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1988

PUBLIC HEARING

before

SENATE ENERGY AND ENVIRONMENT COMMITTEE

SENATE BILL 1577

(Establishes the New Jersey Coastal Commission)

February 3, 1988  
Room 407  
State House Annex  
Trenton, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Senator Daniel J. Dalton, Chairman  
Senator Paul Contillo, Vice Chairman  
Senator William L. Gormley

ALSO PRESENT:

Mark T. Connelly  
Office of Legislative Services  
Aide, Senate Energy and Environment Committee

New Jersey State Library

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Hearing Recorded and Transcribed by  
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Hearing Unit  
State House Annex  
CN 068  
Trenton, New Jersey 08625



**New Jersey State Legislature**  
**SENATE ENERGY AND ENVIRONMENT COMMITTEE**  
STATE HOUSE ANNEX, CN-068  
TRENTON, NEW JERSEY 08625  
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L.J. DALTON  
rman  
CONTILLO  
Chairman  
ERINE A. COSTA  
AM L. GORMLEY  
LASKIN

January 20, 1988

NOTICE OF PUBLIC HEARING

The Senate Energy and Environment Committee will hold a public hearing on February 3, 1988, at 10:30 A.M. in Room 407, Fourth Floor, State House Annex, Trenton, New Jersey.

The subject of the public hearing will be  
S-1577 (Pallone) - Establishes the New Jersey  
Coastal Commission.

Persons wanting to testify at the public hearing should contact Mark T. Connelly at (609) 292-7676.

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel  
PRE-FILED FOR INTRODUCTION IN THE 1988 SESSION

By Senator PALLONE

1    **AN ACT** to provide for the restoration, protection, enhancement  
      and promotion of the coastal area, creating a New Jersey  
3    Coastal Commission, revising various parts of the statutory  
      law, and making an appropriation.

5  
      **BE IT ENACTED** *by the Senate and General Assembly of the*  
7    *State of New Jersey:*

      1. (New section) This act shall be known and may be cited as  
9    the "New Jersey Coastal Commission Act."

      2. (New section) The Legislature finds and declares that the  
11   beaches, dunes, riverfronts, bayfronts, and inlets along New  
      Jersey's coastline and the surrounding region are sources of  
13   beauty and recreation for hundreds of thousands of residents and  
      visitors each year, a unique environmental resource, and a vital  
15   component of the State's economy; that the waters of the  
      Atlantic ocean and the State's rivers and bays are subject to,  
17   pollution from a variety of sources; that New Jersey's dense  
      population and expanding development, as well as a variety of  
19   natural phenomena, challenge and, in some cases, threaten the  
      continued viability and integrity of the shore region and the  
21   coastal waters; that the restoration, protection, and  
      enhancement of the State's coastal area requires comprehensive  
23   planning, regulation, cooperation, and financial support; and that  
      the most effective and appropriate instrument to provide these  
25   functions is a regional commission with broad authority to  
      manage and promote the region.

27    3. (New section) As used in sections 1 through 38 of this  
      amendatory and supplementary act;

29    "Bonds" mean any bonds, notes, interim certificates,  
      debentures, or other obligations issued by the commission  
31    pursuant to this amendatory and supplementary act;

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the  
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 "Coastal area" means that area designated pursuant to  
section 4 of P.L. 1973, c. 185 (C. 13:19-4);

3 "Commission" means the New Jersey Coastal Commission  
created pursuant to section 4 of this amendatory and  
5 supplementary act;

"Cost" means the cost of all labor, materials, machinery and  
7 equipment, lands, property rights and easements, financing  
charges, interest on bonds, plans and specifications, surveys or  
9 estimates of costs and revenues, engineering and legal services,  
and all other expenses necessary or incident to all or part of a  
11 project;

"Local government unit" means a county, municipality,  
13 municipal or county sewerage or utility authority, municipal  
sewerage district, joint meeting, improvement authority, or any  
15 other political subdivision of this State authorized to undertake  
a project in the coastal area;

17 "Management plan" means the "New Jersey Coastal Area  
Management Plan" developed and adopted pursuant to the  
19 provisions of section 9 of this amendatory and supplementary  
act;

21 "Project" means any plan, work, or undertaking that the  
commission undertakes, requires to be undertaken, or authorizes  
23 to be undertaken pursuant to or consistent with the master plan  
including, but not limited to: land use, natural resource and  
25 infrastructure planning; stormwater mapping and monitoring;  
the acquisition, construction, rehabilitation, or improvement of  
27 any structures, lands, riparian property, equipment, facilities, or  
other real or personal property in the coastal area; and any  
29 other activity deemed necessary by the commission to  
effectuate the purposes of this amendatory and supplementary  
31 act, but does not include any activity for which the commission  
is responsible only for issuing a permit;

33 "Regional Advisory Council" or "Council" means the bodies  
created to advise and assist the commission pursuant to section  
35 8 of this amendatory and supplementary act.

4. (New section) a. There is established in, but not of, the  
37 Department of Environmental Protection a body corporate and  
politic, with corporate succession, to be known as the "New  
39 Jersey Coastal Commission." For the purpose of complying with



1 the provisions of Article V, Section IV, paragraph 1 of the New  
2 Jersey Constitution, the commission is allocated within the  
3 Department of Environmental Protection, but notwithstanding  
4 this allocation, the commission is independent of any supervision  
5 or control by the department or the commissioner or any officer  
6 or employee thereof. The commission is an instrumentality of  
7 the State exercising public and essential government functions  
8 of the State.

9 b. The commission shall consist of 15 members, appointed and  
10 qualified as follows:

11 (1) The Commissioners of the Departments of Environmental  
12 Protection, Treasury, and Commerce and Economic  
13 Development, or their designees, who shall serve ex officio;

14 (2) Eight public members appointed by the Governor, with the  
15 advice and consent of the Senate, who shall be residents of this  
16 State. To the extent practicable and feasible these members  
17 shall be actively connected with, or have experience in,  
18 commercial, sports, or shell fishing; a State or national  
19 conservation organization; coastal area land development or  
20 financing, or the coastal area tourism industry. No more than  
21 four of these members shall be of the same political party; and

22 (3) Four Regional Advisory Council chairpersons elected by  
23 the council of which each is a member, who shall serve ex  
24 officio.

25 A representative of the United States Army Corps of  
26 Engineers may, within the limits of the representative's  
27 responsibilities and at the request of the commission, serve as  
28 an advisor to the commission.

29 c. The eight public members appointed by the Governor  
30 pursuant to paragraph 2 of subsection b. of this section shall  
31 each serve terms of five years, except that of the members  
32 initially appointed four shall serve four year terms and four shall  
33 serve five year terms. Each public member shall remain in  
34 office for the term of appointment and until a successor is  
35 appointed and qualified. A public member is eligible for  
36 reappointment. Any vacancy in the membership occurring other  
37 than by expiration of term shall be filled in the same manner as  
38 the original appointment but for the remainder of the unexpired  
39 term only. Any public member may be removed by the Governor

1 for cause after public hearing, and may be suspended by the  
Governor pending the completion of the hearing.

3 d. The Governor shall designate one of the eight public  
members to be the chairperson of the commission. The  
5 chairperson shall serve for a term of three years and until a  
successor has been designated. The commissioners shall  
7 triannually elect a vice-chairperson from among their  
members. The commissioners shall elect a treasurer and  
9 secretary who need not be commissioners. The commissioners  
may employ or appoint secretarial and clerical staff and,  
11 without regard to the provisions of Title 11A of the New Jersey  
Statutes, an executive director and any other employees as are  
13 necessary to carry out the duties and functions of the  
commission.

15 e. The members of the commission shall serve without  
compensation, but may be reimbursed for expenses necessarily  
17 incurred in the performance of their duties.

f. The commission shall meet pursuant to a schedule to be  
19 established at its first meeting and at the call of the  
chairperson. A majority of the members of the commission  
21 constitutes a quorum for the conducting of official commission  
business. Any action may be taken by the affirmative vote of a  
23 majority of the membership present, but in no event may any  
action be taken or resolution adopted without the affirmative  
25 vote of at least eight members. A vacancy on the commission  
does not impair the right of a quorum of the members to  
27 exercise the powers and perform the duties of the commission.

g. No resolution or other action of the commission providing  
29 for the issuance of bonds or the refunding of bonds may be  
adopted or otherwise made effective by the commission without  
31 the prior approval, in writing, of the Governor and of the State  
Treasurer or the Director of the Division of Budget and  
33 Accounting in the Department of the Treasury. A true copy of  
the minutes of every meeting of the commission shall be  
35 delivered forthwith, by and under the certification of the  
chairperson thereof, to the Governor. No action taken at the  
37 meeting by the commission shall take effect until approved by  
the Governor or until 15 days after the copy of the minutes has  
39 been delivered. If, in the 15-day period, the Governor returns

1 the copy of the minutes with veto of any action taken by the  
commission or any member thereof at the meeting, the action  
3 shall be of no effect. The Governor may, prior to the expiration  
of the 15-day period, approve all or part of the action taken at  
5 the meeting prior to the expiration of the 15-day period.  
Notwithstanding the foregoing, if the last day of the 15-day  
7 period is a Saturday, Sunday, or legal holiday, then the 15-day  
period is extended to the following business day.

9 h. One year following the first meeting of the commission,  
and annually thereafter, the commission shall make report of its  
11 activities during the preceding calendar year to the Governor  
and the Legislature. The report shall set forth a complete  
13 operating and financial statement covering the commission's  
operations during the preceding year.

15 i. Nine months following the first meeting of the commission,  
and annually thereafter, the commission shall hold a conference  
17 in concert with members of the Regional Advisory Councils,  
which shall be open to the public. The conference agenda shall  
19 include, but need not be limited to:

(1) A review of commission and council activities in the  
21 preceding time period;

(2) Working forums on new or continuing regional problems  
23 that may require council consideration and commission action;  
and

25 (3) Comment from the public.

j. The commission may exercise the powers delegated to it in  
27 this amendatory and supplementary act only in the coastal area,  
unless specifically directed otherwise.

29 k. The commission shall continue in existence until dissolved  
by act of the Legislature. Any dissolution of the commission  
31 shall be on condition that the commission has no debts,  
contractual duties, or obligations outstanding or that provision  
33 has been made for the payment, discharge, or retirement of  
these debts, contractual duties, or obligations. Upon dissolution  
35 of the commission all property rights, funds, and assets thereof  
shall pass to and become vested in the State.

37 l. The commission may delegate any of its powers, duties, or  
functions to the commission staff if that delegation is identified  
39 in the minutes of the commission.

1        5. (New section) The commission shall exercise its power to  
achieve the following purposes:

3        a. Protect and enhance the environment of New Jersey's  
coastal area;

5        b. Maintain the long-term economic viability of the coastal  
area;

7        c. Provide a comprehensive approach to managing growth in  
the coastal area, noting regional differences and acting in close  
9 cooperation with local governments;

11       d. Protect the ocean's renewable resources by acting to  
improve the quality of near coastal waters and coastal habitats;  
and

13       e. Preserve and enhance the scenic, historic, cultural, and  
recreational aspects of the coastal area.

15       6. (New section) The commission has the following powers:

17       a. Make and alter bylaws for its organization and internal  
management;

19       b. Adopt and use an official seal and alter it at its pleasure;

21       c. Maintain an office at the place or places in the coastal  
area as it may designate. The commission shall maintain its  
principal offices in the coastal area;

23       d. Sue and be sued in its own name, except that a judgment  
against the commission shall not create any direct personal  
liability against its members, employees, or agents;

25       e. Indemnify its members, employees, and agents for any  
claims, suits, costs of investigations, costs of defense,  
27 settlements, or judgments against them on account of an act or  
omission within the scope of a member's duties, or an  
employee's or agent's employment, but the commission shall  
29 refuse to defend or indemnify if it determines that the act or  
failure to act was because of actual fraud, willful misconduct,  
31 or actual malice;

33       f. Apply for, receive, and accept, from any federal, State, or  
other public or private source, appropriations, grants or loans  
35 for, or in aid of, the commission's authorized purposes;

37       g. Prepare and transmit to the Commissioner of  
Environmental Protection such recommendations for water  
quality standards for surface and ground waters in the coastal  
39 area, or in tributaries and watersheds thereof, as the  
commission deems appropriate;

1 h. Prepare, promulgate, adopt, amend or repeal, pursuant to  
the "Administrative Procedure Act," P.L. 1968, c. 410 (C.  
3 52:1413-1 et seq.), rules and regulations necessary to implement  
the provisions of this amendatory and supplementary act;

5 i. Make and enter into all contracts, leases, and agreements  
necessary or incidental to the performance of its duties and the  
7 exercise of its powers under this amendatory and supplementary  
act and, subject to any agreement with the holders of the  
9 commission's bonds, consent to any modification, amendment or  
revision of any contract, lease, or agreement to which the  
11 commission is a party;

j. Acquire, own, hold, construct, improve, rehabilitate,  
13 renovate, operate, maintain, sell, assign, exchange, lease,  
mortgage, or otherwise dispose of real and personal property, or  
15 any interest therein, in the exercise of its powers and the  
performance of its duties under this amendatory and  
17 supplementary act;

k. In connection with any application under this amendatory  
19 and supplementary act, unless specifically directed otherwise,  
required and collect any fees and charges as the commission  
21 deems reasonable to cover the cost of the application review  
procedure;

23 l. Borrow money and issue bonds and secure them by its  
revenues and other funds, and provide for the rights of the  
25 holders thereof and the refunding thereof, as provided in this  
amendatory and supplementary act;

27 m. Subject to any agreement with holders of its bonds, invest  
moneys of the commission not required for immediate use,  
29 including proceeds from the sale of any bonds in any  
obligations, securities, and other investments in accordance with  
31 the rules and regulations of the State Investment Council;

n. Procure insurance to secure the payment of its bonds or  
33 the payment of any guarantees or loans made by it in  
accordance with this amendatory and supplementary act, or  
35 against any loss in connection with its property and other assets  
and operations, in any amounts and from any insurers as it  
37 deems desirable;

o. Engage the services of attorneys, accountants, engineers,  
39 and financial experts, and any other advisors, consultants,

1 experts and agents as may be necessary in its judgment and fix  
their compensation;

3 p. Make and contract to make loan guarantees, loans, and  
grants to local government units to finance the cost of projects  
5 and acquire and contract to acquire notes, bonds, or other  
obligations issued or to be issued by local government units to  
7 evidence the loans;

q. Subject to any agreement with holders of its bonds,  
9 purchase bonds of the commission and hold them for resale or  
provide for the cancellation thereof, all in accordance with the  
11 provisions of this amendatory and supplementary act;

r. Subject to any agreement with holders of its bonds, obtain  
13 as security or to provide liquidity for payment of all or any part  
of the principal of and interest and premium on the bonds of the  
15 commission or for the purchase upon tender or otherwise of the  
bonds, lines of credit, letters of credit, and other security  
17 agreements or instruments in any amounts and upon any terms  
as the commission may determine, and pay any fees and  
19 expenses required in connection therewith;

s. Provide to local government units any financial and credit  
21 advice as these governmental, units may request;

t. Make payments to the State from any moneys of the  
23 commission available therefor as may be required pursuant to  
any agreement with the State or act appropriating moneys to  
25 the commission;

u. Enter into agreements with the federal government,  
27 another State agency, or a local government unit to undertake a  
project as a joint venture;

v. Call to its assistance and avail itself of the services of the  
29 employees of any State, county, or municipal department, board,  
31 commission, or agency as may be required and made available to  
review any permit or project of the commission or for any  
33 function that the commission may undertake;

w. Recommend to the Governor and Legislature the financial  
35 resources needed to achieve the purposes of this amendatory and  
supplementary act;

x. Take any and all actions necessary, convenient or desirable  
37 to carry out its purposes and exercise the powers granted in this  
39 amendatory and supplementary act.

7. (New section) a. The commission may acquire in its own



1 name, whether publicly or privately owned, any real property, or  
any interest therein, by the exercise of the power of eminent  
3 domain. The exercise of this power shall be pursuant to the  
provisions of P.L. 1971, c. 361 (C. 20:3-1 et seq.). The  
5 commission may exercise this power upon a determination that  
it is reasonably necessary for any of its projects and no prudent  
7 and feasible alternative exists. The power may not be exercised  
with respect to property owned by the State or in which the  
9 State has any interest.

b. Upon a determination by the commission that it is  
11 necessary that any facilities such as tracks, pipes, mains,  
conduits, cables, wires, towers, poles, and other equipment and  
13 appliances of any public utility, as defined in R.S. 48:2-13, or of  
any cable television company as defined in P.L. 1972, c. 186 (C.  
15 48:5A-1 et seq.), which are now, or hereafter may be, located  
in, on, along, over or under any project, should be removed from  
17 the project, the public utility or cable television company  
owning or operating the facilities shall relocate or remove them  
19 in accordance with the order of the commission; except that the  
cost and expenses of the relocation or removal, including the  
21 cost of installing the facilities in a new location or new  
locations, and the cost of any lands, or any rights or interests in  
23 lands, and any other rights acquired to accomplish the relocation  
or removal, less the cost of any lands or any rights of the public  
25 utility or cable television company paid to the public utility or  
cable television company in connection with the relocation or  
27 removal of the property, shall be ascertained and paid by the  
commission as a part of the cost of the project. In case of any  
29 such relocation or removal of facilities, the public utility or  
cable television company owning or operating the facilities, its  
31 successors or assigns, may maintain and operate the facilities,  
with the necessary appurtenances, in the new location, for as  
33 long a period, and upon the same terms and conditions, as it had  
the right to maintain and operate the facilities in their former  
35 location.

8. (New section) There are created four Regional Advisory  
37 Councils for the purpose of advising the commission in all of its  
actions, including but not limited to, the development of the

1 management plan and project priority lists, plans, and rules and  
regulations, and providing a forum for the resolution of land use  
3 disputes that may arise pursuant to P.L. 1973, c. 185 (C.  
13:19-1 et seq.).

5 a. Each council shall consist of 15 members, appointed and  
qualified as follows:

7 (1) Two elected or appointed county officials from the  
council region appointed by the county governing body or  
9 bodies, as the case may be, of the council region, who shall not  
be of the same political party, and who may serve on the council  
11 during the time they hold office;

(2) Eight elected or appointed municipal officials from the  
13 council region appointed by the county governing body or bodies,  
as the case may be, of the council region, not more than four of  
15 whom shall be of the same political party, and who may serve on  
the council during the time they hold office; and

17 (3) Five members of the public at large residing in the council  
region appointed by the county governing body or bodies, as the  
19 case may be, of the council region, not more than three of whom  
shall be of the same political party.

21 b. Of the members initially appointed to each council, five of  
the members shall be appointed for terms of three years, five  
23 for terms of two years, and five for terms of one year.  
Thereafter, all council members shall serve three-year terms.  
25 Each qualified council member shall remain in office for the  
term of appointment and until a successor is appointed and  
27 qualified. Any vacancy in the membership occurring other than  
by expiration of term shall be filled in the same manner as the  
29 original appointment but for the remainder of the unexpired  
term only. Any member may be removed by the county  
31 governing body or bodies, as the case may be, for cause, after  
public hearing, and may be suspended by the county governing  
33 body or bodies, as the case may be, pending the completion of  
the hearing.

35 c. The members of each council shall elect a chairperson  
from among their members. The chairperson shall serve for a  
37 term of three years and until a successor has been elected. A  
chairperson is not eligible for successive terms nor shall  
39 successive chairpersons be of the same political party.

1 d. The members of each council shall serve without  
2 compensation, but may be reimbursed by the commission for  
3 expenses necessarily incurred in the performance of their duties.

4 e. Each council may employ or appoint, after first receiving  
5 the approval of the commission and at the expense of the  
6 commission, secretarial and clerical staff and, without regard to  
7 the provisions of Title 11A of the New Jersey Statutes, any  
8 other employees necessary to carry out the duties and  
9 responsibilities of the council.

10 f. Each council shall meet at the call of its chairperson. A  
11 majority of the members of each council shall constitute a  
12 quorum for the conducting of official council business. Any  
13 action may be taken by the affirmative vote of a majority of the  
14 members present, but in no event shall any action be taken or  
15 resolutions adopted without the affirmative vote of at least  
16 eight members. A vacancy on a council does not impair the  
17 right of a quorum of its members to exercise the powers and  
18 perform the duties of the council.

19 g. The council regions are comprised of those portions of the  
20 counties within the coastal area as follows:

- 21 (1) Region one--Monmouth and Middlesex counties;
- 22 (2) Region two--Ocean county;
- 23 (3) Region three--Atlantic and Burlington counties; and
- 24 (4) Region four--Cape May, Cumberland, and Salem counties.

25 9. (New section) Within 18 months after the effective date of  
26 this amendatory and supplementary act, the commission shall,  
27 after consultation with the councils, prepare and adopt pursuant  
28 to the "Administrative Procedure Act," P.L. 1968, c. 410 (C.  
29 52:14B-1 et seq.), a New Jersey Coastal Area Management  
30 Plan. The commission shall review, revise, and readopt the  
31 master plan at least once every five years after its adoption.

32 The management plan shall be designed to represent a balance  
33 of development, recreation, and conservation objectives best  
34 suited to meet the needs of the coastal area and to protect the  
35 natural resources and qualities of the coastal area, including,  
but not limited to, agricultural areas, fresh and saltwater

1 wetlands, flood plains, stream corridors, aquifer recharge areas,  
3 sand dunes, areas subject to erosion, areas of unique flora and  
5 fauna, and areas with scenic, historic, cultural, and recreational  
7 values. The development of the management plan shall be  
9 closely coordinated with the provisions of the "State  
11 Development and Redevelopment Plan" adopted pursuant to P.L.  
13 1985, c. 398 (C. 52:18A-196 et al.) and the "Comprehensive  
15 Management Plan" for the pinelands adopted pursuant to P.L.  
17 1979, c. 111 (C. 13:18A-1 et seq.). In development and  
19 implementing the management plan the commission shall  
21 consider input from State, county, and municipal entities with  
23 respect to their land use, environmental, capital, and economic  
25 development plans; provide for the maximum feasible local  
government and public participation in the management of the  
coastal area; encourage State, county, and municipal  
government implementation of the management plan in a  
manner that will insure the consistent and uniform protection of  
the coastal area; and develop and promote procedures to  
facilitate cooperation and coordination among State agencies  
and local government units with regard to the development and  
implementation of plans, programs, and policies which affect  
land use, environmental, financial, and economic development  
issues. The commission shall establish minimum standards for  
municipal and county development and land use plans and  
ordinances in the coastal area.

The management plan shall include, but need not be limited to:

27 a. An infrastructure needs assessment, which shall describe  
29 present and prospective conditions, needs, and costs of State,  
31 county, and municipal capital facilities, including water,  
sewerage, solid waste, transportation, drainage, flood  
protection, shore protection, and related capital facilities;

b. For each fiscal year, a wastewater treatment project  
33 priority list for funding by the commission and the aggregate  
35 amount of funds of the commission to be authorized for these  
37 purposes. The commission shall set forth the ranking criteria  
and funding policies for these projects. The project priority list  
shall include for each wastewater treatment system the date

1 each project is scheduled to be certified for funding, a  
description of each project and its purpose, impact, cost, and  
3 construction schedule, and all explanation of the manner in  
which priorities were established;

5 c. Areas for growth, limited growth, agriculture, open space  
conservation, recreation, habitat protection, water related or  
7 dependent use, and other appropriate designations that the  
commission may deem necessary. In making these  
9 determinations the commission shall seek to promote economic  
development and redevelopment in locations where highway and  
11 transit capacity, sewerage, water supply, and other physical  
infrastructure facilities and public services are available or can  
13 be provided efficiently and economically;

d. A land use capability component and a comprehensive  
15 statement of policies for planning and managing the  
development and use of land and water in the coastal area,  
17 which policies shall:

(1) Consider and detail the application of a variety of land and  
19 water protection and management techniques, including but not  
limited to, zoning and regulation derived from State and local  
21 police powers, development and use standards, permit systems,  
acquisition of conservation easements and other interests in  
23 land, public access agreements with private landowners,  
purchase of land for resale or lease-back, fee acquisition of  
25 public recreation sites and ecologically sensitive areas, transfer  
of development rights, dedication of private lands for recreation  
27 or conservation purposes, and any other appropriate method of  
land and water protection and management that will help meet  
29 the goals and carry out the policies of the management plan; and

(2) Include a plan for the application of State and local police  
31 power responsibilities to the greatest extent permitted by law to  
regulate the use of land and water resources in a manner  
33 consistent with the purposes and provisions of the management  
plan;

35 e. A reference guide of technical planning standards and  
guidelines used in the preparation of the management plan;

37 f. Regional planning guidelines in the following areas: land  
use, housing, economic development, transportation, natural  
39 resource conservation, farmland retention, land and water based

1 recreation, urban and suburban redevelopment, historic  
 2 preservation, public facilities and services, and  
 3 intergovernmental coordination;

4 g. A public use component including, but not limited to, a  
 5 detailed program to inform the public of appropriate uses of the  
 6 land and water within the coastal area;

7 h. A financial component, together with a cash flow  
 8 timetable, which:

9 (1) Details the cost of implementing the management plan,  
 10 including, but not limited to, payments in lieu-of-taxes,  
 11 acquisition of fee simple or other interests in lands for  
 12 preservation or recreation purposes, compensation guarantees,  
 13 grants, loans, loan guarantees, project costs, general  
 14 administrative costs, and any anticipated, extraordinary or  
 15 continuing costs;

16 (2) Details the sources of revenue for covering such costs,  
 17 including, but not limited to, taxes, appropriations, bond  
 18 revenues, grants, donations, and loans from local, State, and  
 19 federal departments and agencies, and from the private sector;  
 20 and

21 i. A coordination and consistency component that details the  
 22 ways in which local, State, and federal policies and programs,  
 23 including but not limited to the federal "Coastal Zone  
 24 Management Act of 1972," 16 U.S.C. § 1451 et al., and  
 25 emergency management services, may best be coordinated to  
 26 promote the goals and policies of the management plan, and  
 27 identifies the means whereby land, water, and structures  
 28 managed by governmental or nongovernmental entities in the  
 29 public interest within the coastal area may be integrated into  
 30 the management plan.

31 10. (New section) The commission shall provide technical and  
 32 financial assistance to local governments in order to encourage  
 33 the use of the most effective and efficient planning and  
 34 development review data, tools, and procedures.

35 11. (New section) Each county health department within the  
 36 coastal area established pursuant to P.L. 1975, c. 329 (C.  
 37 26:3A2-1 et seq.) shall develop and implement a storm drain  
 monitoring program for the area within the coastal area.



1       12. (New section) Each county storm drain monitoring  
program shall:

3       a. Provide for the preparation of a storm drain map which  
locates, lists, and numbers each storm drain outfall line in the  
5       area of the county's jurisdiction which discharges into surface  
waters;

7       b. Provide for water monitoring at storm drain outfall lines  
identified on the storm drain map in order to detect the  
9       presence of fecal coliform or other contaminants which may  
appear as the result of a sewer line break or an improper or  
11       illegal connection to that storm drain, or a significant nonpoint  
source pollution problem from surface runoff;

13       c. Provide for the performance of tests to identify the source  
of any fecal coliform or other contamination detected at the  
15       storm drain outfall;

      d. Identify the person responsible for the sewer line or  
17       connection, or significant nonpoint source pollution which  
caused the presence of any fecal coliform or other  
19       contamination;

      e. Provide, expand, upgrade, or contract for any laboratory  
21       facilities and services necessary to perform the required water  
monitoring and other tests; and

23       f. Be consistent with the "Water Pollution Control Act," P.L.  
1977, c. 74 (C. 58:10A-1 et seq.), the Statewide Water Quality  
25       Management Program Plan, and the applicable areawide water  
quality management plan adopted pursuant to the "Water  
27       Quality Planning Act," P.L. 1977, c. 75 (C. 58:11A-1 et seq.) and  
the management plan.

29       13. (New section) Upon identification of the source of any  
contamination pursuant to the storm drain monitoring program,  
31       the county health department shall take all appropriate actions  
to prevent the introduction of fecal coliform and other  
33       contaminants into the storm drain and may initiate legal  
proceedings to enforce or restrain the violation of any State or  
35       local law, rule, regulation, or ordinance which violation resulted  
in the contamination.

37       14. (New section) County health departments may apply to  
the commission for grants to establish storm drain monitoring  
39       programs not to exceed 50% of the cost of any such program.  
The commission shall, pursuant to the "Administrative Procedure

1 Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.), prescribe  
procedures for applying for the grants, and the terms and  
3 conditions thereof, and standards of performance to implement  
a storm drain monitoring program.

5 15. (New section) The commission may assist, consult, and  
advise the Department of Environmental Protection, or any  
7 other public or private entity on any study to determine the  
sources of floatables in the New York Bight.

9 16. (New section) a. The commission shall establish, in  
cooperation with the State Departments of Health and  
11 Environmental Protection, the United States Environmental  
Protection Agency, and local government units, a bathing water  
13 quality monitoring program. The program shall be designed to  
monitor the amounts of fecal coliform and other contaminants  
15 in the waters in the coastal area which may adversely affect the  
health of humans who bathe in that water.

17 b. The commission shall recommend to the Department of  
Environmental Protection revised or additional standards for  
19 water quality below which bathing in that water may adversely  
affect the health of humans. Upon a finding that ocean water  
21 quality at a specific location exceeds the established water  
quality standards, the commission may order that bathing in the  
23 waters surrounding that point is prohibited until the standards  
are met.

25 17. (New section) Any moneys to be expended in the coastal  
area from the Clean Communities Account, created pursuant to  
27 section 7 of P.L. 1985, c. 533 (C. 13:1E-99.2), shall be  
appropriated to the commission and deposited in a special  
29 account created by the commission. The commission shall  
distribute these moneys in a manner determined pursuant to the  
31 plan approved by the Department of Environmental Protection  
developed to reflect the needs of each municipality in the  
33 coastal area.

35 18. (New section) a. The commission shall, on an ongoing  
basis, review the New Jersey Shore Protection Master Plan  
prepared by the Department of Environmental Protection  
37 pursuant to section 5 of P.L. 1978, c. 157. The commission shall  
make additions, modifications, and revisions to the plan when  
39 the commission determines that there is a developing

1 or emergent need for other projects or actions to restore,  
2 maintain, or protect the beach areas within the jurisdiction of  
3 the commission. The commission shall prepare, and  
4 systematically update and revise, a priority list of beach or  
5 shore protection projects within its area of jurisdiction. This  
6 priority list shall be given primary consideration in the  
7 commission's determination of the projects to which it shall  
8 provide financial assistance or in its recommendation that an  
9 appropriation for financial assistance be made by the State or  
10 federal government.

11 b. The commission may enter into agreements with the  
12 federal government, or with any State or local unit of  
13 government, or any public agency, under which the commission  
14 and the other entity shall undertake a beach or shore protection  
15 project as a joint venture, with the commission providing  
16 financial assistance through loans, or any technical or  
17 managerial assistance as the agreement may provide.

18 c. The commission may make loans to pay, in whole or in  
19 part, the cost of any beach or shore protection project, either by  
20 providing the local share of a project which is part of a federal  
21 program, or by providing direct assistance through loans to any  
22 State or local government unit undertaking a beach or shore  
23 protection project. The commission may also pledge its credit  
24 for the repayment of any such loan made for the same purposes  
25 by any financial institution.

26 d. The commission may make grants to pay, in whole or in  
27 part, the cost of any beach or shore protection project, either by  
28 providing the local share of a project that is part of a federal  
29 program, or by providing direct assistance through grants to any  
30 local government unit undertaking a beach or shore protection  
31 project whenever the compelling or emergent need for a project  
32 may warrant that action be taken.

33 e. Any action taken pursuant to this section shall be in  
34 conformance with the provisions of the management plan.

35 19. (New section) A person who is required to apply for a  
36 permit or permission from a governmental entity other than the  
37 commission perform any construction work or engage in any  
activity in the coastal area may seek the assistance of the

1 commission in the processing of the permit or permission. Upon  
receiving a request and upon determining that the work or  
3 activity complies with the management plan, the commission  
shall counsel the applicant on the requirements imposed by  
5 governmental entities and on any potential permits or  
permissions which the applicant may need to secure. The  
7 commission shall file the application with the State, federal, or  
local governmental entity whose jurisdiction it is to issue the  
9 relevant permit or grant permission. The commission shall not  
impose a fee for providing the services pursuant to this section.  
11 The commission is not liable for any action it takes to assist an  
applicant to secure a permit or permission pursuant to this  
13 section including, but not limited to, delays in processing  
applications, providing negligent counsel to applicants, the  
15 applicant's failure to secure a permit or permission, or for  
providing fraudulent information supplied to the commission by  
17 the applicant to assist an applicant to secure a permit or  
permission.

19 20. (New section) There is established in the commission the  
Office of Clean Ocean Advocacy, which shall perform the  
21 following duties:

a. Receive and investigate complaints of ocean pollution,  
23 beach littering, or other activities that may lead to the  
environmental degradation of the shore and coastal waters;

25 b. Provide advocacy services on an individual or class basis to  
represent the public's interest in maintaining the resources of  
27 the coastal area;

c. Initiate investigations in its own name, as the commission  
29 deems appropriate, to promote and protect the environmental  
quality of the Atlantic ocean and its adjacent bays, beaches, and  
31 shores within the coastal area;

d. Take action to promote and protect the environmental  
33 quality of other bodies of water or the land outside the coastal  
area whenever the pollution therefrom may affect the  
35 environmental quality of the coastal area;

e. Issue periodic status reports on the quality of ocean and  
37 bay waters;

f. Identify sources of funding and apply for funds in the name  
39 of the commission to enable the commission to accomplish its  
purposes; and

1 g. Conduct, or cooperate in the conducting of, research  
2 projects relating to the effects of water quality on humans, fish,  
3 and shellfish.

4 21. (New Section) The Office of Clean Ocean Advocacy shall  
5 operate under the supervision of a director and may, with the  
6 approval of the commission, employ such staff as may be  
7 necessary to promote and protect the environmental quality of  
8 the coastal area. When exceptional circumstances arise, the  
9 director, with the approval of the commission, may retain  
10 additional temporary staff, consultants, and experts pursuant to  
11 a reasonable fee schedule established by the commission.

12 22. (New section) a. The commission may, from time to  
13 time, issue its bonds in any principal amounts as in the judgment  
14 of the commission shall be necessary to provide sufficient funds  
15 for any of its corporate purposes, including the payment, funding  
16 or refunding of the principal of, or interest or redemption  
17 premiums on, any bonds issued by it whether the bonds or  
18 interest or redemption premiums thereon to be funded or  
19 refunded have or have not become due, the establishment or  
20 increase of reserves or other funds to secure or to pay the bonds  
21 or interest thereon and all other costs or expenses of the  
22 commission incident to and necessary to carry out its corporate  
23 purposes and powers.

24 b. Whether or not the bonds of the commission are of a form  
25 and character as to be negotiable instruments under the terms  
26 of Title 12A of the New Jersey Statutes, the bonds are made  
27 negotiable instruments within the meaning of and for the  
28 purposes of Title 12A, subject only to the provisions of the bonds  
29 for registration.

30 c. Bonds of the commission shall be authorized by a  
31 resolution or resolutions of the commission and may be issued in  
32 one or more series and shall bear any date or dates, mature at  
33 any time or times, bear interest at any rate or rates of interest  
34 per annum, be in any denomination or denominations, be in any  
35 form, either coupon, registered or book entry, carry any  
36 conversion or registration privileges, have any rank or priority,  
37 be executed in any manner, be payable in any coin or currency  
38 of the United States which at the time of payment is legal  
39 tender for the payment of public and private debts at any place

1 or places within or without the State, and be subject to any  
terms of redemption by the commission or the holders thereof,  
3 with or without premium, as the resolution or resolutions may  
provide. A resolution of the commission authorizing the  
5 issuance of bonds may provide that the bonds be secured by a  
trust indenture between the commission and a trustee, vesting in  
7 the trustee any property, rights, powers and duties in trust  
consistent with the provisions of this amendatory and  
9 supplementary act as the commission may determine.

d. Bonds of the commission may be sold at public or private  
11 sale at any price or prices and in any manner as the commission  
may determine. Each bond shall mature, and be paid not later  
13 than 40 years from the effective date thereof, or the certified  
useful life of the project or projects to be financed by the bonds,  
15 whichever is less.

e. All bonds of the commission shall be sold at the price or  
17 prices and in the manner as the commission shall determine,  
after notice of sale, published at least three times in at least  
19 three newspapers published in the State of New Jersey, and at  
least once in a publication carrying municipal bond notices and  
21 devoted primarily to financial news, published in New Jersey or  
the city of New York, the first notice to be at least five days  
23 prior to the day of bidding. The notice of sale may contain a  
provision effect that any or all bids made in pursuance thereof  
25 may be rejected. In the event of rejection or of failure to  
receive any acceptable bid, the commission, at any time within  
27 60 days from the date of the advertised sale, may sell the bonds  
at private sale upon terms not less favorable to the State than  
29 the terms offered by any rejected bid. The commission may sell  
all or part of the bonds of any series as issued to any State fund  
31 or to the federal government or any agency thereof, at private  
sale, without advertisement.

f. Except as provided in section 4 of this amendatory and  
33 supplementary act, bonds of the commission may be issued  
35 without obtaining the consent of any department, division,  
board, bureau, or agency of the State, and without any other  
37 proceedings or the happening of any other conditions or things,  
other than those consents, proceedings, conditions or things  
39 which are specifically required by this amendatory and  
supplementary act.



1 g. Bonds of the commission issued under the provisions of this  
amendatory and supplementary act are not a debt or liability of  
3 the State or of any political subdivision thereof other than the  
commission and do not constitute any indebtedness, liability, or  
5 obligation of the State or any political subdivision, but all these  
bonds unless funded or refunded by bonds are payable solely  
7 from revenues or funds pledged or available for their payment as  
authorized in this amendatory and supplementary act. Each  
9 bond shall contain on its face a statement to the effect that the  
commission is obligated to pay the principal thereof and the  
11 interest thereon only from its revenues, receipts, or funds  
pledged or available for their payment as authorized in this  
13 amendatory and supplementary act and that neither the State,  
not any political subdivision thereof, is pledged to the payment  
15 of the principal of or the interest on the bonds.

h. Upon the decision by the commission to issue refunding  
17 bonds, and prior to the sale of those bonds, the commission shall  
transmit to the Joint Budget Oversight Committee, or its  
19 successor, a report that a decision has been made, reciting the  
basis on which the decision was made, including an estimate of  
21 the debt service savings to be achieved and the calculations  
upon which the commission relied when making the decision to  
23 issue refunding bonds. The report shall also disclose the intent  
of the commission to issue and sell the refunding bonds at public  
25 or private sale and the reasons thereof.

(1) The Joint Budget Oversight Committee, or its successor,  
27 has the authority to approve or disapprove the sales of refunding  
bonds as included in each report submitted in accordance with  
29 this subsection. The committee shall notify the commission in  
writing of the approval or disapproval is expeditiously as  
31 possible.

(2) No refunding bonds shall be issued unless the report has  
33 been submitted to and approved by the Joint Budget Oversight  
Committee, or its successor, as set forth in paragraph (1) of this  
35 subsection.

(3) Within 30 days after the sale of the refunding bonds, the  
37 commission shall notify the Joint Budget Oversight Committee,  
or its successor, of the result of that sale, including the

1 prices and terms, conditions and regulations concerning the  
refunding bonds, the actual amount of debt service savings to be  
3 realized as a result of the sale of refunding bonds, and the  
intended use of the proceeds from the sale of those bonds.

5 (4) The committee shall review all information and reports  
submitted in accordance with this subsection and may, on its  
7 own initiative, make observations and recommendations to the  
commission, or to the Legislature, or both, as it deems  
9 appropriate.

i. Each issue of bonds of the commission may, if it is  
11 determined by the commission, be general obligations thereof  
payable out of any revenues, receipts, or funds of the  
13 commission, or special obligations thereof payable out of  
particular revenues, receipts, or funds, subject only to any  
15 agreements with the holders of bonds and may be secured by one  
or more of the following:

17 (1) A pledge of revenues and other receipts to be derived from  
the payment of the interest on and principal of notes, bonds, or  
19 other obligations issued to the commission by one or more local  
government units, and any other payment made to the  
21 commission pursuant to agreements with any local government  
units, or a pledge or assignment of any notes, bonds, or other  
23 obligations of any local government unit and the rights and  
interest of the commission therein;

25 (2) A pledge of rentals, receipts, and other revenues to be  
derived from leases or other contractual arrangements with any  
27 person or entity, public or private, including one or more local  
governments units, or a pledge or assignment of those leases or  
29 other contractual arrangements and the rights and interest of  
the commission therein;

31 (3) A pledge of all moneys, funds, accounts, securities, and  
other funds, including the proceeds of the bonds, notes, or other  
33 obligations;

(4) A pledge of the receipts to be derived from the payments  
35 of State aid, payable to the commission pursuant to section 31  
of this amendatory and supplementary act; and

37 (5) A mortgage on all or any part of the property, real or  
personal, of the commission then owned or thereafter to be  
39 acquired, or a pledge or assignment of mortgages made to the

1 commission by any person or entity, public or private, including  
one or more local government units and the rights and interest  
3 of the commission therein.

23. (New section) In any resolution of the commission  
5 authorizing or relating to the issuance of any of its bonds, the  
commission, in order to secure the payment of the bonds, and in  
7 addition to its other powers, may by provisions therein which  
shall constitute covenants by the commission and contracts with  
9 the holders of the bonds;

a. Secure the bonds as provided in section 6 of this  
11 amendatory and supplementary act;

b. Covenant against pledging all or part of its revenues or  
13 receipts;

c. Covenant with respect to limitations on any right to sell,  
15 mortgage, lease or otherwise dispose of any notes, bonds, or  
other obligations of local governmental units, or any part  
17 thereof, or any property of any kind;

d. Covenant as to any bonds to be issued by the commission,  
19 and the limitations thereon, and the terms and conditions  
thereof, and as to the custody, application, investment, and  
21 disposition of the proceeds thereof;

e. Covenant as to the issuance of additional bonds of the  
23 commission or as to limitations on the issuance of additional  
bonds and on the incurring of other debts by it;

f. Covenant as to the payment of the principal of or interest  
25 on bonds of the commission, as to the sources and methods of  
payment, as to the rank or priority of the bonds with respect to  
27 any lien or security or as to the acceleration of the maturity of  
the bonds;

g. Provide for the replacement of lost, stolen, destroyed or  
31 mutilated bonds of the commission;

h. Covenant against extending the time for the payment of  
33 bonds of the commission or interest thereon;

i. Covenant as to the redemption of bonds by the  
35 commission or the holders thereof and privileges of exchange  
thereof for other bonds of the commission;

j. Covenant to create or authorize the creation of special  
37 funds or accounts to be held in trust or otherwise for the benefit  
of holders of bonds of the commission, or reserves for other  
39 purposes and as to the use, investment, and disposition

1 of moneys held in those funds, accounts or reserves;

3 k. Provide for the rights and liabilities, powers and duties  
arising upon the breach of any covenant, condition, or  
5 obligation in and prescribe the events of default and terms and  
conditions upon which any or all of the bonds of the commission  
7 shall become or may be declared due and payable before  
maturity and the terms and conditions upon which the  
declaration and its consequences may be waived;

9 l. Vest in a trustee or trustees within or without the State  
any property, rights, powers and duties in trust as the  
11 commission may determine which may include any or all of the  
rights, powers and duties of any trustee appointed by the holders  
13 of any bonds of the commission including rights with respect to  
the sale or other disposition of notes, bonds, or other obligations  
15 of local government units pledged pursuant to a resolution or  
commission indenture for the benefit of the holders of bonds of  
17 the commission and the right by suit or action to foreclose any  
mortgage pledged pursuant to the resolution or commission  
19 indenture for the benefit of the holders of the bonds, and to  
limit or abrogate the right of the holders of any bonds of the  
21 commission to appoint a trustee under this amendatory and  
supplementary act, and to limit the rights, duties, and powers of  
23 the trustee;

m. Pay the costs of expenses incident to the enforcement of  
25 the bonds of the commission or of the provisions of the  
resolution authorizing, the issuance of those bonds or of, any  
27 covenant or agreement of the commission with the holders of  
the bonds;

29 n. Limit the rights of the holders of any bonds of the  
commission to enforce any pledge or covenant securing the  
31 bonds; and

o. Make covenants other than or in addition to the covenants  
33 authorized by this amendatory and supplementary act of like or  
different character, and make covenants to do or refrain from  
35 doing any acts and things as may be necessary, or convenient  
and desirable, in order to better secure the bonds of the  
37 commission, or which, in the absolute discretion of the  
commission, would make the bonds more marketable,  
39 notwithstanding that the covenants, acts, or things may not be  
enumerated herein.

1       24. (New section) Any pledge of revenues, receipts, moneys,  
2 funds, or other property or instruments made by the commission  
3 are valid and binding from the time the pledge is made. The  
4 revenues, receipts, moneys, funds, or other property so pledged  
5 and thereafter received by the commission are immediately  
6 subject to the lien of the pledge without any physical delivery  
7 thereof or further act, and the lien of any pledge is valid and  
8 binding as against all parties having claims of any kind in tort,  
9 contract, or otherwise against the commission irrespective of  
10 whether the parties have notice thereof. Neither the resolution  
11 nor any other instrument by which a pledge under this section is  
12 created need be filed or recorded, except in the records of the  
13 commission.

14       25. (New section) The commission is authorized to guarantee  
15 or contract to guarantee the payment of all or any portion of  
16 the principal and interest on notes, bonds, or other obligations  
17 issued by a local government unit to finance the cost of any  
18 project which the local government unit may lawfully undertake  
19 or acquire and for which the local government unit is authorized  
20 by law to borrow money, and the guarantee shall constitute an  
21 obligation of the commission for the purposes of this  
22 amendatory and supplementary act. Each guarantee by the  
23 commission and the terms and conditions thereof shall be  
24 subject to approval by the State Treasurer, and the commission  
25 shall make available to the State Treasurer all information,  
26 statistical data, and reports of independent consultants or  
27 experts as the State Treasurer shall deem necessary in order to  
28 evaluate the guarantee.

29       26. (New section) All expenses incurred in carrying out the  
30 provisions of this amendatory and supplementary act are payable  
31 solely from revenues or funds provided or to be provided under  
32 the provisions of this amendatory and supplementary act and  
33 nothing in the act shall be construed to authorize the  
34 commission to incur any indebtedness or liability on behalf of, or  
35 payable by the State or any political subdivision thereof.

36       27. (New section) Neither the members of the commission nor  
37 any person executing bonds issued pursuant to this amendatory  
38 and supplementary act shall be liable personally on the bonds by  
39 reason of the issuance thereof.

1       28. (New section) The commission may establish reserves,  
3 funds, or accounts as may be, in its discretion, necessary or  
desirable to further the accomplishment of the purposes of the  
5 commission or to comply with the provisions of any agreement  
made by, or any resolution of, the commission.

7       29. (New section) The State of New Jersey pledges to, and  
convenants and agrees with, the holders of any bonds issued  
9 pursuant to this amendatory and supplementary act that the  
State will not limit or alter the rights or powers vested in the  
11 commission to acquire, construct, maintain, improve, and repair  
any project in any way that may jeopardize the interest of the  
13 holders, or to perform and fulfill the terms of any agreement  
made with the holders of the bonds, or to fix, establish, charge  
and collect the rents, fees, rates, or other charges, within the  
15 power of the commission as may be convenient or necessary to  
produce sufficient revenues to meet all expenses of the  
17 commission and fulfill the terms of any agreement made with  
the holders of the bonds, together with interest thereon, with  
19 interest on any unpaid installments of interest, and all costs and  
expenses in connection with any action or proceedings by or on  
21 behalf of the holders, until the bonds, together with interest  
thereon, are fully met and discharged or provided for.

23       30. (New section) the State and all public officers, local  
government units and agencies thereof, all banks, trust  
25 companies, savings banks and institutions, building and loan  
associations, savings and loan associations, investment  
27 companies, and other persons carrying on a banking business, all  
insurance companies, insurance associations and other persons  
29 carrying on an insurance business, and all executors,  
administrators, guardians, trustees and other fiduciaries, may  
31 legally invest any sinking funds, moneys or other funds belonging  
to them or within their control in any bonds issued pursuant to  
33 this amendatory and supplementary act, and these bonds shall be  
authorized security for any and all public deposits.

35       31. (New section) a. To assure the continued operation and  
solvency of the commission, the commission may require the  
37 State Treasurer to reimburse any obligations of the local



1 government unit to the commission from the State aid payable  
2 to that local government unit if a local government fails or is  
3 unable to pay to the commission in full when due any obligations  
4 owed to the commission. As used in this section, obligations of  
5 the local government unit include the principal of, or interests  
6 on, notes, bonds, or other obligations of a local government unit  
7 issued to, or guaranteed by the commission, including the  
8 subrogation of the commission to the right of the holders of  
9 those obligations, and, fees or charges payable to the  
10 commission, and any amounts payable by a local government  
11 unit under any service contract or other contractual  
12 arrangement the payments under which are pledged to secure  
13 any notes, bond, or other obligations issued to the commission by  
14 another local government unit. State aid includes business  
15 personal property tax replacement revenues, State urban aid and  
16 State revenue sharing, as these terms are defined in section 2 of  
17 P.L. 1976, c. 38 (C. 40A:3-3), or other similar forms of State aid  
18 payable to the local government unit and, to the local  
19 government unit and, to the extent permitted by federal law,  
20 federal moneys appropriated or apportioned to the local  
21 government unit by the State.

22 (1) If the commission requires, and there has been a failure or  
23 inability by a local government unit to pay its obligations to the  
24 commission remaining uncured for a period of 30 days, the  
25 chairperson of the commission shall certify to the State  
26 Treasurer, with written notice to the fiscal officer of the local  
27 government unit and to the Legislature, the amount remaining  
28 unpaid, and the State Treasurer shall pay that amount to the  
29 commission, or, if the right to receive those payments has been  
30 pledged or assigned to a trustee for benefit of the holders of  
31 bonds of the commission, to that trustee, out of the State aid  
32 payable to the local government unit, until the amount so  
33 certified is paid.

34 (2) The amount paid over to the commission shall be deducted  
35 from the corresponding appropriation or apportionment of State  
36 aid payable to the local government unit and shall not obligate  
37 the State to make, nor entitle the local government unit to  
receive, any additional appropriation or apportionment. The

1 obligation of the State Treasurer to make payments to the  
commission or trustee and the right of the commission or  
3 trustee to receive those payments shall be subject and  
subordinate to the rights of holders of qualified bonds issued or  
5 to be issued pursuant to P.L. 1976, c. 38 (C. 40A:3-1 et seq.).

(3) In those instances where the local government units are  
7 municipal or county sewerage, utility or improvement  
authorities created pursuant to P.L. 1946, c. 138 (C. 40:14A-1 et  
9 seq.) or P.L. 1957, c. 183 (C. 40:14B-1 et seq.), the commission  
may require the municipalities or counties that receive service  
11 or other benefits from the districts or authorities to enter into  
service contracts or other contractual arrangements under  
13 which they would satisfy any deficiencies in the revenues of the  
districts or authorities to repay the loans made by the  
15 commission, which contracts would be pledged to secure the  
payment of the loans of the commission.

17 b. Whenever a local government unit covenants, or pledges  
to, or secures the payment of its obligations to the commission  
19 by, in whole or in part, certain revenues of the local government  
unit derived from rates, fees, or charges imposed on another  
21 local government unit, the payments thereof under a service  
contract or other contractual arrangement are pledged to the  
23 payment of the obligation to the commission, and the other local  
government unit fails or is unable to pay in full when due any of  
25 the obligations, and the other local government unit's State aid  
revenues for any reason have not been made available for the  
27 payment of the obligations or have not been made available in  
sufficient amounts to pay the obligations in full, the commission  
29 is authorized during the period of such failure to cause the local  
government unit, in accordance with the covenants or pledges  
31 established in any loan or other agreement relating thereto, to  
establish and collect rates, fees and charges in, the amounts  
33 required to pay the obligations in accordance with the covenants  
or pledges established in the loan or other agreement relating  
35 thereto.

32. (New section) Any local government unit, notwithstanding  
37 any contrary provision of law, except any requiring notice of

1 public hearing, is authorized to lease, lend, grant, or convey to  
2 the commission at its request upon such terms and conditions as  
3 the governing body of the local government unit may deem  
4 reasonable and fair and without the necessity for any  
5 advertisement, order of court, or other action of formality,  
6 other than the ordinance, resolution or regular action thereof,  
7 any real property or interest therein which may be necessary or  
8 convenient to the effectuation of the purposes of the  
9 commission. No property of the State, other than meadowlands,  
10 riparian lands or lands underwater and similar lands or interest  
11 therein referred to and whose disposition is controlled by the  
12 provisions in Title 12 and Title 13 of the Revised Statutes shall  
13 be so granted, leased or conveyed to the commission except  
14 upon the approval of the State House Commission and payment  
15 to the State of the price therefor as may be fixed by the State  
16 House Commission.

17 33. (New section) a. the commission may establish and alter  
18 rates and charges, and collect rents, fees and charges for the  
19 use of services of any project and contract in the manner  
20 provided in this section with one or more persons, one or more  
21 local government units, or any combination thereof, receiving  
22 the use or services of any project, and fix the terms, conditions,  
23 rents, fees, and charges for the use or services.

24 b. The contract may provide for acquisition by the person or  
25 governmental agency, of all or any part of the project for  
26 consideration payable over the period of the contract or  
27 otherwise as the commission in its discretion determines to be  
28 appropriate, but subject to the provisions of any resolution of  
29 the commission authorizing the issuance of bonds or any trust  
30 agreement securing them.

31 c. Any one or more public or private entities may cooperate  
32 with the commission in the acquisition or construction of a  
33 project and may enter into any agreement with the commission  
34 as is necessary, with a view to effective cooperative action and  
35 safeguarding of the respective interests of the parties thereto,  
36 which agreement shall provide for contributions by the parties  
37 thereon in the proportion as may be agreed upon and those other  
38 terms as may be mutually satisfactory to the parties including  
39 without limitation the authorization of the construction

1 of the project by one of the parties acting as agent for all of the  
parties and the ownership and control of the project by the  
3 commission to the extent necessary or appropriate for purposes  
of the issuance of bonds by the commission. Any local  
5 government unit may provide a contribution as is required under  
an agreement by the appropriation of money or, if otherwise  
7 authorized by law to issue bonds or levy taxes or assessments  
and issue bonds in anticipation of the collection thereon, by the  
9 issuance of bonds or by levying of taxes or assessments and the  
issuance of bonds in anticipation of the collection thereof, and  
11 by the payment of the appropriated money or the proceeds of  
the bonds to the commission pursuant to that agreement.

13 d. Nothing in this amendatory and supplementary act shall  
construed as authorizing the commission, to impose, or require a  
15 local government unit to impose, a charge for access to the  
upland areas adjacent to tidal waters.

17 34. (New section) The commission shall cause an audit of its  
books and accounts to be made at least once in each year by  
19 certified public accountants selected by the State Treasurer and  
the cost thereof shall be considered as an expense of the  
21 commission and a copy thereof shall be filed with the Governor,  
State Treasury, Senate, and General Assembly. Notwithstanding  
23 the provision of any law to the contrary, the State Auditor, or  
his legally authorized representative, may examine the accounts  
25 or books of the commission.

35 35. (New section) The functions of the Division of Coastal  
Resources in the Department of Environmental Protection which  
27 are exercised in the coastal area are hereby transferred to the  
New Jersey Coastal Commission.  
29

36. (New section) All transfers directed by this act shall be  
31 made in accordance with the "State Agency Transfer Act," P.L.  
1971, c. 375 (C. 52:14D-1 et seq.).

33 37. (New section) This amendatory and supplementary act  
shall be liberally construed to effectuate the purpose and intent  
35 thereof.

37 38. (New section) If any provision of this act or the  
application thereof to any person or circumstances is held

1    invalid, the remainder of this amendatory and supplementary act  
2    and the application of the provision to persons or circumstances  
3    other than those to which it is held invalid shall not be affected  
4    thereby.

5    39. R.S. 12:5-1 is amended to read as follows:

6    12:5-1. The [board of commerce and navigation] New Jersey  
7    Coastal Commission, for the area of its jurisdiction, and the  
8    Department of Environmental Protection, in the remainder of  
9    the State, shall investigate and report annually to the  
10    Legislature the condition of waterfront and harbor facilities and  
11    any other matter incident to the movement of commerce upon  
12    all navigable rivers and waters within this State or bounding  
13    thereon. The [board] commission and the department shall also  
14    recommend to the Legislature and to the various municipalities  
15    interested therein such measures as may, in the judgment of the  
16    [board] commission or department, be necessary or advisable for  
17    the preservation proper navigation or its improvement or the  
18    improvement of commerce upon such waters.

19    40. R.S. 12:5-2 is amended to read as follows:

20    12:5-2. The New Jersey Coastal Commission, for actions for  
21    the area of its jurisdiction, and the Department of  
22    Environmental Protection, for actions in the remainder of the  
23    State, may, by appropriate action in any court, prevent the  
24    encroachment or trespass upon the waterfront of any of the  
25    navigable waters of this State or bounding thereon, or upon the  
26    riparian lands of this State, and compel the removal of any such  
27    encroachment or trespass, and restrain, prevent and remove any  
28    construction, erection or accretion injurious to the flow of any  
29    such waters, which may be detrimental to the proper navigation  
30    thereof and the maintenance and improvement of commerce  
31    thereon.

32    41. R.S. 12:5-3 is amended to read as follows:

33    12:5-3. a. All plans for the development of any waterfront  
34    upon any navigable water or stream of this State or bounding  
35    thereon, which is contemplated by any person or municipality, in  
36    the nature of individual improvement or development or as a  
37    part of a general plan which involves the construction or  
38    alteration of a dock, wharf, pier, bulkhead, bridge, pipeline,  
39    cable, or an), other similar or dissimilar waterfront development

1 shall be first submitted to the New Jersey Coastal Commission,  
 3 for developments in the area of its jurisdiction, or the  
 5 Department of Environmental Protection for developments in  
 7 the remainder of the State. No such development or  
 9 improvement shall be commenced or executed without the  
 approval of the commission or the Department of Environmental  
 Protection [first had and received, or as hereinafter in this  
 chapter provided], as appropriate, unless otherwise provided in  
this section.

11 b. The following are exempt from the provisions of subsection  
 a. of this section:

13 (1) The repair, replacement or renovation of a permanent  
 15 dock, wharf, pier, bulkhead or building existing prior to January  
 1, 1981, provided the repair, replacement or renovation does not  
 increase the size of the structure and the structure is used  
 solely for residential purposes or the docking or servicing of  
 17 pleasure vessels;

19 (2) The repair, replacement or renovation of a floating dock,  
 mooring raft or similar temporary or seasonal improvement or  
 structure, provided the improvement or structure does not  
 21 exceed in length the waterfront frontage of the parcel of real  
 property to which it is attached and is used solely for the  
 23 docking or servicing of pleasure vessels.

42. R.S. 12:5-5 is amended to read as follows:

25 12:5-5. Where such water front is under the control of a local  
 board, commission or other governing body created by  
 27 legislative act, having power to improve or develop the  
 waterfront or exercising such authority, so that a permit or  
 29 license must be granted by it before any improvement or  
 development may be commenced, plans proposed by it or  
 31 submitted to it shall be filed with the [board of commerce and  
 navigation] New Jersey Coastal Commission, for the area of its  
 33 jurisdiction, or the Department of Environmental Protection for  
the remainder of the State.

35 The [board] commission or the department, as appropriate,  
 may, within 10 days after the receipt by it of such plans, file  
 37 notice of objections to the carrying out of the improvement or  
 develop, merit, or to the granting of a permit or license by such  
 39 local governing body. The filing of the notice shall act as a stay

1 in the carrying out of the plans or in the granting of such permit  
or license until a public hearing shall have been held by the local  
3 governing body sitting jointly with the [board] commission or the  
department. At the hearing the [board] commission or the  
5 department may state its objections to the plans and recommend  
such change as it may deem necessary.

7 The local governing body together with the [board]  
commission or the department shall approve or disapprove the  
9 plans, or grant or refuse to grant the permit or license as seems  
necessary or desirable.

11 43. R.S. 12:5-6 is amended to read as follows:

12:5-6. a. Any development or improvement enumerated in  
13 R.S. 12:5-3 and in P.L. 1975, c. 232 (C. 13:1 P-29 et seq.) or  
included within any rule or regulation adopted pursuant to  
15 thereto, which is commenced or excuted without first obtaining  
approval, or contrary to the conditions of approval, as provided  
17 in R.S. 19:5-3 and in P.L. 1975, c. 232 (C. 13:1D--99 et seq.)  
shall be deemed to be a purpresture, a public nuisance and a  
19 violation under this section and shall be abated in the name of  
the State by one or more of the following actions:

21 (1) The issuance of an administrative order by the New Jersey  
Coastal Commission, for the area of its jurisdiction, or by the  
23 Commissioner of the Department of Environmental Protection,  
for the remainder of the State, specifying that there has been a  
25 violation of the provisions of this section, or any applicable rule,  
regulation or permit; setting forth the facts forming the basis  
27 for the issuance of the order; and specifying the course of action  
necessary to correct the violation;

29 (2) The commencement of a civil action by the commission or  
the commissioner in Superior Court for injunctive or other  
31 appropriate relief;

(3) The levying of an administrative penalty by the  
33 commission or the commissioner in accordance with subsection  
b. of this section.

35 b. The commission and the commissioner [is] are authorized  
to assess an administrative penalty of not more than \$1,000.00  
37 for each violation of this section, and [is] are authorized to  
assess additional penalties of not more than \$100.00 for each

1 day during which this violation continues after receipt of an  
administrative order from the commission or the department  
3 pursuant to paragraph (1) of subsection a. of this section. Prior  
to the assessment of a penalty under this subsection, the  
5 property owner or person committing the violation shall be  
notified by certified mail or personal service that a penalty is  
7 being assessed. The notice shall include a reference to the  
section of the law, regulation, or permit condition violated; a  
9 concise statement of the facts alleged to constitute the  
violation; a statement of the amount of the administrative  
11 penalty assessed; and a statement of the party's right to an  
administrative hearing.

13 c. The party shall have 21 days from receipt of the notice  
within which to deliver to the commission or the commissioner a  
15 written request for a hearing. This request shall specify in  
detail the statements contested by the party. If no hearing is  
17 requested[, then after the expiration of] within the 21-day  
period, the commission or the commissioner shall issue a final  
19 order assessing the penalty specified in the notice. The penalty  
is due when the final order is issued.

21 d. If a hearing is requested, it shall be held within 30 days of  
the date on which the request is received by the commission or  
23 the commissioner. If a violation is found [to have occurred], the  
commission or the commissioner may issue a final order  
25 assessing not more than the amount of the penalty specified in  
the notice. The penalty is due when the final order is issued.

27 e. Any penalty imposed pursuant to this section may be  
enforced as provided for in "the penalty enforcement law"  
29 (N.J.S. 2A:58-1 et seq.).

44. R.S. 12:5-8 is amended to read as follows:

31 12:5-8. Upon the request of a county, municipality or other  
political subdivision of this [state] State, the [board] New Jersey  
33 Coastal Commission, for the area of its jurisdiction, or the  
Department of Environmental Protection, for the remainder of  
35 the State, shall prepare and submit a proper plan for the  
development and improvement of the waterfront of such  
37 political subdivision upon any navigable stream or waters of this  
[state] State or bounding thereon, the navigation of the waters  
39 incident thereto, and the regulation and improvement of the  
traffic of commerce incident thereto.



1 For the preparation and submission of the plans the [board]  
2 commission or the department, as appropriate, may make such  
3 charge against the municipality requesting the same as is equal  
4 to the actual cost thereof and the political subdivision  
5 requesting them is hereby authorized to pay the same from any  
6 funds in its treasury.

7 45. R.S. 12:5-9 is amended to read as follows:

8 12:5-9. In addition to the powers conferred by the provisions  
9 of the act to which this act is a supplement, the [Board of  
10 Commerce and Navigation] New Jersey Coastal Commission is  
11 [hereby] authorized [and empowered] to cooperate with the  
12 federal government, the county of Monmouth, and the borough  
13 of Atlantic Highlands in providing and maintaining a harbor or  
14 refuge in Sandy Hook bay near the borough of Atlantic  
15 Highlands.

16 46. Section 1 of P.L. 1940, c. 52 (C. 12:6A-1) is amended to  
17 read as follows:

18 1. [In addition to the powers conferred by the provisions of  
19 the act to which this act is a supplement, the] The New Jersey  
20 Coastal Commission, for the area of its jurisdiction, and the  
21 State Department of [Conservation and Economic Development  
22 is] Environmental Protection, for the remainder of the State,  
23 are [hereby] authorized [and empowered] to repair, reconstruct,  
24 or construct bulkheads, seawalls, breakwaters, groins, jetties,  
25 beachfills, dunes and any or all appurtenant structures and work,  
26 on any and every shore front along the Atlantic ocean, in the  
27 State of New Jersey, or any shore from along the Delaware bay  
28 and Delaware river, Raritan bay, Barnegat bay, Sandy Hook bay,  
29 Shrewsbury river including, Navesink river, Shark river, and the  
30 coastal inland water ways extending southerly from Manasquan  
31 inlet to Cape May harbor, or at any inlet, estuary or tributary  
32 waterway or any inland water-ways adjacent to any, inlet,  
33 estuary or tributary water-way along the shores of the State of  
34 New Jersey, to prevent or repair damage caused by erosion and  
35 storm, or to prevent erosion of the shores and to stabilize the  
36 inlets or estuaries and to undertake any and all actions and work  
37 essential to the execution of this authorization and the powers  
granted hereby.

1        47. Section 2 of P.L. 1940, c. 52 (C. 12:6A-2) is amended to  
read as follows:

3        2. The [Division of Navigation is] New Jersey Coastal  
5        Commission, for the area of its jurisdiction, and the State  
7        Department of Environmental Protection, for the remainder of  
9        the State, are further authorized [and empowered] to use the  
facilities and services of any branch of the federal government  
or of the State Government, or of any county or municipality  
within the State, and any funds which may now be available or  
which may hereafter be appropriated by the federal government,  
or any division of the State Government, or of any county or  
municipality within the State for the purpose of beach erosion,  
and beach protection.

13       48. Section 3 of P.L. 1940, c. 52 (C. 12:6A-3) is amended to  
read as follows:

15       3. The [Division of Navigation is] New Jersey Coastal  
17       Commission, for the area of its jurisdiction, and the State  
19       Department of Environmental Protection, for the remainder of  
21       the State, are further authorized [and empowered] to dredge and  
remove [any and] all obstructions in every waterway or stream  
in the State of New Jersey, to a depth and width to be  
determined by the [council of the Division of Navigation] New  
23       Jersey Coastal Commission, for the area of its jurisdiction, and  
25       the Department of Environmental Protection, for the remainder  
27       of the State, and to erect such bulkheads, breakwaters, groins or  
jetties as are necessary to prevent erosion and stabilize the  
shore in the vicinity of any inlet along the coast of the State of  
New Jersey.

29       49. Section 1 of P.L. 1960, c. 104 (C. 12:6A-4) is amended to  
read as follows:

31       1. The New Jersey Coastal Commission, for the area of its  
33       jurisdiction, and the State Department of [Conservation and  
35       Economic Development is] Environmental Protection, for the  
37       remainder of the State, are authorized [and empowered] to  
repair, reconstruct, or construct bulkheads, seawalls,  
breakwaters, groins or jetties along the New Jersey shores and  
estuaries of Upper New York bay, Lower New York bay, and  
Newark bay to repair damage caused by erosion and storing to  
prevent erosion and to stabilize the estuaries.

1       50. Section 4 of P.L. 1970, c. 33 (C. 13:1D-3) is amended to  
read as follows:

3       4. a. The Division of Marine Services, together with all of its  
functions, powers and duties, is continued as the New Jersey  
5       Coastal Commission, for the area of its jurisdiction, and the  
[Division of Coastal Resources in the] Department of  
7       Environmental Protection for the remainder of the State.

b. The Natural Resource Council, together with all of its  
9       functions, powers and duties, is continued as the Tidelands  
Resource Council in the Department of Environmental  
11       Protection. This act shall not affect the terms of office of the  
present members of the council. The members of the council  
13       shall continue to be appointed as provided by existing law.

15       51. Section 3 of P.L. 1979, c. 386 (C. 13:1D-18.2) is amended  
to read as follows:

17       3. a. Whenever the term "Division of Resource  
Development," "Division of Natural Resources," [,] or "Division  
of Marine Services" or the terms "Director of the Division of  
19       Resource Development," "Director of the Division of Natural  
Resources," or "Director of the Division of Marine Services"  
21       occurs, or any reference is made thereto in any law, contract or  
document, the [same] term shall [be deemed to] mean or refer to  
23       the New Jersey Coastal Commission, for the area of its  
jurisdiction, and the [Division of Coastal Resources and director  
25       thereof,] Department of Environmental Protection [respectively]  
for the remainder of the State.

27       b. Whenever the term "Resource Development Council,"  
"Planning and Development Council," or "Natural Resource  
29       Council" occurs, or any reference is made thereto in any law,  
contract or document, the [same] term shall [be deemed to]  
31       mean or refer to the tidelands Resource Council.

33       52. Section 1 of P.L. 1975, c. 232 (C. 13:1D-29) is amended to  
read as follows:

35       1. For the purposes of this act, unless the context clearly  
requires a different meaning, the following terms shall have the  
following meanings:

37       a. "Commissioner" means the State Commissioner of  
Environmental Protection.

39       b. "Construction permit" means and shall include:

1 (1) Approval of plans for the development of any water-front  
upon any tidal waterway pursuant to R.S. 12:5-3.

3 (2) A permit for a regulated activity pursuant to "The  
Wetlands Act of 1970," P.L. 1970, c. 272 (C. 13:9A-1 et seq.).

5 (3) A permit issued pursuant to the "Coastal Area Facility  
Review Act," P.L. 1973, c. 185 (C. 13:19-1 et seq.).

7 (4) Approval of a structure or alteration within the area which  
would be inundated by the 100 years design flood of any  
9 nondelineated stream or of a change in land use within any  
delineated floodway or any State administered and delineated  
11 flood fringe area, all pursuant to the "Flood Hazard Area  
Control Act," P.L. 1962, c. 19 (C. 58:16A-50 et seq.) as  
13 amended and supplemented.

(5) Approval of plans and specifications for the construction  
15 changes, improvements, extensions or alterations to any sewer  
system pursuant to [R.S. 58:11-10] law.

17 "Construction permit" shall not, however, include any  
approval of, or permit for, an electric generating facility or for  
19 a petroleum processing or storage facility, including a, liquefied  
natural gas facility, with a storage capacity of over 50,000  
21 barrels.

c. "Department" means the Department of Environmental  
23 Protection.

d. "Commission" means the New Jersey Coastal Commission.

25 53. Section of P.L. 1975, c. 232 (C. 13:1D-30) is amended to  
read as follows:

27 2. The department or the commission, as appropriate, shall  
promptly review all applications for construction permits. The  
29 department or the commission, as appropriate, shall within 20  
working days following the filing of an application for a  
31 construction permit, except a permit issued pursuant to the  
Coastal Area Facility Review Act, P.L. 1973, c. 185 (C. 13:19-1  
33 et seq.), request that the applicant submit additional  
information to assist it in its review if it deems that such  
35 information is necessary. In the event that such information is  
requested, the application will be construed to be complete  
37 when the additional information is received by the department  
or the commission, as appropriate.

1       54. Section 3 of P.L. 1975, c. 232 (C. 13:1D-31) is amended to  
read as follows:

3       3. The department or the commission, as appropriate, shall  
approve, condition or disapprove an application for a  
5       construction permit within 90 days following the date that the  
application is complete, except that this time period may be  
7       extended for a 30 day period by the mutual consent of the  
applicant and the department or the commission as appropriate,  
9       provided that the department or the commission, as appropriate,  
request the applicant for such an extension at least 15 days prior  
11      to the expiration date for the approval, conditioning or  
disapproval of such an application.

13      55. Section 4 of P.L. 1975, c. 232 (C. 13:1D-32) is amended to  
read as follows:

15      4. In the event that the department or the commission, as  
appropriate, fails to take action on an application for a  
17      construction permit within the 90-day period specified herein,  
[then] the application shall be deemed to have been approved;  
19      provided, however, that the time periods specified in section 12  
of P.L. 1973, c. 185 (C. 13:19-12) shall apply to applications for  
21      construction permits pursuant to the Coastal Area Facility  
Review Act, P.L. 1973, c. 185 (C. 13:19-1et seq.).

23      56. Section 5 of P.L. 1975, c. 232 (C. 13:1D-33) is amended to  
read as follows:

25      5. The commissioner and the commission shall adopt, amend  
and repeal rules and regulations to implement the provisions of  
27      this act. The commissioner and the commission shall, in  
accordance with a fee schedule adopted as a rule or regulation,  
29      establish and charge reasonable fees for the filing and review of  
any application for a construction permit. The fees imposed  
31      hereunder, except as may otherwise be provided by law, shall be  
deposited in a fund to be known as the "Environmental Services  
33      Fund," kept separate and apart from all other State receipts and  
appropriated only as provided herein. There shall be  
35      appropriated annually to the department and the commission  
revenue from such fund sufficient to defray in full the costs  
37      incurred in the processing and review of applications

1 for construction permits.

2 57. Section 6 of P.L. 1975, c. 232 (C. 13:1D-34) is amended to  
3 read as follows:

4 6. The commissioner and the commission, as appropriate,  
5 shall publicly distribute, at least monthly a bulletin, listing the  
6 pending applications for construction permits and the status of  
7 the review of those applications, including decisions thereon.

8 59. The title of P.L. 1970, c. 272 (C. 13:9A-1 et seq.) is  
9 amended to read as follows:

10 An Act concerning the protection of natural resources in  
11 coastal wetlands, providing for the designation by the  
12 Commissioner of Environmental Protection of certain coastal  
13 wetlands after public hearing, and requiring permits from the  
14 commissioner or the New Jersey Coastal Commission prior to  
15 dredging, removing, filling or otherwise altering or polluting  
16 coastal wetlands.

17 59. Section 2 of P.L. 1970, c. 272 (C. 13:9A-2) is amended to  
18 read as follows:

19 2. The New Jersey Coastal Commission within the area of its  
20 jurisdiction, and the [Commissioner] commissioner, in the  
21 remaining areas of the State, may, from time to time, for the  
22 purpose of promoting the public safety, health and welfare, and  
23 protecting public and private property, wildlife, and marine  
24 fisheries, adopt, amend, modify or repeal orders regulating,  
25 restricting or prohibiting dredging, filling, removing or  
26 otherwise altering, polluting, coastal wetlands. For the purposes  
27 of this act the term "coastal wetlands" shall mean any bank,  
28 marsh, swamp, meadow, flat or other low land subject to tidal  
29 action in the State of New Jersey along the Delaware bay and  
30 Delaware river, Raritan bay, Barnegat bay, Sandy Hook bay,  
31 Shrewsbury river including Navesink river, Shark river, and the  
32 coastal inland waterways extending southerly from Manasquan  
33 inlet to Cape May harbor, or at any inlet, estuary or tributary  
34 waterway or any thereof, including those areas now or formerly  
35 connected to tidal waters whose surface is at or below an  
36 elevation of one foot above local extreme high water, and upon  
37 which may grow or is capable of growing some, but not  
38 necessarily all, of the following: Salt meadow grass (*Spartina*  
39 *patens*), spike grass (*Distichlis spicata*), black grass (*Juncus*

1 gerardi), saltmarsh grass (*Spartina alterniflora*), saltworts  
 2 (*Salicornia Europaea*, and *Salicornia bigelovii*), Sea Lavendar  
 3 (*Limonium carolinianum*), saltmarsh bulrushes (*Scirpus robustus*  
 4 and *Scirpus paludosus* var. *atlanticus*), sand spurrey (*Spergularia*  
 5 *marina*), switch grass (*Panicum virgatum*), tall cordgrass  
 6 (*Spartina pectinata*), hightide bush (*Iva frutescens* var. *oraria*),  
 7 cattails (*Typha angustifolia*, and *Typha latifolia*), spike rush  
 8 (*Eleocharis rostellata*), chairmaker's rush (*Scirpus americana*),  
 9 bent grass (*Agrostis palustris*), and sweet grass (*Hierochloa*  
 10 *odorata*). The term "coastal wetlands" shall not include any  
 11 land or real property subject to the jurisdiction of the  
 12 Hackensack Meadowlands Development Commission pursuant to  
 13 the provisions of P.L. 1968, chapter 404, sections 1 through 84  
 14 (C. 13:17-1 through C. 13:17-86).

15 60. Section 3 of P.L. 1970, c. 272 (C. 13:9A-3) is amended to  
 16 read as follows:

17 3. The New Jersey Coastal Commission, within the area of its  
 18 jurisdiction, and, the commissioner, in the remaining areas of  
 19 the State, shall, before adopting, amending, modifying or  
 20 repealing any such order, hold a public hearing thereon in the  
 21 county in which the coastal wetlands to be affected are located,  
 22 giving notice thereof to each owner having a recorded interest  
 23 in such wetlands by mail at least 21 days prior thereto addressed  
 24 to his address as shown in the municipal tax office records and  
 25 by publication thereof at least twice in each of the three weeks  
 26 next preceding the date of such hearing in a newspaper of  
 27 general circulation in the municipality or municipalities in which  
 28 such coastal wetlands are located.

29 Upon the adoption of any such order or any order amending,  
 30 modifying or repealing, the same, the New Jersey Coastal  
 31 Commission, within, the area of its jurisdiction, and the  
 32 commissioner in the remaining areas of the State shall cause a  
 33 copy thereof, together with a plan of the lands affected,  
 34 including reference to the filed wetlands map or maps on  
 35 which the same are shown and a list of the owners of record of  
 36 such lands, to be recorded in the office of the county clerk or  
 37 register of deeds, where it shall be indexed and filed as a  
 38 judgment, and shall mail a copy of such order and plan to each  
 39 owner of record of such lands affected thereby.

1        61. Section 4 of P.L. 1970, c. 272 (C. 13:9A-4) is amended to  
read as follows:

3        4. a. For purposes of this section "regulated activity"  
includes but is not limited to draining, dredging, excavation or  
5        removal of soil, mud, sand, gravel, aggregate of any kind or  
depositing or dumping therein any rubbish or similar material or  
7        discharging therein liquid waste, either directly or otherwise,  
and the erection of structures, drivings of pilings, or placing of  
9        obstructions, whether or not changing the tidal ebb and flow.  
"Regulated activity" shall not include continuance of  
11       commercial production of salt hay or other agricultural crops or  
activities conducted under section 7 of this act.

13       b. No regulated activity shall be conducted upon any wetland  
without a permit.

15       c. Any person proposing to conduct or cause to be conducted  
a regulated activity upon any wetland shall file an application  
17       for a permit with the New Jersey Coastal Commission, within  
the area of its jurisdiction, and the commissioner, in the  
19       remaining areas of the State, in such form and with such  
information as the New Jersey Coastal Commission or the  
21       commissioner, as appropriate, may prescribe and shall provide  
notice to each electric or gas public utility in the State and to  
23       each owner of all real property as shown on the current tax  
duplicate, located in the State and within 200 feet in directions  
25       of the property which is the subject of such application in the  
manner prescribed by section 7.1 of P.L. 1975, c. 291 (C.  
27       40:55D-12). Such application shall include a detailed description  
of proposed work and a map showing the area of wetland  
29       directly affected, with the location of the proposed work  
thereon, together with the names of the owners of record of  
31       adjacent land and known claimants of rights in or adjacent to  
the wetlands of whom the applicant has notice applications, with  
33       any, maps and documents relating thereto, shall be open for  
inspection at the office of the Department of Environmental  
35       Protection or the commissioner, as appropriate.

37       d. In granting, denying or limiting any permit the New Jersey  
Coastal Commission within the area of its jurisdiction, and the  
commissioner in the remaining areas of the State shall consider



1 the effect of the proposed work with reference to the public  
 2 health and welfare, marine fisheries, shell fisheries, wildlife, the  
 3 protection of life and property, from flood, hurricane and other  
 4 natural disasters, and the public policy, set forth in section 1a.  
 5 of this act.

6 62. Section 7 of P.L. 1970, c. 272 (C. 13:9A-7) is amended to  
 7 read as follows:

8 7. No action by the New Jersey Coastal Commission, within  
 9 the area of its jurisdiction, and the commissioner in the  
 10 remaining areas of the State under this act shall prohibit,  
 11 restrict or impair the exercise or performance of the powers and  
 12 duties conferred or imposed by law on the State Department of  
 13 Environmental Protection, the [Natural Resource Council]  
 14 Tidelands Resource Council and the State Mosquito Control  
 15 Commission in said department, the State Department of  
 16 Health, or any mosquito control or other project or activity  
 17 operating under or authorized by the provisions of chapter 9 of  
 18 Title 26 of the Revised Statutes.

19 63. Section 9 of P.L. 1970, c. 272 (C. 13:9A-9) is amended to  
 20 read as follows:

21 9. Any person who violates any order by the commissioner or  
 22 the New Jersey Coastal Commission, or violates any of the  
 23 provisions of this act, shall be liable to the State for the cost of  
 24 restoration of the affected wetland to its condition prior to such  
 25 violation insofar as that is possible, and shall be punished by a  
 26 fine of not more than \$1,000.00, to be collected in accordance  
 27 with the provisions of "the [Penalty Enforcement Law] penalty  
 28 enforcement law" (N.J.S. 2A:58-1 et seq.).

29 64. Section 3 of P.L. 1973, c. 185 (C. 13:19-3) is amended to  
 30 read as follows:

31 3. For the purposes of this act, unless the context clearly  
 32 requires a different meaning, the following words shall have the  
 33 following meanings:

34 a. ["Commissioner" means the State Commissioner of  
 35 Environment Protection.] (deleted by amendment)

36 b. "[Department] Commission" means the [State Department  
 37 of Environmental Protection] New Jersey Coastal Commission.

38 c. "Facility" includes any of the facilities designed or  
 39 utilized for the following purposes:

- 1 (1) Electric power generation--  
Oil, gas, or coal fired or any combination thereof.
- 3 Nuclear facilities.
- (2) Food and food byproducts--
- 5 Beer, whiskey and wine production.  
Fish processing, including the production of fish
- 7 meal and fish oil.  
Slaughtering, blanching, cooking, curing, and pickling
- 9 of meats and poultry.  
Trimming, culling, juicing, and blanching, of fruits
- 11 and vegetables.  
Animal matter rendering plants.
- 13 Operations directly related to the production of  
leather or furs, such as, but not limited to,
- 15 unhairing, soaking, deliming, bathing and tanning.  
Curing and pickling of fruits and vegetables.
- 17 Pasteurization, homogenization, condensation,  
and evaporation of milk and cream to produce cheeses,
- 19 sour milk, and related products.  
Coffee bean and cocoa bean roasting.
- 21 (3) Incineration wastes municipal wastes (larger than  
or equal to 50 tons per day).
- 23 Automobile body (20 automobiles per hour or larger).
- (4) Paper production Pulp mills.
- 25 Paper mills.  
Paperboard mills.
- 27 Building paper mills.  
Building board mills.
- 29 (5) (a) Public facilities [and housing]--  
Sanitary landfills.
- 31 Shore protection devices  
Waste treatment plants (sanitary sewage).
- 33 Road, airport, or highway construction.
- (b) Dwelling units, subdivisions, public roads and commercial
- 35 developments.  
As used in this subparagraph: "dwelling unit" includes houses,
- 37 townhouses, apartments, condominiums, cabanas, hotel or motel  
rooms, hospital rooms, nursing home rooms, institutions, mobile
- 39 homes, campsites for tents or recreational vehicles, floating

homes, or any habitable structure of similar size and potential environmental impact; "public road" means a road or street open to vehicular traffic other than on an emergency basis as of the effective date of this amendatory and supplementary act.

A subdivision, new housing development, or expansion of an existing development that would result in the creation of 25 or more lots, tracts, or parcels for sale or development or the construction of 25 or more dwelling units, except as follows:

(i) The creation of three or more lots, tracts, or parcels for sale or development, or the construction or reconstruction of three or more dwelling units, or 10 more parking spaces, within 1,000 feet of the mean high water line of the ocean, tidal rivers, and tidal bays.

(ii) The creation of 75 or more lots, tracts, or parcels for sale or development, or the construction or reconstruction of 75 or more dwelling units, or 100 or more parking spaces, in Development Regions, except as provided in (i) above. "Development Regions" shall be classified and delineated as follows:

Special urban areas, including Asbury Park, Bridgeton, Keansburg, Lakewood, Long Branch, Millville, Neptune township, and Old Bridge.

The North Shore Region including all regulated portions of Middlesex and Monmouth counties:

The Central Shore Region including those portions of Ocean county within the coastal area that are north of State Highway 37 and west of the Garden State Parkway, and those parts of the county north of Cedar creek and east of the parkway.

The Absecon-Somers Point Region includes those mainland portions of Atlantic county south of County road 561 (Jimmy Leeds road), and east of the Garden State Parkway.

(c) Commercial developments.

(i) Any commercial development or expansion thereof between the mean highwater line of the ocean, tidal rivers and tidal bays, and the nearest parallel public street or road or 1,000 feet, whichever is less, which alone, or in combination with an earlier development, will require a total of 10 parking spaces.

(ii) In other commercial development or expansion

1. thereof elsewhere in the coastal area which alone, or in  
 3 combination with an earlier development, requires a total of 100  
or more parking spaces, or an area equal to or greater than two  
acres of paved area.

5 (d) Notwithstanding subparagraphs (a) through (c) of this  
paragraph "facility" also includes the construction,  
 7 reconstruction, or expansion of one or more of the structures  
enumerated in subparagraphs (a) and (b) and any size structure  
 9 enumerated in subparagraph (c) if there is no intervening  
structure as enumerated in this subparagraph between the  
 11 structure proposed for construction or expansion and the water,  
provided that "intervening structure" shall not include a shore  
 13 protection device, boardwalk, road, or beach facility including  
bath house, lifeguard station, snack bar and other similar  
 15 facilities.

[New housing developments of 25 or more dwelling units or  
 17 equivalent.]

Expansion of existing developments by the addition of 25 or  
 19 more dwelling units or equivalent.]

(6) Agri-chemical production-

21 Pesticides manufacture and formulation operations or either  
 thereof.

23 Superphosphate animal feed supplement manufacture.

Production of normal superphosphate.

25 Production of triple superphosphate.

Production of diammonium phosphate.

27 (7) Inorganic acids and salts manufacture-

Hydrofluoric acid and common salts.

29 Hydrochloric acid and common salts.

Nitric acid and common salts.

31 Sulfuric acid and common salts.

Chromic acid, including chromate and dichromate salts.

33 (8) Mineral products-

Asphalt batching and roofing operations including the  
 35 preparation of bituminous concrete and concrete.

Cement production, including Portland, natural, masonry and  
 37 pozzolan cements.

Coal cleaning.

39 Clay, clay mining, and fly-ash sintering.

Calcium carbide production.

41 Stone, rock, gravel, and sand quarrying and processing.

- 1 Firt and glass production.  
Fiberglass production.
- 3 Slag, rock and glass wool production (mineral wool).  
Lime production, including quarrying.
- 5 Gypsum production, including quarrying.  
Asbestos fiber production.
- 7 (9) Chemical processes--  
Ammonia manufacture.
- 9 Chlorine manufacture.  
Caustic soda production.
- 11 Frit and glass production.  
Fiberglass production.
- 13 Carbon black and charcoal production, including channel,  
furnace, and thermal processes.
- 15 Varnish, paint, lacquer, enamel, organic solvent, and inorganic  
or organic pigment manufacturing or formulating.
- 17 Synthetic resins or plastics manufacture including, but not  
limited to, alkyd resins, polyethylene, fluorocarbons,  
19 polypropylene, and polyvinylchloride.  
Sodium carbonate manufacture.
- 21 Synthetic fibers production including, but not limited to,  
semisynthetics such as viscose, rayon, and acetate, and true  
23 synthetics such as; but not limited to, nylon, orlon, and dacron,  
and the dyeing of these semi and true synthetics.
- 25 Synthetic rubber manufacture, including but not limited to,  
butadiene and styrene copolymers, and the reclamation of  
27 synthetic or natural rubbers.  
The production of high and low explosives such as, but not  
29 limited to TNT and nitrocellulose,  
Soap and detergent manufacturing, including but not limited  
31 to, those synthetic detergents prepared from fatty alcohols or  
linear alkylate.
- 33 Elemental sulfur recovery plants not on the premises where  
petroleum refining occurs.
- 35 Used motor or other oil or related petroleum product  
reclamation operations.
- 37 Petroleum refining including but not limited to, distillation,  
cracking, reforming, treating, blending, polymerization,  
39 isomerization, alkylation, and elemental sulfur recovery  
operations.
- 41 Organic dye and dye intermediate manufacturing.  
Hydrogen cyanide and cyanide salts manufacture or use.
- 43 Glue manufacturing operations.

1 Manufacturing, fabricating, or processing medicinal and  
 3 pharmaceutical products including the grading, grinding, or  
 milling of botanicals.

(10) Storage-

5 Bulk storage, handling, and transfer facilities for crude oil,  
 gas and finished petroleum products not on the premises where  
 7 petroleum refining occurs.

Bulk storage, handling, transfer and manufacturing facilities  
 9 of gas manufactured from inorganic and organic materials  
 including coal gas, coke oven gas, water gas, producer, and oil  
 11 gases.

(11) Metallurgical processes-

13 Production of aluminum oxide and aluminum metal and all  
 common alloys, such as those with copper, magnesium, and  
 15 silicon.

Production of titanium metal, salts, and oxides.

17 Metallurgical coke, petroleum coke, and byproduct coke  
 manufacturing.

19 Copper, lead, zinc, and magnesium smelting and processing.

Ferroalloys manufacture such as, but not limited to, those  
 21 combines with silicon, calcium, manganese and chrome.

Integrated steel and iron mill operations including, but not  
 23 limited to, open hearth, basic oxygen, electric furnace, sinter  
 plant, and rolling, drawing, and extruding operations.

25 Melting, smelting, refining, and alloying of scrap or other  
 substances to produce brass and bronze ingots.

27 Gray iron foundry operations.

Steel foundry operations.

29 Beryllium metal or alloy production, including rolling, drawing  
 and extruding operations.

31 Operations involving silver, arsenic, cadmium, copper,  
 mercury, lead, nickel, chromium, and zinc including, but not  
 33 limited to, production, recovery from scrap or salvage, alloy  
 production, salt formation, electroplating, anodizing, and  
 35 metallo-organics compound products preparation.

Stripping of oxides from and the cleaning of metals prior to  
 37 plating, anodizing, or painting.

(12) Miscellaneous-

39 Operations involving the scouring, desizing, cleaning,  
 bleaching, and dyeing of wool.

1 Wood preserving processes which use coal or petroleum based  
products such as, but not limited to, coal tars and/or creosotes.

3 Manufacture, use, or distillation of phenols, cresols, or coal  
tar materials.

5 Manufacture of lead acid storage batteries and/or storage  
batteries produced from other heavy metals, such as nickel or  
7 cadmium.

Installation of above or underground pipelines designed to  
9 transport petroleum, natural gas, and sanitary sewage.

Operations involving the dyeing, bleaching, coating,  
11 impregnating, or glazing of paper.

Dyeing, bleaching and printing of textiles other than wool.  
13 Chemical finishing for water repelling, fire resistance, and  
mildew proofing, including preshrinking, coating and  
15 impregnating.

Sawmill and planing mill operations.

17 Marine terminal and cargo handling facilities.

d. "Person" means and shall include corporations, companies,  
19 associations, societies, firms, partnerships and joint stock  
companies as well as individuals and governmental agencies.

21 e. "Governmental agencies" means the Government of the  
United States, the State of New Jersey, or any other states,  
23 their political subdivisions, agencies, or instrumentalities  
thereof, and interstate agencies.

25 f. "Management plan" means the New Jersey Coastal Area  
Management Plan developed and adopted pursuant to section 9  
27 of P. L.....,c.....(C.....) (now before the Legislature as this  
bill.)

29 g. "Regional Advisory Council" or "Council" means the  
bodies created to advise and assist the commission pursuant to  
31 section 8 of P.L.....,c.....(C.....) (now before the Legislature  
as this bill).

33 65. Section 5 of P.L. 1973, c. 185 (C. 13:19-5) is amended to  
read as follows:

35 5. No person shall construct or cause to be constructed a  
facility in the coastal area until he has applied for and received  
37 a permit issued by the [commissioner] commission; however, the  
provisions of this act shall not apply to facilities for which

1 on-site construction, including site preparation, was in process  
on or prior to the effective date of this act, provided such  
3 construction continues with no interruption for more than one  
year.

5 66. Section 6 of P.L. 1973, c. 185 (C. 13:19-6) is amended to  
read as follows:

7 6. Any person proposing to construct or cause to be  
constructed a facility in the coastal area shall file an  
9 application for a permit with the [commissioner] commission, in  
such form and with such information as the [commissioner]  
11 commission may prescribe. [The application shall include an  
environmental impact statement as described in this act.]

13 67. Section 8 of P.L. 1973, c. 185 (c. 13:19-8) is amended to  
read as follows:

15 8. a. Within 30 days following receipt of an application, the  
[commissioner] commission shall notify the applicant in writing  
17 regarding its completeness. The [commissioner] commission  
may declare the application to be complete for filing or may  
19 notify the applicant of specific deficiencies. The  
[commissioner] commission, within 15 days following the receipt  
21 of additional information to correct deficiencies, shall notify  
the applicant of the completeness of the amended application.  
23 The application shall not be considered to be filed until it has  
been declared complete by the [commissioner] commission.

25 b. [The commissioner, within 15 days of declaring the  
application complete for filing, shall set a date for the hearing.]  
27 The commission shall set a date for [the] any necessary hearing  
[shall be set] on the application not later than 60 days after the  
29 application is declared complete for filing.

31 68. Section 9 of P.L. 1973, c. 185 (C. 13:19-9) is amended to  
read as follows:

33 9. a. The [commissioner] commission or a member of the  
[department] commission staff designated by [him, shall] the  
commission may hold a hearing as it deems necessary to afford  
35 interested parties the opportunity to present, orally or in  
writing, their position concerning the application and any data  
37 they may have developed in reference to the environmental  
effects of the proposed facility. The commission shall, by rule



1 or regulation, establish adequate notice procedures and criteria  
 2 for the holding of a public hearing whenever an applicant or a  
 3 municipal or county governing body requests one.

4 b. The [commissioner] commission, within 15 days after the  
 5 hearing, may require an applicant to submit any additional  
 6 information necessary for the complete review of the  
 7 application.

8 69. Section 10 of P.L. 1973, c. 185 (C. 13:19-10) is amended  
 9 to read as follows:

10 10. The [commissioner] commission shall review filed  
 11 applications, including [the] any environmental impact  
 12 statement and all information presented at public hearings. [He]  
 13 It shall issue a permit only if [he] it finds that the proposed  
 14 facility:

15 a. Conforms with all applicable air, water and radiation  
 16 emission and effluent standards and all applicable water quality  
 17 criteria and air quality standards.

18 b. Prevents air emissions and water effluents in excess of the  
 19 existing dilution, assimilative, and recovery capacities of the air  
 20 and water environments at the site and within the surrounding  
 21 region.

22 c. Provides for the handling and disposal of litter, trash, and  
 23 refuse in such a manner as to minimize adverse environmental  
 24 effects and the threat to the public health, safety, and welfare.

25 d. Would result in minimal feasible interference with the  
 26 natural functioning of plant, animal, fish, and human life  
 27 processes at the site and within the surrounding region.

28 f. Is located or constructed so as to neither endanger human  
 29 life or property nor otherwise impair the public health, safety,  
 30 and welfare.

31 g. Would result in minimal practicable degradation of unique  
 32 or irreplaceable land types, historical or archeological areas,  
 33 and existing scenic and aesthetic attributes at the site and  
 34 within the surrounding region.

35 h. Conforms with the applicable provisions of the  
management plan.

36 70. Section 11 of P.L. 1973, c. 185 (C. 13:19-11) is amended  
 37 to read as follows:

38 11. Notwithstanding the applicant's compliance with the

1 criteria listed in section 10 of this act, if the [commissioner]  
commission finds that the proposed facility would violate or  
 3 tend to violate the purpose and intent of this act as specified in  
 section 2, or the "New Jersey Coastal Commission Act," P.L.  
 5 ..... c.....(C.....) (now before the Legislature as this  
bill), or the management plan adopted pursuant thereto, or if the  
 7 [commissioner] commission finds that the proposed facility  
 would materially contribute to an already serious and  
 9 unacceptable level of environmental degradation or resource  
 exhaustion, [he] it may deny the permit application, or [he] it  
 11 may issue a permit subject to such conditions as [he] it finds  
 reasonably necessary to promote the public health, safety and  
 13 welfare, to protect public and private property, wildlife and  
 marine fisheries, and to preserve, protect and enhance the  
 15 natural environment. In addition, the construction and operation  
 of a nuclear electricity generating facility shall not be approved  
 17 by the [commissioner] commission unless [he] it shall find that  
 the proposed method for disposal of radioactive waste material  
 19 to be produced or generated by such facility will be safe,  
 conforms to standards established by the [Atomic Energy]  
 21 Nuclear Regulatory Commission and will effectively remove  
 danger to life and the environment from such waste material.

23 71. Section 1 of P.L. 1986, c. 145 (C. 13:19-11.1) is amended  
 to read as follows:

25 1. [Notwithstanding] Notwithstanding the provisions of any  
 rule or regulation to the contrary, the [department] commission  
 27 shall not require the provision for low and moderate income  
 housing as a condition for approval of an application to  
 29 construct a facility in the coastal area pursuant to the  
 provisions of P.L. 1973, c. 185 (C. 13:19-1 et seq.).

31 72. Section 12 of P.L. 1973, c. 185 (C. 13:19-12) is amended  
 to read as follows:

33 12. a. The [commissioner] commission shall notify the  
 applicant within 60 days after the hearing, if one is held, as to  
 35 the granting or denial of a permit. If no hearing is held, the  
commission shall notify the applicant of its decision within 90  
 37 days following the filing of a completed application. The

1 reasons for granting or denying the permit shall be stated. In  
2 the event the [commissioner] commission requires additional  
3 information as provided for in section 9, [he] it shall notify the  
4 applicant of [his] its decision within 90 days following the  
5 receipt of the information. The commission shall process  
6 applications for developments of 25 or fewer lots or units, or  
7 100 fewer parking spaces, as expeditiously as is practicable and  
8 feasible.

9 b. Notwithstanding the provisions of any other law, rule, or  
10 regulation to the contrary, the commission shall delegate its  
11 powers pursuant to this act, for the review and approval of all  
12 development subject to this act, in the manner prescribed in this  
13 act, only after a municipality or county submits a  
14 comprehensive land use management plan and development  
15 regulations for the area subject to its jurisdiction and secures  
16 the certification of the commission of the plan and regulations  
17 as being in conformance with the management plan. The  
18 commission may revoke its delegation of powers for cause,  
19 which shall include, but not be limited to, a municipality's or  
20 county's failure to perform its delegated powers in conformance  
21 with the intent of this act and in conformance with the  
22 management plan.

23 c. Any application filed for review by a municipality or  
24 county, pursuant to this section, shall be filed with the  
25 commission. The commission shall forthwith file a copy of the  
26 complete application with the municipality and county. Any  
27 application for approval required pursuant to this act which has  
28 not been filed with the commission shall not be reviewed or  
29 approved by a municipality or county.

30 d. Any approval or denial of any application for development  
31 by any municipality, county, or agency thereof shall be filed  
32 with the commission no later than 10 it days thereafter,  
33 exclusive of weekends and holidays.

34 e. The commission may require review of any approval  
35 granted by a municipality or county and may stay the effect of  
36 such approval during its review. Any applicant denied approval  
37 or contesting the conditions of an approval, or any municipality

1 or county which objects to an approval, a denial or the conditions of  
 3 an approval may petition the commission to review a decision made by  
 5 a municipality or county or by the commission. A copy of each  
 7 petition shall forwarded to the appropriate Regional Advisory  
 9 Council. The council shall, if it grants the petition, notify the  
commission and the affected parties of the place, time and date at  
which the dispute will be heard within 15 days of receiving the  
petition. In the alternative, the council shall notify the parties and  
the commission of its decision not to hear the dispute.

11 (1) All hearings held by a council shall be informal in nature.  
 13 The council shall use its best faith efforts to resolve the dispute to  
 15 the satisfaction of the parties, and in conformance with the policies,  
standards and guidelines of the adopted management plan and this  
act. If the council cannot resolve the dispute within 60 days of the  
petition having been filed, it shall refer the dispute to the commission  
for further hearing.

17 (2) All disputes resolutions shall be embodied in an agreement  
 19 which shall be signed by the parties and which shall be subject to  
 21 review by the commission. If the commission fails to object to an  
 23 agreement within 15 days of its receipt from the council, it shall be  
considered approved and binding upon the parties. If the commission  
disapproves an agreement it shall proceed within 15 days of  
disapproval to hold an adjudicatory hearing on the matter.

25 (3) If the council decides that a dispute is not amenable to  
 27 informal hearing and resolution, it shall, within 15 days of  
receiving a petition, refer the matter to the commission for an  
adjudicatory hearing.

29 (4) A commission decision approving an agreement arrived at  
 31 by the parties and the council or by adjudicatory hearing is final  
agency action for the purposes of the "Administrative Procedure  
Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.) and is subject only  
to judicial review as provided in the "N.J. Court Rules, 1969."

33 73. Section 17 of P.L. 1973, c. 185 (C. 13:19-17) is amended  
 to read as follows:

35 17. The [department] commission is hereby authorized to  
 37 adopt, amend and repeal rules and regulations to effectuate the  
 purposes of this act.

1           74. Section 18 of P.L. 1973, c. 185 (C. 13:19-18) is amended to  
read as follows:

3           18. If any person violates any of the provisions of this act,  
rule, regulation or order promulgated or issued pursuant to the  
5 provisions of this act, the [department] commission may institute a  
civil action in the Superior Court for injunctive relief to prohibit and  
7 prevent such violation or violations and said court may proceed in a  
summary manner. Any person who violates any of the provisions of  
9 this act, rule, regulation or order promulgated or issued pursuant to  
this act shall be liable to a penalty of not more than \$3,000.00 to be  
11 collected in a summary proceeding or in any case before a court of  
competent jurisdiction wherein injunctive relief has been requested.  
13 If the violation is of a continuing nature, each day during which it  
continues shall constitute an additional, separate and distinct  
15 offense. The [department] commission is hereby authorized and  
empowered to compromise and settle any claim for a penalty under  
17 this section in such amount in the discretion of the [department]  
commission as may appear appropriated and equitable under the  
19 circumstances.

21           75. Section 11 of P.L. 1985, c. 398 (C. 52:18A-206) is  
amended to read as follows:

23           11. Nothing in this act shall be construed to affect the plans  
and regulations of the Pinelands Commission pursuant to the  
"Pinelands Protection Act" (P.L. 1979, c. 111), the Hackensack  
25 Meadowlands Development Commission pursuant to the  
"Hackensack Meadowlands Reclamation and Development Act:  
27 (P.L. 1968, c. 404), or the [Department of Environmental  
Protection] New Jersey Coastal Commission pursuant to the  
29 "Coastal Area Facility Review Act" (P.L. 1973, c. 185). The  
State Planning Commission shall rely on the adopted plans and  
31 regulations of these entities in developing the State  
Development and Redevelopment Plan.

33           76. Section 3 of P.L. 1983, c. 356 is amended to read as  
follows:

35           3. As used in this act unless the context indicates, or issued,  
under this act;

37           b. "Commission" means the New Jersey Commission on  
Capital Budgeting and Planning;

39           c. ["Commissioner" means the Commissioner of

1 Environmental Protection;](Deleted by amendment)

3 d. "Construct" and "construction" mean, in addition to the  
usual meaning thereof, acts of construction, reconstruction,  
replacement, extension, improvement and betterment:

5 e. "Cost" means the cost of acquisition or construction of all  
or any part of a shore protection project and of all or any real or  
7 personal property agreements and franchises deemed by the New  
Jersey Coastal Commission [department] to be necessary or  
9 useful and convenient therefor or in connection therewith,  
including: interest or discount on bonds; cost of issuance of  
11 bonds; cost of a bond registrar and authenticating agent; cost of  
geological and hydrological surveys; up to \$500,000.00 per year  
13 in administrative costs incurred by the New Jersey Coastal  
Commission [department] in implementing this act; engineering  
15 and inspection costs and legal expenses; costs of financial,  
professional or other estimates and advice; organization,  
17 operating and other expenses prior to and during this acquisition  
or construction; and all such expenses as may be necessary or  
19 incident to the financing, acquisition, construction and  
completion of the project or part thereof and the placing of the  
21 same in operation, and also the provisions for a reserve fund, or  
reserves for working capital, operating, maintenance or  
23 replacement expenses and for payment or security of principal  
or interest on bonds during or after this acquisition or  
25 construction as the State Comptroller may determine; and also  
reimbursements to the General Fund or to any other fund from  
27 which moneys may have been transferred to the General Fund,  
of any moneys expended for or in connection with this project;

29 f. ["Department" means the Department of Environmental  
Protection;] (Deleted by amendment)

31 g. "Project" means any work relating to shore protection,  
whether undertaken singly or jointly by the State, a county a  
33 municipality or agencies thereof.

35 77. Section 4 of P.L. 1983, c. 356 is amended to read as  
follows:

37 4. The [commissioner] New Jersey Coastal Commission shall  
adopt, pursuant to law, rules and regulations necessary and  
appropriate to carry out the provisions of this act. The  
39 [commissioner] New Jersey Coastal Commission shall review

1 and consider the findings and recommendations of the  
commission in the administration of the provisions of this act.

3 78. Section 5 of P.L. 1983, c. 356 is amended to read as  
follows:

5 5. a. Bonds of the State of New Jersey are hereby authorized  
to be issued in the aggregate principal amount of \$50,000,000.00  
7 for the purpose of State projects and the making of State grants  
and loans to counties and municipalities for the cost of  
9 researching, planning, acquiring, developing, construction and  
maintaining of county and municipal shore protection projects.

11 b. Of the total moneys available pursuant to this act,  
\$40,000,000.00 is allocated for State shore protection projects  
13 and for State grants to counties and municipalities, or agencies  
thereof, for county and municipal shore protection projects, and  
15 \$10,000,000.00 is allocated for State loans to counties and  
municipalities. These loans shall be made to provide the local  
17 share of a State grant until the portion allocated for State  
grants is exhausted for county and municipal shore protection  
19 projects.

c. State grants to counties and municipalities, or agencies  
21 thereof, made pursuant to this act shall provide no more than  
75% of the total cost of a county or municipal shore protection  
23 project, and the affected county or municipality, or agency  
thereof, shall provide the remainder.

25 d. State loans to counties and municipalities, or agencies  
thereof, made pursuant to this act shall be used to provide the  
27 county or municipal share of State grants for county or  
municipal shore protection projects, as the case may be, made  
29 from the Shore Protection Fund or other State funds  
appropriated or otherwise made available for similar purposes.

31 e. When a federal agency pays part of the cost of a project,  
the State and local share shall be computed after deducting the  
33 federal contribution.

f. Loan rates shall be established by the State Treasurer  
35 taking into consideration rates available in the capital markets  
for comparable maturities. Local governments will be able to

1 secure either interim financing, to enable a project to be  
 3 undertaken before permanent financing is secured, or permanent  
 financing with a final maturity related to the expected useful  
 life of the project.

5 g. In selecting and approving county or municipal shore  
 protection projects for funding with moneys made available  
 7 pursuant to the provisions of this act, the [commissioner] New  
Jersey Coastal Commission shall give special consideration to  
 9 the county's or municipality's ability to finance the shore  
 protection project based on the county's or municipality's per  
 11 capita income, equalized property tax rate, to shore protection  
 projects which would be located in shore front areas heavily  
 13 used by the public, and to applications for shore protection  
 projects which include a financial plan for the maintenance of  
 15 the project by the applicant.

17 79. Section 24 of P.L. 1983, c. 356 is amended to read as  
 follows:

19 24. The [commissioner] New Jersey Coastal Commission shall  
 submit to the State Treasurer and the commission with the  
 [department's] New Jersey Coastal Commission's annual budget  
 21 request a plan for the expenditure of funds from the Shore  
 Protection Fund for the upcoming fiscal year. This plan shall  
 23 include the following information: a performance evaluation of  
 the expenditures made from the fund to date; a description of  
 25 programs planned during the upcoming fiscal year; a copy of the  
 regulations in force governing the operation of programs that  
 27 are financed, in part or in whole, by funds from the Shore  
 Protection Fund; and an estimate of expenditures for the  
 29 upcoming fiscal year.

31 80. Section 25 of P.L. 1983, c. 356 is amended to read as  
 follows:

33 25. Immediately following the submission to the Legislature  
 of the Governor's Annual Budget Message the [commissioner]  
New Jersey Coastal Commission shall submit to the General  
 35 Assembly [Agriculture and Environment] Committee on  
Environmental Quality, the Senate Energy and Environment  
 37 Committee, or their successors, and the [special joint legislative  
 committee created pursuant to Assembly Concurrent Resolution  
 39 No. 66 of the 1968 Legislature] Joint Budget Oversight  
Committee, as reconstituted and continued by the Legislature



1 from time to time, a copy of the plan called for under section 24  
 2 of this act, together with such changes therein as may have been  
 3 required by the Governor's budget message.

4 81. Section 26 of P.L. 1983, c. 356 is amended to read as  
 5 follows:

6 26. No less than 30 days prior to the [commissioner] New  
 7 Jersey Coastal Commission entering into any contract, lease,  
 8 obligation, or agreement to effectuate the purposes of this act  
 9 the [commissioner] New Jersey Coastal Commission shall report  
 10 to and consult the [special joint legislative committee created  
 11 pursuant to Assembly Concurrent Resolution No. 66 of the 1968  
 12 Legislature] Joint Budget Oversight Committee as reconstituted  
 13 and continued from time to time by the Legislature.

14 82. Section 7 of P.L. 1973, c. 185 (C. 13:19-7), section 13 of  
 15 P.L. 1973, c. 185 (C. 13:19-13), and section 16 of P.L. 1973, c.  
 16 185 (C. 13:19-16) are repealed.

17 83. There is appropriated from the General Fund to the New  
 18 Jersey Coastal Commission the sum of \$20,000,000.00 for the  
 19 purposes of this amendatory and supplementary act.

20 84. Sections 1 through 6 and 8 of this amendatory and  
 21 supplementary act shall take effect immediately and the  
 22 remainder of this act shall take effect 60 days following the  
 23 appointment and qualification of the eight public members of  
 24 the commission.  
 25

## 26 27 STATEMENT

28 This bill establishes the "New Jersey Coastal Commission" to  
 29 provide a comprehensive management and regulatory approach  
 30 for the shore. The commission will develop a comprehensive  
 31 management plan, handle permitting requirements, receive  
 32 funds and allocate revenues to shore municipalities, and act as  
 33 an advocate on all coastal issues. The commission will be  
 34 responsible for enhancing the ocean and bay water quality  
 35 through the funding of wastewater treatment and stormwater  
 36 management projects. The bill also closes gaps in the existing  
 37

1 CAFRA regulations to control coastal development. Local  
governments will be allowed to issue CAFRA permits upon a  
3 finding that they are in compliance with the commission's  
management plan.

5 The responsibilities now exercised by the Department of  
Environmental Protection in the coastal area will be exercised  
7 by the commission. The commission will also have the power to  
issue bonds and develop revenue sources. The bill appropriates  
9 \$20 million to the commission.

11 ENVIRONMENT  
Beaches and Shores

13  
Creates New Jersey Coastal Commission and appropriates \$20  
15 million.

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\* \* \* \* \*

SENATOR DANIEL J. DALTON (Chairman): Ladies and gentlemen, I'd like to start the public hearing. I would like to end this public hearing at 1:30. We were in session yesterday all day. We're back up here this morning. I have four children who have gotten into the habit of eating, and I have to get back to try to accommodate that habit. So, I'm going to be, as I said, moving on at 1:30. As a result, I would ask everyone who is to testify to be as brief and as concise as you possibly can. Also, attempt to be as non duplicative of any other speakers as you can. As a result of that, I want to start presently.

This is a hearing on S-1577 by Senator Pallone, establishing the New Jersey Coastal Commission. What we generally do is we call on the Executive Branch to speak first, and usually the Commissioner would speak first. The Commissioner is not here. I understand he will be attending, however. So, I'd like to turn to you, Brenda, and have you start it off.

B R E N D A . S . D A V I S: Thank you, Mr. Chairman and Senator Contillo. I apologize for the tardiness. We really do welcome this opportunity, and thank you for holding a hearing on the Coastal Commission proposal that Governor Kean has presented to us one year ago now.

I have prepared some testimony which is perhaps more detailed than would be appropriate for me to go through today. What I'd like to do is summarize that, and answer any questions that you have, and leave you with that written document. There are others that might be interested in it.

As you've just pointed out, the legislation to create the Coastal Commission was introduced last summer by Assemblyman Villane and Senator Pallone. I know that all of us share the Governor's view of the importance of managing our coastal resources.

I want to make one important point at the outset, and that is that in the last year since we first proposed the Coastal Commission, we have heard many many questions, and listened to many comments about this particular proposal. What I want to discuss with you today -- the specifics -- reflects the knowledge that we have gained through the past year, and all of the comments made by many very well informed people on the condition of our coast.

Members of my staff and I have met with or made presentations before 21 of the 24 shore legislators, numerous legislative staff, we have met individually with over 120 of the 126 mayors in the CAFRA zone. We've met with members of the county boards of freeholders, county planners, the staffs of both of our Senators for the State, as well as a number of members of our congressional delegation on the House side. We've also met with over 35 interest groups, including environmentalists, chambers of commerce, builders, and Realtors. And of course we've engaged in countless telephone conversations and personal correspondence with experts, both inside and outside New Jersey.

All of this we believe is reflected in the legislation that was originally introduced last summer, is now undergoing some revision. Committee staff, OLS staff, have been working closely with us and the two sponsors on a number of proposed amendments. I'd be happy to share with you if you don't have before you the list of those suggested amendments. My understanding is that a Committee Substitute will be presented to you shortly.

It's our goal to ensure the protection of New Jersey's priceless coastal environment. We are responsible for what happens at the coast, and it's irresponsible for us to continue to stand by on the sidelines as unchecked and uncontrolled deterioration of our coast continues. If we resist change -- this government, this Legislature, our Administration -- if we

settle for quick fixes and fail to seek long-term solutions, it is an inexcusable approach to the coast of New Jersey.

We do need quick action. We have detailed our approach to that in the Governor's 14 point plan to deal with ocean pollution. But we must take the long-term view as well. The effectiveness of those 14 measures will be significantly compromised without comprehensive coastal management.

The protection and improvement and the overall management of our coastal environment is critical to the quality of life in this State. It's also critical to the tremendous economic resource that is our coast, our \$7 billion to \$8 billion tourism industry. It's critical to the quiet seaside towns, to our coastal cities that are now in their early renaissance, and to our residents and to visitors to New Jersey. We've been neglectful in this State of our coast. We have abused and ignored this precious resource for a long time, and the effects of that are coming back to haunt us.

Governor Kean recognized the threats to our shore long ago, before the events of last summer that spurred so many others to action. These threats are subtle and cumulative, and to a very large extent are products of our own success, and probably also products simply of our geography.

Our coastline -- our spectacular coastline -- is sandwiched between two of the nation's largest urban centers, New York and Philadelphia. And it's part of the most densely populated state in this nation. Nowhere in this country is there a comparably stressed stretch of shoreline.

One year ago the Governor proposed the New Jersey Coastal Commission. We believe that this is a bold solution to what is a complex regional problem. The Coastal Commission is designed to be consistent with New Jersey's strong tradition of home rule, and it's constructed to be accountable to the Governor, to the Legislature, and to the public it serves. We believe it does not create new additional burdensome

bureaucracies but indeed serves a new function which existing State agencies cannot.

Our coast urgently needs regional problem solving, pro active resource management, and the coast deserves an advocate with the clout to be heard in the halls of Congress, or in disputes with New York City. Since last summer, as I've said, we've received a lot of comments. We're incorporating these now.

As you know, this is a complicated, far-reaching proposal, and it's difficult to do justice to it in a short statement here this morning. So perhaps, if you'd like, I can run through a quick outline of what the Coastal Commission is, and perhaps anticipate just a few of your questions, and I'll leave it with that.

The Commission as we have proposed it now, would consist of fifteen members selected as follows: The Commissioners -- members of the Governor's cabinet -- the Commissioner of the Departments of Environmental Protection, Commerce and Economic Development, and the State Treasurer, would serve as ex officio members. There will be four chairpersons of regional advisory councils, which are made up of municipal or county officials or members of the general public representing different coastal regions. Eight members will be appointed by the Governor with the advice and consent of the Senate, from various interest groups such as environmentalists, fishermen, developers, and those involved in tourism. It's our intent that these public members will be people who live or work or own property at the shore.

The four permanent regional advisory councils would be created to provide input to the Commission by citizens and local officials. The members will be selected by county governments on a proportional basis. Each council will elect a chairperson who will automatically qualify to be a member of the Commission.



These councils will perform numerous important functions. They'll advise the Commission in the development of the coastal area management plan, on guidelines for local implementation of the plan, and on setting priorities for financing, and on the adoption of all regulations.

Balanced geographic distribution is paramount in the establishment of the councils, and we have tried to reflect that in our design. Region one would consist of Monmouth County and the one municipality that is in Middlesex County that is in the CAFRA zone. Region two would be Ocean County, having the greatest number of municipalities in the CAFRA zone. Region three as we've described it would be Atlantic and the two municipalities in Burlington County that fall within the CAFRA. Region four would be Cape May, Salem, and Cumberland Counties.

Communities represented on the council should reflect the diverse set of conditions along the shore. For example, coastal, back bay and inlet communities, developing and developed communities, urban, suburban, rural towns, should be represented within the councils. As I've described, the jurisdiction of the council is to be the existing CAFRA zone, 126 municipalities along the coastline and up the Delaware Bay.

The primary responsibility of the Commission are as follows: First and perhaps foremost, is advocacy on the part of our shore. It is our intent to provide strong central leadership and a powerful voice, for the protection, the preservation, and the promotion of the New Jersey shore. In order to accomplish this the Commission will investigate activities resulting in environmental degradation; lobby Congress, interstate agencies, or others, on behalf of coastal protection; seek funding from all available sources; and join in actions outside of CAFRA to protect water quality. For the first time we will have a focus on our coast, and the coordination and the clout to make a difference for the future.

Planning is the second major function. We want to develop a comprehensive coastal area management plan. Only by providing a regional framework for all local and State decisions can we hope for success in our many incremental actions. This plan must be coordinated with existing county, local, and State plans; and will include a natural resources inventory, shore protection, growth management, beach and water quality, and financing. Municipalities will be required to conform with all parts of the plan if they want to be eligible for State funding, for shore protection, stormwater pollution control, and other purposes.

Implementation of the plan is a critical function. To ensure that the plan achieves its goals, the Coastal Commission must see that it's implemented. This comprehensive plan will provide a blueprint for action. Establishing the Commission, finally will place responsibility for ensuring that that blueprint gets carried out, in one identifiable accountable place. The Commission will oversee municipal conformance to the management plan, issue itself or delegate to counties and municipalities the issuance of CAFRA, waterfront development, or coastal wetlands permits. The Commission will develop and certify municipal beach cleanup and maintenance programs, similarly will work closely with municipalities on stormwater pollution control programs. It also will perform a research needs assessment.

Regulation falls under the Commission. It is our intent to develop recommendations for streamlining the host of regulations applicable along the shore, so that while we achieve the many purposes which rules are designed to achieve, we do not include unnecessary duplication or delay. The Commission will provide in many instances one-stop shopping for many permits.

And last, financing. We want this Commission to act as a conduit for all shore funding, including shore protection

funding from the Natural Resources Trust -- which the Governor has recently called for again -- funding for stormwater planning and project funds, beach cleanup assistance, the Clean Communities funding. The Commission will receive State appropriations, levy some administrative fees, seek private and Federal grant funds, be a magnet for Federal research money, and issue revenue bonds for specific projects. It will not, as presently conceived, levy beach fees.

Within the context of these broadly described responsibilities, there are many specifics and restrictions, but maybe I can just briefly touch on a few questions that people have raised.

Home rule is an issue of a lot of concern to municipalities, and certainly an issue that is raised repeatedly by others. The Coastal Commission is meant to be truly responsible to those communities that it is designed to serve. The Governor takes this purpose very seriously.

And as I said, my staff and I have met with over 120 of the shore mayors. On two separate occasions last winter, I conducted working meetings to discuss in great detail how the Commission should be organized, and what it should do. These officials were-- Just a moment here, I lost my place. These officials were directly responsible for some of the novel mechanisms which we have included in this legislation. For example, the call for annual public workshops, explicit public participation guidelines, reviews of the impact of regulations on business. We have incorporated these suggestions in the proposal to aim more closely at public accountability.

We believe that the outreach effort itself -- which I have described to you -- is indicative of the extensive public responsiveness we believe must be built into the legislation.

The four regional advisory councils themselves will be the most direct avenue for public input. These are not do-nothing councils. They have 15 members, consisting of

county and municipal officials and the public at large representing the shore. The councils will review and comment on Commission actions. They will resolve disputes resulting from municipal actions. They will review and help develop the coastal area management plan. But most importantly, they will elect a chairman who will automatically serve on the Coastal Commission as a full voting member, bringing local and regional perspectives with them.

The shore communities deserve, and they need, real input to regional decisions and actions. For them -- and I think there are some of them here today who can speak to this. For them, home rule is probably threatened more by actions of neighboring municipalities operating outside a regional context, than it would be by a regional commission. Mayors have told me time and again that they need help. They cannot solve today's problems alone. They need the regional coordination and clout that this Commission will give them.

Another issue that people have raised with us a lot is whether or not we're creating a new bureaucracy. No existing DEP functions will be duplicated by the Commission. Some functions of the DEP would be replaced all together by the new comprehensive land use management staff for the coastal area. Our original suggestion of a \$20 million annual appropriation for this Commission was not to build an enormous staff, but to fund needed planning, beach cleanups, stormwater pollution, many of the things that we have now incorporated in the Governor's 14 point plan. It's our intent to reduce the State bureaucracy needed to accomplish a particular job through the delegation of permit issuance to municipalities, through financial and technical assistance to municipalities, and providing a Commission that is located at the shore; whose offices are at the shore; which is sensitive and responsive and knowledgeable regarding local needs.

The Commission also will be required to review on an ongoing basis the existing tangle of regulations to ensure that the maximum streamlining can occur, consistent with the purposes of the Commission and with the plan.

There's been a lot of question about whether or not it's necessary to create a new independent commission to undertake this purpose, and how we control that independence. Local input is a critical part of the Coastal Commission, but also legislative, gubernatorial, and public accountability, are also absolutely necessary.

The Commission's accountability to the Governor is simple and direct. He will retain full veto authority over the minutes of the Commission. He also appoints a great number of the members, and four of his cabinet members serve as members of the Commission. Finally, the Governor would appoint the Executive Director, and thereby directly exercise oversight over staff activities.

The Commission's ability to act, however, is directly related obviously to the availability of funds, and in this instance all the funds are controlled directly by the Legislature. The Commission will not be able to tax or to levy beach fees. The only projects this Commission could fund through revenue bonds, will be those which can be supported by user fees. These will be listed in the bill very specifically, and include public marinas, parking lots, wastewater treatment, and potable water supplies. Stable funding for shore protection, to be funneled through the Commission, will result we hope from legislative approval of a natural resources trust. And most significantly, the annual appropriations to the Commission are completely under the control of the Legislature. Therefore, again, all Commission funding is directly or indirectly controlled by the Legislature.

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We are adamant that the Commission must be accountable to the public as well. The Commission will be required to conduct public hearings on its major activities, such as adoption of the comprehensive management plan and any amendments to that plan, and will hold an annual conference to receive comments on its performance. We are truly dedicated to a Commission that will be accountable to elected officials and to the public.

One final area where we've received a particularly large number of questions is whether it's better to create a new Coastal Commission, or try to strengthen existing government programs. I think to answer this it is important to recall who now has responsibility for what happens along the New Jersey coast. We looked at habitat protection, non-point source pollution controls, sewage treatment, ocean disposal activities, beach cleanup and maintenance, water quality, beach erosion, inlet maintenance, public marina space, and land use guidelines. It is immediately obvious that responsibility is fragmented among a very large number of governmental entities, State, Federal, and local. Each has a role to play, but no single entity is responsible for overall coordination, or assuring that each piece is truly implemented.

For example, DEP regulates water discharge permits, but non-point source pollution is affected by municipal land use practices. Municipal shore protection projects such as jetties, have resulted in increased accumulation of pollutants from municipal sewage authorities. Mapping and inventory of stormwater drains is inefficient with only some towns and counties involved. Coordination along our coast is absolutely critical. Someone must be charged with the task of taking the big picture for the coast. No existing government entity is capable of that. Rather, all the existing players must become partners with the public and coordinate their actions through this new entity.

DEP clearly has a major role to play in managing New Jersey's coast. DEP's role should remain and be concentrated in those areas where it is the strongest; that is in the areas of technical analysis, environmental permitting and regulatory action responding to health based threats. The approach of the Coastal Commission will not dilute DEP's mission in any way. By establishing this Commission we believe you will provide a partner for DEP, one which will complement the Department's role by ensuring implementation of a crucial component of any environmental agenda, sound land use management, and comprehensive regional planning. This partnership will take many forms from providing a source of funds for stormwater and wastewater projects, to providing a single voice and a vehicle for implementing non-point source pollution control efforts, and by augmenting local resources from managing land use.

We believe that the timing is right for this bold step. We can no longer afford the poor track record of our fragmented approach to coastal issues. Throughout the State, regional planning is beginning, and it is probably the essence of New Jersey's future. But the CAFRA region has been left out of this regional planning. The public's awareness is heightened because of last summer's events, heightened to our problems along the coast. Our short-term costly initiatives, if done in a piecemeal manner, and absent any comprehensive context or planning, are certain to be less than fully effective, and they may even waste the taxpayers' money.

Examples of our failure to plan regionally, are numerous. In Cape May we have problems with beach erosion; while just north in the Wildwoods we are experiencing tremendous beach growth. We have caused those two problems. Windward Beach in Brick Township in Ocean County, was built with Green Acres funds, but it has never opened because of water quality problems resulting from local land use problems.

It is time to channel the anger that we have all felt since last summer. If we lose interest now, or fail to look ahead, if we settle for quick fixes, we will surely set the stage for more avoidable catastrophes in the future. It is time to move beyond incremental actions. We can no longer react one way to hospital waste on our beaches, another to hurricanes and property damage, or to the end of the oyster industry in our polluted bays; when all of these things are related, and when the sum of them is surely so much greater than the parts.

You've heard, and you know all of these stories. Governor Kean is very eager to proceed with this, and the public demands action. We believe we must establish a New Jersey Coastal Commission because the alternative is surely more of the same, and I don't think any of us support that option.

Now, I'll stop with that, and leave you with copies of this. I skipped some parts. I'll be happy to answer any questions.

Let me also introduce Ralph Izzo, also of the Governor's Office of Policy and Planning, and somebody who has spent a great deal of time working on the details of this proposal.

SENATOR DALTON: Brenda, before I turn it over to Senator Contillo who is going to kick off the questioning, would you outline for the Committee and for the record the changes that the bill proposes to make in CAFRA?

MS. DAVIS: Oh, sure. I can also obviously-- I have copies of this for everybody who is interested.

Let me say that these changes are more in the nature of clarifications and refinements to the bill that was prepared and released last July I think, rather than changes in direction. The bill is basically essentially of the same direction and form as that we put forth, and that Senator Pallone and Assemblyman Villane introduced last July.



Many people have helped us structure language that is better suited to achieving our original purposes. We want to make very clear in the legislation that it is the purpose of this particular proposal to cause the restoration, protection, and enhancement of the State's coastal area as matters of highest priority. We have said all along that protection of the environment, and the growth of our economy in the shore region, are inextricably linked. We want to reemphasize that we cannot go forward without the clear mandate to protect the environment of the shore. So we want to describe these relationships more clearly in the bill.

Some of the details on membership, for example, are to allow interest groups to make recommendations regarding public members along the coast. We would like to ask formally in the legislation for the Army Corps of Engineers, the EPA, NOAA, and the Coast Guard, to advise the Commission. We are going to state that the Governor will appoint the Executive Director, and thus have direct oversight of staff activities.

SENATOR DALTON: Brenda, let me interrupt. Excuse me.

MS. DAVIS: This goes on and on. Three pages of this, Senator.

SENATOR DALTON: Yeah. What I want is not the overall changes you're making in the bill. I want the changes you're making in the bill to CAFRA.

MS. DAVIS: Oh, certainly.

SENATOR DALTON: Okay.

MS. DAVIS: Those remain essentially the same also, as introduced last July. The amendments to CAFRA we think are a critical part of bringing land use development under control along the coast. These amendments are ones which Assemblyman Villane has been working with DEP on for a long time, and essentially do the following:

Right now, any residential development of 24 units or less is not regulated by the State. This new legislation would regulate one unit at the shoreline. It automatically would be regulated. Three units within 1000 feet within of the shoreline -- this includes bays and rivers -- or 1000 feet of the first street, three units would be regulated. And then the existing 25 units and up, continues throughout the CAFRA zone, with the exception or urban aid cities where the threshold would be 75 units for a CAFRA review.

A S S E M B L Y M A N A N T H O N Y M. V I L L A N E, JR.:  
(from audience) Senator, may I participate as a sponsor of the bill with Brenda?

SENATOR DALTON: Yeah, we were going to call on you, as well as Senator Pallone, Assemblyman. We had started with Brenda. What I was going to do is then go over to the sponsors of the bill and then the Commissioner. Okay?

ASSEMBLYMAN VILLANE: Okay.

SENATOR DALTON: They are the changes made in CAFRA, okay?

MS. DAVIS: That's correct.

SENATOR DALTON: Okay. Senator Contillo?

SENATOR CONTILLO: Okay. As a public hearing we're really here to take input so I just have a few questions, and we're all going in the same direction. I think the question is, how do we go that way? How do we protect the shore? How do we preserve it?

I guess the most obvious question as I sit here and listen to you is: We now have a Division of Coastal Resources that seems to, or at least is charged with the duties that you outlined in this bill. If you were to add that appropriation, an additional \$20 million, to that Division -- much the same as we suggested, and I think the Governor just signed into law where he made a separate department head in the Division of Hazardous Waste to coordinate and deal with all of those

problems -- why couldn't the same thing be done in the DEP? I guess I'm asking you this question, and I see the Commissioner behind you and I know he's going to have an opportunity to discuss it. Why couldn't the same thing be done for the Division of Coastal Resources?

MS. DAVIS: Well, I think what you're saying is, "Why couldn't you make the division head an assistant commissioner?"

SENATOR CONTILLO: Right.

MS. DAVIS: And thereby solve the problem?

SENATOR CONTILLO: Well, and coordinate it and have one person to speak to.

MS. DAVIS: And coordinate the problem, correct. There are a number of reasons why we think the most appropriate way to approach this is to create this new entity outside DEP.

The first, and perhaps the most important, is that we're trying to shift the focus to a more broad one. We want to look at land use planning, regional growth management. Land use planning traditionally is a local prerogative. It is our opinion that it works best in a highly participatory process where you buy in local support. Both in New Jersey and nationally, trends in land use planning are certainly taking us that way. And every other state which has regional growth management and is confronting problems as complex as this, the approach has been independent from an environment agency.

The one exception is in Vermont where the state has tried to regulate land use. Governor Kunin recently has publicly noted the failure of this particular approach. In fact, she has asked for the creation of a 12-member commission to take a new fresh approach to growth management and comprehensive regional management.

In addition, this comprehensive management plan will include components beyond environmental regulation; transportation planning, and financing components that require a great deal of coordination among our State agencies.

We want this Commission to be the strongest possible advocate for the region that is our coast. How can a regulatory agency -- the DEP -- be an advocate for this one particular resource? We believe that only a planning and resource management agency can be that kind of advocate, and indeed speak with much more clout than an assistant commissioner within one of our regulatory agencies. The DEP has very broad statewide mandates. I don't need to tell you that. It would be a difficult thing, I presume, on a day-to-day basis for the Commissioner to weigh the coastal region against ozone, Superfund sites, radon, other day-to-day human health threats. We want the shore to have the special attention that it deserves, not only because of its importance environmentally, but as I said before because of the tremendous economic value that this resource brings to our State.

We need to have constant attention to the shore; proactive attention to the shore. We all noted Judge Barry's recent chastisement to us for our tardiness in entering the legal battle with New York City over their behavior around Fresh Kills Landfill. We want this Commission to be a lobbying entity with Congress and with others, and DEP is not constructed to be a lobbying entity. We want it to have financing capabilities, to be able to issue revenue bonds on behalf of local governments who need a vehicle to achieve certain purposes. We want it to actively pursue outside funds, and we think again this can best be done through an independent Commission.

SENATOR CONTILLO: You keep calling this a Commission. Is in effect an authority in any sense different than the Garden State Parkway Authority?

MS. DAVIS: Yes. I tried to outline how very different this is than something like that.

SENATOR CONTILLO: Yes, but I'm not sure how?

MS. DAVIS: This is a Commission with tremendous public accountability.

SENATOR CONTILLO: Because as legislators we are somewhat reluctant--

MS. DAVIS: I don't blame you.

SENATOR CONTILLO: --to turn our responsibilities over to authorities that tend to create a life of their own. After a number of years they forget why they were created. We have more trouble with authorities than we seem to have with the departments themselves.

MS. DAVIS: Believe me, you're not the only one having trouble with authorities. But it is--

SENATOR CONTILLO: That's not a compliment to the departments.

SENATOR GORMLEY: Oh, they're all bad. I understand, Paul. That's a very fair position. It gives a level playing field.

SENATOR CONTILLO: I didn't want the Commissioner to misunderstand me.

SENATOR GORMLEY: Oh, I know. You've never liked Commissioner Dewling. You never liked the Commissioner. You told me that. (laughter)

But I think this offers us a unique opportunity. And I think you're right. Not only is there a public perception of authorities now, there are certainly questions we've had not just recently, but for years. And I think whatever we do with this bill, I think we should incorporate for the first time certain safeguards that I think probably Brenda or the Commissioner or other people would want to see in place. We don't want to see the toll taker phenomena, as we see with the toll roads. Every legislative office is deluged with toll taker requests. This is an environmental protection commission or authority -- whatever you want to call it -- and you want to make sure that what has been the, even stereotyped conception

of authorities, doesn't take place in this particular-- So I don't think it's the name as much as the grievances that you--

SENATOR CONTILLO: Well she keep referring to it as a Commission, and I wanted to get a little airing as to what it is. We view it as an authority. And it's even more serious than that, from my perspective. You talk about appointing the members to this Commission/Authority, and the Governor has the right to appoint Commissioners from anywhere in the State as opposed to just the shore communities.

MS. DAVIS: That's been corrected.

SENATOR CONTILLO: Well, the copy of the bill I have says, "Must be a resident of the State."

MS. DAVIS: No.

SENATOR CONTILLO: Is this an amended--

MS. DAVIS: We have a number of clarifications coming, and that is one of them. So you're correct in reading from that bill--

SENATOR CONTILLO: Okay, because that would seem to me to be devastating--

MS. DAVIS: No, that's absolutely right.

SENATOR CONTILLO: --to what the mayors and freeholders consider a control of their home rule--

MS. DAVIS: You're absolutely right.

SENATOR CONTILLO: -- which would make an authority -- which we don't like to begin with -- even more onerous.

MS. DAVIS: You're correct, and that correction has been made.

SENATOR CONTILLO: All right. So that's been taken care of?

MS. DAVIS: (nods affirmatively)

SENATOR CONTILLO: Okay. I have a few more questions, and they won't take any longer than your answers will take. I'm a little foggy too-- You mentioned about having the right to float bonds. Revenue bonds I take it they will be?

MS. DAVIS: Correct.

SENATOR CONTILLO: For the purpose of parking lots?

MS. DAVIS: Park and ride, for example.

SENATOR CONTILLO: Park and ride you said? I'm curious, for what purpose? Let me go over it again. What purpose would you use revenue bonds for?

MS. DAVIS: Well, I don't know when you last tried to go on a barrier island in the height of the summer season, but it's not an easy thing to do. There's a tremendous amount of traffic trying to reach our beaches, and only so much room to build roads. And when you get to the beach there's no place to park.

SENATOR CONTILLO: I understand the reasons for it. Just, what purposes would you use for revenue bonds?

MS. DAVIS: Park and ride.

SENATOR CONTILLO: Park and ride?

MS. DAVIS: Wastewater treatment, potable water supplies, others that we list very specially, public marinas. I think those are four.

ASSEMBLYMAN VILLANE: (from audience) There's a specific covenant as to what you can float for bonds and how they're going to be paid back. It can only be a bond that's floated that's paid from a revenue source.

SENATOR CONTILLO: Would this be a parking lot in one of the shore communities you could develop then?

MS. DAVIS: Right.

SENATOR CONTILLO: You could develop, as an authority, a parking lot in a specific town?

MS. DAVIS: Yes, as described in the legislation, this is to meet local needs consistent with the areawide master plan. One of the things that we hope this master plan will address itself to is the problems of tremendous traffic congestion and the difficulty for people trying to reach the coast. They can't get there in the traffic, and when they get

there there's no place to park; -which is a way of limiting access to our beaches.

SENATOR CONTILLO: So the fee for parking would pay off the bonds?

MS. DAVIS: Presumably, yes. Only user fees could support these revenue bonds. That is correct.

SENATOR CONTILLO: You mentioned marinas?

MS. DAVIS: Public marinas, yes.

SENATOR CONTILLO: And you mentioned wastewater treatment?

MS. DAVIS: Wastewater treatment facilities, upgrading plants.

SENATOR CONTILLO: Is that not a function of the municipality, or the county, or the utility authority in the area now?

MS. DAVIS: Right.

SENATOR GORMLEY: Can I interject-- I think one concept that has become effective in recent years that people are trying to do, are pooled loans. And I think what we have is a concept where you don't have a duplication of soft cost. I mean, I hate to say this but you don't hire 19 attorneys. You hire one attorney and do one loan. What you do is, by having the economies of scale that the authority offers-- I assume it's on a voluntary basis. Correct, Doc? In other words, if they want to do the local project on their own, fine. If they want to have a higher bond rating with the backup of this agency--

ASSEMBLYMAN VILLANE: (from audience) The regional sewerage authority is the perfect example.

MS. DAVIS: That's right.

ASSEMBLYMAN VILLANE: The South Monmouth Regional Sewerage Authority has a region with about five towns in it. We want to expand the capabilities of that sewerage authority. Under the Coastal Commission, we could provide the money from



the Coastal Commission, and that regional authority could pay back the Coastal Commission through user fees that pay off the bonds. That's a perfect example, because in the regional authorities, the DEP through their wisdom has allowed us to build sewerage treatment facilities to serve the winter population. The summer population is five fold that. We're thinking about that-- (inaudible) Those are the kinds of things we're talking about.

SENATOR CONTILLO: But nothing could be done by an authority itself, right? I'm just trying to identify some-- As I said, these things tend to grow. They get a life of their own. I guess the final question is again-- You talked about without this, this would jeopardize the Governor's 14 point pollution program. How does this deal with ocean pollution?

MS. DAVIS: Well it has a very clear mandate to protect and preserve the quality of the ocean and the shore. It deals with ocean pollution through the many aspects of the coastal plan that have to do with that mandate. Stormwater, non-point source runoff, all of those things are components of the master plan which indeed are also part of the 14 point plan. We're trying to accelerate funding for those outside the Coastal Commission. We want to move ahead as rapidly as we possibly can.

SENATOR CONTILLO: This is being done outside the Coastal Commission now?

MS. DAVIS: The 14 point plan? Sure.

SENATOR CONTILLO: Yes, so how is this--

MS. DAVIS: It's our intent that if this Commission is set up, that that funding would be funneled through the Commission, oversight would exist by the Commission, so that you ensure the maximum amount of coordination and effectiveness of all of these programs that aren't just DEP kind of programs, but transportation planning, land use planning, and so on.

R A L P H I Z Z O: Senator, if I may? You raise the point that the authorities -- the existing authorities -- could extend their-- (inaudible) The key word in what Brenda just said was coordination. For example, it wasn't until last summer that we began to realize that jetty construction if done independently of outfall extension, can absolutely negate the millions of dollars spent on those outfalls; because the jetty, which is designed to capture the sand, captures the water as well. And if you put it in the wrong place with respect to the outfall extension, you're not going to do anything but retard the flushing action of the ocean waters, store the bacteria accumulated there, and close your beaches. Who would have thought of that before this last summer when we did the analysis and survey? So the coordinated action between that outfall extension and something previously unthought of -- catching sand -- is critical.

SENATOR CONTILLO: I would hope that the Division of Coastal Resources-- That's their job, and if they need to be funded more-- I guess I have a basic apprehension in turning this authority over. As much as we complain about our DEP Commissioner there, he does come before our Appropriations Committee every year and has to justify the money he spends, and there is legislative control over what he does and doesn't do. There's an apprehension here of turning this over to an authority that's not only insulated in my opinion from the Legislature, it seems to be somewhat insulated from the very towns that it pretends to assist.

MS. DAVIS: Well, I think if you take a moment to look at the testimony that I just read-- We have gone to great lengths to be sure that it is not insulated from the Legislature, and it is not insulated from the towns. And to the extent that it isn't the case, for example Senator Gormley is considering other ways to ensure that those things do not happen. It is absolutely our intent to keep this entity

accountable to the Legislature, to the Governor, and to the local governments. But coordination, both in the example Ralph has given you, or from coordination between local land use decisions which are not the jurisdiction of the DEP, those kinds of decisions and others that are State mandated is absolutely essential for the future integrity of the coastal region.

SENATOR DALTON: Senator Gormley?

SENATOR GORMLEY: Are there any examples of any jetties that were constructed in the wrong places? Just out of curiosity-- Do we find that out by trial and error?

MR. IZZO: To be honest with you, Senator, I don't have the list in front of me. But as a result of this summer's health study, we found that some of the higher levels of accumulated fecal coliform were near outflow pipes, and we have strong reason to believe that some of the existing groynes and jetties are capturing some of the-- (inaudible)

ASSEMBLYMAN VILLANE: (inaudible comment from audience)

SENATOR DALTON: Doc, you can't be on the record if you're talking from there, and I know you want to go on the record.

ASSEMBLYMAN VILLANE: Oh, I'm sorry.

MR. IZZO: I don't have that list in front of me. However, we can get that to you.

SENATOR GORMLEY: Yes, these jetties or outflow pipes that have been built unfortunately in the wrong places, this has been a phenomenon going on for how long?

MS. DAVIS: A long time.

SENATOR GORMLEY: Forever. Okay, that's a fair description. The question of the word "authority" or "commission," I think it's a very valid point. Obviously, with public perception, you don't want a new agency to have the tinge that is associated with agencies of similar names or similar appearance, when in fact that's not the intent. Have

you given any thought to additional safeguards that would make this agency unique from other authorities? I see that-- And by the way. That's got to be in the bill, because what you don't want to do is have the public dwelling on, "Here they go again." Paul is that a fair--

SENATOR CONTILLO: That's a nice summation.

SENATOR GORMLEY: And I think some of the things that we have to look to-- All the things that have been brought up-- We're not going to pick any one authority because they're bantered about for years, and we always yell about authorities and the structure never changes. But in terms of budgeting procedure, in terms of hiring, and whatever, are there any ideas from the Governor's office that would make this agency not what is traditionally thought of as an authority; that makes it different from the stereotype, which is Paul's problem and quite honestly everyone's problem in the room I think?

MS. DAVIS: Absolutely. We have given a great deal of thought to that. If you look at the traditional structure. You have members appointed by the Governor. In this State the Governor has retained veto power to the minutes, which is extremely unusual. I'm not sure that occurs in any other state in this country, but that is where we exercise control over authorities. The staff is very independent, and membership tends to become very independent. So if you start with that, retaining those controls -- veto of the minutes, and control over appointments -- and move onto the other things that we've tried to do in this Commission. We think that one major change is the construction of these regional advisory councils, totally locally appointed, and with an elected chairman that can't succeed himself or herself, who serves as a voting member of the Commission.

SENATOR GORMLEY: Are we saying every year that they would come back in with their budget for approval of the Legislature? Once you have budget control, you've--

MS. DAVIS: You're absolutely right. There are many ways we've tried to build in public accountability to the shore residents, and also accountability to the Legislature that doesn't exist in the traditional authority construction, and there it is financial control. And as we see it, the Legislature controls all the funds going to, or going to be expended by, this Commission. All of them. There is no capability to raise taxes or levy fees to finance activities on the part of this Commission. It can only do those things for which--

SENATOR CONTILLO: Except for the revenue bonds?

MS. DAVIS: These revenue bonds for local projects, supported by user fees, in conformance with the master plan, where there is a local desire to do a particular project. But that isn't raising the fees. That is helping a municipality do a local financing.

SENATOR GORMLEY: That is on a voluntary joint venture basis?

MS. DAVIS: That's absolutely right.

SENATOR GORMLEY: And the problem that we've had with authorities is the unilateral capability that they appear to have, and that is a self-perpetuating problem.

In talking about project review, what level of project review do you envision for the Legislature, like with the Transportation Trust and projects of that nature? Do the project list come to the Committee?

MS. DAVIS: Well, this Commission is not constructed -- as we discussed here solely this morning -- solely to accomplish the construction of projects or a project list, as is the Transportation Trust or the Wastewater Trust where you review the list of projects. So we had not at this point allowed specifically for a review of a list of projects--

SENATOR GORMLEY: The reason I'm saying this is, if you have budget control and project review, you therefore eliminate the buzzword "authority" in terms of what has traditionally been thought of as authority. Because what happens is, we yell and scream, "Why did they go ahead with that project? We would have fought it." A lot of time the Legislature doesn't want to take the grief for being responsible yea or nay on a project. But if you eliminate the independence on project review, that it's a sign off -- by the Committee, by the Appropriations Committee, or whatever -- that's one thing. And also the budget review--

SENATOR CONTILLO: Wait a minute. Aren't we getting afield here? I don't see where we have control over their-- If they decide to put a parking lot or a park and ride in, and they're going to issue revenue bonds, they're not coming to the Legislature for permission. Nor do they really need permission of the specific town.

SENATOR GORMLEY: Paul, I'm trying to address what you've brought up.

SENATOR CONTILLO: Okay.

SENATOR GORMLEY: And what I'm saying is if there is-- I mean, we're writing a new concept, so let's try to answer your concerns and the public's concerns. If the problems of authorities had been associated with what the public perceives and what we perceive on occasion -- to be the fact that they are not responsible in their budget process -- the budget is now in front of our Appropriations Committee because we fund it. That's how we answer one traditional problem of authorities.

The second traditional problem of authorities is, they just go and widen the road and they don't care about anything else. They widen, and widen, and widen, to spend the money, and there's no review process there. Do we have a project review, projects made available to the Legislature -- the list

of projects -- for either the Appropriations Committee or the Environmental Committee?

Yes, we're getting far afield of all of the aspects of the Commission, but what we're addressing is the stereotyped perception of authority, and trying to eliminate that. Those two things would eliminate it, and there would be no question. And then the Legislature -- you could call it oversight, you can call it whatever you want to call it -- then we're not going to be able to pound our chests about that authority because we approved the budget.

SENATOR DALTON: I'm trying to interpret your nod. Does that mean that you agree with Senator Gormley? When you agree with Senator Gormley does that suggest that the bill already includes that project authority--

MS. DAVIS: No. And the nod wasn't meant necessarily to flat out agree. Although I think his point is correct, and we ought to work together to figure out how to satisfy the Legislature, that potential for running amuck -- doing things without anyone knowing about them -- does not exist. So I'm nodding in accepting his point as well made, and that is something we ought to look at real carefully, a project list. I'm trying to think exactly how the project list looks and when it shows up compared to Transportation Trust or Wastewater Trust. It's a very good point.

SENATOR GORMLEY: Mark (referring to Committee Aide) just mentioned that the Wastewater Treatment Trust is an example of where projects come before the Legislature.

MS. DAVIS: I know it well. Right.

SENATOR GORMLEY: Okay.

SENATOR DALTON: I think Senator Gormley's point is well made. As I understand it -- and you mentioned that the projects would be voluntary. I think you were attempting to indicate that there would be a cooperation between the authority and the local entity. But as I understand the bill,

the authority has power of eminent domain, and that doesn't lend itself to that spirit of cooperation that you verbally indicate.

MS. DAVIS: Two things, can I say, on the revenue bond side? We envision that-- The reason we constructed this as we have is as a service to local governments or groups of local governments who need assistance in accomplishing some particular purpose that is consistent with the regional plan, and the direction that this Commission and these people working together want to go along the coast. Eminent domain is a separate consideration. It is not connected to that revenue bonding service that we would like the Commission to provide, but is connected to achieving the purposes of the comprehensive master plan which is only developed through exhaustive cooperation with the local governments through public processes, and through these regional advisory councils, and so on. So it is not a part of the revenue bonding to do a wastewater treatment upgrade, for example.

SENATOR CONTILLO: But the authority is there, is it not?

SENATOR DALTON: That was my point, Brenda.

SENATOR CONTILLO: The power is there.

SENATOR DALTON: You can call it voluntary. You can call it involuntary. You've got eminent domain. You're saying, "It's there, but we're not going to use it for that."

SENATOR CONTILLO: You're only going to use it for what in your opinion, as a commission or authority, is a good purpose.

SENATOR DALTON: What I'm suggesting is that you in 1988, you know--

MS. DAVIS: Well, we should take a look at that and be sure that it's clear that it's not related to these revenue bonding--

SENATOR DALTON: I interrupted Senator Gormley. Bill, go ahead. I'm sorry.



SENATOR GORMLEY: Well, I think the point was just clarified. We're talking about eminent domain only in those circumstances where it would be used to implement the plan as set forth and had been approved. Those are the parameters of eminent domain. In other words, it had gone through the public hearing process. It had gone through the review process. We're talking about implementation of the plan. Eminent domain therefore -- and I don't have the line in front of me -- could only be used in circumstances to implement the plan. It is not an independent-- And I think that's an important point. In other words, the public had its shot at the apple. It wasn't a midnight eminent domain procedure, where all of a sudden the Commission said, "Oh this would be a good idea. We ought to pick up this parcel." It has to be tied to an approved plan before, and I think that could be written into the eminent domain line and covered. That's all.

MS. DAVIS: You said it much better than I did. That's what I was trying to say.

SENATOR DALTON: Okay. Any more questions?

SENATOR GORMLEY: No. No more questions.

SENATOR CONTILLO: They could choose a site for burning tires, Bill? (laughter)

SENATOR GORMLEY: Cathy has already picked a site.

SENATOR DALTON: I wanted to go through a little bit with you some of the points that Senator Contillo touched on, and Senator Gormley as well. If I could, pretend I'm from Missouri as opposed to South Jersey, and show me.

One of the things that has become terribly clear to all of us -- I know to you, Brenda and Ralph, and the people that are working on this bill as well as the Legislature -- is the whole land use development impact, what it has upon our coastal regions and our ocean. I mean, that's something you didn't read about last summer, but it's something that has a very significant impact and also has had a long-term impact

upon the coastal areas. What would you say the development land use problems in the coastal area are the result of?

MS. DAVIS: I think that the bottom line for what's going on along our coast is -- what I tried to say a little earlier -- is a product of success, a product of prosperity in the State. It's a product of having this enormous gift of a spectacular coastline, and happening to be located, as I mentioned, between New York and Philadelphia. We are the most densely populated state in the nation. It's easy to get to the coast. It stretches all along our State. All of these things are bringing tremendous population pressure to bear on the coastline. It's a lovely place to spend time, and people want to go there and it's easy to get there and it has been, traditionally.

What's occurring is the same thing that's occurring in other very attractive parts of this country. It's occurring in Southern California. It's occurring in Florida. It's even occurring in Maine and Vermont. Places where people want to recreate and find to be very high quality of life places to live. That many people wanting to live there, with weaknesses in our system, and weaknesses that aren't the fault of anything in particular other than nobody in this nation has confronted well this problem yet of how it is we accommodate growth, and yet maintain a high quality of life. And so we're struggling with that ahead of most of this country. We have more pressure on us than most of this country.

SENATOR DALTON: Let's talk about the weaknesses in our system. Okay? What specifically are the weaknesses in our system?

MS. DAVIS: Well all we've got to regulate growth along the coast right now is our CAFRA legislation, as well as Coastal Wetlands which prevents us from building in the wetlands. The CAFRA legislation has been tried. It was good as far as it went I suppose, but it doesn't go far enough.

It's probably not accurate to even say it was good as far as it went, because there is an enormous amount of discretion left in the application of that particular law. I'm sure all of you have heard many many stories of inconsistent decision making, delays in decision making, things that make it very hard to do business on the coast of this State. So there are real problems with the CAFRA legislation, but that is only--

SENATOR DALTON: So, CAFRA loopholes and delays?

MS. DAVIS: CAFRA loopholes and delays. However, even if you correct CAFRA loopholes and delays, you cannot segregate that from the effects of other things going on by other state agencies, Federal agencies, local decision making. That is never going to be the jurisdiction of CAFRA, even if you plug the loopholes.

SENATOR DALTON: Such as? I'm not referring to the loopholes now. You said decisions that are being made by other State agencies?

MS. DAVIS: Well, transportation planning decisions for example. It is really important that we coordinate transportation planning with other land use decisions and regulatory decisions along the coast.

SENATOR DALTON: Okay. And presently, I know that I live in an area that's booming that's not on the shore, but it's between Atlantic City and Philadelphia. Who is right now concerning themselves in State government with the transportation problems as a result of the growth in that area?

MS. DAVIS: Well, the Department of Transportation for transportation problems, but see you're in the area that is under the jurisdiction of the State Planning Commission, and as that process moves forward eventually we hope there will be some context for regional planning in the area in which you live. The CAFRA area is not included in the jurisdiction of the State Planning Commission.

SENATOR DALTON: Do you think it should be?

MS. DAVIS: Well again, it is our opinion that the coast deserves special attention, as did the Pinelands, as does HMDC, and we want to handle it separately,

SENATOR DALTON: Okay. No, I know you want to handle that separately. (laughter) You've made that clear.

MS. DAVIS: You got that message? I don't know what gave you that first hint?

SENATOR DALTON: So you have the CAFRA loopholes and delays, and you have transportation. What other examples do you see where our system breaks down that causes--

MS. DAVIS: Well the lack of coordination with municipal decision making. In our State the Municipal Land Use Law gives enormous power, as it should, to the local level of government. And yet, if you talk to all these local mayors -- and I know some of them would like to comment on this--

SENATOR DALTON: They'll all have that opportunity.

MS. DAVIS: Decisions being made by one municipality nowadays are not independent in their effects on the neighboring municipalities. We're all squished together along the shore.

SENATOR DALTON: And everywhere else in New Jersey.

MS. DAVIS: And everywhere else in the State. So we do not have a context in which municipalities can work together to coordinate their own municipal decisions. And people want that, and they even recognize that they're going to have to give sometimes and compromise, but that if they don't the product is going to be bad for everybody.

SENATOR DALTON: Anything else besides municipal land use, transportation planning, and CAFRA?

MS. DAVIS: Well, I tried to list a number of them earlier on.

SENATOR DALTON: You did, and let me just give you some of them. You mentioned the things that I just mentioned. You also mentioned such things as beach erosion, beach growth,

water quality problems, hospital waste, and the oyster industry, as examples of the way that our system has broken down.

MS. DAVIS: See we regulate all of those things differently, or to the extent that we don't regulate them, we ignore them differently. We have a fisheries industry that isn't tied in to what's going on with CAFRA and local land use decisions, even though those things have impacts on the fisheries industry. I mean we could go on and on. The erosion examples that we have been talking about, the building of jetties, are all related to pollution problems and so on. The Federal government and the Corps of Engineers comes in and builds a jetty south of the Wildwoods and wipes out the beaches on Cape May. Again, we don't have an entity with the kind of clout to keep an eye on all of this, and to understand the interrelationships between all these many things that are occurring along the coast.

SENATOR CONTILLO: You think you're going to get a handle on the Corps of Engineers?

MS. DAVIS: Stranger things have happened.

SENATOR DALTON: You think you're going to get a handle on the New York garbage problem?

MS. DAVIS: Well, I'll tell you this. I think in the alternative, if we don't have a constant powerful watchdog, we won't finally, once and for all, get a handle on any of these things.

SENATOR DALTON: But I thought the guy behind you with the glasses, serves as Commissioner of that powerful watchdog.

MS. DAVIS: Well, he does. I'll let him speak for himself. But we're all struggling to get a handle of each one of these many individual problems as quickly, and as well as we can. But what the Governor is proposing to you is that if you create this entity with the focus and the sole responsibility of protecting the New Jersey coastline, we have a better shot of achieving all those many purposes and goals.

SENATOR CONTILLO: Do you really think that that Commission will have more effect on the Army Corps of Engineers-- I mean, our Commissioner of DEP has no effect on them today.

MS. DAVIS: Yes, he does.

SENATOR CONTILLO: I don't think the Congress of the United States has an effect on them.

MS. DAVIS: Yes, they do. I used to control their budget. (laughter)

SENATOR GORMLEY: How about the marines?

SENATOR DALTON: Bill, I know you wanted to ask a couple more questions, I guess on that subject.

SENATOR GORMLEY: Yes. On the issue of assuming the role of DEP, or CAFRA being transferred-- The functions are being transferred, correct?

MS. DAVIS: That's right.

SENATOR GORMLEY: Okay. Now, when we say that this is a new agency, we're saying this is a new look. This is different. And there are certain regulations that go along with the new agency that are stricter, specifically under 25 units. But there's also another side to this.

What about the staff? Is the new agency assuming the functions, or the functions and the staff, or are they just assuming the functions with no guarantee that the bodies are being moved over; that there's a fresh look at hiring, a fresh look towards the attitudes of the people who are becoming-- Well, we can write all the bills in the world, and when you have broad interpretive prerogative, the question is who's administering it? Also, what type of protections do these people have once they're moved over, as to what level is their civil service protection? I'm curious about that, because staff is what makes it churn. I mean, we can turn around and point to the Commissioner and say, "You're in charge." And he's got 567 towns, 21 counties, and 9000 problems a day, and

it's all based upon the staff and people under him, how it's administered. What does this mean in terms of-- Is this just a transfer of everybody over? Because I don't think that is necessarily a new look.

So the bill, as I see it, there's no guarantee on hiring or transfer, because you could put the staff in place right away with the new agency. Part-timers are never going to overcome people who have been full-time at this for a decade or so. There would be no guarantee that anyone is transferred. They might be if the agency wants it, but there's no guarantee of a mass exodus from one side to the other because this is that fresh look, and there would be people -- if it were en masse -- people who would be committed to the administration of those rules and regulations in the same way. Do you have any comments about that?

MS. DAVIS: I think that's an accurate description of what we tried to lay out here. There is no guarantee for people of a transfer.

SENATOR GORMLEY: Okay. Because if that be the case -- or that be the perception -- I think you're eliminating that "fresh start," because people are going to say, "They changed the name, and it's just everybody else over there again." We're not talking about individuals. We're talking about defining a new agency, a new commission, an authority, whatever you want to call it.

MS. DAVIS: Senator, let me add one other thing that we think is very important, which is that the offices of this Commission will be at the shore also, which adds to the fresh look. The office, the main office, will be located on the coast, and we anticipate a couple of satellite office also at the coast, so that there's local sensitivity and understanding and accessibility which does not exist now.

SENATOR DALTON: I mean, I think that's great. I'm not totally impressed by that, however, since you could probably take offices in the Division of Coastal Resources and move them out to the shore right now. I guess what I'm getting at is we're setting up a new commission/authority whatever, and the functions that I heard you describe, with the exception of transportation -- and by the way is a legitimate function -- presently are being addressed by the DEP. I'm talking about water quality problems. I'm talking about problems with CAFRA, problems with garbage, problems with point and non-point sources of pollution. And, what I'm saying here is-- I want you to be an advocate for this thing. I want you to show me why you need this when a lot of it is presently already being addressed by the DEP.

MS. DAVIS: But see, we do not believe that a lot of it is presently being addressed by the DEP--

SENATOR DALTON: What is not being addressed?

MS. DAVIS: --nor do we believe that the DEP has the capability to do this, nor should it be doing this. What we want is to create a Commission that affords us an opportunity of regional resource management that is participatory, that buys in local support and belief in the protection and enhancement of the coast of the State, that is made up of the very people that it's intended to serve. And that is not a regulatory agency operating out of Trenton. It's probably not a regulatory agency operating right at the coast. It is an entirely different kind of entity, a regional resource management comprehensive planning vehicle that gives local municipalities, county government, State agencies, and others, an opportunity to work together to solve problems that they all have a piece of.

The DEP may have what appears to us now to be the lion's share, but what we're proposing to you is that municipal land use decisions are driving the fate of the coast, and we're



not going to control those from Trenton, nor should we. And mayors have said to us in good faith -- over 120 mayors have expressed support for this proposal -- said they want a vehicle to work with one another to solve these problems, to work together with the State instead of against the State.

SENATOR DALTON: Is that more or less an indictment of the present DEP?

MS. DAVIS: No. We don't think it's an indictment at all. We think in this day and age, in 1988, we need a different kind of approach to this region of our State than we have ever needed before. We don't have the framework to solve these kinds of problems. It is not an environmental regulatory issue in the traditional sense that we've all grown up thinking about. This is new.

SENATOR DALTON: It's more of a land use--

MS. DAVIS: It is a growth management, regional, resource management.

SENATOR DALTON: Growth management at the shore is presently addressed by CAFRA.

MS. DAVIS: No, permitting of construction, permitting of the number of units of construction, that is an attempt at growth management that doesn't take into account local land use decisions the way it should. It doesn't take into account all the transportation planning and the other things that we've talked about.

SENATOR DALTON: I have no further questions. Thank you very much, Brenda.

MS. DAVIS: Sure.

SENATOR DALTON: Why don't we do this. Commissioner what is your time frame? (inaudible response from Commissioner Dewling in audience) You're here for awhile? (affirmative response) We can beat you up more while we let other people talk? (laughter)

Why don't we go to Senator Pallone and Assemblyman Villane, the sponsors of the bill.

SENATOR FRANK PALLONE, JR.: Mr. Chairman and members of the Committee. I know that Brenda has detailed basically the structure of the Commission, so I just want to say a few things briefly about why I think it's important that we have a Commission, and the general areas that I feel that it will be dealing with that we don't deal with effectively right now.

As you know, the concept of having a new super agency for the coast, is not a new one. It's been bantered around for several years. There was talk about an ocean ombudsman, and then New Jersey Clean Ocean Authority, and then finally the Commission.

I feel very strongly that there is a need for a new super agency -- if you want to call it -- that concerns itself solely with the coast. That's why I sponsored this bill. I do feel -- and again it's not meant to be any kind of judgment upon the current DEP or the Commissioner, or anything of the sort -- but I do feel that Brenda is very correct when she says that the correct mechanism, the correct structure of the DEP and the other agencies that deal with coastal concerns, really have not been able to effect adequate protection; both in terms of ocean pollution issues, in terms of land use issues, in terms of shore protection, beach control, beach erosion issues. I think that if we have an agency with sufficient funds -- i.e. more funds than are currently available through existing agencies -- and a structure with a commission, a body, and staff, that are working solely on coastal issues and trying to wrap them all together and look at it from all these different angles, that in the long run we will have more effective regulation and protection of the coast.

Now, the Governor's proposal of a Coastal Commission attempts to achieve that. You may find as a Committee that you want to make some changes in it, but I guess my main plea today is that this concept of a new agency that is solely going to

concern itself with the coast, is a good one. It's something that the Committee should try to keep with, and retain.

Two areas I think that are a primary concern -- in terms of something that would be very new in this Commission -- that I wanted to address today: One of course is the land use. Those of us who represent coastal areas -- I'll only speak for myself, but I'm sure others would say the same thing -- really feel that although CAFRA has had much success, the big loophole in CAFRA of allowing developments that are less than 25 units to be excepted from CAFRA has basically created serious problems at the shore in terms of overdevelopment. If you go into my district -- which is basically the coast of Monmouth County -- you will find a tremendous amount, perhaps even a majority of the development that is taking place in terms of multi-family or multi-unit development is in the nature of 24 units or less, solely to avoid CAFRA. So one of the major aspects of this Commission, and one of the major concerns that I have, is closing that CAFRA loophole.

Now, it's been mentioned today, "Well why can't you do it without the Commission?" In theory you could. But I think that by incorporating the lowering of the CAFRA threshold into the Commission concept, and dealing with the other land use aspects -- developers, builders concerns, as well as environmental concerns -- that you're going to have a better chance of getting the bill and the lowering of the CAFRA threshold through the Legislature. I've introduced bills in the last session -- I think even in the session before -- that would lower the CAFRA threshold in the same manner that you have before you in this bill, the three tiered approach; meaning that the first unit from the coast, even one unit has to have a CAFRA permit. Or within 1000 feet or the parallel road it's up to three units, and then beyond we go back to the 25 or the 75; depending upon whether it's an urban area or other types of areas that are defined.

We have gotten nowhere with that legislation in the past, primarily because I think it was perceived just as that. In other words, something that was pro environment, but something that was not taking into consideration the concerns of local municipalities, the concerns of builders, developers or whatever. I think that the chance of lowering the CAFRA threshold and dealing with that issue -- which is very important from a land use point of view at the coast, in terms of our ability to deal with overdevelopment -- is going to be more effectively and more likely to occur in the context of this Commission. I have to stress that that aspect, as well as the regional master plan or the regional plan -- which would be something that towns would have to incorporate in their own master plans or their land use guidelines -- in my opinion, those aspects may in fact be the most important aspect of the bill.

The second thing that I wanted to mention because I know that the question constantly comes up, "How's this going to be different? What's wrong with the present system? Why should we change it?" Is the Office of Clean Ocean Advocacy-- Really that notion of having a division of State government, or an arm of State government, that was going to be solely concerned with the question of ocean pollution, and that was going to be an advocate for the ocean, again was a concept that goes back several years when we were talking about an ocean ombudsman, and it was proposed by different environmental groups. Not that much emphasis has been placed on that today, but I can't overemphasize the importance of that office. We do need a legal advocate for the coast, similar to what we have in the Public Advocate.

Now you may say, "Well why can't the Public Advocate do it?" I assure you, based on conversations I've had and efforts that we have made to get the Public Advocate involved in ocean issues, there's no question they have been, and they

have been effective in some respects. But they cannot devote the time, they do not have the resources to deal with all the ocean issues and the problems that plague us. You do need a new office to deal with that, in my opinion.

I'm going to be somewhat critical. I have been very dissatisfied with the DEP and the Attorney General's actions with regard to ocean pollution problems. Mention was made of the Fresh Kills suit. It took our special committee's efforts really to get the Attorney General and the Interstate Sanitation Commission involved in the Fresh Kills suit. Prior to legislative investigation in the factor, legislative prodding, there was no action on behalf of those State agencies to get involved in that suit. We had a hearing within the last few weeks, and I'm not satisfied with the outcome of that suit and the consent agreement that resulted from the Fresh Kills suit.

I feel very strongly that if you have a Office of Clean Ocean Advocacy within the Commission, that they will be dealing with ocean pollution problems on a full-time basis, that they will have the time to devote to things like the Fresh Kills matter, and to deal with -- as was mentioned -- ocean pollution matters not only on an interstate basis, but also to deal with the Federal government. Because part of the Governor's 14 point plan, and part of the initiatives that we feel must be made to deal with ocean pollution problems -- and that this Committee is going to be dealing with in this new legislative session -- a large part of this is on the Federal, or also must be done on an interstate basis. I really think that if you have this new Office of Clean Ocean Advocacy they would be more effective because they would have the time to devote to it.

I could talk about many other aspects of the program. I think we haven't mentioned much about shore protection and beach erosion. You know that Assemblyman Villane and I are in

the process of trying to come up with a compromise in terms of a stable funding source, also Senator Gormley and other members of this Committee -- you, Mr. Chairman. I think that in that respect also the Commission could play a major role in that they would be taking over from the DEP the shore protection functions as well, dealing hopefully, having the money available through a stable funding source, to provide more in terms of beach protection projects; and tying that in with beach access and parking needs, transportation needs, etc., to make it easier for people to come down to the shore and take advantage of our recreational areas.

The only other thing I wanted to mention specifically though -- I think Senator Gormley brought it up -- and this is maybe a minor point in terms of your deliberations today, but I think it needs to be mentioned. There was some concern about employees that are being transferred from current DEP to the new Coastal Commission. My understanding again -- based on information that has been provided to me from some of the labor unions and from the Department of Personnel -- is that under the existing bill, that without some changes, there would be problems in terms of the fact that the people in the Commission, a lot of them who are now covered by civil service would not be covered, the way the bill is written. We have a series of amendments from the Department of Personnel that would change that, and I think it would be safe to say that we are very much in support of those amendments. We do not want to give the impression to anybody today that that this is going to be a vehicle to take people out of civil service. It may seem like a minor point, but I think it needs to be mentioned in the total context of things.

Again, the last thing I wanted to say is, going back to what I said initially which is, you may not -- and I know there are many people in this room who do not agree completely, or even in many substantive ways, with what's in this bill.

The bottom line is, let's try to achieve a Coastal Commission or a new agency that deals solely with the coast. If you don't like land use aspects, maybe we have to change it. If you don't like certain aspects with regard to the realm and the subject matter, we'll change it. But let's think if possible about having a new agency that deals exclusively with the coast. That's why I got involved with it, and that's what I think is the most important aspect and the reason why I'm here today to push for the bill.

SENATOR DALTON: It's good to see that, Frank, you're here hand in hand with Doc. (laughter) Doc?

ASSEMBLYMAN VILLANE: Thank you, Senator. And I have to say that I've served six Commissioners of the DEP, and you could say that some of my best friends were Commissioners. I want to say that Commissioner Dewling--

SENATOR DALTON: But you don't want to say that, do you? (laughter)

ASSEMBLYMAN VILLANE: I would have to say this first because what I'm going to say next is not going to be so kind. But Commissioner Dewling is the, unqualified (sic), most professional Commissioner, and I think the best Commissioner of DEP I've ever seen. I want to say that first. And if you ever want to find out what the DEP is about, they have a book that they publish called, "Easy Access." It's that thick (demonstrates with his hands) and it's not such an as easy access because they're responsible for asbestos removal to zinc. And somewhere in the middle they license x-ray technicians. I mean, their responsibilities are so myriad and so complicated, that they can't do.

There's a great philosophy we operate under, "If it ain't broke, don't fix it." Well, I'll tell you something, the shore is broken, otherwise you wouldn't see the Speaker of the House with a 14 point program, the Governor with a 16 point program, and the Senate developing criteria and initiatives for

the shore. The shore is broken. And it's broken in a lot of areas that the DEP has not been able to address. What we're saying is we have to be able to address these things. This fear you have, the authority fear, a genuine fear. Senator Russo said yesterday he doesn't like another layer of government. But if this does anything, it gets rid of layers of government. It excises from the DEP those things that relate to the Jersey shore.

What else does it do? Do you know anybody in the DEP that lives on the shore? You don't know. Dewling doesn't. The Coastal Commissioner John Weingart doesn't. But under this new plan, guess what? You'll have four commissioners on authority -- call it an authority or a commission -- that come from the Jersey shore counties, that represent regional authorities. And it isn't just getting four people involved. In each one of these regional authorities there's 15 people appointed by the freeholders, from shore towns, that are going to have something to say about what the Commission does, what the development is, what the initiatives in sewer plant construction are. You know, it's broken.

What's the trouble down at the shore? Sewer plants aren't adequate for the summer people. The outfall lines are too short. The jetty design-- Nobody in New Jersey or the Federal government knows how to do a jetty design. They'll tell you they don't know how to do it. They don't know if it be low profile they should be notched. They should be high profile. They don't know whether or not it impedes sand properly or improperly.

A Coastal Commission with people from the Jersey shore-- Some of the mayors that are here, some of the coastal freeholders, they know what's happening along the shore, and right now they can't break into the bureaucracy that's the DEP. It's not their fault. They've got terrible responsibilities. So this is an attempt to take shore



problems, give it to some shore people, along with the Commissioner of the DEP, the Commissioner of Economic Development, and the Treasurer; and other appointees representing the environmental community, the conservation groups, the fishing industry, and those people, and put the problems of the shore there.

What else does it do? It takes the money that presently comes from us -- the appropriation process -- and it doesn't give it to the DEP. It will apply to a Coastal Commission to implement master plans that they have to develop. When I tell you it de-layers the bureaucracy, that's exactly what it does. And it gets the input from experts where the problem is, to work on the problem.

There's a lot of little fine things we have to do. We have 25 amendments. Frank and I are going to share them. We're going to go over them one by one. But when I tell you, keep your mind open. It's the opposite of what you think. It's the opposite of isolating an authority that's unresponsive. It's the opposite of another layer of bureaucracy. And it's one of the best things that ever hit the Jersey shore.

SENATOR DALTON: Thanks, Doc.

SENATOR GORMLEY: If I could just get to one point. We're talking about obviously guaranteeing civil service protection, but we're also talking about that this new agency has the ability to yes or no to the transfer, as to whether they want somebody transferred.

ASSEMBLYMAN VILLANE: Well, I'll be frank with you when I tell you that I would envision-- And let me say a couple of things to you.

SENATOR GORMLEY: I want them to have the independence of hiring, or they're already set.

ASSEMBLYMAN VILLANE: Okay, let me tell you. This is not the bill the Governor wanted. This is a different bill that we developed. And this isn't the first bill. The first bill was the Clean Ocean Authority. It's all rewritten. This is the second attempt at it. But if you took the experts that we presently have in DEP and got rid of them all, you'd be making a damn fool mistake. We've got really good people that are there.

SENATOR GORMLEY: I didn't say that. Doc, I didn't say that. I said, does this new agency have the ability to pick? I assume they're going to pick many of them, no question about it. But it's their hiring decision.

ASSEMBLYMAN VILLANE: Yes.

SENATOR GORMLEY: That's all.

ASSEMBLYMAN VILLANE: I'll tell you why it is, because you see, it's a whole new boss system.

SENATOR GORMLEY: That's all.

ASSEMBLYMAN VILLANE: You've got an Executive Director. You've got Commissioners that drive the Executive Director. The Executive Director is going to be responsible. They're responsible more directly for what goes on along the coast than we are now.

SENATOR PALLONE: But once those people are hired, their titles are going to be civil service.

SENATOR GORMLEY: You're right. In other words, we're all saying the same thing. When they're transferred, they don't lose civil service by a transfer. They maintain it.

SENATOR PALLONE: Right, and anybody new will be subject--

SENATOR GORMLEY: --but the call to make the transfer is not automatically done by the law, it's in the discretion of this new agency.

ASSEMBLYMAN VILLANE: Right.

SENATOR GORMLEY: Because if they already have their staff, that's you know-- They might want to restructure the same people, but a different structure. If you don't know how to shake this out on your own, you're recreating what you already have.

ASSEMBLYMAN VILLANE: It will be much more responsive. As the Chairman of the Senate Environment Committee-- I mean, we want to know something about the shore, you go directly to the source then. We attend their meetings if we want to. We comment on them. We regulate their purse strings. The Appropriations Chairman in the Assembly is not going to give money to any agency that is not developing the right kind of master plans. And I'll tell you something else that's very very important. This is frank and open.

SENATOR CONTILLO: Legislative oversight over State planning?

ASSEMBLYMAN VILLANE: Legislative oversight over funding, and application of Federal dollars. Let me suggest something else to you. The environmental community is concerned that what we're doing is relinquishing some control over the environment. They couldn't be more wrong in that. Because what we want to do along the shore is stop the subdivisions and the development that's ruining the Jersey shore. It's ruining the shore, and we're the victims in our district of some of the worst planning you've ever seen. A former councilman, when he testifies he'll tell you about it; about a town that's been divided up into lots of 24 units, 24 units of wooden condominiums primarily, and townhouses that are going to blow away in some hurricane.

SENATOR PALLONE: It's almost automatic now that if a developer wants to build in our district that it's 24 units.

ASSEMBLYMAN VILLANE: And the DEP does this--

SENATOR DALTON: It's not only in your district.

SENATOR PALLONE: All over.

ASSEMBLYMAN VILLANE: Here's what they do now. I'll tell you what the DEP does, and I think they'll admit to it when they get to you. When they get applications for unsound environmental development, they go to the end of the line and they send it back and say, "Your application is incomplete." They stall them out, and stall them out. You know what I want to do? I want the Coastal Commission to say, "No," when it's environmentally unsound.

I want the CAFRA law to apply to all the tidal waters, not just the oceanfront, and the bill will do that. And the CAFRA laws ought to be tightened up tremendously, and they ought to be loosened up inland where they have no effect -- in Lakewood in Ocean County.

But those are the things we have to do, and the Coastal Commission is the vehicle to do it. And the environmental community will find out that this conglomeration of county, municipal, shore-related people, are very very much concerned about the environment on the coastal end, and we're going to have better control than we have now.

SENATOR CONTILLO: Doc, do you -- or maybe I should ask Frank, because you're the one who said it. You said, the most important aspect of the bill, from your perspective, was the fact that you got the improvement or the tightening up of CAFRA requirements.

SENATOR PALLONE: Well let me put it you this way. I see the Commission as dealing with three basic areas that I'm concerned about: One is shore protection and beach erosion, the other is ocean pollution and the other is the land use. I hesitate to say that the land use aspect is more important than ocean pollution or shore protection, because obviously we're just as concerned about that. But I think that one of the most important aspects of the bill from an environmental perspective is the lowering of the CAFRA threshold, because overdevelopment is a serious issue.

SENATOR CONTILLO: Which could be dealt with simply by tightening up the CAFRA requirements.

SENATOR PALLONE: I don't see it happening.

SENATOR CONTILLO: And you're saying--

ASSEMBLYMAN VILLANE: We wrote those bills.

SENATOR CONTILLO: --politically you don't think that can happen.

SENATOR PALLONE: I don't think that it's going to happen, because I think that if it's just a question of using existing mechanisms in lowering the threshold, it won't pass. Now you know, who am I to say what's going to pass and isn't going to pass? We never know what's going to pass. But the bottom line is that our efforts in the past to accomplish that, really have gone nowhere, and I think that one of the best things about the Commission concept is that there's an effort there to try to bring the developers and the builders and the local officials together to address their concerns in the context of lowering the CAFRA threshold, and that we'd have more success.

SENATOR CONTILLO: But I do hear you saying that that's the thrust. Because you can't do that, maybe that's one of the impetuses for this type of bill.

SENATOR PALLONE: Yes, I would have to say that.

SENATOR CONTILLO: Okay. If we could have an assistant commissioner in charge of coastal resources, if you could have a tightening up of the CAFRA, it might be a more direct approach instead of adding another layer of government.

SENATOR PALLONE: But Senator--

SENATOR CONTILLO: The more you talk, the more I hear the HMDC coming into my mind -- the Hudson (sic) Meadowlands Development Commission. If you want to see a Commission that's grown into its own to the point where no one knows what it's doing any more, and the adversarial condition that exists between the mayors of those towns and that Commission-- It's just gotten out of hand.

SENATOR PALLONE: But Senator, the problem is this--

SENATOR CONTILLO: That's a Commission, not an authority.

SENATOR PALLONE: One of the things that I tried to stress from the beginning and I think is really important, is that I don't think it's possible with current mechanisms for the DEP, or any of the other State agencies that are involved -- it's primarily DEP with the coast -- to deal with these problems effectively. If you have an agency that's solely devoted to the coast, and that's looking at shore protection, and land use, and ocean pollution, and all these factors together and collectively, that in the long run that's going to be an agency that's going to be more effective at protecting the coastal environment.

You know, we can take the things out like CAFRA and say, "Okay, maybe it would be good if you just lower the threshold--" and I'm not going to deny it isn't because I still have the bill in that would do that. But I think that even if you were able to accomplish that separately, that it would still make more sense to have a new agency -- you call it commission, authority, whatever you want to call it -- that is solely concerned about the coastal area, and that meshes together these shore protection, ocean pollution, and land use overdevelopment at the shore. I don't think that the existing DEP, the way it's structured, or given the funding, or the fact that they have to be concerned about all the other things in the environmental panoply, that they can devote the time and be as effective. I really don't.

SENATOR DALTON: Thank you very much, both of you.

SENATOR PALLONE: Thank you.

SENATOR DALTON: Commissioner Dewling, the Department of Environmental Protection.

ASSEMBLYMAN VILLANE: The best Commissioner we've every had-- (inaudible interchange with Commissioner Dewling)

COMMISSIONER RICHARD T. DEWLING:  
Gentlemen, how are you doing? Ladies? Let me just, from the Department's perspective, bring to you some of the feelings that we have about the need for assurance of integrity of the coast.

I think if we look at the fact that 25% of the world catch of sea clams comes from New Jersey -- 25% of the world's catch comes from New Jersey -- the fact that about 18 years ago I sued the State of New Jersey for what they were doing at that time -- which was pumping sludge out of outfall pipes only several hundred feet from the shore, and there was a tremendous amount of interest -- but we had absolutely no interest in the shore at that time. In fact, there was nobody supporting that action when I was at the Federal government at that time.

In 1976 we had a major anoxic condition off our coast where we lost all of our shellfish, and Long Island beaches had garbage on their beaches. This year, this past summer, we had the garbage on our beaches, and they had a major anoxic condition -- where you had zero dissolved oxygen. I just finished testifying at a New York State hearing this past week out in Brooklyn -- in our old grounds, Senator Contillo -- and they were applauding the effort that New Jersey was taking, the leadership role in trying to address the issues on the shore.

When we started focusing on the shore it was before all these actions took place, before the insults of this summer. We started focusing on the need for a shore commission-- And I think I can understand your concern about the word "commission" or "authority." I can only point to a success story within DEP, and that's the New Jersey Water Supply Authority. The New Jersey Water Supply Authority is a part of the DEP as a Coastal Commission would be, and it functions well. It has put in reservoir systems. It works and plans programs for water supply distribution and water supply sources. It operates Spruce Run/Round Valley Reservoir. It

operates the Delaware Canal of 100 million gallons a day. We're involved in interstate, as well as local involvement of these programs. That Authority, which gets its funding source from the Legislature, operates well.

Now, that program at one time was within DEP, and I've heard the same arguments, "Why couldn't you keep a program like the Water Supply Authority implementing those reservoir projects within DEP?" I can honestly say that the same arguments were raised that are being raised about a Coastal Commission. But the issues are, I don't think a water supply authority and DEP in comparison, that DEP could have accomplished in the time frame that the Water Supply Authority has been able to accomplish what it had to do -- and that was, put in place the systems, put in place the financing -- because they had a total commitment to a single focus job. They were focusing on water supply in the area, and they met that need expeditiously in about seven years. We don't have time in State government to start focusing on the oceans and hope in the next ten years that we resolve the problem. We have to focus that attention now.

I have tried to delegate programs to the counties, to try to assist expediting decision making processes -- which I recognize is cumbersome at times within my own Department -- and there has been a reluctance on counties to accept that type of delegation. Larger sewer authorities, where we talked about delegating sewer extension permits delegation. They were not interested, because then they have to say no. You basically need this type of attention along the shore because of the institutional problems that we've had there, and to maintain the momentum. Last summer's insult has everyone's attention. I daresay that two years from now, if we don't have a continuing insult like that, we'll lose the attention.

The only thing that's going to keep that attention in my opinion is to have a Coastal Commission that will focus not



just on the CAFRA issues-- There is no similarity between CAFRA and the Coastal Commission. They are two different animals. CAFRA focus on just the area-- The zones are the same, but the types of action are not the same.

The 14 point program that the Governor has come up with -- and I will not mislead you and say that we can address the stormwater problem along the coast for \$60 million. That is a major first start, a major effort to jump into it. There's got to be a constant program as we're developing in that area, to control stormwater overflow. We've got to have the retention basins. We've got to use that for a groundwater recharge. You've got to have that planning process in place. And the Department, with its broad spectrum program is not the Department to do that in a timely fashion.

That's really the focus that I have to address here today. If you want it done fast, and I think we have to do it fast, there's only one way to do it. Stand back and start a total focus on the problem. I think then you will address the problems in a time frame that we are not going to lose it. When I say lose it, if we don't focus on it now, five years from now we'll be sitting here at the same table -- as I was ten years earlier sitting at the same table here in the State Legislature, when many of you were not here -- and saying, "We have a problem in the ocean."

I'll be happy to answer any questions you might have, which I'm sure you do have.

SENATOR DALTON: Shall we do the same thing with hazardous waste cleanup?

COMMISSIONER DEWLING: Hazardous waste cleanup properly is focused within DEP. When I became Commissioner, I took that out of the bowels of the Department -- all right? -- because it's only hazardous waste. This is more than hazardous waste. This is not a single focus issue. It's not just CAFRA, that's the point.

SENATOR DALTON: Hazardous waste is more than a single focus issue.

COMMISSIONER DEWLING: We brought in the RCRA program to it.

SENATOR DALTON: It's water, it's air, it's development.

COMMISSIONER DEWLING: It's not really development.

SENATOR DALTON: Come down to GEMS. It's development.

COMMISSIONER DEWLING: Yeah, but we don't license the facilities in GEMS. That was a municipal landfill that was there. All right? And what I'm saying to you is that the--

SENATOR DALTON: Most of what you're dealing with, as far as hazardous waste, are municipal or county problems. That's where you're cleaning up.

COMMISSIONER DEWLING: Oh yeah, sure. But what we're trying to do-- We're cleaning up the insults. What we're trying to do is prevent these things from occurring in a Coastal Commission.

SENATOR DALTON: No, I understand your point. I understand your point. I mean, you talked about the great urgency of the shore, which nobody on this Committee is going to debate, okay? We also have other aspects of DEP where there's great urgencies for you to address -- hazardous waste cleanup being one -- and we're not breaking it off. As a matter of fact, Senator Contillo last year was the guy who raised it out of the bowels of the bureaucracy, and put it in an Assistant Commissioner level -- which I think John Gaston is now that person. I mean, that's my point. Questions?

SENATOR GORMLEY: Maybe when we take something away from you, we could really pay you the ultimate courtesy and give you something else to do.

COMMISSIONER DEWLING: That's okay. (laughter)

SENATOR DALTON: Be sure that that will happen. I mean, all you have to do is look at 4000 pre-filed bills.

SENATOR GORMLEY: Is Frank around? He has 2500 of them. (Assemblyman Villane comments from audience, but is inaudible because of laughter) Doc, you were going to be nice today.

The point I want to make is, if we're talking about the overall ocean problem, you always get back to sludge dumping; either in terms of perception or what it does. The problem, as far as New Jersey is concerned, with sludge dumping are those authorities who are still relying upon sludge dumping into the ocean.

COMMISSIONER DEWLING: That's right.

SENATOR GORMLEY: What is the status of those six authorities in terms of their sludge program? Has the sludge program progressed as well -- people wouldn't call this well, but it's progressed to a greater degree -- as well as the trash question in terms of alternatives. Everybody talks about 1991 deadline for sludge dumping. We talk about it. Then we'll get to 1991 and there won't be incinerators or landfill sites. In the mix of handling the ocean questions at once, would DEP be interested -- and Dan has brought this up before when we talked about trash to steam and mass burn facilities -- but in terms of sludge alternatives, in terms of that prerogative resting with DEP if within one year those counties have not come up with a firm plan for the sludge in lieu of dumping it in the ocean-- I figure, if you lose CAFRA you might as well site these sludge sites.

COMMISSIONER DEWLING: I think if you look at the sludge problem, there are 48 states in the United States that are not dumping sludge in the ocean. We're not bound by a lack of technical feasibility. We're bound by a principle that we started 40 years ago of putting this material out in the ocean. The 1991 date is based on the fact that when EPA issued the permit for the 106-mile site, there was a five-year time frame that they could do that. We have just modified the

permits for six New Jersey dumpers, saying that within 12 months they would have to identify a site, and also the process they would use for handling their sludge.

I would suggest to you that if you go out to the Cedar Creek Wastewater Treatment Plant in Long Island, you can see a \$25 million facility that was built with Federal and New York State dollars to get Nassau County out of the ocean. It's there. It was built, and it's never been used, because we went through the same exact scenario in 1976 about stopping ocean dumping. The only way to permanently stop it, part of the positions of the Governor and ourselves, is that you've got to have the Federal statute changed that would eliminate the need to ocean dump, that says you can no longer do that. Just like we did with radionuclides. You can't dump radionuclides in the ocean.

The siting of these facilities, very honestly, they've been sited since 1976. The technology is the same. They would just have to do more technology. Middlesex County bought the land adjacent to their facility, that they were going to put composting back in 1976. So they have the area around the wastewater treatment plants to build these facilities.

SENATOR GORMLEY: I guess my point-- In fact, I said a year. You said 12 months. It's incredible, it coincides. The point is, if in a year the plans aren't there -- because we're talking the '91 deadlines, we're talking about cleaning up the oceans, we're talking about perception -- a question we've gone back and forth on other issues -- should the Department have the prerogative to make the decision?

COMMISSIONER DEWLING: I think we should have comparable to the Shinn bill in solid waste, where under emergency conditions we would have certain authority. But I think the prime responsibility ought to lay with that individual sewerage authority, with us making sure it happens. I don't think DEP ought to get into the sludge management business. It's the same as the garbage. I don't feel DEP--

SENATOR GORMLEY: I know we have to be somewhat optimistic that in a year there's going to be a plan. What type of additional prerogatives does the Department need? Let's say you don't do the siting, but what kind of additional prerogatives do you need to make sure that it's built by '91? Do you feel that you have it now? Do you feel that you could say, "These will be done in '91. I have the prerogative to make sure it happens"? And if you don't, I'd like to know what you need, and that should be included in this package or as a separate bill, because I think it's all tied into one. And this isn't the area that's regulated, but the area that it's affected is the area along the coast and those sludge sites. Because if we can all do this, which is a part of the puzzle, that's another part that's sitting out there. Now we can't change Federal legislation, but 40% to 45% of the sludge I believe--

COMMISSIONER DEWLING: Forty five percent.

SENATOR GORMLEY: Forty five percent of the sludge comes from New Jersey. And this '91 date is bantered about and I-- You gave the example. You've been looking for the deadline long before we even thought to talk about sludge. You've been with this issue for over a decade. Are there additional prerogatives that you need to ensure the '91 date as far as the 45% of the sludge that comes from New Jersey?

COMMISSIONER DEWLING: I think I'd be willing to work with you, without addressing it real up-front right now in saying what they are, to try to work out some of the issues that I think would not take-over full responsibility, but it would give us more authority to make sure that time frames are implemented in accordance with the schedule.

SENATOR DALTON: How about garbage?

COMMISSIONER DEWLING: What about garbage?

SENATOR DALTON: How about solid waste?

COMMISSIONER DEWLING: What about it?

SENATOR DALTON: Tell me what the problem is with solid waste. I mean, we're talking about two of the major issues as far as cleaning up the shore. Okay? Senator Gormley brought up sludge. Okay? There's another problem, a garbage problem. That was the thing that got close to 100 bills introduced during the summer, that we were all going to clean up the garbage. Do you have the ability, via this Commission, to address that problem?

COMMISSIONER DEWLING: I think the garbage issue, last summer's incident -- and I will call that an incident, last August 12 and 13, because if we had incidents like that continuing throughout the summer or throughout the winter, we would have garbage piled ten feet deep on our beach. The source of floatables in that one incident that was there -- and I will call that an incident and separate that out to other sources of floatables. The other sources of floatables, very honestly, are the combined sewer overflows that we have up in the northern part of the State, and the stormwater discharge we have down the shore. We had focused this past year, in fact, we took the lead on getting the MARPOL Convention passed this past year by getting all the coastal states involved in that, in making sure that the MARPOL Convention got through the U.S. Congress. But that is a continuation of the 14 point program.

The program that we're starting now with the 14 point program, looking at the combined sewer overflows in the northern part of the State, as well as the problem with the southern stormwater discharges. And we have probably in our coastal area 5000 discharges, of either combined or stormwater overflow. Now, that type of issue-- The coast is not just where the water is. You've got to go back into Barnegat Bay and back, to make the controls of these types of sources, where you can abate those sources. But that in my view is probably more of the continuing source of any floatables that we have, than that one insult that we had last summer.

So to say, if we control the problem of last summer is that going to eliminate the last tampon applicator coming on the beach? The answer is no. Is it going to eliminate the last paper cup that comes on? No. There's a source of problem of people on the beach, that you know, stick a cigarette butt into the sand and when the tide comes now it grows and goes down to the next person's beach. I mean, we remove 27,000 cubic yards of garbage from the beach, these local towns do. So, we remove a lot of garbage from the beach. So there's many facets that have to be approached.

You know we're doing it, very honestly, we're putting fires out. A Coastal Commission doesn't have to go to fire drills all the time. A Coastal Commission could go into a preventative program. What prevents forest fires is a prevention program. DEP is a fire fighter. We go in there, and you go in there with the troops, and you solve a particular problem. But we are not focusing on the major sources of the issues in long-term control strategy, and that's the non-point source pollution. Where are the finances going to come from to address those issues and the planning?

Smithville Village is I think a good example of a community that was built with that known problem of non-point source pollution, because they're in a very sensitive area. In Long Island, they build municipalities, every area has a groundwater retention basin. All the runoff there goes back into the groundwater. They don't throw it into the ocean. You could drive anywhere in Long Island. They did this 20 years ago. Now I'm saying to you, when we develop along our shore we don't do that. We should be doing that, utilizing that, and channeling that fresh water; because now it prevents the salt water intrusion problem that we're having along the coast. So there's got to be a different ethic in the overall addressing of the problem along the coast, that is somewhat different than the northern part of the State or some of the western parts of the State.

SENATOR DALTON: But the insult of last summer is not precluded from happening again by establishing a Coastal Commission. No one should feel that that's going to happen. And that's the point that I'm raising.

COMMISSIONER DEWLING: I don't disagree with you on that.

SENATOR DALTON: Okay.

COMMISSIONER DEWLING: I don't think anyone has ever said that the Coastal Commission will stop last summer's incident.

SENATOR DALTON: That's right.

COMMISSIONER DEWLING: There's no relationship between the two. The Coastal Commission has the function of the broader issues, addressing all of the environmental problems along the shore. The consent order that we have with New York City, we're pretty confident that that will prevent a recurrence -- that that will not happen again what happened last summer. Can I guarantee it? Most certainly not. But am I confident that it won't happen again? With the type of consent order we have, with the equipment that's being put in place, we're pretty confident that it won't happen again.

SENATOR DALTON: Okay. I don't have any further question. Senator Contillo, Senator Gormley?

SENATOR CONTILLO: That's been the impetus though for this bill, it seems to me.

COMMISSIONER DEWLING: No, that's what's gotten everyone's attention.

SENATOR CONTILLO: That's my-- Right.

COMMISSIONER DEWLING: The Coastal Commission came in before the insult.

SENATOR CONTILLO: And it would have sat there for a another two years, except for the fact that the solid waste started floating in from the shore-- It gives an impetus to the bill. The same when Senator Pallone came along with \$16



million for the marine police, which they never would have gotten. But everyone is so focused on the shore and the shore pollution, and when they think of shore pollution unfortunately they don't think of the sludge dumping. They only think of that visual solid waste that they see floating back, which is probably a very small part of it.

COMMISSIONER DEWLING: Well, the dredge spoil issue-- I mean, the dredge spoil issue, if you think about -- all right? -- in upper New York Harbor, New Jersey has 113 million gallons a day of discharge of combined sewer overflow, and New York City has 200 million gallons a day. That's 300 million gallons a day of "weak sewage" that could come out. So on a dry day nothing comes out. So two days of dry weather, then we get a wet day we got one billion gallons of overflow. Now, where does that settle? That settles in Upper Bay, which is a big settling tank. Now the Corps of Engineers comes along and they dredge that material out, and they dump that six miles off our coast. Now, who is trying to get the Corps of Engineers to move in that direction? We're working with the Port Authority. We're working with all these other jurisdictions. A Coastal Commission can properly draw the Federal, the interstate function, in making sure that that program moves ahead aggressively. Right now, EPA is 18 months behind schedule. They're supposed to look at a new disposal site 20 miles off the shore.

SENATOR CONTILLO: Do you really think that this Commissioner -- or whatever his title will be -- is going to have more of an impact in dealing with the different agencies than you yourself have?

COMMISSIONER DEWLING: Well, let me say very honestly, you as a Legislature and other groups, the interest in the-- I mean, the garbage scow problem that we had last summer that went down from here, down to South America and back. Didn't that focus nationwide attention on the garbage crisis?

SENATOR CONTILLO: Yes.

COMMISSIONER DEWLING: That was the best thing that every happened to us.

SENATOR CONTILLO: Yes. I agree.

COMMISSIONER DEWLING: And in effect, the best thing that every happened to us--

SENATOR CONTILLO: Got the recycling bill passed.

COMMISSIONER DEWLING: --and I hate to say this, was last summer's insult of the garbage on the beach, because it got the public aroused, and that's what we react to. And more power to it.

SENATOR CONTILLO: You know Commissioner, you've always told us -- you've told me, you've told us this at public hearings -- we should identify the problems, and all you need is the funds and you can take care of them, because you have the Department. Well, we've always given you work without funding it. Here's a situation where we're going to take another \$20 million to create another entity. Wouldn't that \$20 million be better spent through your own Department doing this, upgrading your Coastal Resource Department?

COMMISSIONER DEWLING: It's not just coastal resources, and I keep going back to the Water Supply Authority. The same arguments were within my own Department at that time. Why separate out that component and form a separate group to look at water supply? And it was the same argument of turf fights, "Let me keep it. I can do it better." What I'm saying to you is, I honestly believe that a separate group and entity on this can move this much faster, in a much broader focus, than it can within my own Department, because we are fire fighters. We're out there on all these issues, and you need that permanent attention to the coast. If you don't have the permanent attention, two years from now we won't be discussing anything; but three years from now when we have another incident we'll back and say, "Why didn't we do it way back when?" All I can to you is, it's been successful.

I can tell you a success story in the Water Supply Authority, that could have been done by my Department, but it was not. It was done effectively, and in a timely fashion, by the Water Supply Authority; who now has its own bonding capability, and has produced. That doesn't say DEP couldn't produce. The question is, the timing to produce, and the interrelation of all these other programs. It's more of a planning function. We're a regulatory agency.

SENATOR DALTON: Thank you, Commissioner. I appreciate it. The next speaker will be the Mayor of Seaside Heights, Mr. George Tompkins. Mayor, welcome.

MAYOR GEORGE TOMPKINS: Gentlemen, thank you very much for the opportunity to address you. Freeholder Jim Mancini was here. He's also the Mayor of Long Beach Township. Jim Mancini is probably the mayor with the most expertise in Ocean County regarding the problems that we have with our ocean, with our pollution.

I happen to be President of the Ocean County Mayors Association. We have a very active Mayors Association. We have Senator Connors, who comes regularly to our meetings. He's a member of our Association. We have a number of freeholders. A number of our Assemblymen are members of our Association as former mayors or present mayors. Brenda came to our meeting and addressed us. And everyone at the meeting of the Mayors Association realized that this is the way to go.

Now, Freeholder Mancini had given me an apology. He had another meeting that he had to chair in Ocean County at one o'clock, so he had to leave. He is entirely in favor of this. The only thing he wants to caution on is that there are checks and balances, which I think we will have in this.

The Ocean County Mayors Association probably is the most jealous guard of home rule of any association going. We certainly have taken to task the DEP on a number of occasions. The Commissioner and I have had different disagreements. The Association has had different disagreement, and so forth.

Under the setup that we have now where we would have four mayors from Ocean County on our regional setup, we certainly would have the control of the committee where everyone would get together in Ocean County and decide which was the best in the way of land use; which would be the best in the way of marinas.

Presently, we have gotten together the mayors of the Barnegat Bay areas in Ocean County, and are forming a group right now to try to stem this pollution that we're having now. We're having a tremendous problem on our bayfronts, Toms River, and on the Metedeconk River. And we realize that something has to be done immediately. We have to move on it. The various groups-- Every town runs in a separate direction, and if we have a regional group with the Barnegat Bay, we can get together and try to make decisions as to where the best place for a marina was, or the best place for a development.

And if you ride along any of the areas in Ocean County along the bayfront, if you take a boat ride you can take a look at some of the condominiums that have gone up -- which qualify under CAFRA, they're under 24 units and so forth. Some of these are a disgrace. They're a disgrace. They're blocking people's views of the bay. The height is blocking other people in the area. I think you have to have a regional advisory board to advise on this. I can't see any other way but the way this was formulated.

I think the formulation of this was excellent. I think Senator Pallone and Assemblyman Villane, are two astute men with regard to the environment, with regard to the ocean. I think that their planning on this bill was excellent. I am entirely in favor of it. The Ocean County Mayors Association is in favor of it. And we say, let us not waste any time.

As far as the Commission -- as was brought up before -- be a burden on the Hackensack area, I wonder how many mayors are on that Commission? Because most of the time when they

appoint commissions they don't take in consideration that we are the closest to the people. The mayors of the towns are the ones that take the abuse. We have to stand before the voter. Some of your mayors, like James Mancini here has been Mayor some 24 years. I'm a newcomer. I've been Mayor 12 years. But I think we have a better understanding of what is going on in the beach areas, than someone sitting in Trenton in a Department that has no experience with the beach.

And I wanted to bring forth that 13 years ago when I was a councilman, we had a member of the DEP come down and addressed our council on mass transportation to bring people to the beach and so forth -- a very brilliant young fellow. I had a bar at the time, we invited him up for a few drinks and a sandwich and we sat there. In the discussion we said, "Have you ever come down to the boardwalk at six o'clock in the morning and watched the sunrise over the ocean, and watched the sea gulls fly?" And he said, "You know, I've never seen the ocean in my life." He said, "I've only been with the DEP about six months and I've never been down to the shore. But I intend to be there."

This is why I said that I think that while they have the education, they have the background in science and so forth, they don't have the practical understanding that a fellow like Jim Mancini would have, or someone like Senator Connors would have, or Bob Nissen from Ship Bottom; mayors of these towns in Ocean County would have, or the various mayors in Monmouth County. We have a number of great mayors in Monmouth County that have a better understanding of what they should have on their beaches than some people in the DEP. I think this committee working with the DEP and working with the Commissioner I think we could achieve a tremendous amount of success, and I think we have to do it immediately.

As far as garbage, as far as bring up the fact that the only thing that this will focus on is the garbage-- We along the shore will tell you that we clean our beaches. In Seaside Heights we clean our beaches in the wintertime at least two or three times a week from washups of debris on our beaches. We have the ships that dump garbage overboard. That washes up. We have the condoms that wash in and the tampon applicators and so on. We clean those regularly, because in the tourism business people come down all year. When they see a clean beach in the wintertime, they realize it's clean in the summertime.

I think with this Commission too, a lot of your groups -- the Save Our Shore groups and so forth -- who have basically destroyed tourism with some of the comments that they have made this year-- We have had clean water. The ocean was clean for swimming. We had a certain amount of debris washing up from New York City. We've had the sludge washing up from the barges. But by and large, the ocean was clean and safe to swim in. We had a lot of these organizations -- and they meant well by it -- made statements that destroyed the tourism business. I think that the people would have more confidence in the fact that the ocean was clean if it came from the local officials, if they were on this board and regulating it and not from the DEP. The DEP has lost a lot of faith from the public. And I think that they have more belief in the local officials than they would in the DEP in these issues. I think a conjunction with the DEP would be a very successful program, and I urge you to please put this into action immediately. Thank you very much.

SENATOR DALTON: Mayor, if I could just ask one question. You indicated that -- and I recognize it -- that some of the development that is going on there under the CAFRA permit criteria has been a disgrace. What can you point to as to why this is a disgrace?

MAYOR TOMPKINS: Well, I think to begin with there is no one locally involved in issuing the CAFRA permit.

SENATOR DALTON: No, I mean the ones that aren't -- in other words, the CAFRA doesn't apply to them, the ones under 24 units.

MAYOR TOMPKINS: Number one, I think a lot of it is when you have one town making the decision on the building permit, and that particular building affects the adjoining towns or whatnot, that there is no input from the adjoining towns. And the person building that particular building could be a friend of someone on the planning board or so forth, and they give them the permit for it. I think you've got to give this to a body of people that have adjoining interest. And I think that with the adjoining interest, with the input that these towns wouldn't dare to just allow their bayfront or their oceanfront to become overly developed because of the criticism from this four member body, with input from other mayors and so forth. So, I certainly feel that--

SENATOR DALTON: Do you think, in other words, that the mayors would act as a watchdog on the other communities?

MAYOR TOMPKINS: On the other communities, yes. I think that's basically the idea for this bayfront group that we have right now. I will disagree with Senator Russo. Senator Russo realizes I think the fact that we are all jealous of home rule. However, we do have a Mayor of Bricktown who was a former Assemblyman, who was Mr. Russo's co-worker -- very close, same political parties and so forth -- and he is one of the spearheaders in the drive for the bayfront, the Barnegat Bay Commission. So he realizes the fact that we have to get together and one town has to interact with another town. If we don't get together and interact, I think we're lost. As Assemblyman Villane said, the back has been broken already on the shore, so we've got to take it and mend it. We've got to do something and do it immediately.

SENATOR DALTON: The way the Commission is set up, and the advisory councils are set up, mayors and local officials are to be part of that. You indicated that one of the problems is the fact that the member of a planning commission may be friendly with so and so, who wants to build the 23/24 unit development. I don't want to misrepresent anything you say either. Can't that still happen?

MAYOR TOMPKINS: I don't see that happening under this if this committee has the control. When you have four diverse mayors reacting on this, I don't see where you're going to have--

SENATOR DALTON: Well, it's not necessarily mayors. It's local--

MAYOR TOMPKINS: Well, I mean you're going to have environmentalists on this committee.

SENATOR DALTON: Local officials.

MAYOR TOMPKINS: And we have a number of very good environmentalists. We have members of the public that are going to be on this Committee. You're going to have people from the DEP. So it's going to be a well-rounded organization, where you're not going to get just one person's opinion, or you're just not going to get the mayor's opinion, or just the environmentalists' opinion. You're going to have an interaction of opinions, where I think this is the most logical, and possibly the most successful stance we can take right now.

SENATOR DALTON: Thank you very much, Mayor. I appreciate it.

MAYOR TOMPKINS: Thank you very much. I appreciate coming here.

SENATOR DALTON: The next speaker would be Derry Bennett, New Jersey Littoral Society.



D E R R Y B E N N E T T: My name is Derry Bennett. I'm Executive Director of the American Littoral Society. It's a private environmental organization. Littoral means shoreline. Our offices are at Sandy Hook. We've been interested in coastal issues since we were first organized in 1961.

I think to sum up our feelings about the Commission legislation and the proposal on the testimony today-- If I had thought that all the witnesses and you up there were beating on the Commission idea and said, "We're going to vote it down tomorrow," I would probably say, "Hold off, it's worth discussing." If you all said, "We don't have to hear anything, we're going to vote its approval tomorrow," I'd say, "Hold off, it needs some discussion."

SENATOR DALTON: I don't think any of us said that.

MR. BENNETT: No, you've said neither, and I'm saying that we are not saying either, either. What I wanted to do is mention some things that are not in the current Commission proposal, nor in the legislation, and then comment on the bill itself, and then make some general comments.

We have talked with the builders to amend CAFRA before over the years, particularly having to do with the 24/25 unit threshold, making that threshold nearer the shore. We worked on that I think starting about six or seven years ago. We got the impression from them that they would not go along with that kind of compromise. The other side of it, we agreed that maybe we'd go up to 75 or 100 instead of the 25, if they got farther away. So the idea of amending CAFRA is not new. The idea of the Commission I think as proposed, is.

If there were going to be something like this Commission built, or CAFRA amendment, we would suggest the inclusion of the following things:

- Provide for restoration of sensitive land -- wetlands, etc.: The national goal environmental organizations are now coming up with is that coastal states should try to add 10% to their wetlands area every year as a goal.

- We need to be assured of the right of third party appeal: Environmental organizations have up until a couple of years ago appealed CAFRA permit decisions, and have been granted hearings. Recently, we have been universally denied those hearings. We think that that needs to be defended in such legislation.

- We think that there needs to be provision for post storm planning, and sea level rise. There are two things that are going to happen to the coast. One of them is parts of it are going to be wiped out in the next year, or 10 years, or 25 years, by storms. And secondly, the sea level is going to rise continually the way that it's been going -- probably even faster -- and as it rises, things are going to get tougher. There should be something addressed in this Commission that plans for what happens when part of a barrier beach gets wiped out; what happens when the sea level starts to creep in to the back yards of people, not the front yards.

- You need to beef up enforcement, including increased fines.

- You need to set aside funds for acquisition of coastal lands.

- You need to eliminate delegation of permit granting power to municipalities. Let me talk about that one a little bit more.

There's been a lot of discussion about this. Much has been made out of moving the office out of Trenton and down to the shore to get down near the locals, to have commissions that represent the coast. I'm not so sure that that's a good idea. I'm not so sure that an agency regulating land needs to be right there where the land is. Maybe they need to know about it, but maybe they shouldn't be right in the people's back yards. My question is, if 75% of the share of stormwater management plans, and 75% of shore protection, is going to be State funds, and 25% is going to be local -- or some such

formula -- why are there not more representation on these commissions that represent the public at large? Why should the shore communities, which are only providing 25% of the money for shore protection, have the total say about where it should be spent?

In our sounding out of our members and of other people, generally people in New Jersey do not favor the present shore protection efforts that are being made. I think that kind of voice has to be present on the Commission for that and other things.

I'm not sure that a Commission will magically make the towns more agreeable to having fewer 24-unit developments. It is, I think, in the town's power to prevent or to guide or to regulate and to zone construction in their towns. They are saying, I think, "How come the Division of Coastal Resources didn't control it?" Well, it was because it was below 24. "Then how come you didn't? Why didn't you control it?" They could have. They chose not to. I see no evidence on the part of many shore communities that they really want land development controlled more tightly than it is today.

I think the CAFRA boundary question has to be addressed. If this is a bill that is going to address water quality, you cannot address it without involving New York City, involving areas north of CAFRA on the Hudson shore, involving Delaware and Pennsylvania on the lower base side. It doesn't work.

SENATOR DALTON: Let me just stop you on that point.

MR. BENNETT: Sure.

SENATOR DALTON: I understood your other points. I don't understand how you would want this legislation to address that boundary issue?

MR. BENNETT: Well, let me ask it another way. How would a Commission -- and I want to talk about the advocate in a little while-- The Coastal Commission has no land use

regulation in Hudson County. What, of all the counties in the metropolitan areas of New Jersey, do you think has the most impact on water quality along the bay shore of New Jersey? That's, I think, a weakness.

I think the question of beach access should be addressed in the legislation. I think there needs to be more public notice and public--

SENATOR DALTON: Why do you think that?

MR. BENNETT: Because I think that's an issue that has not been addressed or solved under the present CAFRA legislation or otherwise. To give you an example, Sea Bright has three and a half miles of sea wall between its last shore development on the south side and Sandy Hook. There's three and a half miles of rocks. There's a plan to pump sand on the beach in front of those rocks, and they'll have 50 feet of beach for three and a half miles. Sea Bright's public access plan for that three and a half miles of beach right now consists of a small parking lot at the very southern end, and ten parking spaces over the next three and a half miles. That ain't public access. All the land between the road and the wall is private property. So they've got all the benefit of the sand, all the benefit of the public money, and the public can't get there.

SENATOR DALTON: You think there's a quid pro quo there?

MR. BENNETT: Sure. Of course there is. Some comments in general. We're concerned -- the way you and others are -- about the question of power and accountability of commissions, and I don't know how to solve it. I think some of the discussions here -- and I don't understand "oversight" and that terminology -- but I think some way, some kind of control of over the Commission so that it doesn't become a runaway authority, needs to be set up. I don't know how to do it, but that would be something that we would look for.

In two areas we support the wording in the Commission proposal legislation, and the earlier documents. We generally agree with their legislation to tighten up the CAFRA thresholds. I would go along with Frank Pallone and say that we are strong supporters of an ocean advocate, no matter where it ends up. I think the idea of someone who's interest in the ocean and the bays -- Barnegat Bay and what have you, the tidewaters -- is key, and I think that person is the person who not only enforces things and tries to correct the bad things, but talks about the good things; who is an advocate in favor of the clean and against the dirty.

And I guess that's essentially it. I think that this is a good time to do this because of what happened last summer. I think it's time to talk about real coastal planning, and I think that's a decision to make, and it's high time. If the Legislature is willing to tackle serious coastal legislation, the decision about the vehicle -- whether it's a Commission or a stronger Division of Coastal Resources, assistant commissioner, whatever -- is solvable if we have the commitment.

I think I'll stop it there. If you have any questions I'll be delighted to answer.

SENATOR DALTON: Bill, do you have any questions?

SENATOR GORMLEY: Let me see. We have the outline, and reviewed your outline. Do you have any more specific language or specific idea you'd like to see in beyond these? These are broad in scope. These are all the problems. We know that. I'm not trying to be facetious or anything, but is there anything more specific you'd like to see? By the way, I think your thought process is exactly where we are now too. We're trying to balance it all out, just as you said with your opening remarks. But is there something specific you would like to see in the bill, as to specific language?

MR. BENNETT: Yeah, we've written some things down. They aren't in terribly good shape yet.

SENATOR GORMLEY: Oh, okay fine.

SENATOR DALTON: When will you be able to share that with us? When do you think you'll be able to share that with us? I don't want to interrupt Senator Gormley, but that's--

SENATOR GORMLEY: We're saying the same thing, Senator Dalton.

MR. BENNETT: We've sat down with the people in the Governor's office and among ourselves for quite a period of time, and frankly we haven't done as much as we should have done. There's nothing like a hearing like this to get you worked up about getting something done. Thirty days?

SENATOR DALTON: That would be fine. I mean, we'd like to see it as quickly as possible, obviously, but obviously we want to get your thoughts. Some of the things that you talked about, as Senator Gormley points out -- right of third party appeal, post storm planning -- are all very nice concepts. The problem is when you get out of a conceptual area and try to pin down language on these areas. That's when it gets very very mucky, as you know.

MR. BENNETT: Sure. I'd be very happy-- The problem that I have with this is that while we are working drafting legislation like this, and helping the thought process go along, I don't want that to be taken as the idea that -- I've talked to other environmental people -- that we are therefore in the process of coming up with a Commission. I think we are in the process of coming up with either a Commission, or a strengthening of the Division, or some combination with another name, another function, another design; but with a lot of the language that's in this present bill, some of it modified.

SENATOR DALTON: Okay, just so long as you understand the Committee -- what Senator Gormley was trying to get at, and which I share -- is that we need specifics. I mean, it's helpful to us when you lay out some of the problem areas, but you know, staff can do that, and have. The thing is, we need

your thoughts about specific language relative to these problem areas.

MR. BENNETT: Okay.

SENATOR DALTON: That's what we want to get.

MR. BENNETT: All right. Shall do.

SENATOR DALTON: Thank you very much. We go back to one of the mayors. Is Carmen Stapiello here? (no response) Fred Coldren?

F R E D C O L D R E N: Mr. Chairman, I can be very brief. My remarks are contained in a prepared statement which I provided to you, and I do have a few extras for others who may be interested.

I represent a municipality that needs help from the State government, a municipality that wants to control growth, a municipality that wants to retain the quality of life at the seashore in our area of the seashore -- which we don't think has been spoiled yet -- and yet we have some State laws, and some present establishment and structure, that is standing in the way of helping us do just that; specifically, the CAFRA thresholds, specifically the diverse agencies where everything is spread out into a lot of different divisions and agencies. So, when the Governor came up with the idea of a Coastal Commission a year ago, we were quite enthusiastic. Speaking for myself, however, I personally support it.

I think that what you have here is a broad consensus of municipal and county officials, who have said for the first time -- through the efforts of Brenda and her staff, and the Governor's own leadership -- there's a consensus now who have said, "Let's make major changes." No more window dressing, changing a name, or changing a title, or shuffling around assignments, a major surgery to fix the shore. I think that you should take advantage of that consensus that has been built, and proceed to adopt this Commission with the changes that I have heard discussed today.

I think the hearing process that you are conducting is very helpful in sorting out the problems, and you're hearing some of them today. I was very sympathetic to the concerns expressed by Senator Contillo and also Mr. Gormley and others, regarding the authority. We, too, have very severe problems with autonomous bodies that don't have accountability to the extent that we think they should. I won't re-dwell on that. We're Exit 0 of the Garden State Parkway, the beginning of the Parkway, and we feel that very heavily when we add tolls and barriers on our way.

The present structure does not work. And if you can imagine-- Many of you have seen it. If you could imagine local planning boards now with the pressures on this shore, sitting there, nine citizens -- and I've been on one for ten years -- nine citizens with a part-time lawyer and a part-time engineer, trying to hold off big multi million dollar developers with their batteries of lawyers and engineers and architects and everyone else. And you as a State Legislature can help. You can help towns that want to save their environments, and protect the seashore for the public -- for the public's use, the people from all over this State and the neighboring states. You can help us by creating this Commission that will work with us at that local level on every development, not just of 25 and more, but on every substantive development near the seashore.

So, I urge you to proceed with what you're doing. I won't read or go over the aspects that I've delivered to you in writing. We're concerned, as everyone else is, about home rule, yet we think it's time to work together on a regional approach to plan for the future. And I would appreciate it if you would proceed on this basis.

SENATOR DALTON: Thank you, Mr. Coldren.. Your written testimony is automatically made part of the record.

MR. COLDREN: Thank you.



SENATOR DALTON: A transcript will be made and available, not only to the members, but to the public at large.

Question: I don't think there's anyone up here that's going to debate you about the proposed changes needed in the CAFRA threshold. Okay? A question to you as one of the nine people on the planning board -- I sat on a planning board -- you say the pressure's on you -- when the person or the entity that wants to bring this 24-unit development in, and put it right on the beach, or right off the beach -- are enormous. What precludes you from saying no?

MR. COLDREN: First of all, we need more municipal planning tools in the Municipal Land Use Act, to give us more tools -- and the thing that I hammered at when we were developing some of the ideas that went into this proposal that you see here today. We were asking for more tools at the local planning level to control growth in our own jurisdictions. We don't think the State has to do it for us, but we think that the State Legislature, which is the source of our powers -- the only powers we have are what you give us -- we think that you can help us by providing stronger laws and an independent review by an agency that has the interests of the coast at heart. So I think, in my opinion, that CAFRA has done as good a job as they can with the tools that the Legislature has given them. I don't have a lot of quarrel with that. But unfortunately, we need at the local level, on the seashore town -- at least the one that I'm involved in -- a concurrent review from people who are not so subject to local pressures, and not so subject to peer pressure, and threat of litigation, etc.

SENATOR CONTILLO: Do you have a master plan in Cape May City?

MR. COLDREN: Yes, we do.

SENATOR CONTILLO: I guess the question is, why don't you adhere to it?

MR. COLDREN: We try, but it's a terrific difficulty for local officials, and local planning board members, and local citizens, confronted with constant litigation, confronted with terrific pressure, expert witnesses and all that, to cope with that kind of pressure. We try. I think citizens of this State and our town do their best. But we need the State now to create the entity that will stand with us, provide technical support for us, help us do what's best for our own communities, and what's best for New Jersey. It's easy for you to say, "Why don't they just say no," and yet--

SENATOR GORMLEY: Then you lose the appeal.

MR. COLDREN: Then you lose the appeal.

SENATOR GORMLEY: You can have an instinct that you're against something, but really to refine it to what-- What would be slang, "It's a battle of soft cost." And you have certain circumstances where there's a certain wherewithal that a certain developer might have, or an individual might have, that might be far beyond the resources of the town. On balance though, you don't want a group of people brought in who act unfairly to the person reasonably seeking the development.

MR. COLDREN: Oh no.

SENATOR GORMLEY: You don't want it to be an obstructionist at the same time. But there are certain circumstances where certain people can gear up, and really they know you're going to say no, and they have the stenographer there -- you've been to a few of those -- and they're getting all ready for the appeal. And they're just laying out the appeal at that time. Not that a town can't be arbitrary on occasion, and that assistance from the State shouldn't be used on an arbitrary basis. I mean, there has to be a balance to it.

SENATOR DALTON: Do you have any further questions?

SENATOR CONTILLO: No.

SENATOR DALTON: Thank you very much, Mr. Coldren.

MR. COLDREN: Thank you.

SENATOR DALTON: Phyllis Elston, New Jersey Environmental Lobby?

P H Y L L I S R. E L S T O N: That rather lengthy document that I just put in front of you, don't panic. It's not the testimony. It's just a piece of support material that I feel you should have, because I find myself in the position of having to testify in a rather extemporaneous manner on a bill that you have before you, which is in effect the same bill that we saw in last session. At that time the New Jersey Environmental Lobby, whom I represent, took a position of opposition to that bill based on ten particular points that are reiterated in the letter that Chairman Dalton is holding, a letter that went between the Governor's Office of Policy and Planning and my organization.

I want to be sure that it's clear on the record that we're in the process of meeting with the Governor's Office of Policy and Planning, and also Senator Pallone and Assemblyman Villane, to resolve some of these points which were problems for the Environmental Lobby. Some of those were also problems for what I could refer to as a combined ad hoc task force that was working from within the environmental collegium, that consisted of representation from the Sierra Club, and Conservation Foundation, and the Littoral Society, and the Lobby, and others. So, there is this ongoing dialogue.

Here's the document that you have before you. (holds up documents) Here's a document of five pages of suggested amendments that may or may not come into a substitute bill that you will eventually consider. This is suggestive of lots of changes that would please at least the Environmental Lobby, but at this point they are suggested amendments. I mention them within my testimony just so that it's clear in the record that this is happening.

Being that this is the bill before you, I have no choice but to reiterate the Lobby's position as it crystallized last summer and last fall with regard to this particular bill.

SENATOR CONTILLO: Without the amendments?

MS. ELSTON: Without the amendments, right, the bill as it exists right now. In response to your request in the need for brevity, I just will quickly move over the ten points as far as subject matter, because these are the concerns of the New Jersey Environmental Lobby and the position that they took.

1) Regulatory and promotional functions being successfully combined in one agency or a Commission. They feel that historically promotion dominates in this instance. Regulation becomes subjected to promotion.

2) The Lobby felt that there was insufficient geographic congruence between the proposed Coastal Commission and many existing major problems of water quality. I note that each of these are responded to in length, and you have that response up there.

3) The proposal we felt placed land use decisions and permitting processes in the hands of local officials and boards, who often are untrained, overburdened, and too closely involved in the local issues to be engaged in regional decisions. I can empathize with that after 15 years on a planning board myself.

4) The proposal sets an undesirable precedent in that it removes pollution control functions from the Department of Environmental Protection, diluting the agency's image of comprehensive, professional, and environmental management.

What we're interested in really is an environmentally protective document, and this document -- on page three when it talks about the composition of the Commission -- reduces the Commissioner of Environmental Protection to a status of ex officio, along with the Commissioners of Treasury, Commerce, and Economic Development. And with all due respect to Dick Dewling and his expertise and the functions of his Department, it is the feeling of the Environmental Lobby that on matters concerning the fate of New Jersey's coastal area, the DEP

Commissioner should have a status something more than that of ex officio.

5) The proposed Coastal Commission is superfluous because DEP already possess regulatory authority. The \$20 million expense proposed to be involved in the creation of the Commission, could be better applied to upgrade and review current regs regarding water quality, water supply, and waste management.

It's our understanding that the CAFRA legislation called for a plan, which to our knowledge never came to fruition, and we need that plan. I think everybody here has testified here to the need for attention to the CAFRA amendments.

With regard to the DEP as a land use agency, that's a question which is a whole other question. And whether or not DEP should be involved in land use planning really is an aside from what we're considering here. If they are not to be involved in land use planning, then we have to ask the question, who is? Shall it be this overriding Coastal Commission with the vast and broad powers as exist in the proposed act? Or could we maybe consider a planning function that would be in the hands of a created commission? Or could we also examine the feasibility of putting the planning function on a regional basis into the hands of county planning offices? When you ask that question you're faced with the point that has been brought up earlier -- that was also brought up in our meetings with the Governor's Office of Policy and Planning -- the counties apparently often say they're not able or they don't wish to. Then perhaps we should be looking, especially since this area is omitted from the auspices of the State plan, then maybe we should be looking for an overseeing planning agency and leaving the regulatory and permitting powers where they are in DEP.

6) Procedures are in place within DEP that allow for sharing of expertise between divisions. To separate any section from the Department would cause a loss of shared expertise, and require unnecessary expense and duplication of already existing services.

We have great concern for the dismantling of any portion of DEP, and the removal of, for instance the Division of Coastal Resources, from the rest of the Department. Especially in light of the fact that last year the New Jersey Environmental Lobby, working along with other environmental groups, was successful during the budget process in getting both houses to pass additional enforcement funds for DEP. Much of that money was then taken out by the Office of Management and Budget, and some of those funds were funds that we had requested for the Division of Coastal Resources. So we return to the problem that recurs again and again regarding effective enforcement and the need for adequate funds. So, unless and until we are sure that the Department could or could not function with the funds that it receives from the budget, we still have to question the superimposing of another agency.

7) Efforts to analyze and evaluate the CAFRA statute and its possible application to changing land use, are to our understanding going on right now. Thought then should be given to making CAFRA more of a planning document than a review document, and incorporating it perhaps into the State Planning Act. I don't know that that's been thoroughly examined.

8) The proposed Coastal Commission does not allow for broad based public participation, since 88% of New Jersey's citizens would not be involved in the process, in that what is involved in the process is the 126 municipalities in the CAFRA zone.

Public input, as dealt with on page five of the bill you have before you, calls for a meeting nine months following the first meeting of the Commission, and public input would be

accepted. But that's one meeting a year, probably during business hours when many people who might want to comment on the process would be at their jobs and wouldn't be able to get there. So, public participation we feel in that instance suffers greatly.

Another worry, on page five on line 26, is the sentence that states, "The Commission may exercise the powers delegated to it in this amendatory and supplementary act only in the coastal area, unless specifically directed otherwise." And the "unless specifically directed otherwise" is not clarified with regard to directed by whom, under what conditions, and how far. That sentence really gives the Coastal Commission powers far beyond the CAFRA zone. So there are these kinds of specific points in the Act before you that we feel need closer inspection.

9) The proposed Coastal Commission creates an unnecessary, complicated, layer of bureaucracy. And we say that because it's still the feeling of the Environmental Lobby that the Department has the wherewithal to carry out the regulatory and permitting functions, and this is really the Executive Branch of the government pointing to another portion of the Executive Branch of the government and saying, "It's not working." And we have to say -- as Doc stole my line before -- "If something isn't broken, don't fix it." But we're not sure that DEP is broken, and we're not sure that CAFRA is broken, either.

The last point was that the proposed Commission has extraordinary powers, and no statutory standards. Just one of those is that point of eminent domain as proposed in the Act that's before you.

I don't want to take up any more time. I don't know what further hearing processes you will have, so I felt that I should get these ten points on the record. But I just want to reiterate again that the dialogue is ongoing. Many of these

have been dealt with. Some of them are off of our list of concerns, if indeed the amended language will deal with them in that way.

SENATOR DALTON: Phyllis, the only thing I would ask you is that if you could share with us any specific language that you may have within the next 30 days--

MS. ELSTON: Right.

SENATOR DALTON: --the Committee would be very appreciative.

MS. ELSTON: I think that language will probably be the offshoot of continued meetings with the group I mentioned before, and the Governor's Office of Policy and Planning, and we'll be in touch with Senator Pallone.

SENATOR DALTON: We want to move on this legislation, however, obviously we want your input and everyone else's. So as a result we're going to need some specific language.

MS. ELSTON: Okay. Thanks.

SENATOR CONTILLO: Excuse me. To sum up what you said, would it be fair to say that you think we could tighten up the CAFRA, and improve the ability of the DEP to do their work, and not have this piece of legislation?

MS. ELSTON: My own summary comes close to what you just said. In my mind, the way I summarize the points here in my notes, is that:

- 1) We need, obviously, special attention to the shore, so we need a Commission to plan. If that can't be the county's responsibility, then we should be looking at an overall newly created Commission.

- 2) The DEP should keep the permitting and regulatory authority, and we should fund them so they perform that function adequately.

- 3) Please amend CAFRA so it works. It's a good law. It will be a good law when it's made to work. Let's get the plan that it calls for us, and let's get the inventory of our shore resources that it called for.



4) Let's establish a natural resources protection trust fund, with one aspect of that trust fund being care of the ocean. And then those shore problems, through the establishment hopefully of that trust fund, will begin hopefully to be dealt with.

SENATOR CONTILLO: Okay. Thank you.

MS. ELSTON: Thanks.

SENATOR CONTILLO: Bob Furlong, Friends of New Jersey Shore.

R O B E R T F U R L O N G: Thank you. I've been sitting here most anxiously hoping that I'd have an opportunity to talk to you because I've attended every meeting involving the shore for the past six years -- the bond issues, every law that every came up. I've become a little bit of anachronism in that respect. And I've had the opportunity to share my thoughts on most of those occasions. I was hoping this would be one of them, because I consider this the most important meeting of the last six years.

The inception of this particular program, which was spoken of four years ago, from within my small group. John Kraft brought up the Coastal Commission four years ago at Monmouth College. Ken Smith, another member, brought up the hotel/motel user fee. I suggested at that Ocean County meeting the possibility of an environmental trust fund. So we've been present, we've been involved with everything. There's certain things that have come up today that I'm going to speak to. This was my prepared notes. I'm not going to use them. A political ploy, throw the speech away. And I'm glad you're sitting here because I'd like to respond to some of your questions.

Basically, the problems facing the shore, obviously, are regional in nature. And the reason they can't be dealt with town by town is because of the impinging of towns' concerns upon other towns, and because of the many problems faced by small municipalities.

Sea Bright was mentioned, a town of 1800 people, three and a half miles of beachfront. Can you imagine the amount of projects that have gone up in that town involving hundreds of millions of dollars that have been approved? They changed the laws so there would only be one per acre, which is how you wanted to deal with it when you said, "Why doesn't Cape May City do something in their master plan?" By limiting how many on an acre you obviously would prevent 24 houses from being built on one acre. We do that, and then the board of adjustment approves and gives variances because there's no master plan in their mind, because they do these things constantly. So one of the concepts of the Coastal Commission would be involving land use management. If the municipality does not conform to the overall plan, then they are not able to receive the various assistance commensurate with the Coastal Commission. That's just one response I have to the problem of small towns with 24 units and what have you.

We've seen it firsthand. I was a Councilman in Sea Bright for five and a half years, seen everything happen exactly as described earlier. But basically, the sewage problems, the non-point source pollution problems, the beach and shore protection problems, all those things are regional in nature, all impinge upon the local towns one to the other. Now with the race for ratables which occurs in all these small municipalities, they approve things because they're looking for dollars to sustain the expenses of running a government.

SENATOR CONTILLO: Statewide problems?

MR. FURLONG: Statewide problems, but more so on the shore. Now, the shore is special. Why is it special? It is a treasure, as spoken of. It's also the number one natural resource in the State of New Jersey. The number \$8 billion was used. It's wrong. It's up to \$13 billion. It's the number one industry in the State of New Jersey. We're talking about the shore the way Michigan talks about the auto industry, or

Texas talks about the oil industry. It's tantamount to that in our small state. Tourism is high on the list, but it shouldn't be something that is exclusively thought of as a tourist location. It's also residential, a source of economic revenues, taxes. The shore is a magnificent asset to the State. And it must be dealt with exclusively.

Now, let's talk about the DEP. I am very close to the DEP. I've spent many hours with Mr. Weingart. He is the most well-intentioned man I know in government. But it's impossible for one person to handle the many problems existing in the type of situation along the shore. The CAFRA people are a regulatory agency. What you need is a decision making agency, with regulatory powers. That's what you don't have. He is an arm of government, but he is subject to so many pressures within government he cannot do always what he'd like to do.

Now as far as the question you asked-- I'm going to jump around a little bit because in particular I'd like to respond to a few things you mentioned. The business about the Corps of Engineers-- For the six years I've been involved with this, I've also been very close to the Corps of Engineers. Bruce Bergman and I talk approximately once every three months. They want to help more than any other government agency wants to help. They called up the Governor and said, "How would you like a million and a half to plan down to Barnegat?" That's the kind of help they give. Now, they have on the books, that has been authorized in the Federal government, approximately \$210 million worth of projects for shore protection since 1958, 1968, 1972; 1958 dollars \$210 million. That money has not been matched by the State. The State has turned its back on this source of monies constantly. Their Dames and Moore report was in conflict with the Federal government's approach to shore protection. They walked away from each other. They have to call me to find each other's telephone numbers. That's just two years ago, before Mr. Dewling.

Basically, all the things this Coastal Commission can do will answer every problem facing the shore today, because it will have the ability to do these things as one entity, not piecemeal. And they will not be necessarily paid employees who work nine to five. These are people who will be dedicated. People like myself, who served for six years with no respect, no expectation of any kind of return. It is because I care, and there are a lot of people who care who would be part of this type of movement.

Now, politics has destroyed many things in the past, and I understand why, because it has to be something that is sort of two, four, five years down the road. We're thinking 10, 25 years down the road. And having people who are appointed, who are not involved directly in politics would make a big difference.

I believe that the ability of CAFRA to serve as an arm of this organization would probably be the intelligent way to approach this thing, not necessarily every person, but definitely as an operating arm of the Commission.

Several things have been brought up here which I would like to respond to directly. Someone mentioned three and a half miles of beachfront with no beach access. Perfect example of lack of enforcement. I personally engineered an agreement with the CAFRA people for beach access in Sea Bright. The State purchased a piece of ground with 75 parking lots (sic) by the beach, which they're building today. I arranged to have two locations for 10 to 15 parking lots along that -- 10 to 15 automobile places -- along that three-mile stretch. The town has not conformed. They agreed. They signed it. It would be done by June 1. The present mayor has publicly said he's against it. It's a signed agreement. He's against it, it's not going to happen. You see? But if the Commission said it was going to happen because otherwise we can not provide for these funds, it would happen.

As far as the business of the access, which was brought up by someone earlier-- In Federal law, there's not a Federal dollar that can be spent without access. In State law, there's not a dollar can be spent of any bond issue without access. In this particular thing, not a nickel without access. And yet, it's possible to avoid all these things because some State money was spent in the town of Sea Bright without access, because one person cannot stand up against this type of pressure. A Commission will stand up against that type of pressure.

SENATOR CONTILLO: You seem to be very critical of the local boards, that they seem not to be capable of doing their work.

MR. FURLONG: Yes, I am.

SENATOR CONTILLO: These are people that are appointed by the local mayor.

MR. FURLONG: Yes, sir.

SENATOR CONTILLO: Why do you think a Commission appointed by the Governor would be any less political?

MR. FURLONG: Because it would be more of a regional type of appointment. I agree with someone earlier--

SENATOR CONTILLO: Instead of local politics you'd have State politics involved.

MR. FURLONG: Not necessarily.

SENATOR CONTILLO: No?

MR. FURLONG: As I've said, you've overlooked the fact that not everybody is political. There are apolitical people out there that can be found, who are not concerned-- I find one of the problems with this whole thing is the constant emphasis on political make-up of the board, like eight people not four of which will be one political party, five people not more than three of one political party. The independent voters in the State of New Jersey outnumber both political parties. That's overlooked. This is not a political State. This is not a political country. It's because politics are very incisive--

SENATOR CONTILLO: I just can't accept that.

MR. FURLONG: No, no. What I meant is--

SENATOR CONTILLO: We must live in different states.

(laughter)

MR. FURLONG: You understand what I'm saying. You understand what I'm saying. What I'm saying is there are a lot of independent voters in this State and in this country who are not allied to one particular party. Are we going to exclude them because they're not a registered Democrat or a registered Republican? It says, "No more than four of one party." What party is the independent party? I'd like to know. If there are eight members of the independent--

SENATOR CONTILLO: It doesn't exclude independents from being--

MR. FURLONG: I appreciate that.

SENATOR CONTILLO: It prevents--

MR. FURLONG: But as I said, the emphasis on politics loses credibility in the eyes of the public, and that's what we're talking about. You know, the public is far ahead of the elected officials in many of these things. I'm sure the public would be in favor of this particular piece of legislation because it would benefit everyone. I don't want to seem adversarial.

SENATOR CONTILLO: No, no. I just didn't understand that one point.

MR. FURLONG: Yes, I understand.

SENATOR CONTILLO: And I understand your problem with--

MR. FURLONG: The statement, "This is not a political country," was obviously out of line. I appreciate that.

SENATOR CONTILLO: I've served on boards of adjustment and planning boards, and the speaker who spoke before you is an environmentalist who serves on a planning board. I don't know what party she's from. Her party is probably the environment. So, there are people who serve locally that may be more dedicated than those chosen by a Governor.

MR. FURLONG: I appreciate that.

SENATOR CONTILLO: And some of the people on this very Commission are chosen really from political subdivisions. And they are going to be of the same caliber as those who now serve on your boards of adjustment and your planning boards.

MR. FURLONG: I'll accept that statement, but I think the careful choice of people should be one of our primary concerns. But now you spoke of planning boards. Planning boards can't be controlled. There's a great deal of politics in planning board operation. And there are a lot of things that go on that none of us are proud of. And we're trying to remove it from that level to try to get it into a more regional level, so that perhaps one particular thing can't be so easily controlled. A town of 1800 is a hell of a lot easier to control than a county of 550,000, and that's what I'm looking for. Not defusing the ability to regulate, but defusing the ability to control. That's one of my prime concerns. My concerns are land use legislation, which has been spoken of, shore protection, which has not been spoken of enough. Because without shore protection we're spinning our wheels because these towns are going to float away. It's essential that we deal with shore protection. That's one of the biggest concerns with this Commission.

You mentioned something about bonds. I don't know if this has anything to do with it, but page 4 section g under 4, "No resolution or other action of the Commission providing for the issuance of bonds or the refunding of bonds may be adopted or otherwise made effective by the Commission without prior approval, in writing, of the Governor and of the State Treasurer or the Director of the Division of Budget--" I mean, I don't know how responsible that is, but that's sufficient to take care of the issuance of bonds. And these bonds would be revenue bonds. They would not be general obligation bonds. All the bonds spoken of would be revenue funds.

Take a little thing like this, Senator. Take \$10 million from a hotel/motel user tax -- i (sic) or the other program with excise fees -- take that and put it toward a revenue bond, and take that revenue bond and match it toward Federal funds. Ten million dollars can move \$100 million in this world today. You just need the seed money, and that's what a Commission would do.

And the Corps of Engineers has already suggested their approval of this because California and Florida have done the same thing with wonderful results.

I know I've flit around from various things, and I appreciate the fact that you've been so kind to listen to me. But if there's any thoughts further you'd like to hear from me, I'd be glad to provide them.

SENATOR CONTILLO: Okay. Thank you. Is Kenneth Smith of the New Jersey Shore and Beach Association here? (affirmative response) You're the one that came up with that idea for funding the shore?

K E N N E T H S M I T H: Well, my idea actually got prostituted. I came up with the best idea, and I stole it from North Carolina where it works very well. Just to tell you-- The idea was to tax not just hotels and motels, but all rental units in the coastal zone. When you did it just on hotels and motels you really destroyed the equitability of that tax, because Long Beach Island has 30 motels, and 9000 rental units.

SENATOR CONTILLO: Well, the concept there is that those owners pay real estate tax. But, okay.

MR. SMITH: Okay. I'm Ken Smith. I'm from the--

SENATOR CONTILLO: And it's easier to do the way--

MR. SMITH: Well, it could be collected with the State income tax, with a form that could be filed. In North Carolina there was a lot of grumbling about it. It took two tries, and when it finally got through, everyone loved it. It's been there for about four years.



SENATOR CONTILLO: I don't disagree with it.

MR. SMITH: The New Jersey Shore and Beach Preservation Association is a section of American Shore and Beach. I'm a member of the National Board of Directors of American Shore and Beach Preservation Association. We are the major sponsor of the Coastal Zone Symposiums, which are probably the largest coastal conferences held now. They're held every two years, and they're international in scope.

We feel it's time for New Jersey to more fully participate in coastal issues and coastal management, and to interact even on an international scale with the world coastal communities. California has a very effective coastal commission. Other states-- Florida has not exactly a coastal commission, but they have a commission of another name that works very well.

We strongly support this Coastal Commission concept. Right now, regarding shore protection it is my feeling that we have a small coterie of bureaucrats, with no accountability, little interest in shore protection. I've butted heads with them for years. Their idea of shore protection is to come in with something like the Dune and Shorefront Protection Act that we had eight years ago, that people went wild about at the coast; which would have essentially rendered valueless all the homes between the ocean and first parallel paved road. The arrogance of their decisions is legendary. I'm sorry. I think people have been too kind to them today.

I serve on a coastal advisory group. So much for local input. We've met once in the last two years for about an hour and half dog and pony show, which meant absolutely nothing. I can tell you that several of the mayors down where I live -- Harry Marti at Harvey Cedars, Jim Mancini also -- will back me up that what they've gotten from the DEP is coastal management at its worst.

I support the concept of local staffing and input. I agree that you're not going to completely remove politics from the process. That may be impossible. But what we have now, as far as I'm concerned, in the realm of shore protection, is almost nothing.

We have the Bureau of Coastal Engineering, which is a tremendous department headed by Bernie Moore. He's up against a philosophy of natural migrating dune systems, which migrate ever landward. In fact, I have a map, I didn't bring it with me today, but it's one that the DEP relied on several years ago. It showed a barrier island and a dune management district, that means no building and no reconstruction. Then it had a line, 10 years, 20 years, 30 years-- By 30 years it was halfway across the island. To me, that's coastal management at its worst.

I think that the main purview of this Commission probably should be in the realm of coastal management and beach restoration, and coastal advocacy. There can be some clean water functions, particularly on the local level, in implementing non-point source pollution plans, stormwater management plans. But I really think that the main thrust of clean water actions should be handled still by the DEP with a strong legislative mandate, which I hope that we're going to evolve through this legislative session.

Funding is crucial to this Commission. The history of annual appropriations for shore protection is bleak. Senator Gormley, you've been in the Legislature a long time. We had a \$12 million appropriation last year, which was the first in over ten years. In 1977 the Legislature appropriated \$42,000 to protect 127 miles of coast.

We've had two bond issues. And I want to disagree with Derry Bennett, who made the statement that voters in the State don't support shore protection. They certainly do. As a matter of fact, both bond issues passed with a very good

majority, and the biggest majority in favor was in Bergen County.

SENATOR CONTILLO: We spend our summers down there, that's why.

MR. SMITH: Sure, absolutely. The \$12 million was really meant, as I understand it, as a stopgap measure. The idea being that we come up with some type of a stable funding source. It would be nice if we could get the Legislature to live up to a commitment to protect the shore, and to give us the appropriation that we need every year; so that we don't have to go to all of these different creative funding schemes. Nobody wants to do that. It seems to me that with the size of the revenue generated by tourism, it's really unconscionable for the Legislature to just banter this about year after year, and grudgingly give us-- I mean, \$12 million is a drop in the bucket.

There are other things that a Coastal Commission can do. They can explore stable funding sources if we need them. We can go to other states and see what they do. Florida for instance has some private projects. They use a municipal service taxing unit, which could be used for the local share. I mean, there are a number of things that we could do in the realm of coastal management and shore protection if we would just talk to people in other places and find out how they do it. They're very innovative, some other states.

As far as CAFRA, I have a little bit of a concern about CAFRA. You know Bob Hughey's comments that a thousand years from now they'll dig up our civilization and they'll wonder what god we prayed to that made us build 24 of everything. I agree that that 24-unit loophole--

SENATOR CONTILLO: You think they're going to be here. (laughter)

MR. SMITH: I have a concern about the one unit aspect of this. Three units doesn't bother me too much. Everyone is waiting for the big one to hit, but the way it's set up now is that one unit, if you have no intervening structure between your home and tidal waters -- and that means ocean waters, bay water, lagoons-- Okay, the big one that everybody's waiting for finally comes, and all these people have to come to the Coastal Commission for a permit. God forbid they should go to the Division of Coastal Resources for a permit to rebuild. But they come to us, and we're going to have a lot of permitting on our hands. I don't really feel that that's necessary. I think that a three-unit threshold would be fine, would sufficiently handle that problem.

As I say, what scares me is the Dune and Shorefront Act. It scares a lot of people. You know, back in those days if it would have gone through a bank -- wouldn't write a mortgage on a house. Why would they give you a mortgage if in two weeks your house could be damaged more than 50%, and you couldn't rebuild it? We had a real problem with that. I've seen over the years how the DEP has tried to come around our flanks with that, and through one promulgation of a rule or another to bring that theory back into place. So I think that three units is sufficient.

Perhaps a power of the Commission over zoning changes, over increased density and zoning-- Of course the shore is derided for the overdevelopment. It could be worse. It could be a lot worse. You know, Long Beach Island where I'm from, just for example, has really tried to hold onto single family, and if it's multi-family, no more than two units. We really have. We've got some condominium areas there, but we could be stacked right to the-- We could be another Atlantic City if we hadn't controlled it. And Long Beach Township just passed an ordinance that if you have a 100 foot lot you can't divide it into two any more, because now the ordinance is 60 feet. It

may be too little too late, but whatever. They're trying. So that might be something that we could look at it.

As I say, the barrier islands in New Jersey are 100% developed, for all intents and purposes. And I may be stating the obvious, but that development is crucial to providing recreational facilities for people that come down from Newark and from the urban areas. You take a person from Newark who works 50 weeks out of the year and takes his family on a vacation. He may want to go to Island Beach State Park for a day or two days, but he sure as hell doesn't want to spend two weeks there flopping around in the sand in a tent. And when you compound that by the many millions of people who come down to the shore, these people need facilities. And what I'm saying is maybe a different tactic from some of the people that have been here today. It is my theory that this development and each unit of that development that's there now, is very important, because it allows people to take a shower, and do just do the simple things of have a place to sleep at the shore.

Very often the benefit is all directed toward the owner of the property, and yes there is a cash benefit. But you know, it's a trade-off. Again, I'm stating the obvious. If people like something -- whether it's Disney World, or it's Springsteen tickets, the Jersey shore, or whatever -- they'll pay for it. They get a tremendous recreational benefit from that.

I'd like to keep CAFRA tight in the environmentally sensitive areas. The barrier islands are not a dead zone by any means, but they are nowhere near as ecologically productive as the tidal marsh areas on the mainland. I live in Stafford Township, and half of our town is shut down to either Pinelands or wetlands constraints, and we have no problem with that. We have an area that we can still build. And we have just passed I think the tightest stormwater management ordinance in the State, where all the water has to recharge right on your

property. It can't drain into anything. We don't even allow retention basins. This all has to be in a perforated pipe. I'm a developer, and I had to swallow on that one because that cost a lot of money. But it was the right thing to do. And on the mainland is where you really have the environmentally sensitive areas. I would not want to see CAFRA loosened at all in those areas.

I also am Vice President of Alliance for a Living Ocean. We're a group that formed last August after the garbage washed up on Long Beach Island. In five months we have, last count, 1200 members, about \$20,000 in the bank from people that sent us \$10 and \$15 donations, people around the State that really care.

You know, over the years it's been a constant problem with pollution. People have gone home. They've gotten into their PTA or whatever, and they've forgotten about it. Not this year. This year we have invitations to speak to Rotary Clubs and chambers of commerce and to schools. We have people all over the State asking us what they can do. I think that this Commission has a good purview over local pollution activities, and can be a good advocate for that.

I just want to close by saying that New Jersey desperately needs a professional scientific approach to the coast. We are the most heavily utilized coast in the nation, if not the world. We need a Commission that's going to be an advocate, not only for environmental issues, but also for development. There has to be a balance there. When you have 20 million people living next to the New York Bight, 25% of the nation's population within a 300-mile radius of Atlantic City, you've got to find a way to balance the ecosystem and the economic and recreational uses. I really think that a Commission is desperately needed for that.

We have environmental problems coming up over the next 30 to 40 years. The sea level rise is something that really has to be planned ahead for. With what I see now in State government, I'm not really happy with it. So again, I strongly support this Commission concept.

SENATOR CONTILLO: Thank you. Bill, do you have any questions?

SENATOR GORMLEY: No, I just would like to say hi to Ken.

MR. SMITH: How are you? It's been awhile.

SENATOR GORMLEY: We worked on some issues before.

MR. SMITH: The riparian problem, yes.

SENATOR GORMLEY: The riparian issue, yes.

SENATOR CONTILLO: Okay. Thank you.

SENATOR GORMLEY: Thank you.

SENATOR CONTILLO: Mike MiGuiness, from the New Jersey Builders Association? Do you belong to that organization also, Ken?

MR. SMITH: No-- (inaudible comment from audience)

SENATOR GORMLEY: He founded it. He founded it.  
(laughter)

M I C H A E L M i G U I N E S S: Good afternoon, Senator Contillo, Senator Gormley. My name is Michael MiGuiness, and I'm Director of Environmental Affairs for the New Jersey Builders Association, a trade group consisting of firms in the residential building industry, a lot of which are located in the shore area. We appreciate this opportunity of presenting testimony on the proposed New Jersey Coastal Commission Act, and commend Senator Pallone and Assemblyman Villane for their commitment to protecting the coastal region.

The New Jersey Builders Association supports enhanced protection of the ocean and the coastal region, while promoting the region's economy. This goal was part of the Governor's statement last summer when he announced his coastal

initiative. To this end, we support a streamlined and consolidated regulatory program, clear in unambiguous delegation of project review powers to local municipalities, and a lessening of the restrictive standards imposed on projects in CAFRA growth and extension regions.

I'd like to at this point clarify a couple of things that were said earlier today by Senator Pallone and another person. The Builders Association has met in the past with Assemblyman Villane on reducing the CAFRA threshold. And the Association does favor lowering the threshold in certain areas immediately along the coast, while relaxing it further inland. We did meet and discussed that about a year ago. So I just wanted to get that on the table.

Having carefully reviewed Senate Bill 1577, we believe that it fails to address the objectives mentioned earlier. Although we support the intent of the legislation, we cannot support the proposed language, since it does not establish realistic goals. It does not clearly define the authority and the responsibilities of all those involved. It does not indicate how it will streamline the regulatory morass, and it does not recognize and support the objectives of a vibrant economy. I'd like to elaborate on some of those issues.

The grant of authority to the Commission is excessively broad and ambiguous. The authority and responsibilities of the Commission, the regional advisory councils, and the municipalities, are not clearly defined. This legislative proposal does not give adequate direction, nor does it establish clear bounds on its authority. While we recognize that legislation is seldom precise, the breadth of this legislation is such that no one -- neither elected leaders, the private sector, or the Commission itself, has adequate guidance as the limits of the Commission mandate.



As a simple illustration, I draw your attention to the procedure to delegate permit issuing authority to a certified municipality. Even where delegation occurs, this procedure establishes redundant and cumbersome reviews since the permit application must still be filed and approved by the Commission. In this context, are not the rules of the municipality and the Commission duplicative? Why not consolidate and thereby streamline the activities?

This ambiguity also extends to the relationships between various governmental agencies -- such as DEP -- and the municipalities in the administration of regulatory programs and land use plans. For example, the Commission is empowered to establish policy and standards for county development, land use plans, and ordinances. What happens when a county or town disagrees with the Commission on a policy or standard that the Commission has established? There is no mention of a mechanism for resolving such disputes in the proposal.

Another major concern of ours is the fear that the proposal will result in a more cumbersome permit review process. This is based on a provision that permitted activities would still have to be approved at both the municipal and Commission level. Additionally, despite the transfer of certain programs administered now by the DEP Division of Coastal Resources to the Commission, other programs such as fresh water wetlands and the New Jersey Pollution Discharge Elimination System -- NJPDES -- will remain under the jurisdiction of the DEP. The current proposal envisions that the applicant, once they have obtained approval of the locality and the Commission, relying on the Commission to act as an advocate to DEP and other State agencies. Why not consolidate all of these programs within the one agency instead of creating another layer of bureaucracy?

SENATOR CONTILLO: You don't agree with Doc Villane that this is a de-layering then?

MR. MiGUINESS: I would have to say no, based on the language as it's proposed in the bill.

SENATOR CONTILLO: That was a dentist's term he was probably using.

SENATOR GORMLEY: Is there language that you would have that make it the de-layering?

MR. MiGUINESS: Well okay, we have taken a copy of the old bill -- the Assembly bill -- and annotated-- Yes, we do have language that we could make available, that we plan to send--

SENATOR GORMLEY: What are some of the high points of the language? Let's get to it. What do you want to say?

MR. MiGUINESS: Okay. There's a lot to it, I have to tell you.

SENATOR GORMLEY: Well, why don't you give us the point that would be most controversial. (laughter)

MR. MiGUINESS: Okay.

SENATOR GORMLEY: It's a small group here now, let's--

MR. MiGUINESS: Sure. In terms of the CAFRA threshold -- lowering the threshold. We do have some language that we proposed to Doc Villane about a year ago. For the most part it was not included in this bill. There was an attempt though to raise the threshold in certain areas, and lower it on the coast. However, in our opinion it was not done in a balanced manner. I'm hesitant to give you how it breaks down, because it is complex.

SENATOR GORMLEY: This sounds like buffer zones.

MR. MiGUINESS: Yeah.

SENATOR GORMLEY: Okay. It has all the--

MR. MiGUINESS: Well for example, we agree that there should be a threshold of one unit.

SENATOR GORMLEY: Okay.

MR. Miguiness: But we would limit it to construction only, so that it would not apply for reconstruction and expansion. The way the bill is worded, if you're going to be doing any expansion of even one unit you have to go for a permit. We would like to limit that to just construction, no expansion or reconstruction for example.

SENATOR GORMLEY: But what seems to happen in a regulatory process when you have inconsistency with the approval process -- and I'm talking about additions. I'm not talking about reconstruction. That to me is always a separate category. When somebody has already built something-- If you've already had a house on it, you can build a house on it. But when you have the other situation of saying, "No," saying the permit process applies in one area, and then saying it doesn't, then you see the funneling of the capital construction money towards the loophole end of it. I can see some very bizarre expansions coming up. It reminds me of a casino project we once had in Atlantic City, because they allowed a Holiday Inn to be merged with another motel and in the middle they decided to put a casino. What happens if you have an expansion exemption, then the money will be funneled there? We'll have some bizarre ideas of expansion. So, I think it would have to be balanced, because if you did it in one area, you definitely have to do it in another. That's just an instinct.

MR. Miguiness: Okay, well my only reaction to that would be, we're talking about just along the immediate coast.

SENATOR CONTILLO: Mike, do you have these compressed into a document you could leave with us?

MR. Miguiness: What I'd like to do is send it off to you right away, instead of leaving this.

SENATOR CONTILLO: Well you have--

SENATOR GORMLEY: See because we're not going to release anything today. So that fear is--

SENATOR CONTILLO: Within the next week or so, okay?

MR. MiGUINESS: We have an annotated copy of the bill,  
A-4437.

SENATOR CONTILLO: Love to have it.

SENATOR GORMLEY: Oh, do you? That would be excellent.

MR. MiGUINESS: With comments in the margins.

SENATOR GORMLEY: We never get an annotated.

MR. MiGUINESS: We did send a copy of this to the Governor's office, Brenda Davis, back in November.

SENATOR CONTILLO: Apparently she didn't agree with them.

MR. MiGUINESS: Well, I haven't really taken a look at all their changes.

SENATOR GORMLEY: In all fairness to you, so there's no confusion-- One, I don't see this happening in the next week. So why don't you take their latest version, because what will happen is they'll say, "Oh what he sent you was annotated with the old bill." So take more time and do it annotated with the new bill.

MR. MiGUINESS: Okay. There's a new bill floating around?

SENATOR CONTILLO: There will be Committee adjustments to this bill, I'm certain. And I think the Chairman before he left indicated to one of the previous speakers they have probably up to a month. But I wouldn't wait that long.

SENATOR GORMLEY: There are suggested amendments from Policy and Planning. I think you deserve, when those are prepared, that Mark will take your name and all that kind of stuff, we'll send you their suggested amendments.

MR. MiGUINESS: Okay.

SENATOR GORMLEY: Then do your up-to-date annotation, or I think it's an unfair process for you.

MR. MiGUINESS: Yeah, it's a wasteful process. We've already of course gone through that process on the former bill. I'm assuming that the amended version will not be substantially different. I could be wrong.

SENATOR GORMLEY: Well, it takes the one unit rule and extends it 40 miles inland. No, I'm only kidding. (laughter)

MR. MİGUİNESS: The amended version?

SENATOR GORMLEY: It's a joke. Are you okay, Mike?

MR. MİGUİNESS: Yeah.

SENATOR GORMLEY: Okay big fella? Are you all relaxed now? Mike is red.

MR. MİGUİNESS: Okay. Well, that's one of the key areas.

SENATOR CONTILLO: You want to continue, Mike, or are you finished?

MR. MİGUİNESS: Okay. Well I'll just point out, as far as specific language goes, I don't have any language right now, but there are areas there which are just very unclear as to what the Commission has authority to do, and what the town has the authority to do, after they certify the town. It seems as if you're going to have this duplicate process continuing. You're going to have the town issuing a permit, then you're going to have the Commission with the option of reviewing that permit.

SENATOR CONTILLO: And then send it on to DEP and they can take a look at it too.

MR. MİGUİNESS: Exactly. And that's not even clear too. It says the Commission will assume five or six permit programs from DEP. As I mentioned earlier, there's some delegation criteria with fresh water wetlands and the NJPDES program that would not allow, I believe, those programs to be delegated to this Commission. So that would have to be looked at.

And the goals, the intent of the legislation do not seem to give priority, or -- what's the word -- do priority to housing or the economy, the economic aspects of the shore. It talks about enhancement, preservation, protection, which we would certainly support -- the protection aspect -- but there's no mention of the economic climate of that shore area.

So that's what I'll do. I'll send you a marked up copy of the bill once--

SENATOR GORMLEY: In all fairness to you, you should get the amendments, and when the amendments are prepared pursuant to their request, then I'd ask you-- To get something in annotated form is incredibly beneficial, given the amounts of paper that we're deluged with.

MR. Miguiness: I'd just like to say one other thing. Before the Committee signs off on such legislation, we would ask you to examine the option of strengthening existing programs that are already in place in DEP and elsewhere, as has been mentioned earlier.

SENATOR CONTILLO: You mean in lieu of the Commission?

MR. Miguiness: Right, to look at that option.

SENATOR CONTILLO: You and the environmentalists are on the same tack, that's interesting.

MR. Miguiness: It sounds that way, yeah.

SENATOR CONTILLO: Yeah.

MR. Miguiness: Of course we are willing to sit down with the sponsors and the Administration to work out the critical points of this bill. Of course, we would prefer that it be done with the existing programs, by allocating more funding, more personnel, and prioritizing some of these issues that were mentioned earlier. But we are willing to work with the sponsors and the Governor's office.

SENATOR CONTILLO: That's probably my position too. Okay Mike, thank you.

MR. Miguiness: You're welcome.

SENATOR CONTILLO: Next on the list we have Susan Covais, New Jersey Realtors?

S U S A N C O V A I S: Thank you, Senator. My name is Sue Covais, and I represent the 45,000 members of the New Jersey Association of Realtors.

Not to belabor the point too much longer, I'd like to echo a lot of the comments that the builders have made about the Commission. We certainly support the concept of trying to coordinate the development, the shore protection, and so on and so forth, along the coastal areas. Our problem of course -- again, this was brought out by many speakers -- is how is this going to be done, and is this going to add another layer of bureaucracy? What I've heard today, and what I've seen in the bill, it doesn't really take away any layers. I think it just transfers layers. How that transfer takes place, I don't know. It's not outlined in the bill. It's not really clear. When you go get your CAFRA permit, are you getting it from CAFRA? Are you getting it from the Coastal Commission, and so on and so forth? Those issues have been brought out, and that's really our main concern with the bill.

We also have a concern about the reconstruction of section-- I'm just going to list a few things that we have major problems with on first glance of the bill, that of course we realize now that it's going to be amended further. The reconstruction is a problem. You're talking about one unit, and if there's damage to a unit after a storm, we don't see any reason why they have to go to the permit process all over again. If they want to make a regulation about bringing the building up to present code-- Say for example, it was built 30 years ago, obviously the code is different from today's code on what should be built along the shore area without an intervening bulkhead or whatever. That's not a problem. But to have to go through an entire permit process, we certainly would oppose that type of provision.

SENATOR GORMLEY: You've got a very valid point here.

MS. COVAIS: Yeah.

SENATOR GORMLEY: We're talking about reconstruction of a unit, same square footage and whatever.

MS. COVAIS: Right. Exactly.

SENATOR GORMLEY: We're not talking, it's a unit and now we have a new idea of a unit.

MS. COVAIS: Yeah. I think your point about the expansion is certainly valid. I mean, you don't want some sort of strange expansion happening to get around the law. But I think that reconstruction of an existing use permit building, in other words, existing the same type of walls and everything--

SENATOR GORMLEY: And you see the language as limiting, possibly stopping that reconstruction?

MS. COVAIS: Well, it doesn't say it's stopping it. It's making it go through a permit approval process all over again. Also for subdivision, which is normally now you go to the municipality, I believe, to the zoning board for subdivision approval.

SENATOR CONTILLO: And in many cases they may not adhere to what you call, "the building code" -- I think you mean when you say code.

MS. COVAIS: Right.

SENATOR CONTILLO: How about the zoning ordinance? In many cases existing units won't comply with the new zoning ordinances of the towns.

MS. COVAIS: You raised a valid point. So how does this all work in with the Coastal Commission?

SENATOR CONTILLO: They become nonconforming uses, existing nonconforming uses.

MS. COVAIS: Well, our next point was about local municipal zoning laws. How does this relate to the Coastal Commission? That's also not clear in the bill. I mean, when you apply for the subdivision, or for example, for the reconstruction, are you going to the municipality first and then the Commission; the Commission first and then the municipality; and so on and so forth.



SENATOR GORMLEY: Well -- obviously, if you have an approved plan, ideally -- and everybody can have a different version of this, but let's assume it's together -- ideally you're talking about a plan that has been similar to a conforming Pinelands municipality, in terms of the local zoning levels. So there is a precedent for you. But I can see your concern.

MS. COVAIS: Right.

SENATOR GORMLEY: It's not written, though it's written. I don't want to sound like Yogi Berra, but if it's vague, you're not sure yet what the process is going to be, and I see your point.

When you talk about reconstruction, is your fear reconstruction as a result of the environment -- as a result of those causes -- or as a result of the business decision to reconstruct? Are you talking all forms of reconstruction, or do you have a dichotomy? We have God given forces that obviously-- I don't question that that person should be able to rebuild without going through the process. But I guess the permitting process that they might be honing in on is reconstruction when it's not as a result of the forces of nature.

SENATOR CONTILLO: Well she says the damage by storms.

MS. COVAIS: Right. We use the example of damage by storm. That issue was not brought up when we were looking at this.

SENATOR GORMLEY: I agree with you on that one. That's a given. Let's get to the area of, I decided to rip it down and build a new unit. What is your stance on that?

MS. COVAIS: Well, I haven't really looked at-- You bring up a valid point but we haven't really decided whether--

SENATOR GORMLEY: Because that is what in Longport and Margate, and towns in Atlantic County, because of the value of individual lots we have now had the phenomena of ripping down

beachfront units. I'm not at that threshold myself, but they're ripping down very nice homes and building bigger ones, because the lot prices are now \$400,000 or \$500,000. But is that reconstruction of an existing unit?

SENATOR CONTILLO: I don't think so.

SENATOR GORMLEY: Well, that's why we have to discuss it, because it's another unit on the same spot.

MS. COVAIS: Right.

SENATOR GORMLEY: And what's happening is they were let's say a few thousand square feet, now they're about six thousand. I mean, these houses are big, on a 50 by 75 foot lot. So we have to get into -- and this is good we have the time, and you can give me some more input on this over the next few weeks -- the definition of reconstruction, because I think there's various segments to it. I think that's important. But if it's a natural catastrophe I agree with you. Come on. We can't get back to square one with people.

MS. COVAIS: We can certainly discuss that issue, because that particular issue was not brought up, whether you're just expanding the four walls or just reconstructing. But also another issue is that if a person does not get that reconstruction permit -- you know, someone for example for damages from a storm -- one of our main concerns is, now how do you compensate for the loss of that property? Now how does all this relate to property owner's compensation also? I think that was brought up by Derry Bennett, about putting aside some money to compensate property owners if you're going to be doing eminent domain or you're going to acquire properties, say for example the Coastal Commission in their plan has decided--

SENATOR GORMLEY: Well, if you're doing eminent domain you have to pay fair market value anyway. That's just the law.

MS. COVAIS: Right. But again--

SENATOR GORMLEY: If you talk about a zoning change and there being compensation, legislators will rant and rave in October about that every year. We've never created a fund, and we'd have to state-- I remember when they had the Pinelands Commission in the past. They hired a consultant to write a report on how you would implement the Pinelands Report, and after 110 pages they got to compensation. They suggested a statewide property tax in order to pay the people in the Pinelands. Well, if you talk about a political death knell, it would be going for a statewide property tax. Speaking honestly--

SENATOR CONTILLO: For that purpose.

SENATOR GORMLEY: For compensation, that's how much money it would have taken. That's why we have to address the question of making sure that person who legitimately needs to rebuild or build can do it, because we'll never be able to set up a compensation fund; because if we do, the people in the Pinelands communities, the people with wetlands, it's going to go backwards and we're going to start paying for zoning decisions. It's something that just can't happen. But obviously if there's eminent domain it's got to be fair market value, and under any form of eminent domain, with a quick taking order this payment has to be made in 30 days. So you're going to have payment if there's eminent domain. It's just the law. It's fair market value.

MS. COVAIS: But I think that's definitely an issue that the State hasn't addressed, especially in the Pinelands area -- of course that's off the subject -- but they definitely have not addressed the fact that all these land use decisions are really taking away people's property value. I really think the State hasn't addressed this. I think they're going to have to start doing that. I don't think anybody up there would disagree, but I guess it's a matter of how you are going to do it.

SENATOR GORMLEY: Well the point is, the Legislature is never going to pass the funding source necessary to do it. If they had to suggest--

SENATOR CONTILLO: Which then strongly, lends itself to the fact that you should be allowing for that reconstruction-- (inaudible)

SENATOR GORMLEY: Oh yeah. The point is we have to look fairly at the reconstruction. I mean, we can go back and say, "You know, there's a better wheel today, or there's a better system, and we want to protect the environment." But when you've had property turnover for years and equity in it, now to say, "Sixty years ago when this was allowed it was the wrong thing to do." There's only so far back you can go. There has to be a pattern of equity. I'm agreeing with you on the reconstruction issue, but I think what we have to be careful about -- and you have to be careful about -- is the definition of reconstruction, so that it's not unfairly limited. We would never--

SENATOR CONTILLO: Your testimony deals with storm damage?

MS. COVAIS: Right. Well, that's one of the examples that we used.

SENATOR CONTILLO: Okay. That's what she's talking about. You supplemented that one.

SENATOR GORMLEY: Okay. Yeah, well I think we'll do that.

SENATOR CONTILLO: (after conferring with Senator Gormley) It would indicate that if an entire island is damaged, you may have 1000 or 2000 permits going through CAFRA to get permission to rebuild.

MS. COVAIS: Right. And we think that's not--

SENATOR CONTILLO: Or through the Commission itself as opposed to--

SENATOR GORMLEY: Well I think a point we could look at-- Has any member of the industry looked at the-- Maybe you ought to look at it from this angle, I assume you won't be able to get flood insurance?

SENATOR CONTILLO: Which one?

SENATOR GORMLEY: Well, I'm not going to give flood insurance-- I mean, there are certain questions as to the mortgage and the flood insurance that relate to the equity of the property.

SENATOR CONTILLO: The building.

SENATOR GORMLEY: The building?

SENATOR CONTILLO: Not the property.

SENATOR GORMLEY: I'm just wondering about that, if a bill like this affects your ability to get a loan?

MS. COVAIS: It may indeed. If you're talking about potential zoning changes then--

SENATOR GORMLEY: I wonder about--

SENATOR CONTILLO: Loan or insurance, which--

SENATOR GORMLEY: Either or. Anything--

SENATOR CONTILLO: You just jumped from one thing to another.

SENATOR GORMLEY: Well, we're talking about property value and equity, and does a provision like this prospectively at the shore, have an effect on the property value or your ability to get a mortgage; the fact that you might not be able to rebuild your house? That would tend to have--

MS. COVAIS: Well, I think it definitely does, and that's another issue that should be brought up.

SENATOR CONTILLO: I would say flood insurance that's now available from the Federal government for ocean and bayfront homes, probably doesn't cover 20% of the value of the buildings any more.

SENATOR GORMLEY: Okay.

SENATOR CONTILLO: It's available. It's limited somewhat, but it's available. Right? It's very small numbers too.

MS. COVAIS: But I think that the Senator brought up a good point is that-- I'm a bank, I'm going to be loaning money to you, and I see that your property-- You know, there may be a certain value that they may be attaching to your property with the potential of developing it. Now you can't develop it, or there's the possibility that you might not be able to rebuild it if it's damaged. Would I make a loan on a building like that? Of course I wouldn't. We had one more--

SENATOR CONTILLO: It may make it tough to get mortgages, this bill.

SENATOR GORMLEY: It could. I want to get both sides because then they'll say, "Well, we'll be insured." I'm going to have to think about it more, but I do think you do have an equitable impact if you say something that's already built can't be rebuilt. I mean, could they be covered by insurance? Yes they could be covered by insurance, but it's going to make much more complex the bargain, or the settlement will become much more complex, in order to cover a provision like that. I mean, as I said I haven't thought it all the way through, but it's something that jumps to mind because very few of us actually own our homes outright. We always have another party that has a greater amount of equity and they would be concerned about it. (confers with Senator Contillo)

SENATOR CONTILLO: If you'd stop interrupting her--

SENATOR GORMLEY: I'm sorry. (laughter)

SENATOR CONTILLO: Go ahead, finish.

MS. COVAIS: Just a few more points. There's one section in the bill that talks about the length of a valid permit. It's section 65 actually, on page 43 of the old bill. Basically we are opposing that provision. Basically what that provision said is that if you have a delay of one year -- in

other words, you get a permit approved and then there's a delay of one year -- you have to go back to the permitting process again, as I understand the bill. Now, we think that's very burdensome. That's another issue that has to be looked at. Why would you want a project that's already been approved, maybe delayed due to no control of the developer, to have to go through the permitting process again a year later? So that's another issue.

Also, I think I brought this before, that we're really uncertain on how this Commission master plan, or whatever, relates to local zoning ordinances, and how these things all coordinate. We commend the sponsors -- who are not in the room right now -- who introduced the--

SENATOR CONTILLO: Commend or condemn?

MS. COVAIS: Commend. (laughter) Get that right for the record. Commend the sponsors. It's a good concept. It's an interesting concept. It's something that we have to really work on. But I think that really our concern is -- this bill is a good starting point -- but our concern is really not to add another layer or to add a different layer. If they really want the one-stop permitting process, I don't see it in the bill. If that's the intent of it, then that bill really has to be gone over and coordinated with all those other programs, because as the bill is drafted right now, I don't see that it de-layers anything, but only just transfers layers to another body; which may even delay processes by the time that body gets set up, and with all the public members and so on and so forth, all the different issues that this particular Commission is going to have to handle.

SENATOR CONTILLO: We've had a lot of testimony on the layered problem.

MS. COVAIS: And that's really the essence of my comments.

SENATOR CONTILLO: Okay. Thank you.

MS. COVAIS: Thank you very much, Senator.

SENATOR CONTILLO: If anyone else has anything -- okay, I have a couple more names here -- I would just suggest to you that the hour is really getting late. I'm the last survivor here. If you would not be repetitious in any way, and I would ask you -- I'm not going to eliminate anyone -- but to voluntarily keep it concise.

The next person I have is Nils Stolpe.

UNIDENTIFIED MEMBER OF AUDIENCE: He's not here.

SENATOR CONTILLO: He's not here?

UNIDENTIFIED MEMBER OF AUDIENCE: He left.

SENATOR CONTILLO: George Tompkins, Seaside Heights? (no response) Oh good. Fred Coldren, Cape May? (no response) Carmen, the Mayor of Union Beach? (no response) We took Bob Fothergill? (no response) Hal Bickies?

H A L B I C K I E S: Yes, sir.

SENATOR CONTILLO: Fisheries Development Commission?

MR. BICKIES: Yes, sir.

SENATOR CONTILLO: Okay. You're the next to the last one.

MR. BICKIES: Most of the testimony so far has been on building and things like that. My name is Hal Bickies, and I'm the Assistant Director of the Governor's Fisheries Development Commission for the State of New Jersey.

Also, to give you a little background on myself, I'm the Administrator of the Maurice River Oyster Culture Foundation. Brenda Davis earlier mentioned oysters as being an interest within the State, which right now New Jersey is not harvesting any. I'm on the Executive Committee of the Planners and Packers Association. And I'm also in one of the municipalities that is within the Coastal Commission. I'm a Committeeman in what is known as Hopewell Township, Cumberland County.



As far as the Fisheries Development Commission is concerned, we support the Coastal Commission as it is written with a few minor changes. We urge you that we must guarantee the fish in New Jersey waters against contamination. This not only includes fin fish but also shellfish.

New Jersey has some of the strictest regulations for landings of fish in the country, and what happened last summer was really a black eye for the fishermen throughout the State. We have very strict standards, and nothing is landed that -- I don't want to say nothing at all, but the standards are very strict.

The survival and rejuvenation of major fisheries for New Jersey is dependent on the good name to the products which are harvested from New Jersey waters. The endless publicity that was seen and read last summer had a drastic effect on the sale of fish and shellfish. We heard a great deal last summer about the loss of tourism. The amount of money that was lost, and the good name, again, among the shell fishermen and the fishermen in the State of New Jersey, it can never be recouped -- at least as far as the money is concerned. Not only the financial loss to the fishermen in sales -- which was in the millions of dollars -- but as I said the bad publicity which was seen on all major networks is unacceptable to them.

In your proposal, one of the Commissioners will be from the fishing industry. I would like to remind you that there are certain social issues that separate the different factions within the fishing industry. You have the commercial fishermen, the recreational, and the shell fishermen. If one of the Commissioners is to come from the fishing industry -- which it calls for here -- which one will it be? If it's from the commercial, then the recreational-- I've talked this over with the office of Brenda Davis, Policy and Planning. I have no answer to it. But I would like to apprise you that there is a problem here, that you might have a little bit of a problem where this person comes from.

I would like to address the problems the fishermen are having of high cost of waterfront due to development pressures. Considerable amount of testimony today has been in terms of building houses or putting up condos or whatever. But it is reaching a point right now where a fisherman is running the risk of looking down to, say, North Carolina, Virginia, Maryland, as a place to put his boat, because waterfront property has become so expensive in the areas that they have generally fished from, that they no longer can stand to fish out of these areas. So there is a potential, unless something is done and addressed with the fishermen -- and I know there are certain bills concerned with lowering the taxes in these areas. To just give you an example, a friend of mine told me the other day that for 70 feet of waterfront property in Atlantic County he paid \$150,000. Now the only way that he was able to pay this much -- and maybe further up north that's a good deal--

SENATOR CONTILLO: I was going to say--

MR. BICKIES: --but in Atlantic County-- He had to sell a marina that he had in the Delaware Bay, plus he also had to take out a second mortgage on his property. The prices down that way are getting to the point where it's just going to drive the fishermen out. So we are in jeopardy of losing an industry unless these problems are addressed.

We don't want to forget water quality as well. You start putting up large developments, like I noticed someone mentioned down there-- What is it, the little village right outside of Atlantic City?

SENATOR CONTILLO: Smithville.

MR. BICKIES: Smithville. I used to be in the oyster business, and I remember several years there was a considerable amount of pressure put on by the people to keep the development down in that area because there was a problem of polluting the Great Bay, which is a producing area of clams and oysters. So

we must be always cognizant of the water quality that we're talking about here.

Lastly, the Coastal Commission would address the problems of permits for fishermen and the operations along the waterfront. The way the present system functions, it takes up to two years for a fisherman to be able to put in a new dock, or to make repairs to the existing facilities that he has. To give you an example in this, down in the Delaware Bay -- which is far-fetched from this area -- a man's bank was washing out. He went along and he got some rocks and some things to try to hold the bank in place. The State came along and they told him he had to remove the rocks. They would rather see a total loss of that waterfront property, and as a viable dock to that man. He fought that for two years. Instead of putting that money back into his business, he had to go and fight in court. He eventually did win the case, but this is to extremes that the fishermen are fighting down in this area, and I know it's in the other areas as well.

If a man comes along and has a project, by the end of the two years he's got so much money and so much time, and maybe the idea that he had two years ago, somebody else could have done it in Virginia or Maryland, and it's just no longer feasible in this area. So this process has to be cut down, and the Coastal Commission addresses the one-stop shopping type thing in a district office where they can go to. And maybe we can cut this time down from two years to less than a year, or maybe a short period of time. But within the Coastal Commission, with the districts being set up, there are people that are aware of the problems, and I think the whole procedure would go a whole lot faster.

I told you I'd be short, and that's all I'm basically going to say. But I would like to thank you for your time, and say that myself and the Fisheries Development Commission, Executive Director George Grant, will continue to offer any assistance we may be in the future. Thank you.

SENATOR CONTILLO: Okay. -Thanks. Henry Maurer here?

HENRY MAURER: Yes. Thank you. For the record, my name is Maurer. I'm Legislative Liaison for the Department of Personnel, and I will be very brief.

First of all, on behalf of Commissioner McCaffrey, I just wanted to say that our Department does support this initiative. Our concern is with only with one small portion, although maybe it's not a small portion in terms of the discussion earlier today, and that is the personnel piece of this bill.

The current language would exclude most employees from the coverage of Title 11A, the Civil Service Reform Law. Since this Commission would clearly be an agency in the Executive Branch of the State government, we feel there's a problem because the intent of civil service reform was to create one central personnel agency of the Executive Branch of State government, and one personnel system for the Executive Branch. A blanket exclusion of any State agency, a carving out of a whole division, commission, authority, whatever, we feel is inconsistent with the intent of civil service reform. Besides, as mentioned earlier, it opens this potential agency up to the abuses that were mentioned earlier in this hearing. So what I have offered are proposed amendments, and I submit them for the Committee's consideration. Thank you.

SENATOR CONTILLO: So what you want to do is keep the employees on civil service?

MR. MAURER: That's it.

SENATOR CONTILLO: Why do you think they want to circumvent civil service? Why do you think the bill attempts to circumvent civil service?

MR. MAURER: Well, I have had some discussion with Brenda Davis' office. Although no one has quite taken credit for the language that's there, it appears that the concern was that the agency once it's created has to move very fast, has to

create a master plan, and there were concerns that the civil service system would not allow for that to take place.

SENATOR CONTILLO: The hiring or the--

MR. MAURER: The hiring.

SENATOR CONTILLO: That's what you're talking about.

MR. MAURER: That's right.

SENATOR CONTILLO: What's your response to that?

MR. MAURER: Our response is that, thanks to civil service reform, we have the tools to respond quickly to fulfill the staffing functions of State agencies. If there's a specific concern with certain position, certain job titles, we can address it legislatively. The answer is not to just completely carve out that entire agency from the merit system.

SENATOR CONTILLO: Can you give me an idea how many people we're talking about in this new Commission?

MR. MAURER: Well, that's really hard to say because no one has made up an organizational chart. The bill would provide for transfer of most of the employees of the present Division of Coastal Resources. Frankly, I don't know how many are in that Division right now, but there would be additional employees who would have to be added on more than that. Of course with a \$20 million budget that's a considerable size agency. I only know by comparison. Our own agency, the Department of Personnel, has I believe in this past fiscal year approximately a \$20 million budget, and we have 500 employees.

SENATOR CONTILLO: You think it's possible-- So you're talking about hundreds of employees in this new Coastal Commission?

MR. MAURER: That's right, though not necessarily hundreds of new employees.

SENATOR CONTILLO: New hirings.

MR. MAURER: Or new hirings.

SENATOR CONTILLO: And within those that are not necessarily transferees, those new hirees, some of them would be outside of civil service anyhow, would they not?

MR. MAURER: Well, there are exclusions of course in the law. The Executive Director, obviously, as an appointment of the Governor would be unclassified. There are a couple of other--

SENATOR CONTILLO: Some of the technical employees, didn't we exclude them at one time? (confers with Committee Aide)

MR. MAURER: There are provisions. Some job titles are non competitive.

SENATOR CONTILLO: All right. You draw a legitimate question here, and the Committee will discuss it. Thank you.

MR. MAURER: Okay, thank you.

SENATOR CONTILLO: One more. I don't know if I'm going to hear any more. Ellis? Isn't he the guy that rose from the dead? No, that was Lazarus. You're the one that we're going to hear. (witness passes out material) You attempt to read this and you're going to be in big trouble.

E L L I S S. V I E S E R: Thank you very much, Senator. Thank you for staying and allowing me to--

SENATOR CONTILLO: Could you identify yourself?

MR. VIESER: Pardon?

ASSEMBLYMAN CONTILLO: Would you identify yourself?

MR. VIESER: I am Ellis Vieser. I'm President of the New Jersey Alliance for Action. I'm speaking for that organization. I'm also speaking for myself because I live in Middletown which is adjacent to the shore. For the record, I'm a member of the Wastewater Trust Fund, a member of the Tax Policy Commission, Regulatory Efficiency Commission, and a couple of others. I'm also on a couple of national boards with regard to water quality, the National Water Alliance, and so on and so forth.

We did have -- meaning the Alliance for Action -- a seminar as requested by ourselves to the Office of Policy and Planning, for a whole day with about 150 people. A lot of

questions were raised at that seminar. I'll be very concise and to the point.

The obvious problem with the situation, and it is a very big situation, a very big problem, is the density in the State of New Jersey and particularly in the summertime along the shore, and in the region that feeds the waters into the ocean to the rivers. We're now at a thousand people per square mile, and within ten years it will be up to 1250. That's the real cause of the problem. I think that problem, because of its severity, has to take bold measures, and we are in favor conceptually of the plan as put forth for the Coastal Commission.

In reflection from experience, when your comments, Senator and the other Senators, with the regard to authorities and commissions and etc., I agree with you completely that it should be done carefully and with the awareness of the public. But the concept of the Wastewater Trust Fund has worked exceptionally well. It's an intricate measure. It's spelled out in the booklet, and I'm sure that you and your other colleagues in the Legislature are well aware of that. I know that Madelyn Rumowicz is totally aware of it. And that may be a system that you could use. I'm not recommending it. I'm suggesting that you take a look at it.

The Federal government through FEMA -- Federal Emergency Management Association -- and the Corps of Engineers have been, and are, very helpful. I think that we could tap them. They've already offered to come forward, and we've had a lot to do with those people. We have a water resource bill that was passed last year Federally. Of \$16 billion, New Jersey will get \$1.3 billion. They're rebuilding Barnegat Inlet with that money.

We're involved with the garbage crisis, having put together white papers with NJIT. If you want those papers we will give them to you. We're involved in drinking water

quality and quantity, and I have a lot of information if you want it. But I suggest and recommend -- personally and from our Association -- you proceed with this.

We did have one item that came out of the seminars that I thought was very constructive, and that is there's a concern on our part and the other business people that there's going to be a double layer of bureaucracy. We think it can be avoided, but we suggested in our recommendations that came out of that seminar that the Office of Policy and Planning consider running a dummy session with a dummy permit, the way it would go through. This came from the Consulting Engineers Council, one of our groups that are members, in order to eliminate the possibility of misunderstanding or what have you. I don't know how that could be done legislatively. I think there's a willingness on the part of Brenda Davis' office to do that. I make it as a suggestion that possibly that would be a way of giving people and government and legislators and the Governor more confidence, but whether it's possible to do I don't know, but that's a recommendation that we would make.

We represent 500 associations and about a million people, and if we can be of further help through our professional contacts with the professional engineering associations, or the businesses going up and down the State-- But we think something has to be done, and this looks like the best plan we have seen.

SENATOR CONTILLO: You know, you raise a good point here. We've had so much discussion here today whether we are adding layers or taking them off, that we ought to specifically ask a question as to a specific development if it went through, if anybody does know whether they will go for a municipal approval, then a second approval from CAFRA, or will the Commission give CAFRAS and etc., etc., etc. Do you think we could get that from the creators of the Commission? I think that's where it ought to come from.



MR. VIESER: Well, I think in our infinite wisdom, going back and forth, and you people, legislators, digesting the bill that's been put forward, and then reconsidering all the comments, I think we can make it work.

SENATOR CONTILLO: No, but my point is that you brought up a situation--

MR. VIESER: That's exactly right.

SENATOR CONTILLO: No one really knows exactly what the process will be, if indeed it's embodied in this bill. Why don't we suggest either to the sponsor or the representative from the Governor's office, that they give to us a process -- a flow chart if you will -- or an example of a number of developments and how it will work? Because we have had six different witnesses talking, "We like the bill because we think it saves us steps." "We don't like the bill because we see it adding steps." So there is a misconception on the part of the public, and I don't think this Committee has the answers to that, we can give the people either.

MR. VIESER: May I suggest that possibly they could come before, with the bill, to the Regulatory Efficiency Commission headed by Roger Bodman -- of which I'm a member of -- to look at this, to provide input, not to be critical.

SENATOR CONTILLO: No. I would like them to send me, on this Committee, a flow chart as to how they see it happening.

UNIDENTIFIED MEMBER OF AUDIENCE: We can certainly provide a description of the process. Sure.

SENATOR CONTILLO: Okay. Where are you from?

UNIDENTIFIED MEMBER OF AUDIENCE: The Governor's Office of Policy and Planning.

SENATOR CONTILLO: Wonderful.

MR. VIESER: Thank you very much.

SENATOR CONTILLO: Thank you. Anyone else? (no response) We'll continue this, or end it as is appropriate.

(HEARING CONCLUDED)

## APPENDIX

TESTIMONY OF BRENDA S. DAVIS  
CHIEF, POLICY AND PLANNING  
OFFICE OF THE GOVERNOR

before

ASSEMBLY SELECT COMMITTEE ON OCEAN AND BEACH PROTECTION  
HON. JOHN BENNETT, CHAIRMAN

FEBRUARY 3, 1988

INTRODUCTION

Thank you for holding this hearing on Governor Kean's proposed New Jersey Coastal Commission and the enabling legislation introduced last summer by Assemblyman Villane and Senator Pallone. I know each of you share Governor Kean's view of the importance of successfully managing our coastal resources.

LET ME MAKE ONE IMPORTANT POINT. IN THE PAST YEAR WE HAVE HEARD MANY, MANY QUESTIONS AND LISTENED TO MANY COMMENTS. THE NJCC PROPOSAL I AM HERE TO DISCUSS WITH YOU TODAY REFLECTS THOSE COMMENTS AND ANSWERS THOSE QUESTIONS.

Members of my staff and I have met with or made presentations before 21 of 24 shore Legislators; legislative staff; over 120 mayors throughout the CAFRA region; county boards of freeholders; county planners, the staff of Senators Bradley and Lautenberg, Congressmen Courter, Saxton, Howard and Hughes; over 35 interest groups including environmentalists, Chambers of Commerce, builders and realtors; and, we have engaged in countless telephone conversations and personal correspondence with experts in and outside New Jersey.

We must ensure the protection of New Jersey's priceless coastal environment. We are responsible for what happens at the coast, and it is irresponsible for us to continue to stand on the sidelines as the unchecked, uncontrolled deterioration of our coast continues. Resisting change, settling for the quick fix, failing to seek long-term solutions, is inexcusable. We need quick action -- detailed in Governor Kean's 14-point plan to deal with ocean pollution. But we must take the long-term view as well. The effectiveness of these 14 measures will be significantly compromised without comprehensive coastal management.

The protection, improvement and overall management of our coastal environment is critical to our quality-of-life and the viability of a \$7-8 billion tourism industry. It is critical to our quiet seaside towns, to our coastal cities in their early renaissance, to our residents and to our visitors. And we have been

neglectful -- we have abused and ignored this precious resource for too long.

Governor Kean recognized the threats to our shore long ago - before the events of last summer spurred others to action. These threats are subtle, cumulative and to a very large extent are products of our own success - and more simply - of geography.

Our beautiful coast is sandwiched between two of the nation's largest urban centers - New York and Philadelphia - and is part of the most densely populated State in the nation. Nowhere in this country is there a comparably stressed stretch of shoreline.

One year ago the Governor proposed the New Jersey Coastal Commission - a bold, solution to a complex, regional problem.

The Coastal Commission is designed to be consistent with New Jersey's strong tradition of home rule, and is constructed to be accountable to the Governor, Legislature and the public it serves. It does not create additional burdensome bureaucracies, but serves a new function which existing State agencies cannot.

Our New Jersey coast urgently needs regional problem-solving, proactive resource management, and an advocate with the clout to be heard in the halls of Congress or in disputes with New York City.

Since last summer, we have received many useful comments on the enabling legislation for the Coastal Commission. Amendments making many clarifications and refinements are being drafted and will soon be received by you as a Committee substitute.

As you know, this is a complicated, far reaching proposal - difficult to do justice to in a short statement. Let me first provide an overview of the Commission and its functions and perhaps anticipate a few of your questions.

#### Outline of NJCC

- o The Commission will consist of 15 members, selected as follows:
  - The Commissioners of Departments of Environmental Protection and Commerce and Economic Development and the State Treasurer will serve ex-officio.
  - 4 chairpersons of regional advisory councils which are made up of municipal or county officials or members of the general public representing different coastal regions will serve ex-officio.
  - 8 members will be appointed by the Governor with the advice and consent of the Senate from various interests such as environmentalists, fishermen, developers and those involved in tourism.

- o Four permanent regional advisory councils will be created to provide input to the Commission by citizens and local officials. Members will be selected by county governments on a proportional basis. Each council will elect a chairperson who will automatically qualify to be a member of the Commission. These councils will perform numerous important functions. They will advise the Commission on development of the Coastal Area Management Plan, on guidelines for local implementation of the Plan, on setting priorities for financing, and on the adoption of all regulations.

Balanced geographic distribution is paramount in the establishment of councils. Region 1 will consist of Middlesex and Monmouth Counties. Region 2 will consist of Ocean County. Region 3 will consist of Atlantic and Burlington Counties. Region 4 will consist of Cape May, Salem, and Cumberland Counties. Communities represented on the councils should reflect the diverse set of conditions along the shore. For example, coastal, back-bay and inland; developing and developed; and urban, suburban, and rural towns should be represented within the councils.

- o The primary responsibilities of the Commission are:
  - Advocacy: Provide strong central leadership and a powerful voice for the protection, preservation and improvement of the shore. In order to accomplish this the Commission will investigate activities resulting in environmental degradation; lobby Congress, interstate agencies, or others on behalf of coastal protection; seek funding from all available sources; and, join in actions outside of CAFRA to protect water quality. For the first time we will have a focus on our coast, and the coordination and clout to make a difference for the future.
  - Planning: Develop a comprehensive Coastal Area Management Plan. Only by providing a regional framework for all local and state decisions, can we hope for success in our many actions. This plan must be coordinated with existing county, local and state plans and will include a natural resources inventory; shore protection; growth management; beach and water quality; and financing. Municipalities will be required to conform to all parts of the Plan if they want to be eligible for State funding for shore protection, stormwater pollution control, etc.
  - Implementation: Ensure that the Plan achieves its goals. The Comprehensive Plan will provide a blueprint for action -- establishing the Commission finally will place responsibility for ensuring that blueprint gets carried out in one, identifiable, accountable place. The Commission will oversee municipal conformance to the Management Plan; issue or delegate to counties/municipalities the issuance of CAFRA, Waterfront Development, and Coastal Wetlands permits; develop and/or certify municipal beach cleanup and maintenance programs;

develop and/or certify municipal stormwater pollution control programs; and perform a research needs assessment.

- Regulation: Develop recommendations for streamlining the host of regulations applicable along the shore, so that while we achieve the many purposes for which rules are designed, we do not include unnecessary duplication and delay. Also, the Commission will provide one-stop shopping for many permits.
- Financing: Act as conduit for all shore funding, including shore protection funding from the Natural Resources Trust, funding for stormwater planning and project funds, beach cleanup assistance, Clean Communities funding, etc. The Commission will receive State appropriations; levy administrative fees; seek private and Federal grants; and issue revenue bonds for specific projects. It will not levy beach fees.

Within the context of these broadly described responsibilities are many very specific mandates and restrictions.

- o Homerule. The Coastal Commission is meant to be truly responsive to those communities it is designed to serve. The Governor takes this purpose very seriously. My staff and I met with over 120 shore mayors. On two separate occasions last winter I conducted working meetings to discuss, in great detail, how the Commission should be organized and what it should do. These officials were directly responsible for some of the novel mechanisms (e.g., an annual public workshop, explicit public participation guidelines, reviews of impact of regulation on business) incorporated in the proposal aimed at public accountability. This outreach effort itself is indicative of the extensive public responsiveness we believe must be built into the legislation.

The four Regional Advisory Councils will be the most direct avenue for public input. These are not do-nothing Councils. They have fifteen members consisting of county and municipal officials and the public-at-large. The Councils will review and comment on Commission actions. They will resolve disputes resulting from municipal actions. They will review and help develop the Coastal Area Management Plan. Most importantly, they will elect chairmen who will automatically serve on the Coastal Commission as a full voting member bringing local and regional perspectives with them.

Shore mayors need and deserve real input to regional decisions and actions. For them, homerule is threatened more by neighboring municipalities, operating outside a regional context, than by a regional commission. Mayors told me time and time again that they need help. They cannot solve today's problems alone. They need the regional coordination and clout the Commission will give them.

- o Bureaucracy. No existing DEP functions will be duplicated by the Commission. Some functions of DEP will be replaced altogether by the new comprehensive land use management staff for the coastal area. Our original \$20 million appropriation request was NOT to build a monstrous staff but to fund the needed planning, ordinance modifications, beach cleanup, stormwater pollution control and other programs or projects to improve beach and water quality. We will REDUCE the State bureaucracy needed to accomplish a particular job through delegation of permit issuance to municipalities, financial and technical assistance offered to municipalities, and by providing a Commission which is locally based at the shore, sensitive, responsive and knowledgeable regarding local needs. The Commission will also review on an ongoing basis the existing tangle of regulations to ensure the maximum streamlining consistent with their purposes.

However, make no mistake -- we are proposing to do things which have not been done before along the coast, from regional land use planning to the development and maintenance of a natural resources inventory -- this takes money and people.

- o Independent authorities. Local input is a critical part of the Commission, but legislative, gubernatorial and public accountability are also absolutely necessary.

The Commission's accountability to the Governor is simple and direct; he will retain full veto authority over the minutes of the Commission. Other requirements will also ensure responsiveness. Of the fifteen Commission members, three will be from the Governor's Cabinet -- the State Treasurer, the Commissioner of DEP, and the Commissioner of Commerce and Economic Development. In addition, eight public members will be appointed by the Governor. Each of these must be approved by the Senate. Finally, the Governor will also appoint the Executive Director thereby exercising oversight of the staff.

The Commission's ability to act is directly related to the availability of funds, controlled by the Legislature. The Commission will not be able to tax or levy beach fees. The only projects the commission could finance through revenue bonds will be those which can be supported by user fees. These will be listed in the bill and are public marinas, parking lots, wastewater treatment and potable water supplies. Further, stable funding for shore protection, to be funneled through the Commission, will result from legislative approval of a Natural Resources Trust. Lastly, the most significant component of Commission funding is annual appropriations -- obviously, completely within your control. Therefore, ALL Commission funding is directly or indirectly controlled by the Legislature.

We are adamant that the Commission must be accountable to the public as well. The Commission will be required to conduct public hearings on its major activities, such as adoption of



the Comprehensive Management Plan and any amendments, and will hold an annual conference - to receive comments on its performance.

We are dedicated to a Commission that will be accountable to elected officials and to the public.

- o Strengthen existing government programs. It is important to recall who has responsibility for what happens along the New Jersey coast. We looked at habitat protection, nonpoint source pollution control, sewage treatment, ocean disposal activities, beach cleanup and maintenance, water quality, beach erosion, inlet maintenance, public marina space, and land use guidelines. It is immediately obvious that many different governmental entities each have a role to play but no one single entity is responsible for overall coordination or assuring that each piece is implemented. For example, DEP regulates water discharge permits but nonpoint source pollution is affected by municipal land use practices. Municipal shore protection projects such as jetties have resulted in increased accumulation of pollutants from municipal sewerage authorities. Mapping and inventory of stormwater drains is insufficient with only some towns and counties involved.

Coordination is critical. Someone must be charged with the task of providing the big picture for the coast. No one existing government entity is capable of that. Rather, existing players must become partners with the public and coordinate their actions through this new entity.

Saying that existing programs must be strengthened is very different from saying that they can do the job on their own. What is needed for New Jersey's coast is a comprehensive planning framework, which can be used to coordinate both land-use and environmental decisionmaking. The elements of such a plan cannot be mandated from Trenton, in a top-down fashion. Planning must involve those who live at the shore, and who depend upon the protection of the shore environment for their livelihood. A participatory process, holds the key to the future for us. Together we can solve problems - compromise - give a little - to gain a lot.

DEP has a major role to play in managing New Jersey's coast. However, DEP's role should remain and be concentrated in those areas where it is strongest, that is, in the areas of technical analysis, environmental permitting and regulatory action, responding to health based threats, and the like.

This approach will not dilute DEP's mission in any way. By establishing the Commission, you will provide a partner for DEP -- one which will complement the Department's role by ensuring implementation of a crucial component of any environmental agenda -- sound land use management. This partnership will take many forms, from providing a source of funds for stormwater and wastewater projects, to providing a single voice and vehicle



for implementing non-point source pollution control efforts, and by augmenting local resources for managing land use.

### Conclusion

The timing is right for this bold step. No longer can we afford the poor track record of our fragmented approach to coastal issues. Throughout the State, regional planning, which is the essence of New Jersey's future, is beginning - except for the CAFRA region.

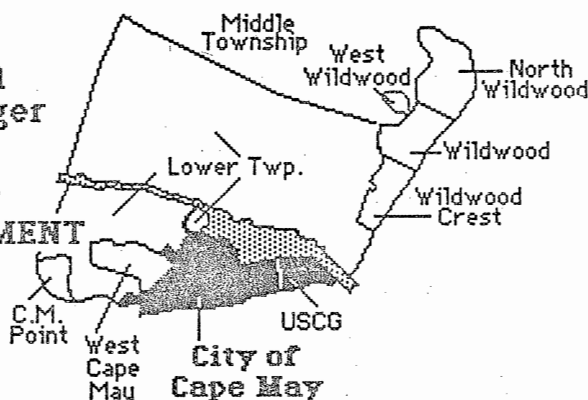
The public's awareness is heightened because of last summer's events. Short-term costly initiatives done in a piecemeal manner and absent any comprehensive context or planning are certain to be less than fully ineffective and may even waste the taxpayers money.

Examples of our failure to plan regionally are numerous. In Cape May we have problems of beach erosion while just north the Wildwoods are experiencing beach growth. Windward Beach in Brick Township, Ocean County, was built with Green Acres funds, but it is never open because of water quality problems resulting from local land use practices.

It is time to channel the anger that we all felt last summer. If we lose interest now - if we settle for quick fixes - we surely set the stage for more avoidable catastrophies. It is time we move beyond incremental actions - how long can we react one way to hospital waste on our beaches, another to hurricanes and property damage and another to the end of oyster fisheries in our polluted bays. When all these things are related. When the sum suddenly is revealed as so much worse than the parts.

You have heard and know the stories. Governor Kean is eager and the public demands action. We must establish the New Jersey Coastal Commission, the alternative is more of the same -- and no one supports that option.

**Testimony of  
Fred Coldren  
Cape May City Manager  
before the  
New Jersey Senate  
ENERGY AND ENVIRONMENT  
COMMITTEE  
February 2, 1988**



Thank you, Mr. Chairman, and members of the Senate Energy and Environment Committee for inviting and considering this testimony in support of Governor Kean's comprehensive coastal management proposal for a New Jersey Coastal Commission. I also want to thank our own representative, Senator Jim Hurley, for inviting this statement.

From more than a dozen years of direct coastal management experience<sup>1</sup>, I am convinced New Jersey and its coastal municipalities and counties urgently need a strong new regional mechanism to effectively deal with the many problems of and threats to our multi-billion dollar seashore economy and environment.

**PRESENT STRUCTURES ARE NOT ADEQUATE.**

With all due respect to everyone's best efforts and good intentions, our present laws, regulations, and public structures have not been adequate to stop pollution, control density, minimize overcrowding and traffic congestion, maintain our valuable beaches, waterways, and healthy environment, and serve as an advocate for the seashore region of our state with sufficient strength and unity to get swift results.

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<sup>1</sup> City Manager since 1980; Director, Cape May County Dept. of State and Federal Relations (1974-1980); City Councilman (1976-1980); Member, Cape May County Beach, Inlet and Bay Stabilization Committee since 1975; and Member, Cape May Planning Board since 1980.

County and municipal planning boards and enforcement officials need stronger regulatory authority for our own use PLUS the proposed regional Coastal Commission to save the Jersey Shore from overdevelopment, permanent gridlock, and the environmental and economic catastrophe that we will face if this Legislature fails to come to grips with our needs.

#### CONCERNS ABOUT 'HOME RULE'.

Let us understand the concerns that some municipal and county officials will no doubt express about an infringement of so-called 'home rule', but we must realize that the benefits of strong regional planning, comprehensive coastal policies, and a coordinated action plan to solve our mutual problems are far more important.

I am convinced that in its review of S-1577 and the various companion proposals, the Legislature will incorporate adequate safeguards to preserve legitimate local prerogatives.



1988 Seasonal Beach Tag



1988 Weekly Beach Tag

#### ENVIRONMENTAL THREATS NEED STRONG ACTION, NOW !

We need to remember the problems of last summer to motivate strong action now. Remember the nationwide headlines of beaches closing due to waves of illegally dumped garbage, hospital wastes, and sludge; the dolphin deaths; the barge of contaminated wastes shuttling along our coast; and the excuses by polluters and regulators on why sludge and toxic waste dumping into the Ocean hasn't ended yet.

We in Cape May remember, though we were more fortunate than many coastal communities in north and central New Jersey. Next summer could be worse. The time for action is NOW!

## **SUPPORT FOR GOVERNOR'S KEAN'S COASTAL INITIATIVE:**

As one among the dozens of local officials who Governor Kean involved in the early stages of planning for what has now evolved into the proposal for a Coastal Commission, I know the municipal and county office holders appreciated the opportunity to participate, and that our views and concerns have been given full consideration. We found Policy and Planning Director Brenda Davis and her staff to be candid and sincerely eager to develop a fair concensus and workable plan.

Now, we welcome the Legislature's deliberations and appeal to you to proceed without delay to hammer out the policy decisions, safeguards, and language needed to create this new Coastal Commission without further delay. **Before summer 1988 !**

We look forward to seeing the details and anticipated revisions to the draft legislation. I offer my support and encouragement. Thank you.

