

P U B L I C    H E A R I N G

before

COUNTY AND MUNICIPAL GOVERNMENT COMMITTEE

on

SENATE, NO. 765

(Regional Flood Control Authorities Law)

Held:  
April 2, 1975  
Assembly Chamber  
State House  
Trenton, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Senator Martin L. Greenberg (Chairman)  
Senator Thomas G. Dunn

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# SENATE, No. 765

## STATE OF NEW JERSEY

INTRODUCED FEBRUARY 4, 1974

By Senators MENZA, SKEVIN, DUNN and FAY

Referred to Committee on County and Municipal Government

AN ACT relating to the authorization, acquisition, financing and operation of flood control systems by or on behalf of any county or any one or more municipalities, providing for the creation of flood control authorities to undertake the same, for the issuance of bonds and other obligations therefor, and for service charges to meet the expense thereof, and supplementing Title 40 of the Revised Statutes.

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

1 1. This act shall be known and may be cited as the "regional  
2 flood control authorities law."

1 2. It is hereby declared to be in the public interest and to be  
2 the policy of the State to foster and promote by all reasonable  
3 means the control of waters in or bordering the State from flooding  
4 and thus to reduce and ultimately abate the menace to the public  
5 health resulting from such flooding. It is the purpose and object  
6 of this act to further and implement such policy by

7 a. Authorizing counties, or municipalities either separately or  
8 in combination with other municipalities, by means and through  
9 the agency of a flood control authority, to acquire, construct, main-  
10 tain, operate or improve works for the collection, impounding,  
11 transportation and release of water for the replenishment in pe-  
12 riods of drought or at other necessary times of all or a part of  
13 waters in or bordering the State diverted into a flood control sys-  
14 tem operated by the flood control authority;

15 b. Authorizing service charges to occupants or owners of prop-  
16 erty for direct or indirect connection with and the use or services  
17 of such works, and providing for the establishment, collection and  
18 enforcement of such charges;

19 c. Creating as a body corporate and politic flood control authori-  
 20 ties to have full responsibility and powers with respect to such  
 21 works and the establishment, collection, enforcement, use and dis-  
 22 position of all such service charges;

23 d. Providing for the financing of such works, for the issuance  
 24 of bonds therefor, and for the payment and security of such bonds;  
 25 and

26 e. In general, granting to counties and municipalities and to  
 27 such flood control authorities discretionary powers to provide for  
 28 services designed to relieve flooding of such waters at the expense  
 29 of the users of such services or of counties or municipalities or  
 30 other persons contracting for or with respect to the same.

1 3. As used in this act, unless a different meaning clearly appears  
 2 from the context:

3 a. "Municipality" shall mean any city of any class, any borough,  
 4 village, town, township, or any other municipality other than a  
 5 county or a school district, and except when used in sections 4 or 21  
 6 of this act, any agency thereof or any two or more thereof acting  
 7 jointly or any joint meeting or other agency of any two or more  
 8 thereof;

9 b. "County" shall mean any county of any class;

10 c. "Governing body" shall mean, in the case of a county, the  
 11 board of chosen freeholders, and, in the case of a municipality,  
 12 the commission, council, board or body, by whatever name it may  
 13 be known, having charge of the finances of the municipality;

14 d. "Person" shall mean any person, association, corporation,  
 15 Nation, State or any agency or subdivision thereof, other than a  
 16 county or municipality of the State or a flood control authority;

17 e. "Flood control authority" shall mean a public body created  
 18 pursuant to section 4 of this act, and said term shall be interchange-  
 19 able with the term "Joint Flood Control Commission" as used in  
 20 P. L. 1971, c. 316;

21 f. Subject to the exceptions provided in section 4 of this act,  
 22 "district" shall mean the area within the territorial boundaries  
 23 of the county, or of the municipality or municipalities, which  
 24 created or joined in the creation of a sewerage authority;

25 g. "Local unit" shall mean the county, or any municipality,  
 26 which created or joined in the creation of a flood control authority;

27 h. "Flood control system" shall mean the plants, structures and  
 28 other real and personal property acquired, constructed or operated  
 29 or to be acquired, constructed or operated by a flood control au-  
 30 thority for the purposes of the flood control authority, including  
 31 storage reservoirs, dikes, diversions, dams, spillways, levees, re-



32 vetments, drains, ditches, or channel improvements such as widen-  
 33 ing, deepening, straightening, clearing, sloping, building, filling in,  
 34 and other plants, structures, boats, conveyances and other real  
 35 and personal property, and rights therein, and appurtenances  
 36 necessary or useful and convenient for the control of flooding;

37 i. "Cost" shall mean, in addition to the usual connotations  
 38 thereof, the cost of acquisition or construction of all or any part  
 39 of a flood control system and of all or any property, rights, ease-  
 40 ments, privileges, agreements and franchises deemed by the flood  
 41 control authority to be necessary or useful and convenient therefor  
 42 or in connection therewith, including interest or discount on bonds,  
 43 cost of issuance of bonds, engineering and inspection costs and  
 44 legal expenses, cost of financial, professional and other estimates  
 45 and advice, organization, administrative, operating and other ex-  
 46 penses of the flood control authority prior to and during such  
 47 acquisition or construction, and all such other expenses as may  
 48 be necessary or incident to the financing, acquisition, construction  
 49 and completion of said flood control system or part thereof and  
 50 the placing of the same in operation, and also such provision or  
 51 reserves for working capital, operating, maintenance or replace-  
 52 ment expenses or for payment or security of principal of or in-  
 53 terest on bonds during or after such acquisition or construction  
 54 as the flood control authority may determine, and also reimburse-  
 55 ments to the flood control authority or any county, municipality  
 56 or other person of any moneys theretofore expended for the pur-  
 57 poses of the flood control authority or to any county or municipality  
 58 of any moneys theretofore expended for in connection with flood  
 59 control facilities;

60 j. "Real property" shall mean lands both within and without  
 61 the State, and improvements thereof or thereon, or any rights or  
 62 interests therein;

63 k. "Construct" and "construction" shall connote and include  
 64 acts of construction, reconstruction, replacement, extension, im-  
 65 provement and betterment of a flood control system;

66 l. "Flood" shall mean an overflow or inundation coming from  
 67 a river or other body of water;

68 m. "Flood control" is the prevention of flooding by controlling  
 69 the high water stages by means of storage reservoirs, dikes, dams,  
 70 spillways, levees, revetments, drains, ditches or channel improve-  
 71 ments such as widening, deepening, straightening, clearing, sloping,  
 72 building, filling in and all other alterations;

73 n. "Ordinance" means a written act of the governing body of

74 a municipality adopted and otherwise approved and published in  
 75 the manner or mode of procedure prescribed for ordinances tend-  
 76 ing to obligate such municipality pecuniarily;

77 o. "Resolution" means a written act of the governing body of  
 78 a local unit adopted and otherwise approved in the manner or mode  
 79 of procedure prescribed for resolutions tending to obligate such  
 80 local unit pecuniarily;

81 p. "Bonds" shall mean bonds or other obligations issued pur-  
 82 suant to this act; and

83 q. "Compensating reservoir" shall mean the structures, facili-  
 84 ties and appurtenances for the impounding, transportation and  
 85 release of water for the replenishment in periods of drought or  
 86 at other necessary times of all or a part of waters in or bordering  
 87 the State.

1 4. a. The governing body of any county may, by resolution duly  
 2 adopted, create a public body corporate and politic under the name  
 3 and style of "the ..... flood control  
 4 authority," with all or any significant part of the name of such  
 5 county inserted. Said body shall consist of the five members  
 6 thereof, who shall be appointed by resolution of the governing  
 7 body as hereinafter in this section provided, together with the  
 8 additional members thereof, if any, appointed as hereinafter in  
 9 subsection i. of this section provided, and it shall constitute the  
 10 flood control authority contemplated and provided for in this act  
 11 and an agency and instrumentality of said county. After the taking  
 12 effect of the resolution for the creation of said bond and the filing  
 13 of certified copy thereof as in subsection d. of this section provided,  
 14 five persons shall be appointed as the members of the flood control  
 15 authority. The members first appointed shall, by the resolution  
 16 of appointment, be designated to serve for terms respectively ex-  
 17 piring on the first days of the first, second, third, fourth and fifth  
 18 Februarys next ensuing after the date of their appointment. On  
 19 or after January 1 in each year after such first appointments, one  
 20 person shall be appointed as a member of the flood control authority  
 21 to serve for a term commencing on February 1 in such year and  
 22 expiring on February 1 in the fifth year after such year. In the  
 23 event of a vacancy in the membership of the flood control authority  
 24 occurring during an unexpired term of office, a person shall be  
 25 appointed as a member of the flood control authority to serve for  
 26 such unexpired term.

27 b. The governing body of any municipality may, by ordinance  
 28 duly adopted, create a public body corporate and politic under the  
 29 name and style of "the ..... flood



30 control authority," with all or any significant part of the name  
 31 of such municipality inserted. Said body shall consist of five mem-  
 32 bers thereof, who shall be appointed by resolution of the governing  
 33 body as hereinafter in this section provided, and it shall consti-  
 34 tute the flood control authority contemplated and provided for in  
 35 this act and an agency and instrumentality of said municipality.  
 36 After the taking effect of such ordinance and the filing of a certi-  
 37 fied copy thereof as in subsection d. of this section provided, five  
 38 persons shall be appointed as the members of the flood control  
 39 authority. The members first appointed shall, by the resolution  
 40 of appointment, be designated to serve for terms respectively ex-  
 41 piring on the first days of the first, second, third, fourth and fifth  
 42 Februarys next ensuing after the date of their appointment. On  
 43 and after January 1 in each year after such first appointments,  
 44 one person shall be appointed as a member of the flood control  
 45 authority to serve for a term commencing on February 1 in such  
 46 year and expiring February 1 in the fifth year after such year.  
 47 In the event of a vacancy in the membership of the flood control  
 48 authority occurring during an unexpired term of office, a person  
 49 shall be appointed as a member of the flood control authority to  
 50 serve for such unexpired term.

51 c. The governing bodies of any two or more municipalities or  
 52 any two or more counties, the areas of which together comprise an  
 53 integral body of territory, may, by parallel ordinances or in the  
 54 case of counties by parallel resolutions, duly adopted by each of  
 55 such governing bodies within any single calendar year, create a  
 56 public body corporate and politic under the name and style of  
 57 "the ..... flood control authority,"  
 58 with all or any significant part of the name of each such municipal-  
 59 ity or county or some identifying geographical phrase inserted.  
 60 Said body shall consist of the members thereof, in an aggregate  
 61 number determined as hereinafter in this subsection provided, who  
 62 shall be appointed by resolutions of the several governing bodies  
 63 as hereinafter in this section provided, and it shall constitute the  
 64 flood control authority contemplated and provided for in this act  
 65 and an agency and instrumentality of the said municipalities or  
 66 counties, the number of members of the flood control authority to  
 67 be appointed at any time for full terms of office by the governing  
 68 body of any such municipality or county shall be as may be stated  
 69 in said ordinances or resolutions which shall be not less than one  
 70 nor more than three. After the taking effect of the said ordinances  
 71 or resolutions of all such municipalities or counties and after the  
 72 filing of certified copies thereof as in subsection d. of this section

73 provided, the appropriate number of persons shall be appointed  
 74 as members of the flood control authority by the governing body  
 75 of each municipality or county. In the case of municipalities or  
 76 counties which by ordinance or resolution are entitled to appoint  
 77 only one member of the authority, the total number of members, if  
 78 five or more, shall be divided into five classes as nearly equal as pos-  
 79 sible, except that if there are less than five members each member  
 80 shall constitute a class. The members initially appointed shall be  
 81 appointed for such terms that the terms of one class shall expire  
 82 on the first day of each of the first, second, third, fourth and fifth  
 83 Februarys next ensuing the date of appointment. In the event the  
 84 several municipalities or counties cannot agree on the terms of the  
 85 respective representatives, such terms shall be determined by lot.  
 86 On or after January 1 in each year after such appointments, the  
 87 expiring terms shall be filled by the appointment for terms com-  
 88 mencing February 1 in such year and expiring on the first day of  
 89 the fifth February next ensuing.

90 In municipalities or counties entitled to appoint three members,  
 91 the appointing authority shall designate one of the initial ap-  
 92 pointees to serve for a term of 3 years, one for 4 years and one  
 93 for 5 years. In municipalities or counties entitled to appoint two  
 94 members, the appointing authority shall designate one of the initial  
 95 appointees to serve for a term of 5 years and one for 4 years. On  
 96 or after January 1 in the year in which expire the terms of the  
 97 said members first appointed and in every fifth year thereafter,  
 98 the appropriate number of persons shall be appointed as members  
 99 of the flood control authority by the governing body of each munici-  
 100 pality or county, to serve for terms commencing on February 1  
 101 in such year and expiring on February 1 in the fifth year after  
 102 such year. In the event of a vacancy in the membership of the flood  
 103 control authority occurring during the unexpired term of office, a  
 104 person shall be appointed as a member of the flood control author-  
 105 ity to serve for such unexpired term by the governing body which  
 106 made the original appointment for such unexpired term.

107 d A copy of each resolution or ordinance for the creation of a  
 108 flood control authority adopted pursuant to this section, duly cer-  
 109 tified by the appropriate officer of the local unit, shall be filed in  
 110 the office of the Secretary of State. Upon proof of such filing of  
 111 a certified copy of the resolution or ordinance or of certified copies  
 112 of the parallel ordinances for the creation of a flood control au-  
 113 thority as aforesaid, the flood control authority therein referred  
 114 to shall, in any suit, action or proceeding involving the validity or  
 115 enforcement of, or relating to, any contract or obligation or act



116 of the flood control authority, be conclusively deemed to have been  
 117 lawfully and properly created and established and authorized to  
 118 transact business and exercise its powers under this act. A copy  
 119 of any such certified resolution or ordinance, duly certified by or  
 120 on behalf of the Secretary of State, shall be admissible in evidence  
 121 in any suit, action or proceeding.

122 e. A copy of each resolution appointing any member of a flood  
 123 control authority adopted pursuant to this section, duly certified  
 124 by the appropriate officer of the local unit, shall be filed in the office  
 125 of the Secretary of State. A copy of such certified resolution, duly  
 126 certified by or on behalf of the Secretary of State, shall be ad-  
 127 missible in evidence in any suit, action or proceeding and, except  
 128 in a suit, action or proceeding directly questioning such appoint-  
 129 ment, shall be conclusive evidence of the due and proper appoint-  
 130 ment of the member or members named therein.

131 f. The governing body of a county which may create or join in  
 132 the creation of any flood control authority pursuant to this section  
 133 shall not thereafter create or join in the creation of any other flood  
 134 control authority. No governing body of any municipality consti-  
 135 tuting the whole or any part of a district shall create or join in  
 136 the creation of any flood control authority except upon the written  
 137 consent of the flood control authority and in accordance with the  
 138 terms and conditions of such consent, and in the event such consent  
 139 be given and a flood control authority be created pursuant thereto,  
 140 the terms and conditions of such consent shall thereafter be in all  
 141 respects binding upon such municipality and the flood control au-  
 142 thority so created and any system of water dams or other plants  
 143 constructed or maintained in conformity with the terms and con-  
 144 ditions of such consent by the flood control authority so created  
 145 shall be deemed not to be competitive with the flood control sys-  
 146 tems of the flood control authority giving such consent. In the  
 147 event that prior to the creation of a flood control authority of a  
 148 county the governing body of any municipality located in said  
 149 county shall have created or joined in the creation of a flood control  
 150 authority, the area within the territorial limits of such municipality  
 151 shall not be part of the district of the flood control authority of  
 152 said county.

153 g. Within 10 days after the filing in the office of the Secretary  
 154 of State of a certified copy of a resolution for the creation of a  
 155 flood control authority adopted by the governing body of any  
 156 county pursuant to this section, a copy of such resolution, duly  
 157 certified by the appropriate officer of the county, shall be filed in  
 158 the office of the clerk of each municipality within the county. In

159 the event that the governing body of any such municipality shall,  
 160 within 60 days after such filing in the office of the Secretary of  
 161 State, adopt a resolution determining that such municipality shall  
 162 not be a part of the district of such flood control authority and file  
 163 a copy thereof duly certified by its clerk, in the office of the Secre-  
 164 tary of State, the area within the territorial limits of such munici-  
 165 pality shall not thereafter be part of such district, but at any time  
 166 after the adoption of such resolution, the governing body of such  
 167 municipality may, by ordinance duly adopted, determine that such  
 168 area shall again be a part of such district and if thereafter a copy  
 169 of such ordinance duly certified by the appropriate officer of such  
 170 municipality, together with a certified copy of a resolution of such  
 171 flood control authority approving such ordinance, shall be filed in  
 172 the office of the Secretary of State, then from and after such filing  
 173 the area within the territorial limits of such municipality shall  
 174 forever be part of such district.

175 h. The governing body of any local unit which has created a  
 176 flood control authority pursuant to subsection a. or subsection b.  
 177 of this section may, in the case of a county by resolution duly  
 178 adopted or in the case of a municipality by ordinance duly adopted,  
 179 dissolve such flood control authority on the conditions set forth in  
 180 this subsection. The governing bodies of two or more local units  
 181 which have created a flood control authority pursuant to subsec-  
 182 tion c. of this section may, by parallel ordinances duly adopted by  
 183 each of such governing bodies within any single calendar year,  
 184 dissolve such flood control authority on the conditions set forth in  
 185 this subsection. Such a flood control authority may be dissolved  
 186 on condition that (1) either the members of such authority have  
 187 not been appointed or the flood control authority, by resolution  
 188 duly adopted, consents to such dissolution, and (2) the flood control  
 189 authority has no debts or obligations outstanding. Upon the dis-  
 190 solution of any flood control authority in the manner provided in  
 191 this subsection, the governing body or bodies dissolving such flood  
 192 control authority shall be deemed never to have created or joined  
 193 in the creation of a flood control authority. A copy of each resolu-  
 194 tion or ordinance for the dissolution of a flood control authority  
 195 adopted pursuant to this subsection, duly certified by the appro-  
 196 priate officer of the local unit, shall be filed in the office of the  
 197 Secretary of State. Upon proof of such filing of a certified copy  
 198 of the resolution or ordinance or of certified copies of the parallel  
 199 ordinances for the dissolution of a flood control authority as afore-  
 200 said and upon proof that such flood control authority had no debts  
 201 or obligations outstanding at the time of the adoption of such reso-



202 lution, ordinance or ordinances, the flood control authority therein  
203 referred to shall be conclusively deemed to have been lawfully and  
204 properly dissolved and the property of the flood control authority  
205 shall be vested in the local unit or units. A copy of any such certi-  
206 fied resolution or ordinance, duly certified by or on behalf of the  
207 Secretary of State, shall be admissible in evidence in any suit,  
208 action or proceeding.

209 i. Whenever the flood control authority of any county shall cer-  
210 tify to the governing body of any county that it has entered into  
211 a contract pursuant to section 25 of this act with one or more mu-  
212 nicipalities situate within any other county, one additional member  
213 of the flood control authority for each such other county shall be  
214 appointed by resolution of the governing body of such other county  
215 as in this section provided. The additional member so appointed  
216 for any such other county, and his successors shall be a resident  
217 of one of said municipalities situate within such other county. The  
218 additional member first appointed or to be first appointed for any  
219 such other county shall serve for a term expiring on the first day  
220 of the fifth February next ensuing after the date of such appoint-  
221 ment, and on or after January 1 in the year in which expires the  
222 term of the said additional member first appointed and in every  
223 fifth year thereafter, one person shall be appointed by said gov-  
224 erning body as a member of the flood control authority as succe-  
225 sor to said additional member, to serve for a term commencing on  
226 February 1 in such year and expiring on February 1 in the fifth  
227 year after such year. If after such appointment of an additional  
228 member for any such other county the flood control authority shall  
229 certify to said governing body of such other county that it is no  
230 longer a party to a contract entered into pursuant to section 23  
231 of this act with any municipality situate within such other county,  
232 the term of office of such additional member shall thereupon cease  
233 and expire and no additional member for such other county shall  
234 thereafter be appointed.

235 j. If a municipality, the governing body of which has created  
236 a flood control authority pursuant to subsection b. of this section,  
237 has been or shall be consolidated with another municipality, the  
238 governing body of the new consolidated municipality may, by  
239 ordinance duly adopted, provide that the members of the flood con-  
240 trol authority shall thereafter be appointed by the governing body  
241 of such new consolidated municipality, which shall make appoint-  
242 ment of members of the flood control authority by resolution as  
243 hereinafter in this subsection provided. On or after the taking

244 effect of such ordinance, one person shall be appointed as a member  
245 of the flood control authority for a term commencing on February 1  
246 in each year, if any, after the date of consolidation, in which has  
247 or shall have expired the term of a member of the flood control  
248 authority theretofore appointed by the governing body of the mu-  
249 nicipality which has been or shall be so consolidated, and expiring  
250 on February 1 in the fifth year after such year. Thereafter, on or  
251 after January 1 in each year, one person shall be appointed as a  
252 member of the flood control authority to serve for a term com-  
253 mencing on February 1 in such year and expiring February 1 in  
254 the fifth year after such year. In the event of a vacancy in the  
255 membership of the flood control authority occurring during an un-  
256 expired term of office, a person shall be appointed as a member of  
257 the flood control authority to serve for such unexpired term. Each  
258 member of the flood control authority appointed by the governing  
259 body of a municipality which has been or shall be so consolidated  
260 shall continue in office until his successor has been appointed as  
261 in this subsection provided and has qualified.

262 k. If a municipality, the governing body of which has created a  
263 flood control authority pursuant to subsection b. of this section,  
264 has been or shall be consolidated with another municipality, the  
265 governing body of the new consolidated municipality, subject to  
266 the rights of the holders, if any, of bonds issued by the flood con-  
267 trol authority, and upon receipt of the flood control authority's  
268 written consent thereto, may provide, by ordinance duly adopted,  
269 that the area within the territorial boundaries of the new consoli-  
270 dated municipality shall constitute the district of the flood control  
271 authority, and upon the taking effect of such ordinance, such area  
272 shall constitute the district of the flood control authority. Until  
273 the taking effect of such ordinance, the district of the flood control  
274 authority shall be the area within the territorial boundaries, as  
275 they existed at the date of the consolidation, of the municipality  
276 the governing body of which created the flood control authority.

277 l. Whenever, with the approval of any flood control authority  
278 created by the governing bodies of two or more municipalities, any  
279 other municipality not constituting part of the district shall convey  
280 to the flood control authority all or any part of a system of facili-  
281 ties located within the district and theretofore owned and operated  
282 by such other municipality, then, if so provided in the instruments  
283 of such conveyance, one additional member of the flood control  
284 authority for such other municipality shall be appointed by reso-  
285 lution of its governing body as in this section provided. The ad-  
286 ditional member so appointed for such municipality, and his sue-



cessors, shall be residents of such municipality. The additional member first appointed or to be first appointed for such municipality shall serve for a term expiring on the first day of the fifth February next ensuing after the date of such appointment, and on or after January 1 in the year in which expires the term of the said additional member first appointed and in every fifth year thereafter, one person shall be appointed by said governing body as a member of the flood control authority as successor to said additional member, to serve for a term commencing on February 1 in such year and expiring on February 1 in the fifth year after such year. If at any time after such conveyance of water, dam or other facilities by a municipality, its governing body shall adopt a resolution determining not thereafter to be represented in the membership of the flood control authority and shall file a copy thereof duly certified by its clerk in the office of the flood control authority, the term of office of any such additional member therebefore appointed for such municipality shall thereupon cease and expire and no additional member for such municipality shall thereafter be appointed.

in. The governing body of any municipality which not part of any district but is contiguous to the district of a flood control authority created by the governing bodies of two or more other municipalities may at any time, by ordinance duly adopted, propose that the area within the territorial limits of such municipality shall be a part of said contiguous district. Such ordinance shall (1) state the number of members of the flood control authority, not less than one nor more than three, thereafter to be appointed for full terms of office by the governing body of such municipality, and (2) determine that, after the filing of a certified copy thereof and of a resolution of the flood control authority in accordance with this subsection, such area shall be a part of said contiguous district. If thereafter a copy of such ordinance duly certified by the appropriate officer of such municipality, together with a certified copy of a resolution of said flood control authority approving such ordinance, shall be filed in the office of the Secretary of State, then from and after such filing the area within the territorial limits of such municipality shall forever be part of said contiguous district and said flood control authority shall consist of the members thereof acting or appointed as in this section provided and constitute an agency and instrumentality of such municipality as well as such other municipalities. The governing body of the said municipality so becoming part of said contiguous district shall thereupon appoint members of the flood control authority in the

330 number stated in such ordinance, for periods and in the manner  
331 provided for the first appointment of members of a flood control  
332 authority under subsection c. of this section.

1     b. a. The powers of a flood control authority shall be vested  
2     in the members thereof in office from time to time. A majority of  
3     the entire authorized membership of the flood control authority  
4     shall constitute a quorum at any meeting thereof. Action may  
5     be taken and motions and resolutions adopted by the flood control  
6     authority at any meeting of the members thereof by vote of a  
7     majority of the members present, unless in any case the bylaws of  
8     the flood control authority shall require a larger number. The  
9     flood control authority may delegate to one or more of its officers,  
10    agents or employees such powers and duties as it may deem proper.

11    b. Each member of a flood control authority shall hold office for  
12    the term for which he was appointed and until his successor has  
13    been appointed and has qualified.

14    c. No member, officer or employee of a flood control authority  
15    shall have or acquire any interest, direct or indirect, in the flood  
16    control system or in any property included or planned to be in-  
17    cluded in the flood control system or in any contract or proposed  
18    contract for materials or services to be furnished to or used by  
19    the flood control authority, but neither the holding of any office  
20    or employment in the government of any county or municipality  
21    or under any law of the State nor the owning of any property  
22    within the State shall be deemed a disqualification for member-  
23    ship in or employment by a flood control authority, and members  
24    of the governing body of a local unit may be appointed by such  
25    governing body and may serve as members of a flood control  
26    authority. A member of a flood control authority may be removed  
27    only by the governing body by which he was appointed and only  
28    for inefficiency or neglect of duty or misconduct in office and after  
29    he shall have been given a copy of the charges against him and,  
30    not sooner than 10 days thereafter, had opportunity in person or  
31    by counsel to be heard thereon by such governing body.

32    d. A flood control authority may reimburse its members for  
33    necessary expenses incurred in the discharge of their duties. The  
34    resolution, ordinance or parallel ordinances for the creation of a  
35    flood control authority may provide that the members of the flood  
36    control authority may receive compensation for their services  
37    within an annual and other limitations to be stated in such resolu-  
38    tion, ordinance or parallel ordinances, and in that event, each  
39    member may receive from the flood control authority such compen-  
40    sation for his services as the flood control authority may determine

41 within the limitations stated in such resolution, ordinance or  
 42 parallel ordinances. The said annual or other limitations stated  
 43 in any such resolution, ordinance or parallel ordinances may be  
 44 amended by subsequent resolution, ordinance, and parallel ordi-  
 45 nances, as the case may be, but no increase or reduction of any  
 46 such limitation shall be effective as to any member of the flood  
 47 control authority then in office except upon the written consent  
 48 of the flood control authority. No member of any flood control  
 49 authority shall receive any compensation for his services except  
 50 as provided in this subsection.

51 e. Every flood control authority, upon the first appointment  
 52 of its members and thereafter on or after February 1 in each year,  
 53 shall annually elect from among its members a chairman and a  
 54 vice-chairman who shall hold office, until February 1 next ensuing  
 55 and until their respective successors have been appointed and  
 56 have qualified. Every flood control authority may also, without  
 57 regard to the provisions of Title 11 of the Revised Statutes, ap-  
 58 point and employ a secretary and such professional and technical  
 59 advisers and experts and such other officers, agents and employees  
 60 as it may require, and shall determine their qualifications, terms  
 61 of office, duties and compensation.

1 6. a. The purposes of every flood control authority shall be  
 2 the control of waters in or bordering the State from flooding  
 3 arising from causes within the district and the control of waters  
 4 in, bordering or entering the district from flooding or threatened  
 5 flooding, and the consequent improvement of conditions affecting  
 6 the public health and safety.

7 b. Every flood control authority is hereby authorized and di-  
 8 rected, subject to the limitations of this act, to acquire, in its own  
 9 name but for the local unit or units, by purchase, gift, condemna-  
 10 tion or otherwise, and notwithstanding the provisions of any  
 11 charter, ordinance or resolution of any county or municipality to  
 12 the contrary, to construct, implement, maintain and use such stor-  
 13 age reservoirs, dikes, diversions, dams, spillways, levees, revet-  
 14 ments, drains, ditches or channel improvements such as widening,  
 15 deepening, straightening, clearing, sloping, building, filling in, as  
 16 in the judgment of the flood control authority will provide an  
 17 effective, environmentally protective and satisfactory method for  
 18 promoting the purposes of the flood control authority.

19 c. Every flood control authority is hereby authorized and di-  
 20 rected, when in its judgment its flood control system or any part  
 21 thereof will permit, to regulate within the district any and all  
 22 bodies of water which are potential sources of flooding in such  
 23 manner as to promote the purposes of the flood control authority.

- 1     7. Every flood control authority shall be a public body politic  
2 and corporate constituting a political subdivision of the State  
3 established as an instrumentality exercising public and essential  
4 governmental functions to provide for the public health and welfare  
5 and shall have perpetual succession and have the following powers:  
6     a. To adopt and have a common seal and to alter the same at  
7 pleasure;  
8     b. To sue and to be sued;  
9     c. In the name of the flood control authority and on its behalf,  
10 to acquire, hold, use and dispose of its service charges and other  
11-14 revenues and other moneys;  
15     d. In the name of the flood control authority but for the local  
16 unit or units, to acquire, hold, use and dispose of other personal  
17 property for the purposes of the flood control;  
18     e. In the name of the flood control authority but for the local  
19 unit or units, to acquire by purchase, gift, condemnation or other-  
20 wise, real property and easements therein, necessary or useful and  
21 convenient for the purposes of the flood control authority, and  
22 subject to mortgages, deeds of trust or other liens, or otherwise,  
23 and to hold and to use the same, and to dispose of property so  
24 acquired no longer necessary for the purposes of the flood control  
25 authority;  
26     f. To provide for and secure the payment of any bonds and the  
27 rights of the holders thereof, and to purchase, hold and dispose  
28 of any bonds;  
29     g. To accept gifts or grants of real or personal property, money,  
30 material, labor or supplies for the purposes of the flood control  
31 authority, and to make and perform such agreements and contracts  
32 as may be necessary or convenient in connection with the procur-  
33 ing, acceptance or disposition of such gifts or grants;  
34     h. To enter on any lands, waters or premises for the purpose  
35 of making surveys, borings, soundings and examinations for the  
36 purposes of the flood control authority;  
37     i. To make and enforce bylaws or rules and regulations  
38 for the management and regulation of its business and affairs and  
39 for the use, maintenance and operation of the flood control system  
40 and any other of its properties, and to amend the same;  
41     j. To do and perform any acts and things authorized by this  
42 act under, through or by means of its own officers, agents and em-  
43 ployees, or by contracts with any persons; and  
44     k. To enter into any and all contracts, execute any and all in-  
45 struments, and do and perform any and all acts or things necessary,

46 convenient or desirable for the purposes of the flood control au-  
 47 thority or to carry out any power expressly given in this act.

1 8 It shall be the duty of every "flood control authority," created  
 2 pursuant to the act to which this act is a supplement, to cause an  
 3 annual audit of the accounts of the authority to be made and filed  
 4 with the authority, and for this purpose the authority shall employ  
 5 a registered municipal accountant of New Jersey or a certified  
 6 public accountant of New Jersey. The audit shall be completed  
 7 and filed with the authority within 4 months after the close of the  
 8 fiscal year of the authority and a certified duplicate copy thereof  
 9 shall be filed with the Director of the Division of Local Government  
 10 Services in the Department of Community Affairs within 5 days  
 11 after the original report is filed with the authority.

1 9. Every such "flood control authority" shall file a certified  
 2 copy of every bond resolution as finally passed with the Director  
 3 of the Division of Local Government Services in the Department of  
 4 Community Affairs and in addition shall file a certified copy of all  
 5 bond proceedings with the said director.

1 10. a. Every flood control authority is hereby authorized to  
 2 charge and collect service charges to defray expenses of the au-  
 3 thority in accordance with the provisions of section 2 of P. L.  
 4 1971, c. 316 (C. 40:14-17).

5 b. The flood control authority shall prescribe and from time  
 6 to time when necessary revise a schedule of such service charges,  
 7 which shall comply with the terms of any contract of the flood  
 8 control authority and in any event shall be such that the revenues  
 9 of the flood control authority will at all times be adequate to  
 10 pay all expenses of operation and maintenance of the flood control  
 11 system, including reserves, insurance, extensions, and replace-  
 12 ments, and to pay punctually the principal of and interest on any  
 13 bonds and to maintain such reserves or sinking funds therefor as  
 14 may be required by the terms of any contract of the flood control  
 15 authority or as may be deemed necessary or desirable by the  
 16 flood control authority. Said schedule shall thus be prescribed  
 17 and from time to time revised by the flood control authority after  
 18 public hearing thereon which shall be held by the flood control  
 19 authority at least 7 days after such published notice as the flood  
 20 control authority may determine to be reasonable. The flood con-  
 21 trol authority shall likewise fix and determine the time or times  
 22 when and the place or places where such service charges shall be  
 23 due and payable and may require that such service charges shall  
 24 be paid in advance for period of not more than 1 year. A copy  
 25 of such schedule of service charges in effect shall at all times be



26 kept on file at the principal office of the flood control authority  
27 and shall at all reasonable times be open to public inspection.

1 11. Any local unit shall have power, in the discretion of its  
2 governing body, to appropriate moneys for the purposes of the  
3 flood control authority, and to loan or donate such moneys to the  
4 flood control authority in such installments and upon such terms  
5 as may be agreed upon between such local unit and the flood control  
6 authority.

1 12. For the purpose of raising funds to pay the cost of any  
2 part of its flood control system, a flood control authority shall have  
3 power to authorize or provide for the issuance of bonds pursuant  
4 to this act. Such flood control authority shall adopt a resolution  
5 (in this act sometimes referred to as "bond resolution") which  
6 shall

7 a. Describe in brief and general terms sufficient for reasonable  
8 identification the part (in this act sometimes called "project")  
9 of the flood control system to be constructed or acquired;

10 b. State the cost or estimated cost of the project; and

11 c. Provide for the issuance of the bonds in accordance with  
12 either section 13 or section 14 of this act.

1 13. a. A bond resolution of a flood control authority may pro-  
2 vide for the issuance of bonds of the local unit or units in accord-  
3 ance with this section for the purpose stated in section 12. Such  
4 a bond resolution shall (1) determine and state the share of the  
5 cost of the project allocated and to be financed by each of the local  
6 units and (2) determine and state all of the details (except the  
7 rate or rates of interest payable thereon) of the bonds to be autho-  
8 rized and issued by each of the local units for the purpose of  
9 financing the project, all within the limitations and in accordance  
10 with the applicable requirements of N. J. S. 40A:2-1 et seq. A  
11 copy of such bond resolution duly certified by the appropriate  
12 officer of the flood control authority, shall be delivered to the  
13 governing body of each local unit.

14 b. Upon receipt of such certified copy of the bond resolution,  
15 each local unit may appropriate the share of the cost project  
16 allocated to it by the bond resolution and shall have power to incur  
17 indebtedness, borrow money and issue its negotiable bonds for the  
18 purpose of financing such project and appropriation. Such bonds  
19 shall comply with the description thereof stated in the bond reso-  
20 lution and, if the governing body of such local unit shall determine  
21 to issue the same, shall be authorized by municipal bond ordi-  
22 nance or county bond resolution, as the case may be, finally adopted  
23 by the governing body of the local unit in accordance with the

24 limitations, and any exceptions thereto, and in the manner or mode  
 25 of procedure prescribed by N. J. S. 40A2-1 et seq. except that (1)  
 26 the purpose of such bonds may be described and identified merely  
 27 by reference to the bond resolution, and (2) no down payment shall  
 28 be required.

29 c. If within 90 days after adoption of the bond resolution, the  
 30 governing body of every local unit shall have adopted a municipal  
 31 bond ordinance or county bond resolution authorizing the issuance  
 32 of all of the bonds of such local unit contemplated and described  
 33 in the bond resolution, no municipal bond ordinance or county  
 34 bond resolution authorizing the issuance of any of the bonds con-  
 35 templated and described in the bond resolution shall thereafter  
 36 be repealed, amended or revoked, except with the previous consent  
 37 of the flood control authority.

38 d. Such bonds shall be sold by the flood control authority in  
 39 accordance with this section at such times and in such blocks or  
 40 installments and bearing such rates of interest and for such prices  
 41 not less than their par value as the flood control authority may  
 42 direct. Such bonds may be sold by the flood control authority in  
 43 the manner or mode of procedure prescribed by N. J. S. 40A:2-27  
 44 but if not so sold, shall be sold only at public sale upon sealed  
 45 proposals after at least 7 days' notice published at least once in  
 46 a publication carrying municipal bond notices and devoted  
 47 primarily to financial news or the subject of State and municipal  
 48 bonds, published in New York City or in New Jersey, to the bidder  
 49 on whose bid the total loan may be made at the lowest net cost,  
 50 such net cost to be computed, as to each bid, by adding to the total  
 51 principal amount of the bonds which the bidder offers to accept,  
 52 the total interest which will be paid under the terms of the bid,  
 53 and deducting therefrom the amount bid for the bonds which shall  
 54 not exceed by more than \$1,000.00 the par value of the bonds  
 55 offered for sale. Such bonds shall be executed by the appropriate  
 56 officials of the local unit and delivered to the purchasers in accord-  
 57 ance with the contract of sale and the proceeds thereof shall be  
 58 paid to the flood control authority.

1 14. a. A bond resolution of a flood control authority may pro-  
 2 vide for and authorize the issuance of bonds of the flood control  
 3 authority in accordance with this section for the purpose stated  
 4 in section 12 or for the purpose of funding or refunding any bonds.  
 5 A bond resolution providing for and authorizing the issuance of  
 6 bonds to fund or refund bonds shall describe the bonds which are  
 7 to be funded or refunded.

8     b. Upon adoption of the bond resolution, the flood control au-  
 9     thority shall have power to incur indebtedness, borrow money and  
 10    issue its bonds for the purpose of financing the project or of fund-  
 11    ing or refunding the bonds described therein. Such bonds shall  
 12    be authorized by the bond resolution and may be issued in one or  
 13    more series and shall bear such date or dates, mature at such time  
 14    or times not exceeding 40 years from the date thereof, bear interest  
 15    at such rate or rates not exceeding 6% per annum, be in such de-  
 16    nomination or denominations, be in such form, either coupon or  
 17    registered, carry such conversion or registration privileges, have  
 18    such rank or priority, be executed in such manner, be payable from  
 19    such sources in such medium of payment at such place or places  
 20    within or without the State, and be subject to such terms of re-  
 21    demption (with or without premium) as the bond resolution may  
 22    provide.

23    c. Bonds of a flood control authority may be sold by the flood  
 24    control authority at public or private sale at such price or prices  
 25    as the flood control authority shall determine; provided, however,  
 26    that the interest cost to maturity of the money received for any  
 27    issue of bonds (computed according to standard tables of bond  
 28    values) shall not exceed 6% per annum.

1     15. After the sale of any bonds pursuant to section 13 or sec-  
 2     tion 14 of this act, the flood control authority shall have power  
 3     to authorize the execution and issuance to the purchasers, pending  
 4     the preparation of the definitive bonds, of interim certificates  
 5     therefor or of temporary bonds or other temporary instruments  
 6     exchangeable for the definitive bonds when prepared, executed  
 7     and ready for delivery. The holders of such interim certificates,  
 8     temporary bonds or other temporary instruments shall have all  
 9     the rights and remedies which they would have as holders of the  
 10    definitive bonds.

1     16. Any flood control authority shall cause a copy of any bond  
 2     resolution adopted by it to be filed for public inspection in its  
 3     office and in the office of clerk of the governing body of the local  
 4     unit or units and shall thereupon cause to be published in a news-  
 5     paper published or circulating in the district a notice stating the  
 6     fact and date of such adoption and the places where such bond  
 7     resolution has been so filed for public inspection and also the date  
 8     of the first publication of such notice and also that any action or  
 9     proceeding of any kind or nature in any court questioning the  
 10    validity of the creation and establishment of the flood control au-  
 11    thority, or the validity or proper authorization of bonds provided  
 12    for by the bond resolution, or the validity of any covenants, agree-

ments or contracts provided for by the bond resolution shall be commenced within 20 days after the first publication of such notice. If no such action or proceeding shall be commenced or instituted within 20 days after the first publication of such notice, then all residents and taxpayers and owners of property in the district and users of the flood control system and all other persons whatsoever shall be forever barred and foreclosed from instituting or commencing any action or proceeding in any court, or from pleading any defense to any action or proceedings, questioning the validity of the creation and establishment of the flood control authority, the validity or proper authorization of such bonds, or the validity of any such covenants, agreements or contracts, and said bonds, covenants, agreements and contracts shall be conclusively deemed to be valid and binding obligations in accordance with their terms and tenor.

17. Any provision of any law to the contrary notwithstanding, any bond or other obligation issued pursuant to this act shall be fully negotiable within the meaning and for all purposes of the negotiable instruments law of the State, and each holder or owner of such a bond or other obligation, or of any coupon appurtenant thereto, by accepting such bond or coupon shall be conclusively deemed to have agreed that such bond obligation or coupon is and shall be fully negotiable within the meaning and for all purposes of said negotiable instruments law.

18. Any bond resolution of a flood control authority providing for or authorizing the issuance of any bonds may contain provisions, and such flood control authority, in order to secure the payment of such bonds and in addition to its other powers, shall have power by provision in the bond resolution to covenant and agree with the several holders of such bonds, as to:

a. The custody, security, use, expenditure or application of the proceeds of the bonds;

b. The construction and completion, or replacement, of all or any part of the flood control system;

c. The use, regulation, operation, maintenance, insurance or disposition of all or any part of the flood control system, or restrictions on the exercise of the powers of flood control authority to dispose, or to limit or regulate the use, of all or any part of the flood control system;

d. Payment of the principal of or interest on the bonds, or any other obligations, and the sources and methods thereof, the rank or priority of any such bonds or obligations as to any lien or

19 security, or the acceleration of the maturity of any such bonds  
20 or obligations;

21 e. The use and disposition of any moneys of the flood control  
22 authority, including revenues (in this act sometimes called "sys-  
23 tems revenues") derived or to be derived from the operation of  
24 all or any part of the flood control system, including any parts  
25 thereof theretofore constructed or acquired and any parts, exten-  
26 sions, replacements or improvements thereof thereafter con-  
27 structed or acquired;

28 f. Pledging, setting aside, depositing or trusteeing all or any  
29 part of the system revenues or other moneys of the flood control  
30 authority to secure the payment of the principal of or interest on  
31 the bonds or any other obligations, or the payment of expenses of  
32 operation or maintenance of the flood control system, and the  
33 powers and duties of any trustee with regard thereto;

34 g. The setting aside out of the system revenues or other moneys  
35 of the flood control authority of reserves and sinking funds, and  
36 the source, custody, security, regulation, application and disposi-  
37 tion thereof;

38 h. Determination or definition of the system revenues or of the  
39 expenses of operation and maintenance of the flood control system;

40 i. The rents, rates, fees, or other charges for connection with  
41 or the use or services of the flood control system, including any  
42 parts thereof theretofore constructed or acquired and any parts,  
43 extensions, replacements or improvements thereof thereafter con-  
44 structed or acquired, and the fixing, establishment, collection and  
45 enforcement of the same, the amount or amounts of system reve-  
46 nues to be produced thereby, and the disposition and application  
47 of the amounts charged or collected;

48 j. The assumption or payment or discharge of any indebtedness,  
49 liens or other claims relating to any part of the flood control sys-  
50 tem or any obligations having or which may have a lien on any  
51 part of the system revenues;

52 k. Limitations on the issuance of additional bonds or any other  
53 obligations or on the incurrence of indebtedness of the flood control  
54 authority;

55 l. Limitations on the powers of the flood control authority to  
56 construct, acquire or operate, or permit the construction, acqui-  
57 sition or operation of, any plants, structures, facilities or proper-  
58 ties which may compete or tend to compete with the flood control  
59 system;

60 m. Vesting in a trustee or trustees such property, rights, powers  
61 and duties in trust as the flood control authority may determine



62 which may include any or all of the rights, powers and duties of  
63 the trustee appointed by the holders of bonds pursuant to section  
64 19 of this act, and limiting or abrogating the right of such holders  
65 to appoint a trustee pursuant to section 17 of this act or limiting  
66 the rights, duties and powers of such trustee;

67 n. Payment of costs or expenses incident to the enforcement of  
68 the bonds or of the provisions of the bond resolution or of any  
69 covenant or contract with the holders of the bonds;

70 o. The procedure, if any, by which the terms of any covenant  
71 or contract with, or duty to, the holders of bonds may be amended  
72 or abrogated, the amount of bonds the holders of which must  
73 consent thereto, and the manner in which such consent may be  
74 given or evidenced; or

75 p. Any other matter or course of conduct which, by recital in  
76 the bond resolution, is declared to further secure the payment of  
77 the principal of or interest on the bonds.

78 All such provisions of the bond resolution and all such covenants  
79 and agreements shall constitute valid and legally binding contracts  
80 between the flood control authority and the several holders of the  
81 bonds, regardless of the time of issuance of such bonds, and shall  
82 be enforceable by any such holder or holders by mandamus or  
83 other appropriate action, suit, or proceeding at law or in equity  
84 in any court of competent jurisdiction.

1 19. a. The provisions of this section shall be applicable to a  
2 series of bonds authorized or issued under this act only if the bond  
3 resolution of the flood control authority authorizing or providing  
4 for the issuance of such bonds shall provide in substance that the  
5 holders of the bonds of such series shall be entitled to the benefits,  
6 and be subject to the provisions of this section.

7 b. In the event that there shall be a default in the payment of  
8 principal of or interest on any bonds of such series after the  
9 same shall become due, whether at maturity or upon call for re-  
10 demption, and such default shall continue for a period of 30 days,  
11 or in the event that the flood control authority shall fail or refuse  
12 to comply with the provisions of this act or shall fail or refuse to  
13 carry out and perform the terms of any contract with the holders  
14 of any of such bonds, and such failure or refusal shall continue  
15 for a period of 30 days after written notice to the flood control  
16 authority of its existence and nature, the holders of 25% in aggregate  
17 principal amount of the bonds of such series then outstanding,  
18 by instrument or instruments filed in the office of the Secretary  
19 of State and proved or acknowledged in the same manner as a  
20 deed to be recorded, may appoint a trustee to represent the holders

21 of the bonds of such series for the purposes provided in this section.

22 c. Such trustee may and upon written request of the holders  
23 of 25% in aggregate principal amount of the bonds of such series  
24 then outstanding shall, in his or its own name:

25 (1) By any action, writ, proceeding in lieu of prerogative writ,  
26 or other proceeding, enforce all rights of the holders of such  
27 bonds, including the right to require the flood control authority to  
28 charge and collect service charges adequate to carry out any  
29 contract as to, or pledge of, system revenues, and to require the  
30 flood control authority to carry out and perform the terms of any  
31 contract with the holders of such bonds or its duties under this act;

32 (2) Bring an action upon all or any part of such bonds or interest  
33 coupons or claims appurtenant thereto;

34 (3) By action, require the flood control authority to account  
35 as if it were the trustee of an express trust for the holders of such  
36 bonds;

37 (4) By action, enjoin any acts or things which may be unlawful  
38 or in violation of the rights of the holders of such bonds; or

39 (5) Declare all such bonds due and payable, whether or not in  
40 advance of maturity, upon 30 days' prior notice in writing to the  
41 flood control authority and, if all defaults shall be made good, then  
42 with the consent of the holders of 25% of the principal amount of  
43 such bonds then outstanding, annul such declaration and its con-  
44 sequences.

45 d. Such trustee shall, in addition to the foregoing, have and  
46 possess all of the powers necessary or appropriate for the exercise  
47 of the functions specifically set forth herein or incident to the  
48 general representation of the holders of bonds of such series in the  
49 enforcement and protection of their rights.

50 e. In any action or proceeding by such trustee, the fees, counsel  
51 fees and expenses of the trustee and of the receiver, if any, ap-  
52 pointed pursuant to this act, shall constitute taxable costs and  
53 disbursements, and all costs and disbursements, allowed by the  
54 court, shall be a first charge upon any service charges and system  
55 revenues of the flood control authority pledged for the payment or  
56 security of bonds of such series.

1 20. If a bond resolution of a flood control authority authorizing  
2 or providing for the issuance of the bonds of any series shall  
3 contain the provision authorized by subsection a. of section 19 of  
4 this act shall further provide in substance that any trustee ap-  
5 pointed pursuant to said section shall have the powers provided  
6 by this section, then such trustee, whether or not all of the bonds  
7 of such series shall have been declared due and payable, shall be

8 entitled as of right to the appointment of a receiver of the flood  
9 control system, and such receiver may enter upon and take  
10 possession of the flood control system and, subject to any pledge  
11 or contract with the holders of such bonds, shall take possession of  
12 all moneys and other property derived from or applicable to the  
13 acquisition, construction, operation, maintenance or reconstruc-  
14 tion of the flood control system and proceed with such acquisition,  
15 construction, operation, maintenance or reconstruction which the  
16 flood control authority is under any obligation to do, and operate,  
17 maintain and reconstruct the flood control system and fix, charge,  
18 collect, enforce and receive the service charges and all system  
19 revenues thereafter arising subject to any pledge thereof or con-  
20 tract with the holders of such bonds relating thereto and perform  
21 the public duties and carry out the contracts and obligations of the  
22 flood control authority in the same manner as the flood control  
23 authority itself might do and under the direction of the court.

1 21. Neither the members of the flood control authority nor any  
2 person executing bonds issued pursuant to this act shall be liable  
3 personally on the bonds by reason of the issuance thereof. Bonds  
4 or other obligations issued pursuant to this act shall not be in  
5 any way a debt or liability of the State, and bonds or other obliga-  
6 tions issued by a flood control authority pursuant to this act shall  
7 not be in any way a debt or liability of the State or of any local  
8 unit or of any county or municipality and shall not create or con-  
9 stitute any indebtedness, liability or obligation of the State or of  
10 any of such local unit, county or municipality, either legal, moral  
11 or otherwise, and nothing in this act contained shall be construed  
12 to authorize any flood control authority to incur any indebtedness  
13 on behalf of or in any way to obligate the State or any county or  
14 municipality.

1 22. Every flood control authority is hereby empowered, in its  
2 own name but for the local unit or units, to acquire by purchase,  
3 gift, grant or devise and to take for public use real property,  
4 within or without the district, which may be deemed by the flood  
5 control authority necessary for its purposes, including public  
6 lands, waters, parks, roads, playgrounds, reservations and public  
7 or private rights in waters within or without the district, and any  
8 property within or without the district owned by or in which any  
9 county, municipality or political subdivision of the State, or public  
10 body or agency of such political subdivision, has any right, title  
11 or interest. Such flood control authority is hereby empowered to  
12 acquire and take such real property, including any such public  
13 property or such public interest therein, by condemnation, in the

14 manner provided by the "Eminent Domain Act of 1971" (P. L.  
15 1971, c. 361) (C. 20:3-1 et seq.) and, to that end, may invoke and  
16 exercise in the manner or mode of procedure prescribed in said  
17 chapter, either in its own name or in the name of any local unit  
18 or units, all of the powers of such local unit or units to acquire  
19 or take property for public use.

20 Upon the filing of a complaint in any action to fix the compen-  
21 sation to be paid for any such property, or at any time thereafter,  
22 such flood control authority may file with the clerk of the county  
23 in which such property is located and also with the Clerk of the  
24 Superior Court a declaration of taking, signed by the flood control  
25 authority, declaring that possession of one or more of the tracts  
26 or parcels of land or property described in the complaint is thereby  
27 being taken by and for the use of the flood control authority. The  
28 said declaration of taking shall be sufficient if it sets forth (1) a  
29 description of each tract or parcel of land or property to be so  
30 taken sufficient for the identification thereof to which there may  
31 or may not be attached a plan or map thereof; (2) a statement of  
32 the estate or interest in the said land or property being taken;  
33 (3) a statement of the sum of money estimated by the flood control  
34 authority by resolution to be just compensation for the taking of  
35 the estate or interest in each tract or parcel of land or property  
36 described in said declaration; and (4) that, in compliance with the  
37 provisions of this act, the flood control authority has established  
38 and is maintaining a trust fund as hereinafter provided.

39 Upon the filing of the said declaration, the flood control authority  
40 shall deposit with the Clerk of the Superior Court the amount of  
41 the estimated compensation stated in said declaration. In addition  
42 to the said deposits with the Clerk of the Superior Court the flood  
43 control authority at all times shall maintain a fund of deposit with  
44 a bank or trust company doing business in this State in an amount  
45 at least equal to the aggregate amount deposited with the Clerk  
46 of the Superior Court as estimated compensation for all property  
47 described in declarations of taking with respect to which the com-  
48 pensation has not been finally determined and paid to the persons  
49 entitled thereto or into court. Said fund shall consist of cash or  
50 securities readily convertible into cash constituting legal invest-  
51 ments for trust funds under the laws of this State or may consist  
52 of all or some part of the proceeds of bonds of the flood control  
53 authority held by any trustee for the holders of such bonds and  
54 available for payment for the land or other property described  
55 in such declarations of taking. Said fund shall be held by or on  
56 behalf of the flood control authority to secure and may be applied

57 to the payment of just compensation for the land or other property  
58 described in such declarations of taking. The flood control author-  
59 ity shall be entitled to withdraw from said fund from time to time  
60 so much as may then be in excess of the aggregate amount de-  
61 posited with the Clerk of the Superior Court as estimated com-  
62 pensation for all property described in declarations of taking with  
63 respect to which the compensation has not been finally determined  
64 and paid to the persons entitled thereto or into court. Upon the  
65 filing of the said declaration as aforesaid and depositing with the  
66 Clerk of the Superior Court the amount of the estimated compen-  
67 sation stated in said declaration, the flood control authority, with-  
68 out other process or proceedings, shall be entitled to the exclusive  
69 possession and use of each tract of land or property described in  
70 said declaration and may forthwith enter into and take possession  
71 of said land or property, it being the intent of this provision that  
72 the action to fix compensation to be paid or any other proceedings  
73 relating to the taking of said land or interest therein or other  
74 property shall not delay the taking of possession thereof and the  
75 use thereof by the flood control authority for the purpose or pur-  
76 poses for which the flood control authority is authorized by law  
77 to acquire or condemn such land or other property or interest  
78 therein.

79 The flood control authority shall cause notice of the filing of said  
80 declaration and the making of said deposit to be served upon each  
81 party to the action to fix the compensation to be paid, who resides  
82 in this State, either personally or by leaving a copy thereof at his  
83 residence, if known, and upon each such party who resides out of  
84 the State, by mailing a copy thereof to him at his residence, if  
85 known. In the event that the residence of any such party or the  
86 name of such party is unknown, such notice shall be published at  
87 least once in a newspaper published or circulating in the county  
88 or counties in which the land is located. Such service, mailing or  
89 publication shall be made within 10 days after filing such decla-  
90 ration. Upon the application of any party in interest and after  
91 notice to other parties in interest, including the flood control au-  
92 thority, the Superior Court may direct that the money deposited  
93 with the Clerk of the Superior Court or any part thereof be paid  
94 forthwith to the person or persons entitled thereto for or on ac-  
95 count of the just compensation to be awarded in said action; pro-  
96 vided, that each such person shall have filed with the Clerk of the  
97 Superior Court a consent in writing that, in the event the award  
98 in the said action shall be less than the amount deposited the court,  
99 after such notice as the court prescribes and hearing, may deter-



100 mine his liability, if any, for the return of such difference or any  
 101 part thereof and enter judgment therefor. If the amount of the  
 102 award as finally determined shall exceed the amount so deposited,  
 103 the person or persons to whom the award is payable shall be en-  
 104 titled to recover from the flood control authority the difference  
 105 between the amount of the deposit and the amount of the award,  
 106 with interest at the rate of 6% per annum thereon from the date  
 107 of making the deposit. If the amount of the award shall be less  
 108 than the amount so deposited, the Clerk of the Superior Court  
 109 shall return the difference between the amount of the award and  
 110 the deposit to the flood control authority unless the amount of the  
 111 deposit or any part thereof shall have theretofore been distributed,  
 112 in which event the court, on application of the flood control au-  
 113 thority and notice to all persons interested in the award and afford-  
 114 ing them an opportunity to be heard, shall enter judgment in favor  
 115 of the flood control authority for such difference against the party  
 116 or parties liable for the return thereof.

117 The flood control authority shall not abandon any condemnation  
 118 proceeding subsequent to the date upon which it has taken pos-  
 119 session of the land or property as herein provided.

120 In addition to other powers conferred by this act or by any other  
 121 law, and not in limitation thereof, every flood control authority,  
 122 in connection with construction or operation of any part of a flood  
 123 control system, shall have power to make reasonable regulations  
 124 for the installation, construction, maintenance, repair, renewal,  
 125 relocation and removal of tracks, pipes, mains, conduits, cables,  
 126 wires, towers, poles or any other equipment and appliances (herein  
 127 called "facilities") of any public utility, as defined in R. S. 48:2-13,  
 128 in, on, along, over or under any real property, including public  
 129 lands, waters, parks, roads, streets, highways, playgrounds and  
 130 reservations. Whenever in connection with construction or opera-  
 131 tion of any part of a flood control system, any flood control au-  
 132 thority shall determine that it is necessary that any such facilities,  
 133 which now are, or hereafter may be, located in, on, along, over or  
 134 under any such real property, including public lands, waters, parks,  
 135 roads, streets, highways, playgrounds and reservations, should be  
 136 relocated in such real property, including public lands, waters,  
 137 parks, roads, streets, highways, playgrounds and reservations, or  
 138 should be removed therefrom, the public utility owning or operat-  
 139 ing such facilities shall relocate or remove the same in accordance  
 140 with the order of the flood control authority; provided, however,  
 141 that the cost and expenses of such relocation or removal, including  
 142 the cost of installing such facilities in a new location, or new lo-

143 cations, and the cost of any lands or any rights or interest in lands  
 144 or any other rights acquired to accomplish such relocation or re-  
 145 moval, less the cost of any lands or any rights or interests in lands  
 146 or any other rights of the public utility paid to the public utility  
 147 in connection with the relocation or removal of such property, shall  
 148 be paid by the flood control authority and may be included in the  
 149 cost of such flood control system. In case of any such relocation  
 150 or removal of facilities, as aforesaid, the public utility owning or  
 151 operating the same, its successors or assigns, may maintain and  
 152 operate such facilities, with the necessary appurtenances, in the  
 153 new location or new locations for as long a period, and upon the  
 154 same terms and conditions, as it had the right to maintain and  
 155 operate such facilities in their former location.

1 23. a. In the event that a service charge of any flood control  
 2 authority with regard to any parcel of real property shall not be  
 3 paid as and when due, interest shall accrue and be due to the flood  
 4 control authority on the unpaid balance at the rate of 1% per  
 5 month until such service charge, and the interest thereon, shall  
 6 be fully paid to the flood control authority.

7 b. In the event that any service charge of a flood control author-  
 8 ity shall not be paid as and when due, the unpaid balance thereof  
 9 and all interest accrued thereon, together with attorneys' fees and  
 10 costs, may be recovered by the flood control authority in a civil  
 11 action, and any lien on real property for such service charge and  
 12 interest accrued thereon may be foreclosed or otherwise enforced  
 13 by the flood control authority by action or suit in equity as for  
 14 the foreclosure of a mortgage on such real property.

15 c. All rights and remedies granted by this act for the collection  
 16 and enforcement of service charges shall be cumulative and con-  
 17 current.

1 24. Any county, by resolution of its governing body, or any  
 2 municipality, by ordinance of its governing body, or any other  
 3 person is hereby empowered, without any referendum and without  
 4 the consent of any board, officer or other agency of the State, to  
 5 sell, lease, lend, grant or convey to any flood control authority,  
 6 or to permit any flood control authority to use, maintain or operate  
 7 as part of the flood control system, any real or personal property  
 8 owned by it. Any such sale, lease, loan, grant, conveyance or  
 9 permit may be made with or without consideration and for a  
 10 specified or an unlimited period of time and under any agreement  
 11 and on any terms and conditions which may be approved by such  
 12 county, municipality or other persons and which may be agreed to  
 13 by the flood control authority in conformity with its contracts with

14 the holders of any bonds. Subject to any such contracts with  
15 holders of bonds, the flood control authority may enter into and  
16 perform any and all agreements with respect to property so ac-  
17 cepted by it, including agreements for the assumption of principal  
18 or interest or both of indebtedness of such county, municipality or  
19 other person or of any mortgage or lien existing with respect to  
20 such property or for the operation and maintenance of such prop-  
21 erty as part of the flood control system.

1 25. Any flood control authority and any local unit or any mu-  
2 nicipality within or without the district by ordinance of its govern-  
3 ing body in the case of a municipality, or by resolution of its  
4 governing body in the case of a county, may enter into a contract  
5 or contracts providing for or relating to the control of floods  
6 originating in the district or in such municipality by means of the  
7 flood control system or any flood control facilities of such local  
8 unit or such municipality or both, and the cost and expense of such  
9 control. Such contract or contracts may provide for the payment  
10 to the flood control authority by such local unit or municipality  
11 annually or otherwise of such sum or sums of money, computed at  
12 fixed amounts or by a formula based on any factors or other matters  
13 described in section 10 of this act, as said contract or contracts  
14 may provide, and the sum or sums so payable may include pro-  
15 vision for all or any part or a share of the amounts necessary (1)  
16 to pay or provide for the expenses of operation and maintenance  
17 of the flood control system, including without limitation insurance,  
18 extensions, betterments and replacements and the principal of and  
19 interest on any bonds, and (2) to provide for any deficits resulting  
20 from failure to receive sums payable to the flood control authority  
21 by such local unit or such municipality, any other municipality,  
22 any county or any other flood control authority, or any person,  
23 or from any other cause, and (3) to maintain such reserves or  
24 sinking funds for any of the foregoing as may be required by  
25 the terms of any contract of the flood control authority or as  
26 may be deemed necessary or desirable by the flood control authority.  
27 Any such contract may provide that the sum or sums so payable  
28 to the flood control authority shall be in lieu of all or any part  
29 of the service charges which would otherwise be charged and  
30 collected by the flood control authority with regard to persons or  
31 real property within such local unit or such municipality. Such  
32 contract or contracts may also contain provisions as to the financing  
33 and payment of expenses to be incurred by the flood control au-  
34 thority and determined by it to be necessary for its purposes prior  
35 to the placing in operation of the flood control system and may

36 provide for the payment by such local unit or such municipality  
37 to the flood control authority for application for such expenses  
38 or indebtedness therefor such sum or sums of money, not in the  
39 aggregate exceeding an amount stated or otherwise limited in  
40 said contract or contracts plus interest thereon, as said contract  
41 or contracts may provide and as the governing body of said local  
42 unit or said municipality shall, by virtue of its authorization of  
43 and entry into said contract or contracts, determine to be neces-  
44 sary for the purposes of the flood control authority. Any such  
45 contract may be made with or without consideration and for a  
46 specified or an unlimited time and on any terms and conditions  
47 which may be approved by such local unit or such municipality  
48 and which may be agreed to by the flood control authority in  
49 conformity with its contracts with the holders of any bonds, and  
50 shall be valid whether or not an appropriation with respect thereto  
51 is made by such local unit or such municipality prior to authoriza-  
52 tion or execution thereof. Such local unit or such municipality is  
53 hereby authorized and directed to do and perform any and all  
54 acts or things necessary, convenient or desirable to carry out and  
55 perform every such contract and to provide for the payment or  
56 discharge of any obligation thereunder in the same manner as  
57 other obligations of such local unit or such municipality. Subject  
58 to any such contracts with the holders of bonds, the flood control  
59 authority is hereby authorized to do and perform any and all acts  
60 or things necessary, convenient or desirable to carry out and per-  
61 form every such contract and, in accordance with any such con-  
62 tract, to waive, modify, suspend or reduce the service charges  
63 which would otherwise be charged and collected by the flood control  
64 authority with regard to persons or real property within such local  
65 unit or such municipality, but nothing in this section or any such  
66 contract shall prevent the flood control authority from charging  
67 and collecting from a local unit or member municipality, as if  
68 such contract had not been made, service charges with regard to  
69 such persons and real property sufficient to meet any default or  
70 deficiency in any payments agreed in such contract to be made by  
71 such local unit or such municipality.

1 26. In order to carry out and effectuate its purposes, any flood  
2 control authority, subject to its contracts with the holders of any  
3 bonds, is hereby empowered to provide, construct, maintain and  
4 operate facilities for the control of floods originating within or  
5 without the district and to enter into a contract or contracts with  
6 any other flood control authority or any municipality in an ad-  
7 joining state which is authorized to enter into such a contract or

8 any person on such terms and conditions as such contract or con-  
 9 tracts may contain, providing for or relating to the control of floods.  
 10 Any such contract may contain any of the terms and provisions  
 11 set forth in section 23 of this act and permitted by said section to  
 12 be contained in contracts made thereunder. The flood control  
 13 authority and such other flood control authority, municipality  
 14 and person are hereby authorized and directed to do and perform  
 15 any and all acts or things necessary, convenient or desirable to  
 16 carry out and perform every such contract and to provide for the  
 17 payment or discharge of any obligation thereunder in the same  
 18 manner as other obligations of such flood control authority, other  
 19 flood control authority, municipality or person.

1 27. a. In order to carry out and effectuate its purposes, every  
 2 flood control authority is hereby authorized to enter upon and use  
 3 and connect with any existing public flood control facilities or any  
 4 other public property of a similar nature within the district. No  
 5 flood control authority shall, however, take permanent possession  
 6 or make permanent use of any such facility or works unless it  
 7 acquires the same.

8 b. In order to carry out and effectuate its purposes, every flood  
 9 control authority is hereby authorized to construct, maintain and  
 10 operate its flood control system along, over, under and in any  
 11 public places within or without the district, doing no unnecessary  
 12 injury thereto and making no unnecessary interruption in or  
 13 interference with the public use of such places and restoring the  
 14 same to their former usefulness and condition within a reasonable  
 15 time.

1 28. a. Each county and municipality within the district, and  
 2 every person owning or operating any flood control facility or  
 3 any system of water distribution serving three or more parcels of  
 4 real property in the district, shall at the request of the flood con-  
 5 trol authority make available to the flood control authority any  
 6 and all of its maps, plans, specifications, records, books, accounts  
 7 or other data or things deemed necessary by the flood control  
 8 authority for its purposes.

9 b. Each county, municipality and other public body shall  
 10 promptly pay to any flood control authority all service charges  
 11 which the flood control authority may charge to it, as owner or  
 12 occupant of any real property, in accordance with section 10 of this  
 13 act, and shall provide for the payment thereof in the same manner  
 14 as other obligations of such county, municipality or public body.

15 c. Each county, municipality and other person owning or operat-  
 16 ing any system of water distribution serving three or more parcels



17 of real property in the district shall, from time to time after  
18 request therefor by the flood control authority, deliver to the flood  
19 control authority copies of the records made by it in the regular  
20 course of business of the amount of water supplied by it to every  
21 such parcel of real property in the district. Such copies shall  
22 be delivered to the flood control authority within 60 days after the  
23 making of such records, and the flood control authority shall pay  
24 the reasonable cost of preparation and delivery of such copies.

1 29. Neither the flood control authority nor any local unit shall  
2 have power to mortgage, pledge, encumber or otherwise dispose  
3 of any part of the flood control system, except that the flood control  
4 authority may dispose of such part or parts thereof as may be no  
5 longer necessary for the purposes of the flood control authority.  
6 The provisions of this section shall be deemed to constitute a  
7 part of the contract with the holder of any bonds. All property  
8 of a flood control authority shall be exempt from levy and sale  
9 by virtue of an execution and no execution or other judicial process  
10 shall issue against the same nor shall any judgment against a flood  
11 control authority be a charge or lien upon its property; provided,  
12 that nothing herein contained shall apply to or limit the rights of  
13 the holder of any bonds to pursue any remedy for the enforcement  
14 of any pledge or lien given by a flood control authority on its  
15 system revenues.

1 30. a. No county, municipality or person shall discharge, or  
2 suffer to be discharged, directly or indirectly into any waters in  
3 or bordering a district any substance which may or will cause or  
4 contribute to the flooding of such waters; provided, that this pro-  
5 hibition shall be applicable only to such part or parts of such  
6 waters as are in an area of the district bounded and described in  
7 a notice, inserted at least once in a newspaper published in the  
8 district, to the effect that the flood control authority has provided  
9 facilities reasonably sufficient in its opinion to control flood waters  
10 which by discharge into such waters might cause or contribute to  
11 flooding of such bodies of water. Such a notice shall constitute  
12 prima facie evidence of the existence of facilities sufficient for the  
13 control of floods.

14 b. No county, municipality or person shall discharge or suffer  
15 to be discharged directly or indirectly into the flood control system  
16 of any flood control authority any matter or thing which is or may  
17 be injurious or deleterious to such flood control system, or to its  
18 efficient operation.

19 c. Any county, municipality or person may be restrained, en-  
20 joined or otherwise prevented from violating or continuing the

21 violation of any provision of this section in a proceeding in lieu  
 22 of prerogative writ, or other appropriate proceeding, or in an  
 23 action for injunctive or other relief instituted by a flood control  
 24 authority or by any county prosecutor.

1 31. No flood control facilities within a district shall be con-  
 2 structed unless the flood control authority shall give its consent  
 3 thereto and approve the plans and specifications therefor. Each  
 4 flood control authority is hereby empowered to give such consent  
 5 and approval, subject, however, to the terms and provisions of  
 6 any agreement with the holders of bonds.

1 32. Notwithstanding any restriction contained in any other law,  
 2 the State and all public officers, municipalities, counties, political  
 3 subdivisions and public bodies, and agencies thereof, all banks,  
 4 bankers, trust companies, savings banks and institutions, building  
 5 and loan associations, savings and loan associations, investment  
 6 companies, and other persons carrying on a banking business, all  
 7 insurance companies, insurance associations and other persons  
 8 carrying on an insurance business, and all executors, administra-  
 9 tors, guardians, trustees and other fiduciaries, may legally invest  
 10 any sinking funds, moneys or other funds belonging to them or  
 11 within their control in any bonds, and such bonds shall be au-  
 12 thorized security for any and all public deposits.

1 33. Every flood control system and all other property of a flood  
 2 control authority are hereby declared to be public property of a  
 3 political subdivision of the State and devoted to an essential public  
 4 and governmental function and purpose and shall be exempt from  
 5 all taxes and special assessments of the State or any subdivision  
 6 thereof. All bonds are hereby declared to be issued by a political  
 7 subdivision of this State and for an essential public and govern-  
 8 mental purpose and to be a public instrumentality, and such bonds,  
 9 and the interest thereon and the income therefrom, and all service  
 10 charges, funds, revenues and other moneys pledged or available  
 11 to pay or secure the payment of such bonds, or interest thereon,  
 12 shall at all times be exempt from taxation except for transfer  
 13 inheritance and estate taxes and taxes on transfers by or in con-  
 14 templation of death.

1 34. The State of New Jersey does hereby pledge to and covenant  
 2 and agree with the holders of any bonds issued pursuant to a bond  
 3 resolution of a flood control authority that the State will not  
 4 authorize or permit the construction or maintenance of any system  
 5 of flood control facilities which will be competitive with the flood  
 6 control system of the flood control authority, and will not limit  
 7 or alter the rights hereby vested in the flood control authority

8 to acquire, construct, maintain, reconstruct and operate its flood  
 9 control system, and to fix, establish, charge and collect its service  
 10 charges and to fulfill the terms of any agreement made with the  
 11 holders of such bonds or other obligations, and will not in any  
 12 way impair the rights or remedies of such holders, and will not  
 13 modify in any way the exemptions from taxation provided for in  
 14 this act, until the bonds, together with interest thereon, with  
 15 interest on any unpaid installments of interest, and all costs and  
 16 expenses in connection with any action or proceeding by or on  
 17 behalf of such holders, are fully met and discharged.

1 35. All banks, bankers, trust companies, savings banks, invest-  
 2 ment companies and other persons carrying on a banking business  
 3 are hereby authorized to give to any flood control authority a good  
 4 and sufficient undertaking with such sureties as shall be approved  
 5 by the flood control authority to the effect that such bank or banking  
 6 institution as hereinbefore described shall faithfully keep and  
 7 pay over to the order of or upon the warrant of the flood control  
 8 authority or its authorized agent all such funds as may be de-  
 9 posited with it by the flood control authority and agreed interest  
 10 thereon, at such times or upon such demands as may be agreed  
 11 upon with the authority or, in lieu of such sureties, deposit with  
 12 the flood control authority or its authorized agent or any trustee  
 13 therefor or for the holders of any bonds, as collateral, such  
 14 securities as the flood control authority may approve; provided,  
 15 such securities shall consist of obligations in which public officers  
 16 and bodies of the State and its municipal subdivisions, savings  
 17 institutions, including savings and loan associations, insurance  
 18 companies and associations, executors, administrators, guardians,  
 19 trustees and other fiduciaries in the State may properly and legally  
 20 invest the funds within their control, in such principal amount,  
 21 market value or other description as may be approved by the flood  
 22 control authority. The deposits of the flood control authority  
 23 may be evidenced by a depository collateral agreement in such  
 24 form and upon such terms and conditions as may be agreed upon  
 25 by the flood control authority and such bank or banking institution.

1 36. This act shall be construed liberally to effectuate the legis-  
 2 lative intent and as complete and independent authority for the  
 3 performance of each and every act and thing herein authorized,  
 4 and a flood control authority shall not be subject to regulation as to  
 5 its service charges or as to any other matter whatsoever by any  
 6 officer, board, agency, commission or other office of the State.

1 37. Nothing herein contained shall in any way affect or limit  
 2 the jurisdiction or rights of the Department of Environmental Pro-

3 tection or impair the obligations assumed by any municipality in-  
4 cluded in any district created under this act in any contract made  
5 prior to the creation of such district, with one or more other mu-  
6 nicipalities.

1 38. In any section, subsection, clause or provision of this act  
2 shall be adjudged unconstitutional or to be ineffective in whole or  
3 in part, to the extent that it is not adjudged unconstitutional or  
4 is not ineffective it shall be valid and effective and no other sec-  
5 tion, subsection, clause or provision of this act shall on account  
6 thereof be deemed invalid or ineffective, and the inapplicability  
7 or invalidity of any section, subsection, clause or provision of this  
8 act in any one or more instances or under any one or more cir-  
9 cumstances shall not be taken to affect or prejudice in any way  
10 its applicability or validity in any other instance or under any  
11 other circumstance.

1 39. This act shall take effect immediately.

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MARTIN L. GREENBERG (Chairman): Good morning, ladies and gentlemen, my name is Martin Greenberg and this is Senator Dunn on my left. We are members of the County and Municipal Government Committee which, today, has scheduled hearings on Senate Bill No 765, sponsored by Senators Menza, Skevin, Dunn and Fay.

There are several bills, presently, before the Legislature dealing with this same subject, flooding problems in the State of New Jersey. A comparison of these bills suggests two alternative approaches to the problem. On the one hand, Assembly Bill No. 2373 and Assembly Bill No. 2387, which have the approval of the Administration, would mandate a regional approach. These two bills deal with two specific areas, one is Rahway and the other is the Green Brook River Basin. Whereas, Senate Bill No. 765 and an additional bill, pending in the Assembly, Assembly Bill No. 2138, essentially would build on the existing Joint Flood Control Commission Law by granting such commissions, or an authority exercising commission powers, authorization to incur bonded indebtedness and to exercise the power of eminent domain.

The essential differences between these sets of bills is that 765, which is the subject of this hearing, permits counties and authorities to go it alone in dealing with flood problems, without the necessity of taking into consideration the impact on neighboring communities of flood control projects, undertaken pursuant to 765. In addition, Senate No. 765 fails to encourage broad, regional undertakings on a water basin or water shed level, despite the fact that such undertakings have been shown to be the most economical and efficient way of dealing with flooding problems.

On the positive side, Senate No. 765 does have two advantages over a regional type of approach. It might

serve as a prototype legislation for all flood control authorities, rather than requiring present legislative authorization for each and every undertaking, such as the Rahway and the Green Brook projects.

Secondly, it would seem that there are a number of small-scale projects which could be undertaken by two or more municipalities, not in a river basin area, to deal with flooding problems without any detrimental spill-over effects on surrounding communities or regional efforts.

It is these several issues that this committee would like to pursue in the course of this day's public hearing. And while the subject matter of this hearing is Senate Bill 765, we assume that - and we would not deem it out-of-order - reference will be made to the other types of approaches in the other bills that I have alluded to.

In sum, Senate Bill 765 authorizes one or more municipalities, or counties, to create a flood control authority with the power to incur long-term indebtedness for the purpose of constructing, operating, and maintaining a flood control system, including storage reservoirs, dikes, dams, levies, drains, ditches, channel improvements, or other plants, structures and conveyances as may be useful and convenient for the control of flooding.

With that preliminary statement and the conflicts between the pending bills and the obvious need that, I think, everybody recognizes for some approach to be taken by the Legislature in dealing with this problem, we would like to hear first from the prime sponsor of S-765, Senator Alex Menza.

A L E X A N D E R    J.    M E N Z A: Thank you, gentlemen. I don't have a prepared statement. I am going to make some brief comments and then perhaps the committee can ask me certain questions that they may have.

The Chairman stated the objective of the bill and

his statement was correct.

I want to make a few preliminary comments, if I may. First of all, I would like to start by saying that the Federal Government, particularly in this State, has been derelict in its duty with regard to flood control for many, many, many years and it is time now that the State makes a commitment, once and for all, to control flooding within the entire State.

I think we, in the past, relied too heavily on the Corps of Engineers and the Federal Government to do something about flooding in the various areas. Everytime the Corps of Engineers and the Federal Government decides to do something and generates certain plans there is inevitably a war or something else which prohibits the money from coming to the municipalities and the counties that are acutely affected by flooding.

I am in an area that is very badly affected by flooding. My district encompasses Hillside, Union and Cranford, amongst other towns. Cranford has had some very acute flooding problems for many, many years. It has been badly flooded by the Rahway River and has been for years, until recently. The township has undertaken certain corrective actions at considerable cost and we have had a young engineer come in and he has developed certain plans to correct this problem.

Hillside, Union and Elizabeth are very badly flooded by the Elizabeth River.

The idea of this bill is to have regional control throughout the entire state. I have no quarrel with Assemblywoman Wilson's bill, regarding the Raritan River. I have no quarrel with Assemblyman Garrubbo's bill with regard to the Rahway River. I think they are a good idea. I think the corrective action there must be taken immediately.

However, Elizabeth and Hillside are flooded by the Elizabeth River and I am sure that the areas down in

Cape May County and Cumberland County have flooding problems because of a particular water basin and I am convinced that the only approach is a regional approach. Municipalities cannot afford to dredge rivers or water areas by themselves, they just don't have that kind of money. It must be a regional approach.

I concede also that there are some deficiencies and defects in this particular bill. But, as the Chairman mentioned, I think this bill can be a prototype for regional authorities throughout the entire State. I do not feel the way to do it, by any means, is to have an authority for the Rahway River and an authority for the Passaic River and an authority for the Raritan River, etc. I think there has to be one enabling statute to permit regional authorities throughout the entire State of New Jersey.

I should add, by the way, that this is the first bill that was ever introduced, as far as I know, in the State Legislature with regard to regional authorities. It was introduced when I was an Assemblyman and reintroduced when I was a Senator. I have no pride of authorship in the bill. I want to make that quite clear. I think the bill should be a prototype, as the Chairman stated, for regional authorities throughout the entire State.

I am happy to see that other bills have been introduced. I am going to push, as best I can, in the Senate, the bills of Assemblyman Garrubbo and Assemblywoman Wilson. But I do think that the State must act immediately in this area.

The problem that we have had for many, many years is that many other senators, particularly those, let's say in South Jersey who don't experience the flooding that we have had, just don't understand the necessity or the urgency for a bill such as this.

I have seen slides of flooding in Elizabeth recently. You just can't believe the flooding they have.

I think probably the most damage, at least in my area, is done by the Elizabeth River in Hillside and in Elizabeth and Union.

For example, the Hillside people are up in arms. Every time there is a rainfall now we have acute flooding. Years ago the engineers told us we would have this flooding every 10 years; then it became every 6 years; then every 2 years, etc.

There are houses in Cranford that flood every 6 months, or were flooding every 6 months before some dredging operations were done in the area.

These people have come before the township committee for years and years and years asking the township committee to do something, but the township committee cannot do a thing, not really. They can dredge the river. They would have to float a bond of one or two million dollars. The budget of a town like Hillside is only five and one-half million dollars a year. If they do a good job, they will flood Elizabeth. If Irvington does a better job, they will flood Hillside, etc.

There has to be a regional approach. For example, the sure way for Elizabeth to avoid flooding is to build a great reservoir right near Hillside - a large dam - and, thereby flood out the Township of Hillside and probably the Townships of Union and Irvington.

There has to be an overall master plan with a regional approach. I will be honest with you, now. I don't believe anything that the Federal Government says or anything the State has to say with regard to flooding. I think the DEP, for many, many years, has been very derelict in their duties. I think they have talked a good story and they have not done a darn thing with regard to flooding in this area.

You can't concieve how bad the flooding situation is in my area. I have a difficult time understanding just

why, under those circumstances, we have not done anything in the past.

If we take a regional approach, we then have to consider where we are going to get the money from. None of these bills are any good unless we give them a bonding authority. This is what this bill does and this is what the other bills do; you have to give them bonding authority.

This particular bill is patterned after the joint meeting - that is, the sewage authorities - where many municipalities get together. For example, in my district, we have municipalities - Essex County, Union County, Elizabeth contracts with us - to handle the sewage throughout the district. We have our own plant. We are building a secondary plant, etc. Obviously, this is the only approach when it comes to sewage. Obviously, this is the only approach when it comes to flooding. I can conceive of no other approach than a regional approach.

There are going to be some persons who are going to object strenuously to the bill and, quite honestly, they do make some valid points. One may say that it should be involuntary. For example, again, if Elizabeth, Union and Hillside join in an authority, then Irvington must be forced to join this authority because they are up-basin and they contribute very heavily to the flooding.

I would agree to any legitimate or any reasonable amendment that the committee would so desire. I do think, though, that it is pretty silly to have an authority for every river. You are going to wind up with numerous authorities by virtue of numerous statutes. I think you have to have one enabling statute to permit authorities throughout the entire State.

I was told this morning that, perhaps, the regional approach is not the answer. We talked about a basin approach. Perhaps that is right also. What I am

trying to do with this bill, really, is to demonstrate a concept, to state, in effect, that we have not done our job for too long in this area and that it is time that we do something about it.

I have no pride of authorship in this bill, gentlemen. The bill can be amended in any way you so desire. I would go along with a committee substitute for that matter. It makes no difference to me. What is important to me is that once and for all the State have some direction and do something constructive with regard to flooding throughout the State.

SENATOR GREENBERG: Thank you, Senator. I have a few questions, if you don't mind.

I understand you to indicate that you would favor passage of the Garrubbo and Wilson bills, in spite of the fact that you don't think that's the correct approach on a specific problem basis and I am confused by what I consider to be an inconsistency - not that I am challenging your position, but I really want to try to understand it. Your bill is a broad bill and the other two are specific and deal with specific problems. They are inconsistent to me.

SENATOR MENZA: The other two bills are parocial; they provide for involuntary joining of the municipalities and/or counties.

From a very practical point of view, let me tell you what these bills are all about and why they haven't moved in the past. They are always bottled up in committee. They never get out of committee.

My bill, when it was introduced in the Assembly, stayed in committee for a period of almost two years and this bill has been in committee for approximately one year.

The two bills that we are speaking about are Administration bills. They were drawn up by the Administration. They have passed the Assembly, I understand. They

are ready for a vote in the Senate and if they pass the Senate, they will be signed into law. That is a practical approach.

I think that what we should have is a bill which, in fact, will be an enabling statute. From a very practical point of view, I want to see flooding in those two areas stopped, or controlled.

SENATOR GREENBERG: Yes, but, Senator Menza, this bill - your bill, 765 - is not bottled up on Committee. We are having hearings on it today and it will be reported out at the conclusion of these hearings when the transcript is closed. So, I am not now talking with you on the subject of which - if any - bills will ever see the light of day. This bill is being considered by this committee today and will result in a report to the Senate.

So, faced with that reality, I now ask you the same question again.

SENATOR MENZA: I am very familiar with the Legislative process, Senator, as you know. This bill will come onto the floor of the Senate, perhaps pass, and go on to the Assembly, etc. We are now into the month of April. The odds are this bill is not going to be passed this year. I would like to see some corrective action in my district. I know those other bills have a very good chance of passing. I know they will be signed into law.

I am willing, under the circumstances, to hold my bill aside, pending those two bills becoming law. I think if they do become law that, in fact, they will conflict, as perhaps the Chairman might think they do. Well, perhaps they will, to a certain extent.

Understand what I am saying: What I am trying to point out is that I really don't care what bill is passed and I am making that quite clear, primarily, for the people here. I am just concerned with some corrective action being taken immediately. If those two bills pass



the Senate, I can assure you that Mayor Dunn and myself will sponsor a very similar bill, almost an exact bill, only we are going to say, instead of the Rahway River, the Elizabeth River.

SENATOR GREENBERG: Well, this committee cannot realistically concern itself with what action, if any, is taken in the Assembly on your bill, assuming it is reported out in any form, and passed by the Senate.

Our function here today is to attempt to determine what approach is the best approach to be taken by the Legislature in dealing with this subject. And I repeat, at the conclusion of that consideration, a report will be made and the matter will be referred to the Senate as a whole. Therefore, I want to get to the merits, rather than to the politics, of it and talk to you about - for a moment, if I can - the correctness of the approach of your bill.

SENATOR MENZA: I think - if you will excuse me, Mr. Chairman - that this is the correct approach. I do not think that we should have a new statute for each authority. I really don't.

If I was assured that this bill, with legitimate amendments, which it does need by the way, would become law in this session, I am sure that Assemblyman Garrubbo and Assemblywoman Wilson, for example, and Assemblyman Spizziri - all of them who are sponsoring bills - would agree.

SENATOR GREENBERG: This committee agrees. I think I can speak for Senator Dunn, who will speak for himself in a moment, that some action need be taken. We are interested in what that action should be. Let's get to the merits for a second.

There is, presently existing, a statute which is captioned Joint Flood Control Commission, which is Title 40:14-15, which presently authorizes the establishment of the kind of commission that you are talking about. It

does not contain the authority to issue bonds and finance. I assume that is a deficiency in the statute, and one of the purposes of your bill is to correct that deficiency, is that correct?

SENATOR MENZA: I just had occasion to draw up the ordinance in Hillside, as town attorney, which is similar to the one that Union and Elizabeth have drawn up. I don't think it has any meat. I don't think it has substance.

You are not going to do anything with these commissions, authorities, or whatever you may call them, without bonding capacity and ability to levy assessments.

SENATOR GREENBERG: All right. One more point: I'd like to read to you a paragraph from a letter submitted by the Department of the Army, New York District Corps of Engineers, on this subject. It reads as follows:

"It is noted that Senate Bill 765 states that 'The governing body of a county which may create or join in the creation of any flood control authority, pursuant to this section, shall not thereafter create or join in the creation of any other flood control authority.'" Taking Union County as an example, over a period of time flood control authorization may be required in the Rahway, Passaic and Elizabeth Rivers and in Green Brook Basin, all of which drain through Union County.

The point that they are making is that there may be a deficiency, in that you won't be able to join more than one of these. Do you have a view on that?

SENATOR MENZA: There may be a deficiency there.

SENATOR GREENBERG: Okay.

SENATOR MENZA: I should point out though - as an aside, I am not being facetious - that that is very typical of the Corps of Engineers. The Corps of Engineers writes an awful lot of letters and does very little.

I know. I am speaking as a former member of the town council for six years. I have read reams and reams of correspondence from the Corps of Engineers.

The problem is so bad, Senator, in our county that we can't even get electric saws, for example, from the Freeholders to cut down a few trees. We don't have the money to do anything in Hillside and we can't do anything in Hillside because we will thereby affect Elizabeth, which has acute - really acute - flooding. People die in Elizabeth when they have floods.

SENATOR GREENBERG: If you cut down the trees, you are going to make the flooding conditions worse.

SENATOR MENZA: We had plans where we were supposed to get certain equipment from the Freeholders, and so forth and so on, to do something with the flood plain in the area. It is very difficult. The county says they don't have any money, and they don't - the park commissions. The Federal Government, I think, speaks with forked tongue. They don't do a darn thing.

Right now, the only thing we are looking for, for example, now that we have the Green Acres, is, hopefully, to somehow tie in some recreational areas with the flood plain - perhaps.

SENATOR GREENBERG: Thank you. Senator Dunn, do you have any questions or comments?

SENATOR DUNN: I have been living with the subject of flood control for more than 15 years now and I can remember when, as a Freeholder, we were instrumental in getting a joint venture started, taking in the Federal Government through the Army Corps of Engineers, and the Board of Freeholders, and the local municipalities. For the past couple of years, we have seen concrete steps being taken by the Army Corps of Engineers that satisfies me; it doesn't excite me, but it does satisfy me.

There is no question about it, flood control in

the State of New Jersey, or anyplace, cannot be accomplished unless it is done on a regional basis, or at least through complete cooperation of many agencies.

I would like to point out that - Senator Menza made reference to the commission that is being established in our area - while the commission cannot be construed as an authority, it does show a willingness of many agencies and municipalities to cooperate. But the primary purpose for the formation of an Elizabeth River Flood Control Commission is for the purpose of filing for grants, both State and Federal - especially Green Acres money on the State level. It was suggested to us by Commissioner Bardin that we form a commission of municipalities for the purpose of simply filing applications to get State aid.

In no way was it meant to conflict with or emulate an authority such as is described in this bill and in other bills. I think I have to join with Senator Menza in confessing - if that is the right word - that we are lending our names to this legislation to dramatize the absolute need for something to be done to curb flooding in our area, and throughout other areas in the State of New Jersey.

If, as State Senators, we do not lend our names to almost all legislation being considered, it might be misconstrued as not showing an interest in curbing flooding.

I could speak at great length, as could Senator Menza, on the problems of flooding in our political jurisdiction. However, I have called upon some professional help to make some suggested amendments to 765, which I have given to Spiros. I, incidentally, will put my signature on this, thus plagiarizing the professional thinking of many people in our area as to what should be done with this bill, or with other proposed legislation.

In our area we have already seen some improvement.

Just the fact that now, in our nation, we have flood control insurance, I think, is something that we can boast of. It is something that we didn't have ten years ago. I personally, and other people in Elizabeth - in the Elizabeth area - were responsible in getting that legislation through Congress. There is an Elizabeth River Flood Control project under way. It is going to cost many, many millions of dollars. The City of Elizabeth has already committed itself to spending millions of its own tax monies, as has the Board of Freeholders, as has the Union County Park Commission, as have the Municipalities of Hillside and Union.

So, we are seeing some relief in our area but Senator Menza's concern is for all flood areas in the State and that is my concern too. However, one highlight of this legislation is that, in effect, it does penalize a municipality. If you disagree with me, Senator, feel free to jump in. It does penalize a municipality, simply because of geographic location.

Elizabeth, each year, is the victim of serious flooding, costing millions of dollars in local damage. We naturally point to the up-land towns and blame them for flooding our city. I am sure it is not done deliberately by them. It is a matter of nature - an act of God - that we are penalized because we are down-river when they are up-river. So, I can understand many municipalities having concern about being forced into an authority that they do not want to be part of and, in effect, being penalized for something that nature should be responsible for, and not the municipalities.

So, this is one of the defects of the bill and I am sure - as Senator Menza has already alluded to - a compromise might be found for it. I think all this legislation simply points out and emphasizes the need for regional action by certain municipalities in order to bring

relief to a particular municipality, or municipalities, that is suffering almost annually from some flooding.

I know in our area, we were hit twice in one year, I believe, with what the experts, or the engineers, call 75-year storms. There has been absolutely no control over the black-topping of new complexes during the past 25 years. As a matter of fact, what was done at Kean College has added to the flooding woes of Union, Hillside and Elizabeth and, yet, no one on the State level took that into consideration when permits were given for black-topping parking lots, etc. at Kean College.

So, this is a problem that should have been taken care of many years ago and we are now paying for this lack of planning. But I do feel that by working on bills of this type, we are showing a strong determination to do something about it.

On this particular bill I wonder where we are going to get the money from. The sale of bonds is certainly not going to be an attractive thing. They can't be revenue bonds, to my knowledge, and while it might look good on paper, I don't know how we are ever going to see anything concrete coming out of authorities of this type without the Army Corps of Engineers being made a party to all the authorities - or any authority.

So, what I think I am saying is that I agree with Senator Menza; there is a need for regional authorities of some kind being established. But I think the Army Corps of Engineers should be made part of all of these authorities, especially where flood waters are concerned - they must be. But I do have some concern about where the financing of an authority, without Federal aid, is to come from.

I might point out that I think if nothing else - and I don't mean to downgrade the intent of this thing - I think all areas in the State of New Jersey should make a determination at least to clean up the rivers of the State

of New Jersey before or during the bicentennial year.

The aesthetics of the rivers of our area and all the areas of the State are something that we should show some concern for. If just cleaning up rivers by local authorities were acted upon, I think that might, to some real small degree, help the flooding projects.

I might, Senator Greenberg, point out too that one of the problems with the Elizabeth River is that during the WPA days - and I am just thinking off the top of my head - WPA monies were used to flume part of the Elizabeth River in Essex County. Evidentially, during the Franklin D. Roosevelt days, Essex County was Democratic. Union County has always been sort of a swing County. But it is obvious to see that the work done with WPA money in Essex County, on the Elizabeth River, by fluming - a beautiful stone and concrete flume - ended right at the borderline of Essex County and Union.

So, the flume ends as you enter Union County and the water coming down the flume, out of Essex County, comes like a bullet out of a rifle and runs and hits right into the dirt walls, or the mud embankments, of the Elizabeth River in Hillside and Union and Elizabeth and just carries all the debris from Essex County into Union County and this is what causes this very serious flooding problem in the City of Elizabeth.

As a matter of fact, it has caused several deaths and I can't help but smile when I say this, I almost drowned there myself several years ago. I haven't been able to find out yet whether I fell into the River, or was pushed in, but I did almost drown in a parking lot that was far removed from the Elizabeth River.

The swelling up of the river reached way into the business area and it has caused hundreds of thousands of dollars worth of damage and actually caused loss of life in the City of Elizabeth.

So, correct me if I am wrong, Senator, but I think what you are doing, and what I am joining by co-sponsoring, is highlighting the need for authorities of some kind to start the ball rolling in curbing flooding in the State of New Jersey.

SENATOR MENZA: Just one last comment, if I may. I agree with practically everything that the Senator from Union County has stated. There is no doubt that the bill has a great many defects and deficiencies, which should be corrected by the committee.

It is very difficult to prepare a bill which will act as a uniform authority and law for all flooding problems in the entire State. I am afraid that is exactly what we need, though. We need a uniform authority law. That's what I am trying to say.

Perhaps there should be enabling statutes to take into account particular areas - the peculiarities of particular areas. The bill must have input from staff and from committee, there is no question about that. But as the Mayor stated, what we are trying to do here today is to demonstrate a concept which is very badly needed in the State of New Jersey, and that is, regional control of flooding throughout the entire State by way of authorities.

The wording of the amendments, and so forth and so on, is up to the committee and to the staff to decide. But I do say that it is imperative now, and the time is unquestionably now, that we do something once and for all with regard to flooding in the entire State. If the committee wants to amend this bill, or put in a committee substitute for the bill, that's fine with me.

Again, I reiterate, I have no pride of authorship. But I do think it is incumbent upon the committee and upon the Legislature to recognize the problems in this area once and for all and do something about it once and for all.



SENATOR GREENBERG: Senator, just in conclusion let me say that I agree that the approach in this, as in many other areas of statewide concern today, should be a regional one. There we run into the problems of local home rule and resistance that certain municipalities will give to a regionalized approach.

But that is a historical problem in this State and we are going to have to deal with that. As it becomes more and more evident that when Essex County takes care of its problems and then dumps them into Union County - and that is one of the detriments of being the swing county, Senator - the problem, nevertheless, is a problem for the people of Union County, and that is not the way to handle the problem.

The difficulty we are going to have with financing, as Senator Dunn has indicated, is correct; that will be a problem. How are you going to pay for these things? We have to give some thought to that because, obviously, without money from some source, nothing is going to happen. It may be that the Federal Government becomes essential as a partner in that regard.

All and all, I think this committee agrees with the concepts and now has to get into the details and we thank you very much for appearing here this morning.

Our next witness will be Kenneth Marsh.

K E N N E T H M A R S H: I am Ken Marsh. I am with the Union County Planning Board. I am the principal hydraulic engineer for the Union County Planning Board. My function is to deal with flood control problems in Union County.

I'd like to thank you, first of all, for extending to me this opportunity to testify on the bill. I think we all, here, accept that the flood control problem, like many other environmental problems, has to be handled on a regional basis.

Historically, the DEP hasn't been able to handle this, I guess because of limited staff, or budget, or whatever. But they just haven't been able to cope with the problem. They would be best equipped to do this on a statewide basis.

With respect to flood control, then, I think the most logical agency to handle regional flood control would be a flood control authority of one sort or another.

I have probably reviewed all of the existing flood control authority bills that are now in existence. With respect to S-765 -- I'd like to make all of my first comments on S-765 because I understand the purpose of the hearing was, first and foremost, to review S-765, which I have done, in detail, and I believe you have copies of the report I have prepared.

The problem with S-765 is the fact that it really doesn't establish, or doesn't provide for the establishment of, a truly regional flood control authority. It is well accepted and I think we all understand that the most logical area of jurisdiction for flood control is the watershed, or drainage basin. And the major watersheds and drainage basins in New Jersey have been well delineated and defined.

S-765 provides for authorities, based on political boundaries. Municipalities and counties can join to form authorities. I think this is wrong. I think this is the most serious deficiency in the bill. I think it just has to be on a watershed basis. The water flows from one municipality to the next and it just doesn't know municipal boundaries.

I feel the next most serious deficiency is the fact that it would set up enabling legislation and would not require membership. The problem is, municipalities upstream, who might not have a flooding problem, would probably not be interested in belonging to an authority

with those who have a problem. Because of the history of home rule in New Jersey, I wouldn't foresee any truly regional flood control authority being formed on that basis.

I am going down these comments in order, by the way, if you want to follow. I am not going to hit on all of them, I'd just like to hit on the most important ones.

Another problem is the fact that the bill allows the establishment of authorities by an individual municipality. This is, I believe, Section 4.b. Theoretically, then, every municipality in this State could form an individual authority. In that case, we would be no further along than we are now. We would have the same situations except we would have a whole new level of bureaucracy to deal with and I think this would aggravate the problems.

There is no provision in the bill for the authority to prepare and implement a master regional flood control plan. I think this is one of the most important functions of any authority.

Very little is said about coordination of authority activities with existing agencies of local, State and Federal government. Specifically, there is no provision for coordination with the State DEP; there is no provision for coordination of authority activities with the U. S. Army Corps of Engineers projects. Both of those agencies are very active in flood control throughout the State and have a vast amount of information available and any true regional flood control authority would have to work with those agencies, otherwise there would be a duplication of effort.

More specific comments - there are definitions included, definitions of "flood control system" and "flood control." There, only structural solutions are described. There are many other ways to achieve flood control - non-structural means, such as storm water runoff regulations,

land use control in flood plains, relocation of structures out of flood plain areas, acquisition of flood plain land and preservation of open space. These are very important, in view of the expense of flood control these days. These are very important factors which should be identified as part of any flood control system.

With respect to the service charge, it states in the bill, Section 2.b. -- "...service charges to occupants or owners of property for direct or indirect connection with and the use or services of such works, ..." This says that anybody who connects directly or indirectly with the system would be charged some fee. Now, the problem with surface water is the fact that everybody eventually connects to the system, whether by overland flow or through a storm sewer. So, I think this definition of direct or indirect connection should be included. I think this was probably appropriate for a sewerage authority where the connections were definitely pipe-type connections, but with respect to surface water runoff, I don't think this is applicable.

Section 3.e. states that "flood control authority" as used in the bill would be interchangeable with "flood control commission" pursuant to the flood control enabling legislation. This is incorrect because they actually would be two completely different entities.

Section 4.a. provides for a county to establish a flood control authority. However, there is no description of what power such a county authority would have, or whether the authority action would be binding on the municipalities. I think more detail is required here and if the municipalities were not required to belong to the county authority, the county authority would be meaningless.

There is a very specific procedure - a very complicated and long procedure - for how authority members

are to be appointed and how many should be appointed. I feel it is a vague and ambiguous procedure. In any event, there is no description of the qualifications for such authority members. I think this is important in an agency that would have the powers of an authority. I think we would want to know what kind of qualifications the authority members would have.

Section 4.f. allows for the establishment of separate municipal flood control authorities within counties that may already have flood control authorities. Now, here you have a situation where if a county establishes an authority and then a municipality establishes an authority also, it is required that they are separate authorities when they actually may be in the same watershed and dealing with the same problems. I think this defeats the purpose of regional flood control.

Section 4.g. underlines that. It says that municipalities in a given county do not have to belong to the county authority, which means that a county conceivably could have jurisdiction in the rest of the county but not in this one little isolated municipality who doesn't care to belong to the authority and that could be an impediment to the progress of any flood control plan.

Now, I am not a lawyer but I ran across several things in the bill that appear to be legally incorrect. As I say, I am not a lawyer, so I just offer these as comments that should be considered. Section 6.a. states that "The purposes of every flood control authority shall be the control of waters in or bordering the State..." and it then goes on from there. Now, there are already existing State and Federal laws for control of surface waters in or bordering the State and it would appear that the intent here is to have the authority either supersede the existing State or Federal laws or work with them. It doesn't

state that but I think this should be clarified because there is a conflict with existing law.

Section 7.e. and 22. relate to the powers of the authority relative to acquisition of land by purchase, gift or condemnation. It involves also the taking of public land, if necessary, such as park land, etc. I feel that if park lands are required for authority activities, they should only be allowed to acquire easements and natural ownership should remain in the hands of the Park Commissions, which are better suited to maintain and operate such land, similar to what the Corps of Engineers does now. They acquire easements, as necessary.

Section 10.a. has to do with the service charges of the authority. The service charges are, according to the bill, based on the provisions of, again, the flood control commission enabling legislation, P.L. 1971, Chapter 316. Well, in that enabling legislation there is no specific method. Certain factors are identified but it says any other factors might be used to establish the service charge. So, there is really no definite system of arriving at a service charge here and I think this is very important because of the expense the flood control authority might incur.

Section 13.b. contains one word which, I think, greatly weakens the entire bill. I will read it. "Upon receipt of such certified copy of the bond resolution..." - this relates to bond resolutions for flood control projects - "...each local unit..." - a local unit being a member of the authority - "...may appropriate the share of the cost project allocated to it..." The members are not required to participate in the cost of the project and what is the purpose of the authority if they are not going to chip in their fair share? Really, it just doesn't seem to make sense. If they are already a member of the authority, they should have to participate, based on the service charge.

Section 22 gives a flood control authority the power to acquire land outside its jurisdiction. This, again, is a legal question. I am not sure if they could legally do something like that but I think it should be explored.

Section 22 provides for a flood control authority to pay for the cost of utility relocation. This clause was also in some of the other authority bills and I understand it has since been deleted from the other ones. Historically, utilities have relocated their facility at their expense. To now have the authority pay for the cost of this relocation would place an added tax burden on the municipalities and counties which belong to the authority, a burden which they don't have at this point in time. I think this should be deleted.

Finally, Section 36 - this relates to the last two sections, 36 and 37 - there appears to be a conflict here. Section 36 states that, "...a flood control authority shall not be subject to regulation as to its service charges or as to any other matter whatsoever by any office or board, agency, commission, or other office of the State." Immediately following, Section 37 states that, "Nothing herein contained shall in any way affect or limit the jurisdictional rights of the Department of Environmental Protection..." Section 36 on the one hand says that the authority is completely exempt from the state regulation and Section 37 on the other hand says it is subject to regulation by the DEP. I am not sure what they are trying to do here. This really should be clarified.

Those are my specific comments. I agree with Senators Menza and Dunn that we do need - and Senator Greenberg also stated this - a prototype, we need something established so we could have this concept of authorities - regional authorities - established. I don't think S-765 could be amended enough to meet that need.

I feel that the watershed approach is the right approach. I feel that the watershed could be defined. There could be watersheds set up. Bills can be used as models. Bills can be drafted in a general way referring to given watersheds, similar to A-2373 and A-2387. I think it could be done this way. I worked with the legislators and the Governor's office on these and they said that the intent was to draft bills which could be used in other drainage basins throughout the State. I think this is the approach we should take.

I support Assembly Bills 2373 and 2387. The Union County Planning Board also endorsed those bills at our regular meeting on March 12, 1975. The bills are, in effect, identical, except for the drainage basin involved. It says they can be used in other drainage basins also.

As I said, my comments were directed to S-765 but I do feel that, in view of all the existing flood control authority bills being talked about, we should concentrate on the best ones available and drop all others from consideration and try to work for passage of the most important ones.

I feel 2373 and 2387 are the most important ones at this point and would recommend that we drop all other bills and concentrate on those two.

I have comments which I will offer, briefly, on A-2138 also, which I had the opportunity to review. This, of course, would be tailored after the flood control commission law and it would give the flood control commissions authority power. It would give them the power to bond and the power to acquire land, etc. I think this approach also is wrong because, again, it is enabling legislation only and a municipality or town does not have to belong if they don't want to and I don't think we can depend on voluntary membership by everybody at this point.



I think that is important. I think we all have to understand that every municipality and county contributes, to some extent, to somebody else's flooding problem. The water eventually runs through every municipality on its way to the ocean and the authorities would assess municipalities not for benefits they might receive but for their contribution. I think that is important to understand.

Again, A-2138 is not on a watershed basis. It is similar to S-765 in that it is based on the municipalities and the counties.

Another problem is the fact that the flood control enabling commission would designate two members from each municipality and county to sit on this commission, which means if all the municipalities and counties decided to form a commission, let's say in one of the larger watersheds - the Passaic River Watershed - each municipality would have two representatives; it is conceivable we could have a commission with 200 members sitting on it. It would just be unworable.

That is the extent of my comments on the bills. Again, I would recommend that A-2373 and A-2387 be the ones we concentrate on. Thank you very much.

SENATOR GREENBERG: Thank you for an excellent presentation and for giving us the benefit of your research and analysis.

I just have a couple of questions, Kenneth. I gather your approach to the problem in abandoning artificial municipal and county boundaries is a watershed or basin type approach. But the two bills to which you refer don't deal with that, except in the specific instances where they deal with specific basins. Suppose we were to take this existing bill and instead of dealing with it on the basis of municipalities and counties, deal with the subject on a basin or watershed approach, would that not accomplish at least that objective in your thinking?

MR. MARSH: With mandatory membership?

SENATOR GREENBERG: Well, that's my next question - with mandatory membership.

MR. MARSH: Well, then that wouldn't change the other comments I have here; that would address the most serious deficiencies.

SENATOR GREENBERG: Just on that question of the most serious deficiencies, that would solve that problem for you.

How do you effectuate the mandatory membership provision? In other words, is it determined by the majority of the political subdivisions within that basin, which then compels others to join? Does the State mandate it without the cooperation or consent of those municipalities? How do you approach that problem?

MR. MARSH: Of course, it would have to be through State law, which is the reason for the legislation we are talking about. They would have to mandate that in a given drainage basin. Those municipalities and counties with area in a drainage basin will be required to belong.

SENATOR GREENBERG: But how do you get the authority into existence?

MR. MARSH: Through State legislation.

SENATOR GREENBERG: In other words, you are suggesting that the State establish authorities and then compel the municipalities within the basin to join?

MR. MARSH: Right. Now, A-2373 and A-2387 also provide local government committees on which there is representation by all the municipalities and counties and such a committee would have veto power over the authority actions.

I feel there is sufficient home rule input built into these bills to deal with that problem. I understand what you are driving at but I feel that the only way to get

truly regional flood control is to compel municipalities to join because, quite frankly, I have heard comments like this, "Once the water leaves us, we don't care about it any more." This has been the history in New Jersey, like in many other areas. Keep in mind when you delineate a drainage basin, certain municipalities and counties will only have a portion of their areas in that basin. Well, they would only be assessed for that portion that is in the drainage basin. The assessment wouldn't be based on their entire municipal area. The assessment would be based on the portion of area, of population, of ratables, etc., that is in the drainage basin. So, if they have a relatively small area, they are contributing little to the problem and their assessment will be small.

SENATOR GREENBERG: Okay. Thank you very much. Senator Dunn, do you have any questions?

SENATOR DUNN: I am glad that Senator Menza has left the room because, first of all, I want to thank and commend Ken Marsh for a very comprehensive and professional presentation. As a matter of fact, it was so good that after listening to him and after reading the comments which I submitted, based on conversations with other professionals, I am convinced that 765 is poorly written legislation and I am going to ask that I be taken off the bill as a co-sponsor of it. It does not do, at all, what I had hoped it might do, other than to dramatize, as I said before, the need for some kind of legislation.

The one item alone, brought out by Mr. Marsh-- Although he says he is not a lawyer, he certainly picked up something that I didn't - but I am not a lawyer either - whereby it allows a municipality to "cop out" of paying its fair share of any improvements necessary for alleviating flood control.

Just for the record, again, he points out that

Section 13.b. contains a serious deficiency which greatly weakens the bill.

It is stated that, "Upon receipt of such certified copy of the bond resolution, each local unit may appropriate the share of the cost project allocated to it..." That does completely weaken any authority. As a matter of fact, it destroys an authority.

I must agree with Mr. Marsh and with others, this bill should either be completely junked or should be very, very drastically rewritten. But I don't think that re-writing is going to be able to save it.

I thank Mr. Marsh for bringing some things to my attention that did escape me.

SENATOR GREENBERG: Thank you Mr. Marsh.

MR. MARSH: Thank you.

(full statement on page 78 )

SENATOR GREENBERG: Ella Filippone.

E L L A F I L I P P O N E: Mr. Chairman, I'd like to thank you for the opportunity to present the views of what, until today, I thought was the most flood-prone river in New Jersey. It seems that everyone has a river that is flood-prone and, until today, I thought that the Passaic River was.

SENATOR GREENBERG: Would you please identify yourself.

MS. FILIPPONE: I am Ella Filippone, Chairman of the Passaic River Coalition.

SENATOR GREENBERG: Thank you.

MS. FILIPPONE: The Passaic River Coalition is considered an urban watershed association, encompassing 935 square miles of Northern New Jersey. We are members of the Mid-Atlantic Council of Watershed Associations, the American Rivers Conservation Council, and the Coalition of American Rivers. As such, we are concerned with water resource management, which can be divided into the following

categories: water quality, water supply, flood control, and land use -- all are interrelated and should be considered within a total systems approach.

The Passaic River Coalition was formed because of citizen dissatisfaction with flood control programs for the Passaic River, which date back before the turn of the century. The small group of concerned citizens met at a meeting of the Army Corps of Engineers in Livingston in 1969; however, since that time, we have accumulated considerable background data on flood control efforts in the Passaic River Basin, which has been categorized as New Jersey's most flood-prone region.

We know the Passaic River, having studied the facts now available and having canoed over most of it. We recognize its great capacity for serving the State's need for water, and we are most concerned that self-interest groups could very well in the name of "public welfare" destroy this most valuable resource in the State of New Jersey.

Every river must flood -- it is part of the natural cycle. To harness the power of these flood waters is a specialized art, which requires in-depth understanding of the hydraulic cycle of the total system. I think Mr. Marsh just demonstrated his complete understanding of these problems and we would concur with much that he has presented to this committee.

There are similarities between, let us say, the Raritan and the Passaic; however, there are also vast differences, even though they are neighboring systems. One example - the flood of record on the Passaic is 1903, while on the Raritan it is 1938; therefore, we must plan and evaluate them, using totally different parameters.

If we are to formulate any flood control program, it must consider the total system -- we cannot correct problems piecemeal. In that regard, we have reviewed S-765,

the Regional Flood Control Authorities Law, and find it totally lacking in background and understanding of the problems of flooding.

The drop of rain that falls and eventually finds its way to the streams, lakes and rivers does not recognize man-made boundaries. The quiet stream swells over its banks during times of flood into the contiguous plains, and these flood plains belong to the river.

In the Passaic River Valley, flood control committees have been set up on a fragmented basis since the flood of 1903. Prior to that, comments were found in the report of the State geologist dating back to 1869.

S-765, which provides for the establishment of flood control authorities, would open the door to a hodge-podge of planning entities which would: Serve a fragmented portion of a river basin; cripple the river itself, in all probability; and add more confusion where we already have overlaps, cross purposes, inadequate planning, and unrelated data, to name a few of the handicaps under which we are functioning in water resource management in the State of New Jersey and the Passaic Valley.

At the present time, the U. S. Environmental Protection Agency has provided funding for a wastewater management study program, for the Passaic, Rahway, and Hackensack River systems. A segment of this program is entitled "The Government Study." The purpose of this evaluation is to try to unscramble the conflicting interests, the overlaps, and the inefficiencies in water resource management in these 3 urban river basins. The charge of this portion of the study is to evaluate the planning process from the local municipal planning boards through the varied departments of the State of New Jersey.

In addition, this study is to consider the charges and findings of the National Water Commission which are now being processed by the Water Resources Council of the United

## States Government.

In our opinion the practicality of solving flood control problems under the thrust of S. 765 would serve only to add to the adversary proceedings which have been experienced in an endeavor to solve the flooding problems in the Passaic River Valley over the past 80 years. Furthermore, this proposed law does not recognize the need for public hearings and the participation of the public in the planning process. It does not contain adequate public disclosure, so that the citizen may thoroughly review and comment on the activities of the authority. Records are only available at the established headquarters of the authority for public review. We have had substantial experience with records for public review by authorities in the State of New Jersey. They are not concise; they are not readily available; they do not give adequate information that is necessary to tie together a comprehensive program for growth and development taking into consideration the natural restraints of the land and water and the needs of the people.

Having been involved with the Corps of Engineers Flood Control program for the Passaic River Basin and having participated in several hearings and briefings with the Corps, we must emphasize again and again the need for the protection of the balance of the river eco-systems in the State of New Jersey.

The groundwater supply under the aquifers in the Passaic River Valley will serve in the future as a mainstay water resource for the people. Section 6B authorizes and directs through ordinance or resolution the construction, implementation, maintenance, and use of "storage reservoirs, dikes, diversions, dams, spillways, levees, revetments, drains, ditches or channel improvements such as widening, deepening, straightening, clearing, sloping, building, filling in, as in the judgement of the flood control authority will provide an effective, environmentally protective and satisfactory method for promoting the purposes of the flood control authority". All of these so-called provisions in the name of flood control have been evaluated by the United States Congress and have been severely

curtailed and criticized over and over again. The widening, deepening and so on of channels is referred to as channelization. It is strictly an engineering method which removes the water from its source and gets it out of a municipality as quickly as possible and deposits the water to some unsuspecting municipality downstream, thereby, beginning a chain reaction getting rid of the valuable water resources and in effect developing an expressway to the sea. All of this is provided in S. 765 without any concern for the ecological balance of your river system: No review process, No public commentary, No citizen input, and no public disclosure.

In addition, the bill does not demonstrate a comprehensive understanding of studies conducted on the federal level which provide guidelines which New Jersey should take advantage of. More and more agencies such as the Water Resource Council, the Department of the Interior, the Department of Housing and Urban Development, and the Army Corps of Engineers are recommending flood control projects under a total river basin scheme. We feel that because of the importance of the subject of flood control this bill S. 765 should be tabled. Furthermore, we cannot comprehend how funds will be allocated under this program outline. Let us take, for example, a small river system whereby a community centrally located forms an authority --- the problem begins in the headwaters of the river and in order to provide adequate flood control that is where we must start. Accessing those protected in the central communities in an urban area could run as high as \$1,000/ sq. ft. This throws the economics totally out of the picture. Piecemeal flood control of this type is not cost efficient, and is further good reason to table this bill.

On the other hand, some constructive program should evolve from this hearing.



Inasmuch as the State of New Jersey has recognized through recently recommended regulations in solid waste the value of the groundwater to the State, we must now approach flood control programs with the same value goals. Flood plain lands must be treated as an important resource and should be managed so as to make the maximum net contribution to the States' welfare, keeping in mind that the material wealth of our State is not enhanced by development of any tract of land subject to flood overflow, unless the net value of the resulting production exceeds the cost of development plus the flood losses and that any non-material values sacrificed through development must also be counted as a cost. The Flood Plain Act of 1972 was a major first step in the regulation of flood plains - long overdue. We feel the enactment of the law under consideration today could negate much that has already been accomplished and because of the funding program could remove it from the important scrutiny of higher authorities.

On the other hand, however, this bill does not show a comprehensive understanding of the Federal Flood Insurance Act. Under the present federal statute, any flood control plan must fully comply with all the requirements established by HUD as presented in Section 1910.2 and 1910.3 (a) and 1910.3 (b) of the Flood Insurance Program regulations. The Flood Insurance Act contains other provisos which must be adhered to so that a municipality may remain eligible for this program. The Congress has recognized the importance of the Flood Insurance program to that degree whereby should a municipality develop and implement a program which does not conform with the rules and regulations of the Flood Insurance Act, HUD has the power to take a municipality out of the program which will thereby restrict that municipality or any party therein from obtaining funds from any federally insured finance agency. In other words, if your local bank falls within the protection of the Federal Reserve System or the

Federal Deposit Insurance Corporation, it may not loan money to anyone for development in that municipality. These are very far-reaching and serious consequences and could place hardships on a municipality which I am sure this committee will understand.

In cooperation with the U. S. Department of Housing and Urban Development, the Passaic River Coalition distributed an information bulletin to the 112 municipalities in our watershed, which would further inform them regarding this important impact of the flood insurance program. A copy of the flier is attached as exhibit 1.

In summary, we would like to quote from recommendations by the National Water Commission: "Comprehensive river basin and regional development plans should be used as the basis for authorization and appropriation of funds for individual projects and programs within regions. The same geographic regions should be used as a basis for decision in both the water resources planning and in the budgeting processes - the major water resource regions of the Nation."

Finally, Section 22 of the proposed bill which empowers the flood control authority with eminent domain proceedings which could acquire real property, "within or without the district...including public lands, water, parks, roads, playgrounds, reservations, and public or private rights in waters," etc., we feel is not in the public interest and constitutes a taking without due process, inasmuch as the public proceedings have not been pursued.

I'd like to include one other commentary here: In this bill there is no review for environmental impact and if we are to seek funds, especially Federal funding, environment impact under the National Environmental Policy Act of 1969 must be complied with.

We concur with this basic philosophy as demonstrated by the National Water Commission's Comprehensive River Basin Planning. Fragmented flood control will create

greater problems than the natural floods themselves. It is our opinion New Jersey does not need this mechanism. We know we don't need these flood control authorities in the Passaic River Basin. We have more problems than we can cope with as it is. We don't need any more.

I'd like to supplement my statement by commenting on a question that was asked by Senator Greenberg before on how you establish and organize flood control entities. We have lived with flood control problems and the endeavors to solve them. I think that now is a very appropriate time for the Passaic Valley to move forward because the municipalities in the head waters, with their preponderance of well-qualified environmental commissions are ready to attack the problem.

I don't think that many of them want these structural improvements. We have seen this in municipalities in Morris and Essex County. But they do recognize their obligation to those downstream, even though some of those downstream have built into the flood plains of what was the flood plain of the Lower Passaic. With this awareness - and I think that a great deal of credit must be given to the environmental commissions on this - I think the municipalities in the Passaic Valley are ready to take on a reasonable, equitable flood control program - and it must be reasonable and it must be equitable.

One other thing, Senator Dunn, I wish that if the Legislature were to give us some teeth and some law that your comment on your black top-- I wish there was some way that we could work those things out. It is very difficult when we are out there before a planning board or a board of adjustment and we have a parking lot that is going to cover up considerable land and it is made up of that type substance. We still have that problem to deal with and it would be wonderful, as far as we are concerned,

if the Legislature would give us something in the form of a State statute that could regulate that.

SENATOR DUNN: Thank you very much, Mrs. Filippone. Do you mind if I ask you who makes up, or what makes up, the Passaic River Coalition?

MS. PHILIPPONE: We have, at the present time, over 16 municipal members that support us. We have 8 counties in the watershed and of those 8 counties, 4 are supporting members. In addition to that, we have well over 2,500 individual citizens who are members. We just had a membership drive in Livingston and we have had, really, about a 10% response from all the adult citizens in Livingston and we have several corporate memberships from within our watershed.

I have tried to address my comments to the Passaic Valley because that is one that I have been spending the last 5 years living with.

SENATOR DUNN: But you are speaking for the entire Coalition?

MS. PHILIPPONE: I am speaking for the Passaic River Coalition as its Chairman. (see page 85)

SENATOR DUNN: Okay. I have no questions, other than a statement to thank you for your full presentation. Senator Greenberg was called away. He had to make an important telephone call. So, thank you very much.

Is Don Rudy present? Mr. Rudi.

D O N A L D R U D Y: I'd like to thank you very much for the opportunity to testify here this afternoon. I am Doctor Donald Rudy, present member of the Township Committee and former Mayor of Berkeley Heights.

After listening to Ken Marsh give his presentation, it leaves very little to be said. I agree with virtually everything that he said with respect to S-765. I also agree with the general introductory statement of Senator Menza. However, I don't feel that S-765 does

comply with these. In fact, after listening to the story given by Senator Dunn with respect to the problems that the construction up to the boarder of Elizabeth in Essex County caused, I find that the authorities which would be set up under this bill would, most likely, create more situations of exactly that sort.

I'd like to cover a small number of points here and then get out of the way. I feel that this bill encourages the establishment of too many authorities. They would have fragmented responsibilities. They would have inadequate regional coordination.

The small local projects which this bill appears to be aimed at, I don't feel, need the provisions of full authority. For instance, those that would be encompassed by a municipality or by a county can currently be done under the authority which is already available to them, which respect to bonding and construction.

Those things which would involve a small number of municipalities can currently be handled under either the Local Services Act or the Local Services Aid Act. So, I don't believe they would be needed.

Any authority which is set up very definitely needs to encompass an entire drainage area. If it is going to be effective it must consider all of it.

In the establishment of an authority, it appears that it should be necessary that a specific charter of that authority be specified. For instance, if we set up an authority to take care of a drainage problem, it seems unreasonable that this thing should have the authority to expand its provisions to encompass the construction of recreational facilities, etc. There are many examples of this having been done elsewhere.

An authority of this sort should be required to consider all aspects of water management, not only the flooding control but also the water quality, etc. This

means that an authority would need the provisions and the power to put additional restrictions on a municipality, such as soil sedimentation runoff control, additional regulation for building in water retention, maintenance of water quality, etc.

This particular bill emphasizes construction projects. It also neglects non-structural solutions, such as those detailed by Mr. Marsh. Many of these non-structural solutions are much more effective and, quite often, noticeably less expensive than the structural approaches.

As has been mentioned before, it also needs better financial provisions. The basis of cost allocations need to be specific and I feel that an authority of this sort, because of the difficulty of bonding and the possibility of default, should have the full financial authority of the State behind it. At the same time, this leads on to a provision that an authority of this sort must be responsible to some kind of a power. And if it is going to be responsible to somebody, it should be responsible to some agency of a greater extent than that authority. I see in this case, because of the drainage basin and the regionalization required, the only authority this can be is the State. If that is so, then it seems that the authority must be set up under the direct auspices and responsibilities and powers of the State.

In reviewing this bill I find that, as also has been mentioned before, the land-taking powers and such are somewhat too great and too extensive. They may even be in contradiction to other legal statutes.

Finally, I find that there is inadequate review process provisions for public hearings, environmental controls and similar protections.

Again, I thank you very much for the opportunity to speak before you. I would like to recommend that S-765 be dropped from consideration. Thank you.

SENATOR DUNN: Thank you, Mr. Rudy.

Charles F. Williams, Chairman of the Department of Educational Welfare, Middlesex County.

C H A R L E S F. W I L L I A M S: Thank you, Senator Greenberg and Senator Dunn. My name is Charles F. Williams. I am a Freeholder in Middlesex County and I come here today to speak not on behalf of the Board of Freeholders, because the Middlesex County Board of Freeholders has not yet taken a position on this matter, nor to speak on behalf of the Middlesex Borough - where I formerly served as a Planning Board member for 6 years and as a Councilman for 3 years - where we suffered extensive flood damages, nor as a member of the Green Brook Flood Control Commission, to which I am the designated Freeholder from Middlesex County, which participates in that Body, but I come here in my capacity as a county official who has had experience on the local level and as a concerned citizen, having been born in Union County and raised, much of my life, in the Westfield-Plainfield area and now residing in the Green Brook Basin in Middlesex Borough.

I have some 40-odd years experience with problems that are a result of flooding. I'd just like to address my comments in general to Senate 765, but, more specifically, to the other bills that are contemplated, in the hopes that your committee, Senator, will weigh these thoughts and these considerations and come out of these deliberations with a good bill that everyone can support and that we can be proud of.

As I say, my background encompasses the local and the county level. I reside in a flood basin, as do some 300,000 other people who reside in the broad confines of the Green Brook Basin.

I think that, as has been suggested here, to come up with one bill that would create these flood authorities -

a uniform flood authority bill - for all of New Jersey, with all of the many ramifications involved, is about as impossible as trying to come up with one form of government that would satisfy the needs of the world.

I think that each particular situation has certain peculiar tendencies and must be dealt with as those conditions exist. I cite, for example, the Green Brook Basin, with which I am most thoroughly familiar. I wouldn't pretend to know the problems that face some of the other areas, not being intimately familiar with them. But the Green Brook flood control situation presents, in my humble opinion, an ideal situation wherein county government can come forward and on a joint, cooperative basis, help solve one of its most critical problems.

The area encompassing the Green Brook Basin almost equally contains portions of Union, Middlesex, and Somerset Counties, not only in terms of municipalities involved or in terms of population involved, but also in terms of land area. I submit that there are solutions that can be reached within that framework.

As has been stated earlier, there is a regional need; there is no question about it. Flood water knows no political boundaries whatsoever. One of the major questions that has been raised by former Mayor Rudy and others - Ken Marsh spoke of this earlier - is, who shall join and who shall be forced to join and who shall enforce the matter.

Right now, in the Green Brook Flood Control Commission we are frustrated, in effect, on agreement as to which one of four Army Corps of Engineers plans should be adopted because of the inaction of two integral governmental bodies who have impact on the area - the Township of Berkeley Heights being one and the Union County Park Commission being the other - both of whom affect the Watchung Reservation Center.



As far as the question of what period of time we are trying to protect for, I heard it mentioned earlier that everyone talked about a 50-year flood level. In our area we are talking about the frequency of flooding of 100 years and 150 years. The Army Corps is providing now - it has come up with some recommendations - a plan that would provide for protection against the type of storm which would occur with the expected frequency of once in 100 years.

In putting together the experience that I do have, and the background, it strikes me that the fact of the matter is that the big bulk of the non-Federal dollars that would be required to finance these flood plans - flood control programs - would come from the counties. I cite, for example, the current proposal of the Green Brook Flood Control Commission. Depending upon which one of the various four plans - or the modifications thereof - is adopted, the total expenditure will be somewhere in the order of \$120 to \$140 million, of which the Federal government would supply somewhere between \$110 and \$120 or \$125 million, I believe - in round numbers.

The net effect is that the State and county governments would have to put up somewhere in the neighborhood of \$15, \$20 or \$25 million. Most of these improvements that the other governmental levels would have to be involved with are bridges, bridge structures, approach roads, county roads, the widening of some state highways, and what have you - and the acquisition of some right-of-ways for these things.

So, clearly, it strikes me as a situation where the problem is to provide an authority that will meet several tests and will be able to provide solutions.

The Green Brook Flood Control Commission consists of 13 towns and 3 counties. What we are concerned about is the fact that any authority will, in effect, have have taxing power. That's why I think, particularly, it

must be tailored to meet the needs of the municipalities in the area that it will serve.

With respect to the bills that have been proposed, I was happy to hear, Senator, that you have withdrawn your support this morning from S-765. I am concerned that A-2387 - Assemblywoman Wilson's bill - is so totally unworkable and unwieldy that I am afraid the authority members would get hung up over the first question that the authority would face, which would probably be what day on which to meet. I will submit, later, reasons why I think that bill is unworkable.

What I would like to suggest - rather than be negative, I'd like to be positive - is that a solution exists in this particular area. It might be patterned after the Middlesex County Sewerage Authority, which I think you will recognize represents three counties - parts of Union and Somerset, but essentially Middlesex County. This authority has been in existence now for some 25 years and has done amazingly well. I would be the first to admit that not every sewerage authority in the state has done well and some haven't even been authorities of which we can be proud.

The reason I cite this as an example is that it has taxing power, in effect; it is doubling its capacity right now; it serves the three counties and many municipalities, as well as some private members; it has had a rate structure that has withstood the test of time; it has had the ability to carry on and provide an ongoing maintenance program; and it has really done the job that it was intended to do, to clean up the Raritan River. The appointment of members of this authority comes from the Boards of Freeholders.

What I would suggest is a flood control authority in the Green Brook Basin consisting of nine members, one

Freeholder from each of the three counties, one local elected official - be he a Mayor, or a Council member, or a Council person - from one of the member municipalities within the county, and one lay citizen for a three-year term - a staggered three-year term. Such an authority would provide that at least two-thirds of the membership be directly responsible to a portion of the electorate. It would provide some lay citizen input and, I think, provide a responsive, yet not unwieldy, group.

The Wilson Bill - A-2387 - provides for what is called a "local government committee", which may sound fine to the flag-wavers for home rule but the practical fact of the matter is that you are going to have a representative, a Mayor or his appointee - whoever that might be - from each of the member municipalities. Her bill even goes on to include the Borough of Mountainside and the City of Summit in Union County, who don't even consider themselves part of the Basin, as well as the Borough of Metuchen in Middlesex County and the Township of Edison. If you ask the governing officials of either of those communities whether or not they consider themselves in the Green Brook Flood Control Basin they would probably laugh at you because they really don't.

But the point is that this local government committee, I think, would be extremely unwieldy. It would have veto power over the authority and I think, most important of all, is that it would challenge the fiscal credibility of the authority and the bonds that would be issued.

I said earlier that I think there are three tests that any authority ought to meet. It seems, in the first respect, that it should certainly be responsive to the needs and be able to act quickly. The authority that I have proposed, of nine members, I think, would indeed be that, and would be responsive.

It should be fiscally responsible. Here is where I think the counties' ability to bond -- In particular, the three counties of Union, Middlesex and Somerset have a considerable unspent bonding capacity and can handle expenditures of the non-federal share of some \$20 million with comparative ease.

The third thing is that it must not be unwieldy. I think that a nine member authority is small enough and, yet, representative enough and I think it would not be unwieldy.

In any case, it is going to have to address itself to the maintenance of the project and the ongoing cost that will be involved - and these have been variously estimated at somewhere between one-quarter of a million and perhaps one-half million dollars a year to maintain the flood works that will be specified by the Army Corps of Engineers. And, of course, it must have a close involvement with the Army Corps.

I think that with respect to the three tests that I have suggested, A-2387 fails all three of these vital test areas and I think that S-765 is so unspecific in certain areas that it fails there too.

I think that the type of thing that your committee might want to address itself to is, in addition to whatever bills may eventually come out of the need for flood control authorities, the question of making, in New Jersey, flood control insurance compulsory in those communities that have been devastated in the past.

As a local official I can think of nothing more frustrating then to have senior citizens and widows come to me and explain that they didn't buy flood insurance because they never thought it would happen again. How tragic a situation. They never get caught up. I think that is an area of need that ought to be considered.

I would ask that in your deliberations you not

try to put together a bill that has been amended and reamended, etc., and looks like a patchwork quilt. I think that what we are going to have to live with in this area is something that is going to last us for a lifetime and I think that we ought to take the time to do it right. I submit that not one single spoonful of earth is going to be moved in the Green Brook Authority area, whether or not an authority is, indeed, created. The key to the whole question here is agreement. The authority, be it this month, next month, six months from now, or a year from now, for that matter, is not so extremely important so as to make us race into it.

Having sat as a member of the Green Brook Flood Control Commission, I have been dismayed by the fact that Assemblywoman Wilson came to offer help at one meeting and the next meeting she showed up with bill in hand and asked for comments and then wasn't around to hear the comments. I have suggested, on several occasions, some comment to her and they have not been included. She told us back in December that she would come forward and seek our comments once again and the next piece of information that we heard was that her bill had been passed unanimously in the Assembly.

I want to mention to you too that I have talked with Senators Bateman, McDonough and Lynch, who are home county Senators from the area involved, and each one of them was deeply concerned with A-2387, as it affects the taxing powers and the ability to pay. I would only ask that before you race into any action on any bill that would create some flood control authorities, that you please give us time to be heard. And I don't, again, as I said, speak for the Flood Control Commission or the Board of Freeholders or even my own municipality, for that matter. But I am speaking and trying to relate to you some of the concerns that we have and that I personally have as a result of having been a local official and now

a county official who has lived with this problem and who recognizes the difficulty in getting people to go along with one plan and one proposal.

I ask, again, that you please listen to us and that we take the time to do it right so that we don't, at a later date, have to take the time to do it over. Thank you very much for your consideration.

SENATOR GREENBERG: Thank you, Mr. Williams. Did you submit a written statement?

MR. WILLIAMS: No I didn't, Senator. I regret that I didn't. I'd be happy to dictate a statement to that effect.

SENATOR GREENBERG: That's perfectly all right. I was about to say that the record of this hearing will remain open for a period of two weeks following the conclusion of testimony.

I don't know how many more hearings we can give to this subject. Everyone who is interested, presumably, is here today. The committee is going to have to go into deliberations and resolve the apparent conflicts among the bills and struggle with a solution, hopefully.

We will make every effort to communicate the conclusion of the committee to the interested parties but I would suggest, from your point of view and anyone else in the room who is interested, that if you have something specific in addition to what you have already said, by way of affirmative suggestion, to submit it to Mr. Caramalis, who is the Coordinator and Legislative Assistant to this committee, as soon as possible within the next two weeks.

Senator Dunn, do you have any questions?

SENATOR DUNN: No, I have no questions at all, other than to reiterate what the speaker said about authorities - once an authority is created, it is practically answerable to no one else. This is one of the big failings,

as far as I can see.

Should a flood control authority be created, I doubt if the Legislature-- When you say the State of New Jersey, it would have to be some agency of the State of New Jersey that would be empowered - probably the Department of Environmental Protection - to monitor it and monitor its work.

I'd like to point out too that even though an authority might be created through a piece of legislation of this kind, or some other kind, that I think in almost every instance the Army Corps of Engineers would have the Federal power to supercede any plan or program or project of the State of New Jersey's Authority.

MR. WILLIAMS: Senator, as a point of information, they definitely do have the jurisdiction - that is the word they use in terms of the Federal Law - and, really, they are the ones that are going to provide the dollars to finance the bulk of the improvements anyway. They really do have that type of control over this thing anyway, from a structural standpoint.

I just wanted to say one other thing, Senators. Next Monday night the Middlesex and the Somerset County Boards of Freeholders are going to meet together to discuss some interim flood control projects in this area - construction of some bridges. We are looking seriously at first blush at about \$5 million worth of new construction in that area.

It would be awfully nice, I think, if the members of the Green Brook Flood Control Commission, who I really don't think ever knew about this hearing today-- I heard about it through another means, through our County Planning Board. I am going to attend a Flood Control Commission meeting tonight up in Green Brook and I will be happy to report on that. But, as I recall now, having attended

these Flood Control Commission meetings - maybe Mayor Rudy might remember - I don't think this came up. There was no mention of this.

I might just say, on the one bill where we had a straw vote in the Commission up there - the Wilson Bill - they asked for an expression of opinion from the member municipalities and it went down by six to one of those voting. Now, there were several abstentions. Three counties abstained.

SENATOR GREENBERG: What was the primary objection?

MR. WILLIAMS: The primary objection, I think, is the appointment of the authority commissioners by the Governor and the fact that we feel, within our own framework there, we possess the ability to solve the problem. Everybody says \$20 million is a lot of money, and certainly it is, but to a county like Middlesex where we have an outstanding bond indebtedness now of some \$60 million and the capacity of better than \$120 million, it is not that great. Union County is somewhat similar. Somerset County is much smaller and they, of course, have those problems.

But when you look at, or talk about, a project of \$150 million some say, "My God, the counties can't do that." Well, the counties can run that because the three counties' involved combined annual budgets are probably in excess of \$130 million. Middlesex County's current expenditure - current operating budget - this year is \$71 million, and a Board of Freeholders that can run a \$71 million business will not have any problem, in concert with two other Boards of Freeholders, running a \$20 million capital improvement program, I assure you.

The concern is, again, that the State will appoint these people and that they won't truly be responsive. We are convinced that when municipal officials feel put upon, they will be able to come to their Freeholder Boards and pound their fists and they will get action. We are concerned,



too about enforcing the will of people who may be foreign to the area of the member municipalities.

One last thought, and the concern of these municipalities, is that little towns like Dunellen and Middlesex Borough - two of them in my county, which I represent - with a population of 7,000 in Dunellen and 15,000 in Middlesex Borough, can, in no way, ever pay their proportionate share of the tremendous amount of flood work that will have to be done. And if it is to be assessed on any of the traditional methods--

SENATOR GREENBERG: How about on a population basis?

MR. WILLIAMS: On a population basis? Even there I doubt that it could be done. Take for example the Borough of Watchung, up in Somerset County, they sit up high on the hill. It is their water that comes through my town. I live in Middlesex Borough.

Our problem is, we have a two-faced flood situation - just one other thought - in Middlesex Borough. The initial rainfall is one thing but then we process everybody else's water and by the unfortunate fact of geography, we happen to lay along the side of the Central Jersey Storm Sewer. Unfortunately, I think the people in Watchung are less willing to spend their tax dollars to solve the problem than the people in my town who receive it.

Inevitably, when push comes to shove, it gets down to a situation of, "Well, we are only minimally affected in some of the up-reach communities." But communities laying along the bed of the stream are infinitely involved and we have no way of getting out from it, unfortunately.

SENATOR GREENBERG: The easiest and worst thing we can do is nothing.

MR. WILLIAMS: I know. I agree. That would be the worst thing, Senator. I agree.

I realize it is difficult to find a magic solution but I would ask that in the interest of doing the right thing, if this committee could possibly extend these public hearings for, perhaps, another week or two, I am sure that I can get the members of the Green Brook Flood Control Commission either to come down here and testify, or if it is possible to hold a similar hearing in the Plainfield, Somerville, New Brunswick area, it would be more convenient to get those local governing bodies there and get their input and get the Boards of Freeholders and others to come. I realize it is an obligation for them to come to Trenton. They ought to be here today to be heard. But the fact is, I think it is for a good reason they are not here and I really think their input would be valuable.

SENATOR GREENBERG: Well, I don't know that we can do that but I would urge you to communicate what I have said to them. I am certain they can put together their views in a written document, which we would read with great interest and we will keep this record open for that purpose.

MR. WILLIAMS. Great.

SENATOR GREENBERG: I thank you for appearing.

MR. WILLIAMS: I will mention it to them.

SENATOR GREENBERG: John Reed.

J O H N R E E D: My name is John Reed. I am the Chairman of the Environmental Control Committee of the New Jersey Builders Association. I thank you for this opportunity, gentlemen. I have been getting a little education while I was listening here. It helped some of my thinking on a very complex subject.

My first point seems to be already too well established to dwell on. I am going to try keep--

SENATOR GREENBERG: We would appreciate that.

MR. REED: My first note says, a basin plan only. This would seem to be beating a dead horse at this point; it seems to have been amply covered by previous speakers,

with whom I will concur.

The second point has been made to some degree and that is, the potential floating of bonds on the market.

The State of New Jersey is going to have to raise considerable bond money, I believe, in November. I attended, on behalf of our Association, some meetings of the Division of Water Resources and others. We must raise not only money for highways and things like that - community affairs, mortgage money - but some very considerable sums as counterparts to the large amount of money coming from the Federal Government for regional sewers.

We are about out of the previous water bond issue and we have some rather amazingly large sums. The Committee ran over the total figures over a very large period of time - 10 years.

But New Jersey will have to raise somewhere towards \$4.7 billion for its share. Now, some portion of this, perhaps \$175 million, will probably have to be raised to keep us rolling this November. In view of that, any proliferation of further bonds seems rather dubious.

On the next point, I have also attended some meetings on the staffing of the DEP and George Friedel, Assistant, previously, to the then Commissioner Sullivan, described the tremendous difficulty and scarcity of expertise - in other words, hydrology engineers.

To set up any proliferation of authorities, each of which would compete for these scarce skills, just doesn't seem to make any sense at this time.

Listening to the previous testimony, it seems amply clear, although it wasn't specifically mentioned, that this is a national problem. New Jersey is perhaps fortunate that its rivers are borderline, rather than going through one state to another. But, again, water does not know political boundaries. I won't dwell upon that.

It seems amply clear that in order to have proper funding, we need a channel from the Federal Government and a channel recognized by the Corps of Engineers. Since we have a fairly well staffed DEP, which, at the present moment, is engaged in studying these very rivers, the expenditure for the delineation - which is an ongoing process of the present flood control act, costs somewhere between \$4 and \$6 thousand a mile.

It would seem, perhaps, that from this knowledge, as they study these rivers, they should be ordered to expand this study as they go along, because they have only done approximately one-fifth of the rivers of New Jersey - totally.

As to what can be done to aid the problems discussed today - since they are already out there, they are already funded, and they already have the experts out on the rivers - perhaps they can be ordered, or supplemented in their appropriateion, to expand that. This would give a sense of direction as to what is needed, - what can be done. I suggest that thought be given to that, gentlemen.

The DEP also, in a sense, has set us an example of how to have a basin regional control and it has been supplemented by the legislation. I mentioned the Coastal Areas Protection, the Wetlands Critical Areas -- this shows that the State of New Jersey can and will recognize a regional-type problem. I also suggest the thought that this is, perhaps, possible under the present powers of the DEP by declaring a river basin to be a critical area.

Now, we have already made a number of moves to supplement control and I think one of the most constructive things has already come out of the Senate - Senate Bill No. 806. This bill, to me, is a constructive bill on preventive maintenance since it deals with silt and erosion control. And certainly this type of thing was

vitally needed as a first stage because by getting silt under control, we don't have to spend money later removing it when it starts to plug up under bridges.

Gentlemen, there are a tremendous amount of funds of knowledge scattered around. In Somerset and Morris Counties - I live in Morris County - we have for seven years cooperated, through the Builders Association, with the local soil conservationists - it started as a volunteer program - and we do a great deal of silt control basins which are now, in a lot of cases in both Somerset and Morris, converted into a flood control basin. Now, any basin that picks up the drainage incurred by the project and holds it as a delaying process, costs the citizens of this State very little because we are controlling the silt during the construction period. When you have broken the surface, there is a high possibility of run off in any rain storm.

It is no longer necessary later, but can be at very little additional expense converted to a control pond and this is, of course, merely a multiple-level dam with a key-type weir, which allows slow release of the water as it is gathered.

These things, in themselves, can constructively help some of the down-stream problems that exist. There is no question in my mind, - from listening to previous speakers it was thoroughly confirmed - that we must have one state level control. If an authority is to be set up, perhaps as a part of the DEP, it should be controlled by a body such as the DEP. We certainly cannot let authorities compete with each other for funds, for knowledge; somebody has to weigh the priorities in this money-scarce area that we are dealing with. Because the funds you are talking about haven't been measured and I am sure they run into the hundreds of millions of dollars, just from what we have listened to here this morning.

Who gets what first, etc., we shouldn't have a race on that. There should be one central body set up here in the State of New Jersey.

I do not want to repeat some excellent testimony but I would like to touch upon what was brought out by Mrs. Filippone and others. You also, gentlemen, have to consider that anything you do on this is a form of land use control. Now, there are, potentially, Federal funds to the states and I think the State of New Jersey, in one way or another - in view of recent court decisions - is going to be embarking on a new look at zoning and land use. Again, I suggest that it be coordinated to that, gentlemen. Thank you.

SENATOR GREENBERG: Thank you very much.  
Senator Dunn, do you have any questions?

SENATOR DUNN: What you are suggesting, if I understand you correctly, is that there should be a Statewide authority, perhaps in the Department, under the jurisdiction of the DEP, rather than having regional authorities?

MR. REED: Yes, sir, because if you just had the regionals, the first one formed might get some money and then the bond market might drop and the next in line might not get it. I would not want to see a race or competition; I would rather see it done all at one time so there are no unfortunate effects.

I do believe that perhaps the authority could be set up to one side of the DEP, but under their control. You do seem to need a channel for Federal funds and it would seem most likely to occur coming from the Federal EPA. In other words, anything coming out of Congress is apt to be funneled through the approved EPA, which is normally working with our Department of Environmental Protection.

SENATOR GREENBERG: Well, in order to accomplish that, you don't have to set up another level of government by establishing another authority under DEP, you could have DEP itself function--

MR. REED: Yes, it could.

SENATOR GREENBERG: --as a coordinating, or supervisory body with regard to either the existence of the authority or the functioning, or both.

MR. REED: Yes, sir. We are already channelling tremendous sums - billions of dollars - through it right now for regional sewers.

SENATOR DUNN: Except that you would be defeating the purpose of an authority. An authority is a self-sustaining entity, autonomous onto itself and if you put it in the DEP then you would have it functioning under the budgetary limitations of the Department. It wouldn't be an authority, as such. It would be a department within the DEP.

MR. REED: I'd rather see that, sir. I can't even find out how many authorities there are in this State.

SENATOR DUNN: Well, then, you would have the problem of getting the funding from the Legislature to operate a department within the DEP. It would then become a budgetary problem and I doubt very much if you would be able to get the funds that would be necessary to solve all the problems in the various regions if it was operating as a statewide agency.

MR. REED: Sir, we had somewhat similar examples in Community Affairs with the revolving fund of the Mortgage Finance and Housing Finance agencies. Perhaps a similar setup of bond issue and funding, under the DEP, could be used. We have the precedent elsewhere.

SENATOR DUNN: I don't know how many regions we are talking about.

MR. REED: I believe four, sir. Four major basins.

SENATOR DUNN: Four major basins with flood control problems?

MR. REED: That is the whole basin set up - approximately four. The Department has readjusted back to using engineers, each one handling one of the four divisions.

SENATOR GREENBERG: But you have other areas that are involved that would raise that number, which may not, technically, be a basin but, nevertheless, subject to flooding problems.

MR. REED: I am not that expert, really, to say but I believe they are within a basin as they define it, normally, and as environmentalists speak of it.

SENATOR DUNN: Well, the point that I am trying to make is that, using the Elizabeth River Flood Control Project as one example, in the earliest days of development they were talking in terms of a \$15 million project. I think now that project is probably closer to \$75 million. If you were to multiply four similar regions by, say, \$75 million, you are talking now about approximately \$300 million. If you wanted to concentrate on all basin problems at the same time, you would then be talking about a bond situation in the Department of Environmental Protection totalling approximately \$300 million. That would become almost prohibitive if you put that into the Department of DEP for financing.

The advantage of an authority is that they would raise their own money.

MR. REED: I don't know that authorities are better or not, sir. We have had some success with Green Acre bonds and they are handled by the DEP. In the past, we have had the water bonds, from which we have been using the counterpart money. At one time it was larger but now it is 15% towards every federal dollar for regional sewers.



We will probably go for \$175 million.

When you speak of the \$300 million, sir, I think you are thinking, rather, of the total project. The amount that you spend, say, in the next two years might turn out to be something like \$50 or \$70 million, which I don't think would be impossible to present to the public for a good cause. Certainly, all the affected areas would theoretically vote for such a bond issue.

SENATOR DUNN: What would the chances of survival be, though, if those issues were put on the ballot in any one election? I doubt very much if the non-flood areas would support a question of that type.

MR. REED: Well, sir, when you get support from interested parties, that sometimes would carry the bill because other people seem not to vote at all on a subject they don't understand.

I suspect, for example, a relatively small portion of the population supported the Green Acres bill. You don't get many negative votes, as past experience on this type of thing shows. It can be carried by the positive vote without it being voted on negatively.

SENATOR DUNN: Well, I am certainly not arguing with you but one of the things that I have observed, and it is not meant to be critical, is that at the time of a flood, the people who are most intimately interested in the problems of flooding cause are the people who suffered damage. As a matter of fact, many people in the non-flood areas don't even take the time to visit the flood areas to see the amount of damage, it is getting to be such an old-hat type of thing today.

It is an unfortunate indictment - perhaps indictment is a strong word but I have not observed as much compassion and concern for the people who have suffered damage being shown by those who have not been hit by a flood. So, this is one, I think, of the problems: Getting people who

do not get damaged or hurt by flooding to pay for capital improvements to alleviate flooding problems. I think this is the advantage of an authority. Municipalities hit by flooding can concentrate on this vital issue and would be able to raise their own money to take care of their own problems in conjunction with the Army Corps of Engineers.

If there is such a thing as a redeeming feature of an authority, I think that is it. I am afraid that if you were to put the responsibility for flood control in the Department of Environmental Protection, it would not be given the priority that it deserves.

MR. REED: Sir, you may be right. I was hoping that the broader base - in a sense the more equitable basis, as pointed out by previous speakers - really, is for people who sit on top of the hill with the water flowing down and who say they are not interested, to pay their due share. You would then get a much broader base from all the citizenry.

The other thing that, perhaps, may occur - it seems like it will - is, the regulations are soon to be published on the flood plains - the law is a little over two years old - and I don't believe there is going to be a municipality where they won't be discussing this flood plain considerably, because we are going to have a tremendous shift in property values as these are published. It is inherent in the law that when you take control, or limit the use, of these lands parallel to the rivers, there is going to be a lot of screaming and shouting because if their use is limited, their value is going to be changed.

I think this is going to be very much in the public eye for the next year or so.

SENATOR DUNN: I don't disagree with you one iota. What I am pointing out is, if a bond issue were on the ballot for a substantial amount of money to alleviate flooding throughout the State of New Jersey, the people

who live on the hill are greater in number than the people who live in the flood areas and I doubt very much if you would get an affirmative vote.

MR. REED: I don't really know. I probably shouldn't venture a guess.

SENATOR DUNN: I don't know either.

MR. REED: My guess is that there are more people down in the Basins because the history of our country is, we started down at the mouth of the rivers to build the towns, so our older and larger population points tend to be down at the mouth of the river. It has been in rather recent years where we have had large acres only and have gone, as it were, to the hills.

SENATOR DUNN: Well, let me be more specific. I suppose that there are more people - I know there are more people living in the urban cities than there are in the rural and suburban areas. But, restricting it to an urban city, flooding only does damage to few in number residents or dwellers in that urban city.

In our particular city, for example, most of the damage is done in a business area although there are some residential areas badly hit too. But, by far, most home dwellers escape any kind of material damage or personal harm as a result of a flood. While at the particular time of a flood they have a tendency to show a little compassion or sympathy for the people who have been hit, after the water dries up and the sun comes out, they soon forget about it and then if you were to start talking about taxing those people to help the few people who were hurt, you would get a different attitude completely than you would the day of the storm or the day after the storm. That's the only point I am trying to make.

MR. REED: I hope I can remember the figure correctly, but I believe Commissioner Sullivan used to quote a figure - there are 16,000 known residents in the

floodways and you have this subject coming up now if you go out to buy a house because you have to check - or the bank you are dealing with has to check with the municipality - to find out whether you are in or outside of this. So, this is a thing that is going to be brought constantly to the public's mind.

It doesn't matter where we go. We have it up in Morris County in Flanders; there are homes in the floodway there rather than businesses. This seems to be a very large scale problem that is just surfacing and I think Senator Menza has done us a service by highlighting the need. Now, hopefully, you gentlemen will be able to find some of the ways. Certainly, if we can, we would like to help.

SENATOR GREENBERG: Mr. Reed, thank you very much for appearing here today.

MR. REED: Thank you, sir.

SENATOR GREENBERG: It is the intention of the Chair to continue taking testimony without a lunch break for the purpose of completing the hearing today at a reasonable hour. But I think for the shorthand reporter, and others who are involved, we will take a 10 minute recess at this point.

(Recess)

#### AFTER RECESS

SENATOR GREENBERG: The hearing can resume. The next witness I have scheduled is Tom McCry, Morris Township. Is he present?

(not present)

Diane Nelson.

D I A N E N E L S O N: I represent the Tourne Valley Coalition. The Coalition is a group of citizens whose

common concern is that a portion of Morris County's Tourne Park might be flooded.

Our original purpose was to prevent the loss of Tourne Valley Park as a natural park. As the Coalition devoted more energy to this proposition, we recognized that much larger purposes had to be acknowledged. Simply, the purposes of the Coalition are: 1) To save Tourne Valley as park land. 2) To assure sufficient open land for the future. 3) To promote water management practices.

Tourne Park, which is located partially in Boonton Township, Denville, and a small portion in Mountain Lakes, has been threatened by two public authorities, a municipal utilities authority and a regional sewerage authority. So, we speak from experience when we say that this Bill, 765, threatens chaos among municipal governments, communities, and counties.

We have seen the future of our park become a subject of controversy and bitter dissension among the public, park commission, county and municipal government, and the regional sewerage authority. We know how lightly-regarded park preservation is among those who seek engineering solutions to water management problems.

The engineer and his philosophy has more or less reigned supreme in New Jersey for many years. But we are learning that natural systems must be maintained. The establishment of additional bureaucracies devoted to engineering methods of flood control can only result in a further destruction of the environment, loss of valuable flood plain land and loss of irreplaceable park lands.

I am awfully glad to know that this bill is going to be changed. I agree with the bulk of the testimony submitted today in regard to the various aspects of the bill.

One part of Senator Menza's comments was that we have to do something, once and for all, about flooding.

I don't think we can do something, once and for all, about flooding. Flooding is natural.

What we can hope to do is, prevent it from getting worse by preserving the integrity of the remaining flood plain land; requiring, in addition, watershed regional storm water management to keep the raindrops where they fall; and, three, to relocate those homes and businesses located in the floodways.

Perhaps there may be some way of setting up separate regional control commissions by enabling statute. I don't know. But, possibly, one solution might be to restrict the powers of a regional flood control commission to purchase, by conservation easement or full title of flood plain lands, these lands to be preserved in their natural state and not for structural control. This makes sense to me and it makes sense to a lot of others who are knowledgeable in the environment.

A recent publication put out by the New Jersey Conservation Foundation, which contains a lot of valuable information on flooding, is called "Flooding Is Only Natural. It's up to us to learn how to live with it." We would be very glad to send a copy of this to the committee for their perusal. Thank you very much. (see page 87 )

SENATOR GREENBERG: Thank you very much, Mrs. Nelson.

Speaking for myself, I can sympathize with the objectives which I think you have, and have described. I'm not quite sure that the committee agrees and this committee, incidentally, is composed of five senators, three of whom are not here and who will now have to read this transcript before we take any action at all.

I am not sure that the committee agrees that the function of the legislature, or the committee - or both - is merely to see that matters not get worse. I think we have to inquire into a more basic problem, which is whether

or not any affirmative action should be taken with regard to correcting - and I use that word with the understanding that that means changing nature - and avoiding the type of harm that has occurred to citizens of this State as a result of prior instances of flooding, both businesses and homes.

So, that is a separate problem and I am not quite sure that I agree with you that that should not be a subject of inquiry and that there should not be affirmative action taken to correct that situation. But I do thank you for coming and giving me your views.

Senator Dunn, do you have any questions?

SENATOR DUNN: I couldn't quite make out the name of the organization.

MRS. NELSON: Well, it is a little unusual. It is T O U R N E - Tourne is the way it is pronounced. It is the Tourne Valley Coalition.

I would like to take advantage--

SENATOR DUNN: Excuse me, is Tourne a Valley around Mountain Lake someplace? Excuse my ignorance.

MRS. NELSON: It is a natural valley between the Tourne, which is the name of a mountain, and it is located partially in the park and partially in Mountain Lakes.

SENATOR DUNN: I see. It is a proper name. I didn't know whether it was a designation for an organization of some kind. I understand now.

I just want to make an editorial comment. The heading of that article, Flooding is a Natural something or other -- I realize that floods are natural but it would be difficult in the city of Elizabeth, for example, if I were to distribute this pamphlet to a couple of hundred residential dwellings that have been hit three or four times a year by floods, I've already lost their vote anyway but they'd run me out of town. So, I don't think there is any argument

but that flooding is natural.

But down through the years we have allowed a natural situation to become a catastrophe - a recurring catastrophe - by poor planning, construction of buildings, and things of that sort. I think that we are now trying to cope with something that man has made rather than to live with a natural phenomena. I think that is what we are trying to legislate - some way to rectify the errors of past ways.

While I can see an environmentalist wanting to protect natural flood areas, we have allowed structures to be built in those floodways which should not have been built and now lives of people are in jeopardy and certainly a great deal of material wealth is being destroyed. So, I think your main concern is protecting the environment, if I understood your testimony correctly.

MRS. NELSON: That's true - protecting the environment and using natural systems as flood control. I have the experience of living in a community which suffers recurrent flooding - a natural thing - for many, many years -- Wayne Township. So, I know your feeling about your constituency's reaction to that article. But there are a number of people within your community, I am sure, who would agree with it.

A person who buys land in a flood area and puts up a home in a flood area makes the decision, sometimes not fully aware of what the condition of the land is. Perhaps it is the fault of the municipalities for allowing building to take place in unsuitable areas and, therefore, the municipality does have the responsibility to do something for these homeowners. But how far that spreads out, I don't know. How far the rest of the State should be responsible for a municipality's poor planning and poor land use control, I just don't know. But I can understand your feelings because, as I say, I have lived in a community which experiences



regular flooding - flooding that is ordinary and natural and is taken as a matter of course.

SENATOR DUNN: Well, my sympathies are not as great for a person who buys a piece of real estate with full knowledge that it is a flood area. But my concern has been that, because of the poor planning that you mentioned, people are now being hit by floods - people who bought homes in urban areas, for example - that heretofore were well outside the range of a flood area. I am thinking of the Elizabeth River, specifically.

Again, getting back to the poor planning, we - I don't know who we are but we - allowed Kean College, for example, to build a new extension to the existing college and add a tremendously large, blacktopped parking lot, thus allowing waters to build up now in areas that heretofore were free from flooding. So, you can't say in that particular instance that flooding is natural. Flooding is man-made.

MRS. NELSON: In that particular instance, it certainly was man-made.

SENATOR DUNN: I think that is the area of greatest concern that the Legislature is trying to help now and, in doing so, does not want to destroy what would be good, in the eyes of the environmentalists, for the environment.

MRS. NELSON: That's true.

SENATOR DUNN: So, actually, we are not in disagreement, except that there are two areas -- what we are doing, I think, is highlighting two areas of concern. While flooding is only natural in certain areas of your community, it is not natural in certain areas of the City of Elizabeth. That is the only point I am trying to make.

SENATOR GREENBERG: Thank you very much, Mrs. Nelson.

Tom Mooney and Bill Powell.

Gentlemen, would you introduce yourselves, please, for the record.

T O M M O O N E Y: I am Tom Mooney of Hillside.

B I L L P O W E L L: I am Bill Powell of Hillside.

SENATOR GREENBERG: Do you have any official capacity or are you appearing here on behalf of yourselves?

MR. MOONEY: I am Chairman of the Hillside Conservation Commission and Bill Powell is Chairman of the Hillside Flood Committee.

After listening to a bit of the testimony here for the last couple of hours, I am beginning to realize that probably civilizations have always grown up on sides of rivers - we are all familiar with the Nile. We could probably even say that the index of civilization could possibly be measured by the way that man handles his resources - the Elizabeth River for one.

I have lived in this area for approximately four years and we have a 100-year storm approximately every 2 years, is that right, Bill? This is the way that people measure flood damage - by a 100-year storm.

It seems absurd that they should be occurring with such increasing regularity. That, of course, is simply because of unmanaged development of land in the flood plains. I am told that approximately 10% of New Jersey lies in this flood plain and in trying to resolve our isolated problem in Hillside, we have become convinced that there is absolutely no instrumentality to come to the aid of Hillside, or for that matter for other people living along the Elizabeth River.

Hillside doesn't have the natural resources to control its flooding. Flooding is occasioned by the Elizabeth River which is contained by the Union County Parks Commission. The water comes to us from upstream and we, rather gratuitously, pass it on down to Elizabeth - with my apologies.

What has to be done is, simply, detention basins must be put in the river and slow down the flow of construction near the edge of rivers. Again, as far as I can find out, there is no regulatory agency in the State, including the Environmental Protection Agency, which can effectively regulate this kind of activity.

For this reason, I must concur that there has to be an approach at regulating development along the rivers and while I don't opt in favor of extending the power of the Environmental Agency - we are just going to create a great big monster, which will probably be slower in response than it is now - probably the best thing is some sort of a compromise - a regional approach.

If we get too small, for example -- Again, Hillside can't solve its problems alone. Even Elizabeth can't solve its problems alone. We must join up with someone. The difficulty is to strike a balance between getting too large and getting too small. I think, probably, this regional approach is the best.

Now, one of the most absurd statements, at this point, that can be made is simply to say, I have read the bills, because nobody reads the bills; you have to study them. Unfortunately, I am not a legal expert and, therefore, I can't study them. But I have read a couple of the bills and in looking at the bill which has been written by yourselves, I have some--

SENATOR GREENBERG: Are you referring to the bill under discussion now?

MR. MOONEY: Yes, sir.

SENATOR GREENBERG: That is S-765. That is Senator Menza's bill. It is not the bill of this committee. Just for the record, it has been assigned to this committee for its consideration, which is what we are doing today.

MR. MOONEY: Okay. Now, this bill probably will take a lot of steps in the right direction but in pursuing

it I do have some comments.

In trying to resolve the problems of Hillside we have come constantly up against commissions, particularly the Park Commission set up within Union County. It is not that they don't want to help us but they are insulated from us.

If, for example, I -- I will give you the scenario: We wanted to stop the county from doing some dumping in the river. It is prohibited by the Department of Environmental Protection. Certainly, it is prohibited by just plain common sense. In order to get to them we went, first of all, to the county and the county said they had no jurisdiction over them, you have to get to the Parks Commission. We then went to the Parks Commission and they said they would like to help us but they didn't have any money so back again we went to the county. This kind of table-chasing is rather frustrating to the average citizen.

I think that any commission or authority - which you people are studying and considering setting up - has to be a little bit more responsive to what the citizens are asking for. This can probably be done by seeing that members of these authorities are members of township committees, who are directly subject to political pressures within the town. If a group of citizens don't like what is happening, we can throw the man out of office and we can get him off the commission. I would like to see this kind of flexibility put into the bill.

As far as funding -- nothing is going to be done unless there is money. I am no expert in finance but if I were asked to buy a bond that is going to be underwritten by the Townships of Hillside and Elizabeth, I don't think I'd look too kindly upon that. I don't think I would risk my money. I think I would want a broader-based support for the bonding. Probably if you gentlemen could consider how the State could back up this kind of bonding, maybe it

would be more efficient.

I think my general view is, I would like very much to see this bill passed. I made these negative comments simply to give it a bit of perspective. Thank you.

SENATOR GREENBERG: Thank you.

MR. POWELL: I would like to bring out a few points on the grass roots scale, such as a small community. I am sure the communities have the same problem we do. We have been fighting floods in our town for -- oh, since the early '40's and now what is happening is, they are becoming large, due to the fact that it is inundating into our industrial area.

The statement that I heard here previously - not only here but throughout the years - "the man who lives up on top of the hill doesn't care too much about the man on the bottom of the hill because he is getting flooded out," I don't believe any longer holds true, because in a small community like ours it gets to a point, because of flooding - and we don't do anything about it - where it becomes a blighted area. This is going to have a direct effect on the man who lives on top of the hill. Even indirectly he will have to pay.

I think what most of the small communities are looking for is, if you help us we will also be able to help ourselves. We cannot do it alone. That's about it. Thank you.

SENATOR GREENBERG: Thank you very much, gentlemen, for coming down here.

Senator Dunn, do you have any questions?

SENATOR DUNN: I am interested in the statement you made, that there was a specific incident involving dumping into the Elizabeth River and you went to the Board of Freeholders and they shunted you off to the Park Commission and then they said - or it said - they didn't have the money. Can you describe that more in detail because I am not

familiar with it. It seems to me that the Park Commission shouldn't have dumped there in the first place.

MR. MOONEY: I agree.

SENATOR DUNN: No one ever brought that to my attention.

MR. MOONEY: I have some documentation with me - exchanges. What happened is this, quite simply--

SENATOR DUNN: The incident you are going to tell is a matter of record, isn't it?

MR. MOONEY: In November a truck pulled into Yale Avenue in Hillside. It went into park property and dumped 7 loads of fill - 7 loads of concrete from a roadbed on Salem Avenue - 4 of them were gravel from the construction site. Some people called up my house because we are rather involved in this kind of activity, as well as the Mayor of Hillside. We then immediately got on the phone and started a phone campaign, contacting specifically Mr. Schaeffer, the County Parks Engineer.

We informed him that we thought that, in light of Hillside's flooding problem, this is not a desirable thing to do. He responded by saying that what the county was doing was building a riprap wall. By pouring the broken concrete on the banks of the river, this was, in effect, what they were doing.

I'm no engineer but several people with whom we have contact are engineers. A cursory examination of the site indicated to these people that this was not, in fact, a riprap wall. So, what we did was, we contacted the Department of Water Resources, a Mr. Micklewright; he has an emergency line which is listed in the telephone book - I do not recall it off hand. We contacted him and he then sent an inspector to the site. He looked at the site and they found that there was, in fact, dumping. The contention that it was a riprap wall was negated by the fact that if it was a riprap wall, it was a horribly,

poorly executed one..

For example, a riprap wall usually is constructed on an angle of approximately 45 degrees so that the concrete will not fall into the river. This bank is practically vertical.

As a result of this inspection, the Department of Water Resources the the office of Mr. Micklewright indicated that the county should stop doing this sort of thing and should remove the obstruction forthwith. The county, of course, still maintained that want they didn't do at this point was build a riprap wall but, rather, they were storing material for the future construction of the riprap wall.

Subsequently, the county went and got a permit. You understand that whenever you do anything to a flood plain area you must have a permit from the Department of Water Resources. The Parks Commission had not, at this time, obtained such permission. So, they now went and made application for this kind of thing and subsequently they were granted permission to build that riprap wall where they are now.

It is significant here that there has been no change in the configuration; it is still graded in a 45 degree angle. It is simply for this reason that I am not confident in saying, "Okay, we are going to give our protection over to the Environmental Protection Agency."

We have the example of Route 78, which is cut into our township. They are going to pour approximately 23 million gallons of water, by some figures, into our river. If we have a storm of half the intensity of last August 17th, what this does for Hillside and for Elizabeth is significant.

We have, presently, a case in court where we are trying to get this kind of -- specifically, what we tried to do was to stop 78 - not stop it entirely, but have the

highway delayed so that the State Department of Transportation could assume the responsibilities it has - to take proper care of the drainage of the highway. But Environmental Protection has, again, granted the permission for the Department of Transportation to build this.

For this reason, I am really not anxious to see an agency set up that is large and insulated and removed from the people. I want the members on these authorities who, if all of a sudden they don't do what we are asking them to do, can be removed from office. Or, if they are doing what we want them to do, we can retain them in office.

SENATOR DUNN: Well, first let me interrupt to say that I was curious about the dumping situation. You are talking about the Park Commission, itself, dumping slabs into the Elizabeth River, allegedly for construction of - or the future construction of - a riprap wall. It doesn't look to you as though they are going to do it and they refuse to remove the stone, claiming that they have no money to do it, right?

MR. MOONEY: Well, they have neither the intention nor the money.

What they have told us is that--

SENATOR DUNN: You think it is adding to the flooding potential?

MR. MOONEY: The Department of Environmental Protection thinks it adds to the flooding and they have given it a permit.

The very same thing -- the Department of Environmental Protection has just given the permission for another drain into the Elizabeth River through Irvington. Another section of that highway is going to dip into the river. The Township was notified of it at their meeting the week before last - that another drain is going to be dumped into the river. That is downstream from me, Senator. That is downstream from us and what is happening is --



Again, this is not to say that anybody's bad guy is anybody's good guy; everybody is indifferent. What is going to make everybody get into line is regulation and what can give them regulation is precisely this kind of a bill. There are defects in it. There are faults in it. But what has happened is--

In going over the literature of flooding of our municipality I see studies made in 1940, 1950, 1960. Bill, you just received a call from the Army Corps of Engineers and there is a study going on now. Now, what happens is, when we go with these plans to anyplace in Union County, for example, if it is a good plan they will match 50% of Township funds in order to execute the plans.

The plans we bring are always too old and the ones that are being made up aren't ready yet. We have studied the river until it is absolutely ridiculous. At some point somebody has got to say, "Okay, fish or cut bait."

Studies have to be made but I really don't know why we have to spend money to study the Elizabeth River now if, by the time the study is completed, the data is obsolete. I know you are familiar with this problem.

SENATOR DUNN: Yes, I am. You know, studies of the Elizabeth River are going to be on-going as long as you have changes in your scheduling of storms.

As you mentioned before, we have had two 75-year storms in one year. Now, that is a fairly unusual thing, but the unusual has been caused by such things as an allowance of-- And I am only using Kean College as an isolated case. Kean College was allowed to blacktop. That is one instance where man has added to the natural phenomenon of flooding.

Are you aware of the fact that even if this bill is enacted into law and we have an authority, that the authority, despite the fact that it would be autonomous

in character, would still be subservient to the Army Corps of Engineers and also to the Department of Environmental Protection--

MR. MOONEY: And it should be.

SENATOR DUNN: --and, perhaps, even to the Department of Transportation? The only advantage to any authority is that it raises its own monies without taxing the public for it, much as a parking authority would do or a housing authority.

Quite frankly, one of the reasons why I have joined in co-sponsoring this bill is to show my constituents, including your group, that I want to be part of anything and everything that is going to eventually lead to an alleviation of a very serious problem. But now I am against this thing because it is so loaded with technical falws.

Incidentally, Senator Menza did not compose this. We have a service that authors all of these things for us.

MR. MOONEY: I know that.

SENATOR DUNN: Now, it is up to us to find fault with it. For example, in this bill - and I didn't realize it myself until today - even if a Hillside, Union and Elizabeth - and a couple of other towns - formed an authority and then it was found out that Hillside had to come up with, say, \$200 thousand in order to make the project effective, they could pull out anytime they wanted to.

So, it is full of flaws but to, again, repeat what Senator Greenberg said before, out of these meetings will at least come some bit of legislation. It might be Mrs. Wilson's bill. It might be an amended Menza bill, which I would then, again, be willing to co-sponsor. So, we are getting started.

I can assure you again, now, as a Mayor more than as a State Senator, that things are being done with the Elizabeth River Flood Control Project. You have heard me say this before. Unfortunately, when you live in the area,

you want things to happen overnight. No way are they going to happen overnight. But I am satisfied with what the Army Corps of Engineers is doing now.

MR. MOONEY: Well, see, the Corps of Engineers really has no direct jurisdiction on our problem. They are not navigable waters. They can probably, by definition, intrude themselves but, literally, they have kind of washed their hands of the section in through Irvington, in between Union and ourselves.

Again, one of my misgivings--

SENATOR DUNN: But if the authority were created and if the authority came up with a project that did not receive the support of the Army Corps of Engineers, the project would not be funded.

You were talking before about investing money. I don't know who, in the wildest of imagination, would ever invest money in a flood control project, unless you had the faith and credit, as you suggested, of the State behind it - or the faith and the credit of a city that is in good financial condition, pledging itself behind the bond issue.

I could see investing money in a parking authority, for example, or a housing authority before I could see investing in a flood control, because you don't have any product. You are not selling anything. If you even go with a sewerage authority, you at least have water that is going to be cleaned up and you would pay for whatever you want cleaned up.

So, I think what I am saying is, the Legislature is groping for something and this is going to be the start of coming up with something that will be helpful, I think.

MR. POWELL: I'd like to make a comment.

SENATOR DUNN: Yes, sir.

MR. POWELL: I am a little familiar with real

estate and now that this new law is passed, if you are in a flood plain area you have to declare it. Down on the very lowest level, where you buy and sell, this is development stagnation. It is extremely difficult to buy or to sell a house. You can't get rid of a house if you are in a flood plain area, which means that you are at zero growth.

SENATOR DUNN: Especially if you write it out in the contract.

MR. POWELL: Which means that, over a long period of time, without any growth, you cannot increase your taxes. You can, to a certain degree, but over the long haul - maybe in 10 or 15 years - in a small community, such as ours, you are going to become a blighted area, which means that the State is going to have to put a tremendous input of dollars and cents in there at some later time, where we can be saved now. I am sure this is happening throughout small communities in the State, that are just on the verge of development now.

I think we are unique in that, as a small community, we can show the rest of the State and the Legislature that ours is almost like a pilot project. We are asking for help now in ways and forms that, if you don't help us now or if nothing is done, you are going to come back to us later on and one way or another you are going to have to give us feedback.

This is beginning to happen now in places like Dunellen and Scotch Plains - all of these areas. They had growth there but it is just a matter of time and they, themselves, are going to go stagnant. This is what we are trying to prevent.

SENATOR GREENBERG: Thank you very much, Mr. Powell, for appearing and giving us your views.

There being no further witnesses present, this hearing will stand adjourned, subject to the record being

kept open for an additional period of two weeks for receipt of any additional comments which may be submitted.

I will now declare this hearing adjourned for that purpose.

(Hearing Concluded)



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April 2, 1975

New Jersey Senate Committee on  
County and Municipal Government  
State House  
Trenton, New Jersey 08625

Gentlemen:

In accordance with an invitation from Norman Miller, Research Assistant, New Jersey Legislative Services Agency, on your behalf, I respectfully offer the following comments relative to Senate Bill No. 765, designated the "Regional Flood Control Authorities Law."

It has long been accepted that the complex, inter-municipal and inter-county nature of water resources management, like many other aspects of environmental planning, is best handled on a regional basis. The New Jersey Department of Environmental Protection, the most logical existing agency for regional water resources management, has not been able to function effectively in this respect due to limited budget and staff. Furthermore, there are no state funding programs for flood control projects.

In view of this, I strongly feel that regional flood control authorities offer the most promising agency solution to flooding and the most logical vehicle for regional flood control. However, for reasons which will be explained in detail below, I feel that S-765 does not provide for truly regional flood control authorities and would not be effective in dealing with the problems of flooding. For these and for the other reasons cited below, I strongly oppose passage of this bill. Following are my detailed comments:

1. The most serious deficiency of this bill is the fact that the area of jurisdiction of a flood control authority would conform to the political boundaries of those municipalities or counties comprising the authority, not drainage basin limits. The most logical regional control area for surface water runoff is the watershed, or drainage basin, which has very definite natural geographic limits. Political boundaries are merely imaginary lines which surface water flows across both overland and in streams. In passing from municipality to municipality and county to county, the water holds no respect for such boundaries. Therefore, it is my opinion that any flood control authority, to be truly regional, must have as its area of jurisdiction the drainage basin, or watershed.

2. The bill would establish enabling legislation with no requirement for mandatory membership. In view of the historic lack of cooperation amongst municipalities in New Jersey, I feel that few municipalities would voluntarily utilize such a law to form a regional flood control authority. Municipalities with no real flooding problems, but which, through their surface runoff, contribute to the flooding problems of downstream municipalities, would not be required to join in a flood control authority and pay their fair share for the control of the problems that they help create. In view of this, I feel that a regional flood control authorities law should provide for mandatory membership of all those municipalities and counties in a given watershed or drainage basin.
3. At the opposite extreme from the comment made in Item 2 above, the bill does not limit the total number of authorities which can be established. Section 4.b. provides for any individual municipality to establish a flood control authority. Thus, this could theoretically result in the establishment of as many flood control authorities as there are municipalities in the state, creating a whole new level of bureaucracy at the local level with even greater problems of coordination of administration. The major impediment to regional flood control in New Jersey has been the fragmentation of government into the political subdivisions of the municipalities. The bill proposed here would do little to improve upon that situation. Again, the most logical regional flood control authority would be one based on the watershed or drainage basin and requiring mandatory membership for those municipalities and counties with areas in such watershed or drainage basin.
4. There is no provision in the bill for the development and administration of a regional master flood control plan, which should be one of the most important functions of such an authority.
5. There is no provision in the bill for coordination of authority activities with existing agencies of local, county, state, and federal government. This could lead to a duplication of efforts on the part of the authority, since many of the aforementioned agencies have done extensive work in flood control planning and implementation and have a wealth of information available. For example, there is no provision for coordination of authority activities with the flood control activities of the New Jersey Department of Environmental Protection; particularly, the very important flood plain management program. Also, there is no provision for coordination with U. S. Army Corps of Engineers projects, which are being planned and constructed in many areas of the state.
6. While the bill provides for a single county, a single municipality, two or more counties, or two or more municipalities, to form a flood control authority, there is no provision for counties and municipalities to join together to form a flood control authority.

7. The "flood control system" defined in Section 3.h. and "flood control," defined in Section 3.m., describe only structural solutions for flood control. Flood control can also be achieved, and future flooding prevented, through non-structural measures, such as storm water runoff regulations, land use control in flood plains, flood proofing of individual structures, relocation of structures out of flood plain areas, and acquisition and preservation of natural flood plain lands. A regional flood control authority should address itself to such non-structural measures.
8. Section 2.a. provides for control "of all or part of waters in or bordering the state diverted into a flood control system operated by a flood control authority." This emphasizes the need for a flood control authority based on watershed limits, since, if the authority were as small as one individual municipality, it would have to deal with all the water running off the upstream areas, which is exactly the same situation that exists today.
9. Section 2.b. provides for "service charges to occupants or owners of property for direct or indirect connection with and the use or services of such works, ..." A definition of "direct or indirect connection" should be provided here, because, relative to surface water runoff, all property connects, whether by overland flow or by conduits, to the rivers, streams, storm sewer systems, or any other drainage facilities serving a given area. As presently stated, it would be almost impossible to equitably assess and administer service charges to property owners.
10. Section 3.e. states that "flood control authority" shall be interchangeable with the term "joint flood control commission" pursuant to PL 1971, Chapter 316. This appears to be legally incorrect, since a joint flood control commission established pursuant to PL 1971, Chapter 316, is a completely different entity from a "flood control authority" which would be established pursuant to the bill under construction.
11. Section 3.i. provides for "reimbursements to the flood control authority or any county, municipality, or other person, of any monies therefore expended for the purposes of the Flood Control Authority, or to any county or municipality of any monies therefore expended for or in connection with flood control facilities." It should be specifically stated here that there will be no reimbursement of funds used by any county, municipality, or any other persons, which have been obtained from outside sources, such as federal revenue sharing.
12. Section 4.a. provides for any county to establish a flood control authority. Such an authority would be meaningless unless it had jurisdiction over all the municipalities in the county. Since it is not so stated in the bill, it is unclear as to what powers such a flood control authority would have.



13. While the bill provides specific procedures for appointing authority members, there is no description or requirement of qualifications for such authority members. I feel that authority members should have background and training specifically related to the water resources area.
14. Section 4.c. which provides for the establishment of flood control authorities consisting of any two or more municipalities or any two or more counties, contains a description of how the flood control authority members are to be appointed. The procedure and the total number of members for a given authority are quite vague. For example, it is stated "in the case of municipalities or counties which by ordinance or resolution are entitled to appoint only one member of the authority, the total number of members, if five or more, shall be divided into five classes as nearly equal as possible, except that if there are less than five members, each member shall constitute a class." There is no explanation of which municipalities or counties, are so "entitled" to appoint only one member of the authority. Furthermore, it is unclear as to what "classes" mean. It appears that there is no fixed number of authority members required. Similarly, on line 90 of the same section, it is stated that "in municipalities or counties entitled to appoint three members, ..." Again, it is not clear as to what "entitled" means. It would seem to be far more logical to establish the number of authority members on the basis of the proportion of the total population that each municipality or county contains.
15. Section 4.f. allows for the establishment of separate municipal flood control authorities within counties which also have flood control authorities. Again, this defeats the purpose of regional flood control, in that the municipalities and counties might be in the same watershed.
16. Section 4.g. explains that municipalities in a given county do not have to belong to a flood control authority established by the county. With such voluntary membership, the county authority would be meaningless and powerless if none of the municipalities in the county chose to join the authority.
17. Section 4.i. provides for the appointment of one additional member of the flood control authority for each county or municipality which may enter into a contract with a flood control authority. It is not clear in this section if it is intended for such other counties or municipalities to become members of the flood control authority. Therefore, this should be established. If the other county or municipality is to become a member of the authority, then the appointment of only one additional member for each county or municipality would provide for unequal representation on the authority for such other county or municipality.

18. Section 6.a. states that "the purposes of every flood control authority shall be the control of waters in or bordering the state ... safety," and section 6.c. gives a flood control authority the power to regulate any and all bodies of water in its district. It appears from these sections that a flood control authority would usurp federal and state laws relating to the control of surface waters. If such is the intention, the legal ramifications of such a proposal should be thoroughly explored. Otherwise, there should be provision in the bill for conformance of authority activities with existing state and federal law.
19. Sections 7.e. and 22. give a flood control authority power to acquire land by purchase, gift, condemnation, or otherwise. In the case of land which is owned and operated by a County Park Commission or Park Agency, such acquisition could be in conflict with the Open Space and Recreation Plan of the agency. In view of this, it is recommended that a flood control authority be empowered to acquire only easements across such land and leave the actual ownership in the hands of the park agency, which would be better equipped to maintain and operate it.
20. Section 10.a. provides for a flood control authority to "charge and collect service charges to defray expenses of the Authority in accordance with the provisions of Section 2 of Public Laws, 1971, Chapter 316 (c. 40:14-17)." That law contains no specific method of apportioning and collecting such service charges. It merely provides for members of a flood control commission to determine how the expenses of the flood control commission will be apportioned among the members, based on any factors which they deem advisable. Since a flood control authority would require service charges large enough to cover bond payments, operation and maintenance of flood control systems, and all of the other expenses of the authority, a specific method of apportionment and collection of such service charges should be contained within the bill.
21. Section 13.b. contains a serious deficiency which greatly weakens the bill. It is stated that "Upon receipt of such certified copy of the bond resolution, each local unit may appropriate the share of the cost project allocated to it ... appropriation." The word "may" means that a local unit is not required to appropriate its share of the cost of any given project. Thus, even if a municipality or county is a member of a flood control authority, it is not required to participate in the cost of projects, which defeats one of the most important purposes of a regional flood control authority - sharing the cost of flood control based on an equitable assessment formula.
22. Section 22. gives a flood control authority the power to acquire land outside its jurisdiction by purchase, gift, grant, devise, or condemnation. It is questionable whether a flood control authority could legally take lands outside its area of jurisdiction. Therefore, I recommend that the legal ramifications of this section be fully explored.

23. Section 22., page 27, provides for a flood control authority to pay for the cost of relocation or removal of public utilities. Since public utilities normally absorb the cost of such relocations or removals, transfer of such cost to the flood control authority would place an added burden of cost on the taxpayers of those municipalities or counties which constitute the flood control authority. In view of this, I recommend that this clause be deleted and public utilities be required to continue to relocate their facilities at their own expense.
24. Section 25. provides for payment to the flood control authority by municipalities and counties outside of the district of the flood control authority pursuant to contracts between a flood control authority and such municipalities and counties. However, there is no specific formula on which such payments would be based. It is recommended that such a specific formula be included herein.
25. Section 36, states that "a flood control authority shall not be subject to regulation as to its service charges or as to any other matter whatsoever by any office or board, agency, commission, or other office of the state." Section 37., immediately following, states that "nothing herein contained shall in anyway effect or limit the jurisdictional rights of the Department of Environmental Protection ..." On the one hand, section 36. exempts the flood control authority from any regulation by the state while, on the other hand, section 37. subjects the authority to regulation by the Department of Environmental Protection. Thus, it is confusing as to what the legal intent of these two sections is and, therefore, a clarification is required.

I sincerely hope that the above comments will help you in evaluating S765. As I mentioned previously, I strongly endorse the concept of regional flood control authorities, but I strongly oppose the concept of flood control authorities advanced in this bill. I feel that the only true regional flood control authority is one which has as its area of jurisdiction, the entire watershed or drainage basin of a given river or stream, and mandatory membership by all of the municipalities and counties with area in such drainage basin or watershed.

Current Assembly Bills 2373 and 2387, which were endorsed by the Union County Planning Board at its regular meeting on March 12, 1975, would establish such regional flood control authorities for the Rahway River Drainage Basin and the Green Brook Drainage Basin, respectively. These bills are identical, except for the drainage basins involved, and, while special legislation for the areas involved, were prepared in cooperation with the Governor's Office and could serve as models for flood control authorities for other major drainage basins in the state.

Accordingly, I strongly support A2373 and A2387 as the best current approaches to establishment of regional flood control authorities and recommend that all other flood control authority bills be dropped from consideration so that activity may be concentrated on gaining passage of the most important and effective legislation in this area.

I sincerely thank you for extending me the opportunity to testify on this bill, and would be pleased to meet with you at any time to discuss this or any other bill, or any other matter related to flood control.

Very truly yours,

UNION COUNTY PLANNING BOARD

*Kenneth B. Marsh*

Kenneth B. Marsh, P. E.  
Principal Hydraulic Engineer

KBM/nmt

cc: Mr. Gilbert E. Pittenger  
Union County Planning Board Members  
Senator Alexander J. Menza  
Senator Thomas G. Dunn  
Green Brook Flood Control Commission  
Morses Creek Flood Control Commission  
Assemblyman Joseph Garubbo  
Assemblywoman Betty Wilson

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# PASSAIC RIVER COALITION

25 HOLMESBROOK ROAD, BASKING RIDGE, N. J. 07920 • PHONE (201) 766-3416

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## U.S. FLOOD INSURANCE PROGRAM - AS OF JANUARY 1, 1975

Congress enacted the Flood Insurance Act in 1968 to protect property owners who until then were unable to get flood coverage through private insurance companies. The program made flood insurance available to individuals at rates considered affordable. In return for the Federal subsidy, State and local governments are required to adopt certain minimum flood plain management measures to reduce or avoid future flood damage within their flood-prone areas.

Since the Flood Insurance Program was authorized in 1968, various items have been changed, which we feel should be brought to your attention.

Presently, the limits of subsidized coverage have been at least doubled and, in some cases, tripled. Rates, however, have been reduced considerably. A homeowner, for example, may now buy \$20,000 worth of flood insurance for as little as \$50 a year.

Property owners already protected under the original program can greatly increase their coverage at a low cost. In a community where the Department of Housing and Urban Development (HUD) has completed a rate study, a property owner can further increase his protection by paying the actuarial (non-subsidized) premium rates for the additional amounts of coverage.

In December, 1973, Congress enacted legislation expanding the available limits of flood insurance coverage and imposing two new requirements on property owners and communities.

1. Property owners in communities where flood insurance is being sold must purchase flood insurance to be eligible for any new or additional Federal or federally-related financial assistance for any buildings located in areas identified by HUD as having special flood hazards.
2. All identified flood-prone communities must enter the program by July 1, 1975, or one year from the date of identification, whichever is later.

If a property owner fails to buy the required insurance or a community fails to meet the deadline, Federal and federally-related financial assistance for buildings in the flood plain will be unavailable to any community or property owner that does not comply with the Act.

This means that all forms of loans and grants, including mortgage loans and disaster assistance loans, from either a Federal agency, such as a Federal Housing Administration, or Veterans Administration or the Small Business Administration, or banks or federally regulated savings and loan institutions would not be available for any

financial assistance even if it had nothing to do with flood control. In other words, the Federal Government will not add financial assistance or backing for any "improvement" in a flood area unless it is already insured! This is a very important aspect of the new law to understand.

A community becomes eligible for the Flood Insurance Program by submitting a completed application to the Federal Insurance Administration, HUD Building, Washington, D.C., 20410; application forms may be obtained from the same address.

Any property owner in a community that has had its application approved by HUD is eligible for flood insurance. A policy may be obtained from any licensed property and casualty insurance agent or broker.

All types of buildings and their contents are eligible for coverage. Losses covered include: (1) a general and temporary flooding condition of normally dry land areas or (2) erosion resulting from abnormally high water levels in conjunction with a severe storm, or (3) flood-related mudslides involving a mudflow.

The following table shows the limits of subsidized coverage and the applicable premium rates:

<u>Type of Structure</u>	Coverage Limits and Subsidized Rates per \$100 of Insurance			
	<u>Structure Coverage</u>	<u>Structure Rates</u>	<u>Contents Coverage (per unit)</u>	<u>Contents Rate</u>
Single family residential	\$35,000	\$0.25	\$10,000	\$0.35
All other residential	\$100,000	\$0.25	\$10,000	\$0.35
All nonresidential*	\$100,000	\$0.40	\$100,000	\$0.75

\*Includes hotels and motels with normal occupancy of less than six months.

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**F**looding is becoming an increasingly serious problem in New Jersey.

As the state has expanded its urbanization and paved over more and more of its land surface, rainwater has been robbed of a place to settle. Concrete sends it scurrying on, spilling into waterways and swelling them far beyond their normal bounds. Flooding occurs five times as often as it did 10 years ago in some parts of the state.

Mounting flood damage serves to underscore a continuing tragedy to which humanity has been prone throughout

damage occurred in Troy Meadows or Great Piece Meadows, both open space areas long partially protected by conservation groups and the state.

Little damage was done in areas designed to make appropriate use of flood plains in normal times. Damage was extensive only in places where man had attempted to go nature one better . . . where someone had thought "a little fill here and there, and I can put my house in this damp place right next to the river."

Damage occurred in places where an

sorbed by the earth below and help to replenish underground formations that carry water to feed the wells, which in turn supply local homes and water systems and also supply brooks, streams and rivers on a continual basis.

A typical stream in our grandparents' day stayed in its channel most of the time. Occasionally it rose up into what is called a "floodway," the area immediately adjacent to the stream. Very rarely, it climbed out of the floodway and flowed across surrounding flatlands, or the "flood plain." A flood plain, or "flood hazard

# *Flooding Is Only Natural*

*It's up to us to learn how to live with it*

by David F. Moore

most of its history—financial loss, suffering and even death resulting from an apparent inability, or unwillingness, to co-exist with nature's pattern of occasional overflowing of streams and rivers.

Modern man seems intent on trying to overcome nature. Thus, history is full of floods which have been recorded as disasters but might better be recognized as penalties for ignoring the realities of life.

Think back to the last time we had a lot of rain—not one of those rains people say are good for the farmers, but one that really flooded basements and caused severe damage.

Chances are—in fact, it's a certainty—that no damage was done in the Great Swamp of the Passaic valley. No loss was suffered in the Wharton tract in the Pine Barrens, where the river's edges are protected by state forest ownership. No

engineer had calculated that "the record flood here is X cubic feet per second, so we'll build a bridge to handle X plus Y." But when X plus Y plus a few more inches of rain fell over two straight days, it became apparent that technology doesn't solve everything—at least not until we learn to change the laws of physics!

## **Why Build Where It Will Flood?**

They say experience runs a hard school, but it's usually the only way we learn things. We should have learned by now that nobody, including the state or federal Department of Transportation, should build in flood-prone areas. Nobody should fill and build on low-lying marshes which act to cushion floodwater crests naturally, holding water and releasing it gradually. Nobody should pipe storm drainage water into brooks without first letting it collect in retention ponds.

Grass, weeds, trees and matted leaves provide an almost infinite number of tiny openings into which a raindrop can soak. The longer the raindrop stays in such a place, the better it can be ab-

area," is usually defined as the level area adjoining the channel of a natural stream which has been flooded at some time in the past or might reasonably be expected to flood in the future.

Because floods affect soils, soil types are an acceptable method of defining flood plains. Topography is also used for this purpose.

One point is crucial as urbanization increases. When an acre is stripped of woodland, water can run off faster, since tree roots and other vegetation are no longer there to help hold it back. When the acre is surfaced by pavement and rooftops, even more water will run off faster. Pavement soaks up no water at all; storm drains speed it to a place where it can pile up and add to the problem.

Because New Jersey is undergoing rapid development, rural acres along upper portions of streams are experiencing a drastic change of their traditional patterns. Low flows now dwindle and choke on silt and debris washed down in storms, and high flows are higher and more numerous. All this adds up to flooding. The greater the development, the bigger the floods will become.

As suburbia spreads across hill and valley, it becomes easier for water to seek

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David F. Moore has been executive director of NJCF since 1969. Formerly chief of the Natural Areas Section in the state Bureau of Parks from 1964-69, he has served as chairman of the state Natural Resource Council since 1971 and secretary-treasurer of the state Natural Lands Trust since 1969.



its own level. More and more rainfall is taking shortcuts through split-level living rooms as it rushes down to the sea. The amount of rainfall has not increased; but because so much land is paved or roofed, it has less chance to soak into the ground as nature intended.

## State Steps In To Lend a Hand

The New Jersey Department of Environmental Protection has now been empowered to keep construction from occurring on critical flood-prone sites. The 1972 Flood Plain Control Act provided for that department to promulgate regulations for the building of houses, commercial and industrial structures and landfills in areas which are likely to be flooded.

The law has yet to be extensively implemented because thus far the only delineation method found to be completely acceptable is a detailed land survey. This is an extensive and time-consuming process. Only parts of the Raritan, Delaware and Passaic basins had been delineated at this writing.

The new law authorizes the DEP to devise and carry out programs to determine exactly where flood hazard areas exist and then to formulate regulations limiting those areas to uses which would

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*"Those who speculate in land that is flood-prone, because it is cheap, seem to be the very ones who complain the most about restrictive zoning."*

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not result in heavy damage in case of flooding and which would not cause flooding to be worse than usual. (Landfill or diking can impound flood waters and make them rise even higher in a given locality.)

Once the delineation and land-use regulations are established, each municipality will have a year within which to pass an ordinance adopting them. In any municipality which fails to do so in that time, the state will establish its own regulations.

The state has the direct authority to regulate the floodway after delineation. In many cases, it has had such authority under the Stream Encroachment Act, a

law unfortunately not enforced properly even at the present time.

There is a concern about land-use control when it involves zoning land for disuse. Such zoning is sometimes construed as a "taking without just compensation," or depriving individuals of their chosen uses for their own land without giving them anything in return. In ordaining that certain uses shall not occur in flood hazard areas, the state has been accused of failing to justify such regulations when engineering solutions could theoretically be employed to avoid flooding instead.

## From Private to Public Interest

The days when a man could do what he wanted with his land are far behind us, as more people come into closer contact with each other and every land-use action acquires an increased impact. Today we find that zoning restrictions prevent all but a few very specific uses for our land. These restrictions have been imposed in the interest of health, safety and welfare, known collectively as "the public good."

According to traditional land-use law, a so-called taking occurs only when a public agency physically occupies land—not when its use is reasonably curtailed in the public interest. No compensation by public agencies should be made when such land-use regulations have been put into effect for health and safety reasons. The rights of individuals are more than adequately protected in regulated flood plains and wetlands by permitting them only non-damaging zoned uses.

Those who speculate in land that is flood-prone, because it is cheap, seem to be the very ones who complain the most about restrictive zoning. But those who buy land from them only to discover they are living in a part-time river are the ones who require huge outlays for flood relief, flood insurance and flood protection devices which are effective only part of the time.

There is no question but that flood plain zoning or public ownership is less expensive and saves far more lives than engineering solutions to flood problems. Construction in flood plains is much to the detriment of the people of this state, who are now forced to consider multimillion-dollar engineering projects to prevent death and economic damage to those who have knowingly or unwittingly chosen to live in a part-time river. The cost-benefit ratio of firmly regulating de-

velopment to prevent improper land use is always favorable in the long run.

Everyone cannot be protected from the kind of floods which occur only every 200 years or so. But flooding does tend to increase unless upper watershed controls on runoff rates are put into effect. Because flood crests will go higher as development increases, any regulations to control construction in flood plains will have to protect more land accordingly to insure against those higher flows.

Local flooding is proof that the land beneath us will stand for only a certain amount of bulldozing, paving and roofing before it retaliates. Few towns have dealt realistically with the threats of flooding. One reason is that the problem either has not existed or until lately has been only slight in many areas.

## Solutions Tried Found Wanting

The initial attempts at solving flooding problems have been engineering solutions. After every flood, the dam experts bring in their blueprints and say, "We told you so. What you need are dikes, levees, dams and drains designed for the new record flood just set. Then the people of Rivertown can use the land that used to flood. Trust us, live under the dike, build on the old flood plain."

All this plan costs is the price of construction of these supposed flood-prevention measures and the rebuilding of bridges, highways and roads. All must be maintained for their entire life span.

This is not to say that dikes and dams do not have some utility in some cases, but great care and an extensive and continuous examination of alternatives are certainly called for.

The U. S. Army Corps of Engineers has been selling its plans at enormous cost, with the repeated assurances that they will subdue flood damage along whatever waterways they are situated on. A big catch is that today's plan for today's flood will be pitifully inadequate in the face of the floods that will inevitably arise in five, 10 or 20 years. The very existence of these plans leads people to seek solutions in the wrong places.

Another popular engineering technique is stream channelization, which also goes by the name of dredging and desnagging. County mosquito control commissions are fond of doing it, and the U. S. Soil Conservation Service has engaged in it for years. The former Department of Conservation and Economic Development (the forerunner of the present



***"Current engineering methods of flood control are obviously inadequate. Continuing to build in flood plains is merely playing a wet kind of Russian roulette."***

DEP) encouraged it through its Division of Water Policy and Supply. Present policy, since the department was broken up and its personnel redistributed in 1970, is somewhat unclear.

Simply stated, channelization is the "clearing" of a stream by dragline, bulldozer and dredge. Normally the result is a channel, trapezoidal in cross section, which straightens the stream from point A to point B and leaves no trees on or near the banks. Perhaps "sterilization" is a better term than clearing.

Usually stream sterilization is done in the name of flood control, wetland drainage for mosquito control, land "reclamation" or pollution cleanup. But in reality it normally not only fails to result in meeting these worthy goals on any but the shortest of terms, but produces a number of most undesirable side effects:

- Dredging increases siltation by sucking up mud, spewing it out on the banks and allowing finer particles to flow back into the stream. Bulldozing and draglining add to this problem. Siltation causes downstream life to choke and covers bottom vegetation.

- Drainage of wetlands, often adjacent to streams, reduces long-term water storage, causing greater variation in stream flow (especially reducing dry-weather flows) and adding to pollution problems. Wildlife habitat is diminished as well.

- Many times river debris is placed on the bank to create a dike and the dredged material dumped behind the dike. If one considers the flood plain as part of the stream during a flood, the widening and deepening of the center channel is of no help whatever in reducing the flooding. At best, such channelization serves only to keep small rises in water flow in the channel. This is true even if the debris and dredge material are taken out of the stream and flood plain altogether, because the amount removed equals the increased amount of flood storage, usually a small amount indeed. Remember Archimedes' bathtub?

- Loss of stream bank trees, aside from the esthetic damage, promotes stream

bank erosion and hastens meandering—the constant cutting and filling process that results in winding streams. Thus the straightening of the channel is immediately at odds with the inherent tendency of a stream of water in motion, making lots of work for contractors. The straightening process must be done again and again, once begun.

- Straightening of a stream and clearing of its channel of all obstructions makes the water move faster—contrary

- Secondary effects are not always observed, but many occur. Dredging material and soil placed along the banks changes the grade of the land. Such changes can suffocate trees growing along the banks within one to five years. Removing all the obstructions results in fewer waterfalls and less mixing of the water flow, which means less oxygen in the water. Oxygen is needed to reduce organic pollutants to harmless material, and to sustain animal life. At the same



Photo courtesy of Courier-News

to the design of nature—and back up faster when it reaches some sort of blockage. Thus the whole process makes the flooding problem worse for someone downstream.

- Because of the publicity attending the job, the public is lulled into thinking that the flood plain is safe to occupy with new houses, until the flood exceeding the new channel's water capacity comes along. Then the cry goes up. People demand more dams and levees to keep the water from rising to the new level again. And the public expense goes up again, continuing what has become a vicious circle . . . more dams, higher floods.

Many channelization projects are quite shortlived, from five or even less to 25 years. This is because normal stream action moves sediments about in the new channel to fit the normal stream flow—something like an old dog fussing with his blanket until it suits him just right. In the case of the stream, the new bed looks much like the old one when all is adjusted. However, natural life will not return to the stream for many years—as many as 40.

time all shade is removed, thus making the water warmer. Since warm water holds less oxygen and promotes the growth of microscopic stream life, the problem is aggravated still further.

## **We Should Have Learned by Now**

To summarize current engineering methods of flood control, they are obviously inadequate. Dams and dikes in themselves do not prevent recurring floods. The act of channelizing streams, with the exception of those already devoid of any life on location or downstream, may be classified as premeditated stream murder.

Continuing to build in flood plains is merely playing a wet kind of Russian roulette. If we depend upon engineering "solutions" to the flooding problem, we shall be spending vastly greater amounts for constantly dwindling protection, which means higher taxes with a lower share of them going to support the many other needs of our society.

Real estate and building interests in New Jersey do not realize what tragedy they are compounding when they exert pressures for increasing development as well as the construction of structural flood control measures.

Flood plain zoning can help a great deal to solve the problem. It presents an opportunity to let home rule show its stuff. By and large, however, municipalities have not taken action.

In the long run, public ownership—either in toto or by easement of flood-prone lands—is the least expensive and most effective flood control measure.

Putting it all together, open space must be preserved in flood plains. After all, a picnic can be moved out of the way of a flood but not a supermarket or a garden apartment complex.

Some structural protection may be necessary in the case of existing massive development, such as factories and high-density housing. But even there the situation should be looked upon as temporary. After all, most of those kinds of development have been around since the Industrial Revolution, and it's time to relocate rather than rebuild.

## What Belongs In A Flood Plain?

Those who have been forced to stay and make repairs to a house in a flood-prone area can request relief from various public agencies. But in return for that relief, they should be required to give a first option for sale to the assisting agency. Then the people of the State of New Jersey wouldn't have to subsidize flood victims in these locations time after time.

Lots of uses belong or can be comfortable in flood plains, so long as they're in open space. Such uses include agriculture, hunting, fishing, camping, nature study, hiking and just plain relaxation. It includes high-density recreational facilities such as playgrounds and ball fields in urban areas. It may include golf courses and buffer areas between different types of intensive land use—even airstrips and parking lots may be accommodated under some conditions.

Simply put structures which do not impede the flow of water, do not take up space that floodwater should occupy and cannot be damaged by water may be placed in flood plains.

If the northeastern megalopolis is going to become as crowded as the experts predict, its map a century from now should feature a network of fertile lands beside the streams which flow through the whole territory. And they should be colored green.

## Setting a Policy For the Future

No program can offer total protection against any and all conditions which may be part of the future scene. But thoughtful consideration of the following suggestions for local, county or state units of government can mean tremendous savings for New Jerseyans:

- Acquire as much flood plain as possible. This can be done by bond issues, by annual appropriations of governmental agencies and by obtaining easements and first options on properties located in the flood plain.

- Increase groundwater recharge as a source of water supply by using porous pavement in place of the usual impermeable surfacing to allow runoff of surface water to occur. This is particularly important in areas in which groundwater tables have dropped markedly and where there is adequate space in underground sand, gravel and rock deposits.

- Stabilize stream flow by extending existing impoundments and constructing a series of small upper watershed "dry detention" impoundments. Use drywells in subdivisions for roof and driveway runoff. Curbing and storm sewerage piping should be limited as much as possible. Trees, shrubs and grasses should cover the land at all times; shade tree protection and planting programs can help accomplish this aim.

- Institute siltation control ordinances or control regulations at the local level. Models for local ordinances are available from the state Department of Environmental Protection, the Department of Agriculture or individual soil conservation districts.

- Alter subdivision regulations to provide that no housing development can locate on the flood plain, no industry or commercial establishment can build parking lots without a provision for peak runoff storage and no storm sewers can be built without stabilization ponds and siltation traps. No developments should be located on slopes with a higher than 12 percent grade.

- Adopt a policy stipulating that flood relief payments will be made to owners of dwellings or other structures in flood plains only in return for the transfer of a first option to an appropriate public agency to buy when the owner is ready to sell his property. Bond issue funds should be held available for this purpose, or discountable bonds should be utilized by public agencies at the local and state level to provide the funds. After all, there are always plenty of people who want to get out of the flood plain right after a major flood—but then they can't sell their property!

- Recognize that there are limits to natural resources and population levels, and that these limits vary in different

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*"We do not yet appear to have reached the point where hundreds of separate municipalities will work in concert. . . . We must work toward attaining that point."*

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parts of the state from watershed to watershed. Land-use policy must take these limits into account.

- Establish mandatory public control over inland wetlands and stream borders with provisions similar to those of the 1973 Coastal Protection Act.

Existing governmental structures may well be able to cope with the resource problems we face. However, the solutions which have been proposed here require complete cooperation by all public agencies within a given watershed. We do not yet appear to have reached the point where hundreds of separate municipalities will work in concert and provide equal enforcement of all the needed land-use regulatory changes needed.

Nevertheless, we must work toward attaining that point. In a day when we are faced with ever-soaring costs for public services, as well as for the bare necessities of life, we can no longer afford to pour money down an improperly located and nonfunctional storm drain.

The day is long past for maintaining the old engineering ethic of getting water off the land as quickly as possible. A complete change is necessary—now we have learned we must keep the water on the land as long as possible.

# STATEMENT

TO: Senate County Municipal & Government Committee  
FROM: Senator Thomas G. Dunn  
DATE: April 2, 1975  
SUBJECT: Senate Bill 765

Senate Bill No. 765 sets for itself a difficult task. Its purpose, that of establishing a general vehicle for financing flood control works, is laudable, and is breaking new ground in a necessary direction. The bill uses as a frame previously-passed legislation concerning the setup of Authorities for other services, such as water supply and sewerage. It may not recognize, however, the difference between the requirements for flood control and for other utility services. It is possible to limit an area to be served by water works or sewers to that which benefits directly, i.e., every user within a sewer service area can discharge to the sewer system. This is not possible for a flood control project. Only a very small part of the total area contributing to the flooding is actually flooded. In Elizabeth, the river flooding is restricted largely to areas along the river. Areas in the City at higher locations, and areas in Union and other upstream locations which contribute to the flooding, are not flooded. Hence, the definition of "service" rendered by a flood control Authority is different from that for a sewerage or other utility Authority.

With the above as a preface, it may be worth exploring more specific comments.

Section 2a, line 8. It is suggested that this read "in combination with other Counties or municipalities." The underlined is inserted to clarify the intent to include areas in more than one County. This is essential, since only very small rivers have drainage areas which are restricted to one County.

2a, lines 11 and 12. It is suggested that these read: "transportation and release of water at necessary times of all or part of" I have deleted the words "the replenishment in periods of drought or" and also the word other. The purpose of this deletion is to remove the concept of large-scale reservoirs which might be used either for water supply or pollution control. Such multi-purpose reservoirs are costly and could not

be undertaken as a practical matter without Federal or possibly State subsidy. These words appear extraneous to the main thrust of the proposed bill.

2b, lines 15 through 18, authorize direct service charges for direct or indirect connection with and the use or services of flood control works. This can create problems, since it might be ruled to restrict payment for flood control benefits to those now located in the flood plain, even though the flood plain represents only a very small part of the area contributing to the flood waters. Such a restriction for payment of flood control works could obviously be an unfair assessment and result in prohibitive cost to developments in or adjacent to the flood plain.

2e, lines 28 through 30. Clarification is required as to what is meant by "users of services" so that payments are not restricted to those located flooding areas.

3q, lines 85 and 86. See comments relative to paragraph 2a, lines 11 and 12.

4b, lines 27 through 50. This permits the governing body of a single municipality to set up a Flood Control Authority and essentially removes from the elected officials, the responsibility for such an Authority. There appears no merit in setting up such an independent Authority for one municipality. One valid argument against Authorities has been that, by removing appointed officials from the elective process, they become unresponsive to the desires and needs of the people being served. The advantages of an Authority, however, can outweigh this objection where services can be advantageously provided to a number of municipalities. Hence, I would suggest eliminating Paragraph 4b, since it does not provide the means of improving services over those that can be provided by the responsible elected officials.

4f, lines 146 to 152. This provides for the exclusion of a smaller existing Flood Control Authority that is located within the bounds of a proposed larger Flood Control Authority. While this appears reasonable, it could mean that the existing smaller Authority would derive direct advantage from the works to be provided by the proposed larger Authority, without bearing any costs of these works. It does point up one of the problems with this legislation, in that it does not require the Flood Control Authority to encompass the entire drainage area tributary to the reach of the stream having flooding problems. In my judgment, any successful Flood Control Authority Act should require such Authorities to be established on a drainage area basis. This could be modified by providing the basis for purchase of existing works.

4g, lines 159 and following, permit a municipality to withdraw from a Flood Control Authority by adopting a Resolution. Such a requirement is possible for a sewerage or water supply Authority where the service areas can be modified by withholding benefits from any particular area which does not want them. This is impracticable when applied to flood control which does not contemplate providing a service, but rather, control of a natural phenomenon which arises from the development and physical characteristics of all the land draining to the area in which the flooding problem exists.

6b, lines 16 through 18. These lines are quite possibly in conflict with existing channel encroachment requirements, tideland laws and other existing legislation. The construction of the works defined in 6b should not be controlled by the sole judgment of the Flood Control Authority, but rather, should be subject to approval by existing State and Federal agencies which now have the power to review such works.

6c, lines 20 through 23. These lines also give more authority to the Flood Control Authority than I would deem appropriate. For instance, in the case of a water supply reservoir, which is intended to be kept as full as possible, to assure a safe and dependable supply, the Flood Control Authority could, under these provisions, require that a full reservoir be drawn down to provide storage for flood waters. If flood waters don't come, and a dry period sets in, these reservoirs could be emptied and a serious water crisis develop.

10a. This paragraph provides for the establishment of "service charges" to defray expenses and refers to Statute C40:14-17. This Statute provides for service charges to be developed on the basis of population, land or drainage area, assessed valuation or a combination of the above methods. This type of assessment is not a service charge. A sewer service charge or water service charge depends on the amount of sewage created, or water used by the user. Similarly, service charges for telephone and power are based on the amount of product used. In flood control, a product is not used. The benefit of flood control reflects in increased value of developed land. However, the amount of peak flood runoff created is affected by the degree of development and is reflected in some degree by assessed valuation. The greater population generally means more intense development, and again, is reflected in some degree by assessed valuation. The amount of runoff is also affected by the extent of area draining to the stretch of the stream with flood control problems.

Hence, the charges to support the activities of a Flood Control Authority basically should be derived from - one, the extent - and two, the assessed valuation - of all the areas contributing to the generation

of flood waters. Hence, it would appear that, for the purposes of this legislation, there would be equity in requiring that costs for "service charges" be met by municipal payments, as defined later in the Act, and be based on area and assessed evaluation. The method of dividing the evaluation would be subject to individual study in each case. However, approximately 50% of the charges might stem from area charges, with the remaining 50%, from assessed valuations.

18i, line 40. This refers to rents, rates, fees and other charges, etc. This is inconsistent with the suggestion that payments to Authorities be made by the municipalities within the drainage area.

21, lines 3 through 11. These lines appear to indicate that all revenues would be derived from service charges only. It would appear that, if bonds are to be readily saleable and acceptable in the market, the faith credit of the State and the municipal bodies within the area to be served should be used as backing.

22. This paragraph has a number of problems. One, it permits the acquisition of real property, both within and outside the district which are deemed necessary for flood control. If the Act is changed to provide for the entire drainage area upstream of the flooding areas to be included within the Authority, there would be no objection to this requirement. However, if the Act stands as at present, and fragmentation of the drainage area is permitted in the formation of drainage districts, this provision could be damaging to upstream communities in that a Flood Control Authority could provide upstream reservoirs to the detriment of the upstream community which claims, probably quite justifiably, that it is not within the district and obtains no benefit from the reservoir.

The lines 6 and 7 give the Flood Control Authority control over public and private rights in waters within or outside the district. This could result in a serious encroachment upon water supply facilities and other water uses which are equally essential for the public use.

Three, lines 123 to 130 appear to make the rights of the Flood Control Authority superior to those of other utilities. This could be subject to question as to legality. It might be better to establish a clear definition of equal powers requiring all utilities to agree as to the best course for service. In the case of the required relocation of any existing utilities, the Flood Control Authority should be required to bear such costs.

26, lines 4 and 5 indicate recognition of the basic problem that fragmentation of drainage areas, as permitted under the bill, would require communities to pay the cost for control of floods originating outside the district.

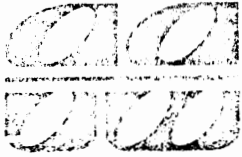
30a. This paragraph presumes that the flood control facilities must, of necessity, be adequate. However, if, for some reason, the flood control facilities, as provided, become inadequate, this paragraph could put undue and unreasonable burden on others to limit the amount of waters that can enter a given reach of a stream. As an example, if the City of Elizabeth had an Authority established which would state that the flows in the Elizabeth River can be no greater than 2,000 cfs, there would be no flooding in the Elizabeth River in the City, but it would be necessary for upstream municipalities to establish flood control facilities which would limit peak flows in the river at Elizabeth to this amount. In the case of the Elizabeth River, this is most difficult. Hence, the practical approach to flood control should require that facilities be based on getting the cost-effective solution, considering the entire drainage basin.

33. It would appear that any municipality in which a reservoir or similar ponding facility were constructed which occupies a significant amount of the land in that municipality and prevents its development for other uses, should be reimbursed for lost ratables.

I trust the above is of some help. The legislation is ambitious and does break new ground. It may be possible to remove some of the problems which appear in the Act by providing a State agency with power to develop plans for, construct, maintain and operate the facilities. This State agency should also have the power to designate the Corps of Engineers as the agency under which such facilities would be developed and to enter into any necessary financial arrangements.

The provisions of the proposed bill, which permit fragmentation of drainage areas, should be reconsidered if the resulting Flood Control Authorities are to successfully achieve their purpose. Setting up a means of funding flood control works is very much needed. Because of the cost of flood control works, the municipalities served by them can only bear a part of their costs. From a practical viewpoint, the Corps of Engineers, with the availability of Federal funds, is going to be very much a part of any significant flood control project.





American Association of University Women  
New Jersey Division

11 Berta Place  
Basking Ridge, NJ

Statement presented in behalf of the New Jersey Division of the American Association of University Women regarding Senate Bill No. 765 to be entered into the public record of hearings held April 2, 1975 before the Committee on County and Municipal Government, Trenton, N.J.

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The New Jersey Division of the American Association of University Women has long been concerned with land use and environmental protection as a State Division and as part of a national organization which shares this same concern. For many years we have studied land use problems in New Jersey and have developed Project Land Use as a means of seeking good resource use and environmental quality.

First, in commenting on this bill we urge the committee to incorporate environmental impact assessment into this legislation and suggest that PL 91-190, the National Environmental Policy Act of 1969 be reviewed for this purpose. This act declares "...a national policy which will encourage productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man..." It further "...declares that it is the continuing policy of the Federal Government, in cooperation with State and local governments and other concerned public and private organizations to use all means and measures... to create and maintain conditions under which man and nature can exist in productive harmony."

Section 102-C of this Act provides an outline for the content of environmental impact statements which make this a tool for implementing the goals and provides a model for New Jersey's consideration. Acceptance of this responsibility in every major piece of legislation involving land use in New Jersey appears to us long overdue and we recommend revision of S-765 to incorporate environmental assessment.

Second, as supporters of open space and green acres programs, we urge that a public hearing process and public notice be part of any procedure involving the taking of lands. Flood plain lands serve multiple purposes, including natural flood controls and water storage, and are part of the environmental quality and open space network of the State. Since the citizens contribute financially to flood plain, park and open space acquisitions and holding both as public and as private lands it would thwart the intent of democracy to eliminate the public hearing process.

Third, we would like to point out to this committee that the public is having great difficulty in obtaining copies of bills such as S-765 and in discovering when and where hearings on such legislation are being held. We request of the State Legislature through this Committee that copies of legislation for which public hearings are scheduled be made available at a number of at a number of locations throughout the State and that early public notice of

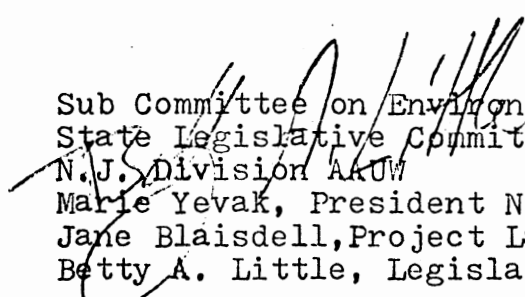


American Association of University Women, N.J. Div. Re: S-765

the time and location of such hearings be given wide publicity.

We would like to suggest that because this particular bill affects the lives of a large segment of New Jersey's population, everyone who lives in a watershed, that the record be kept open for at least two weeks so that additional commentary may be made. It is our conviction that legislation which transfers major powers to an independent authority should be well seasoned in the public arena and not be enacted in haste.

Respectfully submitted

  
Sub Committee on Environment  
State Legislative Committee  
N.J. Division AAUW  
Marie Yevak, President N.J. Div.  
Jane Blaisdell, Project Land Use Ch.  
Betty A. Little, Legislative Ch.

11 Berta Pl.,  
Basking Ridge N.J. 07920



DEPARTMENT OF THE ARMY  
NEW YORK DISTRICT, CORPS OF ENGINEERS  
26 FEDERAL PLAZA  
NEW YORK, N. Y. 10007

REPLY TO  
ATTENTION OF:

NANEN-C

27 March 1975

Mr. Norman Miller  
Legislative Research Assistant  
Legislative Service Agency  
State House  
Trenton, New Jersey 08625

75 MAR 31 9 45  
V. C. ...

Dear Mr. Miller:

This is in reply to your letters dated 12 March 1975 to Messrs. Pagano and Tosi of this office pertaining to the New Jersey State Senate Bills' concerning "regional flood control authorities law".

It is not considered appropriate for a Corps representative to testify at the Committee hearing on Senate Bill 765. However, we would like to present the following comments for your consideration:

a. It is noted that Senate Bill 765 states that "The governing body of a county which may create or join in the creation of any flood control authority pursuant to this section shall not thereafter create or join in the creation of any other flood control authority". Taking Union County as an example, over a period of time flood control authorization may be required for the Rahway, Passaic, and Elizabeth Rivers and Green Brook Basins, all of which drain through Union County.

b. The second point which this office would like to present for your consideration relates to the potential of these flood control authorities to act as a non-Federal interest in a Corps of Engineers Federal aid flood control project. To enter into a contractual agreement with this office it would be imperative that the communities in a particular basin area be individually responsible for maintenance and operation of a Corps' flood control project if the authority is dissolved. It is further considered from the Corps' point of view that these authorities must contain all municipalities within a given sub basin to be an effective agent for that particular sub basin.

I wish to thank you for the opportunity given this office to review the proposed bill. If additional information is desired, please contact Mr. Samuel P. Tosi at 212 264 9077.

Sincerely yours,

F. R. PAGANO

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Chief, Engineering Division

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SENATOR MARTIN GREENBERG  
CHAIRMAN SENATE COUNTY AND MUNICIPAL  
GOVERNMENT COMMITTEE  
ASSEMBLY CHAMBERS STATE HOUSE  
TRENTON NJ 08625

REFERRING TO SENATE BILL NUMBER 765 NORTH JERSEY COMMITTEE EMPHATICALLY  
SUPPORTS BASINWIDE FLOOD CONTROL AND WATER RESOURCE PROTECTION AS ONLY  
FEASIBLE METHOD. PROPOSALS FOR CONTROL BY LOCAL JURISDICTIONS SEEMS  
REGRESSIVE AND ARE FINANCIALLY UNREALISTIC. FUNDING BY LOCAL  
AUTHORITIES IS INADEQUATE BECAUSE EVEN MINOR PROJECTS REQUIRE FEDERAL  
HELP. PROJECTS FEDERALLY SUBSIDIZED MUST MEET FEDERAL STANDARDS AND  
DEMONSTRATE POSITIVE COST-BENEFITS RATIO AND MUST NOT INJURE OTHER  
COMMUNITIES. FINANCING RESTRICTED TO LOCALIZED AUTHORITIES COULD  
CONCEIVABLY RESULT IN MORE STUDIES WITH ACTION IF ANY POTENTIALLY  
HARMFUL TO OTHER COMMUNITIES. COMMITTEE WILL SUBMIT FURTHER EXPANDED  
TESTIMONY IN WRITING

ERNESTINE A MEYER CHAIRMAN  
NORTH JERSEY COMMITTEE FOR FLOOD CONTROL AND WATER PROTECTION  
35 CURTIS DR  
LINCOLN PARK NJ 07035

1204 EST

MGMCMDC CMD

*SJC*



# TOWNSHIP OF PASSAIC

COUNTY OF MORRIS

MILLINGTON, STIRLING, GILLETTE, MEYERSVILLE, HOMESTEAD PARK

F. J. ROSSI, TOWNSHIP CLERK/ADMINISTRATOR

1802 LONG HILL ROAD

MILLINGTON, NEW JERSEY 07946

647-0550

April 9, 1975

Mr. S. J. Caramallis, Committee Coordinator  
Senate County & Municipal Government Committee  
Room 218, State House  
Trenton, New Jersey 08625

Dear Mr. Caramallis:

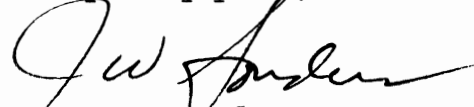
During the April 2, 1975 committee hearing on Senate Bill 765 regarding flood control authorities it was stated that additional written testimony would be taken. After attending the hearing and studying the proposed legislation, the Passaic Township Committee offers an item for consideration.

Some municipalities, like Passaic Township, have been so flood prone for so many years that serious thought is being given for independent action due to the lack of help from any other governmental level. A suggested set of proposals is included in the attached report, "Drainage Study of Stirling & Gillette Areas, Passaic Township, Morris Co., New Jersey."

We would suggest that in developing any new legislation covering flood control authorities that the committee keep in mind that individual municipalities might have to proceed with projects on their own. The legislation should not preclude this action by an individual municipality as long as the project is in accordance with County, State and Federal requirements and limitations on the use of the flood plains, etc. The approval for individual municipalities to proceed should also extend to eligibility for grants and subsidies.

If we can answer any questions, please let us know.

Very truly yours,

  
James W. Souders,  
Township Committeeman

JWS:jg  
Attachment  
cc: Osborne M. Campbell,  
Township Engineer  
Robert E. Cuddy, Chairman  
Environmental Commission

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