

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 991

with committee amendments

STATE OF NEW JERSEY

DATED: NOVEMBER 8, 2021

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 991, with committee amendments.

As amended, this bill requires the owner or operator of a high hazard train traveling within this State to submit to the Department of Environmental Protection (department) within six months of the effective date of the bill a discharge response, cleanup, and contingency plan (plan) that contains certain information.

The bill requires the plan to be renewed every five years with the department unless the department requires a more frequent submission and any amendments to the plan are to be filed with the department within 30 days of the date of any modification of the high hazard train, rail yards, fueling stations, or the high hazard train's route of travel. The owner or operator of a high hazard train is required to retain on file with the department evidence of financial responsibility for the cleanup and removal costs of a discharge or release of a hazardous substance, and for the removal of any damaged or disabled high hazard train equipment or parts. A copy of the plan, plan renewal, and all plan amendments are to be filed by the owner or operator of a high hazard train with the New Jersey Office of Emergency Management.

Under the bill, the owner or operator of a high hazard train is required to make available to the public on its website, to the extent the release of the information does not conflict with federal law, information concerning: an analysis of the consequences of maximum discharges from the high hazard trains owned or operated in the State; and a copy of the most current plan.

The bill requires the owner or operator of a high hazard train to offer training to the emergency services personnel of every local unit having jurisdiction along the travel route of the high hazard train. The initial training is to be offered within one year of the effective date of this bill and renewal training is to be offered at least once every three years thereafter.

The bill requires the owner or operator of a high hazard train, which has experienced a discharge that requires emergency response action, to deliver and deploy sufficient emergency response, recovery, and containment equipment and trained

personnel to contain and recover the discharged materials and protect environmentally sensitive areas and potable water intakes within certain timeframes.

The provisions of the bill are not applicable to the owner or operator of a Class III carrier, as defined by the federal Surface Transportation Board, that operates within a single municipality on not more than 25 total track miles and is engaged in switching or terminal railroad services. The bill clarifies that it is not to be construed to exempt major facilities from the provisions of the “Spill Compensation and Control Act.”

The bill requires the department to review plans or plan renewals within six months of filing and plan amendments within 60 days of filing. If a plan, plan renewal, or plan amendment is disapproved, the owner or operator of the high hazard train is required to submit a revised plan, plan renewal, or plan amendment within 30 days from the receipt of written notice of the disapproval. The bill permits the department to issue civil administrative penalties for violations under the bill and bring an action for civil penalties. Under the bill, the owner or operator of a high hazard train that experiences a discharge is subject to the penalty and injunctive relief provisions of the “Spill Compensation and Control Act.”

The New Jersey Office of Emergency Management is to provide certain information to certain county offices of emergency management and emergency services.

The bill requires the department to, annually or whenever deemed necessary, request from the U.S. Department of Transportation a copy of the most recent bridge inspection report generated pursuant to the federal “Rail Safety Improvement Act of 2008” for every bridge owned by a railroad or upon which a railroad is located. The department is to submit any bridge inspection report acquired from the U.S. Department of Transportation to the Governor and the Legislature.

COMMITTEE AMENDMENTS:

The committee amendments remove a provision in the bill that would have required the owner or operator of a high hazard train to make available to the public on its website information concerning the routes and volumes of cargo for the trains updated on a monthly basis and the routing analysis and any accompanying documentation that impacted the owner or operator’s decision in routing the high hazard train through the State.

FISCAL IMPACT:

The Office of Legislative Services (OLS) projects that the bill will increase the annual administrative expenditures of the Department of Environmental Protection (DEP). The magnitude of the increase depends, in part, on DEP operating decisions, which the OLS cannot

anticipate. At a minimum, however, a new full-time staff member may be required to evaluate, approve, and retain high hazard train discharge response, cleanup, and contingency plans at a compensation level of \$80,000 to \$120,000 per year, with approximately \$10,000 annually in equipment and materials to support these activities.

In addition, annual DEP revenue collections may increase to the extent that the department assesses civil administrative penalties of up to \$25,000 per violation of the bill's requirements. It is unknown how many violations will occur and what penalties the department may impose. Accordingly, the OLS cannot determine the frequency and scale of the potential revenue gain.

Lastly, local governments may experience recurring cost decreases insofar as the bill requirement that owners and operators of high hazard trains newly offer specialized training for local government emergency services personnel along the travel routes of the high hazard trains obviates the need for concerned local governments to provide this training at their own expense.