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PUBLIC HEARING

before

ASSEMBLY APPROPRIATIONS SUBCOMMITTEE
GOVERNMENTAL OPERATIONS, PUBLIC INVESTMENTS AND FINANCE

ASSEMBLY COMMITTEE SUBSTITUTE FOR ASSEMBLY BILL NO. 122

(Creates New Jersey Coastal Commission and appropriates \$20 million)

October 17, 1988
Hazlet Municipal Building
Hazlet, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Assemblywoman Joann H. Smith, Chairperson
Assemblyman Byron M. Baer
Assemblywoman Clare M. Farragher
Assemblyman John V. Kelly
Assemblyman Robert G. Smith

ALSO PRESENT:

Assemblyman Joseph A. Palaia
District 11

Michael J. Basarab
Office of Legislative Services
Aide, Assembly Appropriations Subcommittee
Governmental Operations, Public Investments
and Finance

New Jersey State Library

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

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New Jersey State Legislature
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October 5, 1988

NOTICE OF A PUBLIC HEARING

The Sub-Committee on Governmental Operations, Public Investments and Finance of the Assembly Appropriations Committee will hold a public hearing on Monday, October 17, 1988 beginning at 10:00 a.m. to 3:00 p.m. at the Hazlet Municipal Building, 319 Middle Road, Hazlet, New Jersey.

The purpose of the public hearing is to take testimony, in accordance with Rule 140 of the Rules of the General Assembly, on Assembly Bill No. 122 Acs, which creates the New Jersey Coastal Commission and appropriates \$20 million.

Anyone wishing to testify should contact Thomas A. Hancock, Committee Aide, at (609) 984-6799.

STATE OF NEW JERSEY

ADOPTED JULY 2, 1988

Sponsored by Assemblymen VILLANE and BENNETT

1 AN ACT to provide for the restoration and protection of, and
advocacy for, the coastal area, creating a New Jersey Coastal
3 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) Sections 1 through 46 of this act shall be
9 known, and may be cited as, the "New Jersey Coastal
Commission Act."

11 2. (New section) The Legislature finds and declares that the
beaches, dunes, riverfronts, bayfronts, and inlets along New
13 Jersey's coastline and the surrounding region are sources of
beauty and recreation for hundreds of thousands of residents and
15 visitors each year, a priceless environmental resource, and a vital
component of the State's economy; that the waters of the
17 Atlantic ocean and the State's rivers and bays are subject to
pollution from a variety of sources; that New Jersey's dense
19 population and expanding development, as well as a variety of
natural phenomena, challenge and threaten the continued
21 environmental integrity of the shore region and the coastal
waters; that the economy of the coastal area is dependent upon
23 the quality of the coastal environment; that immediate action
needs to be taken to protect the coastal environment and improve
25 the area's water quality; that the restoration, protection, and
enhancement of the State's coastal environment are matters of
27 highest priority and can be accomplished best through
comprehensive planning, regulation, coordination among all levels
29 of government, and financial support; and that the most effective
and appropriate instrument to carry out these functions is a
31 regional commission with a mandate to preserve, protect, and,
wherever practicable, restore, and serve as an advocate for, the
33 coastal area.

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 3. (New section) As used in sections 1 through 46 of this act:

2 "Acquisition" means to acquire by purchase, lease, gift or
3 other means real or personal property, or an interest therein.

4 "Bonds" mean any bonds, notes, interim certificates,
5 debentures, or other obligations issued by the commission
6 pursuant to this act.

7 "Coastal Advocate" means the Office of the Coastal Advocate
8 created pursuant to section 22 of this act.

9 "Coastal area" means that area designated pursuant to section
10 4 of P.L. 1973, c. 185 (C. 13:19-4).

11 "Commission" means the New Jersey Coastal Commission
12 created pursuant to section 4 of this act.

13 "Commissioner" means the Commissioner of Environmental
14 Protection.

15 "Cost" means the cost of all labor, materials, machinery and
16 equipment, lands, property rights and easements, financing
17 charges, interest on bonds, plans and specifications, surveys or
18 estimates of costs and revenues, engineering and legal services,
19 and all other expenses necessary or incident to all or part of a
20 project.

21 "Local government unit" means a county, municipality,
22 municipal or county sewerage or utility authority, municipal
23 sewerage district, joint meeting, improvement authority, or any
24 other political subdivision of this State authorized to undertake a
25 project in the coastal area.

26 "Management plan" means the "New Jersey Coastal Area
27 Management Plan" developed and adopted pursuant to section 9
28 this act.

29 "Project" means any plan, work, or initiative that the
30 commission undertakes, requires to be undertaken, or authorizes
31 to be undertaken pursuant to, and consistent with, the
32 management plan including, but not limited to: land use, natural
33 resource and infrastructure planning; stormwater mapping and
34 monitoring; the acquisition, construction, rehabilitation, or
35 improvement of any structures, lands, riparian property,
36 equipment, facilities, or other real or personal property in the
37 coastal area, including the acquisition of land for the
38 conservation or protection of open space or ecologically sensitive
39 areas; and any other activity deemed necessary by the

1 commission to effectuate the purposes of this act, but does not
2 include any activity for which the commission is responsible only
3 for issuing a permit.

4 "Regional advisory council" or "council" means any of the
5 bodies created to advise and assist the commission pursuant to
6 section 8 of this act.

7 4. (New section) a. There is established in, but not of, the
8 Department of Environmental Protection a body corporate and
9 politic, with corporate succession, to be known as the "New
10 Jersey Coastal Commission." For the purpose of complying with
11 the provisions of Article V, Section IV, paragraph 1 of the New
12 Jersey Constitution, the commission is allocated within the
13 Department of Environmental Protection, but notwithstanding
14 this allocation, the commission is independent of any supervision
15 or control by the department or the commissioner or any officer
16 or employee thereof. The commission is an instrumentality of
17 the State exercising public and essential government functions of
18 the State.

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

21 (1) The Commissioner of Environmental Protection, the
22 Commissioner of Commerce, Energy and Economic Development
23 and the State Treasurer, or their designees, who shall serve ex
24 officio:

25 (2) Eight public members appointed by the Governor, with the
26 advice and consent of the Senate, who shall be residents of this
27 State. Five of the public members shall be residents of the
28 coastal area and three shall reside outside the coastal area. To
29 the extent practicable and feasible the public members shall have
30 demonstrated expertise and interest in coastal issues and be
31 actively connected with, or have experience in: (a) commercial
32 marine, including shell, fishing; (b) in-state environmental
33 protection advocacy groups; (c) in-state open space conservation
34 advocacy groups; (d) the coastal area tourism industry; (e) the
35 home building industry; or (f) land use planning. At least one
36 person shall be appointed from each of the foregoing categories.
37 but no person may be appointed from any one category if eligible
38 for appointment from any conflicting category. Not more than
39 two members from any one category may serve on the

1 commission at the same time. Not more than four of these
members may be of the same political party and no more than
3 two of these members may be residents of the same county. In
appointing public members the Governor shall take into
5 consideration the nomination of proposed members by
associations or organizations representing any of the above
7 categories; and

(3) The four elected chairpersons of the regional advisory
9 councils, who shall serve ex officio.

Representatives of the United States Army Corps of Engineers,
11 the United States Environmental Protection Agency, the United
States Coast Guard, and the National Oceanic and Atmospheric
13 Administration may, within the limits of each representative's
responsibilities, and at the request of the commission, serve as
15 advisors to the commission.

The Governor shall appoint, within six months of the effective
17 date of this act, the public members to the commission.

c. The eight public members appointed by the Governor shall
19 each serve terms of five years, except that of the members
initially appointed four shall serve four-year terms and four shall
21 serve five-year terms. Each public member shall remain in
office for the term of appointment and until a successor is
23 appointed and qualified. A public member is eligible for
reappointment. Any vacancy in the membership occurring other
25 than by expiration of term shall be filled in the same manner as
the original appointment but for the remainder of the unexpired
27 term only. Any public member may be removed by the Governor
for cause after public hearing, and may be suspended by the
29 Governor pending the completion of the hearing.

d. The Governor shall designate one of the eight public
31 members to be the chairperson of the commission. The
chairperson shall serve for a term of three years and until a
33 successor has been designated. The members shall triannually
elect a vice-chairperson from among their members. The
35 members shall elect a treasurer and secretary who shall be
members of the commission. The Governor shall appoint, with
37 the advice and consent of the Senate, an executive director of
the commission, who shall serve at the pleasure of the Governor
39 and shall be in charge of the operation of the commission as the

1 commission may direct. The commission may employ or appoint
secretarial and clerical staff in the career service and any other
3 employees as are necessary to carry out the duties and functions
of the commission, who shall be in the senior executive or
5 unclassified service.

e. The public members of the commission, including any
7 chairpersons of the regional advisory councils who are appointed
from the public at large, shall be compensated, subject to the
9 availability of monies appropriated by the Legislature therefor,
on a per diem basis for attendance at commission meetings and
11 meetings of any formal committees of the commission.

f. The first meeting of the commission shall take place as soon
13 as practicable following the appointment and qualification of a
majority of the commission members. The commission shall meet
15 pursuant to a schedule to be established at its first meeting and
at the call of the chairperson, but in no instance shall the
17 commission meet less than once a month. A majority of the
members of the commission constitutes a quorum for the
19 conducting of official commission business. In no event may any
action be taken or resolution adopted without the affirmative
21 vote of at least eight members. A vacancy on the commission
does not impair the right of a quorum of the members to exercise
23 the powers and perform the duties of the commission.

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

1 prior to the expiration of the 15-day period. Notwithstanding the
foregoing, if the last day of the 15-day period is a Saturday,
3 Sunday, or legal holiday, then the 15-day period is extended to
the following business day. No resolution or other action of the
5 commission providing for the issuance of bonds or refunding bonds
for financing a project that conflicts with the provisions of this
7 act or the management plan shall be approved by the Governor.

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

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

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

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

23 (3) Comment from the public.

j. The commission may exercise the powers delegated to it in
25 this act only in the coastal area, except as otherwise provided by
law.

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

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

37 a. Protect, preserve and restore the environmental quality and
natural resources of the New Jersey's coastal area, and,
39 consistent with the protection and preservation thereof.

1 maintain the long-term economic viability of the coastal area.
and ensure public access to, and use or enjoyment of, the natural,
3 recreation and historic resources in the coastal area;

b. Provide a comprehensive approach to protecting the
5 environment by managing growth in the coastal area, noting
regional differences and acting in close cooperation with local
7 governments;

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

11 d. Preserve and promote the scenic, historic and recreational
aspects of the coastal area; and

13 e. Insure that regulations governing the coastal area are
understandable and provide for the widest public participation in
15 the commission's decisionmaking processes.

6. (New section) The commission has the following powers and
17 duties:

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

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

21 c. Maintain a principal and other offices at the place or places
in the coastal area as it may designate.

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

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

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

g. Prepare and transmit to the Commissioner of Environmental
39 Protection such recommendations for additional or more

1 stringent water quality standards for surface and ground waters
2 in the coastal area, or in tributaries and watersheds thereof
3 within or outside the coastal area, as the commission deems
4 appropriate. Nothing in this subsection shall be construed to
5 authorize the commission to adopt or impose any water quality
6 standards;

7 h. Prepare, promulgate, adopt, amend or repeal, pursuant to
8 the "Administrative Procedure Act," P.L. 1968, c. 410 (C.
9 52:14B-1 et seq.), rules and regulations necessary to implement
10 the provisions of this act:

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

17 j. Acquire, own, hold, construct, improve, rehabilitate,
18 renovate, operate, maintain, sell, assign, exchange, lease,
19 mortgage, or otherwise dispose of real and personal property, or
20 any interest therein, in the exercise of its powers and the
21 performance of its duties under this act; enter into agreements
22 with a municipality for making payments in lieu-of-taxes on
23 property located within that municipality on which is situated a
24 project owned and operated by the commission; and make
25 recommendations to the Legislature as to methods and sources of
26 compensation for any person who may be deprived of the
27 reasonable use of that person's property by action of the
28 commission in implementing the management plan;

29 k. In connection with any application under this act, unless
30 specifically directed otherwise, require and collect any fees and
31 charges as the commission deems reasonable to cover the cost of
32 the application review procedure;

33 l. Issue notes and revenue bonds secured by the imposition of
34 user fees and provide for the rights of the holders thereof and the
35 refunding thereof, as provided in this act. Notwithstanding any
36 other provision of this act, the commission may issue revenue
37 bonds only for the following projects: 1) remedial or ameliorative
38 water pollution control; 2) public marinas; 3) parking facilities;
39 and 4) potable water supply facilities. Water pollution control

1 and potable water supply projects funded by notes or revenue
bonds issued by the commission shall be limited to growth areas
3 designated in the management plan, and, except for remedial or
ameliorative water pollution control projects, no project may be
5 funded hereunder until the adoption of a management plan by the
commission. The commission may issue revenue bonds for a
7 project only with the agreement of the governing body of the
county and municipality where the project would be located;

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

15 n. Procure insurance to secure the payment of its bonds or the
payment of any guarantees made in accordance with this act, or
17 against any loss in connection with its property and other assets
and operations, in any amounts and from any insurers as it deems
19 desirable;

o. Retain on a contract basis the services of accountants,
21 engineers, and financial experts, and any other advisors,
consultants, and experts on such terms and conditions as the
23 commission may deem necessary or appropriate. Any person
retained on a contract basis shall be domiciled or have an office
25 in the State, except that the commission may retain the services
of a person not domiciled or not having an office in the State
27 upon adoption of a resolution setting forth the necessity therefor;

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

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

37 r. Subject to any agreement with holders of its bonds, obtain
as security or to provide liquidity for payment of all or any part
39 of the principal of and interest and premium on the bonds of the

1 commission or for the purchase upon tender or otherwise of the
2 bonds, lines of credit, letters of credit, and other security
3 agreements or instruments in any amounts and upon any terms as
4 the commission may determine, and pay any fees and expenses
5 required in connection therewith:

6 s. Provide to local government units any financial and credit
7 advice as these governmental units may request:

8 t. Make payments to the State from any moneys of the
9 commission available therefor as may be required pursuant to any
10 agreement with the State or act appropriating moneys to the
11 commission:

12 u. Enter into agreements with the federal government, another
13 State agency, or a local government unit to undertake a project
14 as a joint venture:

15 v. Call to its assistance and avail itself of the services of the
16 employees of any State, county, or municipal department, board,
17 commission, or agency as may be required and made available to
18 the commission to review any permit or project of the
19 commission or for any function that the commission may
20 undertake:

21 w. Recommend to the Governor and Legislature the financial
22 resources needed to achieve the purposes of this act:

23 x. Encourage the use of best available land management
24 practices to prevent runoff from agricultural and other lands:

25 y. Take any and all actions necessary, convenient or desirable
26 to carry out its purposes and to exercise its powers and duties
27 under this act.

28 7. (New section) a. The commission may acquire in its own
29 name, whether publicly or privately owned, any real property, or
30 any interest therein, by the exercise of the power of eminent
31 domain. The exercise of this power shall be pursuant to the
32 provisions of P.L. 1971, c. 361 (C. 20:3-1 et seq.). The
33 commission may exercise this power upon a determination that it
34 is reasonably necessary for any of its projects and no prudent and
35 feasible alternative exists. The power may not be exercised with
36 respect to property owned by the State or in which the State has
37 any interest. The power may not be exercised as it relates to any
38 project for which revenue bonds will be issued except with the
39 agreement of the governing body of the county and municipality
40 where the project would be located.

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

26 8. (New section) There are created four Regional Advisory
27 Councils for the purpose of advising the commission in all of its
28 actions, including but not limited to, the development of the
29 management plan, project priority lists, other plans, rules and
30 regulations, and any other matter referred to them by the
31 commission and for providing a forum for the resolution of land
32 use disputes that may arise pursuant to P.L. 1973, c. 185 (C.
33 13:19-1 et seq.) or P.L. 1970, c. 272 (C. 13:9A-1 et seq.).

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

36 (1) Two elected or appointed county officials from the council
37 region appointed by the county governing body or bodies, as the
38 case may be, of the council region, who may not be of the same
39 political party, and who may serve on the council during their
40 terms of office;

1 (2) Eight elected or appointed municipal officials from the
council region appointed by the county governing body or bodies,
3 as the case may be, of the council region, not more than four of
whom may be of the same political party, and who may serve on
5 the council during their terms of office; and

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

 In those regions comprising more than one county,
11 representation shall, to the greatest extent feasible, reflect
population and land area in the proportion of each county in the
13 region. The governing bodies of each county in a region shall
agree on a methodology for selecting the members on their
15 respective councils.

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

29 c. The members of each council shall elect a chairperson from
among their members. The chairperson shall serve for a term of
31 three years and until a successor has been elected. A chairperson
is not eligible for successive terms.

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

 e. Each council may employ or appoint, with the approval, and
37 at the expense, of the commission, secretarial and clerical staff,
who shall be commission employees and shall be subject to the

1 provisions of Title 11A (Civil Service) of the New Jersey
Statutes. The commission and any local government unit may
3 provide staff assistance to each council.

f. Each council shall meet at the call of its chairperson. A
5 majority of the members of each council shall constitute a
quorum for the conducting of official council business. In no
7 event shall any action be taken or resolutions adopted without the
affirmative vote of at least eight members. A vacancy on a
9 council does not impair the right of a quorum of its members to
exercise the powers and perform the duties of the council.

11 g. The council regions comprise those portions of the counties
within the coastal area as follows:

13 (1) Region one-Monmouth and Middlesex counties;

(2) Region two-Ocean county;

15 (3) Region three-Atlantic, Burlington and Cape May counties;
and

17 (4) Region four-Cumberland and Salem counties.

9. (New section) a. Within 18 months after its first meeting,
19 and at least every five years thereafter, the commission shall,
after consultation with the councils, prepare and adopt, or
21 review, revise and readopt, pursuant to the "Administrative
Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.), a New
23 Jersey Coastal Area Management Plan. Prior to the adoption or
readoption of the management plan the commission shall hold a
25 public hearing in each region in the coastal area. Within one
week after the adoption or readoption of the management plan,
27 the commission shall send a copy of the plan to each municipality
and county in the coastal area.

29 b. The development of the management plan shall be closely
coordinated with the provisions of the "State Development and
31 Redevelopment Plan" adopted pursuant to P.L. 1985, c. 398 (C.
52:18A-196 et seq.) and the comprehensive management plan for
33 the pinelands adopted pursuant to P.L. 1979, c. 111 (C. 13:18A-1
et seq.). Nothing in the management plan may, however, be
35 construed to affect the provisions or requirements under the
comprehensive management plan for the pinelands. In developing
37 the management plan the commission shall consider input from
federal, State, county, and municipal entities, and other

1 regional bodies, with respect to their land use, environmental,
capital, and economic development plans.

3 c. The commission shall adopt procedures to provide for the
maximum feasible council, local government, and public
5 participation in the preparation of the management plan and in
the periodic review and revision of the plan for purposes of
7 readoption.

10. (New section) The management plan shall include, but
9 need not be limited to:

a. A comprehensive statement of policies for protecting
11 coastal resources and managing development in the coastal area,
based upon a resource assessment made pursuant to subsection b.
13 of this section, which policies shall:

(1) Preserve, restore and protect the natural resources and
15 environmental qualities of the coastal area, including, but not
limited to, coastal and estuary waters, agricultural areas, fresh
17 and saltwater wetlands, flood plains, stream corridors, aquifer
recharge areas, sand dunes, areas of unique flora and fauna and
19 other ecological systems, and areas of scenic, historic and
recreational value;

(2) Provide for the development of, and use of land and water
21 resources in, the coastal area in a manner consistent with: (a) the
23 preservation and protection of the natural resources and
environmental qualities thereof based on ecological
25 considerations; (b) the protection of the coastal area from
individual and cumulative adverse impacts of development on the
27 environment and natural resources; and (c) the protection of
human life and property from natural hazards, including rising sea
29 levels, and erosion;

(3) Channel patterns of compatible residential, commercial
31 and industrial development in or adjacent to areas already
utilized for such purposes or in areas where the necessary
33 infrastructure exists or can be provided efficiently and
economically;

35 b. A resource assessment:

(1) That determines the amount and type of development and
37 other human activities that can be sustained by the ecosystems of
the coastal area while maintaining and enhancing the viability
39 and natural productivity of the ecosystems, with special
reference to the ecological vitality of wetlands, natural hazards,

1 endangered or unusual species or habitat, and the cumulative
adverse impacts of development on air and water quality;

3 (2) Of natural, scenic, public open space and outdoor
recreation resources of the area, together with a determination
5 of the land use and other public policies required to maintain or
restore such resources;

7 c. A land use capability component for designating areas for
growth, limited growth, agriculture, open space, natural resource
9 conservation, recreation, habitat protection, water related or
dependent use, and other appropriate designations that the
11 commission may deem necessary. In making these designations
the commission shall seek to provide for development and
13 redevelopment only in locations where highway and transit
capacity, sewerage, water supply, and other physical
15 infrastructure facilities and public services are available or can
be provided efficiently and economically and where the
17 development or redevelopment will not conflict with the
preservation and protection objectives of the management plan;

19 d. Consider, evaluate and recommend mechanisms by which
the policies and purposes of the management plan may be carried
21 out, including land and water protection and management
techniques, utilizing State, regional and local police, regulatory
23 and other powers. Nothing in this act may be construed to
authorize the exercise of any powers not authorized by law, or
25 such additional powers as may be necessary or incidental to the
reasonable exercise thereof. In the event that the commission
27 recommends land and water protection management techniques
that are not authorized by law, the commission may recommend
29 to the legislature enactment of authorization therefor;

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

f. Regional planning guidelines and standards in the following
33 areas: housing, transportation, land and water-based recreation,
urban and suburban redevelopment, historic preservation, public
35 facilities and services, and intergovernmental coordination;

g. A public access and use component, including, but not
37 limited to, a detailed program to assure public access to, and use
of, the beaches and shoreline of the coastal area, and to inform
39 the public of the availability of these and other public

1 recreational opportunities, and of appropriate uses of the land
and water within the coastal area:

3 h. A five-year coastal area capital improvement program,
coinciding with the term of each management plan, to encompass
5 projects to be undertaken or assisted by the commission for
purposes of implementing the policies and goals of the
7 management plan. The capital improvement program shall set
forth the project ranking criteria used by the commission and
9 contain a project priorities list, which shall provide a description
of each project; its purpose and relation to the policies and goals
11 of the management plan; its impacts, costs and proposed
construction schedules; and commission funding to be available
13 therefor; and

i. A financial component, together with a cash flow timetable,
15 which details:

(1) The cost of implementing the management plan, including,
17 but not limited to, payments in lieu-of-taxes, acquisition of fee
simple or of other interests in lands for preservation or
19 recreation purposes, grants, loans, loan guarantees, project costs,
general administrative costs, and any anticipated, extraordinary
21 or continuing costs;

(2) The sources of revenue for covering such costs, including,
23 but not limited to, appropriations, bond revenues, fees, grants,
donations, and loans from local, State, and federal departments
25 and agencies, and from the private sector.

11. (New section) a. Every State, regional, county and
27 municipal government agency shall comply with the management
plan. The commission shall require State, county, and municipal
29 government implementation of the management plan in a manner
that will insure the consistent and uniform protection of the
31 coastal area. The commission shall establish, consistent with the
management plan, minimum standards for the adoption or
33 revision of, as applicable, municipal or county master plans,
development regulations and capital improvement programs in
35 the coastal area.

b. The commission shall make a finding in the case of each
37 county and municipality in the coastal area as to that county's or
municipality's conformance with the management plan. A
39 county or municipality is in conformance with the management

1 plan when, as applicable, its master plan, development
regulations and capital improvement program, as appropriate, in
3 the coastal area are deemed by the commission to be in
conformance with the management plan and where the actions of
5 the county or municipality, as they relate to provisions of the
management plan, are not inconsistent with the management plan.

7 c. Within six months of the adoption or readoption of the
management plan, each county and municipality shall submit to
9 the commission its master plan, development regulations and
capital improvement program. The commission shall review and
11 make a determination as to whether the plan, regulations and
program conform to the management plan. If the plans and
13 ordinances are in conformity therewith, the commission shall
certify their conformance. Upon a finding that the plan,
15 regulations or program are not in conformance, the commission
shall, in writing, set forth the reasons for the finding of
17 nonconformity and the action the county or municipality must
take in order to conform to the management plan. A county or
19 municipality that has been found not to be in conformance with
the management plan may resubmit its plan, regulations or
21 program, as the case may be, to the commission for further
review. The commission shall review and approve or disapprove a
23 county's or municipality's master plan, development regulations
and capital improvement program within 45 days of receipt
25 thereof.

A county or municipality shall be deemed to be not in
27 conformance with the management plan for purposes of
subsection e. of this section, if:

29 (1) It fails to submit, as appropriate, its master plan,
development regulations or capital improvement program for the
31 coastal area within six months of the commission's adoption or
readoption of the management plan; or

33 (2) The commission rejects the master plan, development
regulations or capital improvement program submitted following
35 adoption or readoption of the management plan.

d. Upon receipt of an audit report for a particular county or
37 municipality submitted by the Coastal Advocate in accordance
with subsection j. of section 23 of this act, the commission shall
39 make a determination as to whether that county or municipality

1 is or is not in conformance with the management plan. Upon a
2 finding of nonconformance, the commission shall send the county
3 or municipality, in writing, its reasons for finding nonconformity,
4 a copy of the audit report, and recommendations for action to be
5 taken by that county or municipality to be in conformity. A
6 county or municipality that has been found not to be in
7 conformance with the management plan pursuant to this
8 paragraph may, at a later date, petition the commission to
9 reconsider the finding of nonconformity.

10 A county or municipality is not in conformance with the
11 management plan pursuant to this subsection if:

12 (1) approvals or conditions of approvals for development
13 activities constituting 5% or greater, on an annual basis, of the
14 approvals for dwelling units, or square feet of nonresidential
15 activities, are substantially in conflict with, or impede the
16 implementation of, the management plan; or

17 (2) activities required by the management plan for which
18 standards are contained in the management plan are not
19 undertaken or are funded at levels less than 90%, on an annual
20 basis, of the funding required by standards established by the
21 commission.

22 The commission may find a county or municipality not to be in
23 conformance with the management plan if, upon petition or its
24 own review, it finds, by resolution, that:

25 (1) any single approval for development activity or pattern of
26 approvals, whether or not the approvals constitute, on an annual
27 basis, 5% of the approvals for residential or nonresidential
28 developments, are substantially in conflict with, or impede the
29 implementation of the plan; or

30 (2) the county or municipality has failed to implement any
31 activity required by the management plan, whether or not the
32 activity is funded at a level greater than 90%, on an annual basis,
33 of the funding required by standards established by the
34 commission.

35 e. Upon a finding by the commission that a county or a
36 municipality is not in conformance with the management plan,
37 the commission shall:

38 (1) withhold all grants, loans or loan guarantees to that county
39 or municipality, except upon a finding of substantial, regional
benefit;

1 (2) notify the Governor and both houses of the Legislature and
recommend that all discretionary funding relating to the policies.
3 standards and guidelines included in the management plan for
that county or municipality be withheld until that entity
5 conforms to the management plan; and

7 (3) withdraw permit delegation from that county or
municipality pursuant to this act; and

9 (4) if it is found that, in the case of a municipality, the
approval or conditions of approval for 10% percent or more of the
dwelling units or of the nonresidential square footage approved in
11 any year is not in conformance with the management plan.
require permit review and approval by the commission.
13 notwithstanding any provision to the contrary in P.L. 1973, c. 185
(C. 13:19-1 et seq.),

15 (a) for the area of that municipality between the mean high
water line of any tidal waters and the nearest parallel public
17 street or road, or 1,000 feet, whichever is greater, of any
application for the construction, alteration, enlargement,
19 relocation, or reconstruction of any structure, or for a subdivision
or resubdivision of land into two or more lots, tracts or parcels
21 for sale or development, within that area of the municipality;
except that, in the case of the reconstruction of a single family
23 dwelling unit as a result of damage to 50% or more of that unit, a
presumption shall exist that the owner is entitled to a permit to
25 reconstruct. The provisions of this paragraph shall not apply to
the structural alteration or reconstruction of less than 50%, or to
27 a structural enlargement of less than 25%, as of the time of
enactment of P.L. . c. (C.) (now pending in the
29 legislature as this bill), of a single family dwelling unit;

31 (b) for the area of that municipality within the coastal area
but outside the area designated in paragraph (4)(a) of this
subsection, of any development application for the construction,
33 alteration, enlargement, relocation, or reconstruction of three or
more dwelling units or a commercial development requiring a
35 total of 10 or more parking spaces, or a subdivision or
resubdivision of land into three or more lots, tracts, or parcels
37 for sale or development, within that area of the county or
municipality.

39 f. Upon a finding set forth in a resolution of the commission

1 that a municipality is not in conformance with the management
2 plan by reason of a pattern of decisions the cumulative effect of
3 which would be to adversely impact on the natural resources or
4 environment of the coastal area, the commission, notwithstanding
5 any provision to the contrary in P.L. 1973, c. 185 (C. 13:19-1 et
6 seq.), may:

7 (1) if the pattern of decisions resulting in the adverse impact
8 is within the area between the mean high water line of any tidal
9 waters and the nearest parallel public street or road, or 1,000
10 feet, whichever is greater, require permit review and approval by
11 the commission of any application for the construction,
12 alteration, enlargement, relocation, or reconstruction of any
13 structure, or for a subdivision or resubdivision of land into two or
14 more lots, tracts or parcels for sale or development, within that
15 area of the municipality; except that, in the case of the
16 reconstruction of a single family dwelling unit as a result of
17 damage to 50% or more of that unit, a presumption shall exist
18 that the owner is entitled to a permit to reconstruct. The
19 provisions of this paragraph shall not apply to the structural
20 alteration or reconstruction of less than 50%, or to a structural
21 enlargement of less than 25%, as of the time of enactment of
22 P.L. , c. (C.) (now pending in the Legislature as this
23 bill), of a single family dwelling unit;

24 (2) if the pattern of decisions resulting in the adverse impact
25 is within the coastal area but outside the area designated in
26 paragraph (1) of this subsection, require permit review and
27 approval by the commission of any development application for
28 the construction, alteration, enlargement, relocation, or
29 reconstruction of three or more dwelling units or a commercial
30 development requiring a total of 10 or more parking spaces, or a
31 subdivision or resubdivision of land into three or more lots,
32 tracts, or parcels for sale or development, within that area of the
33 municipality.

34 g. The commission shall develop a coordination and
35 consistency plan that details the ways in which local, State, and
36 federal policies and programs, including but not limited to the
37 federal "Coastal Zone Management Act of 1972," 16 U.S.C.
38 §1451 et al., shall be coordinated to promote the goals and
39 policies of the management plan, and identifies the means

1 whereby land, water, and structures managed by governmental or
nongovernmental entities in the public interest within the coastal
3 area shall be integrated into the management plan.

5 12. (New section) a. In preparing the management plan the
commission shall:

7 (1) Prepare an infrastructure needs assessment, which shall
describe present and prospective conditions, needs, and costs of
State, county, and municipal capital facilities, including water,
9 sewerage, solid waste, transportation, drainage, flood protection,
shore protection, and related capital facilities;

11 (2) Prepare a research needs assessment detailing that
information deemed necessary or useful to the commission in
13 preparing and implementing the management plan and carrying
out its functions under this act;

15 (3) Develop a natural resources inventory, which shall maintain
and update, through data collection and field work, a partially
17 computerized data base of lists of rare and endangered species,
natural communities ranked according to rarity, land areas of
19 unique or ecological significance, and other items designated by
the commission.

21 b. The commission shall conduct, or cooperate in the conduct
of, research projects relating to the health effects of water
23 quality on humans, fish, and shellfish.

25 13. (New section) The commission shall provide technical and
financial assistance to local governments in order to encourage
the use of the most effective and efficient planning and
27 development review data, tools, and procedures. The commission
may give grants to counties and municipalities for planning and
29 development regulation changes.

31 14. (New section) Each county health department or county
board of health, established pursuant to P.L. 1975, c. 329 (C.
26:3A2-1 et seq.), within the coastal area shall develop and
33 implement a storm drain monitoring program for its area within
the coastal area. Periodic reports on the program shall be
35 delivered by each county health department or board of health to
the commission.

37 15. (New section) Each county storm drain monitoring program
shall:

39 a. Provide for the preparation of a storm drain map which

1 locates, lists, and numbers each storm drain outfall line in the
2 area of the county's jurisdiction which discharges into surface
3 waters;

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

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

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

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

19 f. Be consistent with the "Water Pollution Control Act," P.L.
20 1977, c. 74 (C. 58:10A-1 et seq.), the Statewide Water Quality
21 Management Program Plan, and the applicable areawide water
22 quality management plan adopted pursuant to the "Water Quality
23 Planning Act," P.L. 1977, c. 75 (C. 58:11A-1 et seq.) and the
24 management plan.

25 16. (New section) Upon identification of the source of any
26 contamination pursuant to the storm drain monitoring program,
27 the county health department or board of health shall take all
28 appropriate actions to prevent the introduction of fecal coliform
29 and other contaminants into the storm drain and may initiate
30 legal proceedings pursuant to P.L. 1977, c. 74 (C. 58:10A-1 et
31 seq.) to enforce or restrain the violation of any State or local
32 law, rule, regulation, or ordinance that resulted in the
33 contamination.

34 17. (New section) Notwithstanding any law to the contrary,
35 county health departments or boards of health may apply to the
36 commission for grants to establish storm drain monitoring
37 programs not to exceed 75% of the cost of any such program.
38 The commission shall, pursuant to the "Administrative Procedure
39 Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.), prescribe

1 procedures for applying for the grants, and the terms and
conditions thereof, and standards of performance to implement a
3 storm drain monitoring program.

18. (New section) a. The commission shall recommend to the
5 State Department of Health additional or more stringent
standards for water quality below which bathing in that water
7 may adversely affect the health of humans. Upon a finding that
water quality at a specific location exceeds the established water
9 quality standards adopted by the State Department of Health, the
commission may order that bathing in the waters surrounding that
11 point is prohibited until the standards are met.

b. The commission shall, based on the results of research
13 projects conducted in accordance with subsection b. of section 12
of this act, prepare and transmit to the Commissioner of
15 Environmental Protection recommendations for more stringent
water quality standards for surface and ground waters in the
17 coastal area, or of tributaries or watersheds of such waters
within or outside the coastal area, as the commission deems
19 appropriate. These recommendations shall be accepted or
rejected by the commissioner within 90 days of receipt thereof.
21 The commissioner shall provide a written statement as to the
reasons for his decision.

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

20. (New section) a. The commission shall, on an ongoing
33 basis, review the New Jersey Shore Protection Master Plan
prepared by the Department of Environmental Protection
35 pursuant to section 5 of P.L. 1978, c. 157. The commission shall
make additions, modifications, and revisions to the plan when the
37 commission determines that there is a developing or emergent
need for other projects or actions to restore, maintain, or protect
39 the beach areas within the jurisdiction of the commission. The

1 commission shall prepare, and systematically update and revise, a
2 priority list of beach or shore protection projects within its area
3 of jurisdiction. Before inclusion of a project on a priority list,
4 the project shall be reviewed by a coastal geologist consultant,
5 utilizing accepted principles of coastal geology, for the purpose
6 of ensuring that the proposed beach or shore protection project
7 takes adequate account of the transitory nature of the shoreline
8 and the effects of coastal storms and rising sea level. This
9 priority list shall be given primary consideration in the
10 commission's determination of the projects to which it shall
11 provide financial assistance or in its recommendation that an
12 appropriation for financial assistance be made by the State or
13 federal government.

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

21 c. The commission may make grants to pay, in whole or in
22 part, the cost of any beach or shore protection project, either by
23 providing the local share of a project that is part of a federal
24 program, or by providing direct assistance through grants to any
25 local government unit undertaking a beach or shore protection
26 project whenever the compelling or emergent need for a project
27 may warrant that action be taken. The commission may also
28 pledge its credit for the repayment of any such loan made for the
29 same purposes by any financial institution.

30 d. Any action taken pursuant to this section shall be in
31 conformance with the provisions of the management plan.

32 21. (New section) a. A person who is required to apply for a
33 permit or permission from another governmental entity in
34 addition to the commission to perform any construction work or
35 engage in any activity in the coastal area may seek the assistance
36 of the commission in identifying all permits or permissions that
37 the applicant may need to secure from federal, State, regional or
38 local units of government.

39 b. The commission shall prepare and make available to any

1 interested person a permit application checklist identifying all
2 items reviewed by the commission. or, in the case of a delegation
3 of authority pursuant to section 40 of this act, by a municipality
4 or county, in evaluating an application for a permit issued
5 pursuant to section 10 of P.L. 1973, c. 185 (C. 13:19-10) or
6 section 4 of P.L. 1970, c. 272 (C. 13:9A-4), and any approvals
7 that may be required from federal, state, regional or other
8 governmental entities. The checklist shall be periodically
9 reviewed and updated by the commission in order to assure the
10 currency of the information provided therein.

11 c. A prospective applicant may request a pre-application
12 conference with the commission to discuss and review the permit
13 application checklist requirements prepared in accordance with
14 subsection b. of this section and the documentation that may be
15 required thereunder. At the request of a prospective applicant,
16 the conference also may informally review a concept plan for a
17 development which the prospective applicant intends to prepare
18 and submit for commission review. The concept plan and
19 documentation in connection therewith shall be for discussion
20 purposes only. The commission shall request the attendance of
21 representatives of any State, regional or local agencies that also
22 may be required to review the permit application. The
23 commission shall establish pre-application conference
24 requirements and shall charge a pre-application conference fee,
25 which shall be in addition to permit application fees.

26 d. The commission shall periodically review its permitting
27 procedures and the permitting procedures of other governmental
28 entities for the coastal area and may make recommendations to
29 these other governmental entities to improve their permitting
30 processes.

31 22. (New section) The provisions of P.L. 1944, c. 20 (C.
32 52:17A-1 et seq.) to the contrary notwithstanding, there is
33 established in the commission the Office of the Coastal
34 Advocate. The Office of the Coastal Advocate shall operate
35 under the supervision of a chief counsel, who shall be known as
36 the Coastal Advocate. The Coastal Advocate shall be appointed
37 by, shall answer directly to, and shall serve at the pleasure of the
38 commission. The Coastal Advocate may, with the approval of the
39 commission, employ such staff as may be necessary to perform

1 the duties of the office. The Coastal Advocate shall be an
2 attorney-at-law of this State and a person qualified by training
3 and experience to perform the duties of the office. The Coastal
4 Advocate shall receive such salary as shall be provided by the
5 commission.

6 23. (New section) The Office of the Coastal Advocate shall
7 perform, under the direction of the commission, the following
8 duties:

9 a. Provide legal advice and render legal services to the
10 commission;

11 b. Receive complaints of pollution or other activities that may
12 lead to the environmental degradation of the land or waters of
13 the coastal area or the circumvention of the management plan;

14 c. Provide advocacy and legal services on an individual or class
15 basis to represent the public's interest in maintaining and
16 protecting the resources of the coastal area;

17 d. Initiate legal proceedings in the name of the commission to:

18 (1) promote and protect the environmental quality of the land
19 and water areas within the coastal area;

20 (2) enforce the provisions of "The Wetlands Act of 1970," P.L.
21 1970, c. 272 (C. 13:9A-1 et seq.), the "Coastal Area Facility
22 Review Act," P.L. 1973, c. 185 (C. 13:19-1 et seq.), and the "New
23 Jersey Coastal Commission Act," P.L. , c. (C.) (now
24 before the Legislature as this bill); and

25 (3) seek injunctive or other relief or civil penalties for the
26 violation of any environmental law of this State or of the federal
27 government where the violation of that law affects the
28 environmental quality of the coastal area.

29 The Coastal Advocate may take legal or other action outside
30 the coastal area whenever pollution therefrom may affect the
31 environmental quality of the coastal area;

32 e. Conduct investigations to promote and protect the
33 environmental quality of the land and water areas within the
34 coastal area. The Coastal Advocate may direct that a hearing or
35 examination be held before the Coastal Advocate, or a member
36 of that office designated by him, pursuant to such rules as he
37 may prescribe. If a member of the office is so designated, he
38 shall submit to the Coastal Advocate the evidence taken by him,
39 together with his recommendations. The Coastal Advocate, or

1 any member of the office designated by him, may, in any part of
the State, administer oaths and examine witnesses under oath on
3 any matter relating to the powers and duties of the office. Any
person who, having been so sworn, willfully gives false testimony
5 is guilty of perjury. The Coastal Advocate may issue subpoenas
signed by him, requiring the attendance of witnesses and the
7 production of books and papers before him, or a member of the
office designated by him. Any person who, being served with a
9 subpoena issued pursuant to the provisions of this subsection,
shall fail to attend, give testimony or produce the books or papers
11 requested, unless such testimony or books or papers would
incriminate him or subject him to a fine or punishment, shall be
13 liable to a penalty of \$500.00 for each offense, to be recovered in
the name of the commission. The penalty, when recovered, shall
15 be paid to the State Treasurer. The Coastal Advocate shall
prosecute the action for the recovery of the penalty prescribed in
17 this subsection when, in his judgment, the facts and the law
warrant such prosecution;

19 f. Issue periodic status reports on the quality of ocean and
other waters within the coastal area;

21 g. Represent the public interest in administrative and court
proceedings to promote and protect the environmental quality of
23 the coastal area;

h. Represent the commission's interests in testimony before
25 the Congress of the United States and other appropriate
governmental bodies, as the commission directs, to promote the
27 environmental protection of the coastal area;

i. Appear and present testimony and comments on
29 development or permit applications pending before the
commission, or a municipality or county within the coastal area,
31 and any other proceeding before the commission; and

j. Audit the actions of counties and municipalities as those
33 actions relate to conformance with the management plan. The
office shall make monthly audit reports to the commission
35 advising of management plan conformance, which reports shall be
available to the public.

37 24. (New section) a. The commission may, from time-to time,
issue its bonds, subject to the limitations set forth in subsection l.
39 of section 6 of this act, in any principal amounts as in the

1 judgment of the commission shall be necessary to provide
sufficient funds for any of its corporate purposes, including the
3 payment, funding or refunding of the principal of, or interest or
redemption premiums on, any bonds issued by it whether the
5 bonds or interest or redemption premiums thereon to be funded or
refunded have or have not become due, the establishment or
7 increase of reserves or other funds to secure or to pay the bonds
or interest thereon and all other costs or expenses of the
9 commission incident to and necessary to carry out its corporate
purposes and powers.

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

17 c. Bonds of the commission shall be authorized by a resolution
or resolutions of the commission and may be issued in one or
19 more series and shall bear any date or dates, mature at any time
or times, bear interest at any rate or rates of interest per annum,
21 be in any denomination or denominations, be in any form, either
coupon, registered or book entry, carry any conversion or
23 registration privileges, have any rank or priority, be executed in
any manner, be payable in any coin or currency of the United
25 States which at the time of payment is legal tender for the
payment of public and private debts at any place or places within
27 or without the State, and be subject to any terms of redemption
by the commission or the holders thereof, with or without
29 premium, as the resolution or resolutions may provide. A
resolution of the commission authorizing the issuance of bonds
31 may provide that the bonds be secured by a trust indenture
between the commission and a trustee, vesting in the trustee any
33 property, rights, powers and duties in trust consistent with the
provisions of this act as the commission may determine.

35 d. Bonds of the commission may be sold at public or private
sale at any price or prices and in any manner as the commission
37 may determine. Each bond shall mature, and be paid not later
than 35 years from the effective date thereof, or the certified
39 useful life of the project or projects to be financed by the bonds,
whichever is less.

1 e. All bonds of the commission shall be sold at the price or
3 prices and in the manner as the commission shall determine, after
5 notice of sale, published at least three times in at least three
7 newspapers published in the State of New Jersey, and at least
9 once in a publication carrying municipal bond notices and devoted
11 primarily to financial news, published in New Jersey or the city
13 of New York, the first notice to be at least five days prior to the
15 day of bidding. The notice of sale may contain a provision to the
17 effect that any or all bids made in pursuance thereof may be
19 rejected. In the event of rejection or of failure to receive any
21 acceptable bid, the commission, at any time within 60 days from
23 the date of the advertised sale, may sell the bonds at private sale
upon terms not less favorable to the State than 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 or to the federal
government or any agency thereof, at private sale, without
advertisement. Notwithstanding the foregoing, the commission
may issue bonds without a competitive bid process by means of a
negotiated bond sale which is structured, underwritten and
marketed by a predetermined financial entity selected through a
competitive process upon a finding by the commission that 1) a
volatile bond market exists; 2) there is a need to facilitate a
refunding of an existing debt; 3) there is a need to market a new
and complex financing; or 4) other unusual conditions exist.

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

31 g. Bonds of the commission issued under the provisions of this
33 act are not a debt or liability of the State or of any political
35 subdivision thereof other than the commission and do not
37 constitute an indebtedness, liability, or obligation of the State or
39 any political subdivision, but all these bonds unless funded or
refunded by bonds are payable solely from revenues or funds
pledged or available for their payment as authorized in this act.
Each bond shall contain on its face a statement to the effect that
the commission is obligated to pay the principal thereof and

1 the interest thereon only from its revenues, receipts, or funds
pledged or available for their payment as authorized in this act
3 and that neither the State, nor any political subdivision thereof,
is pledged to the payment of the principal of or the interest on
5 the bonds.

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

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

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

25 (3) Within 30 days after the sale of the refunding bonds, the
commission shall notify the Joint Budget Oversight Committee,
27 or its successor, of the result of that sale, including the prices
and terms, conditions and regulations concerning the refunding
29 bonds, the actual amount of debt service savings to be realized as
a result of the sale of refunding bonds, and the intended use of
31 the proceeds from the sale of those bonds.

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

37 i. Each issue of bonds of the commission shall be special
obligations thereof payable out of particular revenues, receipts,
39 or funds, subject only to any agreements with the holders of

1 bonds and may be secured by one or more of the following:

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

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

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

19 (4) A pledge of the receipts to be derived from the payments
of State aid, payable to the commission pursuant to section 33 of
21 this act; and

23 (5) A mortgage on all or any part of the property, real or
personal, of the commission then owned or thereafter to be
acquired, or a pledge or assignment of mortgages made to the
25 commission by any person or entity, public or private, including
one or more local government units and the rights and interest of
27 the commission therein.

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

- 35 a. Secure the bonds as provided in section 6 of this act;
- b. Covenant against pledging all or part of its revenues or
receipts;
- 37 c. Covenant with respect to limitations on any right to sell,
mortgage, lease or otherwise dispose of any notes, bonds, or other
39 obligations of local governmental units, or any part thereof, or
any property of any kind;

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

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

f. Covenant as to the payment of the principal of, or interest
9 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
11 any lien or security or as to the acceleration of the maturity of
the bonds;

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

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

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

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

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

l. Vest in a trustee or trustees within or without the State any
33 property, rights, powers and duties in trust as the commission
may determine which may include any or all of the rights, powers
35 and duties of any trustee appointed by the holders of any bonds of
the commission including rights with respect to the sale or other
37 disposition of notes, bonds, or other obligations of local
government units pledged pursuant to a resolution or commission
39 indenture for the benefit of the holders of bonds of the

1 commission and the right by suit or action to foreclose any
mortgage pledged pursuant to the resolution or commission
3 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
5 commission to appoint a trustee under this act, and to limit the
rights, duties, and powers of the trustee;

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

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

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

26. (New section) Any pledge of revenues, receipts, moneys,
23 funds, or other property or instruments made by the commission
are valid and binding from the time the pledge is made. The
25 revenues, receipts, moneys, funds, or other property so pledged
and thereafter received by the commission are immediately
27 subject to the lien of the pledge without any physical delivery
thereof or further act, and the lien of any pledge is valid and
29 binding as against all parties having claims of any kind in tort,
contract, or otherwise against the commission irrespective of
31 whether the parties have notice thereof. Neither the resolution
nor any other instrument by which a pledge under this section is
33 created need be filed or recorded, except in the records of the
commission.

35 27. (New section) The commission is authorized to guarantee
or contract to guarantee the payment of all or any portion of the
37 principal and interest on notes, bonds, or other obligations issued
by a local government unit to finance the cost of any project
39 which the local government unit may lawfully undertake or

1 acquire and for which the local government unit is authorized by
law to borrow money, and the guarantee shall constitute an
3 obligation of the commission for the purposes of this act. Each
guarantee by the commission and the terms and conditions
5 thereof shall be subject to approval by the State Treasurer, and
the commission shall make available to the State Treasurer all
7 information, statistical data, and reports of independent
consultants or experts as the State Treasurer shall deem
9 necessary in order to evaluate the guarantee.

28. (New section) All expenses incurred in carrying out the
11 provisions of this act are payable solely from revenues or funds
provided or to be provided under the provisions of this act and
13 nothing in the act shall be construed to authorize the commission
to incur any indebtedness or liability on behalf of, or payable by
15 the State or any political subdivision thereof.

29. (New section) Neither the members of the commission nor
17 any person executing bonds issued pursuant to this act shall be
liable personally on the bonds by reason of the issuance thereof.

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

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

1 32. (New section) The State and all public officers, local
government units and agencies thereof, all banks, trust
3 companies, savings banks and institutions, building and loan
associations, savings and loan associations, investment
5 companies, and other persons carrying on a banking business, all
insurance companies, insurance associations and other persons
7 carrying on an insurance business, and all executors,
administrators, guardians, trustees and other fiduciaries, may
9 legally invest any sinking funds, moneys or other funds belonging
to them or within their control in any bonds issued pursuant to
11 this act, and these bonds shall be authorized security for any and
all public deposits.

13 33. (New section) a. To assure the continued operation and
solvency of the commission, the commission may require the
15 State Treasurer to reimburse any obligations of the local
government unit to the commission from the State aid payable to
17 that local government unit if a local government fails or is unable
to pay to the commission in full when due any obligations owed to
19 the commission. As used in this section, obligations of the local
government unit include: the principal of, or interests on, notes,
21 bonds, or other obligations of a local government unit issued to,
or guaranteed by the commission, including the subrogation of the
23 commission to the right of the holders of those obligations; fees
or charges payable to the commission; and any amounts payable
25 by a local government unit under any service contract or other
contractual arrangement the payments under which are pledged
27 to secure any notes, bond, or other obligations issued to the
commission by another local government unit. State aid includes
29 business personal property tax replacement revenues, State urban
aid and State revenue sharing, as these terms are defined in
31 section 2 of P.L. 1976, c. 38 (C. 40A:3-3), or other similar forms
of State aid payable to the local government unit and, to the
33 extent permitted by federal law, federal moneys appropriated or
apportioned to the local government unit by the State.

35 (1) If the commission requires, and there has been a failure or
inability by a local government unit to pay its obligations to the
37 commission remaining uncured for a period of 30 days, the
chairperson of the commission shall certify to the State
39 Treasurer, with written notice to the fiscal officer of the local

1 government unit and to the Legislature, the amount remaining
2 unpaid, and the State Treasurer shall pay that amount to the
3 commission, or, if the right to receive those payments has been
4 pledged or assigned to a trustee for benefit of the holders of
5 bonds of the commission, to that trustee, out of the State aid
6 payable to the local government unit, until the amount so
7 certified is paid.

(2) The amount paid over to the commission shall be deducted
8 from the corresponding appropriation or apportionment of State
9 aid payable to the local government unit and shall not obligate
10 the State to make, nor entitle the local government unit to
11 receive, any additional appropriation or apportionment. The
12 obligation of the State Treasurer to make payments to the
13 commission or trustee and the right of the commission or trustee
14 to receive those payments shall be subject and subordinate to the
15 rights of holders of qualified bonds issued or to be issued pursuant
16 to P.L. 1976, c. 38 (C. 40A:3-1 et seq.).

(3) In those instances where the local government unit is a
17 utility, authority or other agency created by one or more
18 municipalities or counties, the commission may require the
19 municipalities or counties that receive service or other benefits
20 therefrom to enter into service contracts or other contractual
21 arrangements under which they would satisfy any deficiencies in
22 the revenues of the local government unit to repay the loans
23 made by the commission, which contracts would be pledged to
24 secure the payment of the loans of the commission.

b. Whenever a local government unit covenants or pledges to,
25 or secures the payment of its obligations to the commission by, in
26 whole or in part, certain revenues of the local government unit
27 derived from rates, fees, or charges imposed on another local
28 government unit, the payments thereof under a service contract
29 or other contractual arrangement are pledged to the payment of
30 the obligation to the commission. If the other local government
31 unit fails or is unable to pay in full when due any of the
32 obligations, and the State aid revenues to which the unit is
33 entitled for any reason have not been made available for the
34 payment of, or are not available in sufficient amounts to pay, the
35 obligations in full, the commission is authorized during the period
36 of such failure to cause the local government unit, in accordance
37
38
39

1 with the covenants or pledges established in any loan or other
agreement relating thereto, to establish and collect rates, fees
3 and charges in the amounts required to pay the obligations in
accordance with the covenants or pledges established in the loan
5 or other agreement relating thereto.

34. (New section) Any local government unit, notwithstanding
7 any contrary provision of law, except any requiring notice of
public hearing, is authorized to lease, lend, grant, or convey to
9 the commission at its request upon such terms and conditions as
the governing body of the local government unit may deem
11 reasonable and fair and without the necessity for any
advertisement, order of court, or other action of formality, other
13 than the ordinance, resolution or regular action thereof, any real
property or interest therein which may be necessary or
15 convenient to the effectuation of the purposes of the
commission. No property of the State, other than meadowlands,
17 riparian lands or lands under water and similar lands or interest
therein referred to and whose disposition is controlled by the
19 provisions in Title 12 and Title 13 of the Revised Statutes shall be
so granted, leased or conveyed to the commission except upon the
21 approval of the State House Commission and payment to the
State of the price therefor as may be fixed by the State House
23 Commission.

35. (New section) a. The commission may establish, alter and
25 collect rates, rents, fees or other charges for the use or services
of any project and contract in the manner provided in this section
27 with one or more persons, one or more local government units, or
any combination thereof, receiving the use or services of any
29 project, and fix the terms, conditions, rents, fees, or other
charges for the use or services.

31 b. The contract may provide for acquisition by the person or
local government unit, of all or any part of the project for
33 consideration payable over the period of the contract or
otherwise as the commission in its discretion determines to be
35 appropriate, but subject to the provisions of any resolution of the
commission authorizing the issuance of bonds or any trust
37 agreement securing them.

c. Any one or more public or private entities may cooperate
39 with the commission in the acquisition or construction of a

1 project and may enter into any agreement with the commission as
is necessary, with a view to effective cooperative action and
3 safeguarding of the respective interests of the parties thereto,
which agreement shall provide for contributions by the parties
5 thereon in the proportion as may be agreed upon and those other
terms as may be mutually satisfactory to the parties including
7 without limitation the authorization of the construction of the
project by one of the parties acting as agent for all of the parties
9 and the ownership and control of the project by the commission
to the extent necessary or appropriate for purposes of the
11 issuance of bonds by the commission. Any local government unit
may provide a contribution as is required under an agreement by
13 the appropriation of money or, if so authorized by law, by the
issuance of bonds, by levying of taxes or assessments, or the
15 issuance of bonds in anticipation of the collection thereof, or by
the payment of the appropriated money or the proceeds of the
17 bonds to the commission pursuant to that agreement.

d. Nothing in this act shall be construed as authorizing the
19 commission to impose, or require a local government unit to
impose, a charge for access to the upland areas adjacent to tidal
21 waters.

36. (New section) The commission shall cause an audit of its
23 books and accounts to be made at least once in each year by
certified public accountants selected by the State Treasurer and
25 the cost thereof shall be considered as an expense of the
commission and a copy thereof shall be filed with the Governor,
27 State Treasurer, the President of the Senate, and the Speaker of
the General Assembly. The State Auditor, or his legally
29 authorized representative, may examine the accounts and books
of the commission.

31 37. (New section) The commission shall issue a joint coastal
commission permit, where applicable, and shall develop a single
33 permitting process for any permit issuable pursuant to P.L. 1970,
c. 272 (C. 13:9A-1 et seq.) and P.L. 1973, c. 185 (C. 13:19-1 et
35 seq.), by it, or by a municipality or county to which authority has
been delegated pursuant to section 40 of P.L. c. (C.)
37 (now pending in the Legislature as this bill). Notwithstanding
that a joint permit may be issued, the commission, or county or
39 municipality, in reviewing or approving a permit shall apply the

1 statutory criteria for the construction of a facility or undertaking
2 of a regulated activity that is required for each type of activity
3 regulated by each act.

4 38. (New section) Within 45 days following receipt of an
5 application pursuant to P.L. 1970, c. 272 (C. 13:9A-1 et seq.) or
6 P.L. 1973, c. 185 (C. 13:19-1 et seq.), the commission shall notify
7 the applicant in writing regarding its completeness. An
8 application shall be deemed complete upon the expiration of the
9 45 day period for purposes of commencing the applicable time
10 period for action by the commission, unless: a. the application
11 lacks information indicated on a checklist adopted pursuant to
12 section 21 of this act; and b. the commission has notified the
13 applicant, in writing, of the deficiencies in the application within
14 45 days of receipt of the application. The commission, within 15
15 days following receipt of additional information to correct the
16 deficiencies, shall notify the applicant of the completeness of the
17 amended application. The application shall not be considered to
18 be filed until it has been declared complete by the commission.

19 39. (New section) a. The commission, or a member of the
20 commission staff designated by the commission, may hold a
21 hearing as it deems necessary to afford interested parties the
22 opportunity to present, orally or in writing, their position
23 concerning the application and any data they may have developed
24 in reference to the environmental effects of the proposed
25 facility. The hearing, if required, shall be held within 60 days of
26 the filing of a completed application. The commission shall, by
27 rule or regulation, establish adequate notice procedures and
28 criteria for the holding of a public hearing.

29 b. The commission, within 15 days after the hearing, may
30 require, as hereinafter provided, an applicant to submit any
31 additional information necessary for the complete review of the
32 application.

33 c. The commission shall notify the applicant within 60 days
34 after the hearing as to the granting or denial of a permit. If no
35 hearing is held, the commission shall notify the applicant of its
36 decision within 90 days following the filing of a completed
37 application, except that the commission shall notify the applicant
38 of its decision within 45 days following the filing of a completed
39 application where the application is for a permit concerning

1 development pursuant to subparagraphs (d), (e), and (f) of
paragraph (1) of subsection c. of section 3 of P.L. 1973, c. 185 (C.
3 13:19-3). The reasons for granting or denying the permit shall be
stated. In the event the commission requires additional
5 information as provided for in subsection b. of this section, it
shall notify the applicant of its decision within 60 days following
7 the receipt of the information.

40. (New section) a. Notwithstanding the provisions of any
9 other law, rule, or regulation to the contrary, the commission
may delegate its permit review powers pursuant to P.L. 1973, c.
11 185 (C. 13:19-1 et seq.) and P.L. 1970, c. 272 (C. 13:9A-1 et seq.)
to issue permits in the manner prescribed in this act. Delegation
13 is permitted upon commission certification that the master plan,
development regulations and capital improvement program, as
15 applicable, of a municipality or county are in conformance with
the management plan as provided in section 11 of this act. The
17 commission shall establish, by regulation, standards and other
requirements, including staff qualifications, as conditions for
19 delegating permit review authority to a county or municipality,
and shall, at the expense of the commission, provide a training
21 course for county or municipal officials on local implementation
of the provisions of the management plan.

23 The commission shall revoke its delegation upon a finding that
the municipality or county has failed to perform its delegated
25 powers in accordance with the intent or purposes of P.L. 1973, c.
185 (C. 13:19-1 et seq.), P.L. 1970, c. 272 (C. 13:9A-1 et seq.), or
27 this act and the management plan.

b. A copy of any permit application filed for review by a
29 municipality or county under the authority delegated thereto
pursuant to this section shall be filed with the commission. Any
31 such permit application that has not been filed with the
commission may not be reviewed or approved by a municipality or
33 county. The commission shall not require prior review by the
commission of an informational filing of a permit application
35 pursuant to this subsection.

c. Any approval or denial of a permit application by any
37 municipality or county under the authority delegated thereto
pursuant to this section shall be filed with the commission not
39 later than 10 days thereafter, exclusive of weekends and holidays.

1 d. Notwithstanding the provisions of any law, rule, or
regulation to the contrary, the commission may require, on its
3 own initiative, review of any permit approval granted by a
municipality or county in accordance with the authority
5 delegated thereto under this section. Within 30 days of receipt of
notice of the decision and a copy of the resolution approving the
7 permit application, the commission shall determine whether to
review the permit approval. If the commission decides to review,
9 it shall render a final decision thereon within 30 days of the date
of its decision to review.

11 e. The governing body of any municipality or county or any
interested party that objects to an approval may petition the
13 commission, within 10 days of the publication of a final decision,
to review any decision made by a municipality or county under its
15 delegated authority. The commission shall notify the petitioning
party, in writing, within 10 days of receipt of a petition whether
17 or not it agrees to review the permit decision. A party of
interest shall include any person who can demonstrate to the
19 satisfaction of the commission that the decision objected to will
directly or substantially affect that person's right of access to,
21 or enjoyment of, a natural, historic or recreational resource in
the coastal area. The petition shall specify the grounds for the
23 appeal, and the commission shall grant the petition for review
only if available administrative remedies have been exhausted. A
25 copy of each petition approved for review shall be forwarded to
the appropriate regional advisory council. The council shall, if it
27 agrees to hear the dispute, notify the commission and the
affected parties of the place, time and date at which the dispute
29 will be heard within 15 days of receiving the petition. The
council also shall notify the parties and the commission of its
31 decision not to hear the dispute.

(1) All hearings held by a council shall be informal in nature.
33 Formal rules of evidence shall not be required, nor shall the
parties be required to be represented by legal counsel. The
35 council shall use its best faith efforts to resolve the dispute to
the satisfaction of the parties, and in conformance with the
37 policies, standards and guidelines of the management plan, P.L.
1970, c. 272 (C. 13:9A-1 et seq.), and P.L. 1973, c. 185 (C.
39 13:19-1 et seq.). If the council cannot resolve the dispute

1 within 60 days of the petition having been filed, it shall refer the
dispute to the commission for an adjudicatory hearing.

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

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

(4) The commission shall hold an adjudicatory hearing within 90
15 days of having received a referral from a council pursuant to
paragraphs (1) and (3) above. The commission's decision shall be
17 rendered within 45 days after the close of any adjudicatory
hearing.

19 f. Where a municipality has been granted the power to issue a
permit pursuant to this section, any variance granted by a
21 municipality pursuant to P.L. 1975, c. 291 (C. 40:55D-1 et seq.)
shall be submitted to the commission for review, except that the
23 commission shall not review a variance on which an appeal is
pending before the governing body of the municipality until final
25 action is taken by the governing body on the appeal. Any
variance granted by a municipality concerning an activity for
27 which a permit is required pursuant to P.L. 1970, c. 272 (C.
13:9A-1 et seq.) or P.L. 1973, c. 185 (C. 13:19-1 et seq.), shall be
29 of no effect if the commission disapproves it within 45 days of
receipt of the record of the granting of the variance by the
31 municipality. The commission may offer comments on any aspect
of a variance that it receives for review.

33 g. Review by the commission of a permit approval pursuant to
subsections d., e., or f. of this section shall be in accordance with
35 the adjudicatory hearing provisions for contested cases of the
"Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1
37 et seq.).

The effect of a permit approval subject to review by, or appeal
39 to, the commission pursuant to subsections d., e., or f. of this

1 section shall be stayed, pending a final determination of the
review or appeal.

3 h. A commission decision denying a petition for review,
5 approving an agreement by the parties and the council, approving
a permit application following an adjudicatory hearing pursuant
7 to subsection g. of this section, or issuing a coastal commission
permit pursuant to section 37 of this act, shall be considered final
9 agency action subject to review in the Appellate Division of the
Superior Court.

11 i. Denial of an application for development by a municipal
agency pursuant to P.L. 1975, c. 291 (C. 40:55D-1 et seq.) or of a
13 subdivision or site plan by a county planning board, or the
governing body of the county, pursuant to P.L. 1968, c. 285 (C.
15 40:27-6.1 et seq.), or an appeal of any conditions placed on an
approval thereof, shall not be reviewable by the commission.
17 Appeals therefrom shall be in the manner provided under those
acts.

j. The commission shall prepare, and make available to the
19 public, weekly reports on the status of all permit applications or
copies of permit applications required to be filed with the
21 commission, pending final action by the municipality, county or
commission thereon, as the case may be.

23 41. (New section) Denial of an application for a permit under
this act shall in no way adversely affect the future submittal of a
25 new application.

42. (New section) Employees of the commission shall be
27 members of the Public Employees' Retirement System of New
Jersey pursuant to the provisions of P.L. 1954, c. 84 (C. 43:15A-1
29 et seq).

43. (New section) The functions of the Division of Coastal
31 Resources in the Department of Environmental Protection
exercised in the coastal area are hereby transferred to the
33 commission.

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

45. (New section) This act shall be liberally construed to
37 effectuate the purpose and intent thereof. Nothing in this act
39 may be construed in a manner that conflicts with the provisions

1 of the "State Uniform Construction Code Act," P.L. 1975, c. 217
(C. 52:27D-119 et seq.).

3 46. (New section) If any provision of this act or the application
5 thereof to any person or circumstances is held invalid, the
7 remainder of this act and the application of the provision to
persons or circumstances other than those to which it is held
invalid shall not be affected thereby.

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

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

(cf: R.S. 12:5-1)

23 48. R.S. 12:5-2 is amended to read as follows:

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

35 (cf: P.L. 1975, c. 232, s. 7)

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

37 12:5-3. a. All plans for the development of any waterfront
39 upon any navigable water or stream of this State or bounding
thereon, which is contemplated by any person or municipality, in

1 the nature of individual improvement or development or as a part
2 of a general plan which involves the construction or alteration of
3 a dock, wharf, pier, bulkhead, bridge, pipeline, cable, or any other
4 similar or dissimilar waterfront development shall be first
5 submitted to the Department of Environmental Protection. No
6 such development or improvement shall be commenced or
7 executed without the approval of the Department of
8 Environmental Protection first had and received, or as
9 hereinafter in this chapter provided.

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

12 (1) The repair, replacement or renovation of a permanent dock,
13 wharf, pier, bulkhead or building existing prior to January 1,
14 1981, provided the repair, replacement or renovation does not
15 increase the size of the structure and the structure is used solely
16 for residential purposes or the docking or servicing of pleasure
17 vessels;

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

24 (3) Development in the coastal area as defined in section 4 of
25 P.L. 1973, c. 185 (C. 13:19-4).

(cf: P.L. 1981, c. 315, s. 1)

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

28 12:5-8. Upon the request of a county, municipality or other
29 political subdivision of this state, the [board] department shall
30 prepare and submit a proper plan for the development and
31 improvement of the water front of such political subdivision upon
32 any navigable stream or waters of this state or bounding thereon
33 that are outside the coastal area as defined in section 4 of P.L.
34 1973, c. 185 (C. 13:19-4), the navigation of the waters incident
35 thereto, and the regulation and improvement of the traffic of
36 commerce incident thereto.

37 For the preparation and submission of the plans the [board]
38 department may make such charge against the municipality
39 requesting the same as is equal to the actual cost thereof and the

1 political subdivision requesting them is hereby authorized to pay
the same from any funds in its treasury.

3 (cf: R.S. 12:5-8)

5 51. Section 1 of P.L. 1939, c. 30 (C. 12:5-9) is amended to read
as follows:

7 1. [In addition to the powers conferred by the provisions of the
act to which this act is a supplement, the Board of Commerce
and Navigation] The New Jersey Coastal Commission is hereby
9 authorized and empowered to co-operate with the Federal
government, the county of Monmouth, and the borough of
11 Atlantic Highlands in providing and maintaining a harbor of
refuge in Sandy Hook bay near the borough of Atlantic Highlands.

13 (cf: P.L. 1939, c. 374, s. 1)

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

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

37 (cf: P.L. 1966, c. 212, s. 1)

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

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

(cf: P.L. 1946, c. 258, s. 2)

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

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

27 (cf: P.L. 1946, c. 258, s. 3)

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

30 4. a. The Division of Marine Services, together with all of its
31 functions, powers and duties, is continued as the New Jersey
32 Coastal Commission, for the area of its jurisdiction, and the
33 Division of Coastal Resources in the Department of
34 Environmental Protection for the remainder of the State.

35 b. The Natural Resource Council, together with all of its
36 functions, powers and duties, is continued as the Tidelands
37 Resource Council in the Department of Environmental
38 Protection. This act shall not affect the terms of office of the
39 present members of the council. The members of the council

1 shall continue to be appointed as provided by existing law.
(cf: P.L. 1979, c. 386, s. 1)

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

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

15 b. Whenever the term "Resource Development Council",
"Planning and Development Council" or "Natural Resource
17 Council" occurs or any reference is made thereto in any law,
contract or document, the [same] term shall [be deemed to] mean
19 or refer to the Tidelands Resource Council.
(cf: P.L. 1979, c. 386, s. 3)

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

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

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

b. "Construction permit" means and shall include:

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

31 (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.).

33 [(3) A permit issued pursuant to the "Coastal Area Facility
Review Act," P.L. 1973, c. 185 (C. 13:19-1 et seq.).] (Deleted by
35 amendment)

(4) Approval of a structure or alteration within the area which
37 would be inundated by the 100 year design flood of any
nondelineated stream or of a change in land use within any
39 delineated floodway or any State administered and delineated

1 flood fringe area, all pursuant to the "Flood Hazard Area Control
Act," P.L. 1962, c. 19 (C. 58:16A-50 et seq.) as amended and
3 supplemented.

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

7 "Construction permit" shall not, however, include any approval
of or permit for an electric generating facility or for a petroleum
9 processing or storage facility, including a liquefied natural gas
facility, with a storage capacity of over 50,000 barrels or any
11 permit issued by the New Jersey Coastal Commission.

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

(cf: P.L. 1979, c. 359, s. 8) .

15 58. Section 2 of P.L. 1975, c. 232 (C. 13:1D-30) is amended to
read as follows:

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

27 (cf: P.L. 1975, c. 232, s. 2)

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

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

(cf: P.L. 1975, c. 232, s. 4)

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

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

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

13 c. Any person proposing to conduct or cause to be conducted a
14 regulated activity upon any wetland shall file an application for a
15 permit with the New Jersey Coastal Commission, or a
16 municipality or county to which the commission has delegated
17 permit review authority pursuant to section 40 of P.L. 1975, c.
18 (C. 40:55D-12) (now before the Legislature as the bill), for any activity
19 within the area of the commission's jurisdiction, or the
20 commissioner, for an activity in the remaining areas of the State,
21 in such form and with such information as the New Jersey
22 Coastal Commission or the commissioner, as appropriate, may
23 prescribe and shall provide notice to each electric or gas public
24 utility in the State and to each owner of all real property as
25 shown on the current tax duplicate, located in the State and
26 within 200 feet in all directions of the property which is the
27 subject of such application in the manner prescribed by section
28 7.1 of P.L. 1975, c. 291 (C. 40:55D-12). Such application shall
29 include a detailed description of the proposed work and a map
30 showing the area of wetland directly affected, with the location
31 of the proposed work thereon, together with the names of the
32 owners of record of adjacent land and known claimants of rights
33 in or adjacent to the wetlands of whom the applicant has notice.
34 All applications, with any maps and documents relating thereto,
35 shall be open for inspection at the office of the [Department of
36 Environmental Protection] commission, or municipality or county,
37 or the department.

 d. In granting, denying or limiting any permit the New Jersey

1 Coastal Commission, within the area of its jurisdiction, or
2 municipality or county to which the commission has delegated
3 permit review authority, and the commissioner in the remaining
4 areas of the State shall consider the effect of the proposed work
5 with reference to the public health and welfare, marine fisheries,
6 shell fisheries, wildlife, the protection of life and property from
7 flood, hurricane and other natural disasters, and the public policy
8 set forth in section 1a. of this act.

9 (cf: P.L. 1983, c. 133, s. 1)

10 61. Section 4 of P.L. 1956, c. 135 (C. 26:9-12.6) is amended to
11 read as follows:

12 4. It shall be the duty of the commission to carry on a
13 continuous study of mosquito control and extermination in the
14 State, to recommend to the Governor and the Legislature, from
15 time to time, changes in legislation which in its judgment may be
16 necessary or desirable to be enacted in order to enforce and carry
17 out mosquito extermination and control work throughout the
18 State, to recommend to the Legislature the amount of money
19 which in its judgment it shall deem necessary and desirable to be
20 appropriated each year by the State for mosquito control
21 purposes and to allocate funds appropriated for State aid to
22 counties in the performance of such work among the various
23 counties through the New Jersey State Agricultural Experiment
24 Station, to act in an advisory capacity in all matters pertaining to
25 mosquito extermination and control and to co-operate with the
26 agencies of other States and the Federal Government in the
27 elimination of mosquito breeding areas under their control. The
28 commission shall not recommend to the Legislature any mosquito
29 control project in the coastal area, as designated pursuant to
30 section 4 of P.L. 1973, c. 185 (C. 13:19-4), that is inconsistent
31 with the policies or goals of the New Jersey Coastal Area
32 Management Plan adopted in accordance with section 9 of P.L.
33 c. () (now pending in the Legislature as this bill). The
34 commission shall submit to the New Jersey Coastal Commission,
35 for review and certification as to consistency with the
36 management plan, any mosquito control project within the
37 coastal area prior to recommending the project for financing to
38 the Legislature.

39 (cf: P.L. 1956, c. 135, s. 4)

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

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

7 a. ["Commissioner" means the State Commissioner of
Environmental Protection.] (Deleted by amendment)

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

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

13 (1) Electric power generation--

Oil, gas, or coal fired or any combination thereof.
Nuclear facilities.

15 (2) Food and food byproducts--

Beer, whiskey and wine production.

17 Fish processing, including the production of fish meal and fish
oil.

19 Slaughtering, blanching, cooking, curing, and pickling of meats
and poultry.

21 Trimming, culling, juicing, and blanching of fruits and
vegetables.

23 Animal matter rendering plants.

Operations directly related to the production of leather or furs
25 such as, but not limited to, unhairing, soaking, deliming, baiting,
and tanning.

27 Curing and pickling of fruits and vegetables.

Pasteurization, homogenization, condensation, and evaporation
29 of milk and cream to produce cheeses, sour milk, and related
products.

31 Coffee bean and cocoa bean roasting.

(3) Incineration wastes--

33 Municipal wastes (larger than or equal to 50 tons per day).

Automobile body (20 automobiles per hour or larger).

35 (4) Paper production--

Pulp mills.

37 Paper mills.

Paperboard mills.

39 Building paper mills.

- 1 Building board mills.
- (5) Public facilities and housing--
- 3 Sanitary landfills.
- Waste treatment plants (sanitary sewage).
- 5 Road, airport, or highway construction.
- New housing developments of 25 or more dwelling units or
- 7 equivalent.
- Expansion of existing developments by the addition of 25 or
- 9 more dwelling units or equivalent.
- (6) Agri-chemical production--
- 11 Pesticides manufacture and formulation operations or either
- thereof.
- 13 Superphosphate animal feed supplement manufacture.
- Production of normal superphosphate.
- 15 Production of triple superphosphate.
- Production of diammonium phosphate.
- 17 (7) Inorganic acids and salts manufacture--
- Hydrofluoric acid and common salts.
- 19 Hydrochloric acid and common salts.
- Nitric acid and common salts.
- 21 Sulfuric acid and common salts.
- Phosphoric acid and common salts.
- 23 Chromic acid, including chromate and dichromate salts.
- (8) Mineral products--
- 25 Asphalt batching and roofing operations including the
- preparation of bituminous concrete and concrete.
- 27 Cement production, including Portland, natural, masonry, and
- pozzolan cements.
- 29 Coal cleaning.
- Clay, clay mining, and fly-ash sintering.
- 31 Calcium carbide production.
- Stone, rock, gravel, and sand quarrying and processing.
- 33 Frit and glass production.
- Fiberglass production.
- 35 Slag, rock and glass wool production (mineral wool).
- Lime production, including quarrying.
- 37 Gypsum production, including quarrying.
- Perlite manufacturing, including quarrying.
- 39 Asbestos fiber production.

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

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

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

7 (11) Metallurgical processes--

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

Production of titanium metal, salts, and oxides.

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

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

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

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

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

21 Gray iron foundry operations.

Steel foundry operations.

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

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

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

(12) Miscellaneous--

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

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

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

39 Manufacture of lead acid storage batteries and/or storage

1 batteries produced from other heavy metals, such as nickel or
cadmium.

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

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

7 Dyeing, bleaching, and printing of textiles other than wool.
Chemical finishing for water repelling, fire resistance, and
9 mildew proofing, including preshrinking, coating and impregnating.
Sawmill and planing mill operations.

11 Marine terminal and cargo handling facilities.] means:

13 (1) The division or redivision of a parcel of land into two or
more parcels, or the construction, relocation, reconstruction,
structural alteration, or enlargement of any building or other
15 structure, or of any mining excavation or landfill, but does not
include:

17 (a) A subdivision of a parcel of land, or a resubdivision
resulting, in the aggregate, in 24 or fewer lots, tracts, or parcels
19 for sale or development for 24 or fewer dwelling units, or a new
housing development, or the expansion, alteration, relocation, or
21 reconstruction of an existing housing development, resulting, in
the aggregate, in 24 or fewer dwelling units;

23 (b) A subdivision of a parcel of land, or a resubdivision thereof,
resulting, in the aggregate, in 74 or fewer lots, tracts, or parcels
25 for sale or development for 74 or fewer dwelling units, or a new
housing development, or the expansion, alteration, relocation, or
27 reconstruction of an existing housing development, resulting, in
the aggregate, in 74 or fewer dwelling units, in any area
29 designated by the commission as a growth area in a qualifying
municipality as defined pursuant to P.L. 1979, c. 118 (C.
31 52:27D-118.1 et seq.);

33 (c) Any commercial development or the alteration,
reconstruction, or expansion thereof which alone, or in
combination with an earlier development, requires a total of less
35 than 10 parking spaces, or an area less than two acres of paved
area.

37 Notwithstanding subparagraphs (a) through (c) above, facility
includes,

39 (d) the creation by subdivision of a parcel of land, or by a

1 resubdivision thereof, of three or more lots, tracts, or parcels for
2 sale or development, or the construction, alteration,
3 enlargement, relocation, or reconstruction of three or more
4 dwelling units, or commercial development requiring 10 or more
5 parking spaces, between the mean highwater line of any tidal
6 waters and the nearest parallel public street or road or 1,000
7 feet, whichever is greater;

8 (e) any commercial development or expansion thereof between
9 the mean high water line of any tidal waters and the nearest
10 parallel public street or road, or 1000 feet, whichever is greater,
11 which alone, or in combination with an earlier development, will
12 require a total of 10 or more parking spaces; and

13 (f) the construction, alteration, enlargement, relocation, or
14 reconstruction of one or more dwelling units or other structures
15 and any commercial development located, or to be located,
16 between the mean high water line of any tidal waters and the
17 nearest parallel public street or road, or 1,000 feet, whichever is
18 greater, if there is no intervening structure between the unit or
19 structure and the water, except that, in the case of the
20 reconstruction of a single family dwelling unit as a result of
21 damage to 50% or more of that unit, a presumption shall exist
22 that the owner is entitled to a permit to reconstruct. As used in
23 this subparagraph "intervening structure" does not include a
24 shore protection device, boardwalk, road, or beach facility
25 including bath house, lifeguard station, snack bar and other
26 similar facilities. The provisions of this subparagraph do not
27 apply to the structural alteration or reconstruction of less than
28 50%, or to the structural enlargement of less than 25%, as of the
29 time of enactment of P.L. . c. (C.) (now before the
30 Legislature as this bill), of a single family dwelling unit.

31 (2) Development of any waterfront upon any navigable water or
32 stream within the coastal area or bounding thereon, which is
33 contemplated by any person or municipality, in the nature of
34 individual improvement or development or as a part of a general
35 plan which involves the construction or alteration of a dock,
36 wharf, pier, bulkhead, bridge, pipeline, cable, or any other similar
37 or dissimilar waterfront development, but does not include:

38 (a) the repair, replacement or renovation of a permanent dock,
39 wharf, pier, bulkhead or building existing prior to January 1,

1 1981, provided the repair, replacement or renovation does not
2 increase the size of the structure and the structure is used solely
3 for residential purposes or the docking or servicing of pleasure
4 vessels;

5 (b) the repair, replacement or renovation of a floating dock,
6 mooring raft or similar temporary or seasonal improvement or
7 structure, provided the improvement or structure does not
8 exceed in length the waterfront frontage of the parcel of real
9 property to which it is attached and is used solely for the docking
10 or servicing of pleasure vessels.

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

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

18 f. "Commercial development" means any facility other than a
19 dwelling unit or a facility used in manufacturing or industrial
20 processing. As used in this subsection, manufacturing and
21 industrial processing include but are not limited to, electric
22 power production, food and food byproduct processing, solid
23 waste incinerators with capacity of at least 50 tons per day,
24 paper production, public facilities including sanitary landfills,
25 waste treatment plants, roads, and airports, agri-chemical
26 production, chemical processes, storage facilities, metallurgical
27 processes, and processes utilizing mineral products.

28 g. "Dwelling unit" includes houses, townhouses, apartments,
29 condominiums, cabanas, hotel or motel rooms, hospital rooms,
30 nursing home rooms, institutions, mobile homes, campsites for
31 tents or recreational vehicles, floating homes, or any habitable
32 structure of similar size and potential environmental impact.

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

36 i. "Public road" means a road or street open to vehicular
37 traffic other than on an emergency basis as of the effective date
38 of P.L. , c. (C.) (now before the Legislature as this bill).

39 j. "Regional advisory council" or "council" means the bodies

1 created to advise and assist the commission pursuant to section 8
2 of P.L. , c. (C.) (now before the Legislature as this bill).

3 (cf: P.L. 1973, c. 185, s. 3)

4 63. Section 4 of P.L. 1973, c. 185 (C. 13:19-4) is amended to
5 read as follows:

6 4. The "coastal area" shall consist of all that certain area
7 lying between the line as hereinafter described and the line
8 formed by the State's seaward (Raritan Bay and Atlantic ocean)
9 territorial jurisdiction on the east thereof, the State's bayward
10 (Delaware Bay) territorial jurisdiction on the south and southwest
11 thereof, and the State's riverward (Delaware River) territorial
12 jurisdiction on the west thereto. Beginning at the confluence of
13 Cheesequake Creek with the Raritan Bay; thence southwesterly
14 along the center line of Cheesequake Creek to its intersection
15 with the Garden State Parkway; thence southeasterly along the
16 Garden State Parkway to Exit 117 at State Highway 36; thence
17 northeasterly along State Highway 36 to the intersection of
18 Middle Road (County 516); thence easterly along Middle Road to
19 the intersection of Palmer Avenue (County 7); thence
20 northeasterly on Main Street to the intersection of State Highway
21 36; thence easterly on State Highway 36 to the intersection of
22 Navesink Avenue; thence southerly on Navesink Avenue to the
23 intersection of Monmouth Avenue at Navesink; thence westerly
24 on Monmouth Avenue to its intersection with Browns Dock Road;
25 thence southerly on Browns Dock Road to its intersection with
26 Cooper Road; thence southwesterly on Cooper Road to the
27 intersection of State Highway 35; thence southerly on State
28 Highway 35 to its intersection with State Highway 71; thence
29 southeasterly on State Highway 71 to its crossing of the Central
30 Railroad of New Jersey tracks; thence southerly along the
31 Central Railroad of New Jersey tracks to its intersection of 6th
32 Avenue (County 2); thence westerly on 6th Avenue (County 2) to
33 the intersection of State Highway 33; thence westerly along State
34 Highway 33 to the crossing of State Highway 18; thence southerly
35 on State Highway 18 to its intersection of Marconi Road; thence
36 southeasterly on Marconi Road to Adrienne Road, continuing
37 south on Adrienne Road to Belmar Boulevard; thence easterly on
38 Belmar Boulevard and 16th Avenue to the intersection of State
39 Highway 71; thence southerly on State Highway 71 to the

1 intersection of State Highway 35; thence northwesterly along
State Highway 35 to State Highway 34 at the Brielle Circle;
3 thence northwesterly along State Highway 34 to the Garden State
Parkway at Exit 96; thence southwesterly along the Garden State
5 Parkway to the intersection of the Monmouth, Ocean County
boundary; thence westerly along said boundary to the intersection
7 of the Central Railroad of New Jersey tracks; thence
southwesterly along the tracks of the Central Railroad of New
9 Jersey to its junction with the tracks of the Pennsylvania
Railroad near Whiting; thence easterly along the tracks of the
11 Pennsylvania Railroad to its intersection with the Garden State
Parkway near South Toms River; thence southerly along the
13 Garden State Parkway to its intersection with [County Road 539
at Garden State Parkway exit 58; thence northerly along County
15 Road 539 to its intersection with Martha-Stafford Forge Road;
thence westerly along Martha-Stafford Forge Road to its
17 intersection with Spur 563; thence northerly along Spur 563 to its
intersection with County Road 563; thence southerly along
19 County Road 563 to its intersection with County Road 542 at
Green Bank; thence northwesterly along County Road 542 to its
21 intersection with Weekstown-Pleasant Mills Road; thence
southeasterly along Weekstown-Pleasant Mills Road to its
23 intersection with County Road 563 at Weekstown; thence
southeasterly along County Road 563 to its intersection with
25 Clarks Landing Road leading to Port Republic; thence easterly
along Clarks Landing Road to its intersection with the Garden
27 State Parkway; thence southerly along the Garden State Parkway
to its intersection with] Alt. 559, and thence northwesterly along
29 Alt. 559 to its intersection with County Road 559 at Gravelly
Run; thence northwesterly along County Road 559 to its
31 intersection with U.S. 40 and S.R. 50 at Mays Landing; thence
westerly along combined U.S. 40 and S.R. 50 to its intersection
33 with S.R. 50; thence southerly on S.R. 50 to its intersection with
Buck Hill Road near Buck Hill; thence westerly along Buck Hill
35 (River Road) Road to its intersection with S.R. 49; thence
southeasterly along S.R. 49 to its intersection with S.R. 50;
37 thence southeasterly along S.R. 50 to its intersection with County
Road 585; thence southwesterly along County Road 585 to its
39 intersection with S.R. 47 at Dennisville; thence northwesterly

1 along S.R. 47 to its intersection with State Road 49 at Millville;
thence through Millville along State Road 49 to its intersection
3 with County Road 555; thence southerly along County Road 555
to its intersection with County Road 27; thence southerly along
5 County Road 27 to its intersection with County Road 70; thence
southerly on County Road 70 to the Center of Mauricetown;
7 thence through Mauricetown westerly on County Road 548 to its
intersection with the tracks of the Central Railroad of New
9 Jersey; thence northwesterly on the tracks of the Central
Railroad of New Jersey to its intersection with County Road 98;
11 thence easterly along County Road 98 to the intersection with
County Road 38; thence northerly along County Road 38 to its
13 intersection with S.R. 49 east of Bridgeton; thence westerly along
S.R. 49 through Bridgeton to its intersection with County Road 5
15 (Roadstown Road); thence westerly along County Road 5
(Roadstown Road) to Roadstown; thence northwesterly along the
17 Roadstown Road to County Road 47; thence southwesterly along
County Road 47 to its intersection with County Road 19; thence
19 along County Road 19 northwesterly to Gum Tree Corner; thence
northwesterly along County Road 19 from Gum Tree Corner
21 across Stowe Creek to its intersection with Salem County Road
59 (Hancock's Bridge Road); thence northwesterly along County
23 Road 59 to its intersection with County Road 51 at Coopers
Branch; thence northeasterly along County Road 51 to its
25 intersection with S.R. 49 at Quinton; thence northwesterly along
S.R. 49 to its intersection with County Road 50; thence
27 southwesterly along County Road 50 to its intersection with
County Road 58; thence southerly on County Road 58 to its
29 intersection with County Road 24; thence westerly along County
Road 24 to its intersection with County Road 65; thence
31 northerly along County Road 65 (Walnut Street) to its
intersection with County Road 4; thence westerly along County
33 Road 4 and northerly along County Road 4 and thence easterly
along County Road 4 to its intersection with State Road 49;
35 thence northerly along State Road 49 (Front Street) to its
intersection with County Road 57; thence easterly along County
37 Road 57 to its intersection with State Road 45; thence northerly
along State Road 45 to its intersection with County Road 540 at
39 Pointers; thence northerly and northwesterly along County Road

1 540 (Deepwater-Slapes Corner Road) to its intersection with the
New Jersey Turnpike; thence westerly along the New Jersey
3 Turnpike to its intersection with County Road 33; thence
southerly along County Road 33 to its intersection with State
5 Road 49; thence southeasterly along S.R. 49 to its intersection
with County Road 26; thence northwesterly along County Road 26
7 to the Killcohook National Wildlife Refuge; thence northwesterly
along this northeasterly boundary to the limits of the State's
9 territorial jurisdiction on the Delaware River; provided, however,
that the coastal area shall not include all that certain area in
11 Cape May county lying within a line beginning at the intersection
of S.R. 47 and County Road 54; thence westerly on County Road
13 54; to the intersection of County Road 3; thence southeasterly on
County Road 3 through the intersection of County Road 3 with
15 County Road 13 to the intersection with County Road 47; thence
easterly and northerly along County Road 47 to its intersection
17 with State Road 9; thence northerly along State Road 9 to its
intersection with State Road 47; thence westerly along State
19 Road 47 to its intersection with County Road 54.

(cf: P.L. 1973, c. 185, s. 4)

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

23 5. No person shall construct or cause to be constructed a
facility in the coastal area until he has applied for and received a
25 permit issued by the [commissioner] commission. or, in the case
of permit review authority delegated pursuant to section 40 of
27 P.L. c. (C.) (now pending before the Legislature as
this bill), by the municipality or county to which the delegation
29 has been made; however, the provisions of this act shall not
apply to facilities for which [on-site construction, including site
31 preparation, was in process] preliminary or final site plan or
subdivision approval has been received, or a building permit has
33 been issued, on or prior to the effective date of [this act] P.L. ,
c. (C.) (now before the Legislature as this act), but no
35 extension or renewal of the expiration date of any such
preliminary or final site plan or subdivision approval shall be
37 issued on or after that date.

(cf: P.L. 1973, c. 185, s. 5)

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

1 6. Any person proposing to construct or cause to be
2 constructed a facility in the coastal area shall file an application
3 for a permit with the [commissioner] commission, in such form
4 and with such information as the [commissioner] commission may
5 prescribe; except that if the commission has delegated permit
6 review for a facility as defined in section 3 of P.L. 1973, c. 185
7 (C. 13:19-3), the application and information, as prescribed by
8 the commission, shall be filed with the municipal or county
9 agency exercising the delegated authority. The application shall
10 include an environmental impact statement as described in this
11 act, unless the commission, or the county or municipal agency, by
12 resolution and in accordance with standards adopted therefor by
13 the commission, waives the requirement.

(cf: P.L. 1973, c. 185, s. 6)

15 66. Section 10 of P.L. 1973, c. 185 (C. 13:19-10) is amended^o to
16 read as follows:

17 10. The [commissioner] commission, or the municipal or county
18 agency, shall review filed applications, including [the] any
19 environmental impact statement and all information presented at
20 public hearings. [He shall issue a permit only if he finds] A
21 permit shall be issued only upon a finding that the proposed
22 facility:

23 a. Conforms with all applicable air, water and radiation
24 emission and effluent standards and all applicable water quality
25 criteria and air quality standards.

26 b. Prevents air emissions and water effluents in excess of the
27 existing dilution, assimilative, and recovery capacities of the air
28 and water environments at the site and within the surrounding
29 region.

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

33 d. Would result in minimal [feasible] impairment of the
34 regenerative capacity of water aquifers or other ground or
35 surface water supplies.

36 e. Would cause minimal [feasible] interference with the
37 natural functioning of plant, animal, fish, and human life
38 processes at the site and within the surrounding region.

39 f. Is located or constructed so as to neither endanger human

1 life or property nor otherwise impair the public health, safety,
and welfare.

3 g. Would result in minimal [practicable] degradation of unique
or irreplaceable land types, historical or archeological areas, and
5 existing scenic and aesthetic attributes at the site and within the
surrounding region.

7 h. Would not individually or, in conjunction with a previously
existing facility or facilities or other structure or structures,
9 cumulatively have an adverse impact on the natural resources or
environmental quality of the coastal area.

11 i. Upon adoption of the management plan, conforms with any
other applicable provisions of that plan.

13 (cf: P. L. 1973, c. 185, s 10.)

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

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

39 (cf: P.L. 1973, c. 185, s 11)

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

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

9 (cf: P.L. 1986, c. 145, s. 1).

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

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

15 (cf: P.L. 1973, c. 185, s. 17)

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

18. If any person violates any of the provisions of this act,
19 rule, regulation or order promulgated or issued pursuant to the
provisions of this act, the [department] commission may institute
21 a civil action in the Superior Court for injunctive relief to
prohibit and prevent such violation or violations and said court
23 may proceed in a summary manner. Any person who violates any
of the provisions of this act, rule, regulation or order
25 promulgated or issued pursuant to this act shall be liable to a
penalty of not more than [\$3,000.00] \$25,000 to be collected in a
27 summary proceeding or in any case before a court of competent
jurisdiction wherein injunctive relief has been requested. If the
29 violation is of a continuing nature, each day during which it
continues shall constitute an additional, separate and distinct
31 offense. The [department] commission is hereby authorized and
empowered to compromise and settle any claim for a penalty
33 under this section in such amount in the discretion of the
[department] commission as may appear appropriate and
35 equitable under the circumstances.

(cf: P.L. 1973, c. 185, s 18)

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

11. Nothing in this act shall be construed to affect the plans

1 and regulations of the Pinelands Commission pursuant to the
2 "Pinelands Protection Act" (P.L. 1979, c. 111), the Hackensack
3 Meadowlands Development Commission pursuant to the
4 "Hackensack Meadowlands, Reclamation and Development Act"
5 (P.L. 1968, c. 404), or the [Department of Environmental
6 Protection] New Jersey Coastal Commission pursuant to the
7 "Coastal Area Facility Review Act" (P.L. 1973, c. 185). The
8 State Planning Commission shall rely on the adopted plans and
9 regulations of these entities in developing the State Development
10 and Redevelopment Plan.

11 (cf: P.L. 1985, c. 398, s. 11)

12 72. Section 3 of P.L. 1983, c. 356 is amended to read as
13 follows:

14 3. As used in this act unless the context indicates a different
15 meaning or intent:

16 a. "Bonds: means the bonds authorized to be issued, or issued,
17 under this act;

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

20 c. ["Commissioner" means the Commissioner of Environmental
21 Protection:] (Deleted by amendment)

22 d. "Construct" and "construction" mean, in addition to the
23 usual meaning thereof, acts of construction, reconstruction,
24 replacement, extension, improvement and betterment;

25 e. "Cost" means the cost of acquisition or construction of all
26 or any part of a shore protection project and of all or any real or
27 personal property agreements and franchises deemed by the
28 [department] New Jersey Coastal Commission to be necessary or
29 useful and convenient therefor or in connection therewith,
30 including: interest or discount on bonds; cost of issuance of bonds;
31 cost of a bond registrar and authenticating agent; cost of
32 geological and hydrological surveys; up to \$500,000.00 per year in
33 administrative costs incurred by the [department] New Jersey
34 Coastal Commission in implementing this act; engineering and
35 inspection costs and legal expenses; costs of financial,
36 professional or other estimates and advice; organization,
37 operating and other expenses prior to and during this acquisition
38 or construction; and all such expenses as may be necessary or
39 incident to the financing, acquisition, construction and

1 completion of the project or part thereof and the placing of the
same in operation, and also the provisions for a reserve fund, or
3 reserves for working capital, operating, maintenance or
replacement expenses and for payment or security of principal or
5 interest on bonds during or after this acquisition or construction
as the State Comptroller may determine; and also
7 reimbursements to the General Fund or to any other fund from
which moneys may have been transferred to the General Fund, of
9 any moneys expended for or in connection with this project;

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

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

15 (cf: P.L. 1983, c. 356, s. 3)

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

4. The [commissioner] New Jersey Coastal Commission shall
19 adopt, pursuant to law, rules and regulations necessary and
appropriate to carry out the provisions of this act. The
21 [commissioner] New Jersey Coastal Commission shall review and
consider the findings and recommendations of the commission in
23 the administration of the provisions of this act.

(cf: P.L. 1983, c. 356, s. 4)

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

27 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
29 for the purpose of State projects and the making of State grants
and loans to counties and municipalities for the cost of
31 researching, planning, acquiring, developing, constructing and
maintaining of county and municipal shore protection projects.

33 b. Of the total moneys available pursuant to this act,
\$40,000,000.00 is allocated for State shore protection projects
35 and for State grants to counties and municipalities, or agencies
thereof, for county and municipal shore protection projects, and
37 \$10,000,000.00 is allocated for State loans to counties and
municipalities. These loans shall be made to provide the local

1 share of a State grant until the portion allocated for State grants
is exhausted for county and municipal shore protection projects.

3 c. State grants to counties and municipalities, or agencies
thereof, made pursuant to this act shall provide no more than
5 75% of the total cost of a county or municipal shore protection
project, and the affected county or municipality, or agency
7 thereof, shall provide the remainder.

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

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

17 f. Loan rates shall be established by the State Treasurer taking
into consideration rates available in the capital markets for
19 comparable maturities. Local governments will be able to secure
either interim financing, to enable a project to be undertaken
21 before permanent financing is secured, or permanent financing
with a final maturity related to the expected useful life of the
23 project.

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

35 (cf: P.L. 1983, c. 356, s. 5)

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

24. The [commissioner] New Jersey Coastal Commission shall
39 submit to the State Treasurer and the commission with the

1 [department's] New Jersey Coastal Commission's annual budget
2 request a plan for the expenditure of funds from the Shore
3 Protection Fund for the upcoming fiscal year. This plan shall
4 include the following information: a performance evaluation of
5 the expenditures made from the fund to date; a description of
6 programs planned during the upcoming fiscal year; a copy of the
7 regulations in force governing the operation of programs that are
8 financed, in part or in whole, by funds from the Shore Protection
9 Fund; and an estimate of expenditures for the upcoming fiscal
10 year.

11 (cf: P.L. 1983, c. 56, s. 24)

12 76. Section 25 of P.L. 1983, c. 356 is amended to read as
13 follows:

14 25. Immediately following the submission to the Legislature of
15 the Governor's Annual Budget Message the [commissioner] New
16 Jersey Coastal Commission shall submit to the General Assembly
17 [Agriculture and Environment] Committee on Conservation,
18 Natural Resources and Energy, the Senate Energy and
19 Environment Committee, or their successors, and the [special
20 joint legislative committee created pursuant to Assembly
21 Concurrent Resolution No. 66 of the 1968 Legislature] Joint
22 Budget Oversight Committee, as reconstituted and continued by
23 the Legislature from time to time, a copy of the plan called for
24 under section 24 of this act, together with such changes therein
25 as may have been required by the Governor's budget message.

(cf: P.L. 1983, c. 356, s. 25)

27 77. Section 26 of P.L. 1983, c. 356 is amended to read as
28 follows:

29 26. No less than 30 days prior to the [commissioner] New
30 Jersey Coastal Commission entering into any contract, lease,
31 obligation, or agreement to effectuate the purposes of this act
32 the [commissioner] commission shall report to and consult with
33 the [special joint legislative committee created pursuant to
34 Assembly Concurrent Resolution No. 66 of the 1968 Legislature]
35 Joint Budget Oversight Committee, as reconstituted and
36 continued from time to time by the Legislature.

37 (cf: P.L. 1983, c. 356, s. 26)

38 78. Section 8 of P.L. 1973, c. 185 (C. 13:19-8), section 9 of
39 P.L. 1973, c. 185 (C. 13:19-9), section 12 of P.L. 1973, c. 185

1 (C. 13:19-12), section 13 of P.L. 1973, c. 185 (C. 13:19-13),
section 15 of P.L. 1973, c. 185 (C. 13:19-15), and section 16 of
3 P.L. 1973, c. 185 (C. 13:19-16) are repealed.

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

7 80. Sections 37 through 41, inclusive, sections 43 and 44,
sections 47 through 61, inclusive, section 65 and section 67
9 through 78, inclusive, of this act shall take effect 90 days
following the first meeting of the New Jersey Coastal
11 Commission and the remainder of this act shall take effect
immediately.

13

15

ENVIRONMENT Beaches and Shores

17

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

ASSEMBLY ENVIRONMENTAL QUALITY COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE

ASSEMBLY, No. 122

STATE OF NEW JERSEY

DATED: JUNE 30, 1988

An Assembly Committee Substitute for Assembly Bill No. 122 is reported by the committee.

The proposed Assembly Committee Substitute for Assembly Bill No. 122 establishes a New Jersey Coastal Commission; sets forth the commission's powers; transfers to the commission functions now vested in the Department of Environmental Protection (DEP) under sundry acts, including the coastal wetlands act and the Coastal Area Facility Review Act; and appropriates \$20,000,000 to the commission for implementation of bill's provisions.

The purpose of the bill is to promote the protection, preservation and restoration of the State's coastal area through comprehensive planning, regulation, intergovernmental cooperation, and financial support. The powers and responsibilities for achieving these objectives are assigned to a regional commission, the New Jersey Coastal Commission (henceforth referred to as the "commission"). The coastal area comprises the area defined in the Coastal Area Facilities Review Act, P.L. 1973, c. 185 (C. 13:19-4), as amended by section 63 of this bill. The area encompasses parts of 128 municipalities in the counties of Middlesex, Monmouth, Ocean, Atlantic, Burlington, Cape May, Cumberland and Salem.

Section 4 of the bill establishes the commission as an instrumentality of the State exercising essential government functions, and allocates the commission to DEP, but makes the commission independent of department supervision or control.

The commission is to consist of the Commissioners of Environmental Protection and of Commerce, Energy and Economic Development, and the State Treasurer, who shall serve ex officio, or their designees; eight public members representing certain designated interests or groups; and the four chairpersons of the regional advisory councils, who shall serve in an ex officio capacity. The commission may enlist representatives of designated federal agencies as advisors thereto. The public members shall be appointed by the Governor, with the advice and consent of the Senate, and shall

serve for terms of five-years, except in the case of the members first appointed. Three of the public members shall reside outside the coastal area. The Governor shall appoint from the public members a chairperson, who shall serve a three-year term. Public members of the commission and regional council chairmen shall be compensated on a per diem basis for commission and committee work. In carrying out its functions, the commission may employ secretarial and clerical staff, who shall be in the classified civil service, and professional and other employees that it may deem necessary, but the executive director of the commission shall be appointed by, and serve at the pleasure of, the Governor.

Subsection g. of section 2 requires bonds issued by the commission, including refunding bonds, to receive the prior approval of the Governor and the State Treasurer, or the Director of the Division of Budget and Accounting. Actions taken by the commission and recorded in the minutes shall be subject to review and approval or disapproval by the Governor. The commission shall also file annual reports on its activities with the Governor and the Legislature.

The commission, in concert with the regional advisory councils, shall hold an annual conference, which shall be open to the public, to review commission and council activities, to discuss new or continuing regional problems, and to receive public comment.

The commission may be dissolved by legislative action on the condition that the commission has no outstanding debt, contractual duties or other obligations, or provision is made for the discharge thereof. Upon dissolution of the commission, commission property, funds and assets shall revert to the State.

Section 5 declares the specific purposes of the commission to be: to provide a comprehensive approach to managing growth in the coastal area in close cooperation with local government; to protect, restore and promote the environmental quality, natural, scenic, historic and recreation resources of the coastal area, including protection of the ocean's renewable resources; and to maintain the area's long-term economic viability consistent with protecting its environment.

Section 6 enumerates the general powers of the commission, which include: entering into contracts or other agreements necessary or incidental to the performance of its duties; recommending to DEP more stringent water quality standards for surface and ground water in the coastal areas, or their tributaries or watersheds; collecting

fees for review of applications; issuing revenue bonds for water pollution control, public marinas, parking facilities and potable water supply facilities; making loans or grants or issuing loan guarantees to local government units for the cost of projects undertaken, or required or authorized to be undertaken, in accordance with the management plan, which projects are deemed necessary by the commission to effectuate the purposes of the plan, except activity relating to permit issuance; providing local government units with financial and credit advice; participating in joint ventures with other governmental agencies; recommending to the Governor and Legislature the financial resources and additional legislative measures needed by the commission to implement the policies and purposes of this bill; and taking any other actions deemed necessary, convenient or desirable.

Section 7 grants the commission the power of eminent domain, to be used in connection with a commission project if no feasible alternative exists. This power may not be used to acquire State property; nor may it be used in for a project for which revenue bonds are to be issued, unless approval is obtained from the county or municipality in which the project is to be located. The commission may cause, and shall pay the costs of, the removal and relocation of facilities of public utilities and cable television companies required by a commission project.

Section 8 creates four Regional Advisory Councils to advise the commission on the management plan, project priority lists, commission plans, rules and regulations, or other matters submitted to them. Region one comprises Monmouth and Middlesex counties; Region two-Ocean county; Region three-Atlantic and Burlington counties; and Region four-Cape May, Cumberland and Salem counties. Each council shall consist of two county and eight municipal officials and five public members from the council's region, who shall be appointed by the governing body of the member county or counties. In the case of multi-county districts, representation shall be in proportion to the population and land areas of the counties involved. A member may be removed for cause by the appointing authority. The councils shall elect chairpersons and may employ, subject to approval and funding by the commission, secretarial and clerical staff, who shall be employees of the commission, to carry out council responsibilities. Member counties

and municipalities may also provide staff support to the regional councils.

Section 9 stipulates that, within 18 months of its organizational meeting, and after consultation with the councils and public hearings in each region, the commission shall adopt a coastal area management plan. The plan shall be reviewed, revised and readopted at least once every five years. The commission shall provide for maximum feasible council, local government and public participation in the plan's preparation. The management plan shall be closely coordinated with the provisions of the State Development and Redevelopment Plan, though exempt therefrom, and the Pinelands' Comprehensive Management Plan; and the commission shall consider input from federal, State, county and municipal entities in preparing the plan. The management plan shall protect, preserve and, where practicable, restore, the natural resources and environmental qualities of the coastal area.

Section 10 prescribes the main components of the management plan, which include:

- (1) a comprehensive statement of policies for protecting coastal resources and managing development, including the channeling of development into areas already developed or having the infrastructure therefor, or areas where the infrastructure can be efficiently and economically provided;

- (2) a resource assessment that determines the types and amounts of development and other human activities that can be sustained by the coastal area ecosystems, and identifies natural, scenic, open space and outdoor recreation resources of the coastal areas, and the public policies required to maintain or restore these resources;

- (3) a land use capability component for designating growth areas and special land use areas;

- (4) identification of land and water management techniques and other mechanisms that could be utilized by State, regional and local governmental entities to effectuate the policies and purposes of the management plan;

- (5) a reference guide of technical planning standards and guidelines use in preparing the management plan;

- (6) regional planning guidelines and standards for transportation, housing and other land uses, and for effectuating intergovernmental coordination;

- (7) a public access and use component;
- (8) a five-year coastal area capital improvement program; and
- (9) a financial component detailing the cost of implementing the management plan and the revenue sources therefor.

Section 11 requires State, regional, county and municipal government agencies to comply with the management plan, and the commission to insure implementation therefor, in a manner that assures consistent and uniform protection of the coastal area. The commission shall establish, consistent with the management plan, minimum standards for the adoption and revision, as applicable, of municipal and county master plans, development regulations and capital improvement programs. Within six months of the adoption or readoption of the management plan, each county and municipality in the coastal area shall submit, as applicable, its master plan, development regulations, and capital improvement program to the commission for a determination as to whether the plan, regulations and program are in conformity with the management plan. The commission shall also audit the actions of affected counties and municipalities to determine if they conform to the management plan. County or municipal nonconformance may be found for:

- (1) failure to submit its plan, regulations or program for review and approval by the commission;
- (2) rejection by the commission of its plan, regulations or program;
- (3) for specified actions or inactions by the county or municipality that impede implementation of the management plan, including development approvals that individually or cumulatively have an adverse impact on the environmental quality or natural resources of the coastal area.

Upon a finding of nonconformance, the commission shall:

- (1) withhold grants or loans, except for projects for which a substantial regional benefit would accrue;
- (2) notify the Governor and the Legislature thereof, and recommend that all discretionary funding for the nonconforming county or municipality relating to the management plan be withheld;
- (3) withdraw permit delegation, if any; and
- (4) reduce the thresholds for commission review of development applications within the nonconforming municipality.

The commission shall develop a coordination and consistency plan for achieving intergovernmental coordination of policies and

programs to promote the policies and goals of the management plan, and for integrating into the plan land, water and structures managed in the public interest land, water and structures managed, in the public interest, by governmental or nongovernmental entities.

Section 12 requires preparation of the management plan to include an infrastructure needs assessment, a research needs assessment, and a natural resources inventory. The commission is also required to conduct, or cooperate in the conduct of, research on the health effects of water quality.

Section 13 requires the commission to provide technical and financial assistance to counties and municipalities in the exercise of their land use responsibilities pursuant to this bill.

Section 14 requires each county health department to develop and implement a storm drain monitoring program within the coastal area and to submit reports thereon to the commission.

Section 15 sets out the component elements of a storm drain monitoring program, including the preparation of storm drain maps, the monitoring of drain outfall lines, and identification of persons responsible for the unpermitted storm drain connection causing storm water contamination. The program shall be consistent with existing water quality or water pollution laws. Section 16 requires county health departments to take appropriate actions to prevent the introduction of contaminants into storm waters. Section 17 makes county health departments eligible for State grant assistance of up to 75% of the cost of a the storm drain monitoring program.

Section 18 authorizes the commission to recommend more stringent standards for the water quality of bathing waters and for other ground or surface waters. The commission may enforce more stringent standards for ocean waters adopted by the Department of Health.

Section 19 appropriates monies from the Clean Communities Account to the commission for distribution in accordance with a plan, approved by DEP, for meeting the needs of coastal area municipalities.

Section 20 authorizes the commission to prepare and update a priority list for beach or shore protection projects eligible for financial assistance from the commission, the State or federal government units. The commission may undertake a beach or shore protection in joint venture with a federal, State or local government

unit, with the commission providing financial, technical or managerial assistance to the venture.

Section 21 allows any person requiring permit approval from the commission and another governmental entity to seek the assistance of the commission in identifying all permits or permissions required, and requires the commission to prepare and circulate a permit application checklist in regard thereto. Provision is also made for pre-application conferences with prospective applicants. The commission is also required to review its permitting procedures and those of other governmental units and make recommendations to such other units for improving permit processes.

Section 22 creates an Office of Coastal Advocate. The office shall operate under a chief counsel to be appointed by, and who shall serve at the pleasure of, the commission.

Section 23 sets out the duties of the Coastal Advocate, to be performed under the direction of the commission. The Coastal Advocate shall render legal advice to the commission; perform advocacy and representative functions on behalf of the commission; conduct investigations and initiate legal proceeding to promote and protect the environmental quality of the land and water areas within the coastal area and seek appropriate legal remedies in relation thereto; issue periodic status reports on water quality; provide testimony on development or permit applications; and audit the actions of counties and municipalities for conformance to the management plan.

Section 24 concerns the issuance of commission bonds, including the purpose and nature of such bonds, the mechanics of issuance and sale, reserves and security therefor, payments of bond principal and interest, and refund bonds. The bonds shall be obligations of the commission and payable from commission revenues, receipts or funds required therefor, including debt service payments on debt obligations of local governments issued to the commission.

Section 25 deals with bond covenants. Sections 26 and 27 concern the pledging of revenues or other monies or property by the commission, and authorize the commission to provide guarantees for payment of all or part of the principal and interest on obligations of local government units issued for eligible projects. Section 28 prohibits the commission from incurring any indebtedness or liability on behalf of, or payable by, the State or a political subdivision thereof. Section 29 deals with personal liability relating to the

issuance of bonds. Section 30 authorizes the establishment of reserve and other funds or accounts deemed necessary or desirable by the commission.

Section 31 pledges that the State shall not limit or alter the rights or powers vested in the commission to meet its commitments to the holders of its bonds until the principal and interest thereon have been paid. Section 32 declares the commission's bonds to be authorized investments for certain purposes and authorized security for any public deposits.

Section 33 authorizes the commission to require the State Treasurer to reimburse the commission from State aid payable to a local government upon the failure of that unit to meet its obligations to the commission. The commission may also require increases in fees or other charges for services provided by a local unit when the revenues of such local unit have been pledged as security for the payment of principal and interest on commission bonds, and the revenues are insufficient to meet such payments.

Section 34 authorizes a local government unit to lease or otherwise convey real property or an interest therein to the commission without advertisement and on such terms and conditions as the governing body of the conveying unit shall determine; except that only certain properties of the State may be conveyed and then only with the approval of, and subject to conditions set by, the State House Commission.

Section 35 authorizes the commission to establish and collect rates or rents and other charges for the use of, or services provided by, a commission project, and fix the terms and conditions of the use or services. The commission may convey all or part of a project to a local unit of government, and may enter into agreements with public or private entities for the joint acquisition or construction of a project. Local government units are, in turn, authorized to finance such projects by appropriation or the issuance of bonds, and may levy taxes or assessments in connection therewith.

Section 36 requires at least annual audits of the commission's books and accounts by a certified public accountant selected by the State Treasurer. The State Auditor is also entitled to examine the commission's books and accounts.

Section 37 authorizes the commission to issue a joint commission permit and develop a single permitting process for proposed developments in the coastal wetlands or other coastal

areas, but the review and permit shall remain subject to the separate provisions of law applicable thereto.

Section 38 establishes a time-frame and standards for determining the completeness of an application filed with the commission for the purpose of commencing the commission's hearing process.

Section 39 grants the commission the option of holding a public hearing on a given application, and establishes time schedules therefor and for approving or denying an application, or for requiring additional information from an applicant.

Section 40 authorizes the commission to delegate its powers to issue permits under the coastal wetlands act and the Coastal Area Facility Review Act to a county or municipality which has had its master plan and development regulations certified by the commission. The commission may revoke such delegation upon a later finding of nonconformance with the intent and purposes of the coastal management plan. Permit applications filed with, and final actions taken by, a county or municipality to which the commission has delegated permit review authority, shall be filed with the commission. Approvals or denials of permit applications by such bodies shall also be filed with the commission. The commission, on its own initiative, may review local approvals involving delegated powers. Denials of permit applications are not reviewable by the commission.

The commission may review a decision on a permit, issued by a county or municipality under its delegated powers, upon petition by a county, municipality or a party of interest. Petitions for review shall be forwarded to the appropriate regional advisory council, which may elect to engage in dispute resolution or to refer the dispute back to the commission for an adjudicatory hearing. Council dispute resolution agreements are reviewable by the commission. Commission decisions on council agreements or on any permit application are subject to judicial review. All variances issued under the Municipal Land Use Law in the coastal area are subject to review by the commission. Finally, section 40 also establishes time schedules for the appeals and review processes.

Section 41 allows the resubmission of previously disapproved permit applications. Section 42 makes commission employees members of the Public Employees Retirement System. Sections 43 and 44 transfer the functions of the Division of Coastal Resources in the coastal area to the commission in accordance with the State

Agency Transfer Act. That act entails the transfer of the files, employees and monies of the transferred agency to the new agency to which the functions are transferred. Sections 45 and 46 concern matters of statutory construction.

Sections 46 through 51 concern the transfer, from the board of commerce and navigation to the commission, of jurisdiction over water-front and harbor facilities, and navigable waters in the coastal area.

Sections 52 through 54 transfer to the commission authority to repair, construct, or reconstruct bulkheads, seawalls, breakwaters, groins, jetties, beachfills, dunes and other appurtenant structures within the coastal area. These powers are currently exercised by DEP.

Sections 55 and 56 transfer functions of the Divisions of Marine Services and of Resource Development in the coastal area to the commission.

Sections 57 through 59 rescind the Commissioner of Environmental Protection's authority to review applications for construction in the coastal area.

Sections 60 through 68 effectuate the transfer to the commission of authority to regulate designated construction and other activities in the coastal area. Section 62 also redefines the types and sizes of facilities subject to, or exempted from, coastal area permit reviews. The most important changes involve new thresholds for residential developments in designated growth areas of certain State aid municipalities, and the proposed location of residential and commercial developments between the mean high water lines of tidal waters and the nearest parallel public street or road, or 1,000 feet, whichever is greater. Section 64 exempts from the new thresholds developments that have received preliminary or final subdivision or site plan approval prior to the bill's enactment date. Section 63 omits from the definition of coastal area certain areas subject to the "Pinelands Protection Act." Section 67 amends the findings that must be made in order to issue a permit for development in the coastal area.

Section 71 exempts the commission's management plan from the State Development and Redevelopment Plan. Sections 72 through 77 transfer to the commission the authority, currently vested in DEP, to carry out the provisions of the Shore Protection Bond Act of 1983, including designation of shore protection projects to be funded thereunder.

Section 78 repeals various sections of the Coastal Area Facility Review Act. Section 79 appropriates \$20,000,000 for implementing the provisions of the bill. Section 80 provides that certain sections of the bill shall not take effect until 90 days following the first meeting of the commission. These include: the permit provisions contained in sections 37 through 41; the transfer provisions contained in sections 43, 44, and 47 through 61; and certain related provisions contained in section 65, and sections 67 through 78.

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ASSEMBLYWOMAN JOANN H. SMITH (Chairperson): Good morning, everyone. This is a public hearing of the Assembly Appropriations Subcommittee on Governmental Operations, with reference to Assembly Bill No. 122 Acs, better known as the New Jersey Coastal Commission Act. Our purpose here today -- the purpose of this Committee -- is to relate to the funding mechanism for this particular piece of legislation. It is also to listen to any testimony from anyone who has anything they wish to say relative to any parts of this piece of legislation. We will be having several meetings across the State of New Jersey with reference to this piece of legislation, so everyone will have an opportunity to be heard.

I would like to welcome all of you, and I would like to welcome Mayor Marino, from Hazlet. We will give him an opportunity to speak briefly. Good morning, sir.

M A Y O R M A R T I N M A R I N O: (speaking from audience) Thank you very much. I wish everyone good morning, and welcome to Hazlet. The Coastal Commission is going to be very important to the towns along the coast here, especially to my friend, Carmen Stoppiello, of Union Beach, who needs a lot of money. (laughter)

ASSEMBLYWOMAN SMITH: This is all on the record, by the way, Marty. Please use the mike.

MAYOR MARINO: This is not a mike. This is only--

ASSEMBLYWOMAN SMITH: No, that is for the transcript. That puts everything on record.

MAYOR MARINO: Well, Carmen is always crying for money. It is very important to the rest of the towns. We welcome you to Hazlet, and if we can be of any help, please feel free to call upon us.

Thank you very much.

ASSEMBLYWOMAN SMITH: Next, the infamous Carmen Stoppiello. Would you like to make a comment, sir? Please step up front.

MAYOR CARMEN STOPPIELLO: (speaking from audience) May I talk now, because I have a luncheon to go to, and it's free? I am going to a free luncheon--

ASSEMBLYWOMAN SMITH: You have to speak into the mike, though, sir.

MAYOR STOPPIELLO: --and I've got my folder with me. Does everybody see it? I don't like my back to anybody. (turning away from microphone) I attended the first meeting on this Coastal Commission in -- I think it was in Brielle, at the Mooring Inn -- with Lenny Arms -- Mayor Arms, I should say -- Mayor Huhn, James Mancini, Brenda Davis, and I was very honored to be invited, coming from a small municipality such as Union Beach -- 6400 population, a mile point six square, eight-tenths of it is meadowlands. But, I was honored in the sense that we were never on the map until-- Maybe in 1979, you could see Union Beach on the map.

I am here to support the Commission. I'm sorry that I missed other meetings in Trenton and in other municipalities, but I do work for a living. I work for the New Jersey Department of Defense. I have been with them for 31 years, always with the National Guard system. But I had the opportunity to be here this morning, because I live across the street -- right next-door.

I think the best thing that has happened with this Commission is, it is going to cut a lot of red tape. I have good examples in Union Beach, such as our Shore Protection Plan, which was approved back in March of '87. We still do not have a shovel in the ground to build the wall to protect our residents. Why? Because DEP, the Division of Coastal Resources, which is in Toms River-- I am not going to mention names now. If I mention names, I will have to mention council members. I can't put the blame on anyone, but two departments didn't know what was going on.

We had the approval to build a wall to protect our residents who live on this side of the water. But the DEP in Trenton said, "Wait a minute. You have to get a permit from us to put that wall up." Now this is two months later. So now we had to get an inspector from DEP to come down, look at the design, and the design has to be changed by the engineer, which could cost the borough more money.

What I am trying to get at is-- I am trying to prevent the red tape. With Brenda Davis' office, I have to commend the Governor -- whether we like it or not. The State is moving along great. Unemployment is low. So, this is his idea, and maybe it's other people's idea. I don't know why, all of a sudden, I get communications from an Assemblyman; I get communications from the League of Municipalities, that they are backing out. Now, this happened in 1987. Why? Why can't we pull our act together in Trenton, and work together like today? Let's iron it out.

I normally deal with my Councilmen -- Councilman Van Orden, Councilman Normile. If we have a problem within the community, we work it out ahead of time. We try to iron it out. You don't read about us -- and I hope it never happens -- about bad things that happen in Union Beach. We are looking toward the future.

I have another example, the stream encroachment permit-- Does anyone know what that means? How many people really know what that means? I didn't know what it meant when I first got into office in 1984. I have a resident who worked his butt off in Fort Monmouth, who wanted to build a home in a flood zone. He was told that he would have to go nine feet above sea level, a \$150 cost to DEP for somebody to come down there and say, "Okay, you can build." Well, maybe this Coastal Commission could prevent that kind of a tactic. One hundred and fifty dollars on a guy who made, maybe, \$22,000 a year, and he waited six months for the permit. This is what I'm after. Cut the red tape out.

The other thing -- not to be too long, because, as I told you, I have a free lunch to go to; this is one of the first times in a long time -- is, the 50% destruction of someone who owns a piece of property under water. I think they should be allowed to build the same size. That is my opinion in the draft. I have the original draft here -- and you can see it is original -- from 1987. Then I have the new booklet, which is revised, which worked out pretty well. Then I have a letter here against the Commission. Then I have another letter here that is for the Commission. I mean, I'm going nuts trying to get it across to the people.

I made some notes after I took my nice two-minute shower this morning. Building away from the water-- I agree with the Governor. We should not let anybody build on the water, because we had, in Union Beach-- I've got my witnesses right here. Hurricane Gloria ruined our beach front. What did the resident do next? He came to us for money. We can't help him. We don't have the money. So if there is vacant land, we should not allow people to build directly on the water. I would even venture to say, go back 600 feet, or 400 feet. Again I bring the issue up: Who owns the mean low water line? The State of New Jersey. I can't put a fishing pier out there for our residents with my borough workers, because the State of New Jersey owns the water line. But, they don't clean it at low tide. You can look at our beach front at low tide, and it is deplorable. It's dirty; it's filthy, but they don't clean it for us. I have been trying to get the State to clean it for us. Maybe the Coastal Commission can take care of that problem. Okay?

The small lots in town-- For instance, would anybody here -- Mayors and whatnot-- Would you like to see a home built on a 25 by a 100 lot? We just lost a case in court. Maybe the Coastal Commission can help us with that financially. A 25 by a 100 lot-- We have a master plan

whereby you can't build on anything less than 75 by 100. The man took it to court, and he beat the case. Right? Why did he beat the case? He bought the grandfather clause with the lot. He bought it before 1962. Now we're looking at a square matchbox building, with nowhere to park a car, and he parks on the street.

I mentioned waiting for permits. In the draft-- If everybody read the book, and I think people should read the book before they make complaints or go for it-- The State of Florida, you ride through it, and they must be doing something right. It is right in the book. We should follow some of the models of other states. The Coastal Commission is very much needed. A person who was against it said something about using other employees. What's wrong with Middletown helping me out a little bit? What's wrong with Union Beach helping Middletown out a little? What's so wrong with that? What, do we live in Russia? What's so wrong with saying, "You know, Middletown, we need your plow"? Sure, what's wrong with the Coastal Commission asking for help to help another municipality? Some municipalities are fortunate. Mayor Marino has a lot of ratables along Highway 36 -- stores. I don't have that in Union Beach. I don't have the ratables. Our tax rate is \$4.77 a hundred. We just raised the taxes \$385 per home. I think the Coastal Commission could come in, in that area.

I think the Coastal Commission could work with the Highway Authority. The Highway 36 Corridor is disgraceful; it's deplorable. But everybody from Paterson, Newark, all up in the northern area -- and I don't condemn anybody; I don't mention names -- comes down this way, jams our highways, and I can't get out to the A&P. My wife is afraid to drive the car. Maybe the Coastal Commission can help with that.

I am really not against developers, but we have to control the developers. I have another one: We have to cut our water consumption 50% by 1990. Why? Too many people in

Monmouth County. So, we have to put a control on developing in the area. I have a developer who built 24 homes here. So we said, "Wait a minute. You can't put another 10 more there." He went down the street, bought that property, and put 24 more there. He saturates my borough. He makes a bundle, and he goes to Hawaii every year. I can't afford it.

Marinas: When we met down at the Mooring Inn, there was a good point brought up about marinas. If a municipality wants to put a marina in, they go to the Coastal Commission and ask permission to do it. The Coastal Commission may say, "You have too many now. You're saturating your community with too many marinas." We see public officials come and go. I saw mayors in my municipality -- who do not live there any more -- put a big blockade up on Pool Avenue -- a triangle which is dangerous. We took it out. They did a lot of other things. They moved out; they're gone. I have to live with it.

But I certainly agree with the 50%. If my home goes down, let me put it back up. I also agree that-- If a municipality needs our help, I would be willing to help them. This piece of literature I got from an Assemblyman said to put borough employees to work. Well, if they read the book, it is putting an auditor to work; it is putting an attorney to work. Isn't that what we want? If the town of Middletown wants to put up so many homes, or whatever, well, maybe the Borough of Union Beach could have the attorney help the Coastal Commission to look into that area, to see if that is what they should have.

But, let me tell you something: The guys up in the Assembly and the Senate-- All I hear is fighting, bickering. Why don't they resolve their problems? I have been reading about the Coastal Commission since Brenda introduced it in 1987. What is it coming about? When is it coming back? What's happening here? In '87, you had an election, with new people in office. I don't know if they made changes.

I'm only going to be another minute, because I don't want to be late.

ASSEMBLYWOMAN SMITH: Take all the time you need, Carmen.

UNIDENTIFIED SPEAKER FROM AUDIENCE: Don't give him that, please. (laughter)

ASSEMBLYWOMAN SMITH: Within reason. Mr. Mayor, within reason. He's going to lunch. Don't worry, he'll be out in time.

MAYOR STOPPIELLO: I still have James Mancini's card from 1987. I have Lenny's card. But, you people have to let-- You know, I learned something with the National Guard, giving seminars. You can't teach common sense. No schoolteacher in the world can teach common sense. The only common sense that can be taught is in Russia. You do what they tell us, and that's it. Okay? I had a resident in Manasquan at the inlet. There are three beautiful homes across the street from the marina. They want to put another little -- what do you call it, a ramp, what they put the boats in?

ASSEMBLYWOMAN FARRAGHER: A boat ramp.

MAYOR STOPPIELLO: They tried for two years to get a permit to put another slot in there, and do you know what this guy said -- 28 years old -- and I'll prove it to you? "You can't disturb that dirt at that corner there, because the fish breed there." This guy pays lots of taxes, good money, and he can't put a slot there because of the little fish. The fish will move. We know that. The fish will find another area. Again, that is the red tape.

I think the Coastal Commission is a good program. I think it is going to help everybody. I think it is going to help the Borough of Union Beach, because-- How many people from Union Beach are here? (response from audience) Very few. Do you know that Union Beach used to be the safest beach to bathe at years ago? No dips, no whirlpools. You could walk across to Keansburg at low tide. Union Beach had the third best drinking water in the State of New Jersey back in '64, up

to '70. Do you know what happened to that? The overdevelopment that came in. I can't tell Middletown or Hazlet or any other municipality, "You're building too much. You're bringing in too many homes." I can't do that. I am not a developer. I had a tavern and a banquet hall. I worked with a lot of people.

But I really sincerely believe that somehow, the Coastal Commission should get a trial. I am very upset with the League of Municipalities, and maybe I should withdraw my membership, because they came out and made a last-minute change, and never told anybody about it, that they are taking their support away from the Coastal Commission, after spending all kinds of money and all this hard work.

So I think, Madam Chairman, that \$20 million is nothing. It's peanuts. I think you should grant it, and get those guys going. Thank you very much.

ASSEMBLYWOMAN SMITH: Thank you, Mayor Stoppiello.

Before we go on to our next testimony, I just realized an oversight on my part. I would like to introduce everyone on this panel for the benefit of those of you in the audience who do not know them. We will start with Fred Butler, who is legislative staff out of the Appropriations Committee. Then Assemblyman Bob Smith, who is not a relative. He is from the Plainfield area. (indiscernible comment from audience) Don't tell him; don't tell him. Assemblywoman Clare Farragher and Assemblyman Kelly, and Doris Windle, who is part of the staff. We also have OLS people here who help to make us look good. They are the people who put in the work and the time to help us to generate the bills and make them all legal and proper, and they are the people who do the transcripts, and if you want a copy somewhere down the road, they will be available.

And, in the audience, my colleague from this district, Assemblyman Joe Kyrillos, and Assemblyman John Bennett, who is one of the prime sponsors of this piece of legislation.

I think we are going to call John next. Assemblyman Bennett, would you please come up and make a few comments?

A S S E M B L Y M A N J O H N O. B E N N E T T: I am not going to read all of this. (referring to papers he is carrying)

A S S E M B L Y W O M A N S M I T H: I hope not.

A S S E M B L Y M A N B E N N E T T: Good morning, Madam Chairperson, members of the Committee. Before starting with anything specific, I would like to commend this panel, and in particular you, Assemblywoman Smith, for bringing the panel here to the bay shore. When we talk about the Coastal Commission, it is very clear to many people the specifics as to-- We think about along the beaches of Ocean County, Atlantic County, down in Cape May County, and some of the shores along the beach part of what we consider the Atlantic Ocean coast. But, many times, there is not the focus placed on the bay shore, the section of Monmouth County that you have served. I commend you for bringing this Committee here and kind of focusing the eyes of the whole State on this particular part of the State which you represent; bringing your Committee here today on an issue that is so vitally important to this area. You are to be commended, and also the members of your panel who have traveled distances from other parts of the State. I am very pleased to have them here in Monmouth County. So, I congratulate all of you on your efforts.

The Assembly bill that is in front of you is a very long and complex bill, which was put together in response, if not in reaction, to some 15 years of experience with coastal protection under the Coastal Area Facilities Review Act -- CAFRA. You know, when Doc Villane left the Assembly and went on to the Department of Community Affairs, he talked about how this would be a change in his responsibilities and, in fact, he would not have the day-to-day activities of the Assembly, which he would miss, but that he was leaving things behind that he was sure would be handled properly, or expeditiously.

Little did I realize that those bills he left behind included such things as this Coastal Commission and the Natural Resources Trust Act, which are not just little things that he left behind, but rather mammoth pieces of legislation -- complicated, complex, and in some cases, I've heard, which even have some controversies surrounding them -- both of them. I believe that the good work that Doc Villane put into these bills deserves to be mentioned. This bill now has my name, but it wouldn't be possible if Doc hadn't gotten the ball started and moving ahead.

I believe that A-122 is an effort both to build on the experience and accomplishments under CAFRA, as well as to remedy some of the grievous faults identified therewith. The choice before this Committee -- and I might add, the Legislature -- is not whether or not to regulate development along the coast, but whether the Legislature is capable of making the necessary mid-course corrections in legislative policy in response to the obvious shortcomings of existing coastal policy. To this latter end, A-122 has the following principal objectives:

To move from an ad hoc, piecemeal regulation of waterfront developments to a comprehensive regional plan for managing the resources of, and development within, the coastal region, in much the same manner that municipal planning in New Jersey has evolved with the enactment of the Municipal Land Use Law.

To afford, through the Coastal Commission, residents and communities of the coastal region direct involvement in planning and permit processes for coastal land use and development. And, through the Commission and the coastal advocate, to provide a spokesman for the concerns, an advocate of the interests of the coastal region.

To close a number of the loopholes in the current regulatory order that allows developers to circumvent the spirit of the Coastal Area Facility Review Act.

And finally, to simplify the permit review process for both the applicants and the regulatory agency, and establish precise time frames for the review and approval, or denial, of permit applications.

Insofar as the fiscal aspects of the bill are concerned -- which is of particular concern to this Committee -- I would like to take a moment to discuss them. It is important to note that the Coastal Commission is unlike authorities, which possess independent revenue sources. The Legislature, shore towns, and coastal counties will have complete oversight of the Commission's financial resources, thereby assuring accountability. Most Commission activity will be funded through the legislative appropriation. After discussions with the Governor's office, and a review by Legislative Services, I have decided to reduce the appropriation request contained in the bill in front of you today, from the \$20 million contained therein, to \$5.9 million. See how we can save and economize.

As you know, the \$20 million figure dates back to 1987. Since then, the bipartisan ocean pollution package has passed the Legislature, and much of it has been signed into law by the Governor. This enables the reduction in the request without sacrificing any of the intentions in the bill.

The Commission will also be able to undertake four types of projects utilizing revenue bonds. They are: Public marinas; public parking; potable water; and remedial wastewater treatment. Analogous to the Legislature's control over Commission appropriations, we have given shore towns and counties veto power over Commission bonding. You will hear more about the financial issues later this morning from the Governor's office, but I must reemphasize, there is complete oversight of the Commission funding and, therefore, complete accountability.

By way of background on the bill, the original bill was prepared in cooperation with the mayors of the coastal communities, as you have already heard. The bill incorporated many of the concerns of the mayors and, despite numerous amendments to the bills made at the standing reference committee stage, the principal concerns of the mayors have remained intact. The Assembly Committee Substitute before you today does, however, incorporate a large number of proposals made by environmentalists and builders' groups, which the Environmental Quality Committee -- which, I believe, strengthen the very beginning and the primary objectives of the bill.

The Committee should also be aware, that as a prime sponsor of this bill, I am engaged in a continuing dialogue with concerned parties, in order to make this bill an even better bill. I also place myself and my staff at the disposal of both this Subcommittee and the full Appropriations Committee during your consideration of this bill. I will be happy to answer any questions you may have on the bill, either now or at a later time. But I must tell you that, out of all the pieces of legislation I have had occasion to deal with in the nearly 10 years I am in the Legislature, no one single piece of legislation, perhaps, goes as far, or to the degree that I believe, to leave a lasting part of my legislative career behind, as this Coastal Commission.

To preserve and protect what we have left along our beaches is an important goal. We can do much better if we deal with the coastal people, putting a plan together, and seeing to it that it is implemented with a strong coastal advocate to protect and assure that the future of the State of New Jersey will not only be safe from future polluters, but that we can aggressively seek those who have violated the water quality standards in our coastal area. A strong advocate is a commitment this bill has; a commitment that I feel is essential to its passage, and a commitment that is going to make us move

ahead. I believe that working together, listening to how we can make the bill better, we can come forward with a bill that will go a long way towards ensuring a cleaner ocean, a better ocean, and a better generation to come because of the legacy we have left them.

Thank you very much for your consideration today.

ASSEMBLYWOMAN SMITH: Thank you, Assemblyman Bennett. Is there anyone on the panel who has any questions at this time?

ASSEMBLYMAN SMITH: Sure.

ASSEMBLYWOMAN SMITH: John, don't go away.

ASSEMBLYMAN BENNETT: I have staff with me. Are you going to allow me to do that?

ASSEMBLYMAN SMITH: Whatever. I am just trying to get some information, John.

ASSEMBLYWOMAN SMITH: Before you go on, Assemblyman Smith, I would just like to acknowledge the fact that Brenda Davis and Ralph Izzo are here representing the Governor's office. They can help to answer some of the questions.

ASSEMBLYMAN SMITH: All right. First of all, Assemblyman, by way of preliminary comments, the bill is 70 pages long. It is -- as you said in your opening remarks -- a very, very complex piece of legislation. After having read it, I have a couple of questions, and I want to get clarification from the bill's sponsor, so I can understand exactly what is provided for in the bill.

First, as I read this -- and correct me if I am wrong -- the Coastal Commission will set up a primary list for infrastructure in the area managed by the Coastal Commission. Am I correct on that?

ASSEMBLYMAN BENNETT: Contained within the master plan.

ASSEMBLYMAN SMITH: Right. Now, currently-- And that includes wastewater treatment plants -- wastewater treatment modifications, etc.?

ASSEMBLYMAN BENNETT: Yes.

ASSEMBLYMAN SMITH: Okay. Currently, the Department of Environmental Protection sets up a priority list for wastewater treatment infrastructure around the State of New Jersey, so, in effect, it sets up a second priority list mechanism. The question I have for you is-- I ask it because the way DEP sets up its priority list for the State of New Jersey is, it says, "What's the worst?" and it goes down the list. If there is a separate priority list set up under the Coastal Commission, is this fair to the other 500-plus municipalities that are not shore municipalities?

MAYOR STOPPIELLO: (speaking from audience) May I help with that?

ASSEMBLYWOMAN SMITH: Let the experts help on that.

MAYOR STOPPIELLO: I am an expert.

ASSEMBLYWOMAN SMITH: I know you are, Carmen.

D R. B R E N D A S. D A V I S: Maybe I can take a shot at that, and then if John wants to get into--

ASSEMBLYMAN SMITH: Whoever.

MAYOR STOPPIELLO: I like that question.

DR. DAVIS: Liking that question-- A priority list for shore projects would not, in any way, replace the priority list established by DEP -- the statewide priority list -- which we are required to develop by Federal law and Federal regulation, which makes us eligible for the Federal funds. So, the question of looking at the capital needs in the coastal region and setting up a priority list, is not to be inconsistent with the statewide plan, but looking carefully at coastal needs -- where are the highest priorities there? So, it does not replace the Wastewater Treatment Trust list.

ASSEMBLYMAN SMITH: Right, I understand that. But doesn't it, in effect, put the coastal needs ahead of the other wastewater needs around the State, because there is a separate funding mechanism established?

DR. DAVIS: But there isn't. See, there is not a separate funding mechanism. That's the point. So, it cannot put--

ASSEMBLYMAN BENNETT: But you still have the ability to do the bonds. If you carry it specifically to what you're saying, there will be an additional vehicle available to produce additional dollars for those towns contained in the coastal district. That's true. That would not necessarily mean that there would be any differences within the priority and environmental sensitivity of development, because we could still coordinate the two lists, only potentially there would be additional dollars for the wastewater treatment funding through the bonding, which is the usual generator.

DR. DAVIS: What John is talking about certainly is correct, but this priority list could not replace the priority list for statewide eligibility for Federal funds.

ASSEMBLYMAN SMITH: Right, I understand that it is not being replaced.

DR. DAVIS: This is only for wastewater treatment plants, where a municipality, or a group of them, requests the services of the Commission to do bonding for those projects.

ASSEMBLYMAN SMITH: Okay. The bill refers to user fees as a way in which to fund the revenue bonds -- to pay them back.

ASSEMBLYMAN BENNETT: Yes.

ASSEMBLYMAN SMITH: What user fees are-- Do you mean-- What are the user fees? Give me some examples.

ASSEMBLYMAN BENNETT: For instance, a parking authority. If there were a parking lot, parking fees would be the fees. A marina would be from the rentals of the dockage or the slips, and whatever other-- Now, they are two. Wastewater treatment would be from the users of the-- Whoever uses it. They are three. There are four, but I am not sure what the fourth one is.

ASSEMBLYMAN SMITH: Those are the ones that come to mind immediately, okay. In part of the bill, it says one of the things the Commission would do, would be to make recommendations concerning compensation to landowners who may have lost, either their right to rebuild their property, or to build on their property -- period. What user fee would compensate that owner for the loss of his development rights?

ASSEMBLYMAN BENNETT: There is no bonding for eminent domain.

ASSEMBLYMAN SMITH: So, how would these people be paid?

ASSEMBLYMAN BENNETT: You can only use the bonding funds -- that mechanism of funding for the user fees. The Legislature is the authority for any balance of the dollars that are necessary. That gives a greater control, to prevent the Commission from taking steps -- of moving ahead in eminent domain. That would be contrary to the Legislature.

ASSEMBLYMAN SMITH: The legislation has a \$20 million appropriation. Has there been any analysis by the Office of Legislative Services concerning the fiscal impact--

ASSEMBLYMAN BENNETT: Yes.

ASSEMBLYMAN SMITH: --with respect to the eminent domain provisions of the law?

ASSEMBLYMAN BENNETT: Oh, no. I can answer that. There hasn't been, because as a practical matter, the only eminent domain issues that would arise-- At such time, they would have to have funding that would be able to be utilized, and that aspect is not in current-- It would only be after the development of a management plan could be placed that there would then be -- if there would be any necessity for that. I am trying to think when there would be, but--

ASSEMBLYMAN SMITH: Well, I understand what you're saying. I believe what you're saying is, it is hard to estimate what the costs would be before the management plan has been developed.

ASSEMBLYMAN BENNETT: Correct.

ASSEMBLYMAN SMITH: However, the other side of that, from my own practical experience-- My wife and I, at one time, looked to purchase some shore property. All right? We never have, so I have absolutely no interest in terms of a conflict of interest, with regard to this piece of legislation. Shore property is unbelievably expensive. I mean, you're talking about gold, almost an equivalent pound for pound. It would seem to me that one of the things the Legislature should have, prior to its consideration, is some calculation of what the fiscal impact would be, with regard to the eminent domain provisions.

I would ask that you, as the bill's sponsor, request that from OLS, to see if they can get us some numbers, so we can-- I mean, at some point-- What you said was, the Legislature has to foot the bill. It is not the Coastal Commission on eminent domain. So, I would like to know, what are we getting ourselves into, in terms of future costs? I would appreciate it if you would request OLS to give us that analysis prior to the Legislature reviewing it.

As I read the bill -- Clean Communities money-- It appears that the Coastal Commission will be dispersing the funds according to DEP's guide plan with regard to coastal communities. Is that part of the \$20 million, or beyond the \$20 million?

R A L P H I Z Z O: That was old money that was part of the litter control efforts. The \$5.9 million Assemblyman Bennett referred to is above--

ASSEMBLYMAN SMITH: Above the \$20 million?

ASSEMBLYMAN BENNETT: Yes.

ASSEMBLYMAN SMITH: Okay. As I read this, it appeared there was financial assistance provided to local shore towns to do planning studies and master plans, etc.

ASSEMBLYMAN BENNETT: That is in the \$5.9 million.

ASSEMBLYMAN SMITH: That's in the \$5.9 million Clean Communities money?

ASSEMBLYMAN BENNETT: No, no, the \$5.9 million is not Clean Communities. I'm sorry. The \$5.9 million is what I have asked the \$20 million to be amended to. I said that in my opening remarks. I'm sorry.

ASSEMBLYMAN SMITH: All right, okay. We don't have that in writing yet, right?

DR. DAVIS: No.

ASSEMBLYMAN BENNETT: No, I just did it.

ASSEMBLYMAN SMITH: Okay. So, it's a total of a \$5.9 million appropriation now?

ASSEMBLYMAN BENNETT: Correct. Now, that does not deal with the Clean Communities.

ASSEMBLYMAN SMITH: I understand. It's separate from it.

ASSEMBLYMAN BENNETT: The anti-litter money is for everybody, and that is separate.

ASSEMBLYMAN SMITH: Got it. All right. With respect to the planning -- the grants for the municipal government--

ASSEMBLYMAN BENNETT: That is in the \$5.9 million.

ASSEMBLYMAN SMITH: Okay. How much of the \$5.9 million is going to be associated with the planning grants? Has there been any allocation figured out for the individual towns, or is there a total pot that will be available to the towns?

MR. IZZO: After the management plan is complete, you will have 126 municipalities, for the first time, having to come into conformance.

ASSEMBLYMAN SMITH: Right.

MR. IZZO: We estimated approximately \$30,000 per municipality, on average. Obviously, some towns are larger than \$30,000.

ASSEMBLYMAN SMITH: What is that total? I don't have my calculator.

MR. IZZO: When you total that out, it's \$4 million approximately.

ASSEMBLYMAN SMITH: So, you're saying that of the \$5.9 million that is in the appropriation--

MR. IZZO: No, no. So, \$4 million after the year and a half of development of the management plan would be needed for municipal conformance. That would not be needed in the first year. Therefore, the \$4 million is not included in the \$5.9 million.

ASSEMBLYMAN SMITH: Not in the \$5.9 million?

MR. IZZO: That's right.

ASSEMBLYMAN SMITH: Okay. Now the question is, where does that come from?

ASSEMBLYWOMAN SMITH: Excuse me, Assemblyman. Might I make a request to Assemblyman Bennett, through the Chair, could you please, through your office -- or yours, Skip -- give us a breakdown, in writing, so that before we have the next hearing, this Committee will have copies of how you break down--

MR. IZZO: That was made available to OLS staff late last week. I apologize if that--

ASSEMBLYWOMAN SMITH: Well, we don't have a copy. It is important that we know where your breakdown is and where the funding goes. Okay? Assemblyman, please continue.

ASSEMBLYMAN SMITH: Yes. Following up on that question, as I understand the Governor's representative, the \$5.9 million is not for the planning grants, but there is an additional \$4 million that will be needed for the planning grants. Where is the \$4 million?

MR. IZZO: It would be a request for an appropriation.

ASSEMBLYMAN SMITH: So, it hasn't been appropriated?

MR. IZZO: No. That's correct.

ASSEMBLYMAN SMITH: Okay. And the \$30,000 per town is just an estimate. It is not based on town size.

MR. IZZO: It is based upon what towns-- It is an average number that is not at all unusual for some of the typical towns.

ASSEMBLYMAN SMITH: What happens if the Legislature doesn't appropriate it?

MR. IZZO: Then the towns won't have the assistance, or the Commission would have to reorder some of its priorities to make it available out of the \$5.9 million.

ASSEMBLYMAN SMITH: All right. But, the towns are mandated to provide the plan? (Mr. Izzo nods in the affirmative) Okay.

With respect to the clean ocean advocate -- all right? -- as I read the bill, the clean ocean advocate has, in addition to a broad range of powers, prosecutorial power. I would gather that would be for the alleged violation of environmental statutes.

ASSEMBLYMAN BENNETT: An impact on water quality.

ASSEMBLYMAN SMITH: An impact on water quality, okay. Now, the Governor's advisers may or may not be aware of the fact that I have a piece of legislation to establish an environmental prosecutor and an environmental crimes grand jury, which would cover all environmental crimes in the State of New Jersey. When the Attorney General has been before us, and I have brought this up to him, he has stated to me, "Mr. Assemblyman, you are way off base. All of the environmental criminals in New Jersey are in check. I've got a super staff. It is better than anything at the Federal level. In fact, we have more people in the State of New Jersey than at the Federal level." When I pointed out the horrible statistics, the very few number of convictions, where people are going to the slammer, and the very low size of the fines that are imposed, he said, "Well, I still have the best staff, and we are still doing a great job," and whatever.

Is this, in effect, a statement that the Attorney General is not doing his job?

ASSEMBLYMAN BENNETT: This is a statement that we think the job perhaps can be done better.

ASSEMBLYMAN SMITH: I agree with that.

ASSEMBLYMAN BENNETT: It can be done better, because it would be in the hands of people who would have no other responsibilities, and who, on a day-to-day basis, would never be competing for the importance.

ASSEMBLYMAN SMITH: That is what I said about the environmental prosecutor.

ASSEMBLYMAN BENNETT: Well, that is a far greater-- What you are doing, is placing the jurisdiction of the coastal concerns underneath one umbrella. You are also giving, underneath that same umbrella, the opportunity to the Commission, through their employee -- the advocate -- to be able to go out to enforce -- to see that that plan works, and that the impact underneath that umbrella is a do-able, workable function. That is why this prosecutor is designed -- this prosecutor/advocate -- to do those responsibilities, as opposed to a broader--

ASSEMBLYMAN SMITH: Okay. A clean water prosecutor is going to require some technical assistance. I mean, obviously many of these crimes involve putting contaminants in discharges that either exceed permits, or which are not permitted in the first place. Will the clean ocean advocate have a separate technical staff to perform the taking of samples and the analysis of samples, or will he be utilizing DEP staff for that?

ASSEMBLYMAN BENNETT: Well, it won't be DEP staff under the-- Some of it will be, but some of it is going to be coastal staff. The Coastal Commission has the right to hire the employees necessary for its support. He gets to hire his own independent legal staff.

ASSEMBLYMAN SMITH: Okay.

ASSEMBLYMAN BENNETT: Hopefully, that answers it.

ASSEMBLYMAN SMITH: All right. Well, the question I have is, as I remember the staff of DEP from our -- and I shouldn't really do it from memory -- but the staff of DEP, I thought, exceeded 10,000 people in the State of New Jersey. Somebody correct me if I am wrong. I assume that that is about the right figure.

DR. DAVIS: That's a lot.

ASSEMBLYMAN BENNETT: Whatever. Thousands, it has to have. I'm not moving them all over.

ASSEMBLYWOMAN SMITH: Excuse me, Assemblyman. Is there anyone here representing DEP today? (no response) I guess not. We'll make sure there is somebody at the next hearing.

ASSEMBLYMAN SMITH: Yes, but it is definitely on the order of thousands, and I thought it exceeded 10,000. But, in any case, that is for 567 jurisdictions. The number of jurisdictions involved in this is 126?

DR. DAVIS: One hundred and twenty-eight, I think.

ASSEMBLYMAN SMITH: One hundred and twenty-eight. If there is going to be a separate technical staff, a separate legal staff to do environmental law enforcement -- and I have to totally agree with you; in my opinion, it can be done a lot better -- has there been any analysis done on the size of either the technical staff or the law enforcement staff, and what that annual budget would be, in order to enforce these laws?

ASSEMBLYMAN BENNETT: Well, the numbers supplied to the staff person himself are done for the first year. That \$5.9 million is only the staffing to get -- for the coastal advocate to set up.

ASSEMBLYMAN SMITH: To get rolling, right.

ASSEMBLYMAN BENNETT: As a practical matter, until the management plan is completed, his role will be -- not as great in the beginning, obviously, as it will be once the plan is

concluded. And one would have to suspect that the funding amount for the coastal advocate is, quite frankly, going to increase. I mean, I am not telling you that that won't happen.

ASSEMBLYMAN SMITH: I understand that.

ASSEMBLYMAN BENNETT: Now, I could go so far as to say that in the event that the present Attorney General's staff is so effective, it would not be surprising if some of those people might be hired to work for the Coastal Commission advocate's staff, because they are so good, they will no longer have to be performing that service.

ASSEMBLYMAN SMITH: For 120 towns? For water pollution?

ASSEMBLYMAN BENNETT: Right. So, certainly we won't have duplication of the prosecutions. That is the bottom line.

ASSEMBLYMAN SMITH: Yeah, I am not worried about duplications. I would be thrilled to see more law enforcement staff, and environmental--

ASSEMBLYWOMAN SMITH: You're not worried? I am.

ASSEMBLYMAN BENNETT: I think the intentions are that there will be some of the law enforcement figures that we hear about. Now that, quite frankly, is exactly how we did the moneys to go over for the CAFRA people. We are looking at existing staff people within DEP doing the permitting process, meeting with -- and this is where OLS' analysis is going in -- the people currently doing the job, to ask, with the parameters of the expansion, or lowering of thresholds, what personnel might be required. That is where we got these figures.

ASSEMBLYMAN SMITH: OLS has not done an analysis on the law enforcement aspect?

ASSEMBLYMAN BENNETT: Correct.

ASSEMBLYMAN SMITH: I understand that. We are a portion of the Appropriations Committee, and the same question applies that applied before: When you make that request to OLS--

ASSEMBLYWOMAN SMITH: Through the Chair, would you please make it available to all.

ASSEMBLYMAN SMITH: Yes, we would appreciate it if you would also--

ASSEMBLYMAN BENNETT: Sure. That is an easier one than the first one. The first one is a little harder.

ASSEMBLYMAN SMITH: Yeah, I agree. I am on the same Committee, and it is very tough to calculate. But the staff necessary to do water pollution law enforcement for the 120 communities is probably more easily calculated. When we sign on to legislation, we always want to know what is the continuing price tag to the State of New Jersey, or to the 120 towns, if you are collecting it from them. I don't know who it is ultimately going to be collected from. But I would like to know--

ASSEMBLYMAN BENNETT: It's general revenues, quite honestly.

ASSEMBLYMAN SMITH: All right.

ASSEMBLYMAN BENNETT: All of the funding, with the exception of the revenue, which is only for the four specifics, is a direct appropriation from the Legislature on an annual basis.

ASSEMBLYMAN SMITH: All right.

ASSEMBLYMAN BENNETT: So it would, therefore, not be coming from users or from just the coastal municipalities. It is coming from the whole State.

ASSEMBLYMAN SMITH: Well, you can understand why the Chair and the Committee would like to know what that number is. We would appreciate it if you would ask that, as part of the analysis: What is the estimated cost for that water pollution law enforcement function?

As I read the bill, it provided authority to the Commission to collect development fees, I guess on the same concept as Transplan. Am I incorrect in that? I am incorrect. I see a head shaking.

MR. IZZO: It's for permit fees -- administrative permit application fees.

ASSEMBLYMAN SMITH: Are the permit fees to cover the costs of--

MR. IZZO: Of processing the applications.

ASSEMBLYMAN SMITH: Only? No infrastructure, no impact fees? It's strictly-- John, are you saying something?

ASSEMBLYMAN BENNETT: Legally, that is all they can be assessed for at the present time. And, yes, that is correct. It can only be the specific--

ASSEMBLYMAN SMITH: Okay. There are no development impact fees associated with it. Okay.

ASSEMBLYWOMAN SMITH: How much--

ASSEMBLYMAN SMITH: I have two more questions.

ASSEMBLYWOMAN SMITH: Okay.

ASSEMBLYMAN SMITH: With regard to the possibility that some of the 120 towns may be recalcitrant--

ASSEMBLYMAN BENNETT: Okay.

ASSEMBLYMAN SMITH: --and either not remodel their master plan to conform to the Commission's management plan, or if they-- As I read this, there were criteria for approved applications. I saw a 5% figure, and so on. What happens to a town if it does not conform to the Coastal Commission's mandates? What is the down side for municipal government?

MR. IZZO: There are two penalty provisions in the bill right now, depending upon the level of nonconformance. There is an attempt to quantify that, as you have alluded to.

ASSEMBLYMAN SMITH: Right.

MR. IZZO: The first penalty that comes in is a withholding of plan-related discretionary funding. Dr. Davis will be describing in greater detail what some of the aid to municipal government is in that basket, and how that would be held back.

ASSEMBLYMAN SMITH: And the second penalty?

MR. IZZO: The second penalty, for an additional degree of nonconformance -- and there is a higher threshold

stipulated for that -- would be a reduction in the CAFRA threshold, for which the Commission would be allowed to regulate.

ASSEMBLYMAN BENNETT: The second penalty was added in the Committee Substitute, if you see where the difference is.

ASSEMBLYWOMAN SMITH: Thank you, Assemblyman Smith. I would like to ask you people to stay put for just a few moments. I would like to acknowledge--

ASSEMBLYMAN BENNETT: Brenda has a thing, too.

ASSEMBLYWOMAN SMITH: I know, she has to leave, right?

ASSEMBLYMAN BENNETT: No, she has a prepared statement to give you.

ASSEMBLYWOMAN SMITH: Oh, I know, but before that-- I am just looking at my watch, and there are several mayors here who have other places to go. They are here in support of this legislation. If they would like to make a brief comment, or if they just want to say that they support it-- Mayor Phil Huhn, from Long Branch.

M A Y O R P H I L I P D. H U H N: (speaking from audience) Thank you, Madam Chairman. I will be brief.

Basically, since the Governor announced this in his State of the State Address in January of 1987, I have been a very strong advocate of the Coastal Commission, and of the concept, for a variety of reasons: Certainly the need for regionalized planning; certainly the need, I think, for local permitting; and certainly the need for local officials to have input into the rules and regulations by which we at the shore are going to be governed.

I am not thrilled to death with the bureaucracy in Trenton that has handled the various phases of growth, development, permitting, etc. I think that is going to be discussed quite a bit in the time to come. I am upset about one or two things that I have heard this morning, that I didn't know of.

I am a former President of the Monmouth County Association of Mayors, and I am currently on the Board of Directors of the League of Municipalities. Now, last Tuesday, I believe it was, we had a meeting down in Lawrence Township with, I believe, 10 or 11 mayors from the coastal region, at which time, 8 of the 10 mayors, number one, supported Assemblyman Bennett's bill in concept, with the exception that there were to be amendments made to it, which I think we all agree on. None of us in this room today are naive enough to think that that bill is going to go through all of the committees, go through the Assembly and the Senate, without amendments. It is my understanding that Brenda Davis, and certainly Ralph Izzo, who I think have done a tremendous job helping to put this thing together, or spearheading the drive to put this thing together-- I think they have done a tremendous job. They have indicated to me, and to others, that compromises can, and will, be made on this bill.

So, at that meeting, 8 of the 10 mayors voted to support John Bennett's bill in concept, but with amendments. That is number one. Number two, we took the position -- our committee on the League of Municipalities -- a year ago, September, 1987-- We took a position supporting this bill. I understand now that there has been a letter sent out, stating that we are going to withdraw that support. If so, I don't know where that is coming from. The committee has not met to withdraw support for the Coastal Commission. At the meeting -- correct me if I am wrong, because I think we have a member here who was at that meeting last Tuesday -- we reiterated, all of us, with perhaps one exception -- reiterated our support -- the League of Municipalities' support -- for the Coastal Commission.

So, I am not sure exactly where that is coming from. But when I get back to my office today, I will find out about that.

Finally, if I may just summarize -- just conclude here -- because I know there are a lot of people who wish to speak, I spent a lot of time among a lot of other mayors the past year and a half, going to meetings, meeting with coastal mayors all the way from Sandy Hook to Cape May. When we started thrashing this thing out, trying to put flesh on the skeleton, so to speak, of the Coastal Commission, I heard the same problems up and down the coast -- growth problems, permitting problems, public recreation problems, open space problems, and everything else. There is no question that the bill is a very all-encompassing bill. But I think that you, the Assembly, and ultimately the Senate, have an opportunity here to preserve, or to go back to what we had, or what we knew as the Jersey Coast, and the condition we would like to see it in.

I point at the last two years, and the problems we have had at the Jersey Coast. I know our revenues in Long Branch were down 65% or 70% -- business, as well as beach revenues. I know the horror stories from up and down the coast. I would ask that you sit down in committees and work out the compromises with the Governor's office, and certainly with Assemblyman Bennett, who is sponsoring this bill, because if we don't, I think what we are going to end up with is a Jersey Coast that is no longer a viable entity. As we all know, tourism is supposedly the number two industry in the State of New Jersey. I don't think we can afford to continue to run our Jersey Coast the way we have done in the past. We have had a lot of development in Long Branch; I think a lot of good development. There's no question about it. But this is an opportunity for the State Legislature, for the local officials, and for the public to finally formulate the policies that we at the coast want to see implemented.

I heard one comment when I was at the Governor's Commission on the Jersey Coast two weeks ago, down in Atlantic City. One of the fellows said, "This is an opportunity for

local officials, planning regionally, to solve local problems." I think that hits the nail right on the head.

John said he has cut the appropriation request down to \$5.9 million. John left the room, but I wish it were \$40 million, not \$20 million, because unless we do something now, unless we take the bold steps now, tourism in the State of New Jersey is going to be in trouble. Your property values at the Jersey Coast, as we know it, are going to be in trouble, and a very important part -- a very important heritage in the State of New Jersey is going to be lost.

I tried to summarize real quick. Assemblywoman Smith, thank you for allowing me to get on early. I, too, have the same free lunch to attend as Mayor Stoppiello. (laughter) Thank you very much to all the Committee members.

ASSEMBLYWOMAN SMITH: Are all the mayors going to the same free lunch? Okay. Thank you for coming.

Next we will have the Mayor of Point Pleasant, Leonard Arms. Is he here? (affirmative response) Would you like to make a short presentation?

MAYOR LEONARD ARMS: Yes, if I may.

ASSEMBLYWOMAN SMITH: Okay.

MAYOR ARMS: I'll just give you a couple of copies of written testimony.

ASSEMBLYWOMAN SMITH: Thank you.

MAYOR ARMS: First, I would like to thank you for the opportunity to come before you. We, in Point Pleasant, have been in support of the Coastal Commission since its inception. We do have a resolution that the entire council passed. I feel that in all fairness I won't read the resolution. You've heard resolutions before.

ASSEMBLYWOMAN SMITH: We have received quite a few from quite a few of the municipalities, one way or another.

MAYOR ARMS: Right. Basically, the reason we are in support of the Coastal Commission, is the fact that we think it

is definitely needed. We certainly applaud Governor Kean, and everyone, for recognizing the need for developing this Coastal Commission.

I do have opposition to those who have castigated this proposal, but it is not born out of vindictiveness or bitterness, but out of a sincere concern for the future -- the future of our State, both yours and mine.

The opposition that is stated over and over again, is that we, the local communities, will lose our control. I have heard that at every meeting I have gone to where there has been opposition -- that we are going to lose our local control. I think that is a kind of ludicrous statement, because I don't think we ever had local control. If, in fact, we had had local control, we would not have the problems we have. I don't think anyone at this point has control, whether locally, State, or anything else. There are a lot of people who are interested, but there is no real control.

If there were local control-- Governor Kean invoked a law controlling growth and demanding all construction meet certain environmental criteria in order to be built. There was a lot of opposition to that. He could not have invoked that law if we had local control. The EPA, in conjunction with the PUC, has driven up the costs of tipping fees, to the point where every garbage truck we send to a landfill costs us \$500 now. Seven out of nine cents of our tax rate-- Our increase this year was due to tipping fees. While some towns in Ocean County were raising their taxes to accommodate the new tipping fees -- and we paid for a \$22 million cell, with a life expectancy of over 18 months -- other communities were paying half of that rate, and some communities were paying nothing.

Now, there were no provisions made in those other communities for any type of landfill sales or anything else. So now they will be forced to use the same cell that we just spent \$22 million for, thus the 18-month life expectancy is

certainly going to be reduced considerably. That \$500 a truckload we are paying now will increase that much faster.

Recently, I read where Asbury Park was fined over a million dollars for their part in polluting the ocean. And, when you think about it, if there was such local control we all had, where was the authority that allowed the situation to go on for so many years? If, in fact, Asbury Park did not upgrade its system due to a lack of funds, then how does fining this municipality a million dollars improve their financial situation? With an undoubted appeal process in the works, it is doubtful that the fine will ever be paid, in all honesty. But I can assure you that a lot of money will be spent on both sides for legal fees. I just don't see how that helps our situation at all.

With all the bad press -- of course, some is true; some is not -- this edict certainly didn't help the shore in general. It hurt all the coastal communities, Asbury Park in particular, but it hurt every one of us.

I only offer those few examples just to bring out the point, or the fact that we have the ability to have control or to plan our destiny. It is something we don't have. We are not losing anything by this Coastal Commission. In fact, we are getting involved in it.

Recently, in our own town, in an attempt to regulate unbridled development in an environmentally sensitive area, our planning board rejected plans of a builder to construct condominiums in an area bordering wetlands, and already beset with very poor drainage. The courts overturned the decision. They claimed that to deny the owner the right to develop his land was an intrusion of his rights. But, I contend that there are all forms of development, and this type of saturated development is an infringement on the rights of the existing neighborhood. They also have rights.

Although I share some of the concerns voiced by those who scorn the Coastal Commission, I suspect there is a reason other than the preservation of local control that is playing a big part in the vocal opposition. I would be less than honest, and remiss in my duties as an elected official if I didn't speak out on my thoughts.

Many private groups are lobbying for the defeat of this bill. They see the establishment of this Commission as a threat to the building boom that has made Ocean and Monmouth Counties the fastest growing counties in the country. Some local towns see the Coastal Commission as a threat to tax ratables. The local officials see an eroding of their tax base, at a time when there is an increasing demand for services.

They are looking for the easy way out. The easy way out is to continue the same system we have; a system that is mortgaging our future; allow runaway development, and reap the tax benefits and allow the private interest groups to continue to bankroll private public elections. Believe me, I do not make these charges without foundation. We are all aware of the thousands upon thousands of dollars contributed locally by these support groups. I think the bottle bill is a good example of how well-heeled lobbyists have succeeded in stalling necessary legislation. We think that is something that should be done, too, in this State.

Please remember, the Coastal Commission does not deal with only a few shore communities -- those that are directly on the ocean itself. Many of the communities are not bordering on the ocean. We have different problems and similar problems. The one link we do have is that we cannot solve them by ourselves or under our present system.

I would suggest an increase in local representation on the Commission. Perhaps local officials on the board could assume a bigger roll in leadership or even have two votes apiece, thus giving them more power. However, adding more members would make the Commission too unwieldly.

One thing we, in Point Pleasant, would never support, would be compromising to the point where the very character of the Commission would be so watered down, that it would just be another governing body. The Commission must have unique powers in order to be effective. It must be able to cut through the bureaucratic entanglements that have plagued us all.

One of the intriguing facts of politics is -- and I don't mean to sound like a flag-waver -- I believe that one man can make a difference in politics. I believe that with your help we can all make a difference tonight, not just for now, but for our children. I think the passage of the Coastal Commission is just that important a piece of legislation, that I feel we have to get the thing passed, in some form.

I have tried to make this as short as possible. I know we have all been working on this for so long, that we could go on and on and on. Being politicians, maybe it is a little easier for us.

I would just like to close at this point, and thank you for allowing me to come before you. Thanks again.

ASSEMBLYWOMAN SMITH: Thank you for coming, Mayor. It was a pleasure to listen to you.

We have another Mayor -- Mayor David Siddons, from Island Heights.

MAYOR D A V I D M. S I D D O N S: Thank you. I would like to read a statement first from myself and my community, and then, secondly, I would like to give you a backup of some 60-some-odd minor -- well, I can't say that, some are minor and some are major -- changes that we feel are necessary to the bill, as it currently stands.

ASSEMBLYWOMAN SMITH: Do you have any copies of your testimony that you might want to pass on to this Committee?

MAYOR SIDDONS: I have four copies here.

ASSEMBLYWOMAN SMITH: Wait a minute, we've got them already. You know, there are two check marks on your sign-in slip -- both for and against.

MAYOR SIDDONS: Yes, and I think my statement will pretty well show you why. We are actually, as a community, in favor of the concept, but we feel there are certain changes that should happen to the bill.

Chairwoman Smith, other Subcommittee members, and interested residents of the Jersey shore: I thank you for this opportunity to address this public hearing.

Before starting my comments on the Assembly Committee Substitute for Assembly Bill No. 122, I would be remiss if I did not thank Governor Kean, now Commissioner Villane, and Assemblyman Bennett for their foresight in presenting to the public their concept of a New Jersey Coastal Commission. This Commission is needed, and we should all back it in its final form. As a Mayor of a small community, I realize that we cannot resolve all our problems at a local level.

Unfortunately, the Assembly Committee Substitute for Assembly Bill No. 122 does not fulfill all our needs and desires. Today, I would like to bring to your attention five of the major objections that my community has with this bill.

First and foremost is the membership make-up of the Commission. The bill states that nine members of the Commission must be from the coastal area. However, only four of those members are accountable to the residents of the coast. To give an illusion that a person's residency guarantees accountability is sheer fantasy. To have this bill acceptable to my community, it is mandatory that a minimum of eight of the 15 members of the Commission be appointed by the governing bodies that are from the coastal communities and are responsible to the people that they govern.

Secondly is the elimination of what I call "regulatory confiscation." If a structure is destroyed, the owner must have the legal right to rebuild that structure. If the Commission does not, for either environmental or other reasons, want that structure rebuilt, then they should pay the fair

market value for the property. To degrade the value of property by making it not rebuildable, creates a hardship on the owner. The final outcome of having your house destroyed could be paying a mortgage on property that has no market value. This would be blatantly unfair.

Third is the potential loss to a community of State funding through noncompliance to the management plan. This is not an objection to the policy of withholding some State funding for corrections to documented health and environmental problems that must be addressed by all coastal communities. As we have seen this past summer, one community's problems will affect other communities, either directly or indirectly. However, only the funding of corrections for documented health and environmental problems should be a requirement for compliance of the capital improvement program. Additionally, funding for all compliance with the management plan should be outside the caps for local budgetary proposals, whether it is a capital project or not. Communities with limited funds available to operate can have financial problems if more financial needs are forced into their capped portion of the budget. I would hate to be faced with the choice of cutting back on police, in order to fund street sweeping or stormwater catch basin cleanup.

Fourth, the definition of "a party of interest" must either be redefined or eliminated from the bill to limit the appeals to permits. Currently, the definition effectively gives any person the right to appeal a permit to any home to be built. "Enjoyment of" could easily mean visual enjoyment and, therefore, any permit objections could be heard. If a group wishes to stop all construction in a coastal area that is subject to permits, then an individual property owner could be forced into a nightmare of red tape and expense.

Finally, the regulations controlling the coastal advocate must be modified to make all the actions of that

office accountable to the Commission. To do this, the duties that are set forth for the coastal advocate should be made permissive, and not mandatory.

To supplement these comments, I am submitting a list of modifications and changes -- as I said, there are a number of them here -- to the bill that I and my community feel would make this bill and Commission a positive force for saving our coastal home.

Again, I wish to thank the Assembly Subcommittee on Governmental Operations, Public Investments and Finance for this opportunity to discuss my community's concerns with this bill.

I would like to make just one additional comment that wasn't in the record we had. I was very interested in some of the comments concerning financing, which were brought about by your questions, Assemblyman Smith. I would like to look into that a little bit further. I beg to submit that I have not had an opportunity to look into the details of the financing, which I think should be investigated thoroughly.

ASSEMBLYWOMAN SMITH: Thank you, Mayor, for coming. There will be more questions related to financing, you can be sure of that, before we are through with this Committee.

We have another Mayor, from Sea Girt -- Mayor MacInnes. Do you wish to be heard, sir? (affirmative response from audience)

MAYOR WILLIAM M. MACINNES: If I may, I would just as soon stand over here, also. I don't like my back to the audience -- if it is at all possible. (speaking away from microphone)

ASSEMBLYWOMAN SMITH: Okay.

MAYOR MACINNES: Madam Chairperson, I would like to thank you for inviting us to this hearing today. The reason I am thanking you is because I feel this is an extremely important piece of legislation. It is critical to the coastal

communities of New Jersey. Therefore, when you consider that there are 125 miles of coastal area, plus perhaps equal that amount in the estuaries and the rivers, we have a very, very critical situation in front of us -- the whole State has -- and I and my Council and a goodly number of the residents of our town and our surrounding towns, are looking at things that are happening to our shores. We have experienced a dreadful season this year, as you well know -- there is no question about that -- due to the problems of the pollution, the medical waste, and so forth. We know that over the years, a terrible problem with erosion has been going on, and we know that very, very little has been accomplished by any agency -- any organization -- whether it be Federal, State, or county. We just know that New Jersey's most important assets -- ladies and gentlemen, it's most important assets, the beach front, the oceanfront, and the major waterways -- are slipping away from us. I think that every resident of New Jersey has to be concerned.

Now, our own New Jersey State Planning Commission has told us that this State of ours is going to grow dramatically over the next 20 years, by millions of people, which means that the pressures of an increased population, which everyone knows about -- you all have those in your own communities-- These pressures are going to intensify. Are we going to sit here in our own little municipalities and just allow this to happen, with the controls and the ability to take care of the problems as they stand today? I would surely hope not, because we are losing the battle -- we are, we're losing the battle. The infrastructure is deteriorating. It is not expanding anywhere near fast enough, not only for transportation, but for the recreational activities that we like to think we have a lot of. But, we don't have enough. They are disappearing because of the incorrect way that things are being controlled and developed.

We are all at fault. The municipalities are at fault, because over the last decade, two decades, three decades, we have done the wrong things along our coasts -- ocean and waterways. We have done the wrong things; not necessarily deliberately, but we did them because we didn't have the expertise we have today. We didn't have the guidance. We didn't have the controls, which allowed the wrong moves to be made, which our State suffers under today.

Now, sure, there are a lot of little problems associated with a Commission. There might not be enough representation. There might be a problem with immediate funding. There might be a problem of some condemnation. But we're standing on the threshold of doing something, or not doing something. Now, if we are not going to do anything, we can just watch our number one asset disappear. I am watching my own in my own township -- my own borough -- disappear, to the point where my council and our residents were so concerned, that we started doing something for ourselves to try to stabilize and control the erosion and the deterioration.

Now, absolutely, if we are going to do this, if we are going to put our assets, our resources, our money -- our own money, our own municipal money over and above the taxes we collect -- into trying to do something, then there has to be some grave concerns out there. If I can prevail upon the residents of our small borough to contribute their funds -- and that is what they are doing, contributing their own money -- to try to save our important asset, which is our beach front, multiply those thoughts then throughout our entire State area, which is affected.

So, it just seems to me that, yes, the Coastal Commission is a complex piece of legislation. There are some problems there that must be ironed out. There is no question about that. But the need -- the need is dramatic. The need is there. It is there not only for today, but it is there for the

future -- for the whole future of this State. Something positive has to be done that is not being done, that has not been done. Now we have the opportunity to begin to do something. Therefore, I feel, without enumerating a number of the problems that have already been gone over -- a good number of which I agree with-- I look at those more as an administrative matter that can be ironed out. But the need is what I really feel is something we have to get behind and put into position. I think this Committee is just absolutely in a position where they can help with this dramatic need for the State of New Jersey. I look at it as a State of New Jersey problem. After all, everybody in this State is concerned about this asset of ours. A lot of people who do not have coastlines use our waters; use the waters for more than just recreational purposes. Some of that has been stopped, but more of it has to be controlled -- the sewage problems. Certainly, they are on the way to being controlled, but more has to be done. I think the Commission would be in a position to exert those controls, exert that guidance. Offer it; give the expertise. But if it isn't there, we are going to be right back where we are today, which is an unsatisfactory position for every community and for every resident.

I would like to say, and I think you can determine, that, yes, I am in favor of the Coastal Commission. Unless it is a strong Commission, it won't work. It has to be a strong Commission. It has to be led by a very capable and strong administrator -- whatever title you want to give him -- because unless he is strong, and unless his Commission is able to function, is able to carry out its mandates, it will just be worthless.

Therefore, even with the imperfections the Commission has at this point in time of formulation, I think those things can be ironed out. I think we have enough capability in our various committees, in our various governmental agencies, in

our municipalities, to be able to sort out the weak spots, and strengthen or change them as necessary. But I do think that we -- the State and the residents of New Jersey, particularly the communities which are directly involved -- absolutely need the Coastal Commission.

Thank you.

ASSEMBLYWOMAN SMITH: Thank you, Mayor. Before we continue on, I have a letter here from Mayor Maria Hernandez. She is out-of-state. She just expressed her support for the Commission, and sent it in in letter form. We will put that into the record.

Before we go on to further testimony, Assemblyman Kelly, you may have some questions, and I understand, Brenda, you will be leaving when? You should have left already? (Dr. Davis' response from audience indiscernible)

ASSEMBLYMAN BENNETT: Not before Dad's questions.

ASSEMBLYWOMAN SMITH: Ralph, you'll be hanging around?

MR. IZZO: I'll stay.

ASSEMBLYWOMAN SMITH: You'll be here, okay. Assemblyman Kelly?

ASSEMBLYMAN KELLY: As you know, I am on a panel for the State Development Commission. Are we going to have a duplication of effort here with these two Commissions?

ASSEMBLYMAN BENNETT: No, because statutorily the CAFRA zone is not included in the State Planning Commission. The Pinelands is excluded out, and the CAFRA zone is excluded out. This will be to deal with the CAFRA zone. It is much different than the State management plan.

ASSEMBLYMAN KELLY: How different?

ASSEMBLYMAN BENNETT: Well, for one thing, it is going to be done with people who are from the coast -- right from the area. At the present time, four regional advisory councils-- The chairpeople of each of them are members of the Commission. That's four presently. Of the eight public members who are to

be appointed by the Governor, five have to be from the coast. So, you have five and four; that's nine out of the 15 who have to be from the coastal area. We are looking at amendments now to make that ratio even higher from the coastal area, to address some of the concerns raised by some of the people in the discussions. But, at the minimum, there are nine out of 15 right from the area.

They will work together to formulate the management plan for along the coast, as opposed to the State Planning Commission, which doesn't necessarily have as much local thought put into it.

ASSEMBLYMAN KELLY: Okay. Once this Commission -- if it is set up-- Are we still going to have to go to DEP? What outfit are we going to go through to get all of these permits? Are we going to go through the Commission to get permits, and then run to DEP and spin our marbles again? Are they going to spin one set of marbles?

ASSEMBLYMAN BENNETT: There are discussions ongoing right now that the best way of doing it is to have all the marbles underneath one location; such as, having what has been referred to in the past as "one-stop permitting." You would go to one area -- in this case, the Coastal Commission -- and you would make your application for all of your permits. For instance, if you needed a stream encroachment, and you needed a NJPDES permit, then those permit applications would be filed with the Coastal Commission, and the Coastal Commission would then be responsible to see to it that those applications were processed in the appropriate DEP agency. So you would have interaction between the two departments, but the applicant--

Now what happens is, if you want a CAFRA permit, you have to go to CAFRA. Then if you need another permit, you go to another division in DEP. You may end up having to go to eight or nine different divisions, all within the Department, no one talking to one another, and no central person in order

to feed it all through -- to coordinate. What presently happens as you apply for your CAFRA permit-- You would apply for it in the Coastal Commission. The present bill doesn't have it, but we're talking about whether or not it is practical to have the one-stop shopping. That is one of the discussions that is ongoing right now.

ASSEMBLYMAN KELLY: Wouldn't it be impracticable if we didn't do it that way? I mean, it doesn't make sense to me.

ASSEMBLYMAN BENNETT: Well, we don't do it that way now.

ASSEMBLYMAN KELLY: I know we don't. That's what I'm saying. It seems to me that it should be streamlined. In fact, I think the Governor spoke about it.

ASSEMBLYMAN BENNETT: That is one of the goals.

ASSEMBLYMAN KELLY: He said he wanted a one-shot permit that would be approved or one place to go.

ASSEMBLYMAN BENNETT: That is correct. That was originally in the bill.

ASSEMBLYMAN KELLY: But it's not in this bill yet?

ASSEMBLYMAN BENNETT: That is correct.

ASSEMBLYMAN KELLY: Well, why don't we put it in the bill?

ASSEMBLYMAN BENNETT: We're trying to determine the practicabilities of it. That is definitely an item that is being discussed. It is not philosophically, one that anybody opposes. It is a question of making it practical. That is what we are trying to do. Hopefully before you are in the position of having to vote one way or the other, we will reach that stage.

ASSEMBLYMAN KELLY: Because it doesn't make sense to me if we are going to go through this Commission, and you are not going to have this streamlining. It's just spinning marbles again.

Now, this advocate--

ASSEMBLYMAN BENNETT: Yes?

ASSEMBLYMAN KELLY: What do we need an advocate for? Why don't we just soup up the Attorney General's office? Why do we need this special attorney and the entire group he is going to hire? I would much prefer spending money on the Commission, on doing what they want to do, rather than hire another legal eagle, eager beaver. I would call him a "super cop," from what I can see. He's a super cop. We don't need any more super cops.

ASSEMBLYMAN BENNETT: Well, unfortunately, the last couple of years along our coast have led some of us to believe that perhaps we do need a super cop; someone whose sole purpose and function is going to be to ensure that those problems which can be prevented, shall be prevented, by taking the necessary actions for prevention in advance, and in those cases where we have a problem where prevention has not worked, that there will be penalties not only levied, but enforced, with some real action and teeth behind them. Unfortunately, to date-- The last few years have demonstrated that that has not been the case.

ASSEMBLYMAN KELLY: But, he can't stop the dumping in the ocean. He is not going to be able to stop that.

ASSEMBLYMAN BENNETT: Well, if a wastewater treatment facility, for instance, is not functioning properly, and there is an investigation of that facility and there are reasons why that facility should be fined, or not permitted to operate, that man will have the authority to go into court to enforce the permit standards which are in existence, because there is a discharge occurring that is inappropriate to the water quality. You had that this summer, unfortunately, resulting in the closure of beaches and the loss of millions of dollars in revenues in Monmouth County. You can no longer have, kind of the fox guarding the henhouse. In some cases, we have ended up with that situation.

ASSEMBLYMAN KELLY: Then I would blame the Attorney General's office, not have another super. Why doesn't the Attorney General's office do its job? I don't understand that.

ASSEMBLYMAN BENNETT: I don't know. It's sort of like that bill we both voted for on the insurance prosecutor. I guess there is a time when you have a specific subject matter, where you need a specific law enforcer to have no other conflicts taking priority away from one item, such as solid waste, and putting it on another item. The entire focus of this person will be to protect the coast and the water quality along the coast. He will not be distracted about cleaning up hazardous waste sites, or solid waste problems. He will not have to deal with those, or insurance fraud, for that matter, or any other outside unrelated environmental problem. The entire focus will be on the coast.

ASSEMBLYMAN KELLY: I have one other question. On page 14, I interpret that section, "b. A resource assessment: (1) That determines the amount and type of development and other human activities that can be sustained by the ecosystems of the coastal area while maintaining and enhancing the viability and natural productivity of the ecosystems--" It seems to me that that is saying you are not going to build at all. I recall that first Mayor said that he was concerned that they couldn't build a ramp because there were some fish that were hatching. The way I interpret that, that says the same thing: You are not going to build that ramp. Am I reading that properly, or am I not?

ASSEMBLYMAN BENNETT: No.

ASSEMBLYMAN KELLY: No?

ASSEMBLYMAN BENNETT: Do you mean 10 b.?

ASSEMBLYMAN KELLY: I'm on page 14, whatever it is.

ASSEMBLYWOMAN FARRAGHER: Yes, he's at 10 b. -- 10 b.

(1).

ASSEMBLYMAN BENNETT: 10 b. (1)?

ASSEMBLYMAN KELLY: Yes.

ASSEMBLYMAN BENNETT: Okay. First, you will have a master plan done, which will include a, for instance, like an inventory of where the sensitive areas are along the coast. That is what the resource assessment practicality will be; to itemize and list those things along the coast which are sensitive; items that need protection. The resource assessment will become a part of what is to be included, sort of like now, when you have, on a municipal level, a natural resources inventory. That is what is done in many municipalities now. This will be a part of the management plan, and will be--

ASSEMBLYMAN KELLY: Did you answer my question? You gave me a lot of words there, John. What did you say?

ASSEMBLYMAN BENNETT: You can build the ramp, but you may have to acquire a permit, and you may have to mitigate any damages.

ASSEMBLYMAN KELLY: To the fish?

ASSEMBLYMAN BENNETT: Well, there may be a different habitat relocation that has to be done, for instance. If that particular area exactly where you want to put the ramp has some sensitivity to it, you may have to relocate the ramp and put it someplace where there is not sensitivity. But the management plan is what is going to tell you that.

ASSEMBLYMAN KELLY: Okay, you have answered my questions. I have said enough.

ASSEMBLYWOMAN SMITH: You still have no control over it.

ASSEMBLYMAN KELLY: No, you don't.

ASSEMBLYWOMAN SMITH: Do you have any more questions, John?

ASSEMBLYMAN KELLY: No, I don't.

ASSEMBLYWOMAN SMITH: I have one question before we take a break for a little bit. I am concerned with-- Mr. Izzo made some comments about the possibility of the loss of

discretionary funds, but as I look on page 18, line 38, item number (1), it says, "The Commission shall: (1) withhold all grants, loans or loan guarantees to that county or municipality, except upon a finding of substantial, regional benefit;" and (2) -- this is if they are in noncompliance with the-- "Upon a finding of the Commission that a county or a municipality is not in conformance with the management plan" that is directed to by this bill, they would lose all grants, loans or loan guarantees, and, we go on further to say, "notify the Governor and both houses of the Legislature and recommend that all discretionary funding relating to the policies, standards and guidelines included in the management plan for that county or municipality be withheld until that entity conforms to the management plan." I know one of the Mayors mentioned concern for the moneys. Now, you talked about the discretionary funding that can be held back, but you did not relate to all of the other funding that would be cut off.

ASSEMBLYMAN BENNETT: Discretionary funding is only going to be cut off by the Legislature. But I think what the Mayors were talking about was how many dollars they would be receiving. This particular clause -- the first part on cutting off the funds for noncompliance with the master plan -- has been an integral part of the bill from the very beginning. That is viewed as the incentive for the municipalities to cooperate in the drawing up of the comprehensive management plan, and, while there is compliance with the management plan, there is no loss. But if there is noncompliance -- not such specific minor noncompliance; you have to have noncompliance -- institute a percentage -- in this case 5% or greater -- on the approvals of development activities that are supposed to be regulated along the coast. If you differentiate and go away from that, then the penalty for that is that you can lose these funds for-- If there was a Shore Protection Grant coming to you, you could lose it if you didn't stay in compliance.

ASSEMBLYWOMAN SMITH: Well, John, there are mayors who couldn't be here today who will probably show up at Trenton's meeting, or somewhere in-between, but I did get quite a few phone calls when they saw what the legislation looked like.

They feel they are going to be held hostage by this legislation; the fact that if they don't do what they are told to-- They feel that this is hurting home rule -- I think I talked to you about this, Brenda, on the telephone -- that it is taking away their right of eminent domain, and they feel, what is the sense of having a planning board or a zoning board and going through the technicalities of hearing applications, when if, in fact, they do not comply with this particular Commission's requests, they will lose their grant money -- not so much even the discretionary funds? You can't lose what you don't have.

However, if it is within the jurisdiction of the State to give you grant money-- You're saying the incentive is there. They are not looking at it as an incentive. They are looking at it as being held hostage, due to the fact that if they do not comply, they are going to lose the money they rightfully need in order to survive, and the money they rely on from year to year. This is the concern of many. As I said, they stayed away, but they have voiced their opinions on this. It is their fear that someone else is going to be calling the shots. It is not the fact that it is only along the coastline, but that it comes so far into their municipalities. They feel that everything is going to be taken away from home rule. Can you enlighten us a little bit about--

ASSEMBLYMAN BENNETT: It is very difficult to address myself to those silent people who have not come forward anywhere yet.

ASSEMBLYWOMAN SMITH: Well, it's daytime and, I mean, you know, they're busy.

ASSEMBLYMAN BENNETT: I have been out there on the stump. I am appearing in front of mayors in every coastal community involved. Monmouth County mayors-- I think you have heard a pretty good cross section of them along the coast and bay shore today. The Atlantic County Mayors Association and Board of Freeholders, the Ocean County Mayors and Board of Freeholders, all of whom I have appeared in front of-- The Ocean County Mayors Association has been split. There is no question. However, there is a resolution on record of a majority of the Ocean County Mayors supporting this legislation. It is hard for me to deal with the abstract. If they were here, I'm sure we would be able to discuss the differences, and find out the reasons for them.

The basic bottom line boils down to -- and Brenda could probably tell you better than I, since she was there at the very beginning, with the impetus that led the mayors to work with the Governor to bring about the very essence and formation of this -- we are going to enter into something that will be for the overall good of what happens on our coast. We are going to be a part of the system that is going to make that happen, and we are going to be involved, not like we are with CAFRA, dealing long distance with someone up in a tower, but our own people and members of our regional advisory councils -- those chairpeople. We are going to work together to draw up a plan that we are going to have input into to make it work.

But, it will only work if you have some ability to-- Everybody is perhaps giving in a little bit to get a little bit of the greater good back. That's what is happening. The zoning boards and planning boards still have a function; will still be very important to the process -- the overall process. But I think that taking away the money-- It's a grant, a grant that is coming from all of the taxpayers of this State -- money that is coming from all over for the common good. That is what we are trying to do.

ASSEMBLYWOMAN SMITH: Well, that is the point I talked to you about last week.

DR. DAVIS: Maybe I can just reemphasize one thing: As with almost every aspect of this bill, this was developed -- this idea of a new kind of partnership between the State and local governments for this region-- This was developed at the suggestion of local officials -- county and local. Their recommendation to us was, "Yes, we need help." Time and time again, we would leave offices, and they would say, "Thank you for coming. We need help. We need a way to work together to empower ourselves. We are prepared to give a little" -- as Assemblyman Bennett said -- "to get what we see as being a lot. Give us a vehicle to have a tremendous amount of input into what this thing is going to look like; a way for us to work together; a plan for us to implement together. And, yes, we want to make sure that the people next-door have to do it, too." To do that, you've got to have something to hold over people's heads. This was the joint idea: that the money is the most effective tool to cause every municipality to do what they together decide is in their common interest.

So, as the Assemblyman said, that has been an integral part of this proposal from the outset. It is not a surprise here at the last minute. It is something we have discussed openly now for two years.

ASSEMBLYWOMAN SMITH: Well, Mayor Stoppiello was one of them. Like he said, he had to go somewhere, but he expressed that. Mayor Huhn, too, also said that with amendments -- they feel it is going to have some amendments somewhere down the line -- they are hoping for a clarification as far as the funding is concerned. I asked them to be brief today, because of the fact that we have a long day ahead of us. But, this is one of the concerns. The Mayor of Old Bridge could not be here. He was going to send someone from his office, and I said, "Well, I don't feel that is necessary."

You know, Matawan has the same situation. They are all working people and part-time mayors. So the thing is, those who could be here, were here. We are going to pursue this a little bit further. The next hearing will be in Trenton on November 10. Hopefully we will be able to bring in a few more mayors, and let them be heard. I want to thank you for that clarification.

Anyone? Bob?

ASSEMBLYMAN SMITH: Yes, one question -- a follow-up question on Joann's concern on page 18, lines 38 through 41.

ASSEMBLYMAN BENNETT: Yes?

ASSEMBLYMAN SMITH: I looked in the definition section of the bill, and with respect to this statement: "withhold all grants, loans or loan guarantees to that county or municipality," there is no definition of grants, loans or loan guarantees. So the question to you would be, for example: Having been a Mayor, when a town provides welfare assistance, there is a portion of that that is returned to the town as a grant from the State government. Would that be a grant that could conceivably be withheld? (pause) Is there an answer to that, please?

ASSEMBLYMAN BENNETT: I'm looking at the language.

ASSEMBLYWOMAN SMITH: It doesn't clarify the grants.

DR. DAVIS: I believe that all of the funding to be withheld was-- Certainly, the intention was for plan-related funding. Now, that may very well need to be--

ASSEMBLYMAN SMITH: Clarification is definitely needed.

ASSEMBLYWOMAN SMITH: We need to make a clarification.

DR. DAVIS: It won't surprise me, throughout there, if there are clarifications. There are other things mayors are asking, and the question you have raised.

ASSEMBLYMAN SMITH: Going down the list, as I remember it, building inspections-- There is a reimbursement for some of those, or grants back to municipal governments from the State government, when the local zoning and planning people provide inspections. Gross receipts-- Is that a grant?

ASSEMBLYMAN BENNETT: I think that is a statutory right, isn't it? It can only be taken away from certain people.

ASSEMBLYMAN SMITH: The Governor decides every year how much he is going to give us -- when I was a Mayor, he used to.

ASSEMBLYWOMAN SMITH: Obviously, Assemblyman, we need a clarification.

ASSEMBLYMAN SMITH: Right. Clean and Safe Streets, Green Acres, and how about education -- State aid to the local boards of education? Would that come under this?

ASSEMBLYMAN BENNETT: Going back to Green Acres, there are opportunities where a Green Acres grant may be one that would be withheld specifically. The purpose of withholding the grants is for protection of those projects that are contained within the coastal zone. Now, if that clarification is not there, we can certainly put it in. But, that is the purpose of it.

ASSEMBLYMAN SMITH: Okay. Clarification-- We definitely need it.

ASSEMBLYWOMAN SMITH: Is there anyone else who has to testify before we break for lunch, or can the rest of you stay?

TIMOTHY M. CRAMMER, ESQ.: (speaking from audience) I can be very brief, Madam Chairman. (remainder of statement indiscernible; no microphone)

ASSEMBLYWOMAN SMITH: Okay. We didn't know-- You didn't write down who you were -- a mayor or anything else.

MR. CRAMMER: I do have some-- (speaking from audience; no microphone)

ASSEMBLYWOMAN SMITH: Okay. Well, I know that Brenda is going to have to leave us. Do you want to make a comment before you leave, Brenda?

DR. DAVIS: He may go ahead, if he wants to. I will be very, very brief also.

ASSEMBLYWOMAN SMITH: Will you please come up here and speak into the microphone, sir, so we will have it for the record?

MR. CRAMMER: As I said, my name is Timothy Crammer. I am the Municipal Attorney in Belmar. Mayor Hernandez sends her regrets that she was unable to attend today, because she feels so strongly about the passage of this bill. She feels so strongly that she authorized me to attend, and I attend for a fee. (indiscernible comment from Assemblyman Bennett from audience) Absolutely.

I have listened to all of the comments here today. I would like to address a couple of the specific concerns, rather than be just general in my support, because I think Mayor Hernandez's letter shows you that there is strong support in Belmar for the enactment of this bill.

With respect to local control, I think it is important to differentiate between the loss of local control and a fear of loss of local control over final output and input. I think this bill reasonably accommodates the rights of developers and the rights of environmentalists and the rights of municipalities and the right of the State with respect to planning, which is the key function of it, in effect. In Belmar, we all await anxiously whatever we can see from Assemblyman Bennett's office about the concerns raised by Assemblyman Kelly with respect to the coordination functions of this Commission. We feel in Belmar that it is very important that this Commission have, in fact, coordination abilities and consolidation of the different functions that we now find in different agencies for the different types of permits.

The people of Belmar don't think that is a loss of local control. In fact, they would agree with the Mayor of Point Pleasant that that is an opportunity to have input into something that they have never had input into before. So, Belmar strongly supports this bill, because it feels it is a

reasonable accommodation. Yes, there are different items that they feel can be amended, which I will not discuss here because I don't think you have the time, and it is probably not the place. We will submit something in more detail later.

But the need to pass this bill now is very strong. As time goes by, the focus on this type of needed legislation will blur. The people of Belmar and the elected officials in Belmar urge this Subcommittee to vote for the entire Appropriations Committee to recommend that the initial funding be provided, so that this Commission can at least be started. The fact, Assemblyman Smith, that the Legislature itself is going to have oversight functions and control by simply saying whether or not there are going to be future appropriations, I think is a factor that militates in favor of passage of this bill. It is not locking anybody into future appropriations and, in fact, I would imagine there would have to be future hearings if it turned out that we would need \$15 million to assist local municipalities to put together their different aspects of the entire plan. If that is too much, then that can be pared down. If it is too little, then the Legislature, as it sees fit, can appropriate more. But without the Commission, the shore municipalities have nothing. They feel they have no input whatsoever, and that they are being dragged along their own beaches by their heels.

So again, the Mayor and Commissioners of the Borough of Belmar strongly urge you to support this legislation; to certainly look at its different details very carefully. The overall concept is extremely necessary; it should be voted favorably.

Thank you very much.

ASSEMBLYWOMAN SMITH: Thank you for coming, sir.
Assemblywoman Farragher?

ASSEMBLYWOMAN FARRAGHER: I am also a municipal official. I happen to be the Deputy Mayor of the Township of

Freehold. Freehold is not a coastal community, but I have some real concerns about the specific references in the bill, particularly page 35, section 33. It spells out what the Commission may do to get reimbursed for obligations of the local government unit. There is no question. It says right here: "The State Treasurer shall pay that amount to the Commission" -- shall pay -- "out of the State aid payable to the local government unit, until the amount so certified is paid."

That's specific -- "shall pay." So, we're talking about very significant implications to local communities in that regard. I have indicated to Assemblyman Bennett that that is a very serious concern to me as a local official. I think that is something that should not be overlooked by any municipal official.

There is also withdrawal of permit power in here. I lost the page, but there is a specific reference of loss of permit power in this bill. That is a concern. And it's kind of vague. The circumstances are kind of vague. It says something like: If there are decisions of the community the Commission views as possibly not going along with the intent of the Commission, they can just take the permit power away. I think the reference is a little vague. I think it should be more specific. What kind of things, rather than a general, well, if the tenure of the approvals isn't to the Commission's satisfaction-- I think there should be more specific references, rather than that general overview.

We are all sitting here today in general support of a Coastal Commission, and no one is denying that it is a necessity. But I think there are some pretty strong powers in this bill that should be tempered somewhat, because I, for one, do not want to see another autonomous body set up in the State, or some kind of a coastal czar. I don't care. These regional councils are very nice, but the powers in the Commission and

the powers in the czar-- I think we have to be more specific and more detailed as to what conditions will cause grants to be repelled, and the State aid to be paid out to the Commission, instead of to the community. I think those are very strong, very broad powers.

DR. DAVIS: I think those are very good points. You are not the first to raise questions about some of the specific language in the bill. Not being an attorney or a bill drafter, I find them difficult to read also.

ASSEMBLYWOMAN FARRAGHER: I'm not either, but I do have experience in local government.

DR. DAVIS: You're right, and I know that Assemblyman Bennett is anxious to clarify a lot of these things that are alarming in the way they can be picked out and read by municipal officials. They seem to be construed to be much more powerful, I think, than the intent was.

ASSEMBLYWOMAN SMITH: Well, unless there is a clarification of the intent, you take these things-- The lawyers are going to be in and out of court.

DR. DAVIS: Sure, she's right.

ASSEMBLYWOMAN SMITH: And we are going to be fighting more cases in court than we are going to be doing any good. I think it is going to have to be specific.

ASSEMBLYWOMAN FARRAGHER: Those types of broad language statements in legislation are what can cause the defeat of a bill, quite frankly.

DR. DAVIS: You're right.

ASSEMBLYWOMAN SMITH: That is one of the concerns, John, that I referred to also. We have to address this before this bill can be released from this Committee -- some clarification.

DR. DAVIS: You're right, and we are anxious to do that.

ASSEMBLYWOMAN SMITH: And hopefully, you know-- Okay? Anything else, Clare, for now?

ASSEMBLYWOMAN FARRAGHER: No, that's all for now. I don't want to hold Brenda up any more. I just wanted her to hear my concerns.

ASSEMBLYWOMAN SMITH: Okay. We are going to take a half-hour break.

ASSEMBLYMAN KELLY: Wait a while. She wants to present something.

ASSEMBLYWOMAN SMITH: Oh, excuse me. Okay. You wanted to say something? I'm sorry, I thought you wanted to leave.

DR. DAVIS: I figure that if you're hungry, you won't fall asleep.

ASSEMBLYWOMAN SMITH: No, okay, fine.

DR. DAVIS: I will really try to be very brief. I am very late already, and I very much appreciate you taking the time to listen to me now. I also appreciate your having this Subcommittee hearing and moving forward in the Assembly with this particular piece of legislation.

I just want to emphasize, on behalf of the Governor, that this is now his number one legislative priority. It has been a very high priority of his now for almost two years. It is something that he is very personally committed to, because he believes we are experiencing a serious, perhaps long-lasting deterioration in the condition of the coastal region of this State; that the status quo, even with some Band-Aid approaches to it, is not adequate to turn that deterioration around.

For two years, we have been working hard with local people, with interest groups, with local officials, to try to put together a proposal that will work for the people of this coast, to empower them to change the direction, other than for along the coast. What we are trying to do is put someone in charge of the coast, make him accountable, make him responsible

for the future of this region. We think this requires a tough new entity, but made up of coastal people who know these problems best; who will work with local officials and interest groups for the long term.

We need a Commission because of the pollution. The causes of the pollution are very, very many and very complex. The whole nature of the State is changing and, indeed, the whole nature of this country, when it comes to the population of the coastal regions. I saw an interesting statistic about a week ago, that right now one-sixth of the population of the United States can get to the Jersey shore on one tank of gas. The demands on this little strip of coast are unlike anything experienced anywhere in the entire United States.

The Governor has proposed that we need a new approach to this sort of a problem. The problems are regional, and they deserve a comprehensive solution. This is probably our most precious natural resource -- the ocean -- and it is also the source of an \$8 billion annual industry to this State. Turning around the deterioration, he believes, is not simply a regulatory matter. We've got to become pro-active, instead of reactive. We can't look at this by the flow of individual permits into a tremendously overloaded Environmental Protection Agency. Instead, we need regional planning, with participation by local people; a new kind of partnership between those people who live and work in the region and those who regulate and provide the financial resources to turn problems around.

So we put together this Coastal Commission. It is complex. It does take a lot of your time, I know, reading the bill and understanding all of the things that have gotten us to where we are now. There is a lot of misinformation out in the public right now about what the intent of this bill is. Some of that misinformation is supported by lines that can be picked up out of the bill. Assemblyman Bennett has told you today how anxious he is to try to correct some of those things. But the

main points have been addressed very well here today, I think, by those who have gone before me. It is not a new bureaucracy. It will be accountable to the Legislature. It has no independent funding source. It is meant to empower local officials, not to take power away from them. It is not anti-development. It is pro-development, in fact.

The most important point I want to make, is that we believe we are in the middle of a process. This isn't the time to be flat out opposed to something, where so much is at stake. One last point, as John Bennett talked about, is the amount of money. We originally had a \$20 million appropriation associated with this bill. That was two years ago, before we did the 14-point plan which the Legislature has enacted in its entirety, with one exception. (laughter) I am taking the half full approach.

ASSEMBLYMAN BENNETT: The stormwater bond is still stuck in the Senate.

DR. DAVIS: Well, you appropriated a lot of money for stormwater planning, though, probably as much as could be spent this year.

ASSEMBLYMAN BENNETT: If Bob and I can spend money, we'll do it.

DR. DAVIS: That's right. The one thing I was thinking of were the outfalls from Monmouth County, as a matter of fact.

But, we predict that the total cost of coastal protection, including the enactment of the Natural Trust Bill, will cost the State -- should cost the State-- We should be spending somewhere around \$53 million or \$57 million a year. That is outlined in the paper that has now been distributed to you. The new cost associated in the first year of having a Coastal Commission is the figure that John referred to earlier -- the \$5.9 million. Ralph Izzo can stay here until after your lunch break, and spend as much time as would be helpful to you,

going through this recommended \$5.9 million appropriation for the first year of the Commission.

But I didn't want people to leave this room at your lunch break thinking that the Governor has decided that the coast now only needs \$5.9 million a year. That is hardly the case. He wants to see the Natural Trust a permanent source of funding for shore protection, as well as open space; a continuation of the stormwater funding that was begun this year; a continuation of the litter control; the street sweeping; new money for other management practices -- for stormwater runoff, open space, dredging -- all of these things, as well as the permitting and administrative duties that will fall to this Commission. So, we are talking about a significant expenditure of funds.

ASSEMBLYWOMAN SMITH: Anything else? (no response)
Thank you, Brenda.

DR. DAVIS: Thank you for allowing me to speak now.

ASSEMBLYWOMAN SMITH: I would like to acknowledge the fact that Assemblyman Joe Palaia has just joined us. He will be with us after lunch also. He is from a coastal district, as you know, so you will have all of Monmouth County represented here, besides two other districts. You'll have one, two, three districts in Monmouth County -- that is why we held it in this region -- and Assemblyman Kelly is from up north, and Bob is from the mid-north -- central. There are two other Assemblymen who could not make it today, but they will be joining us in Trenton at the next hearing.

We will take a break until 10 minutes to one.

(RECESS)

AFTER RECESS:

ASSEMBLYWOMAN SMITH: Let's go. We are 10 minutes late getting started.

ASSEMBLYWOMAN FARRAGHER: I told you one o'clock. That would have been more realistic.

ASSEMBLYWOMAN SMITH: Okay, we would like to continue this hearing now. I would like to call Dr. Miranti and Tom Kennedy, from Seaside Park and Seaside Heights. Do you have brief testimony?

D R. R I C H A R D A. M I R A N T I: Yes, very brief.

ASSEMBLYWOMAN SMITH: Good.

DR. MIRANTI: I believe you probably heard most of it this morning. The concern is -- although the municipality, the Mayor, the Council, and, we believe, a majority of the residents support the concept -- that there are some significant questions about funding, and ramifications in terms of (indiscernible) to the bill. Specifically--

ASSEMBLYWOMAN SMITH: Excuse me. Would you please speak into that microphone? That is for the tape -- for the transcriber.

DR. MIRANTI: These items, in particular, were brought up after a subcommittee meeting of the Mayors Association of Ocean County. With your permission, I will read them into the record:

The proposed Commission is intended to be environmentally sensitive in its current proposed format. A governor who is so inclined, could use the Commission -- who is not so inclined, could use the Commission to reverse much of the progress that the Commission is being formed to make.

Item two, Commission membership -- 15 members -- is appropriate, but only if the shore area has a greater voice within those members -- eight appointed by shore, four from regional advisory committees and four from regional freeholder boards, and seven appointed by the Governor. Five should be public members without any particular affiliation. The Commission Chairman and Executive Director should be subject to advise and consent of the Senate.

The bill proposes that the Commission may utilize the services of any municipality board, agency, or employees. If this is the case, the Commission should also be required to immediately make full reimbursement. And if the Commission shall mandate construction to public rest rooms and other public facilities, the costs should be paid from Commission funds, not the municipalities'.

The bill should state positively that existing structures and properties can be maintained and reconstructed, in the event of destruction, natural causes, etc. The provisions providing that the Commission dictate to the State Department of Health regarding water quality standards is not needed, and should be deleted. It is a little bit redundant in that area, and we think that the State Department of Health has a good grasp on that question.

Unless safeguards and limitations on the Commission's powers are enacted, the Commission has the potential to effectively reduce a coastal municipality to no more than a tax-collecting agency of the Commission. We are certainly very jealous of maintaining our home rule. We believe the Governor does not wish to undermine any of the privileges of a municipality at this time. We would like to see that taken care of -- those aspects of this bill reenforced.

That the Commission is empowered to acquire real property, whether public or private, is just one step closer to a State takeover of the beaches, while leaving the municipalities with off-site indirect expenses associated with beach operations.

Again, to reiterate, the Seaside Park municipality has been involved in the question of the environment and its protection for the past 25 years. We welcome the concept initially proposed for the Coastal Commission. We think this might be a major asset in helping us to maintain the pristine qualities of our shore environment. We do feel that some

modifications in the legislation as currently proposed are required, to maintain that we can keep our autonomy intact, and questions of who will pay for such additions that may be forthcoming should be clarified.

I would like to thank you very much for your time.

ASSEMBLYWOMAN SMITH: Thank you, Doctor. Mr. Kennedy?

T H O M A S K E N N E D Y: Chairwoman Smith and members of the Assembly Subcommittee: I am here this morning representing Mayor George E. Tompkins, the Mayor of Seaside Heights, as well as President, for many years, of the Ocean County Mayors Association.

I have a brief statement, but I would like to say first, Dr. Miranti, who has made many meetings of the Mayors Association, and earlier today, David Siddons, the Mayor of Island Heights, represented some of our thinking, and probably gave you a good idea of where we stand. But I will read the Mayor's statement very briefly, and let you get on with the hearing.

On behalf of George Tompkins, who has a conflict of interest, or a meeting of longstanding, and could not attend this meeting-- The Mayor is in favor of the general concept of the Coastal Commission, but feels it is very important that we address certain aspects of this bill. However, the concept offered to the Ocean County Mayors Association by Brenda Davis, which we supported, has been changed considerably. We do not feel that the present bill -- A-122 Acs -- is in accord with what was outlined to us at the Ocean County Mayors Association meeting.

We have formed a special committee which will offer some changes and some amendments, which we feel will be acceptable to the Legislature. While we are close to agreement, we cannot endorse this bill without some changes being made before it is adopted. We will forward our objections and suggestions to the Committee after the Ocean

County Mayors Association meeting of Tuesday, October 18, 1988, and we would ask that these be considered in your deliberations and any changes made in the bill.

We wish to thank the Governor, Assemblyman Bennett, and certainly your Committee, for your concern for the coast. It not only represents New Jersey's greatest resource, but also the number one industry in the State. Thank you.

ASSEMBLYWOMAN SMITH: Thank you. We will be looking forward to receiving your further comments and the changes you recommend.

MR. KENNEDY: Would you suggest that we send them to you?

ASSEMBLYWOMAN SMITH: I would suggest that you send them to the staff. Send them to Assemblyman Frelinghuysen, who is Chair of the full Appropriations Committee, and you can forward a copy on to me at my office. I will make sure that everyone gets copies.

ASSEMBLYMAN KELLY: Madam Chairman, may I ask him a question?

ASSEMBLYWOMAN SMITH: Sure. This is Assemblyman Kelly.

ASSEMBLYMAN KELLY: I would like to get an answer to this. There is one section that puzzles me. It talks about the nearest road or 1000 feet, whichever is greater -- page 19. If the nearest road is five miles away, is that saying they can go back to within five miles away? Is that how it reads?

MR. KENNEDY: Is that question for the Doctor, or for me?

ASSEMBLYMAN KELLY: Whoever can answer it. I'm trying to get an answer.

MR. KENNEDY: Well, I have sat in at all of those meetings, and I think this is one of our concerns that has to be addressed.

ASSEMBLYMAN KELLY: Oh, okay.

MR. KENNEDY: Certainly we're talking about the barrier islands. If you take a mile or, in some cases, less than a mile, you've got no island left. If you go down to Wildwood, which we did last week, and look at their beach-- You can stand on the boardwalk and look out 1000 or 2000 feet before you hit the ocean. So, there are a lot of concerns to be addressed.

ASSEMBLYMAN KELLY: That is why I was puzzled. All right, thank you.

MR. KENNEDY: You're welcome.

DR. MIRANTI: Thank you.

ASSEMBLYWOMAN SMITH: Thank you both. Bob Karen? And Joe Louro, do you want to come up with him? We started in the morning, but good afternoon.

ROBERT KAREN: Good afternoon, Chairwoman Smith. I am going to have to deviate immediately from my prepared text, and change good morning to good afternoon, as you are suggesting.

ASSEMBLYWOMAN SMITH: That's fine.

MR. KAREN: Good afternoon. Thank you for hearing us. My name is Robert Karen. I am Vice President of the New Jersey Builders Association. I appreciate this opportunity to comment on the proposed New Jersey Coastal Commission Act.

While the New Jersey Builders Association supports the intent of this legislation to improve the State's efforts to protect the coastal region, we have identified several concerns that we request this Committee to address prior to the moving of this legislation. We would also remind the Committee, that the approach adopted by this bill is not the only option. Indeed, it may be a poor second choice, when compared to a strategy of refining current laws, effectively managing existing programs, and financing the area's infrastructure at adequate levels.

Therefore, we urge that you move cautiously on this proposal, as it would affect nearly 20% of the State's land area, and impose an additional layer of bureaucracy directed by an autonomous authority with sweeping powers.

As you well know, commissions can easily take on a life of their own, unless the Legislature clearly delineates the objectives and controls to assure regulatory efficiency and administrative accountability. A clear lesson of the recent past is, no matter how well-intentioned, poorly structured legislation causes more problems than it addresses. It is equally clear that entities that operate outside the normal checks and balances inherent in our system of government, often place the preferences of the few above the needs of the many.

It is critical in discussing this bill, that we focus on several facts. For example, it has been said that had this bill been law, the events of this past summer would not have occurred. This is plainly incorrect. The events of this past summer -- medical waste and contaminated blood on the beaches, floatables from New York on the surface of the ocean, and the pumping of chemical waste beneath the surface of the sea -- are not addressed by this bill.

Second, it is important to note that this bill will reduce the region's ability to finance critically needed infrastructure investments. The bill substitutes the credit rating of an assetless autonomous agency for the full faith and credit of the State of New Jersey. At section 24 g., the bill states: "Bonds of the Commission issued under the provisions of this Act are not a debt or liability of the State or of any political subdivision thereof other than the Commission, and do not constitute an indebtedness, liability, or obligation of the State or any political subdivision." The Coastal Commission will try to borrow money in competition with the State of New Jersey. The Commission will be able to borrow less, and it will pay more. Is there any question that this will inevitably

lead to less spending on the area's infrastructure, with untold consequences for the region's environment and economy?

A final fact, before I comment on the particulars of the bill before you: The citizens of this State need places to live and work. By every measure, New Jersey has a housing crisis of unprecedented proportions. Clearly, we can do a much better job of planning where people live and work. We can address the environmental sensitivities of the coastal region. However, this legislation will provide that in a vast region of our State, housing will be allowed only if it enhances the viability and natural productivity of the ecosystems.

This bill will shut the door on housing in another 20% of New Jersey. That fact cannot be ignored, nor can its implications for the tens of thousands of families who will be made homeless if that happens.

Let me now turn to some of the specific shortcomings of the present proposal. While New Jersey Builders are committed to increasing protection of the coastal area -- indeed, that is why for the past three years we have suggested modifying CAFRA's thresholds -- we believe this can be done in ways that will still provide people with places to live and work. The proposed legislation must ensure that a balance is reached between these objectives. Presently, the bill requires a permit for the first unit along the coast, a position to which our Association has subscribed for over three years. We do not, however, support the provision that imposes similar restrictions on small subdivisions 10 and 15 miles from the shore. At this distance, the potential impact of new housing on the ocean is very slight.

The concept of environmental impact being inversely related to the distance from tidal water, is clearly in concert with the Governor's proposal for a Coastal Commission. In that proposal, the administration acknowledged that development guidelines should take into account differences in project size

and proximity to the shore in applying controls, rather than using arbitrary size or location criteria.

Therefore, we recommend that the legislation be amended to include the following: a provision for graduated permit thresholds that increases as the project is located further inland, and for projects located within designated growth regions, such as urban development and extension regions. We also believe the bill should limit permit requirements to construction only, not the mere subdivision of land. We believe that these changes will provide the increased protection that is desired along the coast, while providing the potential for affordable housing in other areas of the region.

Our second recommendation is to streamline the permit process. The proposal before you creates an autonomous entity, with new planning and permitting requirements. It fails to address the enormous cost increases that these new programs will impose on young families and senior citizens who will need housing in the area. The permitting process must be streamlined in accordance with the Governor's July 1988, coastal proposal, which calls for a "one-stop shopping approach for all Federal, State, and local permits and approvals to be established within the Coastal Commission." Therefore, the following recommendations should be incorporated into the bill:

The Coastal Commission shall process and issue all State and local permits in the coastal region, as well as all federally delegated permits. Since we will have one coastal management plan under the bill, a plan to which all local plans shall comply, why not give the Governor the one-stop shopping that he has called for?

Second, a binding preapplication check list shall be provided, and contain a list of all items on which a project permit decision is based. In that context, the Coastal Commission should have the opportunity to request additional information only once.

Third, we believe you should delete the coastal advocate, to eliminate duplicative powers given to separate State agencies. The existing office of Attorney General was established by the Legislature to accomplish economy and efficiency by centralizing, in one Department, the facilities afforded by the State for the rendering of all legal services to all officers, departments, and commissions of State government, and to provide for the enforcement of the criminal law of the State by such Department, where required. Why do we need yet another autonomous agency with sweeping police powers?

Further, within 90 days following submission of an application, including the holding of a public hearing, the Commission should be required to issue a permit decision. We would also recommend a preapplication conference procedure that mandates the involvement of all permit reviewers, unlike the current bill. The precise structure of the conference can be specified in the context of the one-stop shopping procedure that was mentioned above.

In addition, in streamlining the process, we believe the environmental impact statement should be limited to identified items of true environmental concern. For example, it should not include subjective criteria, such as natural functioning of human life processes and scenic and aesthetic attributes, but should focus on objectively established environmental criteria, such as water quality, air quality, soil conservation, and other features such as that.

Another recommendation is that the intent and purpose of the Commission explicitly recognize the housing and employment needs of the region, by requiring the Commission -- in all of its policies -- to analyze and address the needs of affordable housing for all population groups, through market mechanisms. It should promote adequate shelter and workplaces to meet the current and future needs of the population of the area, and it should address the needs of residents and visitors

for shelter, industrial and commercial facilities, and related amenities.

Rather than give our specific recommendations at this time, we will submit, for the record, a detailed rewrite of the appropriate sections, so that a balance can be struck between human needs and those of the ecosystem.

Our fourth recommendation is to provide for a balanced coastal area management plan. The legislation must provide a clear statement on the plan's objectives, principles, and assumptions. Elements of the plan must include analysis of the present and projected demographic and labor market trends, housing needs, workplace needs, economic trends, commutation patterns, and infrastructure capacity relative to current and future needs. Such analysis will require data collection and econometric analysis. Implementation should require approval by the Legislature, as well as appropriate regional and local elected officials. The legislation should define clearly the interrelationships in rank order priority of the management plan and other plans, such as the State Development and Redevelopment Plan and the Pinelands Comprehensive Management Plan.

The bill should make clear that the plan will accommodate current and future demands for housing and workplaces. Wherever restrictions are imposed that reduce land use and diminish the ability to meet the needs for places to live and work, offsetting increases consistent with market reality should be provided. The plan must answer the question: Where will our citizens live?

The bill should explicitly provide for compensation of private property owners whenever there is a partial or full taking of their property values.

I trust our comments will provide the Committee with constructive and sound reasons to amend this legislation as suggested. There are other technical amendments that would

enhance the administration of the bill, but we will not comment on those today. We believe our recommendations will go a long way in assisting the private sector in working with the proposed Commission.

Thank you for this opportunity to present our proposals. I will be happy to answer any questions you may have.

ASSEMBLYWOMAN SMITH: Thank you. Does anyone have any questions at this point?

ASSEMBLYMAN SMITH: Well, he stimulated a question, but I don't know if he can answer it. The question would be: What happens if the Council on Affordable Housing says that a shore community has a certain low- and moderate-income housing obligation, and that they have to zone for it, but yet the Coastal Commission says that development at that intensity cannot be done? I mean, the normal way in which you solve low- and moderate-income housing problems -- the units -- is a five to one match, 20% low and moderate, and use the market rate units to subsidize the low and moderate units. What if the Coastal Commission will not allow that type of development within a community?

MR. KAREN: I really wouldn't know how that conflict would be answered. The only thing I can tell you is, it would again make housing less affordable for other people within the region. You know, those kinds of difficulties and interfacing the various rules, will just make housing that much more difficult for other people to afford.

ASSEMBLYMAN SMITH: Madam Chairman, is it appropriate-- I know that Ralph Izzo stayed to represent the State. The question was stimulated by the testifier--

ASSEMBLYWOMAN SMITH: We can ask him. That is why he's here.

ASSEMBLYMAN SMITH: Ralph, would you tell us the answer to that?

MR. IZZO: (speaking from audience) There is a provision in the bill -- I forget what section it is, but I think it is in the higher numbers-- (part of sentence indiscernible; Mr. Izzo speaking without a microphone) It says that nothing in the plan shall relate to the regulations of CAH.

ASSEMBLYMAN SMITH: So, CAH supersedes?

MR. IZZO: Yes.

ASSEMBLYMAN SMITH: Thank you.

MR. IZZO: That was (indiscernible) for several years--

ASSEMBLYWOMAN SMITH: I would just like to add that Assemblyman Baer has arrived, and Assemblyman Joe Palaia has joined us.

Mr. Louro, you're next.

J O S E P H L O U R O: Since Bob has directed-- Do you want to just read-- This answers the question. In other words, CAH is a State agency.

MR. KAREN: Okay. On page 16, number 11, new section: "Every State, regional, county, and municipal government agency shall comply with the management plan. The Commission shall require 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. The Commission shall establish, consistent with the management plan, minimum standards for the adoption or revision of, as applicable, municipal or county master plans, development regulations, and capital improvement programs in the coastal area."

It would seem to me to say that this would supplant CAH, if that were to be read the way I read it. I guess it says that CAH must comply with the management plan.

ASSEMBLYMAN SMITH: Madam Chair, may we ask Mr. Izzo to tell us what the section is that mentions the reversal?

MR. IZZO: I don't have the bill in front of me.

ASSEMBLYWOMAN SMITH: We have copies.

ASSEMBLYMAN SMITH: I see it, thank you.

ASSEMBLYWOMAN SMITH: Mr. Louro?

MR. LOURO: Good afternoon, Chairwoman Smith and ladies and gentlemen of the Committee. I, too, would like to thank you for the opportunity to address you on the issue of the Coastal Commission, which is of serious concern not only to citizens of the coastal area, but to the entire State.

I do not want to be redundant. One of the problems with being the last to testify, is that everything I am going to say may have--

ASSEMBLYWOMAN SMITH: You're not last.

MR. LOURO: Oh, good. For the record, my name is Joseph Louro, and I serve as President of the Shore Builders Association, which represents Monmouth and Ocean Counties.

We, too, are in favor of a coastal protection bill. Before I address some of the specific concerns I have with this legislation, if you will permit me, I would like to pose a few questions. As indicated by some of the earlier testimony, this is no longer simply a shore-related issue. The Coastal Commission, as proposed in Assembly Committee Substitute No. 122, is now an autonomous body answerable to no one. Yet, it has the authority to make far-reaching decisions affecting our entire State. You, our elected officials of the New Jersey Legislature, have been selected by your constituencies to make State policy decisions. My question is: Why then abdicate this responsibility to an appointed Commission?

The second major point I would like to make, deals with governmental efficiency. Presently, the State Department of Environmental Protection is responsible for administering the Coastal Area Facility Review Act -- CAFRA -- which deals with all development along the shore. Those of us who have had a good deal of experience in dealing with CAFRA, recognize that there are problems with the administration and regulations of

DEP. If there are problems with DEP's administration of CAFRA, why then doesn't the Legislature begin by addressing those specific deficiencies? Again, the question is: Why set up an entirely new bureaucracy and expect that the Coastal Commission will function more effectively or efficiently than DEP has?

The other major concern we have is, if there is a preconceived need to provide a so-called ombudsman to address the problems related to the shore -- you know, the ocean pollution, the hospital waste, the floatables, and the garbage -- why not simply designate within DEP -- and I believe Assemblyman Kelly brought this up before -- a position of coastal advocate who would be responsible to carry out the projects that are directed by the real policy-making body -- the Legislature?

Some of the other specific concerns I have deal with Governor Kean's State of the State Message, when he originally raised the concept of the Coastal Commission in 1987. The Shore Builders Association, and the entire building community as a whole, were supportive of the idea. At that time, Governor Kean called for, and I quote, "The streamlining of permits by the Coastal Commission for all State, general, and local permits." In other words -- "one-stop permit shopping." Much to our disappointment, however, the proposal before you now does not provide such streamlining. Instead, it adds another layer of bureaucracy -- the Coastal Commission review -- to the entire process.

Governor Kean also mentioned, in his original address, the need to both protect the environment and maintain the economy -- a balance so to speak. This bill does neither. This bill is really restricting land uses and reducing the economy of our region, by constraining its workplaces and its employment. Initially, the Governor called for regulation of development based on the proximity and impact on ocean waters, without arbitrary and unreasonable standards. The bill before

you sets an arbitrary and unreasonable standard which does not adequately consider proximity or impact on coastal waters. It is unfortunate and disappointing to us that this legislation does not follow nor implement the Governor's original proposal.

While we, as the building community, are committed to maintaining the region's environment, we cannot support Assembly Committee Substitute 122 as presently written. We intend to work with you to assist in correcting the deficiencies in this bill and to ensure that the essential concepts are embodied in the proposal. We would urge your Committee to please study the substance, as well as the fiscal ramifications of this bill.

Thank you very much. I will be happy to answer any questions also.

ASSEMBLYWOMAN SMITH: Anybody? Assemblywoman Farragher?

ASSEMBLYWOMAN FARRAGHER: I need clarification. Every time I say clarification, it is going to be you, Ralph. Take notes. Page 38, section 37 -- a new section: "The Commission shall issue a joint Coastal Commission permit, where applicable, and shall develop a single permitting process for any permit issuable pursuant to P.L. 1970, c. 272." I don't know what that is.

MR. IZZO: That is the Coastal Wetlands Act.

ASSEMBLYWOMAN FARRAGHER: Oh, okay. And P.L. 1973, c. 185?

MR. IZZO: CAFRA.

ASSEMBLYWOMAN FARRAGHER: Okay, so it says they shall develop a single permitting process. Okay. I didn't know what the references were. (Mr. Izzo's response indiscernible here)

ASSEMBLYWOMAN SMITH: Yeah, but if you go on further, it says here--

MR. IZZO: Three coastal permits will be combined into a single permit and issued by the Commission.

MR. LOURO: Three out of the entire process, by the way, just so you know. One of the problems we have here is, as you get more testimony, you hear the same buzzwords, like: "This is not the real intent," or, "We need additional clarification." I think in parts of this bill, where they are loosely written, we are shooting from the hip. The more you read the bill-- The more different townships read the bill and get into it, they realize that there are problems with the bill, as it is written.

ASSEMBLYMAN PALAIA: Madam Chair?

ASSEMBLYWOMAN SMITH: Assemblyman Palaia, welcome.

ASSEMBLYMAN PALAIA: Thank you. It is a pleasure to be here with such a distinguished group.

Joe, just a question dealing with what you just said about some parts being loosely written, and everything else. I'm sure, and you have to understand, a bill of this magnitude -- because this is big, what we are talking about here -- must go through a process such as this to be tightened up. Sure, it's loose, but that is why these hearings are held, we we can see where it is loose and where we can tighten it up and where we can make the bill even more sound than it is now. That's why-- Sure, it's written in a manner-- It is very difficult to write an extremely tight bill when the bill is of the magnitude that this one is. You know, you are going to have to go through this. We'll tighten it up -- a pinch here, a tuck there.

MR. LOURO: We agree, which is why we are in favor of legislative oversight, which does not appear here. In other words, we are all in favor of legislative oversight, because every bill, when it is originally conceived, is really a great idea, i.e., the State Development/Redevelopment Plan, but by the time it comes out of the hopper, it has been so cannibalized, that it no longer looks like the same bill.

This is a very important issue. Brenda Davis -- or Mrs. Davis, or Ms. Davis, or whatever it is -- stated--

UNIDENTIFIED SPEAKER FROM AUDIENCE: Dr. Davis.

MR. LOURO: Dr. Davis? Dr. Davis stated that this is Governor Kean's number one priority. Two and a half weeks ago, when Governor Kean signed the executive order, you know, enforcing the 1914 regulation, he said that this is one of the tricks up his sleeve in order to get the Coastal Commission through. If this is the Governor's number one priority, then he should open the buttons on his sleeve and let it all hang out. Everything he's got up his sleeve should come out on the table. This is a very, very important bill, and we shouldn't be playing games with it.

ASSEMBLYMAN PALAIA: I don't think anybody is playing games. I think those are the wrong words to use.

MR. LOURO: Okay, don't take it out of context. There was a statement that this was one of the tricks--

ASSEMBLYMAN PALAIA: Nobody is playing games. To me, Joe, that is a poor statement to make. Nobody is playing games. It is too important to the overall welfare of the State of New Jersey.

MR. LOURO: Unquestionably.

ASSEMBLYMAN PALAIA: When you say, "Roll up your sleeves--" I think that is what he is doing right now, because he sees that it is just wallowing right now, and it's not going anywhere. Let me just pull out another--

MR. LOURO: It's wallowing because intelligent people have intelligent questions about the bill, as it is presently written.

ASSEMBLYMAN PALAIA: And, Joe, they are being heard.

MR. LOURO: Good. Well, thank God, you know, for America. This is the process, and that's why we're here.

ASSEMBLYMAN PALAIA: They're being heard. That's why you're here today. That's why these people are all here.

MR. LOURO: Yes.

ASSEMBLYMAN PALAIA: And believe me -- I can almost guarantee it, because I know the sponsor of the bill that well -- as you make your recommendations, he is here now, and he is getting his thoughts together.

One other thing, Madam Chairman, and then I will move on.

ASSEMBLYWOMAN SMITH: That's okay.

ASSEMBLYMAN PALAIA: You know, you said, "Leave it with the Department of Environmental Protection, just add this or that." But what about the representation that is in this bill -- where you are going to have local representation to find out what is happening locally? Don't you think that is important, too?

MR. LOURO: No, I don't.

ASSEMBLYMAN PALAIA: You don't think that is important?

MR. LOURO: It's important, but I disagree with the representation. If you are going to have a 15-member Commission here--

ASSEMBLYMAN PALAIA: Yes?

MR. LOURO: --you know, seven or eight people have to be from outside of the area. One of the problems you have is people who are interested, but not involved. I think all of the representation should come from the shore communities; the people who are not only interested, but who are directly involved with it. That is what I think, and also representation from the Legislature.

ASSEMBLYMAN PALAIA: Yeah, but isn't that better than DEP having just a person within that Commission handling things?

MR. LOURO: But DEP-- I don't want to get involved in a debate, because you are my friend. DEP works for the State government, and they are answerable to the Legislature. I like people who are running for election to be responsive to the public as a whole. I resent that we are going to create another autonomous committee -- like the Garden State Parkway

Committee, or any other committee -- that is going to be appointed for five years, and is going to be able to control the purse strings of this bill, and neither you nor anyone else will have any control over it. That is one of our big objections to it, Joe.

ASSEMBLYMAN PALAIA: Do we have oversight in this bill?

MR. LOURO: No.

ASSEMBLYMAN PALAIA: We will.

MR. LOURO: No, you do not. You need legislative oversight.

ASSEMBLYMAN PALAIA: I'm sure that as it finds its way through the process, you will see oversight. That's my thought anyway.

MR. LOURO: Okay. Listen, that is why we're here.

MR. KAREN: If I may interject-- We would like to see meaningful oversight, not just an opportunity of cutting the purse strings, because the time it takes to cut the purse strings, and until there are some funding negotiations with any proposed Commission, many things happen, and many things are not taken care of. So, some tighter level of legislative involvement in the oversight process is far more productive than just being able to control the purse strings in a commission like this.

ASSEMBLYMAN PALAIA: You have to understand the ramifications of even that. When you deal with the Legislature as a whole -- the 120 members -- you are talking about people from up in -- from far away parts of the State of New Jersey. They couldn't care less, sometimes, about what happens on the coast. So, it's an ongoing fight even amongst ourselves, to get things that are parochial to what we need. I understand what you're saying, but also keep in mind, we are varied and diversified within the State Assembly and Senate ourselves, you know.

MR. LOURO: But here again, they are still elected officials -- the people up in northwest New Jersey -- who may not particularly care what happens to Belmar, Asbury Park, or Seaside Park. They are still elected officials, and they have a responsibility. If the shore is our greatest natural resource -- and I think it is -- then, you know, that is why we like the fact that elected people -- Assemblypeople and State Senators -- would be in charge.

ASSEMBLYMAN PALAIA: Fine. Thank you.

ASSEMBLYWOMAN SMITH: Thank you.

MR. KAREN: Thank you.

MR. LOURO: Thank you.

ASSEMBLYWOMAN SMITH: Thank you. We will look forward to your written comments or proposals.

Ken Smith, Director, New Jersey Shore and Beach Preservation Association, from Ship Bottom.

K E N N E T H S M I T H: Hello, everybody.

ASSEMBLYWOMAN SMITH: Welcome.

MR. SMITH: I want to talk to the audience, but I don't think I will fit in that space there, so I'll have to put my back to them.

ASSEMBLYWOMAN SMITH: That's okay.

MR. SMITH: I thank you for the opportunity to address you on this today. I took notes as people were speaking, so if my comments are a little bit rambling, please forgive me.

I first want to mention where I am coming from. I am Director of the New Jersey Shore and Beach Preservation Association, which is an Association formed in New Jersey in 1981 to promote technological solutions to beach erosion -- beach nourishment programs, where sand is pumped onto the beach from offshore, and inlet stabilization projects, like Barnegat Inlet. Things like that we support. We support the use of the coast by people.

I am also a member of the National Board of Directors of the American Shore and Beach Preservation Association, which we are a section of, and I am also Vice President of Alliance for a Living Ocean, which is an environmental group just formed about a year ago, in response to the wash-up we had in August of '87. In one year, we have gained over 3000 members, and have gone a long way toward tracking legislation and promoting legislation to clean up the waters.

I note that some of the comments that are coming out of the Governor's office seem to paint the opponents of this bill as either developers or -- well, developers, greedy builders, whatever. I am neither. I also serve on the planning board in Stafford Township, and on that board I chair a long-range planning subcommittee. Stafford Township is the mainland municipality which is the gateway to Long Beach Island. Our growth pressures are tremendous. We are trying to take a long view with regard to transportation and other problems; also with the environmental constraints in our town, with our marshes and our Pinelands, to get a handle on the development before it overwhelms us.

We have also been pretty closely involved with research in sea level rise. We have done a few papers on the impacts of sea level rise on coastal development. We have attended several conferences, both in New Jersey and in Washington. And last, but not least, I am on the Legislative Committee of my Chamber of Commerce -- our local Chamber of Commerce -- which has just passed a resolution in opposition to this bill.

In the spirit of the season, which is Halloween, I must tell you that this bill has a lot of scary things in it. I noted that the Union Beach Mayor mentioned that you can't legislate common sense. Well, you know, what is common to one person, may not be common to another. I want to mention that, along the New Jersey shore, and in many other areas of the

country, we have had a classic conflict between natural and stabilized theories of coastal management. The people who I call "can do" people, who believe that we can restore our beaches, preserve our beaches -- we don't know for how long; we know we are buying time, but it could be that we could buy a lot of time-- We always seem to be pitted against the people who say, "Well, it's silly to build on barrier islands. The dunes need room to move." It doesn't matter if they move over your house. "You can't fight with Mother Nature." I always ask those people, "Why don't you mention that to the people of Holland or New Orleans?" It's not that you are fighting with Mother Nature, but you can work with Mother Nature, with coastal technology, to restore your beaches.

But this classic conflict-- Whenever I go to meetings, we always seem to sit in two opposite camps of the room, and can never-- We're just poles apart. We just can't seem to come to any kind of an agreement.

I am not going to take a lot of time up here by reading a lot of things. But one of the things that scares us-- You know, I go to a lot of meetings around the country, and read a lot of reports. Steve Leatherman (phonetic spelling) is an eminent coastal geologist, well respected up and down the coast. He talks about a flexible posture of barrier island dynamics and dynamic management, which has to do with, well, putting a dune management district in where the houses are declared expendable, and then when they go, of course, you can redelineate that district further landward. He says that this solution will be unpopular to affected residents, as an underlying assumption of this strategy is the erosional transformation of the environment, with the landward retreating barrier system.

In the process, buildings adjacent to the shoreline would be destroyed by storm activity, based on their distance from the advancing water edge and the severity of each

individual storm. Redevelopment in storm-damaged areas would be disallowed, and new development on accreting bayside areas would be a subject of much debate, and probably prohibited to wetlands restrictions.

In essence, all development would be removed with complete barrier rollover, which is landward island migration equal to its own width. I want you to remember that, because it has to do with a few other things that I want to pass out, and that I want to talk to you about. Since this is my only copy of this (holds up material), please look at it and give it back to me, if you would. What I am handing out is a report that was done by Norbert Psuty and some other professors at Rutgers -- the Center for Coastal Environmental Studies. It shows a dune management district delineated on a barrier island -- a typical barrier island. It could be Long Beach Island. What their proposal was, was that we redelineate that line, either after storms or just periodically. What they used there was 10 years, 20 years, and then 30 years. You will note that the line-- In 30 years, we are almost back to the boulevard, which would be half of my island.

The problem we have with that is-- Well, you might say, "That's pie in the sky." In 1980, based on this report, DEP came out with a bill -- A-1825. Some of you may remember that, the Dune and Shore Front Protection Act. It took a lot of money; it took a lot of commitment; and it took a lot of time for the coastal residents to defeat that bill. It was done at a stormy meeting in Brant Beach.

Ever since then, some of the things that people don't know that have been happening: In 1985, they came out with a Coastal Hazard Mitigation Report, which recommended a building ban if a structure was damaged more than 50%. They also recommended a building moratorium. They dealt with the taking issue, where you can't take someone's property without paying them for it. But they found about a dozen ways to get around

that. One of them-- They said that one test for a taking was that you can't deny all reasonable economic use of someone's property. They said that courts, in some instances, had held that agriculture and forestry were appropriate uses of the land, making such leaps in credibility to apply this to oceanfront properties. We had the riparian issue, where the State came along and said, "Well, you know, we don't know whether we own your land or not. We never bothered to map it in 200 years, but now we are going to map it. If we find out that we do own it, even though you have a chain of title going back 30 or 35 years-- If we own it, and if you sell it, you have to pay us for it." So these things, cumulatively, scare us.

We have DEP moaning about all the environmental damage that has been done, and the Governor's office also. Here is a page from a DEP manual. I think it was published either this year or late last year: "During the last 18 years, only 577 acres have been lost -- acres of wetlands have been lost to necessary projects, out of 234,000, where prior to 1970, more than 3200 acres were being lost." What I am saying there is, the Wetlands Act and the CAFRA Law are working. The claims of imminent danger by the Governor's office, I think are way overstated.

Also, DEP mentions, whenever you talk to their Division of Water Resources, how clean the waters are: "They are oxygenated; they're wonderful. They are the cleanest they have ever been." They also have a manual on how to clean the pollutants out of fish. I don't know if you have seen that, where you throw them on a rack and all the pollutants drip out with the grease. I'm serious. I've seen it.

In May, during an Assembly committee hearing, Brenda Davis alluded to the Governor's Blue-Ribbon Panel Report on Coastal Pollution. That report concluded that the major cause of coastal pollution was coastal development. I disagree with

that. I disagree with it emphatically. Most of the floatables don't come from our area. They come from ships or from the northern New Jersey and Hudson waters. The sludge-- We don't dump our sludge in the ocean. We don't dump our acid waste in the ocean. We don't burn our wood out at sea. All of this is coming from other areas.

Now, we do have non-point pollution problems. No question about it. I am happy to see some stormwater monitoring clauses in this bill. Of course, if we have to pay the brunt of that, then I'm not so sure either that we can afford it, or that we should have to afford it.

They mentioned that coastal development was the major cause of coastal pollution, and they recommended 1000-foot buffers between the development and the bays. Well, if you put 1000-foot buffers in Long Beach Island, we're gone. Okay?

I am telling you all this to build my case, and I think I have a pretty good case to build. This is what scares us at the coast. The Governor's Conference that was held two weeks ago, at Bally's. I saw very few mayors there. There weren't very many mayors invited. In fact, George Tompkins had to insist that he be invited. We had position papers, and during the plenary session-- Oh, incidentally, that Governor's Conference was the first one that was held since 1979, and it was held in conjunction with Rutgers, The State University's Center for Coastal and Environmental Studies, Dr. Norbert Psuty, the same guy who wrote the coastal dunes report you have on your desk.

There were position papers. They also said during the plenary session: "Out of the workshops of this conference are going to come the decisions that are going to impact the future of the New Jersey coast." Well, I guarantee that out of my workshop nothing is going to come out, because we didn't resolve anything. I was in there with Susan Halsey and some other DEP no-growth people -- no growth, no preservation

people, I might as well call them. One of the things they talked about was making the first two lines of property from the ocean expendable. They didn't say how they were going to pay for them. They didn't use any shoreline profile data, because they didn't have it. They didn't use any data on the width of the dunes. It was just a blanket: "We want the dunes to have room to move, so we think that would be a good idea."

They talk about major permanent change at the coast, mainly through a storm -- the big one that everybody is waiting for. A post-disaster plan should be available to redirect development; return marginally developed land to the public sector; to elevate or reposition utility lines -- that means, I'll get to that in a second -- to exercise decisions about the reconstruction of roads and bridges; and to essentially reprogram the land use pattern to offer the greatest protection to post-storm development. The problems are regional. They cannot be met on a local level. They call for the Coastal Commission as the perfect answer to this.

You know, this was sold as an agreement with all of the mayors and all of us who had input into this. I don't want Ralph Izzo to take this personally at all. Ralph and I have worked on this and argued on it for over a year now, and we are not getting any closer. Well, maybe that will be wrong. Maybe after the Senate hearing on Thursday, we will have some good things to report. But, as it stands now, we have serious problems with this bill.

Another thing that bothers us is -- and this is the last thing -- when the Governor's executive order was given out to provide an impetus, to move this bill along, we looked at the people who were on the dais. I want you to understand, I am an environmentalist. I wouldn't be vice president of an environmental group if I wasn't. But the people who were up there were: Derry Bennett, from the American Littoral Society, who, to this day, thinks that the Dune and Shore Front

Protection Act is a good idea; the National Resource Defense Council; the Audubon Society; the Sierra Club -- people who we have butted heads with over trying to preserve our beaches over these years. So how does that make us feel? We feel like the bomb is coming, and the Governor and the Legislature are about to drop it.

We are in agreement with the mayors. George Tompkins was a supporter of this bill, until he read it. He read it carefully. Now, all of a sudden, it is like a light bulb going off in his head, and that is the same reaction that most of the mayors we have talked to in the southern part of the State have. They have very serious concerns about it now.

I want you to be wary of strong central authorities. Given the powers that are vested in the Administrative Procedures Act, the authorities should have a narrow focus; namely shore protection and clean water. The broad focus that is given to this Commission, coupled with the Administrative Procedures Act, can wreak havoc at the coast.

I refer you to the definition of project. "Project," in here, "means any plan, work, or initiative that the Commission undertakes ... and any other activity deemed necessary by the Commission." In short, anything, but it includes open space acquisition. When the Commission makes up its minimal standards for the municipalities to follow, if they don't go along with whatever projects, and fund them, they are in trouble. The hammer comes down on them.

Resource assessments: Under the resource assessments that are to be done under this -- under the purposes of the Commission -- there is no proposal to consider data on tourist revenues, property values, wages, the number of people employed at the coast. It is strictly a bill written on environmental criteria, and I object to that.

There is a clause that has to do with infrastructure relocation, where the Commission has the right to relocate or

remove utilities. A good case in point is Harvey Cedars. In the 1962 storm, a channel was cut through Harvey Cedars 100 feet wide and about 20 feet deep. In the paper, one of the comments I heard -- it might have been from the Littoral Society, but I don't want to blame them if that wasn't it-- They said, "Well, what if we give this blanket reconstruction -- this blanket guarantee to relocate utilities? What if we have an inlet cut?" Well, my friends, that wasn't an inlet. That was a channel that was cut. If Mayor Thomas -- who was the Mayor of Harvey Cedars -- hadn't pulled his dredge up and started pumping sand, we would have had a problem. Of course, back then, he was allowed to do it. Now we have a continuous unbroken line down the island. If you allow an inlet to be created, you are opening yourself up to a whole host of problems; namely stabilizing that inlet and-- Well, that is what it would be.

For shore protection, which was the impetus to the creation of this bill, I think, because this is what most of us have been crying for at the shore -- shore protection, building up our beaches, restoring our beaches-- It is given very short shrift in this. There is going to be a priority list of projects, but this priority list has to be checked by a geologist, using accepted principles of coastal geology. That begs the question: Accepted by whom? Is that the Orrin H. Pilkey school of coastal geology -- Orrin Pilkey is the geologist who runs up and down the coast saying we should let the structures fall in -- or is it the Army Corps of Engineers' geologist, or what? But they have to take into account the transitory nature of the coast.

Sea level rise: The only thing I can tell you about sea level rise, is that we have been cautioned to wait at least five or ten years before we make any predictions on it. There is a rise. There may be an accelerated rise. We don't know how much. That, in a nutshell, is all I can tell you about it.

I feel there should be a reconstruction guarantee for all properties. You know, when you invest your money at the coast, or anywhere else, you are investing under a certain set of rules, and I think you need-- You can't change the rules in the middle of the game. To just have a presumption of a right to reconstruct for single-family homes leaves a lot of people hanging out there, with possibly their life savings. A good case in point, Sam Damao owns the Port of Call Restaurant in Beach Haven, low to the ground, near the bay. He could suffer severe damage. He would have to go to the Coastal Commission and, depending on whose common sense, he may or may not get a permit to rebuild.

Now, concomitant with the permit to reconstruct should be certain guidelines. If you are on the oceanfront, and you are at the most seaward setback, you should have to -- be required to build to the landward setback, with no increase in your width. If you have a 30-foot wide house, it doesn't mean that you go to the landward setback and make a 50-foot wide house, okay? -- where that is possible, okay? All new construction, or reconstruction should have to conform to the FEMA Coastal Guideline Construction Manual, which is a tough manual. It involves bracing on pilings and a lot of other things. Those types of things, I think, can help to keep the dunes where they are. But you know, you can have all the commitment in the world, if you don't have funding, you don't have anything.

I was amazed to hear John Bennett say that the funding for this is down from \$20 million to \$5.9 million. That does not bode well for the future of this Commission. But I want to say, you know, we beat our heads against you, the Legislature -- and I don't mean you personally, unless you voted against us-- But, for years, the Legislature and the State of New Jersey have not lived up to a responsibility to protect the beaches. The beaches are like the roads. The roads have to be

resurfaced. There is plenty of asphalt going down all over the State. The beaches are a resource which has to be replenished from time to time. We kick out \$4 billion in tourist revenue -- \$8 billion if you include Atlantic City. That is a lot of money, and that takes a certain commitment to the care of that. Make no mistake about it, that beach is the draw. Some people may come down to our islands and not go anywhere near the beach, but that beach is a resource, and it is also a protection for all of the other things that people want to do.

We have not had a funding commitment from the Legislature. We got \$12 million last year, and that was the first in over 10 years. We have had two bond issues, which were overwhelmingly voted in by the voters. But, we are just about out of money, if we don't come up with a stable funding source. And we have had to go to these creative funding sources, because of the inability of the Legislature to provide funds, while the Governor sits back, and says, "Well, I am not going to tell you what to do. You guys come up with something."

We had a funding seminar at Monmouth College in 1984, where I proposed a resort tax. It wasn't my idea; I stole it from South Carolina, where it works very well. We are still beating that one around. We have a Natural Resources Trust Fund, which will guarantee, as I understand it now, 20% to shore protection. If you raise \$50 million, that's \$10 million a year. That is not going to do it; that is not going to do it. And to go into this big management proposal for the coast, and not fund it-- It's like "the blind leading the blind."

Capital improvements-- Well, let me go back to stable funding for one second. If we do have to have a creative stable funding source, my feeling is that it's got to be constitutionally dedicated. I think to have the Legislature have a cutoff of funds, to have that power-- That is not really the way to go. When you commit to a project, you've got a four- or five-year permitting process sometimes, especially

for a Federal project. You've got to know that that money is going to be there, or it's like a dog chasing his tail.

Capital improvements: I have a concern over the input we are going to have for the capital improvements the Commission is going to require, and how we are going to pay for them. User fees-- Will they be enough to pay the projects off if we put a marina in? I'm not sure. A lot of marinas are not making any money these days. What if they're not? You know, down in Florida, Captiva Island just did a project, where they did extensive research into assessments of property owners and values of property owners and day trippers. Those things need to be done. As I said, the gray areas in this bill need to be dealt with, before it is passed into law.

At the Governor's Conference, a man named Frank McGillvery (phonetic spelling) spoke at lunch, from the Fish and Wildlife Service. I was so mad, I probably could have lit up the table, because of the things he was saying about how silly we are to occupy barrier islands. He was confidently hopeful that Federal and State actions in the future would limit the development and redevelopment of these areas where we are so stupid for being there in the first place. But he mentioned, he said, "You know, doing beach protection -- beach nourishment -- is like putting in a lawn. Once you do it, you have to commit to it." Yeah, but the alternative is crab grass, you know. I put in a lawn at my home last year, and 90% of it was preparation. The rest was the lawn.

What I am saying about this Commission is analogous to that. Before we put such a wide, sweeping, powerful bill in, before we adhere to a management plan where we don't know what we're getting, why don't we take some time and take some good looks at it and get some more input, because the input we have is not it.

I want to close -- mercifully for you -- looking to the future. You know, if I had the best of all worlds, if I

got everything I wanted, if we had good land management at the coast, if we had a commitment to restore the beaches, to professionally vegetate the dunes, to take a scientific professional management of the coast, that would be wonderful. We could do that. But what happens if we get a Governor like Governor Byrne, and the funds are cut off? In 1977, we had \$42,000 allotted to protect 127 miles of coast. What happens? Then all the planning and all the commitment goes right down the drain.

If we get a Coastal Commission bill -- and I hope we do, because we need an advocate for the coast; I have very serious reservations with this bill -- it has got to be funded by a stable funding source that is guaranteed to be there to protect our beaches.

Thank you.

ASSEMBLYWOMAN SMITH: Thank you. Does anyone have any questions for Mr. Smith?

ASSEMBLYMAN SMITH: Just one quick comment for him; that is, just for your information. You made an early remark that it is not development, but something else that is the cause of the pollution at the shore. All right?

ASSEMBLYWOMAN SMITH: That's right.

ASSEMBLYMAN SMITH: Let me tell you the answer to the question, all right? The answer to the question is combined sewers. We have combined sewers all over the State, and every time there is a heavy rain, the sanitary wastes from those areas wash into the Atlantic Ocean, and they are-- Even though floatables and medical waste are what are on the public's mind right now, in terms of pollutorial impact and public health considerations, the real source of pollution at the shore is those combined sewers. And the one point of the 14-point Governor's plan that has not been passed is the \$120 million bond issue.

ASSEMBLYMAN PALAIA: That's our bill.

ASSEMBLYMAN SMITH: Our bill -- Joe Palaia and Bob Smith's bill -- to provide a funding source -- a rotating loan -- to uncombine the combined sewers. That is the real source of the pollution problem.

MR. SMITH: Yes, combined sewers, and also pretreatment. You know, you can pass all the laws you want to get the sludge dumpers out of the ocean, but what is going to happen is, we are going to get a date like 1991, where they all say, "Well, we have no alternative." What the Legislature has to do is provide, through funding incentives or tax breaks or something--

ASSEMBLYMAN SMITH: Pretreatment standards?

MR. SMITH: Well, not only pretreatment standards, but they've got to help the utilities retool their plants, or do what they have to do to meet those standards. You can't just wave a wand, and say, "Out of the ocean." I think you have to help them get out of the ocean. And, of course, that takes a funding commitment.

ASSEMBLYWOMAN FARRAGHER: Madam Chairman?

ASSEMBLYWOMAN SMITH: Assemblywoman Farragher?

ASSEMBLYWOMAN FARRAGHER: Just a comment for the good of the order: Some of the things you spoke about can directly relate to barrier islands. I have a short history of Long Beach Island that was most interesting. I picked it up on vacation this summer, and I would be happy to share it with the Committee -- they could ship it around -- because those are the most unique problems -- unique to barrier islands.

MR. SMITH: You know, we could have done a lot worse. We have tried to hold the line on zoning. Long Beach Township just passed an ordinance that limits subdivisions. We could have been wall-to-wall condominiums, but we held out for single-family and maybe duplex zoning, you know. I think it is to their credit down there that there was some attempt anyway.

May I have my book back?

ASSEMBLYWOMAN SMITH: Yes. Thank you, Ken.

MR. SMITH: You're welcome.

ASSEMBLYWOMAN SMITH: Bill Neil, the American Littoral Society, from the Highlands. Good afternoon.

W I L L I A M R. N E I L: Good afternoon, everyone. Thank you, Assemblywoman Smith, for having us here today. I am going to speak not just for the Littoral Society, but I'm speaking on behalf of a coalition of environmental groups that have been involved intensively in working on this bill. We have contributed some language. We worked with the Governor's staff and Assemblyman Bennett, and hope to work with Senator Dalton very closely this week. I will mention the groups that are working with us, and I think you have heard some of the names mentioned earlier today: The New Jersey Conservation Foundation; the New Jersey Audubon; the Sierra Club chapter in New Jersey; the New Jersey Environmental Lobby; and the Natural Resources Defense Council -- their New York office.

I would just like to start out by saying why we are supporting the legislation, and have grown happier and more pleased with it as it has evolved. We are supporting the Assembly Committee's substitute version that came out of Assemblyman Bennett's committee. We have four major features we like and which we think are very important. I will give you a quick overview of why we think they are good.

Section 10, the management plan, especially. Why have we been unhappy? Why haven't things been working at the Jersey coast? We do think there is a relationship between the amount of development and especially non-point source pollution, but it is related to floatables. I mean, it was mentioned that the problems coming out of New York City are all sludge related or sewerage related. No, it's not. Some of it is related to the density in those areas. If you could find a way to do development without having any adverse impacts, that would be great, but nobody has done that yet. There is scientific

evidence from many EPA -- Federal EPA -- conferences, especially one held in 1985. I have the two volumes, and would be happy to give you excerpts from them, which indicate that you do get pollutant loads in the way of nutrients, runoff from parking lots, heavy metals, grease, and so forth. It is a function, not because the people who do development are bad or have bad intentions. It is a by-product of our chemical way of life, and it is unfortunate for everybody.

The management plan, we think, emphasizes protecting the natural resources, as opposed to the balancing act that has been struck before. There is going to be development, and we don't want the environmental community's position to be seen as being opposed to all development. That is not the intent, and it is not in the bill. There is going to be more careful scrutiny of development and where it can go in relationship to what we want to protect. We have to know what we want to protect first, which is why we called for, as an element in the management plan, the natural resources inventory. That is going to be-- It is in the eight pages of recommendations we have, which we will be giving to Senator Dalton. We have made it more explicit than it is in the legislation, but if you don't know what you want to protect, it doesn't make much sense to start trying to do land use management. So, there is some sense to this.

Section 11 is very important to us. They are the penalty clauses for noncompliance with the management plan. The management plan is very important to us in what it spells out. If it is not followed, it won't do the job along the coast. We think there is flexibility in the penalty language in section 11. It's there; it spells out what can happen if you don't do it right, but it is a necessary element -- part of the problem which we have heard the Department of Environmental Protection criticize. Some good things come out of the Department of Environmental Protection. There are competent

scientists there, and sometimes they say things which are going to impact adversely upon local communities. But there is a spirit of compromise in this bill. The penalties, we think, are fair enough. There is going to be local input into that management plan. There are going to be public hearings. There is lots of leeway in its say, and there is adequate representation, we feel, in this legislation -- in the total votes and veto powers in the bonding section, the make-up of the Commission, the 15 members -- to protect local interests, but there are some tough teeth in it also.

A management plan which didn't render some decisions based on science that are tougher than what we have now, probably would not be doing the job in specific locations.

Office of the coastal advocate: Why is it important? We think there has been a staffing problem in the Division of Coastal Resources. For the southern districts, they have two field people to check up on wetlands, and you can imagine the hundreds of development projects that go on down there. There is filling of wetlands that they can't catch up to; not as blatant as before, but they don't have the staff to do that now. Make some phone calls, as we have done, and find out how many positions have not been filled, and people have transferred over now to freshwater wetlands. So, if they don't have the staff to find out what is going on now, the word never gets to the Attorney General's office, let alone then get sorted out among priorities as to what to pursue among all the other types of criminal cases. We have an enormous drug problem. The attention of the Attorney General's staff is a political issue in that sense. I mean, you can't do everything. There must be decisions made. We are not always happy with the results for the coast.

So, there are two things here: You need the staff -- the technical staff -- to find out where the violations are, to go out and investigate them, and then make the referrals.

Well, it hasn't worked, because there hasn't been the staff to find the problems, we feel. The other problem is, the Attorney General hasn't had the manpower. They have had so many other things to do that it hasn't received the priority it ought to. So, the coastal advocate, we think, takes care of that.

I'm not sure how he becomes a super cop, if the words "serves at the pleasure of the Commission" are in there. That means he can do certain things, but at the moment he oversteps the pleasure of the Commission, they're gone. Somebody at the public hearing -- a citizen -- asked me, "Can the coastal advocate turn around and sue the Commission?" I said, "Yes, in theory I think he could," because if the Commission did not carry out its environmental mandate, it could happen. The person would get fired the next day. That's the protection. Okay? The coastal advocate is not a runaway cop. It's there. I think the public expects it. They have been unhappy. We haven't found any-- How many medical dumpers have we found? This is an assurance to the public, who is so concerned about the coast, that there is going to be staff and real expertise to pursue coastal problems specifically. We know it is asking a lot, but I think the citizens expect that of their coastal region right now, and it is so important to our economy. If there were another way to do it, we would be open-minded. We think this does the job. There are safeguards in there -- that "pleasure of the Commission" -- and the nine votes to six that your residents have in there is some assurance that it isn't going to be a runaway mechanism.

What else do we have to-- Section 62 spells out the thresholds. We are pleased with that. It says all tidal waters -- any tidal waters -- within 1000 feet of the first public parallel road. I worked carefully, talked to people at the Division of Coastal Resources, looked at maps, and traveled throughout the coastal zone. There aren't many places where that becomes miles and miles. I can't think of any. Since we

have a predominantly developed coast, there is usually a parallel public road there, well within a mile. I'm not sure what the figure is, what you reach most, in most cases, whether it is the 1000 feet or the first public parallel road, but it is not as expansive as it was made to seem this morning.

I want to convey the sense of compromise the environmental community has on this. Our original inclination, when the bill was first put out-- We had 19 points of difference back in May, with the original Governor's version. One of the concerns was that it had tipped too far in favor of local input; that the non-shore residents and the public interest in what goes on at the coast wasn't adequately represented.

We are very pleased with the compromises that we have now. The nine to six majority of coastal residents is an assurance. The veto power that local communities have at each of the sensitive points of the purposes of the bonding, is added assurance. Don't forget, that may mean that they have veto power over remedial water pollution. That's in the bill right now.

There is public participation in the development of the management plan. Technical experts are going to participate in it, and some of those people might be people at the Division of Coastal Resources now. There may be new staff, or a combination of both, but it is not going to happen behind closed doors. It is going to happen out in public, with a chance for comment. There will be a draft, and the draft will be commented upon. There is plenty of opportunity. It is not going to be a closed-door process. All of that is assurance, plus the four regional council people, who have to be from the shore, and elected shore officials chosen, not by the Governor now, but within the coastal community. So, that is an absolute guarantee of a local say in this.

Probably in the environmental community, the original understanding was to put more central power in the Commission, and have less balance of shore input. We realized, in the spirit of compromise, that it is necessary-- There has been much unhappiness with the Division of Coastal Resources. Coastal residents and elected officials feel that they haven't been heard. We feel that we have traveled an enormous way. We know there is a lot of work yet, and amendments possibly in the Legislature, and we are open-minded about that. There are some things we feel cannot be given up. The coastal advocate is one. The wording in the management plan has been carefully drafted by us. We like the critical zone provisions and the penalties in section 11. That all kind of hangs together as a balancing network between central Commission authority and enough power to do the job properly, and representation from local communities.

We have several additions we would like to call your attention to: A restoration component will be recommended to Senator Dalton's committee by us. What that does -- and it does not appear in the management plan right -- is list six items, and possibly a seventh. Senator Pallone may add a seventh point to that. What that means -- our restoration component -- is, we don't think the citizens of the coast or of the State just want the status quo at the shore. They want to see some improvements. So the six items we have spelled out are: a reduction in the amount of pollutants going into the water; an increase in the amount of viable wetlands; submerged aquatic vegetation upon which so much of what we catch and want to eat from the coast depends; open space; and several other features. We didn't put numbers in; we put timetables in. But what it means is, reasonable goals can be set as the Commission is up and running. The proper place for that-- To put ironclad goals or timetables in now would be silly. But the point is, improvements are necessary along the coast, and we

don't want just a holding action. If you can improve the qualities of submerged aquatic vegetation, improve the acreage of aquatic growth, as you improve the quality of what people catch-- We feel that would be much of the help to the Jersey shore. Its commercial viability is based on being able to eat what you can catch there, and there is some relationship there between the health of the resources.

ASSEMBLYWOMAN SMITH: It's been a long time.

MR. NEIL: It's a fine line. I think all of us can have-- We can build residential units to infinity at the shore. We can build out and develop every last lot horizontally, and then we can go vertically. That may not be the wisest way to go, because you may lose natural resources. There is some science to how many pollutant loads estuaries can take. It is going to be the responsibility of the management plan-- You know, we are not going to pick numbers out of the air. The Commission certainly shouldn't do that. They should be able to say to the development community, which wants to build, "You shouldn't do this here, and here's why." If they can't make a convincing why, then they shouldn't be listened to.

I don't know what you have heard from the environmental community, but we have to have reasonable positions from which we say, "It's too dense here," or, "It shouldn't be as dense there."

I want to address some things I heard from previous speakers: From the building community, the concern about a single-stop process. I think I am reading the language properly in section 37 -- "a joint Coastal Commission permit for the three major New Jersey programs." I'm not sure what more they would like. Perhaps there are other permits -- the waterfront development permit. The Corps of Engineers is often involved, and there is under way a proposal to -- for some of the Corps' proposals -- have New Jersey assume them. So that could be incorporated in this. That has not happened yet --

for New Jersey DEP to assume some of the Corps' expertise in that area. That hasn't happened, and there are some water resources quality things which have been transferred -- certificates you need that have been transferred to the Division of Coastal Resources. So I think it is heading in that direction, if it isn't there now, for a joint Coastal Commission permit.

The other concern was the check list, which I believe is in section 21, on page 25. That was inserted into the bill at your request.

ASSEMBLYWOMAN SMITH: It's in.

MR. NEIL: So, it is in there.

ASSEMBLYWOMAN SMITH: We might have had it from before. Maybe they weren't aware of it.

ASSEMBLYWOMAN FARRAGHER: Check list and tolerance are in there.

MR. NEIL: We had absolutely no objections to that. We understand that that is important to the community. Who would be opposed to a more simplified procedure? We are not giving up anything there.

The name Norbert Psuty came up in the Governor's Conference, and there were quotes there. You should know what the environmental community expects. Is the environmental community waiting for a big storm to happen to come in and grab large amounts of land? We were not the people who inserted language about rebuilding. Our original position, in section 62, where the language occurs over what you could build after a storm-- We wanted, originally, for it to be left on a case-by-case basis, and not address the issue; meaning that if there were a storm, what you got into was going to be examined on a case-by-case basis. Okay? Now there is a presumption to get a permit for that. But I don't believe Norb Psuty was consulted at all. He did have a paper at the Governor's Conference. I can't find Norb's language. I read his paper

very carefully, and was very interested in it. His language is not in the bill, and I don't think it is the intent of the environmental community to be as sweeping. Much development along the Jersey shore is an accomplished fact. No one can rewrite that map. If a large storm happens, and large amounts of things are knocked over-- The bill about rebuild is being strengthened concerning that. What you can build and land use planning in the coastal zone is limited by the amount of money available.

So, I would stress that the fears about what the environmental community intends post-storm, are exaggerated. There are going to be some places where the water is going to make rebuilding absolutely untenable. It has never been our position to go any further than that. That is going to be a common sense matter. The courts themselves are not clear as to what the proper compensation is. Whether the legislation can, or should, address that, we don't know.

In summary, I would just like to say that we are pleased with what we have. There are compromises, and there is some slack in this bill. There is slack in the appointments. Who will the Governor appoint, if we get legislation? The other sock in the bill is in the management plan itself. We have what we feel is some powerful guiding language on that. There is going to be a public process of developing. No one group has a lock on what that is going to finally say, and that is the way it should be.

I wanted to indicate that, that the environmental community has come a great way from its original positions, and is willing to listen. We have talked to builders, and I have had conversations with Ken Smith about this. He knows our thinking.

I've said enough. I would be happy, having spent so much time working on this, to answer any questions you have.

ASSEMBLYMAN SMITH: One question for you, sir. In your comments about what the environmental organizations felt very strongly and very good about, one of the sections was the penalties provision, section 11. In section 11-- I'm sure you were here for the earlier discussion of e., subsection (1), on page 18 at the bottom, which says, "e. Upon a finding by the Commission that a county or a municipality is not in conformance with the management plan, the Commission shall" -- and here's subsection (1) -- "withhold all grants, loans or loan guarantees to that county or municipality, except upon a finding of substantial, regional benefit." We then questioned whether or not that meant State aid. We kind of got fuzzy answers, but then later on in the bill, Assemblywoman Farragher found -- on pages 35 and 36 -- language which said: "To assure the continued operation and solvency of the Commission, the Commission may require the State Treasurer to reimburse any obligations to the local government unit to the Commission from the State aid payable to the local government unit if a local government fails or is unable to pay to the Commission in full, when due, any obligations owed to the Commission."

Was that part of the language that the environmental groups wrote?

MR. NEIL: No, in neither case.

ASSEMBLYMAN SMITH: In neither case?

MR. NEIL: In neither case.

ASSEMBLYMAN SMITH: So, on those--

MR. NEIL: Certainly not section 33. That really hasn't been touched at all by the-- The very clear sections on bonding-- The environmental community understood that much of what is in there has been in previous legislation. It kind of came out from the computers of OLS from other legislation. So we had no input on that. And on page 18, e. (1) -- not on that either. We had asked the question, what was--

ASSEMBLYMAN SMITH: What was meant by that, yes.

MR. NEIL: Yes. I can support what I heard as an answer today, which was that it was a narrow interpretation; that those loans and loan guarantees that would be lost, were related to the purposes of the bill. They were not meant to reach into other areas, such as highway money, educational funds, medical funds, and so forth, and that has been consistent all along.

ASSEMBLYMAN SMITH: All right. So it would be fair to say that the environmental groups that you represent would not have any opposition, at this point, to the removal of subsection (1)--

ASSEMBLYWOMAN SMITH: We took out that particular--

ASSEMBLYMAN SMITH: --or to the statements concerning the reduction in State aid to cover the obligations of the Commission?

MR. NEIL: Well, no, that is a different question. We feel opposition to removing them. We think the penalties there--

ASSEMBLYMAN SMITH: Are not enough?

MR. NEIL: --make sense.

ASSEMBLYMAN SMITH: Make sense. So you would like to see that stay in?

MR. NEIL: That's right.

ASSEMBLYMAN SMITH: That is the strong position of the groups you represent?

MR. NEIL: Yes -- section 11. We have not taken a position on the section on the bonding.

ASSEMBLYMAN SMITH: Well, this is not bonding. This is operational aid, as well, that we are talking about -- on page 35. This is to assure the continued operation and solvency of the Commission, not necessarily bonding.

MR. NEIL: We would be happy to give that section closer scrutiny, without specific concern of mine, and make a comment before the next hearing in Trenton. I can speak clearly on page 18. We want to see that set.

ASSEMBLYMAN SMITH: Put in the narrow context.

MR. NEIL: Yes, we agree with that.

ASSEMBLYWOMAN SMITH: Thank you very much.

ASSEMBLYMAN KELLY: I've got a question.

ASSEMBLYWOMAN SMITH: Oh, okay, go ahead.

ASSEMBLYMAN KELLY: Are you telling me that this bill says we are going to have just one place to get a permit approval, or are we going to through this with this Commission and then run to Trenton? Are we going to have one place to get permits?

ASSEMBLYWOMAN SMITH: It is supposed to be one-stop shopping. That is what they--

MR. NEIL: They itemized the prior legislation that is covered by this. There is a question in my own mind. There is a Water Resources Division that was separate from the Division of Coastal Resources. It is my understanding that they have now been consolidated within DEP. Sometimes, depending on what you want to do in the coastal zone, a separate permit was necessary from them. But that is a fine technical point. You are going to have to get the answer from DEP, whether that would now be picked up as part of this one-stop shopping.

That has been a complaint. The major complaint I hear is-- The Corps of Engineers is often involved, and some of that can't be solved. There is going to be an improvement, because the State -- maybe 18 months, two years down the road -- will get some State certification to do things that you had to go to the Corps for before. Okay?

Now, the water part, which often requires a separate permit-- There is a fine-tuning answer. There has been some recent change within DEP, but you are going to have to ask their officials about it.

Most of the permitting activity that goes on now--

ASSEMBLYWOMAN SMITH: I saw it someplace in here.

MR. NEIL: Yes, it is one-stop shopping.

ASSEMBLYWOMAN SMITH: Do you see where that is in this? Have you seen it yet? Excuse me.

MR. NEIL: Yes. The one-stop-- I made a note. It's on page 38, section 37.

ASSEMBLYWOMAN SMITH: Assemblyman Kelly, any more questions?

ASSEMBLYMAN KELLY: I have no more questions.

ASSEMBLYWOMAN SMITH: No?

ASSEMBLYMAN SMITH: As a follow-up to Assemblyman Kelly's question, they refer to the permits that would be done in the one-stop shopping by the Public Law designation, which doesn't really help us to figure out what permits they are.

MR. NEIL: Okay, well--

ASSEMBLYMAN SMITH: To your knowledge, is sewer--

MR. NEIL: P.L. 1970 is the Wetlands Act.

ASSEMBLYMAN SMITH: Right.

MR. NEIL: P.L. 1973 is the CAFRA legislation, and section 40 -- the reference there--

ASSEMBLYWOMAN SMITH: No, it says that is still a bill pending.

MR. NEIL: Well, no, it is referring to this bill -- the Coastal Commission.

ASSEMBLYWOMAN SMITH: Oh, that's this bill?

MR. NEIL: Yes.

ASSEMBLYMAN SMITH: What about stream encroachment permits?

MR. NEIL: That is a fine-tune answer. It is not clear.

ASSEMBLYMAN SMITH: Ralph is shaking his head no; that they would still go to DEP for that.

MR. IZZO: That is correct. (speaking from audience)

ASSEMBLYMAN SMITH: How about sanitary sewer extension permits?

MR. IZZO: The same thing.

ASSEMBLYMAN SMITH: Go back to DEP for that?

MR. NEIL: Yes.

ASSEMBLYMAN SMITH: So, this is not one-stop shopping.

MR. IZZO: It depends on which permit you'll need. For all State permits-- You could not get all State permits from the Coastal Commission. That is correct.

However, there is one stop additional that has not come to light, and that is the fact that for the three permits -- CAFRA, coastal wetlands, and waterfront development -- you could go to the Commission. In the case of a delegated municipality, you would not even need to go to the Commission. You would get all three of those State permits, plus all your local improvements from the municipality. That would be a tremendous-- (remainder of statement indiscernible; witness not at microphone)

MR. SMITH: (speaking from audience) Don't they have to be approved for application?

MR. IZZO: Absolutely not.

MR. SMITH: Oh, okay. So, a variance-- An approval is not a--

MR. IZZO: A variance is a knowing deviation from the master plan which the town is adopting in conformance with the management plan of the Commission. Therefore, it was thought that the Commission should review it, since it was a known deviation.

MR. SMITH: They are going to review every variance-- (indiscernible; Mr. Izzo and Mr. Smith both speaking at once, from audience, no microphones)

ASSEMBLYWOMAN SMITH: Excuse me?

MR. IZZO: Oh, I'm sorry.

ASSEMBLYWOMAN SMITH: That's okay. Any more questions?

ASSEMBLYMAN SMITH: Ralph stimulated another question: If the wetlands permit is going to be issued by a municipality as a part of its review process-- Right now, as I

understand it, DEP has an entire section that is handling this -- all kinds of hydrological experts, etc. Does this mean that the local governments are going to have to hire those kinds of experts to review wetlands permits?

MR. IZZO: Coastal wetlands and waterfront development and CAFRA are all on one single set of rules; that is, the coastal zone management rules. They are by and large already written. They do not require the level of technical expertise you would need to develop a set of rules for freshwater wetlands, which mainly is what you are referring to.

ASSEMBLYMAN SMITH: Freshwater wetlands would not be covered?

MR. IZZO: It is not relative.

ASSEMBLYMAN SMITH: So they would go back to the-- If there are any freshwater wetlands on the property, they would have to go back to DEP for that?

MR. IZZO: About 98% of freshwater wetlands occurs outside of this-- (indiscernible)

ASSEMBLYMAN SMITH: Thank you.

ASSEMBLYWOMAN SMITH: Thank you very much, sir.

MR. NEIL: Thanks for having us.

ASSEMBLYWOMAN SMITH: Arthur Kamin -- Art? -- Bayshore Development Office.

A R T H U R Z. K A M I N: Madam Chairman and members of the Committee: My name is Arthur Kamin. I live in Fair Haven. I am the Director of the Bayshore Development Office in the New Jersey Department of Community Affairs. You have had a long and arduous day, and I promise to be very brief.

I think many of you know about the Bayshore Development Office. We have been in operation for about 20 months, and we are part of the Department of Community Affairs. It was a study that was put together by the Port Authority of New York and New Jersey, the State, and the county that brought about the Bayshore Development Office. I think

one of our biggest accomplishments in the last 20 months, is the fact that we have put together a Bayshore Development Council. It is the nine municipalities along Raritan Bay that have come together, along with the county, and have worked in really close cooperation with the State -- with the legislators in the area. I believe in that time, in all modesty, we have put together some programs that have really helped to revitalize the bayshore. Downtown areas such as Keyport are beginning to be revitalized. Highlands -- as Assemblyman Palaia knows -- is beginning to take some very, very important steps. It is something that is happening throughout the bayshore.

Significant is the fact that the County of Monmouth has adopted, as part of its growth management guide, a visionary bayshore waterfront access plan, in which the State is a partner, the county, and the municipality. We have the makings of a bayshore trail that will stretch along the entire bayshore and regional parks, and this fits in beautifully in the tourism dimension of the bayshore. John Penn was here earlier today, and Director Bodman has pledged -- and Assemblywoman Smith was present at the meeting -- that there will be a new tourism welcome center in the bayshore, which we think will be very, very important to the future of the area.

As all of you know, this is an area where commercial fishing is very important, marinas, swimming, tourism, as I say, and I feel very, very good about the progress that has taken place. Not only are we working together with the municipalities and the mayors and the county in the partnership, but we have also put together a business advisory group, which represents all aspects of the bayshore economy. We also work closely with the American Littoral Society. The Trust for Public Land has become an integral part of the bayshore, as well as the Monmouth Conservation Foundation. I mention that only to show that the partnership that is developing is almost -- I am happy to say -- all inclusive.

There is one critical-- I think many of you saw -- I have it here someplace -- the series of articles that Gordon Bishop did in The Star-Ledger. It was a seven-part series on the bayshore renaissance. It was an even-handed series. He laid out the problems and, by the same token, he discussed some of the progress that is taking place.

There is no question that -- as I say, thanks to the Legislature, thanks to the Governor -- Commissioner Villane and the Department of Community Affairs has taken a personal strong interest in the bayshore; toured the area recently, and pledged strong support. I think the one thing that is needed now, to help the bayshore dream to become a reality, is the Coastal Commission. I think it is just one significant step. It has not been an easy year, as you know, in the bayshore. There have been fish kills in Leonardo. Sandy Hook beaches have had to be closed. The restaurant owners have had a difficult time. My feeling is that what has been accomplished has been fine, but there is an important next step, and I think that is the Coastal Commission.

You heard Mayor Stoppiello speak earlier today, and I think he is an example of the progressive municipal leadership that exists in the bayshore where, there is no question, there was some hesitation when it came to putting together the Bayshore Development Council, with all of the towns having to sign on the dotted line a memorandum of understanding that they would participate in an open forum. Mayor Stoppiello, to his credit, was the first Mayor to--

ASSEMBLYWOMAN SMITH: He was the organizer.

MR. KAMIN: Right -- the first to come aboard. He said that the first meeting of the Bayshore Development Council was going to be in Union Beach. You were there, Assemblywoman Smith, when it happened. He said, "Look, I don't have anything to lose on this. I've got a lot to gain." I'm happy to say that that has happened. I think the Coastal Commission, once

again, is the further extension to make the bayshore dream, as I say, become a reality. I felt I would be remiss if I did not come before this group today to give you my thinking.

I thank you very, very much for the opportunity to speak before you.

ASSEMBLYWOMAN SMITH: Thank you, Mr. Kamin.

ASSEMBLYMAN PALAIA: Good seeing you, Art.

ASSEMBLYWOMAN SMITH: Fred Behringer? Thank you for being patient. Is Philip Gaudreau here? Phil? Is there a fellow by the name of Phil? (no response) Someone left a card here earlier. I guess you are the last one, Fred. Thank you for being patient.

F R E D B E H R I N G E R: You're welcome.

ASSEMBLYWOMAN SMITH: Are you looking to speak, sir? (addressed to unidentified person in the audience) No, okay. Thank you.

MR. BEHRINGER: I would like to thank you, Madam Chairman, and the panel, for giving me an opportunity to give you my views on the issue here. My name is Fred Behringer. I live at 1507 Wyckoff Road in Farmingdale, New Jersey. I own several waterfront homes in Brick Town, which are a part of my retirement. I am a retired schoolteacher. Being very blunt, I don't want to lose them.

I noticed from being at the Coastal Commission committee meeting held by Frank Pallone about a year ago -- which is the book that was put out, which I am sure you all know and recognize-- As to the bill I just picked up recently from Mr. Bennett's office -- the State Assembly bill here -- which, again, you are all very familiar with-- There is a vast difference between the two. I was really not against the first one, but I'll tell you, gentlemen, I do oppose this one right here -- Assembly Bill 122 Acs. Yes, it does have some good provisions in it. I especially like the one in there about the storm sewers. One of our gentlemen up here already has a bill

working in that direction -- several of you have -- and I commend you for it. I think that is very good.

But, in general, I would have to say that I am definitely against the bill. First, it is not an environmental bill or a pollution bill. It is a land control bill, with a license to steal. It can take private or public property, at any time, with no compensation. The bill says right up in here: "Provides for, (1) restoration," which means to change something you have to something else; "(2) to protect the coastal area," by deciding who can build what and where; "(3) to revise parts of existing laws; (4) appropriation," and, of course, we have gone through that today. I am not sure just where all the moneys are coming from. I can't understand how the Governor and his committee have been putting out that it is not going to cost taxpayers money. I don't know where the money is coming from.

The fifth and last thing that it defines is a coastal zone. I think this is something that should be gotten out to the press, because I don't think the people know they are in the coastal zone. The coastal zone, as I understand it-- Well, it is clearly defined in the booklet here, but the coastal zone, basically, is from the Raritan River to the Delaware River, from the Parkway east. But the people don't realize that who live in that area.

My third point is, the bill is aimed at the little guy -- the homeowner and the small businessman. We have CAFRA to take care of the larger projects -- 24 and up and so on. My fourth point: This bill, if enacted, could prevent a man from developing his property, or replacing his home if destroyed 50% or greater, rendering this property worthless. Chief Judge Loren Smith, in Washington, ruled recently on a New Jersey case, that the denial of use of property is taking of private property and must be compensated. The taking of private property without just compensation is in violation of the

Fourteenth Amendment of the United States of America. I question the constitutionality of the bill, or at least parts of it.

Five, the bill, in its final form will probably be an authority, not a commission anyway, which has sort of been alluded to before -- that they will not be responsible directly to the Legislature.

Six, there is no funding in the bill for the taking of public or private property. The State can take, at any time, private or public property and make a project it wants. The projects would be funded under the bonding, but not the taking of the property.

Seven, there is no appeal process if an individual is denied a permit. Only if someone objects to a permit is there an appeal process. So I say to you, gentlemen, if I take and apply for a permit to build a house, after spending \$200,000 for a lot, and the permit is denied, what am I supposed to do? If I want to sell my house, and my permit to sell the house is denied, what am I supposed to do?

Eight, the function, as I understand it, of the personnel of the Division of Coastal Resources, will be transferred to the authority -- or the Commission, or whatever you want to call it. Remember, it was DEP that just recently said they can't police the medical waste in our ocean; they can't police our disposal sites. The Associated Press has said it is the worst run agency. We need a bill to stop legal dumping in our ocean and to enforce existing laws on pollution throughout the whole State, not just in the coastal area. I think everybody is for stopping pollution and trying to clean up our waters as best we can, within the finances and resources we have, but we don't want a bill controlling, or possibly taking individuals' homes away from them, who live in the shore area.

Nine, if the State is truly interested in land use, and not the taking of property, why not set up a State plan to help all municipalities in the State with their State-approved master plans, to work with wetlands, farmlands, and woodlands -- all the land? Too much attention is being put on the shore wetlands, and not enough on our watershed. Today, Monmouth County has three farms; in 1940, they had 145. Today if you fill in one square foot of wetland, DEP makes you ruin two square feet of good uplands of wood and/or farmland.

Eleven, much of our pollution in the coastal zone doesn't even come from within the zone; it comes from outside the zone. While it is true that building in the coastal zone does affect the environment -- there is no question about it -- it is equally true of the same development outside of the coastal zone.

Thirteen, I would like, at this time, to take my hat off to the builders and the developers of New Jersey, for providing decent housing for all of the people in New Jersey that they have been able to build, in spite of the State and the objectors. We have, today, 25% of all of our building costs because of needless government regulations. This bill will add another approximately 10% to the cost of a house, through permits, studies, and delays.

I notice that each of the people who have criticized the builders and developers here today happen to live in one of their houses. I also noticed that when Brenda was here -- I wish she were still here -- she said there has been lots of misinformation published, and the Governor has also stated the same. Unfortunately, most of this misinformation has been coming from the Governor's office, and also through Brenda herself.

On August 25, this year, the Governor said: "If the Commission were in place, some of the problems faced this summer, where parts of the ocean were declared off-limits to

swimming and beaches were awash with garbage and medical waste, would have been avoided." Well, I'm sure you are aware that this bill does not even address those things.

Because the hour is getting late, and I know we are all anxious to leave -- including myself -- I am going to-- But, Brenda put out on October 5 -- if you don't have a copy of this, be sure to get one -- to all the mayors at the shore -- I just received this a couple of days ago-- Talk about untruths and misinformation, this is full of it. Nearly every point she set out in this is almost in direct contrast to what it says in the bill. I don't think that is the way to get the bill passed. I think they should have sent a copy of the bill to each one of the mayors, so the mayors could, in their own intelligent way, make up their own minds.

Fifteen, the State could fine a homeowner for not getting a permit to build or to possibly sell his property -- through innocence or whatever method -- up to \$25,000 a day. Now, I happen to have personal knowledge as to how this works, because right now, currently, today, DEP and the Army Corps have teamed up to deny me my permit for a piece of property in Brick Town, and they are suing me \$10,000 a day -- me, an individual.

Sixteen, my last point, I would like to see all the plans for the Coastal Commission -- authority, whichever you want to call it -- dropped, and where change is needed -- and I grant you we do need changes; we need some control in the shore area -- that we work through existing laws, such as CAFRA, or whatever organizations we have. we have several of them. Under the present bill, the Governor has too much power.

I urge all Assemblymen and Senators to vote, "No," on the Coastal Commission bill, and I encourage the mayors of all the 128 municipalities to adopt a resolution opposing the Coastal Commission.

I thank you for your time.

ASSEMBLYWOMAN SMITH: Thank you very much for coming.

ASSEMBLYMAN KELLY: How did you come up with that 10% figure? I'm just curious.

MR. BEHRINGER: Well, right now, under the Governor's executive order, it costs you \$1000 extra. You do need additional permits now under this. It is \$1000 just to apply. Then you have to go out and get an impact study, just to build an individual house. You have to higher all of your engineering fees. You've got, at best, a six-month delay, and maybe more. So, when you take and add up the additional fees you have to pay for your permits now, all of your engineering fees, your impact study, and your delays, you are probably going to add \$5000 to \$15,000 to the cost of the house.

ASSEMBLYMAN KELLY: Thank you.

ASSEMBLYWOMAN SMITH: Does anyone else have any comments? (no response)

Thank you, everyone. Have a good afternoon.

(HEARING CONCLUDED)

APPENDIX

**#230-88 RESOLUTION OF THE BOROUGH OF POINT PLEASANT
POINT PLEASANT, NEW JERSEY**

DATE OF ADOPTION: Oct. 4, 1988

**MOTION: SUPPORT GOVERNOR KEAN'S COASTAL COMMISSION AND
EMERGENCY ORDER AUTHORIZING NEW JERSEY D.E.P.
TO REVIEW "ANY SUBSTANTIAL FIRST USE" OF WATER-
FRONT PROPERTY IN THE STATE'S COASTAL ZONE.**

Councilman Ludwig presents the following Resolution.

Seconded by Wills.

WHEREAS, Recent years has shown a continued and growing water pollution problem in New Jersey's Coastal Zone; and

WHEREAS, A portion of this problem has been attributed to stormwater runoff and improper sewage treatment caused by massive development of New Jersey's Coastal Zone; and

WHEREAS, Governor Kean has enacted an emergency order requiring the New Jersey Department of Environmental Protection to review "Any Substantial First Use" of waterfront property in the State's Coastal Zone; and

WHEREAS, Mayor and Council believes that this order will help protect one of our most cherished natural resources "Water"; and

WHEREAS, Governor Kean has proposed the creation of a Coastal Commission that would be given broad powers to regulate development of the shore, oversee shore protection projects and act as an advocate on coastal pollution issues; and

WHEREAS, It is the desire of Mayor and Council to affirm its support for the Governor's implementation of the emergency order and proposed Coastal Commission;

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE BOROUGH OF POINT PLEASANT, COUNTY OF OCEAN, STATE OF NEW JERSEY as follows:

1. The Mayor and Council hereby affirm its support of Governor Kean's emergency order authorizing the New Jersey D.E.P. to review "Any Substantial First Use" of waterfront property in the State's Coastal Zone.
2. The Mayor and Council hereby supports and endorses the creation of a Coastal Commission that will help regulate development at the shore, oversee shore protection projects and act as an advocate on coastal pollution issues. The Mayor and Council further urges the legislative branch to take immediate action on creation of the Council.
3. Copies of this Resolution to Governor Thomas Kean, Senator John F. Russo, Assemblyman Chuck Hardwick, Assemblyman Robert Singer and Assemblyman John Paul Doyle and any other interested parties.

RECORD OF VOTE							
COUNCIL	J. HOFFMASTER	COUNCIL PRES. D. FREEM	H. LUOMIG	C. WILLS	J. MCNEEHAN	J. ZINGIS	MAYOR L. ARMS
YES	✓	✓	✓	✓	✓	✓	
NO							
ABSTAIN							
ABSENT							

I, Margaret B. Van Pelt, Clerk of the Borough of Point Pleasant in the County of Ocean, do hereby certify the foregoing to be a true and correct copy of the Resolution adopted by the Council of the Borough of Point Pleasant at a meeting of said Council held on Oct. 4, 1988, and that said Resolution was adopted by not less than a two-thirds vote of the members of the Council of the Borough of Point Pleasant.

Margaret B. Van Pelt
 Margaret B. Van Pelt, Borough Clerk

cc: Dover Township
 cc: Lakewood Township
 cc: Mantoloking Borough
 cc: Pt. Pleasant Beach
 cc: Brielle Borough
 cc: Howell Township
 cc: Wall Township

PRELIMINARY REQUEST FOR MODIFICATIONS

TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR

ASSEMBLY BILL NO. 122

ADOPTED JULY 2, 1988

LIST OF PROPOSED MODIFICATIONS AND REQUESTS FOR CLARIFICATIONS

1. PAGE 3 - (Line 21) ADD AS THE SIXTH WORD and
2. PAGE 3 - (Line 23) DELETE and the State Treasurer
3. PAGE 3 - (Line 25) DELETE eight AND ADD five
4. PAGE 3 - (Line 27) DELETE five AND ADD four
5. PAGE 3 - (Line 28) DELETE three AND ADD one
6. PAGE 3 - (Line 34) ADD AS THE EIGHTH WORD and
7. PAGE 3 - (Line 35) DELETE or (f) land use planning
8. PAGE 3 - (Line 37 & 38) DELETE but no person may be appointed from any one category if eligible for appointment from any conflicting category AND ADD and must be a representative elected by the members of a major recognized group representing that category
9. PAGES 3 & 4 - (Lines 38, 39 & 1) DELETE THE SENTENCE Not more than two members from any one category may serve on the commission at the same time
10. PAGE 4 - (Line 1) DELETE four AND ADD three
11. PAGE 4 - (Lines 3, 4, 5, 6, & 7) DELETE SENTENCE In appointing public members the Governor shall take into consideration the nomination of proposed members by associations or organizations representing any of the above categories
12. PAGE 4 - (Line 9) DELETE who shall serve ex office
13. PAGE 4 - (AFTER Line 9) AND ADD THE FOLLOWING (4) One appointed representative of the Freeholder boards from each of the four regional advisory council areas as delineated in Section 8
14. PAGE 4 - (Line 10) ADD STARTING WITH THE THIRD WORD the State Treasurer

15. PAGE 4 - (Line 18) DELETE eight AND ADD five
16. PAGE 4 - (Lines 20 & 21) DELETE four shall serve four-year terms and four shall serve five-year terms AND ADD one shall serve for a two-year term, one shall serve for a three-year term, one shall serve for a four-year term, one shall serve for a five-year term, and one shall serve for a six-year term
17. PAGES 4 & 5 - (Lines 30, 39 and 1) REVISE TO READ AS FOLLOWS:
The chairperson shall be elected by the members of the Commission and shall serve for a term of one year until a duly elected successor has been designated. The members shall also elect a vice-chairperson, a treasurer, and a secretary who shall be members of the Commission. The Commission shall appoint, with advise and consent of the Governor and the Senate, an Executive Director of the Commission, who shall serve at the pleasure of the Commission and shall be in charge of the operation of the Commission as the Commission may direct.
18. PAGE 5 - (Line 6) DELETE public AND ADD non-ex officio
19. PAGE 5 - (Lines 6, 7, & 8) DELETE including any chairpersons of the regional advisory councils who are appointed from the public at large
20. PAGE 5 - (Line 12) ADD STARTING WITH THE SEVENTH WORD shall be called by the Commissioner of the Department of Environmental Protection and
21. PAGE 5 - (Line 14) DELETE majority AND ADD four-fifths
22. PAGE 5 - (Line 38) ADD STARTING WITH THE SECOND WORD unless overridden by eleven affirmative votes of the Commission
23. PAGE 7 - (Line 2) ADD STARTING WITH THE FIFTH WORD where ever feasible
24. PAGE 9 - (Line 7) ADD STARTING AS THE ELEVENTH WORD both
25. PAGE 10 - (Line 20) ADD STARTING WITH THE SECOND WORD ADD THE FOLLOWING SENTENCE: Compensation to the parent board of the employee for the costs incurred by that board for the use of that employee must be made by the Commission.
26. PAGE 10 - (Line 39) ADD STARTING WITH THE SEVENTH WORD both

27. PAGE 12 - (Line 13) ADD THE FOLLOWING SENTENCES STARTING AFTER THE SECOND WORD. Representation of each county in a region shall be determined by a ratio of both population and land area of the total region divided into the population and the land area of each county. The population ratio shall be weighted to be three times that of the land area. No matter what final weighted ratio determines the makeup of the regional council to be, no county shall have less than one representative. The weighted ratio shall be used to determine the Freeholder representative of each regional area that will serve on the Commission.
28. PAGE 17 - (after Line 18) ADD THE FOLLOWING SENTENCE STARTING WITH THE TENTH WORD. The capital improvement plan can only be ruled out of compliance with the management plan if improvements required to satisfy documented health and environmental problems are not included.
29. PAGE 18 - (Line 17) DELETE activites AND ADD any activity
30. PAGE 18 - (Line 17) ADD THE FOLLOWING STARTING WITH THE SEVENTH WORD: to correct a documented health and environmental problem and
31. PAGE 18 - (Line 31) ADD THE FOLLOWING STARTING WITH THE SECOND WORD: To correct a documented health and environmental problem that is
32. PAGE 18 - (Line 38) ADD STARTING WITH THE THIRD WORD discretionary
33. PAGE 19 - (Line 19) ADD TO START OF LINE or AND DELETE or reconstruction
34. PAGE 19 - (Lines 22, 23, 24, 25) DELETE LINES 22, 23, 24 AND DELETE reconstruct ON LINE 25
35. PAGE 19 - (Line 26) DELETE or reconstuction
36. PAGE 19 - (Line 27) DELETE 25% AND ADD 1500 sq. ft.
37. PAGE 20 - (Line 12) DELETE or reconstruction
38. PAGE 20 - (Lines 15, 16, 17 & 18) DELETE STARTING FROM LINE 15 except that ENDING ON LINE 18 WITH to reconstruct
39. PAGE 20 - (Line 20) DELETE or reconstruction
40. PAGE 20 - (Line 21) DELETE 25% AND ADD 1500 sq. ft.
41. PAGE 23 - (Lines 4 through 23) DELETE SECTION 18 PARTS A AND B IN ITS ENTIRITY

42. PAGE 26 - (Line 11) DELETE receive AND ADD act on
43. PAGE 26 - (Line 13) ADD TO END OF LINE as directed by the Commission
44. PAGE 27 - (Line 19 & 20) DELETE SECTION 23 (f)
45. PAGE 27 - (Line 30) ADD THE FOLLOWING STARTING WITH THE SECOND WORD when requested by the Commission, Commission's staff, or when the pending permit application clearly contravene the purpose and mandate of the Management Plan
46. PAGE 27 - (Line 32) DELETE SECTION 23 (j)
47. PAGE 29 - (Line 30) COMMENT - The bonds of the Commission should be a liability of the State even if it takes a referendum to do so.
48. PAGE 35 - (Line 13) COMMENT - PART 33 should be revised to state that all obligations of local governments to the Commission should be considered outside of the "CAPs" for budgetary purposes.
49. PAGE 37 - (Line 6) COMMENT - PART 34 should be revised or a referendum should be initiated that would allow the funds from the sale or rental of riparian lands, etc. to come to the Commission as a source of funding.
50. PAGE 39 - (Line 17) DELETE amended information AND ADD additional information
51. PAGE 39 - (Line 17) DELETE not
52. PAGE 39 - (Line 18) DELETE until it has been declared complete AND ADD once the deficiencies have been accepted as complete
53. PAGE 40 - (Line 8 et. seq.) CLARIFICATION IS NEEDED. Once the local government takes the responsibility of issuing permits, what happens to the fees generated?
54. PAGE 40 - (Line 28 et. seq.) CLARIFICATION IS NEEDED. What percentage of permits issued by local governments will be reviewed by the Commission?
55. PAGE 41 - (Lines 17, 18, 19, 20, 21, & 22) DELETE THE SENTENCE STARTING WITH A party of AND ENDING WITH the coastal area

56. PAGE 41 - (Line 32) ADD A SENTENCE AT THE END OF THE LINE TO READS AS FOLLOWS: All costs incurred by the Commission during the appeal process will be borne by the petitioners
57. PAGE 47 - (Line 35 et. seq) CLARIFICATION: Why can not the duties and responsibility of the Tidelands Resource Council be transmitted to the NJ Coastal Commission?
58. PAGE 57 - (Line 13) ADD AS THE FIFTH WORD or AND DELETE or reconstruction (line 14)
59. PAGE 57 - (Lines 19, 20, 21, 22) DELETE ALL THE FOLLOWING STARTING ON LINE 19 WITH except that AND ENDING ON LINE 22 WITH to reconstruct.
60. PAGE 57 - (Line 24) ADD AS THE EIGHTH WORD temporary
61. PAGE 57 - (Line 27) DELETE or reconstruction
62. PAGE 57 - (Line 28)DELETE 25% AND ADD 1500 sq. ft.
63. PAGE 57 - (Line 30) ADD TO THE END OF THE LINE constructed or under construction
64. PAGE 58 - (Line 3) ADD STARTING AS THE THIRD WORD or municipal
65. PAGE 58 - (Line 10) ADD STARTING WITH THE END OF THE SENTENCE , or other municipal or private water related recreation.
66. PAGE 63 - (Line 15) COMMENT - Section 66 will require the applicant to provide a great deal of environmental information to qualify for a permit. To gather this information, it will require an expert in this field. The expense for this type of expertise will be onerous on the single home owner. The regulations should adjust these requirements to allow for the Commission staff to help provide this information or to waive a protion of the requirements such as cumulative effect of other structures in an area.
67. PAGE 69 - (Line 25) ADD TO THE END OF THE SENTENCE effecting those funds to be appropriated by the legislature.



BOROUGH OF BELMAR, N.J.

MARIA G. HERNANDEZ, MAYOR
JOSEPH HILLMAN, JR., COMMISSIONER
ALFRED J. SHEPPARD, III, COMMISSIONER

(201) 681-1176

P.O. BOX A
BELMAR, N.J. 07719

October 13, 1988

Hon. Joann H. Smith
2B Highway 34
Matawan, New Jersey 07747

Dear Assemblywoman Smith:

I will be out of state on October 17, 1988 and cannot attend the Appropriations Committee Hearing on the New Jersey Coastal Commission Act, Assembly Bill No. 122 ACS sponsored by Assemblyman John O. Bennett. However, I want you to know that I strongly support the bill and urge you to provide the necessary funding.

Two weeks ago Monmouth County Coastal Town Mayors met and endorsed the bill. All eight Mayors in attendance signed a statement of support. A copy is attached.

Thank you for your consideration of this important bill that empowers the people of the coast to protect their future.

Very truly yours,

Maria G. Hernandez
Maria G. Hernandez
Mayor

CC: Assemblyman John O. Bennett
Coastal Monmouth Mayors
Commissioners
Charles F. Ormsbee, Jr.
Tim Crammer

STATEMENT OF MAYORS MEETING

SEA GIRT, NEW JERSEY, OCTOBER 1, 1988

THE NEW JERSEY COASTAL COMMISSION ACT

We support Governor Thomas Kean's New Jersey Coastal Commission Act and the need to protect and preserve our unique coastal environmental heritage through tough and meaningful resource management.

The threats to our Shore - pollution, environmental stress, over-development - are immediate and real and require a timely and comprehensive state effort with regional input and guidance. Federal regulatory action where needed should be developed and proposed by the commission in a persistent and determined manner.

New Jersey needs a strong workable Commission of this nature - one which provides for the broadest participation in its decision-making process. Equally important is the need to maximize the economic viability and recreational use of our Shore area and at the same time preserve its environmental integrity for generations to come.

Justifiable Home-Rule consideration can be fairly addressed by this Commission, New Jersey taxpayers, however, should not, for any trade-off reasons in the legislative process, be saddled with a cost-inefficient bureaucracy that cannot achieve these ends.

Date: OCTOBER 5, 1988

RE: NJCC: BUDGET INFORMATION FOR ASSEMBLYMAN FRELINGHUYSEN

EXPENSES

- The Coastal Commission will oversee three categories of expenditures:
 - local and county requests for revenue bond issuance;
 - aid to local governments (counties and municipalities for planning and plan implementation expenses); and
 - Commission administrative costs.
- Local and county requests for revenue bond assistance include:
 - remedial wastewater treatment/collection;
 - alternative water supply projects;
 - public marina facilities; and
 - public parking.
- Aid to local governments, as grants or loans, could cover the following:
 - planning assistance, both technical and financial;
 - stormwater pollution control (best management practices);
 - local water quality monitoring;
 - local litter control;
 - all other local implementation of the Master Plan required by the Commission;
 - open space/recreation land acquisition; and
 - shore protection, inlet maintenance and dredging.
- Commission administrative costs. (Replaces activities of the Division of Coastal Resources in DEP for CAFRA area.)

- Development of a comprehensive management plan.
- Administer permits for CAFRA, Waterfront Development, and Coastal Wetlands.
- Staff support for Regional Advisory Councils.
- The Office of the Coastal Advocate will operate under Commission direction.

REVENUE SOURCE - APPROPRIATIONS TO COMMISSION

The Commission will act as a conduit for shore-related funding, including State and federal appropriations.

The Commission will lobby for additional federal funds and for directing a share of statewide federal appropriations to the coastal region.

ANNUAL BUDGET ESTIMATE

COSTS

Administration

Materials, supplies and permit review (represents approximately 15% increase over current levels)	\$3.9M
Shore protection & dredging program (represents approximately 15% increase over current levels)	\$0.7M
Management plan development & ongoing revision (based upon similar planning efforts in New Jersey and nationally; costs will decline after initial two years when all that is needed are revisions)	\$3.0M - \$1.0M
Coastal advocate	<u>\$.3M</u> \$7.9M - \$5.9M

Aid to local government

Plan conformance (ordinance changes; Master Plan revisions; stormwater plans. This amount would decrease substantially after the original plan is written. Some funds would still be needed as towns are asked to conform to revisions.)	\$ 4.0M - \$1.0M
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Litter control (S2M from Clean Communities Act; \$2M from 14-point plan approved by Legislature)	\$ 4.0M
Street sweeping (S2M from 14-point plan approved by Legislature)	\$ 2.0M
Other management practices (e.g. selective chlorination)	\$ 2.0M
Shore protection (includes State contribution toward local and federal projects)	\$12.0M
Dredging (present appropriation)	\$ 3.0M
Open space acquisition (20% of expected share of Natural Resources Trust Fund. Statewide needs estimated at \$800M)	\$ 3.0M
Stormwater improvements (DEP estimates are billions Statewide)	<u>\$20M</u> \$50M - \$47M
TOTAL COSTS	<u>\$57.9M - 52.9M</u>

REVENUES

Existing or expected revenues

Natural Trust

shore protection	\$12M
open space	\$ 3M

FY'89 appropriations

permit review (\$3.4M), shore protection administration (\$.6M), dredging (\$3M), litter (\$4M), street sweeping (\$2M), stormwater mapping (\$15M)	<u>\$28.0M</u>
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TOTAL EXISTING OR EXPECTED REVENUE	<u>\$43.0M</u>
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THE ANNUAL SHORTFALL IS:

\$14.9M - \$ 9.9M

In the first year there would be no need for:

plan conformance	\$ 4M
major stormwater construction	
(must map and inventory first)	<u>\$ 5M</u>
	\$ 9M

THE FIRST YEAR NEW APPROPRIATION SHOULD BE:

\$5.9M