

ASSEMBLY, No. 5211

STATE OF NEW JERSEY 220th LEGISLATURE

INTRODUCED FEBRUARY 23, 2023

Sponsored by:

Assemblyman ROBERT J. KARABINCHAK

District 18 (Middlesex)

Assemblyman STERLEY S. STANLEY

District 18 (Middlesex)

SYNOPSIS

Allows certain municipal water systems, under certain circumstances, to use lands preserved for recreation and conservation for drinking water wells and associated treatment equipment or facilities.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 3/30/2023)

1 AN ACT concerning the use of certain lands acquired or developed
2 by a local unit for recreation and conservation purposes and
3 supplementing Title 13 of the Revised Statutes.

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

7
8 1. a. Notwithstanding the provisions of section 13 of P.L.1961,
9 c.45 (C.13:8A-13), section 13 of P.L.1971, c.419 (C.13:8A-31),
10 section 13 of P.L.1975, c.155 (C.13:8A-47), sections 31 through 35
11 of P.L.1999, c.152 (C.13:8C-31 through C.13:8C-35), section 11 of
12 P.L.2016, c.12 (C.13:8C-53), or any other applicable law, or any
13 rule or regulation adopted pursuant thereto, concerning the
14 conveyance, disposal, or diversion of lands acquired, developed, or
15 held for recreation and conservation purposes, a municipally-owned
16 and operated water utility or authority may use a well for the supply
17 of drinking water and associated treatment equipment or facilities
18 located on lands acquired or developed, by a local government unit,
19 for recreation or conservation purposes and this additional use shall
20 not be deemed to constitute a disposal or diversion of those lands;
21 provided that:

22 (1) the municipally-owned and operated water utility or authority
23 has a pre-existing well on the land;

24 (2) there is an exceedance or expected exceedance of a maximum
25 contaminant level for, among other things, perfluorooctanoic acid,
26 or such other contaminant established by the Department of
27 Environmental Protection pursuant to the "Safe Drinking Water
28 Act," P.L.1977, c.224 (C.58:12A-1 et seq.);

29 (3) as a result of an exceedance or expected exceedance pursuant
30 to paragraph (2) of this subsection, the municipally-owned and
31 operated water utility or authority shall be expressly permitted to
32 install on such lands improvements required to address the
33 exceedance or expected exceedance, as approved, by the
34 Department of Environmental Protection;

35 (4) no other improvements shall be made to the land except as
36 deemed reasonably necessary, and approved by the Department of
37 Environmental Protection, to address the exceedance of a maximum
38 contaminant level, and any such improvements shall be sited in a
39 manner to minimize disturbance to the environment;

40 (5) the additional use of the lands shall not substantially inhibit
41 public access to the lands for recreation and conservation purposes
42 or substantially harm the recreation and conservation purposes for
43 which the lands were acquired; and

44 (6) the governing body of the municipality applies, in writing, to
45 the commissioner setting forth and demonstrating to the Department
46 of Environmental Protection's satisfaction that it meets the criteria
47 set forth in this subsection.

1 b. Within 45 days after receipt of an application from a
2 governing body of a municipality pursuant to paragraph (6) of
3 subsection a. of this section, the commissioner, after the
4 municipality holds at least one public hearing in the municipality
5 wherein the lands are located, shall grant approval, in writing, to the
6 municipality, if the criteria set forth in subsection a. of this section
7 are met, specifying that this additional use shall not be deemed to
8 constitute a disposal or diversion of the lands.

9 c. The commissioner may revoke any approval granted pursuant
10 to this section if the facts or findings upon which the approval was
11 based have changed to the extent that the requirements for approval
12 as prescribed in this section are no longer met.

13
14 2. This act shall take effect immediately.

15
16
17 STATEMENT

18
19 This bill would allow certain municipalities to use a well and
20 associated water treatment facilities on lands acquired or developed
21 for recreation or conservation purposes by a local government unit
22 without the additional use being deemed to constitute a disposal or
23 diversion of those lands requiring certain approvals as well as
24 compensation or reimbursement to the State under various laws and
25 regulations implementing the Green Acres Program, i.e., the State's
26 program for the preservation of lands for recreation and
27 conservation purposes.

28 Specifically, the bill would allow a municipally-owned and
29 operated water utility or authority to use a well for the supply of
30 drinking water and certain associated treatment equipment or
31 facilities located on lands acquired or developed, by a local
32 government unit, for recreation or conservation purposes provided
33 that:

34 (1) the municipally-owned and operated water utility or authority
35 has a pre-existing well on the land;

36 (2) there is an exceedance or expected exceedance of a maximum
37 contaminant level for, among other things, perfluorooctanoic acid,
38 or such other contaminant established by the Department of
39 Environmental Protection (DEP) pursuant to the "Safe Drinking
40 Water Act," P.L.1977, c.224 (C.58:12A-1 et seq.);

41 (3) as a result of an exceedance or expected exceedance pursuant
42 to paragraph (2) of this subsection, the municipally-owned and
43 operated water utility or authority would be expressly permitted to
44 install on such lands improvements required to address the
45 exceedance or expected exceedance, as approved, by the DEP;

46 (4) no other improvements will be made to the land except as
47 deemed reasonably necessary, and approved by the DEP, to address
48 the exceedance of a maximum contaminant level, and any such

1 improvements would be sited in a manner to minimize disturbance
2 to the environment;

3 (5) the additional use of the lands would not substantially inhibit
4 public access to the lands for recreation and conservation purposes
5 or substantially harm the recreation and conservation purposes for
6 which the lands were acquired; and

7 (6) the governing body of the municipality applies, in writing, to
8 the DEP commissioner setting forth and demonstrating to the DEP's
9 satisfaction that it meets the criteria set forth in this subsection.

10 Within 45 days after receipt of an application from a governing
11 body of a municipality, the DEP commissioner, after the
12 municipality holds at least one public hearing in the municipality
13 wherein the lands are located, would be required, under the bill, to
14 grant approval, in writing, to the municipality, if the criteria set
15 forth in the bill are met, specifying that this additional use shall not
16 be deemed to constitute a disposal or diversion of the lands. The
17 DEP commissioner may revoke any approval granted pursuant to
18 the bill if the facts or findings upon which the approval was based
19 have changed to the extent that the requirements for approval are no
20 longer met.

21 Perfluorooctanoic acid (PFOA) is a member of the group of
22 chemicals called per- and polyfluoroalkyl substances (PFAS), used
23 as a processing aid in the manufacture of fluoropolymers used in
24 non-stick cookware and other products, as well as other commercial
25 and industrial uses, based on its resistance to harsh chemicals and
26 high temperatures. PFOA has also been used in aqueous film-
27 forming foams for firefighting and training. It is also found in
28 consumer products such as stain-resistant coatings for upholstery
29 and carpets, water-resistant outdoor clothing, and greaseproof food
30 packaging. Major sources of PFOA in drinking water include
31 discharges from industrial facilities where it was made or used and
32 the release of aqueous film-forming foam. Although the use of
33 PFOA has decreased substantially, contamination is expected to
34 continue indefinitely because it is extremely persistent in the
35 environment and is soluble and mobile in water. In 2018, the
36 Department of Environmental Protection (DEP) adopted
37 amendments to its Safe Drinking Water Act regulations to establish
38 drinking water standards for PFOA at a MCL of 14 parts per
39 trillion.