

ASSEMBLY BILL NO. 3415
(First Reprint)

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Assembly Bill No. 3415 (First Reprint) with my recommendations for reconsideration.

This bill requires the Department of Environmental Protection to conduct a study within one year to determine whether the Barnegat Bay is "impaired" pursuant to the Federal Clean Water Act, to examine whether the waters meet State water quality standards, to evaluate potential controls for both point and nonpoint sources of pollution and, within two years, adopt total maximum daily loads for the Barnegat Bay.

I wholeheartedly support efforts for the restoration of water quality in Barnegat Bay. It is one of my Administration's top environmental priorities. For this reason, on December 9, 2010, I put forward a comprehensive short and long term plan of action to address the ecological health of the Barnegat Bay.

While this bill would in some ways complement this comprehensive plan, many of the timeframes and requirements mandated by the bill are not realistic. In addition, adoption of total maximum daily loads requires the adoption of nutrient standards as a prerequisite and there are no State numerical standards yet established for phosphorus, nitrogen or excessive sediments for estuarine waters such as Barnegat Bay. The development of such standards and criteria is extremely complex for these types of waterbodies and requires monitoring data that are not available. While water quality data have been collected for years in Barnegat Bay, there are many gaps in this water quality data that need to be filled in order to use the modeling tools necessary to develop a total maximum daily load.

Since a total maximum daily load is ultimately an enforcement tool under both state and federal law that compels parties to implement measures to reduce the amounts of pollutants they discharge, which can impact private and public budgets, it must as a matter of good policy be developed on the basis of sound science and not mere directive. Without questioning the good intentions of those in support of this legislation, the mandates of this bill are premature until the scientific bases for this specific regulatory action are established.

Accordingly, I herewith return Assembly Bill No. 3415 (First Reprint) and recommend that it be amended as follows:

- Page 2, Section 1, Line 9: Delete "a study" and insert "an assessment"
- Page 2, Section 1, Line 10: After "that" insert ": a."
- Page 2, Section 1, Line 10: After "evaluates" insert "all data it has in its possession on"
- Page 2, Section 1, Line 10: After "quality" insert "and ecological decline"
- Page 2, Section 1, Line 11: After "whether" insert "these data are sufficient for the department to recommend to the U.S. Environmental Protection Agency that"
- Page 2, Section 1, Line 11: After "the bay" delete "is" and insert "or any section of the bay can be declared"
- Page 2, Section 1, Line 13: After "s.1313" delete "." and insert ";"
- Page 2, Section 1, Line 13: Delete "The study shall examine whether" and insert "b. determines what additional data must be collected to develop appropriate State water quality standards for various parameters, which shall include but not be limited to phosphorus, nitrogen and excessive sediment, for estuarine systems, and estimates of the time and cost required to perform the monitoring and modeling to develop such standards;

c. evaluates what additional monitoring, if any, must be conducted to collect data necessary to determine if"

Page 2, Section 1, Line 14:

After "¹ecosystem¹" insert "would"

Page 2, Section 1, Line 14:

After "meet" insert "such"

Page 2, Section 1, Line 14:

After "standards" delete "," and insert "developed pursuant to subsection b. of this section and shall include an estimate of the time and cost required to perform such monitoring."

Page 2, Section 1, Line 14:

After "standards" delete ","

Page 2, Section 1, Lines 15-24:

Delete in their entirety

Page 2, Section 2, Line 31:

After "2." insert "a. In addition to the data assessment pursuant to section 1 of this act, the Department of Environmental Protection shall concurrently assess plans for pollutant load reduction and implementation of a total maximum daily load if the Barnegat Bay is deemed impaired by the department based on water quality standards and required by the federal Clean Water Act, 33 U.S.C. s.1313." and insert "b."

Page 2, Section 2, Line 33:

Delete "two" and insert "five"

Page 2, Section 2, Line 34:

After "develop" insert "and implement"

Page 2, Section 2, Line 35:

After "¹ecosystem" insert "or any section of the bay deemed impaired by the department based on water quality standards and required by the federal Clean Water Act, 33 U.S.C. s.1313."

Page 2, Section 2, Line 36:

Insert "c." before "Any"

Page 3, Section 4, Lines 13-16:

Delete in their entirety and insert "4. The department shall annually prepare a report describing actions taken during the previous year to address water quality problems in Barnegat Bay, progress made in achieving the objectives of this act and a schedule of actions to be taken over the next year. The department shall submit copies of this report to the chairs of the Senate Environment and Energy

Committee and the Assembly
Environment and Solid Waste
Committee or their
successors."

Respectfully,

/s/ Chris Christie

Governor

[seal]

Attested:

/s/ Jeffrey S. Chiesa

Chief Counsel to the Governor