activities or for the clearing or grading of any land other than agricultural or horticultural purposes. Public facility is defined as any building, pipeline, highway, utility line or other structure to be constructed by a public utility or governmental agency.

(1980) S-1001, also sponsored by Senator Hamilton, repeals the provision of S-1263 which would have exempted district supervisors of local soil conservation districts from personal liability resulting from actions taken on behalf of a district. With this repeal, the liability of such supervisors will be determined in the same manner as that of other State officials, pursuant to the New Jersey Tort Claims Act, P.L. 1972, c.45.

A-643, sponsored by former Assemblyman Byron Baer (D-Bergen), which will provide a 25 percent penalty for an unreasonably negligent delay or refusal to pay temporary disability compensation. A delay of 30 or more days after receipt of notice or actual knowledge of the injury would give rise to a rebuttable presumption of unreasonable or negligent conduct.

In addition to the 25 percent penalty, any reasonable legal fees attributable to the delay would be paid to the petitioner. The penalty will be paid by the insurer of a self-insured or uninsured employer.

STATEMENT

The purpose of this bill is expressed in its title.

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