

SAVE OUR SENSIBLE SAFEGUARDS

c/o New Jersey Work Environment Council, 142 West State Street, Third Floor, Trenton, New Jersey 08608
Telephone: (609) 695-7100; (201) 389-3189

RE: Oppose A2486/S1986

June 9, 2010

Dear Elected Official:

In the past three months, 58 workers have died in explosions, fires and collapses at oil refineries, a drilling rig, coal mines, and a power plant construction site. The environmental catastrophe in the Gulf continues and thousands have lost their jobs. In New Jersey, a Linden chemical plant emits lethal chlorine gas. Toxic contamination in Ringwood, Pompton Lakes, Garfield, Hamilton, and Franklin Township keep getting headlines.

These examples reflect government's failure to regulate corporations and to protect the public. Deregulation puts workers and their jobs, our communities, environment and economy in jeopardy.

Now, some Democratic and Republican state legislators seek to rollback decades of health, safety, labor, environmental, and other standards and to block future needed protections. Their legislation (A2486/S1986) stops our state agencies from adopting any rule stronger than federal standards -- unless legislators first approved every detail.

Seventy-five labor, health, environmental, and other organizations oppose these dangerous bills. Please read the letter that follows -- and speak out against this irresponsible legislation. Thank you.

Sincerely,

Rick Engler

Rick Engler
for **Save Our Sensible Safeguards**

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c/o New Jersey Work Environment Council, 142 West State Street, Third Floor, Trenton, New Jersey 08608
Telephone: (609) 695-7100; (201) 389-3189

June 9, 2010

Sheila Y. Oliver
Speaker of the Assembly
15-33 Halsted Street, Suite 202
East Orange, New Jersey 07018

Stephen M. Sweeney
Senate President
Kingsway Commons,
935 Kings Highway, Suite 400
West Deptford, New Jersey 08086

RE: Request Not to Post A2486/S1986

Dear Assembly Speaker Oliver and Senate President Sweeney:

On behalf of the undersigned **75** organizations, we urge that you not post A2486 and S1986 for a vote by the Assembly and Senate. We believe that this is fundamentally flawed legislation which, if enacted, would rollback decades of health, worker, environmental, and other protections and harm our overall quality of life - without improving New Jersey's business climate. In fact, this bill would actually harm job security and job creation.

A2486, sponsored by Assemblyman John Burzichelli (D-3) and Assemblyman Scott Rumana (R-40) and reported March 18, 2010, from the Assembly Regulatory Oversight Committee, would prohibit New Jersey state government from proposing or adopting "...any new rule that would exceed standards or requirements set forth by the federal government unless specifically authorized by State law."

We have reviewed the Assembly Floor Amendments adopted on May 20, 2010, which say that the bill would not apply to: "(3) any notice of proposal or notice of adoption filed by a State agency the substance of which is an issue where the federal government has not adopted specific standards or requirements; or (4) any notice of proposal or notice of adoption filed by the Department of Labor and Workforce Development." S1986, sponsored by Senator Jeff Van Drew (D-1) and Steven Oroho (R-24), is identical legislation, without the Assembly floor amendments.

Despite the Assembly amendments, A2486/S1986 remain unacceptable to the labor, environmental, community, and other organizations signing this letter. We urge you not to post these bills because:

1) They will harm our quality of life. New Jersey has long been a leader among the states for adopting safeguards through both its legislative *and* rule-making processes. Our safeguards protect police officers, fire fighters, nurses and other health care workers, construction

workers, chemical workers, our children in public and charter schools, the air we breathe, and the water we drink. The leadership for such safeguards has come not only from our state legislature, but also from state agencies staffed with trained scientists, attorneys, and other experts capable of developing appropriately detailed requirements based on legislative intent.

2) They will lead to extensive litigation. While the Assembly Regulatory Oversight Committee amendment says that A2486 would not apply to “the readoption of any rule in effect on the date the bill is enacted into law...” the bill, in fact, potentially could still void **existing** rules. Under New Jersey’s *Administrative Procedures Act*, rules sunset every five years and must be readopted. Rule readoptions often include existing language *and* new provisions. Revisions may be minor (such as changing an agency name) or major. However, even a minor change upon readoption could mean that the rule is deemed “new”, subject to this proposed law, and potentially void.

One interpretation of A2486 is that **the bill would apply to every existing New Jersey rule** (except those by DLWD) once readopted with even minor changes. At best, the language of the bill is unclear, thus inviting litigation about what constitutes a “new” rule. This will cause chaos across state government.

3) They will have unintended consequences. It may be intended that A2486/S1986’s purpose is to address environmental regulations. However, a far wider range of state government programs would be harmed if this bill were enacted. The Appendix lists some pending rules, including readoptions with amendments (which could be deemed “new” rules) and some new rules that could be covered by A2486/S1986. These rules address, for example:

- Disease control among livestock and poultry
- Childhood lead poisoning
- School funding
- Operation of medical laboratories and conflict of interests
- Protecting confidentiality of records for people with developmental disabilities
- Traumatic brain injuries
- Accounting rules to improve transparency
- Consumer protection during auto purchasing and leasing
- Broadening availability of net metering to promote renewable energy and efficiency

The Assembly Regulatory Oversight Committee did not consider the potential unintended consequences of A2486 on the full range of state government programs, regulations, and requirements.

4) They are even more restrictive than Executive Order #2. This Executive Order by Governor Christie states that State agencies shall, when promulgating proposed rules, not exceed requirements of federal law except when required by State statute “...**or in such circumstances where exceeding the requirements of federal law or regulation is necessary in order to achieve a New Jersey specific public policy goal...**” [Our emphasis].

For example, our state *Toxic Catastrophe Prevention Act* rules are more stringent than federal law, regulating more high hazard substances. The Department of Environmental Protection issued these rules because New Jersey has the greatest population density of any state, with chemical plants using highly toxic substances bordering many neighborhoods.

The executive branch of state government must follow legislative intent when promulgating rules. However, state government agencies must retain the ability to develop safeguards to address a New Jersey specific policy goal, as cited in Governor Christie's Executive Order #2.

5) They will harm job security and job creation. In the midst of the continuing recession, these bills could harm job creation. For example, the Christie Administration plans to create "green jobs" in our state, such as through wind turbine manufacturing. This kind of initiative could be delayed or blocked if a state agency, without precise statutory authorization, established conditions for providing state incentives that exceeded federal standards or "requirements".

Corporations have blamed environmental regulations for job loss. However, they have produced anecdotes, not evidence, to back this assertion. In contrast, many economists argue that the failure of government to regulate Wall Street is a major cause of the current economic crisis. The failure of government to regulate the oil industry was one factor in causing the BP oil spill disaster. Thousands have lost their jobs and livelihoods because of this catastrophe. We would be pleased to discuss positive strategies for job retention and growth that do not include dismantling vital regulations or blocking state programs to create and sustain employment.

6) They will harm workers and working class communities. Despite the adopted Assembly floor amendment to A2486 exclude DLWD rules, other state agencies, including the Department of Environmental Protection (DEP), issue rules that protect the health, safety, and well-being of working people and their families. For example, DEP issues rules under the Toxic Catastrophe Prevention Act and the Spill Act that exceed federal standards, helping to prevent spills, fires, and explosions that endanger industrial workers, emergency responders, and the communities that surround these facilities. For another example, the Department of Health and Senior Services issues rules under the Worker and Community Right to Know Act for labeling chemical containers that provides information that exceeds federal Occupational Safety and Health Act standards and helps protect hundreds of thousands of workers, including the firefighters, EMTs, and police who respond to emergencies.

7) They will voluntary cede state authority to the federal bureaucracy. The bills undermine the dynamic relationship inherent in the entire concept of Federalism. They ignore local conditions and undermine the reasons we have an independent State government. They help set up a race to the bottom.

In summary, despite the May 20 Assembly floor amendments, these draconian and fundamentally flawed bills would destroy decades of public protections, imperil future safeguards, and harm job creation. We urge you not to pass A2486/S1986. Please help save our sensible safeguards.

Sincerely,

/s/

John Pajak, President
New Jersey Work Environment Council ¹

David Foster, Executive Director
Blue Green Alliance ²

¹ The New Jersey Work Environment Council is an alliance of 70 labor, community, and environmental organizations working for safe, secure jobs and a healthy, sustainable environment. More information at www.njwec.org.

Bill Holland, Executive Director
New Jersey Working Families Alliance

LABOR AND RELATED ORGANIZATIONS

William J. Lavin, President
NJ State Firefighter's Mutual Benevolent Association

Dominick Marino, President
Professional Firefighters Association of NJ, International Association of Fire Fighters

Ed Brannigan, President
New Jersey Fraternal Order of Police

Doc Doherty, President
Teamsters Local 877

Fred Potter, President
Teamsters Local 469

John Shinn, NJ Subdistrict Director
United Steelworkers District 4

John F. Thomas, Jr., President
USW Local 4-943

John Luminoso, President
USW Local 4-397

Joe Gibson, President
USW Local 4-417

Barbara Keshishian, President
New Jersey Education Association

Sherryl Gordon, Executive Director
AFSCME Council 1

Frank Cyphers, President
International Chemical Workers Union Council, United Food & Commercial Workers
Union

² The Blue Green Alliance is a national partnership of the United Steelworkers (USW), Sierra Club, Communications Workers of America (CWA), Natural Resources Defense Council (NRDC), Service Employees International Union (SEIU), Laborers' International Union of North America (LIUNA), Utility Workers Union of America (UWUA), American Federation of Teachers (AFT), Amalgamated Transit Union (ATU) and the Sheet Metal Workers' International Association.

Richard J. Whalen, International Vice President
United Food and Commercial Workers Region 1

Sam Ferraino, President
United Food and Commercial Workers Local 1360

Lizette Delgado-Polanco, Executive Director
Service Employees International Union, NJ State Council

Susan M. Cleary, President
District 1199J, National Union of Hospital and Health Care Employees, American
Federation of State, County and Municipal Employees (AFSCME)

William Lipkin, President
American Federation of Teachers, NJ State Federation (AFT)

Ann Twomey, President
Health Professionals and Allied Employees (AFT)

Franceline Ehret, President
International Federation of Professional and Technical Employees Local 194

Timothy Rudolph, President
International Federation of Professional and Technical Employees Local 195

Hetty Rostenstein, Area Director
Communications Workers of America District 1

Adam Liebttag, President
Communications Workers of America Local 1036

Ken McNamara, President
Communications Workers of America Local 1037

David Weiner, President
Communications Workers of America Local 1081

Linda Mason, Coordinator
American Federation of Government Employees, District 2

Daniel J. O'Connell, N.J. State Legislative Director
United Transportation Union

Ron McCullough, President
United Electrical Workers Local 155

Rich Spieler, President
Burlington County Central Labor Council, AFL-CIO

Marien Casillas Pabellon, Executive Director
New Labor

Ray Stever, President
NJ State Industrial Union Council

Terry Gallagher, Chairperson
Philadelphia Area Project on Occupational Safety and Health (covering southern NJ)

Bill Wolfe, Director
NJ Public Employees for Environmental Responsibility

Myles O'Malley, Director
CLPER

ENVIRONMENTAL, HEALTH, PUBLIC INTEREST, AND OTHER ORGANIZATIONS

Amy Goldsmith, Executive Director
New Jersey Environmental Federation

Sandy Batty, Executive Director
Association of New Jersey Environmental Commissions

Phyllis Salowe-Kaye, Executive Director
New Jersey Citizen Action

Dena Mottola Jaborska, Executive Director
Environment New Jersey

Eric Stiles, Chief Operating Officer
New Jersey Audubon Society

Jeff Tittel, Director
Sierra Club – New Jersey Chapter

Michael Pisauro, Legislative Affairs Director
New Jersey Environmental Lobby

Henry Rose, Statewide Coordinator
New Jersey Environmental Justice Alliance

Tim Dillingham, Executive Director
American Littoral Society

Cindy Zipf, Executive Director
Clean Ocean Action

Rev. Fletcher Harper, Executive Director
GreenFaith

Rick Hind, Legislative Director
Greenpeace

Katherine Kennedy, Counsel
Air and Energy Program, Natural Resources Defense Council

Kelly Francis, President
Camden County Branch, National Association for the Advancement of Colored People

Ana I. Baptista, PhD
Environmental and Planning Projects Director
Ironbound Community Corp

Avery Grant, Executive Director
Concerned Citizens Coalition of Long Branch

Rev. Ronald Tuff
Paterson Task Force for Community Action

Robert Spiegel, Executive Director
Edison Wetlands Association

Cindy Ehrenclou, Executive Director
Upper Raritan Watershed Association

William S. Kibler, Executive Director
South Branch Watershed Association

Tracy Carluccio, Deputy Director
Delaware Riverkeeper Network

Deborah Mans, Executive Director and Baykeeper
NY/NJ Baykeeper

Captain Bill Sheehan, Executive Director and Riverkeeper
Hackensack Riverkeeper

Julia Somers, Executive Director
New Jersey Highlands Coalition

Jaelyn Rhoads, Director for Conservation Policy
Pinelands Preservation Alliance

Jim Waltman, Executive Director
Stony Brook-Millstone Watershed Association

Alison Mitchell, Policy Director
New Jersey Conservation Foundation

John Weber, Northeast Regional Manager
Surfrider Foundation

Peter Guzzo, Executive Director
Consumers for Civil Justice

Carla Larsen, President
Statewide Education Organizing Committee

Claire Barnett, Executive Director
Healthy Schools Network

Jim Walsh, Eastern Region Director
Food and Water Watch

Peter Montague, Director
Environmental Research Foundation

Jane Nogaki, Secretary
Coalition Against Toxics

Dr. Joe Parrish, Director
New Jersey Environmental Watch, Elizabeth, NJ

MaryAnn Sorensen Allacci, Director
Projects for Environmental Health, Knowledge, & Action, Inc.

Arnold Cohen, Policy Coordinator
Housing and Community Development Network of New Jersey

Matthew B. Shapiro, President
New Jersey Tenants Organization

Brian Brotman
Chair of Operations
National Lawyers Guild, Rutgers-Camden Chapter

Please respond to: Rick Engler, Director, New Jersey Work Environmental Council,

142 West State Street, Third Floor, Trenton, New Jersey 08608. Your reply will be shared with signing organizations.

C: Assembly Majority Leader Joseph Cryan
Assemblyman John Burzichelli
Assemblyman Scott T. Rumana
Majority Leader Barbara Buono
Senator Jim Whelan, Chairman, Senate State Government, Wagering, Tourism,
and Historic Preservation Committee
Senator Steven B. Oroho
Chief Counsel to the Governor Jeff Chiesa
Chief of Staff Richard Bagger

Correspondence Oliver A2486 Amended

Appendix

These are examples of New Jersey rules that are in various stages of rulemaking that could potentially be affected by A2486/S1986, if enacted. Source: *New Jersey Register*.

41 N.J.R. 4349(a); Agriculture; Disease Control Program; readoption with amendments: “These proposed amendments will further protect the health of livestock, poultry, aquacultured aquatic organisms or species and animals raised for fur in New Jersey during a time of heightened disease awareness and risk.”

41 N.J.R. 4353(a); Community Affairs; Lead Hazard Control Assistance Fund; amendments and new rules; “The proposed amendments, repeals and new rules would provide greater opportunity for property owners to remove lead-based paint hazards from their environment and improve protections of young children by ensuring that they have a lead-safe environment.”

41 N.J.R. 4371(a); Education; Educational Facilities; the process for grant funding for school facilities projects in regular operating districts; readoption with amendments; “The Department is proposing an amendment that would lengthen the amount of time a school district is given to obtain their local share....Students will benefit from the completion of critically needed school facilities projects in their school. Local taxpayers in RODs will benefit from State funding.”

41 N.J.R. 3877(a); Health and Senior Services; Operation of Clinical Laboratories; new rule; “The Department believes that the payment of rent by a laboratory to a physician to operate a collection station in a physician's office creates a potential conflict of interest between the physician and the laboratory, and constitutes an incentive to the physician to refer specimens to the laboratory in violation of prohibited activities. This statute provides that a clinical laboratory shall not either personally, or through an agent, solicit referral of specimens to his or any other clinical laboratory, or contract to perform clinical laboratory examinations of specimens in a manner which offers or implies an offer of rebates to a person or persons submitting specimens, or fee-splitting inducements, participation in any fee-splitting arrangements or other unearned remuneration.”

41 N.J.R. 2417(a); Health and Senior Services; Communicable Diseases Immunization of Pupils in School; amendments; clarifications of vaccination requirements in school; “The Department believes the proposed amendment would have a beneficial social impact upon school nurses, physicians, parents, and local health departments as they implement, monitor, and enforce the...vaccine rule[s].”

41 N.J.R. 4604(a); Health and Senior Services; Childhood Lead Poisoning; readoption with amendments, new rules, repeals; Strengthens protections against childhood lead poisoning; Ex: amendments to: “establish that whenever a child has a confirmed blood lead level of 45 #[micro]#g/dL or greater, a public health nurse must provide case management and would set forth the required services that comprise the case management,” “establish the local board of health's responsibility to conduct a limited hazard assessment at a planned temporary relocation address and a hazard assessment at a planned permanent relocation address,” “establish that local boards of health must also remediate nonpaint lead hazards that are revealed through the Hazard Assessment Questionnaire.”

41 N.J.R. 4014(a); Human Services; Division Mental Health Services; Screening and Screening Outreach Program; readoption with amendments, repeals, and new rules; protections for people suffering from mental health against involuntary commitment when there are other options; “The goal of the rules proposed for readoption with amendments, new rules and repeals is to ensure that persons suffering from mental illness receive a higher quality of screening and assessment prior to being considered for involuntary commitment and that all available service options be available to

consumers, regardless of the geographic area in which they live. Previously, persons could be evaluated and involuntarily committed to State hospitals by a wide range of service providers.”

41 N.J.R. 2880(a); Human Services; Division of Developmental Disabilities; reoption with amendments; “The provisions of the rules proposed for reoption with amendments are intended to protect individuals and legal guardians and/or family members from improper disclosure of information that relates to their health, safety, welfare or habilitative goals and to conform with the protections provided under the Federal Privacy Rule.”

41 N.J.R. 2198(a); Human Services; minimum licensing requirements for community residences for persons with developmental disabilities, including group homes, supervised apartments and supported living; amendments; “The Department anticipates a positive social impact as a result of the proposed amendments lengthening the licensing cycle from one to two years. A survey of more than 100 agencies operating licensed community residences, conducted by the Office of Licensing in May 2008, found that the respondents' primary concern is the need for more timely reporting of inspection results. Implementation of a two-year licensing cycle will free up resources for preparation and distribution of inspection reports and enable the Office of Licensing to concentrate its resources on the most problematic residences, while ensuring scheduled inspections of all licensed residences.”

41 N.J.R. 3887(a); Human Services; Emergency Assistance (EA); amendments; “EA is available through the Work First New Jersey (WFNJ) program as a supportive service to meet the emergent needs of WFNJ recipients, so that recipients shall not be prevented from complying with the work requirement due to disruptions caused by homelessness. Emergency assistance is also available to recipients of Supplemental Security Income (SSI). The county or municipal agency shall provide EA when there has been a substantial loss of food, clothing or household furnishings or utilities by fire, flood or other similar disaster, or an actual or imminent eviction from prior housing, and the recipient is in a state of homelessness or of imminent homelessness due to circumstances beyond his or her control or the absence of a realistic capacity to plan in advance for substitute housing;” amendments and new rules to provide protections against unreasonable cut-off of Emergency Assistance, as well as provisions to hold recipients better accountable.”

41 N.J.R. 3191(a); Human Services; Division of Disability Services; Traumatic Brain Injury Fund; new rules; “According to the Centers for Disease Control and Prevention (2001), 1.5 million Americans sustain a traumatic brain injury every year. Each year, 80,000 Americans experience the onset of long-term disability following traumatic brain injury with more than 50,000 fatalities. It is estimated that there are 160,000 brain injury survivors residing in New Jersey. In congruence with the missions of both the Department of Human Services and the Division of Disability Services, the Traumatic Brain Injury Fund will have its greatest social impact by providing Fund beneficiaries with the needed financial resources to meet their unique care/support needs and achieve a greater level of functional independence. The Division believes that an increased level of independence will serve as a catalyst to maximize rehabilitation and expedite reintegration into society for people with brain injuries. This has improved quality of life for 2,300+ survivors of brain injury and their families.”

41 N.J.R. 3360(a); Human Services; Catastrophic Illness in Children Relief Fund Program; reoption with amendments; “To encourage more families in need to apply, and to clarify its mission, the Commission is committed to making its rules as clear as possible. The Commission also wishes to clarify the intent of the rules and the legislation enacted to provide families of all income levels support for a child's uncovered medical and related expenses.”

41 N.J.R. 4187(a); Law and Public Safety; automotive dispute resolution; amendments; “The proposed amendments will benefit consumers who purchase or lease motor vehicles containing a nonconformity by expanding the term of protection. The proposed amendments also protect consumers by requiring that the notification that must be provided to consumers in English and

Spanish when they purchase or lease new motor vehicles summarize the rights and remedies afforded by the Act.”

41 N.J.R. 3204 (a); Public Utilities; amendments; “The Board believes that the proposed amendments...make the rules more practical and effective in ensuring that New Jersey utility consumers receive safe, adequate and proper service at reasonable rates.”

41 N.J.R. 4059(A); Economic Development Authority; Urban Transit Hub Tax Credit Program; amendments and new rules; “The proposed amendments and new rules expand eligibility for the Urban Transit Hub Tax Credit Program, which spurs capital investment and increased employment in targeted urban rail transit hubs to catalyze economic development in those transit hubs. By increasing development and resulting capital investments and jobs to transit hubs in nine major urban municipalities, the amendments and new rules are intended to have a positive social impact.”

Correspondence Oliver A2486 Amended

ORGANIZATIONS OPPOSING A2486/S1986

New Jersey Work Environment Council

New Jersey Working Families Alliance

Blue Green Alliance

LABOR AND RELATED ORGANIZATIONS

NJ State Firefighter's Mutual Benevolent Association

Professional Firefighters Association of NJ, International Association of Fire Fighters

Teamsters Local 877

Teamsters Local 469

United Steelworkers District 4

USW Local 4-943

USW Local 4-397

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New Jersey Education Association

AFSCME Council 1

International Chemical Workers Union Council, United Food & Commercial Workers Union

United Food and Commercial Workers Region 1

United Food and Commercial Workers Local 1360

Service Employees International Union, NJ State Council

District 1199J, National Union of Hospital and Health Care Employees, American Federation of State, County and Municipal Employees (AFSCME)

American Federation of Teachers, NJ State Federation (AFT)

Health Professionals and Allied Employees (AFT)

International Federation of Professional and Technical Employees Local 194

International Federation of Professional and Technical Employees Local 195

Communications Workers of America District 1

Communications Workers of America Local 1036

Communications Workers of America Local 1037

Communications Workers of America Local 1081

American Federation of Government Employees, District 2

United Transportation Union, NJ State Council

United Electrical Workers Local 155

Burlington County Central Labor Council, AFL-CIO

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PUBLIC INTEREST, ENVIRONMENTAL, HEALTH, AND OTHER ORGANIZATIONS

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Coalition Against Toxics, Marlton

New Jersey Environmental Watch, Elizabeth

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