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**CHAPTER 344**

**AN ACT concerning the Delaware and Raritan Canal, assigning temporary jurisdiction over certain structures thereof to the Department of Transportation, creating a commission to review the safety of certain structures, amending R.S.13:13-3 and P.L.1944, c.172, supplementing chapter 13 of Title 13 of the Revised Statutes, and making an appropriation.**

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

1. The Legislature finds and declares that:

a. Governor Peter Vroom and members of the Legislature officially opened the Delaware and Raritan Canal on June 24, 1834, providing an avenue for transportation between Philadelphia and New York, and providing markets for New Jersey farm goods, as well as industrial products from the cities of Trenton and New Brunswick;

b. The canal operated as an avenue for commercial goods from 1834 until the winter of 1932-33 when it was closed to navigation, and began its present function of providing a valuable water supply, historic, recreation, and ecological resource that continues to be used by the citizens of this State;

c. The value of the canal was recognized by the Legislature, when the 60 mile area of land along the canal was established as a state park, as well as the federal government, which placed the canal on the National Registry of Historic Places;

d. However, the benefits associated with the canal have been threatened by deficient safety at bridges that traverse the canal, as well as the substandard construction or total lack of needed barriers and guardrails along the approaches to the canal, and the various roads that parallel its length;

e. It is therefore altogether fitting and proper for the Legislature to create a study commission to investigate the relevant public safety issues regarding the Delaware and Raritan Canal, and during the period of investigation to provide for interim jurisdiction by the Department of Transportation so that persons using, or traveling near this precious resource are protected.

2. R.S.13:13-3 is amended to read as follows:

**Repair and preservation of canal and feeder and banks thereof.**

13:13-3. The canal and feeder shall continue to be a public highway, and, until the legislature shall have further directed the use or disposition of the canal and feeder, the Department of Environmental Protection or its designee, the New Jersey Water Supply Authority, shall, until further directions of the legislature, repair and preserve the banks of the canal and feeder, and at all times keep a flow of water through the canal at a level heretofore maintained when the canal was in operation or as necessary to conduct dredging operations or effect repairs, except that, during the period of December fifteenth of each year and March first of the ensuing year, the department may close the canal or maintain such flow of water as it deems desirable or necessary to comply with any contract for the sale of water.

To insure the flow aforesaid and in order to preserve sanitary conditions in the canal and about the banks thereof and the tow-path adjacent thereto, the feeder, the canal and the banks thereof and the towpath shall be kept free of weeds and other growth, save and except such growth as, in the judgment of the department, is conducive to the appearance of the canal and feeder and the banks and towpath thereof.

3. Section 8 of P.L.1944, c.172 (C.13:13-12.8) is amended to read as follows:

**C.13:13-12.8 Bridges; possession by Department of Transportation.**

8. The provisions of any law, rule, or regulation to the contrary notwithstanding, and until further direction from the Legislature, the Department of Transportation in co-operation with the Department of Environmental Protection is empowered and directed to enter upon and take possession of, all of the existing vehicle bridges carrying State, county, or municipal roads and any guardrails or barriers along the approaches to any such vehicle bridges over the canal.

**C.13:13-3.1 Department of Transportation, control and responsibility for bridge maintenance; commissioner may close public access.**

4. The provisions of any law, rule, or regulation to the contrary notwithstanding, and until further direction from the Legislature, the Department of Transportation shall have control and responsibility for the maintenance, repair, rehabilitation and replacement of any existing vehicle bridges over the Delaware and Raritan Canal carrying State, county, or municipal roads and any guardrails or barriers along the approaches to these vehicle bridges. The commissioner, in accordance with generally accepted engineering principles, standards or techniques, may, in order to protect the public safety, order the closing of public access, including roads, highways, sidewalk, tracks, paths or passageways, leading to, in, under or near any bridge described pursuant to this amendatory and supplementary act, the provisions of any law, rule, or regulation to the contrary notwithstanding.

**C.13:13-3.2 Department of Transportation, consult prior to bridge repair; responsibility for bridge design.**

5. The Department of Transportation shall consult with the Department of Environmental Protection and the Delaware and Raritan Canal Commission, not less than 30 days before the Department of Transportation undertakes, or causes to be undertaken, any maintenance, repair, rehabilitation and replacement performed upon any existing vehicle

bridges carrying State, county, or municipal roads and any guardrails or barriers along the approaches to these vehicle bridges over the Delaware and Raritan Canal. The provisions of section 5 of P.L.1974, c.118 (C.13:13A-5), Section 4 of P.L.1970, c.268 (C.13:1B-15.131), or any other law, rule, or regulation to the contrary notwithstanding, the Department of Transportation shall be responsible for the design of any bridges or structures appurtenant thereto along or traversing the canal.

**C.13:13-3.3 Right-of-way permission provided.**

6. Each person, agency of the State or instrumentality thereof owning or controlling a right-of-way shall provide permission for the use of and sufficient access to that right-of-way, and any other incidental services required by the Department of Transportation to undertake its responsibilities under this amendatory and supplementary act.

**C.13:13-3.4 Rules, regulations.**

7. The Commissioner of Transportation shall, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) adopt the rules and regulations necessary to carry out its responsibilities under the provisions of this amendatory and supplementary act.

8. There is created a commission to be known as the Delaware and Raritan Canal Transportation Safety Study Commission with a membership of 13 members appointed as follows:

a. Two members of the Senate, to be appointed by the President thereof, who shall be of different political parties, and two members of the General Assembly, to be appointed by the Speaker thereof, who shall be of different political parties. The members appointed from the Legislature shall serve only as long as they are members of the House to which they were elected;

b. One representative from the Department of Transportation appointed by the commissioner thereof, one representative of the Department of Environmental Protection appointed by the commissioner thereof, one representative of the Delaware and Raritan Canal Commission appointed from the membership of that commission, and one representative of the New Jersey Water Supply Authority appointed by the executive director thereof; and

c. Five public members, to be appointed by the Governor, four of whom shall be chosen from among persons residing in the counties of Hunterdon, Somerset, Mercer, and Middlesex, and two of whom chosen from persons residing in municipalities adjacent to the Delaware and Raritan Canal State Park. In making the appointments to the commission, the Governor shall consider the recommendations of

concerned environmental groups; transportation groups; historical associations; and members of relevant professions.

All appointments shall be made within 60 days of the effective date of this act. Vacancies in the membership of the commission shall be filled in the same manner as the original appointments were made. Members of the commission shall serve without compensation for performing their duties as members, but the commission may, within the limits of funds appropriated or otherwise made available therefor, reimburse members for the actual expenses necessarily incurred in the performance of their duties.

9. The commission shall organize within 30 days after the appointment of its members. The members appointed under subsections a. and c., only, of section 8 of this amendatory and supplementary act shall designate one of the members appointed under subsection a. or c., only, of section 8 as chairman of the commission. The commission shall convene as soon as practicable after the appointment of its members, to select a chairman in the manner described in this section and to hold an organizational meeting. The commission also shall select a secretary who need not be a member of the commission.

10. It shall be the duty of the commission to study all transportation, recreational, and other safety hazards associated with the Delaware and Raritan Canal, and to inquire into the ways in which these hazards might be reduced. In conducting the study, the commission shall address such issues as, but shall not necessarily be limited to, the intergovernmental and jurisdictional questions concerning bridges that traverse the canal, the condition of barriers, guardrails, and fences along the canal, maintaining the historic and aesthetic integrity of the canal, and the costs associated with the construction and maintenance of these structures.

11. The commission shall be entitled to call to its assistance and avail itself of the services and assistance of officials and employees of the State and its political subdivisions and their departments, boards, bureaus, authorities, commissions, and agencies as it may require and as may be available to it for its purposes, and to employ stenographic, and clerical assistants and incur such traveling and other miscellaneous expenses as necessary, in order to perform its duties, and may expend any funds appropriated or otherwise made available to it for the purposes of

its study. In addition, the Departments of Transportation and Environmental Protection, the Delaware and Raritan Canal Commission, and the New Jersey Water Supply Authority shall provide whatever staff assistance the commission may request.

12. The commission may meet and hold hearings at any time and at any place or places as it shall designate. The commission shall report its findings, conclusions and recommendations to the Governor and the Legislature as soon as practicable but not later than 15 months after the organizational meeting provided for pursuant to section 9 of this amendatory and supplementary act, along with any proposed legislation which it may desire to recommend for adoption by the Legislature.

13. There is appropriated \$5,000 to the Department of Transportation from the General Fund to be used exclusively for the duties and responsibilities of the Delaware and Raritan Canal Transportation Safety Study Commission as described in this amendatory and supplementary act.

14. This act shall take effect immediately, and sections 8 through 12 shall expire 16 months following the date of the organizational meeting provided for pursuant to section 9 of this act.

Approved January 9, 1992.

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